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Reactions to Trumpism: The TPP and the Politics of Uncertainty

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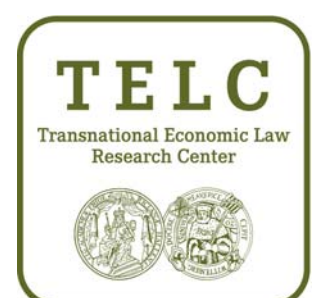
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I. Introduction

‘Trumpism’ is a term academics and journalists increasingly employ to describe the part-Republican-part-nationalist ideology that appears to motivate much of the rhetoric of the new U.S. President, Donald John Trump. Trumpism appears to have two primary components: (1) the rejection of the current American political establishment; and (2) the vigorous pursuit of American national interests. If public, private, and citizen reactions to Trumpism can be summarized in one word, that word is ‘uncertainty.’ Trump has yet to articulate definite trade and foreign policies (apart from a definite withdrawal from the TPP), and the legality of several aspects of his budding regime—from allegedly nepotistic cabinet appointments to the constitutionality of his refugee/immigration block to the ethics of his continued business involvement—has yet to be determined. In response to Trumpism, at the business level, affected companies appear to be bracing for change, while at the state level, the US’s current and would be trading partners have expressed disappointment at Trump’s trade agenda and appear to be looking around for ‘pivot’ plans, especially in Asia. Markets initially responded positively to his election, but that momentum too has turned. Indeed, as some academics have noted (See, e.g., Yascha Mounk, *Trumpism: A New Era in World Politics?* Project Syndicate, 16 July 2016),

political uncertainty may be the theme of the age, with Brexit, Trumpism, and the rise of populist parties in Europe reflecting various forms of ‘uncertainty’ among many citizens about the functioning of their democracies and the openness of their societies.

This policy paper will reflect on private and state level reactions to Trumpism and the U.S.’s withdrawal from the TPP. It will seek to identify themes surrounding the ‘politics of uncertainty’ emerging from the first week of Trump’s presidency. Part II will explore private sector reactions to Trumpism, while Part III will explore state level reactions. Part IV concludes by identifying common themes in these reactions and speculates on what these themes may indicate for the future of international trade agreements.

II. The Private Sector and Trumpism: Reactions to the U.S.’s TPP Withdrawal, NAFTA Stance, and Bilateral Goals

Trumpism’s effect on the international economy is still difficult to determine due to a lack of detail and clarity regarding his policies. However, there are three policy areas firms and nations are watching: fiscal, monetary, and trade (see Linda Yueh, Oxford University Press Blog, *The Economic Effect of ‘Trumpism’*, 10 November 2016). Focusing on trade policy, at least three actions are clearly part of the Trump agenda. First, U.S. withdrawal from the TPP, a longtime goal toward which Trump signed an executive order during his first week in office; second, renegotiating NAFTA; and third, negotiating bilateral, rather than multilateral, trade deals with U.S. trading partners.

a. Withdrawal from the TPP: A ‘Kick-Start’ for RCEP?

President Obama never sent the TPP to Congress to be officially ratified, and indeed, this may have been a strategic move. The TPP had become a political pariah during the buildup to the 2016 Presidential elections, with Hillary Clinton, Bernie Sanders, and Donald Trump all taking strong stances against it, and Congress also had many dissidents. Unfortunately for the TPP, it was likely left with only two roads to ‘death’ in the U.S.: Obama could send it to Congress for a ‘no’ vote, or he could leave it on the table for Trump. By leaving Trump the option to kill the TPP, Obama avoided an outcome that would have broader implications for the democratic legitimacy of similar trade deals. As it is, death by lawful executive action places responsibility on Trump should the TPP be viewed retrospectively in a favorable light, and keeps the road clear for revival should the political climate change before the current Congressmen-and-women expire. National reactions to Trump’s withdrawal from the TPP are detailed in Section III of this policy paper. It is unclear how firms are reacting specifically to Trump’s withdrawal (as opposed to other concurrent actions) because the TPP never entered into effect and its existence has long been jeopardized. However, it can be said that, because modern products are no longer made in a single country, the TPP would have encouraged the CEOs and logistics managers of multinational firms to hedge their bets with the world’s largest free trading zone (the TPP), which would have included economies at various levels of development, and would have been dominated

by the US (see Adam Davidson, *What the Death of the TPP Means for America*, *The New Yorker*, 23 January 2017). It would have also offered incentives to firms within the 12 member states to partner with other firms in that group. Multinational firms are more likely to establish supply chains in regions where trade policy is stable, predictable, and secure.

