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An effective geopolitical tool?

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> "The [U.S.] economy is not working for those who depend on paychecks to make a living, that is to say, almost everyone."[1]
> *New York Times* editorial: November 7, 2014

> The Transatlantic Trade and Investment Partnership (TTIP), currently under negotiation, "is not just about free trade; it is an expression of our geopolitical partnership. We agreed to step up our efforts towards reaching agreement."
> *European Union President Donald Tusk, reporting a conversation with U.S. President Barack Obama*, December 1, 2014.[2]

Overview

Foreign policy elites and military leaders in the United States and Europe are lobbying the legislative representatives of their citizens, for whom the economy is not working, that approval of the TPP and TTIP is a geopolitical imperative beyond mere economic gain. This article briefly summarizes these geopolitical claims for "free trade" (IATP believes that all trade is managed and not free) and argues that 1.) targeting domestic regulations for elimination, modification or "improvement" to expedite trade is an ineffective geopolitical tool at best and 2.) TPP and TTIP, negotiated without having learned the lessons of financial deregulation that triggered the Great Recession, could very well increase economic insecurity and inequality in TPP and TTIP jurisdictions, a foundation of bona fide national security.

When econometric forecasts fail to persuade: the geopolitical case for free trade

Is there a whiff of desperation, when Heads of State discuss trade policy negotiations as a matter of "geopolitical partnership" and not simply as a commercial agreement whose primary beneficiaries are corporations headquartered in their jurisdictions? Italy's top trade official argued that there must be a "political agreement" on the substance of TTIP by early 2016 "for geopolitical reasons and for economic reasons." Failure to agree would signal a leadership crisis "for the Western World as a whole."[3]

The geopolitical argument that trade agreements must be approved to ensure national security tends to emerge whenever the econometric forecasts of projected benefits are unpersuasive. For example, the U.S. Trade Representative (USTR) has claimed, despite Congressional protest, that foreign-made goods produced for U.S. headquartered companies should count in U.S. export statistics, from which the USTR extrapolates putative export led U.S. job growth.[4]

Notwithstanding such statistical ruses, TTIP and TPP advocates are failing to persuade the public that those agreements will restore economic growth and jobs lost during the Great Recession that began in 2007.

One free trade proponent writes, "Studies have indicated that TPP could grow the global economy by as much as US$224 billion annually . . . and TTIP could add an additional US$133 billion to global GDP annually."[5] Such econometric studies attempt to quantify the value of the reduction of non-tariff trade barriers that are the major objective of TTIP and TPP negotiators. However, as a review of TTIP econometric models notes, "neither the 'cross-cutting disciplines on regulatory coherence and transparency' nor the 'framework on future cooperation' can be quantified ex-ante, and possibly not even ex-post without heroic assumptions."[6] The positive forecast of TTIP for the global economy depends entirely on "heroic assumptions" about the value of "least trade restrictive" regulation.

One review of econometric forecasts found TTIP attributed increases in the EU Gross Domestic Product to range from 0.5 percent to 0.7 percent by 2027 in the case of two studies.[7] A different assessment of these claims dismissed the supposed gains as a "rounding error."[8] Using more realistic policy assumptions and partial equilibrium modeling, Jeronim Capaldo found that over a decade under TTIP, the EU member states would experience losses of net exports, Gross Domestic Product, labor income and government revenue, with a loss of 600,000 jobs added to the current high EU unemployment rate, particularly among youth.[9]

The U.S. government continues to rely on an econometric assumption that every US$1 billion in export increases equates to "close to 6,000 more jobs"[10] to promote free trade agreements. Given the actual experience under previous trade deals, however, this claim seems unlikely to sway public opinion. Multiple polls in the U.S. characterize trade policy as a major enabler of net job outsourcing.[11] And even if increased "trade flows" resulted in greater corporate revenues, there is little reason to believe that those revenues would lead to job creation. In fact, rather than creating jobs, it is much more likely that corporations would utilize the enhanced protections under the trade agreements to transfer their corporate headquarters on paper to pay even lower tax rates in another jurisdiction,[12] and yet still retain their government contracts, government provided subsidies, deregulatory benefits, diplomatic support and military protection.

