Global trade juggernaut

2015 may just be the banner year for advancing multilateral trade deals, says P. Welles Orr

President Obama's state visit to India and meeting with Prime Minister Narenda Modi in January 2015 largely heralds the administration's commitment to build on its trade and foreign policy 'pivot' to Asia. It indicates he is seeking a much deeper strategic alliance with New Delhi to secure better US trade and investment access to the country's population of 1.2 billion.

Bali accord outcomes

This historic trip, the first by an American president, to attend India's Republic Day ceremonies celebrating the adoption of its constitution, wasn't by coincidence.

Washington is eager to ramp up the pace of dialogue between governments on critical issues following the relaunch of the high-level US-India Trade Policy Forum in November 2014.[1] This came about as a result of the breakthrough US-India agreement over treatment of food security issues under the World Trade Organization's Bali Trade Facilitation Agreement (TFA).[2] The development broke the impasse in full implementation of the TFA into the WTO's legal framework, which allows the long-stalled Doha Development negotiations to move forward for what is hoped will be a final landmark deal later this year.

The TFA deal was momentous and done just in time. It restored the momentum of Bali from a year earlier and breathed new life into the WTO and the multilateral trading system at large. US Trade Representative (USTR) Michael Froman said in a statement, "This has been a good week for trade and the growth and jobs it supports in the United States. The US worked with China to achieve a breakthrough on the Information Technology Agreement, worked with India to move forward with the implementation of the Trade Facilitation Agreement, and worked with our TPP partners to bring the end of these landmark negotiations clearly into sight. Together, these will provide a major boost to the global trading system at a critical time in the world economic recovery, a central focus of the upcoming G-20 Summit."

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While the TFA deal was a major win for the WTO and its 159 members – it was in fact the first multilateral trade agreement forged since the organisation came into being in 1995 – it was a particularly welcome win for the Obama trade team, whose spread-thin negotiators are busy with no less than five other major multilateral market opening negotiations. For an administration that took a "time out" on trade when it came into office six years ago, and didn't get around to reworking and then finally approving the Bush administration-negotiated free trade agreements with Panama, Colombia and South Korea until 2011, the White House trade office has never been busier.

What could be dubbed the major pillars of the White House trade agenda over the next two years include completing negotiations under the ongoing 12-nation Trans-Pacific Partnership (TPP) negotiations, the US-EU Transatlantic Trade and Investment Partnerships (TTIP), the Doha Development Agenda, the Information Technology Agreement (ITA), the Trade in Services Agreement (TISA), and, finally, reauthorisation of the 15-year unilateral tariff preference for eligible African countries, the African Growth and Opportunity Act (AGOA).

State of play of the major trade pillars

The Trans-Pacific Partnership (TPP)

The leading trade policy initiative of the administration, TPP is billed as a 21st century "comprehensive and high standard" regional free trade agreement between the 12 participating countries of Australia, Brunei,

Credit: Kamal Singh

USTR Michael Froman with Indian Minister of State for Commerce and Industry Nirmala Sitharaman in Delhi, India (23 November 2014)

Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the US and Vietnam.[3]

It represents almost 40% of world GDP and 30% of global trade. If implemented, the TPP would liberalise almost all goods and services trade and eliminate tariff and non-tariff barriers between the parties, and include commitments and new rules that would go beyond some existing WTO measures.[4] After 27 negotiating rounds since 2009, covering some 26 chapters from agriculture market access to intellectual property (IP), state-owned enterprises to trade remedies, trade ministers are said to be eyeing a final deal in the next few months. The clincher will likely be a bilateral market access deal between the US and Japan on agriculture and autos.[5]

Transatlantic Trade and Investment Partnership (TTIP)

Launched in 2013, TTIP seeks to establish a comprehensive and high standard trade and investment bilateral agreement between the world's largest trading partners. With two-way trade amounting to more than $1trn a year and cross-border investment of US$3.7trn, the EU and US economic relationship is strongly integrated. In addition to tackling a comprehensive deal to improve market access, establish new rules on IP protections, and new disciplines for improved customs and trade facilitation and many of the same traditional chapters as are in the TPP, the negotiations seek to get at the most challenging aspects of this highly integrated trading relationship: convergence of regulatory regimes and standards to reduce costs and inefficiencies on both sides of the border.

