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Coping with multiple uncertainties: Latin America in the TPP negotiations

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1 Introduction

The ongoing negotiations for the enlargement of the Trans-Pacific Partnership Agreement (henceforth TPP) were launched in March 2010. At the time of writing (early January 2012) nine countries from both rims of the Pacific Basin participate in this process. Among them are two Latin American countries: Chile, an original signatory of the TPP in 2005, and Peru. Two other countries from the region, Colombia and Mexico, have at different times expressed interest in joining the negotiations.

The TPP is currently the United States' main initiative in the area of trade negotiations. According to U.S. authorities, the expanded and updated TPP would be a 'next-generation, 21st Century' agreement which could - through its gradual expansion - become a platform for the construction of a trans-Pacific free trade space. It would thus provide a counterbalance to the centripetal tendencies observed today in East and Southeast Asia. These are reflected - among others - in initiatives centered on the Association of Southeast Asian Nations (ASEAN), such as the so-called ASEAN+3 and ASEAN+6 projects, and in the renewed support provided by the leaders of China, Japan and the Republic of Korea (henceforth Korea) to the launch of negotiations for a trilateral preferential trade agreement (PTA).[1] In short, the TPP project aims both at setting the rules for trade and investment in Asia Pacific over the coming decades and at consolidating the United States' presence in the world's most economically dynamic region.[2] It is therefore a strategic project, both in economic and political terms.

The TPP process raises important systemic questions, including how it will relate to both existing agreements between its participants and other economic integration processes underway in Asia Pacific. It also entails specific opportunities and risks for participating Latin American countries. This chapter examines the likely implications of the TPP process for Latin America, focusing on those countries which already participate in the negotiations or could conceivably join them. This assessment is based on the broad outlines of the expanded TPP that were announced at the Asia Pacific Economic Cooperation (APEC) Summit in Hawaii in November 2011, as well as on press reports, academic articles, and interviews with current and former Latin American negotiators. After this Introduction, Section 2 briefly documents the increasing importance of Asia Pacific to Latin America's trade relations and identifies the main actors within the latter in the context of the TPP. Section 3 analyzes the

[1] The ASEAN + 3 project envisages a free trade area comprising the 10 ASEAN members plus China, Japan, and the Republic of Korea. The ASEAN + 6 project would add Australia, India, and New Zealand.

[2] Throughout this chapter Asia Pacific does not include the United States or other countries from the Americas.

opportunities the TPP presents to the region, while Section 4 deals with the risks. Section 5 briefly discusses some of the TPP's main challenges going forward. Section 6 concludes.

2 Latin American approaches to Asia Pacific

During the last decade Asia Pacific emerged as a key trade partner for Latin America and the Caribbean (LAC), increasing substantially its share in the region's exports and imports. These gains have been mostly at the expense of the United States, which nevertheless is still the region's main individual trade partner (see table 17.1). The increasing importance of Asia Pacific is largely explained by China, which alone represented half of both LAC exports to, and imports from, Asia Pacific in 2010.

Table 17.1 Share of selected partners in Latin America and the Caribbean (LAC)'s trade, 2000 and 2010 *(In percentages)*

	Asia Pacific [a]		**United States**		**European Union**		**LAC**	
	2000	**2010**	**2000**	**2010**	**2000**	**2010**	**2000**	**2010**
Exports	5.3	17.2	59.7	39.6	11.6	12.9	16.0	19.3
Imports	10.6	27.2	50.4	29.1	14.2	13.7	15.3	22.7

Notes:

[a] Includes Australia; China; India; Japan; New Zealand; Korea, Rep. of; and the 10 ASEAN members.

Source: ECLAC (2011).

Behind this overall trend, two distinct patterns emerge. On the one hand, Asia's economic dynamism has resulted in sustained demand and high prices for commodities such as copper, iron ore, petroleum, wheat and soybeans, which are mostly exported by natural resource-rich South American countries. On the other hand, Mexico and Central America continue to direct the large majority of their exports – comprised mainly of low and medium-technology manufactures – to the U.S. market. For these countries, Asia is still a marginal export destination and a competitor.