EU member state governments have prescribed fiscal austerity and reduced services for its citizens while competing to offer corporations the greatest tax reductions. Indeed, Jean-Claude Juncker, the new President of the European Commission and

Prime Minister of Luxembourg since 1995, is struggling to explain away leaked documents showing his role in making the small country both a corporate tax avoidance haven and what Tax Justice Network called the "death star" of financial secrecy.[13] How is further liberalizing trade to increase corporate revenues supposed to restore growth and new investment if corporations succeed in playing off one government against another in pursuit of the lowest tax rate and various forms of "regulatory relief"? Neither TTIP nor the TPP will do anything to reduce the corporate tax avoidance and evasion that decimates the use of trade revenues for public policy purposes.

Draft negotiating texts as if they were subject to national security classification

The USTR treats access to U.S. trade negotiations draft texts as if they were classified as national security information under President Barack Obama's Executive Order 13526, which governs all foreign policy documents. However, "leaked chapters of the TPP text reveal that they are marked 'confidential,' not classified. Moreover, the cover pages of various leaked TPP chapters all include a disclaimer that makes clear that classified handling is not required: 'This document must be protected from unauthorized disclosure, but may be mailed or transmitted over unclassified e-mail or fax, discussed over unsecured phone lines, and stored on unclassified computer systems. It must be stored in a locked or secured building, room, or container.'"[14] Although the texts are not formally governed by national security information classification, the USTR provides access to the draft negotiating texts as if they were documents requiring a security clearance to read them. Under the U.S. Trade Representative's apparent interpretation of E.O. 13526, Members of Congress may read draft USTR proposed chapters for TPP and TTIP only under armed guard and without being able to take notes nor discuss publicly the contents of what they have read.[15] The USTR has not responded to repeated requests from members of Congress to cite the statutory authority for requiring security clearances for Congressional staff to read the draft texts.[16]

Perhaps this draconian abridgement of democracy could be justified in a court of law, if disclosure of the TPP and TTIP draft texts revealed the identities of undercover intelligence agents or the details of military operations responding to a clear and present danger, as defined under national security doctrine. However, what we know about the TPP and TTIP from draft leaked texts (or, since January 7, from the European Commission's decision to publish most of its negotiating proposals) indicates agreements that seek to remove or modify domestic regulations regarded by corporations as "trade irritants." How do such trade policy objectives justify a national security approach that excludes all but USTR security-cleared advisors from having decisive input into the content of the USTR proposed TPP and TTIP texts?

Faced with the weak and spurious argument for concluding the TTIP and TPP, what is a foreign policy establishment to do? The argument that trade policy bolsters economic security is a trope of the geopolitical imperative of so-called free trade. For example, Ambassador Miriam Sapiro, a former U.S. trade negotiator, writes: "Much as the U.S. led the fight in forging strong military alliances after World War II to discourage a resurgence of militant nationalism in Europe or Asia, now is the time to place equal emphasis on shoring up our collective economic security. A failure to act now [to pass free trade agreements] could undermine international security and place stability in key regions in further jeopardy."[17] The analogy between Cold War military alliances and new trade agreements for "collective economic security" alludes to a heroic model of trade policy to defeat an implied enemy or identified enemy, such as the Islamic State of the Levant.

Despite the promise by European governments and their academic allies that fiscal austerity would restore investor confidence to jumpstart economic growth and job creation, European economic growth continues to trend towards another recession[18], as what Paul Krugman calls the "confidence fairy" has not appeared. But how will the removal of "trade irritants," e.g., enabling the use of 82 U.S. pesticides currently banned in EU member states as dangerous to human hormonal development,[19] further the cause of collective economic security, much less of national security?