With the TPP either diminished or dead, from an Asia-Centric perspective, multinational firms are turning their sights toward the Regional Competitive Economic Partnership (RCEP), which includes the ten ASEAN states (Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam), along with Australia, China, India, Japan, New Zealand, and South Korea. Indeed, the *Bangkok Post* speculates that the pending demise of the TPP is likely to ‘kick-start’ the progress of the RCEP (Chatrudee Theparat, *TPP pull-out likely to kick-start RCEP*, *Bangkok Post*, 26 January 2017). The RCEP differs from the TPP in that it does not include labor or environmental standards, nor does it feature purely aspirational chapters (e.g. the TPP’s chapter on development), or at least this appears to be the case at this early stage of the RCEP negotiations (see *Guiding Principles and Objectives for Negotiating the RCEP*, available at <http://dfat.gov.au/trade/agreements/rcep/Documents/guiding-principles-rcep.pdf>). As a result, it will likely be easier for states to join and easier to ratify.

b. NAFTA Stance: Three Possibilities

Concerning NAFTA, and based on Trump's campaign speeches, firms must consider at least three scenarios should Trump tamper with the deal: First, Trump could kill NAFTA and set off a trade war with Mexico by imposing massive tariffs. Should such an event occur, Mexico has promised retaliation, and both countries would suffer (80% of Mexico's exports move across its northern border). Indeed, the 20% tariffs proposed by Sean Spicer on January 26 as an option to pay for the U.S.-Mexico border wall seemed a predictable predecessor to just such a lose-lose scenario (see, e.g. Patrick Gillespie, *A 20% Tariff Would Pay for the Wall, but it Would Hurt Americans*, CNN Money, 26 January 2017). The Spicer-Trump proposition would blatantly violate NAFTA's tariff schedule, which eliminated the last tariffs within North America in 2008. But Trump has a somewhat debatable power to withdraw from NAFTA altogether; he would likely need the support of the Republican Congress (as with all ratified U.S. treaties, NAFTA is incorporated into domestic U.S. law through an Act of Congress). While NAFTA Article 2205, the Article of NAFTA that allows withdrawal, accords any party the right to withdraw from the Agreement after giving a six-month notice, the issue of whether withdrawal could be initiated solely by the executive branch of the U.S. government is certainly a litigable issue. Nevertheless, there is nothing clearly stopping the executive office from doing so, and Trump is not one to wait until the courts arrive at an answer—or even one to consult experts—before taking rash action (this is evident from the lack of

consultations with the Department of Justice regarding the constitutionality of the executive order blocking refugees and migration from seven Muslim-majority countries).

Second, Trump might do what he says and renegotiate NAFTA with better terms for U.S. firms. However, this scenario seems unlikely, especially given the bizarre feud Trump promptly instigated with Mexico's President, Enrique Peña Nieto, during his first week in office (see e.g. Michael D. Shear et al, *Tax Plan Shows Confusion and Tensions with Mexico Soar*, *The New York Times*, 26 January 2017). It is unclear which specific provisions of NAFTA Trump aims to renegotiate with Canada and Mexico. However, it seems likely, given President Nieto's recent cancellation of a U.S.-Mexico Summit and Trump's cancellation of a meeting on oil pricing, that neither state is feeling particularly generous toward the other.

Finally, in a third scenario, Trump could kill NAFTA without imposing massive tariffs, and the development could have little immediate impact. The trade war scenario is indeed unlikely because excessive tariffs would still constitute undue barriers to trade, and would be subject to other forms of international litigation, external to NAFTA. All three NAFTA states are WTO Members, for example, and are bound by the MFN and non-discrimination principles set out in the GATT 1994.

c. The Bilateral Approach: A Better Way for the U.S.?

The bilateral approach to trade deals that Trump seems to favor has drawn criticism in the past. Some commentators point out that the negotiating leeway granted through multilateral agreements—if only because a multiplicity of interests and economies put more options on the table that can smooth asymmetry among countries—is the only thing that can achieve the “fundamental balance of benefits” necessary to bring a partner like Japan to the table (See e.g., Wall Street Journal, Japan says TPP ‘meaningless’ without U.S., but still hopes to save pact, 24 January 2017, WSJ). However, the approach Trump advocates is similar to the E.U.’s approach: multiple bilateral (or so-called plurilateral) agreements with individual countries and the E.U. (e.g. EU-Singapore, EU-Vietnam, CEFTA, etc.) When the completion of the TPP’s negotiations were first announced, some commentators hailed it as a triumph over the E.U. approach, because indeed, it is a more ambitious approach to free trade deals in terms of economic incorporation (see, e.g. Nikos Lavranos, *It’s Asia Stupid! The Race Between the EU and the US for Concluding Free Trade Agreements in Asia*, Kluwer Arbitration Blog). But as we have recently seen, perhaps the E.U.’s strategy is more politically viable, at least if multilateral trade agreements are to contain labor, environmental, or even human rights chapters.