The dual pattern noted above is important to understand Latin America's approaches to Asia Pacific in the area of trade negotiations. Chile and Peru, two of the region's largest exporters to Asia Pacific (mainly of minerals), have by far the highest number of PTAs within that region (see table 17.2). At the other end most Central American countries only have subscribed PTAs with Chinese Taipei, mostly for political reasons. The MERCOSUR bloc, despite including Brazil and Argentina, two of Latin America´s largest exporters to Asia, only has a limited PTA with India and is not currently engaged in negotiations with other Asia Pacific economies.

Table 17.2 Preferential trade agreements between Latin American and Asia Pacific economies (As of December 2011)

Latin American economy/bloc	In force	Signed	Under negotiation	Under study
Colombia			Korea	Japan
Costa Rica	China	Singapore		Korea

Chile	Australia, Korea, China, India [a], Japan, TPP	Malaysia, Vietnam	Thailand	
El Salvador	Chinese Taipei			
Guatemala	Chinese Taipei			
Honduras	Chinese Taipei			
MERCOSUR [b]	India [a]			Korea [c]
Mexico	Japan		Korea [d]	TPP
Nicaragua	Chinese Taipei			
Panama	Chinese Taipei, Singapore			
Peru	China, Singapore, Korea, Thailand	Japan	TPP	

Notes:

[a] The agreement entails tariff reductions for a limited number of products.

[b] MERCOSUR members are Argentina, Brazil, Paraguay, and Uruguay.

[c] Feasibility study concluded in 2007; negotiations not started.

[d] Negotiations suspended since June 2008.

Source: Author, based on the Foreign Trade Information System of the Organization of American States.

In this chapter it is assumed that the universe of potential Latin American TPP members exceeds the region’s current three APEC members (Chile, Mexico, and Peru) to also include its other eight countries with coasts on the Pacific Ocean: Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. Same as for the whole of LAC, during the past decade Asia Pacific increased significantly its share in the foreign trade of this group. Thus the combined share of the ASEAN+3 countries in the group's trade nearly tripled between 2000 and 2010, from 4% to 11% of its exports and from 10% to 27% of its imports. However, the situation varies widely among the group's members. At one end are Chile and Peru, for which the ASEAN+3 countries accounted for 43% and 24% of their total exports in 2010, respectively. In contrast, the ASEAN+3 countries accounted for less than 10% of the total exports of all other countries within the group, for all of which the United States is by far their main export market. There is much less dispersion for imports (see figure 17.1).

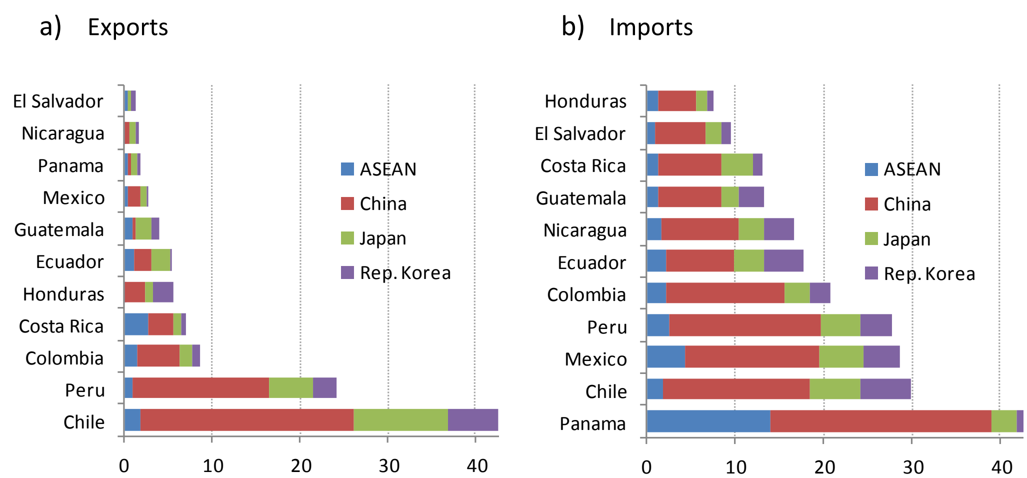

Figure 17.1 Share of ASEAN+3 in total exports and imports of selected Latin American countries in 2010 (In percentages)

Source: Author, based on COMTRADE database.