If, in this example, the U.S. geopolitical claim is that genetically engineered crops that require such pesticides must be allowed for import under TTIP and the TPP in order to "feed the world,"[20] there are numerous alternatives for achieving greater food security. Among these alternatives are other, less risky and costly agricultural production methods and investment in post-harvest infrastructure to enable net food deficit countries to feed themselves. The massive U.S. diplomatic support for pesticide and transgenic seed exporters, documented in hundreds of Wiki-leaked diplomatic cables, shows that the so-called "science-based" imperative for commercializing GMOs is just another "soft power" geopolitical tactic to control a critical margin of food security in developing countries with a net food deficit.[21] Those who invoke geopolitical imperatives for approving trade agreements have a very significant burden of proof to show the necessity of negotiating trade agreements under national security strictures.

Geopolitical claims for the TPP and TTIP

Seventeen former military leaders wrote in early May to the U.S. Congress to urge passage of "fast track" Trade Promotion Authority (TPA), which they consider crucial to approval of the TPP and the TTIP. Because of the aforementioned restriction on access to USTR negotiating texts, it is very unlikely that any of the former military leaders have read the draft USTR proposals. Nevertheless, the letter claims, "The stakes are clear. There are tremendous strategic benefits... and there would be harmful strategic consequences if we fail to secure these agreements... In both Asia-Pacific and the Atlantic, our allies and partners would question our commitments, doubt our resolve, and inevitably look to other partners. America's prestige, influence, and leadership are on the line."[22]

Justifying the TPP and TTIP as a "model for the rest of the world"[23] on the basis of intangibles such as high standards or prestige, is an updated variant of justifying the extraction of raw materials from colonies with indentured labor as part of a mission to bring civilization and culture to lesser peoples in the form of trade, ("mission civilatrice" or "civilizing mission"). In recent U.S. diplomatic history since World War II, "nation building," accompanied by "regime change,"" has succeeded the "mission civilatrice" of colonial rule. For example, U.S. Ambassador Henry Cabot Lodge justified his support for overthrowing the government of South Vietnam in 1963 in the following terms:

> My general view is that the United States is trying to bring this medieval country into the twentieth century . . . We have made considerable progress in military and economic ways, but to gain victory, we must also bring them into the twentieth century politically, and that can only be done by a thoroughgoing change in the behavior of the present government or by another government.[24]

The strategic value of this [North Atlantic] power can be seen in Russia today: the country's economic health lies at the mercy of Western monetary governance.

Kris Bledowski, an industry economist, Carnegie Endowment Europe, October 2014.

In hindsight, of course, imposing "nation building" from top down, including taking over another country's economic and trade policy, has seldom been as successful as its promoters had hoped. In fact, the historical record to the contrary is clear: trade policies that promote dependency on commodity exports with little progress toward economic diversification have undermined national development agendas around the world. Fifty years after the founding of the United Nations Conference on Trade and Development, the organization had to report "very high commodity export dependency" among most of its developing country members and little of the economic diversification required for development.[25]

Nevertheless, the appeal of the military leaders to Congress about the "tremendous strategic benefits" of the TPP should not be ignored as mere salute-the-flag (and vote that way) rhetoric. The appeal raises a question about whether there are "strategic benefits" to trade agreements designed to limit the geopolitical influence of governments not party to these trade agreements. In the case of the TPP, these benefits would derive from "containing" China through economic and regional integration by supranational regulation,[26] enforced by private tribunals of corporate lawyers in the Investor State Dispute Settlement mechanism. In theory, if China wanted to do business with TPP Parties, it would have to do so according to TPP rules, written, as President Barack Obama said in his 2015 State of the Union message, by the United States.[27] China-led negotiations towards a proposed Asian-Pacific Free Trade Area—once including and supported by the United States—were squelched by the White House prior to President Obama's State of the Union address.[28] The purported trade-related national security imperatives of the TPP turned out to be a red flag waved at Congress to help stampede a vote to fast track Trade Promotion Authority.