Trump appears to favor the E.U. approach, or something closer to it than the multilateral TPP approach. He commented on the possibility of a one-to-one trade deal with New Zealand, but Murray McCullay, New Zealand’s

Trade Minister, described the proposed terms as ‘unattractive’—namely, a 30-day out clause, which would give the U.S. the option to terminate certain bilateral trade obligations after a 30-day notice “if someone misbehaves,” in the words (and view) of Trump (Vernon Small, *Stuff Politics*, Trump signals one-on-one NZ trade deal but English says his terms are ‘unattractive’, 24 January 2017).

As I have written in an earlier policy paper, most of the countries in ASEAN were already taking what might be called a ‘wait and see’ approach to the TPP (see Kevin Crow, *The TPP and Malaysia, Local Impact and Implications Following the Partnership Negotiations*, Policy Paper No. 44, Transnational Economic Law Research Center, Universität Halle-Wittenberg (October 2015)). Indonesia, for example, as an early negotiator, decided to opt out of TPP negotiations in part due to potential exposure of its state owned enterprises—which comprise roughly 70% of the top 10% of Indonesian firms—to potentially costly lawsuits in foreign jurisdictions (through the TPP’s Investment Chapter). Other ASEAN members, such as Thailand and Brunei, did not join in part due to concerns that some of their trade policies would be considered protectionist under the TPP. Indeed, while many non-Party ASEAN members expressed interest in joining the Agreement, only four actually followed through (Brunei, Malaysia, Singapore, and Vietnam). Bilateral FTAs may prove to be more effective to the EU in the long run because they offer each of the politically, socially, and economically diverse countries in ASEAN the opportunity to craft an agreement tailored to their needs. If, as it has been claimed, the E.U. and the U.S. are in a ‘race’ to gain

FTAs with the entirety of ASEAN, the death of the TPP indicates that the E.U.'s bilateral approach is superior, at least for now.

III. State-Level Reactions to Trumpism: What Will the Remaining TPP Members Do Now?

Trump's withdrawal from the TPP has produced uniform disappointment amongst the Agreement's 11 non-U.S. parties. The question lingers, however, as to whether the trade deal really is dead. Australia's Trade Minister, Steven Ciobo, noted that the TPP "certainly can't go forward unless the United States wants to change its mind." However, he also described the TPP as "an agreement that has made a lot of very big gains. Gains that Australia, Japan, Canada, Mexico and other countries want to keep hold of. Which is why a number of us had a conversation about a possible TPP 12 minus one." (Joshua Berlinger, CNN, TPP unravels, where the 11 other countries go from here, 25 January 2017). Heraldo Muñoz, Chile's Foreign Minister, expressed a similar sentiment, noting that Chile is "interested in continuing the advancement of integration with countries in the Asia Pacific region, many of who were part of the TPP." He also made clear Chile's intent to "persist in the way of integration and open[ness] to the world." Meanwhile, Japanese Prime Minister Shinzo Abe seemed to speculate that Trump may revive some form or some parts of the TPP, at least the parts that concerned US-Japan trade. On Tuesday, 24 January 2017, he told the Japanese Parliament:

I believe President Trump understands the importance of free and fair trade, so I'd like to pursue his understanding on the strategic and economic importance of the TPP agreement tenaciously. The new rules that finalized in the TPP agreement after several years of negotiation will serve the model for future trade negotiations and are expected to become the 21st century global standard.

New Zealand has also expressed openness to a revamped version of the TPP, but unlike Abe's apparent hopes, New Zealand's revamped version would look to include non-U.S. partners. New Zealand's leaders have been clear that its policies will "remain pro-trade", and have noted plans to attend scheduled meetings in March 2017 with the TPP's non-U.S. members to discuss possible futures for the TPP. In a radio interview, New Zealand's trade minister said the country would "take [its] time" to survey options and potential benefits (Radio New Zealand (Radio Interview with Murray McCullay), New Zealand Trade Minister Reacts to US TPP Pullout, 26 January 2017).

Other TPP members, however, have not voiced the same wish to breathe new life into the TPP. Peruvian President Pedro Pablo Kuczynski, for one, more decisively expressed an eye toward new horizons for Peru's trade policies, indicating a definite shift toward Asia: "Obviously it is not the Trump Pacific Partnership because he has always said that he is against free trade," said Kuczynski. "[Peru] should work with China, the countries of Asia, India, Australia, New Zealand [...]. And we will make the APEC Pacific group extend to India. We are going to take the best things of the TPP, get them in