As of writing, two Latin American countries have officially requested to join the TPP negotiations: Colombia and Mexico. Although the United States remains by far its top export market, Colombia has been trying for years to develop stronger trade links with Asia Pacific. Its request to join the TPP negotiations in 2010 must be understood against this background. However, no consensus was reached on that request, because – according to the United States – TPP members had *'decided to focus initial expansion of the group on APEC member economies'*.[3] This is despite the fact that accession to the original TPP agreement is explicitly open to both members and non-members of APEC, and that Colombia – a well-known U.S. political ally – first applied for APEC membership in 1995. This conditionality, coupled with the fact that entry into force of the Colombia – United States PTA is not expected before the second quarter of 2012 at the earliest, suggests that Colombia's participation in the TPP is not a short-term prospect.

During the November 2011 APEC Summit Mexico expressed for the first time interest in joining the TPP negotiations, and since then it has indicated that it would like to do so early in 2012. Mexican authorities presented four main arguments to back this interest. First, if Mexico stays out of the TPP it faces the prospect of increased competition in the U.S. market by other TPP members, without improving its access to those countries' markets. Second, products exported from the United States to other TPP members could not use inputs produced in Mexico, as otherwise they could fail to meet TPP origin requirements. Third, the United States would enjoy better access than Mexico to the markets of other TPP members, potentially affecting firms' investment decisions. Fourth, Asia Pacific is the world's most

[3] See 'TPP Question and Answer: Colombia and TPP' at http://www.ustr.gov/about-us/press-office/blog/2010/june/tpp-question-and-answer-colombia-and-tpp.

economically dynamic region, and the TPP could become the most important forum for its regional integration.[4]

Mexico's announcement came as a surprise, as in recent years its trade negotiations agenda has slowed down considerably, mostly due to opposition from within its private sector. Sectors opposing further trade liberalization were able to delay for years the conclusion of PTA negotiations with Peru and to derail those with Korea. They also opposed the unilateral tariff reduction program announced by the Mexican government in December 2008.[5] Today the Mexican private sector looks more concerned about increased Asian competition (particularly Chinese) in its own market than about seeking new export destinations to reduce its dependence on the U.S. market. It thus remains unclear whether the Mexican government's interest in the TPP will materialize soon in concrete steps, especially considering the July 2012 presidential and congressional elections, which the currently ruling party is expected to lose.[6]

3 Opportunities for Latin American countries

For participating Latin American countries, the TPP negotiations potentially present two main types of commercial gains: those which can be reaped in the relatively short term, and those of a more strategic, longer term nature. The former refer to improved market access and the reduction of transaction costs. The latter would

[4] See El Economista (2011) and Inside US Trade (2011a:1).
[5] See Zabludovsky and Pasquel (2010: 110).
[6] Author's interview with a former Mexican senior trade official, November 2011.

derive from being part of an agreement that could greatly influence the future rules for trade and investment in Asia Pacific. The magnitude of both depends largely on the final configuration of TPP members. Another source of potential benefits would be increased economic cooperation. Each is examined below.

In terms of preferential access to new markets, the TPP negotiations today offer little to the two current Latin American participants. This is especially the case for Chile, which –aside from being an original TPP member- has concluded bilateral PTAs with all other participants.[7] As to Peru, it has bilateral PTAs in force with Chile, Singapore and the United States, while the other five current TPP participants together accounted for just 0.6% of total Peruvian exports in 2010.

In the case of Mexico, the U.S. market - to which it enjoys duty-free access through the North American Free Trade Agreement (NAFTA) - alone represented 80% of its total exports in 2010. Mexico also has a bilateral PTA in force with Chile and in April 2011 signed another with Peru. The remaining TPP participants accounted for just 0.5% of total Mexican exports in 2010. Colombia, for its part, already has PTAs in force with Chile and Peru plus its pending PTA with the United States (which alone absorbed 43% of Colombian exports in 2010). The remaining six TPP participants accounted for 1.3% of total Colombian exports in that year.