For the European Union, TTIP and the Canadian European Union Free Trade Agreement (CETA) offers the possibility of an indirect route to achieving the traditional geopolitical objective of energy security. The North American Free Trade Agreement requires Canada to sell oil, gas and other minerals to the United States, except during national security emergencies.[29] Canada, seeking to reduce its energy export dependence on the United States, has made energy exports a key feature of all but ratified CETA.[30] The EU has proposed under TTIP that the U.S. be required to export both crude oil and natural gas. U.S. oil and gas exports to EU member states would reduce their dependence on Russia for those commodities.[31] While the U.S. allows exports of natural gas, an act of Congress banned the export of crude oil in 1975, a restriction the U.S. oil industry would like to overturn.[32] The U.S. would like to sell more natural gas to Europe in light of its preference to pay the higher prices for U.S. natural gas, rather than depend on Russia for natural gas and, indeed for oil.

According to a Russian energy analyst, U.S. policy concerning Ukraine is not only concerned with getting Ukraine to join NATO and be bound by its mutual military defense commitments, but also about securing access to Ukrainian off-shore natural gas deposits.[33] U.S. troops have been in Ukraine since mid-April training separatist soldiers.[34] Destabilizing Russia's relationship with Ukraine and risking a hot war with Russia is a high-stakes U.S. strategy to achieve strategic advantage in energy resources. Even if a hot war is avoided and there is a return to something like Cold War détente,[35] the achievement of short term energy security through obligatory exporting would be a self-defeating victory.

As non-governmental organizations have pointed out concerning the energy trade consequences under the TPP or TTIP, the unconventional forms of energy that are increasingly exported, such as shale gas and crude oil derived from tar sands, are more potent sources of greenhouse gases than the conventional energy forms that are in declining production.[36] While the latest U.S. national security doctrine states, "Climate change is an urgent and growing threat to our national security,"[37] that recognition has not changed traditional U.S. geopolitical strategy towards oil and gas policy and how the military might be deployed to support it.

Will "containment" via TTIP as an "economic NATO" work strategically?

There is debate among the foreign policy establishment about whether TTIP will have the strategic benefits of an "economic NATO [North American Treaty Organization]"[38] as an adjunct to NATO enlargement to "contain" Russia's foreign policy objectives.[39] According to one industry economist, "TTIP will not become an 'economic NATO' because the trade and investment deal targets an internal marketplace. Nevertheless, the partnership will introduce regulations and standards that may become best practice. Therein lies its strategic dimension."[40] This response, lacking any pretense of military relevance, is certainly an unorthodox understanding of strategic benefits. Harmonized regulations and standards to expedite trade presumably will benefit the transatlantic corporations that have lobbied incessantly for them. But if transatlantic trade facilitation through harmonized regulations and standards is the entire "strategic dimension" of TTIP, then its capacity to contain Russian foreign policy objectives, such as retaining its historic control over the Black Sea, is hard to discern.

The same industry economist offers a more plausible tool of Russian "containment," or at least of pressuring Russia, for accommodating U.S. and EU demands to allow Ukraine to join NATO, and possibly add to the "defensive" shield that could be pointed at Moscow: "The rule of law, military muscle, and economic might of the North Atlantic made the dollar, euro, and sterling the world's safe havens. The strategic value of this power can be seen in Russia today: the country's economic health lies at the mercy of Western monetary governance."[41] "Monetary governance" here does not mean financial market regulations, but rather a combination of the denomination of Russian debt in dollars (and to a lesser extent euros), the falling price of oil and gas revenues with which Russia uses to pay foreign debt, the falling value of the ruble against the dollar, U.S. and EU economic sanctions in response to Russia's annexation of Crimea (containing the home port of Russia's southern naval fleet) and capital flight from Russia as a result of the aforementioned factors.[42]

Disputes over mineral rights to control what Michael Klare has called "the global scramble for the world's last resources" certainly has the potential for military confrontation. For example, the commander of the U.S. European Command stated at a NATO conference, "It is no coincidence that our strategic interest in the Arctic warms with its climate. For now, the disputes in the north have been dealt with peacefully, but climate change could alter the equilibrium over the coming years."[43] Implied here is that diplomatic and corporate failure to effectively "contain" the damage from climate change could result in military conflict over energy and mineral resources by erstwhile allies. Yet it would be difficult to argue that the Obama administration has invested as much political capital in climate change negotiations as it has in trade policy negotiations.

