After TPP and TTIP: Then What?

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PRELIMINARY NOTE

The views set forth herein are informed by a series of Roundtable dialogues in a project entitled Restoring Multilateral Trade Cooperation. This was a two-year project originated by the Cordell Hull Institute, financed by the World Bank and organized by the South African Institute of International Affairs in cooperation with Cordell Hull and trade and economic institutes in Bangladesh, Brazil, China, the European Union, India and South Korea. A number of other think tanks have also contributed to the project, whose purpose is to explore—with particular emphasis on the views and interests of developing and emerging economies—the new paths of trade negotiations, the new ways in which trade is being conducted, and a possible intellectual framework for restoring a multilateral negotiation approach.

However, the views set forth herein are exclusively my own, and should not be taken as results of that Project, or as the views of the World Bank or any of the participating institutes.
I. The Story So Far

A. The Doha Development Agenda (DDA)

1. Initial failure in Seattle

2. The “Solution” – Rework multilateral negotiations as the “Doha Development Agenda”
   a. “Development” objectives in all major negotiating areas
   b. Developing countries refused to negotiate on significant parts of the developed countries’ agenda – e.g., most of the “Singapore Issues”

3. Today, the DDA seems to be a failure (see discussion below)
I. The Story So Far (cont’d.)

B. BALI – A Significant, But Limited, Achievement

1. The major achievement: the Trade Facilitation Agreement
2. TFA is qualitatively different in several ways:
   a. A cooperative, not mercantilistic, negotiation
   b. “Aid for Trade” linked to the new obligations
   c. A new approach to “special and differential treatment”
3. The other liberalizing agreements in the Bali Package were, frankly, not very significant
4. The Bali Package was almost brought down – twice – by a quintessentially mercantilistic demand by India for a protection/subsidy agreement on stockpiling for food security
II. Why Is Doha Not Working? - A Personal View

A. The DDA Never Had a Workable Negotiating Dynamic

1. The concept of a consensus on a “development agenda” was always an illusion – Doha turned out to be, like all previous Rounds, a mercantilistic “give and take” negotiation

2. As this became apparent, the developing and emerging nations became disillusioned – the Cancun debacle

3. In NAMA, the developed countries had little to offer and developing and emerging nations (apart from China) would offer only to reduce the “water”

4. In Agriculture, the U.S. and EU resisted reductions in subsidies and major developing/emerging countries resisted market access concessions

5. And some major participants – India and, to a lesser extent, China – had few “offensive interests”
II. Why Is Doha Not Working? (cont’d.)

B. Business and Agricultural Constituencies Are Unenthusiastic About Doha

1. Reducing, even eliminating, “water” has little attraction

2. Business and Agribusiness are increasingly focused on global value chain (GVC) issues not addressed in Doha

3. U.S. farm community, in part due to new focus on use of crops for fuel, has diminished interest in access to foreign markets

4. Pervasive pessimism about meaningful access gains in Doha
II. Why Is Doha Not Working? (cont’d.)

C. Since 2008, Doha Prospects Have Diminished

1. The U.S. farm legislation makes it impossible for the U.S. to maintain its 2008 farm supports offer
2. India – and, to a lesser extent, China and some other Asian countries – have increased use of farm supports
3. India’s aggressive “food security” ambitions
4. The Great Recession has increased political opposition to trade deals, especially in the U.S.
5. Importantly, the U.S. EU, Japan, Canada, Mexico and numerous other countries are now focused on non-multilateral forms of negotiations, which they see as providing liberalization and “new issues” rulemaking that Doha does not provide
6. Equally important – the developed countries’ pursuit of mega-regional agreements has caused disillusionment and resentment among developing and emerging Members (see below)
WHAT’S GOING ON HERE? THE FUNDAMENTAL PROBLEM OF LOST CONSENSUS

I. The Gatt – Homogeneity and Consensus

1. Dominated by developed countries, led by U.S. and EU

2. Secure consensus that trade liberalization – reduction of access barriers and trade-distorting subsidies – is beneficial to all Members

3. Reluctant and sporadic acceptance of “special and differential treatment” for developing countries

4. MFN agreements, with all Members entitled to liberalization benefits
II. The WTO – Diversity and Conflicting Views

1. Great majority of Members are now developing countries

2. Some developing countries – the BRICS, etc. – are now important players in world trade

3. Developing country views are disparate, but two common themes:
   - Liberalization is good, but not to the point that it infringes on countries’ development policies
   - Need for a “rebalancing of obligations”

4. Developing world – especially emerging economies – insist on an effective role in negotiations
A NEW FIELD OF PLAY ORCHESTRATED BY THE U.S.: MEGA-REGIONAL INITIATIVES