The (currently) limited appeal of the TPP in terms of market access reflects several factors. Firstly, ten of the eleven current or prospective Latin American TPP

[7] The two most recent PTAs, with Malaysia and Vietnam, are not yet in force.

participants either have PTAs in force with the United States or should –in the case of Colombia and Panama- have them in force in 2012, following their approval by the U.S. Congress in October 2011.[8] Secondly, the eleven countries themselves are linked by numerous PTAs. Thirdly, as already noted Chile and Peru have a large number of PTAs in force, subscribed or under negotiation with Asia Pacific economies. Other possible Latin American TPP candidates such as Costa Rica, Mexico and Colombia have started following this route. Fourthly, among actual or potential Latin American TPP participants, Asia is today an important export market only for Chile, Peru and -to a lesser extent- Costa Rica and Colombia. The bulk of that trade corresponds to China, Japan and Korea, which are not currently TPP participants.

The above assessment would not change significantly if Canada, Mexico and Japan join the TPP negotiations in 2012, following up on their expressions of interest during the Hawaii APEC Summit. While Chile already has bilateral PTAs in force with these three countries, Peru has a PTA in force with Canada and during 2011 signed another two with Mexico and Japan. Other prospective Latin American TPP candidates, such as Colombia and Costa Rica, also have PTAs in force with both Canada and Mexico (although not with Japan). Mexico itself has PTAs in force with Canada (through NAFTA) and Japan. There is, however, one important caveat. All TPAs negotiated by Latin American countries with Canada and Japan have items excluded from tariff elimination. In the case of the latter two countries, those

[8] The only exception is Ecuador, which neither has expressed interest in joining the TPP nor is likely to do so in the foreseeable future, given its trade policy's current orientation.

exclusions largely reflect their strong agricultural sensitivities. If Canada and Japan eventually join the TPP, and as a result open up those protected sectors - as demanded by the United States and New Zealand - , Latin American participants stand to benefit (assuming that those concessions are extended to all TPP members). A similar reasoning would apply if Korea (another country with strong defensive sensitivities in agriculture) joins the TPP following entry into force of the Korea-U.S. PTA. Both Chile and Peru have bilateral PTAs in force with Korea, which however contain several exclusions in agriculture.

The progress report delivered by TPP Trade Ministers to their Leaders on the margins of the Hawaii APEC Summit indicates that participants *'have agreed to develop a single tariff schedule as well as common rules of origin'*.[9] While this is positive, the path towards that goal remains unclear. The United States has tabled its market access offers bilaterally (only to those countries with which it does not have PTAs in force), and has not made its views publicly known on how TPP members would move from there to a single schedule. The defensive rationale for this is that keeping existing bilateral schedules in force would allow the United States to lock in exclusions of sensitive products, such as that of sugar in the U.S. – Australia PTA. However, this option would by definition defeat the stated goal of a single tariff schedule.

Aside from its reluctance to fully open up its market to TPP partners in sectors such as dairy, sugar, textiles and clothing, the United States does not seem

[9] See TPP (2011a).

prepared to put on the table its antidumping practices (except perhaps in procedural terms) and agricultural subsidies. Both are issues of great interest to developing countries but which the United States has only been prepared to negotiate in the Doha Round of the World Trade Organization (WTO). This could provide a justification for other TPP partners to carve out their own sensitive products and sectors, thus diminishing the value of the final deal.

The commercial benefits arising from a trade agreement are not necessarily restricted to tariff elimination. The TPP offers –at least theoretically- the possibility of establishing a single set of provisions governing trade among its members, thus helping to reduce the transaction costs stemming from the numerous agreements already linking them. A clear example is rules of origin (ROOs). The envisaged agreement on a single set of ROOs could in principle greatly simplify businesses' production decisions. However, if the negotiations lead to ROOs which are more restrictive than those applying under the existing agreements between participants (including the current TPP), that would diminish the new agreement's commercial value. This is a particular concern in textiles and clothing, where existing U.S. PTAs impose very stringent origin requirements (the 'yarn forward' rule) which the United States wants to replicate in the TPP.