Break down in the rule of law as a geopolitical risk factor

The extent of "financial misconduct" among globally important financial institutions, reported Financial Stability Board (FSB) Chairman Mark Carney to international financial officials in April, "has the potential to create systemic risks by undermining trust in financial institutions and markets."[44] The 36 FSB member governments have agreed to a modest work program concerning compensation and risk governance and standards of conduct to reduce the prevalence of financial misconduct.

The effective role of the "rule of law" in the economic governance containment of Russia and elsewhere is overstated. Cross-border prosecution of financial crimes with effective criminal penalties has focused on so-called rogue traders, rather than on institutions and their chief executives.[45] The transnational structure of financial institutions and their trading operations has inhibited nationally bound jurisdictions from effectively prosecuting cross-border crime by private financial institutions. The European Union opened a public prosecutor's office in 2014 to investigate cross-border crime among EU member states, but it focuses only on misuse of public funds.[46]

The U.S. has refrained from applying any greater penalties against corporate financial malfeasance than levying fines paid out of shareholder funds. (The failure to prosecute financial crime is a subset of the general U.S. federal reluctance to prosecute corporate crime.[47]) For example, Barclays, JP Morgan Chase, Citigroup (at which Secretary of Treasury Jacob Lew and U.S. Trade Representative Michael Froman once worked), UBS and the Royal Bank of Scotland will be allowed to continue all their business activities after they have pled guilty to a wide array of anti-trust, fraud and price-fixing charges for rigging the prices in the multi-billion-dollar–a-day foreign exchange markets.

As *The New York Times* tartly noted, "For most people, pleading guilty to a felony means they will very likely land in prison, lose their job and forfeit their right to vote."[48] As a result of the failure of the U.S. Department of Justice to apply dissuasive penalties in case of institution-wide financial crime, an anonymous survey of Wall Street employees making more than $500,000 a year reports that more than a third "have witnessed or have firsthand knowledge of wrong-doing in the workplace."[49]

Corporations, according to the U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission* are natural persons, entitled to all Constitutional protections, including giving unlimited electoral contributions as a form of unfettered free speech.[50] But these banks and their chief officers are not "most people" and hence will not suffer the penalties of felons. The irony of felony convictions with no material consequences apart from the amount of fines and legal bills (as the chief officers assured their banks' shareholders), will not be lost on the Chinese embassy in Washington. The U.S. will continue to accuse China and other governments of "currency manipulation" while allowing convicted banking felons to benefit from Department of Treasury regulatory exemptions for foreign exchange trading.[51] At the same time as the Department of Justice announced the felony convictions without greater penalties than fines for foreign exchange price-fixing, the Senate has agreed to schedule a vote on a bill to compensate for Chinese currency manipulation with countervailing import duties, a vote arranged to clear the way for a vote on fast tracked TPA.[52]

Will the TPP "contain" China?

> "Time is running out. We already see countries in the region trying to carve up these markets . . . passing TPP [Trans Pacific Partnership Agreement] is as important to me as another aircraft carrier." U.S. Department of Defence Secretary Ashton Carter, April 6, 2015.[53]

There are a number of reasons to believe that the strategy of isolating China through the TPP will not work. As Pierre de Fraigne, Pascal Lamy's chief of staff during Lamy's tenure as the European Commission's Director General of Trade, recently told transatlantic business groups:

> The West and Beijing both share the responsibility for 'China's peaceful rise.' For the prosperity and stability of the world, we should not isolate China. China is not Soviet Russia; it has the capacity to answer back. It has the people, the money and the long-term vision. And above all, China has the largest and fastest growing domestic market in the world, and the CCP [Chinese Communist Party] intends to use that growth to climb up the technology ladder and develop their own norms.[54]

For the prosperity and stability of the world, we should not isolate China. China is not Soviet Russia; it has the capacity to answer back.