I. The Mega-Regional Initiatives

A. The New Regional Focus of Trade Negotiations

1. Led by the U.S., with participation by other major developed countries (EU, Japan, Australia, Canada, New Zealand) and a few developing countries (Mexico, Vietnam, Malaysia, etc.)
2. No participation, apart from Mexico, by the major emerging economies (China, Indonesia, Brazil, Russia, South Africa, India, etc.)
3. Coverage, in addition to traditional trade issues, of “behind the border” issues relevant to global value chains
4. The TPP dynamic – access to US/Canada markets will cause countries to agree to US negotiating agenda
5. The TTIP dynamic – two countries with (largely) low tariff levels address regulatory and other “behind the border” issues
6. Not MFN, but theoretically open to accession by additional countries – multilateralism by a different route?
A NEW FIELD OF PLAY, (cont’d.)

I. The Mega-Regional Initiatives (cont’d.)

B. Why Is This Happening? And Why Led by the U.S. and EU?

1. Conviction that Doha will go nowhere
2. Experience that greater liberalization can be achieved in a “coalition of the willing” negotiation: US-Canada, NAFTA, DR/CAFTA, and various U.S. FTAs, especially KORUS
3. Ability to address the “behind the border” issues relevant to global value chains (GVCs) and thus generate business community enthusiasm
4. Avoidance of issues sensitive to U.S. and EU, such as agricultural supports, Mode 4 services and trade remedies
5. Desire to set the “new rules” of trade in the developed country model before the “rise of the rest” (especially China) makes other models possible
6. A regrettable intrusion of geopolitical considerations into trade negotiations
A NEW FIELD OF PLAY, (cont’d.)

I. The Mega-Regional Initiatives (cont’d.)

C. But the Developing and Emerging Nations are Left Out

1. In: US, EU, Japan, Canada, Mexico, Australia, New Zealand and a few smaller countries
2. Not yet in, but likely to try to join – South Korea, Taiwan, Thailand, Bangladesh, Turkey, Pacific Alliance members, EFTA countries, small island nations
3. The BIG QUESTION -- China
4. Out and Likely To Stay Out – all other BRICS, rest of Asia and Central Europe, rest of Mercosur, Middle East
5. The likely result: coverage of 70% or more of global trade and global GNP, BUT probably only 30% or less (depending on China) of global population
II. **The Scorecard: Mega-Regionals vs Doha**

A. **Advantages vs. Doha**

1. Real reduction/elimination of applied tariffs

2. Progress on “behind the border” issues relevant to GVCs – protection of investment (ISDS) and IP rights, trade facilitation, services (access and national treatment), data security, government procurement (partially), standards, e-commerce, regulatory reform/harmonization/mutual recognition

3. Issues important to civil society – environment, “core labor standards”
A NEW FIELD OF PLAY, (cont’d.)

II. The Scorecard (cont’d.)

D. Disadvantages vs. Doha – Developing World’s Issues Left Out

1. Agricultural subsidies
2. Many developed country tariff peaks
3. Food security
4. Mode 4 services
5. Developed country trade remedy rules
6. No attention to developing countries’ concerns about abuses of, and negotiating imbalance with, multinational companies in the GVC context
7. Relatively little emphasis on special and differential treatment or developing countries’ “policy space”
FOR THE UNITED STATES: DO TPP AND TTIP GET US WHAT WE NEED?

I. Important Pluses

A. Greater Market Access to Participating Countries

B. Development of Important New Rules

1. A new focus for trade negotiations: “behind the border” reforms to facilitate global value networks and to advance civil society objectives

2. And we set those rules in the western model before others (read – China) set different rules

C. Perhaps some Progress in Harmonizing Trade-Affecting Regulations

D. An Agenda Enthusiastically Supported by Developed Countries’ Business and Agriculture
II. The Biggest Problem: Widening the Gap Between Developed and Developing Nations

A. Developing and (Particularly) Emerging Nations Are Affronted by the Mega-Regionals

1. Their hope that WTO would “re-balance” the trade negotiating dynamic is dashed
2. The “new rules” for trade will be set by the developed countries, without a voice for developing/emerging countries
3. Joining these agreements will, in their view, mean giving up much of their “policy space”
4. Special and differential treatment aspects of these agreements are likely to seem unsatisfactory
5. MOST IMPORTANT – These MRAs will create regions more attractive to both trade and FDI. Therefore, they will divert both trade and investment away from the non-participating developing and emerging countries
II. Widening the Developed vs Developing Country Gap (cont’d.)