An enlarged TPP could also expand the range of foreign inputs that producers in every member could incorporate into their exports without losing access to tariff preferences. For example, a Peruvian producer could incorporate without limitation inputs of Chilean origin into the final goods that it exports to

Australia, while still benefitting from preferential access to that market. This would be so because inputs from any TPP member would be considered as if they had originated in the country exporting the final good. Such arrangement, known as cumulation of origin, would provide incentives for participant Latin American economies to integrate more closely their productive structures among themselves – and with those of the United States and Asia Pacific partners - through value chains. This in turn should create opportunities for increased intra-industry trade and a gradual upgrading of Latin American exports to more sophisticated products. Therefore, cumulation of origin would be one the TPP's most important selling points for countries such as Chile and Peru, which already enjoy duty free treatment on the bulk of their trade with other TPP participants. However, the issue of whether and to what extent cumulation of origin would be allowed among all TPP participants is still under discussion.

The possibilities of convergence among the several agreements currently linking TPP participants are not limited to ROOs. They could also extend to the rules applying to trade in services, the treatment of foreign investment, government procurement, and technical barriers to trade, among other areas. In short, an overarching agreement would allow connecting the existing, smaller preferential spaces, thereby increasing efficiency and reducing discrimination.

While the accession of Japan, Canada, and Mexico to the TPP would not significantly add to its immediate commercial interest for Latin American countries, it would greatly increase the agreement's strategic appeal. The same logic would apply to Korea's accession. Since those are all large economies, their accession would mean that the rules negotiated within the TPP would inevitably become an important reference for future trans-Pacific trade and investment relations - and even possibly for future negotiations at the WTO. Moreover, given the productive sophistication of those economies, their accession would increase the value of cumulation of origin within the TPP.

The original TPP explicitly recognizes the importance of cooperation to further the agreement's goals. An enlarged TPP should build on this vision, providing for an adequately funded cooperation and capacity building agenda. That could make a significant contribution towards meeting the challenges Latin American countries face as they try to develop their economic links with Asia Pacific - notably diversifying their exports, dominated by a handful of commodities. Thus the inclusion in the TPP talks of topics such as promoting the internationalization of small and medium enterprises and developing regional value chains is a positive step. However, it remains unclear how willing the more developed participants will be to commit sufficient financial resources to the agreement's cooperation agenda.

4 Risks for Latin American countries

Despite the importance the Obama Administration attaches to the TPP, doubts remain concerning the United States' ability to bring this process to a successful conclusion. In recent years the prevailing attitude towards trade within its Congress and among its population at large has been ambivalent at best, and often critical.

Increased competition by emerging economies (notably China) and the recent world economic crisis have strengthened this stance, especially within the Democratic Party. Against this background, the Administration does not seem to have come yet to a firm position on the specifics of what a 21st Century agreement entails. Various groups, including business coalitions, non-governmental organizations and the two parties in Congress, are closely scrutinizing the TPP process and pulling it in different directions. This arguably reflects the expectation that the TPP should set the standard for future U.S. trade negotiations in a 'post NAFTA model' era.[10] Reconciling the often conflicting interests of those groups has proved a challenge, as evidenced by the lengthy discussions to define the U.S. position on issues such as investment, intellectual property, labor, and environment.

TPP participants seem to have implicitly accepted that existing agreements between them will remain in force and coexist with an enlarged TPP. However, the latter is expected to include provisions that effectively amount to a reopening of the existing pacts in several areas. Some of the most contentious among these are discussed below. Since the United States is the main *demandeur* in all these issues, particular emphasis is placed on U.S. positions.

Intellectual property (IP) is an area in constant expansion in a world economy increasingly driven by technology and knowledge. Accordingly, the United States – the world's largest net IP exporter - has pursued since the 1980s a policy of continuous upward protection of intellectual property rights (IPRs) in its trade

[10] See Herreros (2011:31).

negotiations, in which the last PTA negotiated becomes the de facto baseline for future talks. The protection of IPRs in U.S. PTAs often exceeds the levels agreed in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). Within this context, U.S. business groups have called for using the TPP to set a new, higher standard of protection.