– Pierre Defraigne, speaking to a Transatlantic business group, May 2015.

A signal initiative of the "capacity to answer back" is the launch of the Chinese-financed Asian Infrastructure Investment Bank (AIIB) and the very rapid interest of U.S. European allies to join it.

Once 47 U.S. allies, including the United Kingdom, had applied to join the AIIB, and it was welcomed by the President of the World Bank, President Obama also had to accept the existence of the AIIB, however grudgingly.[55] But a face-saving gesture by no means signals a U.S. foreign policy shift in the "pivot to Asia." The letter of the generals to Congress to urge the passage of fast track TPA and President Obama's order to his Secretary of Defense to promote the TPP, as if U.S.-led regulatory dominance of TPP members were of equal strategic importance as an aircraft carrier, signals a clear intent to beat the war drum on the TPP. The White House hopes Congress salutes the "strategic benefits" argument for the TPP as the former military leaders have. But is the TPP the right tool to compete with a China-led bank financing infrastructure in the region where the U.S. headquartered World Bank has been unable or unwilling to finance infrastructure projects that do not require contracts with U.S. companies? Setting aside the rhetorical alarms about trade-related U.S. national security, how does TPP ensure U.S. economic security?

According to the March 25, 2015 Wikileaks release of the TPP investment chapter, foreign investors will be empowered to sue in private trade tribunals to claim damages on the grounds that U.S. laws, regulatory actions and court rulings have resulted in a loss of anticipated profits from the investment.[56] Privileging foreign investors from TPP countries over U.S. investors, and private tribunals over U.S. public jurisprudence, provides no discernable advantage for the United States to compete with or contain Chinese economic influence. The U.S. Trade Representative has advocated that the Investor State Dispute Settlement (ISDS) mechanism apply to all economic sectors in TPP, which has been a major source of resistance for other TPP parties.[57] The TPP promoters of national security do not answer how the ISDS circumvention of U.S. public law and due process will enhance U.S. national security.

However, the U.S. may be able to reduce Chinese geopolitical influence by getting China to agree to U.S. terms for a long sought Bilateral Investment Treaty (BIT). The United States and China have been negotiating a BIT since 2008. China has entered into 144 BITs.[58] However, according to a corporate law review of the negotiations, this BIT is different from the previous ones. In 2014, "The parties announced a major breakthrough when China signaled for the first time its willingness to protect U.S. investments at all phases of development and in all sectors and industries, except where specifically excluded."[59] The U.S.-China Business Council members' chief executive officers wrote to President Obama in 2014 urging the USTR to negotiate a "high standards" BIT with China that would minimize the economic sectors excluded from the treaty, especially sectors dominated by State Owned Enterprises.[60]

"High standards" in the U.S. BIT context is a euphemism for inclusion of the ISDS. Subordinating sectors such as agriculture, which is historically a key strategic interest for China, to the ISDS would be a negotiating triumph for the USTR and U.S. investors. Opening U.S. law, regulations and jurisprudence to lawsuits filed under the direction of the Chinese Communist Party, however, could be difficult to defend politically even for the most zealous free trade member of Congress.

I have been approached by lobbyists who have clearly argued they want to have a weak European regulation, much weaker than Dodd Frank to use that . . . to undercut or undermine Dodd Frank in the transatlantic negotiations.

A Member of the European Parliament, May 2015.

Asynchronous urgency: fast tracking trade agreements while slow-walking financial regulatory reform

Free trade policy advocates are emphatic that negotiations for the TPP must conclude by 2015 to avoid making the TPP an issue in the 2016 U.S. elections. Having failed to make earlier urgent deadlines, TPP leaders are becoming more cautious about announcing a closing date for the negotiations.[61] The USTR expects TTIP negotiations to result in an agreement to present to Congress after the 2016 elections.