B. The U.S. Eventually Needs Access to the Future Growth Markets

1. By 2050, some 2/3 of global consumption will be in nations unlikely to join the mega-regionals
2. The U.S. response – that these agreements are so beneficial that almost all nations will join – is very unlikely to work

C. The Mega-Regionals Make Devising a Going-Forward Doha Agenda an Exercise in Futility

1. The negative positions of major emerging nations have hardened
2. The U.S. and EU have little interest in, and probably could not ratify, a “minimalist” Doha deal when they can get more in mega-regionals
II. **Widening the Developed vs Developing Country Gap (cont’d.)**

D. **An Existential Crisis for the WTO**

1. The mega-regionals are usurping the WTO’s negotiating role

2. How will the “new rules” created in the mega-regionals interface with WTO Agreements?

3. Rather than pursue an effort to harmonize development with trade liberalization, the U.S. and its mega-regional partners are simply pursuing their own vision

4. “Balkanization” into competing trading blocs (e.g., TPP vs RCEP) is a real possibility
It is not my view that TPP and TTIP can or should be abandoned. I cannot disagree with the United States’ conclusion that Doha has failed to offer meaningful trade liberalization. Moreover, the creation of rules to facilitate global value chains is certainly a worthwhile endeavor, as is the creation of rules on labor and environmental issues.

The question posed by this presentation is what comes next, after TPP and TTIP. My purpose is to focus attention on the serious concerns raised by the mega-regionals – both for U.S. interests and for the global trading system – and to urge that serious thought be given to addressing those concerns. I now turn to what I see as the three major policy options.
U.S. TRADE POLICY AFTER TPP AND TTIP: THREE CONTRASTING VISIONS

I. Combine the Mega-Regionals To Build a More Liberalized Trading System

   A. Expanding TPP Membership

       1. Ratification of new joiners
       2. The (relatively) easy accessions – South Korea, Thailand, Pacific Alliance members, Bangladesh, perhaps some other Asian/Pacific countries
       3. Can China join TPP? Would U.S. Congress ratify? How about India?

   B. Expanding TTIP Membership

       1. Again, the ratification issue
       2. Best prospects for accession – EFTA members, maybe Turkey, Morocco, Tunisia
       3. Less likely: the Stans, North Africa and Middle East, sub-Sahara Africa, former Soviet Union
       4. Could Russia join? Would Congress ratify?
I. Combine the Mega-Regionals To Build a More Liberalized Trading System (cont’d.)

C. Combining TPP and TTIP – Do these two disparate agreements really fit together?

D. China – The Essential Participant
   1. Is China interested? Does it depend on such issues as SOEs, IP and ISDS?
   2. What structure would work? China joins TPP? Merge TPP and RCEP? Negotiate a Free Trade Area of the Asia-Pacific (FTAAP) that subsumes both TPP and RCEP?
   3. Importance of US-China BIT
   4. And, of course, would U.S. Congress ratify?

E. If some structure for combining the mega-regionals could succeed, what would be the relation to the WTO?
U.S. TRADE POLICY AFTER TPP AND TTIP: THREE CONTRASTING VISIONS
(continued)

II. Moving The Mega-Regionals Into the WTO

A. Initial Steps – Involving the WTO in Stewardship Functions
   1. Forum for non-participants to express concerns and make proposals re mega-regionals
   2. Pointing out any inconsistencies with the WTO Agreements
   3. Monitoring negotiations, especially with a view to ensuring feasible joinder by non-participants
   4. Fitting mega-regionals’ rules into WTO dispute settlement

B. Most fundamental – WTO as the Forum for Bridging the Gap Between Developed and Developing Country Viewpoints on
   1. Establishment of working group
   2. Elevation of discussion, when appropriate, to the Ministerial level

C. The Importance of Leadership – None of this will work without leadership. This means a political commitment by the U.S. Equally important is to find a developing nation willing to take a leadership role – China? Brazil??
III. My Way Or The Highway

A. We’ll Set the New Rules in Negotiations That We Can Control
   1. TPP and TTIP
   2. Bilateral investment treaties (BITs)
   3. Selected subject-specific plurilateral negotiations – investment (TISA), technology goods, environmental goods, etc.
   4. Fitting mega-regionals’ rules into WTO dispute settlement

B. We Will Ignore Developing Country Issues that Are Politically Difficulty
   1. Agricultural subsidies
   2. Mode 4 services
   3. Trade remedies
   4. Food security
   5. Developed world role in negotiating
   6. Special and differential treatment

C. We’ll Pay Lip Service at the WTO, But Why Accept Multilateral Deals Less Ambitious Than the U.S.-Led Deals?