Chile and Peru, as well as most other Latin American potential TPP candidates, had to make several economically and politically costly concessions in IP in their respective PTAs with the United States. Such is the case, for example, of the increased protection afforded to pharmaceutical and agrochemical products and to copyrighted matter; of the restrictions placed on certain flexibilities allowed by the TRIPs Agreement such as mandatory licensing for medicines; and of the strengthening of enforcement provisions beyond TRIPs disciplines.[11]

The difficulty of meeting commitments on IP adopted in PTAs with the United States is illustrated by the fact that since 2007 Chile has been in the Priority Watch List of the Special 301 Report on the state of intellectual property protection in U.S. trade partners, released yearly by the Office of the United States Trade Representative (USTR). According to the report, this partly reflects Chile's failure to fully meet its PTA commitments. In 2011 Brunei, Colombia, Costa Rica, Malaysia, Mexico, Peru, the Philippines and Vietnam, all of them current or potential TPP participants, were included in the lower-level Watch List category.[12]

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[11] See Roffe and Santa Cruz (2010: 103-105).

[12] See the Report at http://www.ustr.gov/webfm_send/2841.

In the context of the TPP, the United States is pushing -among other demands- for even stronger protection of pharmaceutical patents, which could result in reduced availability of affordable generic medicaments. This demand is among the most sensitive ones for Chile.[13] Similarly, Peru's trade minister declared in December 2011 that Peru rejects the U.S. proposal on IP because it goes beyond the provisions agreed in their bilateral PTA, including on access to medicines (Inside US Trade 2011b).

The U.S. demands on IP are facing resistance not only among developing country participants but also in Australia and New Zealand. In a report released in December 2010 the Australian Government's Productivity Commission recommends that *'Australia should not generally seek to include IP provisions in further BRTAs [bilateral and regional trade agreements]'*.[14] The report refers to the risk of negative sum game outcomes, as countries that are net IP exporters experience gains but those that are net IP importers suffer even larger losses. Specifically, it is concerned that overly strong IP protection could hamper innovation, especially in relatively less developed countries such as various TPP participants. The New Zealand government shares some of these apprehensions.[15]

[13] Interview with a senior Chilean trade official, November 2011.

[14] See Australian Government Productivity Commission (2010:264).

[15] See Barfield (2011: 5) and Inside US Trade (2010b).

In the area of investment, a particularly contentious feature of U.S. Bilateral Investment Treaties (BITs) is the investor-state dispute settlement (ISDS) mechanism, which is also part of the investment chapters of all U.S. PTAs (except the Australia-U.S. PTA). The same report by the Australian Government's Productivity Commission is highly critical of this mechanism. Firstly, it notes that foreign investors already have several ways to insure themselves against the risks of investing abroad. Secondly, it identifies various potential risks to host governments. These include the possibility of 'regulatory chill' - as governments are dissuaded from taking regulatory action for fear of triggering arbitration claims - as well as concerns relating to the arbitration process such as institutional bias, conflicts of interest, lack of transparency, and excessive sums being awarded to foreign investors, among others.[16] Australia has thus taken a stance against the inclusion of ISDS in the TPP.

According to the outlines announced in Hawaii, the new TPP will include ISDS, although discussions continue on its scope and coverage.[17] That should not represent a major difficulty for Latin American countries as all of them already accepted that mechanism in their PTAs with the United States (it is a 'sunk cost'). However, as in many other areas, it remains unclear what set of rules on ISDS would apply if those agreed to in the TPP differ from those in existing agreements.

Of more immediate concern could be the U.S. position on capital controls. In all its BIT and PTA negotiations so far the United States has sought –and largely

[16] See Australian Government Productivity Commission (2010: 271-273).

[17] See 'Investment' in TPP (2011b).

achieved- to constrain the ability of governments to deploy such controls, even if done on a temporary basis and for purposes of financial stability.[18] Chile (and later Peru) secured in their PTAs with the United States some limited flexibility to apply capital controls, under the so-called 'cooling off' provision. Under it no claims can be filed against Chile or Peru (either state to state or investor-state) in relation with restrictive measures they apply with regard to payments and transfers, for one year following their implementation. Once the claim is brought, loss or damages shall be limited to the reduction in value of the transfers, thus excluding loss of profits or business and any similar consequential or incidental damages.