There is no comparable official urgency to conclude and implement agreements on international financial regulatory reform, much less international measures to prevent corporate tax avoidance or illicit financial flows. For example, the U.S. Treasury has exempted the foreign exchange market from reforms, even though foreign exchange trade losses by global banks and their largest corporate clients triggered US$5.4 trillion in Federal Reserve Bank loans to keep the banks solvent.[62] The value of trade revenues to companies and taxes paid on those revenues to governments depends crucially on the ability of companies and governments to hedge against the falling value of their currencies relative to trade that is denominated in dollars. Yet perhaps only $200 billion of foreign exchange markets reflects currency hedging for capital investment, tourism and the trade of goods and services. The rest of foreign exchange trading is purely speculative.[63]

The largely unregulated foreign exchange trading is a major impediment to any possible realization of the potential benefits of trade forecast by TTIP and TPP proponents. And yet there is no comparable urgency to regulate cross border foreign exchange trading. Indeed, U.S. Commodity Futures Trading Commission (CFTC) Commissioner Giancarlo recently advocated a return to the "principle-based" cross border regulation of the decades prior to 2008. According to the "high level principles" approach to cross-border regulation, jurisdictions should defer to each other's authority and discretion to regulate cross-border trading as each see fit. His speech, reflecting the criticisms of his former Wall

Street employer of the Dodd Frank Wall Street Reform and Consumer Financial Protection Act, accused the CFTC of "financial protectionism," a term of denigration derived from "trade protectionism."[64] Commissioner Giancarlo apparently believes that consumers of financial products, whether retail or institutional, need no protection, despite the conservatively estimated loss of $13 trillion of U.S. wealth in the form of loss in mortgages, pensions, municipal and state government bond defaults, short terms commercial loans, physical commodities trades and other assets that became part of the derivatives default cascades on Wall Street.[65]

The Group of 20 finance ministers and central bank governors asked the Financial Stability Board to analyze how the world's largest banks and other financial institutions managed their risks. The FSB and other international governance bodies were also tasked with proposing rules and best practices to prevent global financial contagion in the event that any one of these firms became insolvent. First, the FSB developed criteria for identifying and characterizing Systematically Important Financial Institutions (SIFIs). SIFIS continue to be too under-capitalized to prevent their bankruptcy in the event of interconnected trading losses. Under-regulated SIFIs committing repeated instances of what FSB Chairman Mark Carney called "financial misconduct" pose a far greater threat to the global economy than the failure to conclude trade negotiations. As the Vice-Chair of the U.S. Federal Insurance Deposit Corporation recently remarked,

> The portion of the financial industry with the greatest concentration of assets is the least well prepared to absorb loss. With relatively little capital within individual firms, the industry as a whole also is undercapitalized. The effect is that the probability of a SIFI failing is relatively higher than we currently perceive it to be and should one fail, the probability of the industry being dragged down with it is higher as well.[66]

The EU has threatened to remove financial services from TTIP unless it includes disciplines on financial rulemaking.[67] The EU has protested Federal Reserve Bank capital reserve requirements for foreign banks operating in the United States as too high and unfair to European banks.[68] Under a TTIP including financial regulation disciplines, either the Federal Reserve Bank capital reserve regulations would "harmonize" with those of the EU, or EU investors could sue the Federal Reserve for billions of dollars of damages under the ISDS.