there and get the things that are not so good out of TPP.” Singapore, perhaps unsurprisingly, has also indicated a pivot toward China, and an intent to pursue its trade objectives through the RCEP and other means. A spokesperson for Singapore’s Ministry of Trade and Industry made clear that, without the U.S., “the TPP agreement as signed cannot come into effect”, but that “[t]here are other regional integration initiatives still ongoing, including the Regional Comprehensive Economic Partnership and the proposal for a Free Trade Area of the Asia-Pacific.” Malaysia and Vietnam both expressed a desire to work with the U.S. in the future, but also indicated that they will continue to pursue agreements in the vein of the TPP wherever they may emerge as part of broader policies on trade liberalization. Dato’ Sri Mustapa Mohamed, Malaysia’s Minister of International Trade and Industry, mourned Trump’s decision as “a missed opportunity for Malaysia,” noting that several independent evaluators had identified Malaysia as a clear winner. After acknowledging the importance of the U.S. as Malaysia’s third largest trading partner and as a major source of investment, he also indicated a pivot toward Asia-focused agreements, speculating that “[s]hould the TPPA fail to materialize, our focus would be to enhance the economic integration of ASEAN.” As for Vietnam, Le Hai Binh, a spokesperson for Vietnam’s Ministry of Foreign Affairs, stated that “Vietnam considers its participation in the TPP and other FTAs one further step to implement its policy of proactively facilitating the comprehensive economic integration,” and that “Vietnam will continue its reforming process and make better domestic preparation to fulfill the commitments

of trade agreements of which Vietnam has been and will be a member.” This language emphasizes that the TPP’s likely failure, while disappointing, would not change the overall strategy and direction of trade policy in the country.

As for the U.S.’s NAFTA partners, neither seem particularly excited about pursuing the TPP any further. The U.S.’s northern neighbor, Canada, has not responded to the New Zealand and Australia calls to revamp the TPP in another form. Asked for comment, Kristine Racicot, a spokeswoman for Global Affairs Canada, simply stated that the TPP “cannot enter into force without the United States.” And this is true, but only because the Agreement currently includes the U.S. Meanwhile, on the U.S.’s southern border, Mexico—facing a faltering currency following Trump’s election and bizarre threats from White House Press Secretary Sean Spicer (see e.g. Michael D. Shear et al, *Tax Plan Shows Confusion and Tensions with Mexico Soar*, *The New York Times*, 26 January 2017)—has indicated a clear intent to pursue bilateral agreements with TPP parties in the event that the TPP falls through. President Nieto stated last week that Mexico’s trade “priority is to consolidate [itself] as a relevant actor to intensify the flows of commerce, investment and tourism. And particularly before the evident difficulty due to the materialization of the TPP.”

IV. Pivot on the Horizon: Outlook and Conclusion

Trump’s inauguration and first week in office have prompted widespread protests both in the U.S. and around the

globe. While U.S. citizens protest Trump's alleged disrespect for civil rights, women's rights, immigration rights, religious rights, and refugee access, world leaders have expressed discontent with Trump's withdrawal from the TPP and his lack of diplomacy with one of the U.S.'s two border-sharing neighbors. Trumpism, while still popular amongst many U.S. citizens, is off to a rocky start on the international stage. For all of Trump's rhetoric on making America first, his executive actions thus far primarily exhibit a determination to demolish his predecessor's legacy, the motives for which appear to be more ideological than rational. If one thing has become clear from the reactions of world leaders to Trumpism, it is that "the world order [Trump] leaves behind will not be one in which America is first" (see, e.g., Editor's Insight, *The God of Carnage*, P.S. On Point, Project Syndicate, 27 January 2017 (the title refers to language from Trump's inauguration speech)).

Leaders from most of the remaining TPP states have voiced a desire to continue the Agreement, in some form, with various U.S. replacements. While many countries have suggested an openness to partnering with China, other suggestions have included broadening the four ASEAN countries to include all ten, and have even suggested swapping the U.S. for the E.U.

Along with the comments and reactions of world leaders, geopolitical realities make a pivot to China for trade in the Pacific region a near inevitability. Over the past half-decade, China has planted its flag ever more firmly in the South China Sea by constructing a controversial series of artificial islands that have capacity, among other things,

to militarily secure its regional prominence (even if claims over existing ones have been less than successful, as seen last year in the *Philippines v. China* from the Permanent Court of Arbitration). Meanwhile, North Korea is discussing tests of an intercontinental nuclear missile system apparently capable of reaching the West Coast of the U.S., while South Korea's government is trembling under a host of corruption scandals. The nations that populate these tumultuous waters, from the U.S. West Coast to the Indian Ocean, have strong incentives to extend the olive branch to China in a variety of policy areas, including trade—especially now that Trump has dashed the TPP.

In sum, the former TPP states, perhaps with the exception of Canada, seem likely to pivot Eastward in pursuing multilateral trade agreements. The diplomacy of the Trump administration (or lack thereof), private sector supply-chain motives, and reactions of state leaders and trade ministers around the globe all indicate a world that is disappointed by the stance of the new U.S. President, but not eager to waste time mourning. Moving forward, Asian and Western countries alike are turning toward China, India, and ASEAN in considering the future of multilateral trade agreements.

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