Attempts to restrict in the TPP the flexibility granted through the cooling off provision could prove problematic, not just with Chile or Peru but also with other participants such as Malaysia that have often resorted to capital controls. These countries may be especially reluctant to accept further constraints in this area given continued uncertainty in the aftermath of the recent world financial crisis and the attending concern in developing countries about volatility in short-term capital flows.

Demands by the United States to raise standards above those of previous PTAs may also come in the areas of labor and environment. As part of a compromise with the then Democratic majority in the House of Representatives, the Bush administration agreed in May 2007 to incorporate stricter environmental and labor provisions in the PTAs with Colombia, Panama, Peru and Korea. Although the current Republican majority is less keen on raising labor and environmental

[18] See Gallagher (2010: 9-12).

standards in trade negotiations, the Obama administration will still need to deliver results on that front to gain support for the TPP from its own Democratic Party.

Summing up, renegotiation within the TPP of existing commitments on issues such as IP, investment, labor, and environment involves for Latin American countries the risk of 'paying twice' in areas of great political sensitivity and which are critical for a broad range of public policies. Moreover, according to the outlines announced in Hawaii, the flexibilities currently under consideration for developing countries to implement new commitments include capacity building, technical assistance and the staging of commitments, but apparently not differentiated obligations.[19] This largely reflects the interest of the United States in avoiding a 'two-tier' agreement.[20] While the flexibilities currently envisaged may be enough in some areas and for some countries, in other cases they may prove insufficient to accommodate the extremely different capacities and circumstances of TPP participants. The treatment accorded to Vietnam, the group's least developed member, will be a critical test in this regard.

5 The road ahead

Determining the relationship between a future TPP and the existing agreements between its participants remains a key challenge. As already noted, it seems that existing agreements are expected to remain in place after the entry into force of the new TPP. This begs the question of which rules would prevail in situations where

[19] See 'Scope' in TPP (2011b).

[20] See Inside US Trade (2010a).

provisions from an existing agreement and the new TPP apply. The contribution that the latter can make to overcome the spaghetti bowl problem depends critically on how this issue is dealt with. The outlines of the future TPP announced in Hawaii describe it as *'a fully regional agreement'*.[21] However, today negotiations seem to be heading towards a hybrid outcome, with new disciplines applying to all participants but market access commitments remaining mostly bilateral. This sort of outcome – seemingly the preferred one for the United States[22] – is the least desirable for weaker parties like Chile and Peru, as they must assume new obligations (for many of which they are not *demandeurs*) without the commercial gains from a truly regional agreement.

The other main challenge lies in dealing with the agreement's expansion beyond its current participants. The seeming reluctance of some countries –notably the United States and New Zealand - to let Mexico, Canada, and Japan join at this stage appears to respond to two main reasons. Firstly, they wish to obtain assurances from these countries –especially the latter two- that they are willing to open up their sensitive sectors. Secondly, they seem concerned about the negotiations dragging on for years. Against this background, it appears that the United States favors trying to reach an agreement among the current participants by 2012, which could later be presented essentially as a fait accompli to other interested parties. However, even that looks like an extremely ambitious target given the looming presidential and congressional elections in the United States.

[21] See 'Key Features' in TPP (2011b).

[22] See Drysdale (2011:1).

Moreover, large economies like Canada, Japan, Mexico or Korea – let alone China, India, or Indonesia further down the road - may be unwilling to basically sign off to a deal they had no influence in shaping. This argument may also apply to interested Latin American countries like Colombia.