Even the Bank for International Settlements Basel III agreement to have global banks set aside 4.5 percent of their assets to cover trading losses is mired in controversy and not scheduled to take effect until at least 2019.[69] That date is a full decade after the Group of 20 Leaders committed to making transparent the dark market trading that would have bankrupted global financial institutions had it not been for at least $29 trillion in Federal Reserve Bank emergency loans and smaller bailouts from other central banks.[70] Despite the urgency of the need to enable national regulators to access trade data generated by the thousands of foreign affiliates of the global banks, the bank's resistance to regulation of their cross-border trading has been unstinting.[71]

The questions that do not seem to occur to trade negotiators is, first, whether trade can contribute to economic growth in the absence of more stringent regulation of cross border financial trading, and second, whether corporate revenues from trade will continue to be parked abroad while waiting for yet lower tax rates and amnesty for tax evasion. The capacity of governments to facilitate trade safely while cutting regulatory budgets, staff and infrastructure required to build the EU's internal market has been severely eroded. Rebuilding the regulatory structures damaged by budgetary cuts and a decade of non-regulation, deregulation and non-enforcement will not be made any easier by a trade related "regulatory cooperation" agenda dedicated to increasing trade flows at any price.

Conclusion

For the great majority for whom the economy has not been working, the argument that a trade agreement should be approved for "geopolitical reasons" and to protect the leadership of "the Western World as a whole" is likely to ring hollow. And yet government campaigns to persuade the public and their legislative representatives on the geopolitical necessity of approving TTIP and other trade agreements may succeed where macro-economic forecast about export benefits (and never about import or regulatory costs) have failed. Selling TTIP as the "economic North Atlantic Treaty Organization" preys on collective fears about security that conflate TTIP protections for investors with protections by NATO troops and bombers and U.S. aircraft carriers in the South China Sea. Even if trade agreements fail to result in the promised prosperity and job creation, their legislative approval (so goes the argument) shows political leadership to protect us against geopolitical threats, such as the Russian response to incorporating Ukraine into NATO.

Arguing trade policy on geopolitical grounds spares policy elites the trouble of explaining the failure of fiscal austerity to inspire investor confidence and create prosperity that "trickles down." In the wake of the de facto bankruptcy and bailouts of many the largest private financial firms in 2007-2009 and the global economic crisis triggered by those bankruptcies, a 2009 opinion poll in 20 countries indicated that a majority of respondents in 13 countries wanted more government investment and regulation of the private sector.[72] The new Republican leadership in the U.S. Congress, however, has signaled that it intends to cripple implementation of the Dodd Frank Wall Street Reform and Consumer Financial Protection Act of 2010, calling Dodd Frank, "Obamacare for banks."[73] "Obamacare" refers to the healthcare legislation that the Republican Party has tried to repeal at least 39 times. This rhetorical attempt at guilt by association signals that as the Republican Party seeks to expand U.S. trade, it will also weaken regulation covering the global financial services trade.

According to one member of the European Parliament, "I have been approached by lobbyists who have clearly argued they want to have a weak European regulation, much weaker than Dodd Frank, in order to use that afterwards as a level to undercut or undermine Dodd Frank in the transatlantic negotiations."[74] The American Chamber of Commerce in Brussels are among the lobbyists.

The Wiki-leaked draft financial services chapter of the plurilateral Trade In Services Agreement contains a number of regulatory standstill measures that would run counter to the international financial regulatory reforms under negotiation by the 36 government members of the Financial Stability Board.[75] A counter-reformation in financial services regulation, combined with the fast-tracking of a TTIP and TPP with the capacity to attack financial regulations, could have very undesirable geopolitical consequences.

In February 2009, U.S. Director of Intelligence Dennis Blair summarized the considered analysis of 16 intelligence agencies for the Senate Select Subcommittee on Intelligence. Director Blair stated, "The primary near-term security concern of the United States is the global economic crisis and its geopolitical implications."[76] He did not identify deregulation of the financial services industry and non-enforcement of financial services rules as the proximate cause of the primary national security concern However, there is ample evidence to that effect, including the Senate's own investigation of the financial services industry collapse[77] as the trigger of the broader global economic crisis. It would be a terrible and tragic irony if TTIP and the TPP were fast-tracked, while financial services regulatory reform was thwarted, resulting in another, larger financial services collapse that once again became the primary concern of U.S. intelligence agencies.

Endnotes

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