Ultimately, the TPP will have to expand to include large, mostly Asian economies to be a meaningful exercise. Its current commercial appeal is very modest given the small size of most participating economies. More importantly, an agreement limited to the current nine participants would be far from a credible platform for large-scale trans-Pacific economic integration. This is why designing accession procedures which are clear, predictable, and as a little arbitrary as possible is so important. Here the issue of China looms large. Looking forward, one needs to question the relevance of an initiative aimed at defining 'the rules of the game' in Asia Pacific over the coming decades but which often seems designed to craft those rules around Asia Pacific's largest and most dynamic economy.[23]

6 Conclusion

The outline of a possible new TPP presented in Hawaii leaves key questions open. These concern, inter alia, the agreement's precise thematic coverage (an especially complex question since the new TPP has been conceived as a living agreement), its accession procedures, and its relation with existing agreements between its members. It is thus very difficult today to assess with any precision what the TPP

[23] See Armstrong (2011:10-11) and Drysdale (2011:2).

process offers participating Latin American countries (other than that short-term market access gains appear very modest). The answer depends crucially on several elements which remain unclear, including: whether other Latin American countries will be allowed to enter the negotiations, and if so, when and on what terms; which Asian countries join the process; and how an enlarged TPP would relate to the PTAs Latin American countries have in force with other TPP participants. A particularly important issue is to what extent a new TPP will involve renegotiation of existing PTA commitments in areas such as intellectual property, investment, and labor and environmental standards.

Assessing the possible implications of the TPP process for non-participating Latin American countries is even more difficult. A subject of great interest is how a future, larger TPP would impact on Brazil, Latin America's largest economy and the world's seventh largest. Asia Pacific (defined as the ASEAN+6 countries) accounted for 28% of Brazilian exports and 32% of its imports in 2010. China is already Brazil's main individual export market. Despite this, MERCOSUR has mostly refrained from entering trade negotiations with Asia Pacific economies. This partly reflects the difficulty of reaching consensus among its four members, as well as MERCOSUR's own industrial sensitivities. However, a successful conclusion of the TPP negotiations should arguably lead Brazil to adopt a more proactive negotiating agenda, especially if larger economies join the new agreement. Otherwise Brazil –and MERCOSUR as a whole- could see a displacement of both trade and investment flows towards TPP members in the region.

In the medium term, the TPP could reinforce a process which to some extent is already in motion: the emergence of a certain split between a 'Pacific' Latin America, characterized by generally open trade and investment policies and an active trade negotiations agenda, and a more inward-looking 'Atlantic' one. The likelihood of that scenario depends largely on the accession of countries such as Colombia and Mexico to the TPP. Yet the latter's unofficial accession policy, linked to APEC membership, presently blocks entry to all Latin American countries but Mexico.

For Latin America, it is imperative to develop stronger links with Asia Pacific, due to the latter's key role in world production, trade, investment and finance. Doing so through an agreement with a broad membership and a strong cooperation component seems in principle more attractive than the negotiation of bilateral trade agreements. The TPP has the potential to become such an instrument; however, it remains unclear to what extent it will realize it. A particular challenge will be managing the large diversity of current TPP partners, which far exceeds that of its original signatories. This will require avoiding extreme regulatory harmonization which is neither politically feasible nor desirable from a developmental perspective. It will also require building a robust economic cooperation framework, aimed –inter alia- at increasing the capacity of the less developed TPP partners to gradually assume more demanding commitments.

Given the big challenges facing the TPP process, and the relatively small size of the other partners, the United States should naturally exercise a positive leadership in it. Nevertheless, today it is not clear what this country can offer its TPP partners in exchange for being presented with politically difficult demands. An agreement that appears biased towards U.S. interests - either offensive or defensive - would be difficult to sell domestically for the remaining TPP partners. Moreover, it would be of little interest for potential candidates from Asia (and Latin America), thus defeating its stated long-term vision.

Lastly, it seems clear that U.S. interest in the TPP is at least as much defensive (preempting or building a counterweight to a purely Asian bloc) as it is offensive (moving towards a trans-Pacific free trade area). Latin American countries participating in this process or considering joining it must be fully aware of its strategic backdrop, where Latin America plays a relatively minor role. In particular, they should be mindful of the potential implications on their relations with China of being part of an initiative that has sometimes been characterized as aimed at curbing China's influence in Asia Pacific. Within this context, they should pragmatically decide on their participation and positioning in the talks, according to their own national interests.

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