Negotiators have completed seven rounds and while some incremental progress has been made on mostly technical and process issues, work on the bigger issues will begin anew following the "fresh start" called for by new EU Trade Commissioner Malmström and USTR Froman in 2014. Malmström is committed to establishing at the next round in February 2015 a so-called "realistic agenda on market access for goods, services and government procurement and energy trade". It is unclear how the EU will proceed in addressing the negative European reaction to inclusion of an investor-state dispute settlement (ISDS) provision in any future deal or exactly where both sides will come out on the proposed regulatory coherence proposal tabled by the EU during the February 2015 round.[6] Given the ambitious scope of so many proposals and the current divide in so many difficult areas on both sides, US trade watchers don't expect to see any deal until 2016 at the earliest.[7]

Information Technology Agreement (ITA)

The ITA is the result of the 1996 WTO Ministerial Declaration on Trade in Information Technology Products concluded as part of the Singapore Ministerial Conference.[8] A total of 80 WTO signatories account for close to 97% of all traded goods in high tech equipment, computers, semiconductors, software, scientific instruments and related parts and accessories. Since 2012 the ITA has sought to reach an agreement to include tariff reduction or elimination on close to 200 new products such as medical devices and flat panel screens.

During the November 2014 APEC Ministerial meeting, the US and China reached a deal to expand product coverage which China had blocked a year earlier. However, the bilateral deal wasn't fully embraced by other ITA signatories due to last minute disagreement between China and Korea and Taiwan on new tariff cuts for some additional products in exchange for excluding LCD panels, an industry Beijing is trying to grow. However, China was not prepared to negotiate new terms beyond the bilateral deal cut with the US, resulting in Korea not being willing to sign. This is particularly interesting given the fact that China and Korea have just concluded their own FTA. US negotiators and industry sources say a deal can be salvaged once the right political stakeholders can be brought together again, especially considering that everybody has moved the ball to the one yard line.

Trade in Services Agreement (TiSA)

EU, US and Australian-led negotiations on a plurilateral Trade in Services Agreement between 23 countries could be concluded this year.[9] TISA builds on the 1995 General Agreement on Trade in Services (GATS) established as part of the Uruguay Round Agreements Act and establishment of the WTO. The talks aim to widen trade in services through expanded market access and improved rules over licensing, e-commerce and telecommunications services, financial services, labour mobility, maritime and air transport, delivery services, government procurement and professional and energy services.

Services trade accounts for 70% of global gross domestic product and is the world's largest employer. For the US, services trade accounts for 80% of private sector employment and generates more than 75% of domestic economic output. After nine rounds, significant progress has been made in almost all areas but considerable work remains in the bilateral market access offers. The US has proposed a controversial change to the core TISA text that would obligate parties to the agreement to automatically grant each other any additional services market access provided to third countries in future free trade agreements. That issue and an EU proposal for an annex on government procurement will likely be the focus at the 10th round, scheduled for 9-13 February in Geneva and hosted by the US.

African Growth and Opportunity (AGOA)

A major legislative and executive branch trade policy priority coming out of the August 2014 US-Africa Leaders' Summit is to reauthorise the 15-year African Growth and Opportunity Act. AGOA is a nonreciprocal preference programme and has been the cornerstone of the US-Africa commercial relationship. It provides duty-free access to the US market for 6,400 products from 40 countries. The current law expires in September and the administration is compiling recommendations from 17 agencies on how best to strengthen AGOA as well as to improve US trade and investment engagement with Africa.

By significantly updating AGOA eligibility criteria, expanding product coverage and improving the stand-out third country fabric provisions, AGOA can make more of an impact for many fledgling African economies. But its passage in Congress won't necessarily be smooth-sailing as more and more members question the value of one-way preference programmes. AGOA will likely be considered along with other trade bills, including reauthorisation of the Generalized System of Preference programme that expired in 2013.

The linchpin for moving most of these trade deals to conclusion will be a strong administration push for a swift congressional passage of Trade Promotion Authority legislation. TPA, traditionally referred to as "fast-track", sets out specific negotiating objectives and provides Congress with the authority to consider and approve legislation to implement specific trade agreements negotiated by the Administration in an expedited fashion and with an "up" or "down" vote and no amendments. TPA assures US trading partners that once an agreement is signed, the legislative branch can't pick it apart when it comes up for consideration. – a tried and true procedure that all previous congresses have provided for almost all administration-negotiated agreements since 1974.

After much criticism that his administration had not yet made an effective case, let alone a serious push, for congressional consideration of the TPA through most of last year, Obama finally signaled his full commitment to secure TPA at a major address before the US business community in December 2014. Some trade sceptics suggested that this finally came about as a result of the resounding Republican election victories in November, especially leadership demands that the administration work to pass TPA before concluding any trade agreements. On both TPA and TPP, Obama said his administration "will have to make the sale" to Congress and the American people. "And I think we can make a very strong case that what we're doing here is really setting a higher bar that will give us more access to markets, will give us greater IP protection, will make sure that US companies both in goods and in services are less disadvantaged by non-tariff barriers and state support and procurement practices in these countries than they've been in the past." The White House has now set up a "whip operation" and is fanning all members of the cabinet out to win support for TPA.

Predictions

So what is likely to happen? Expect to see a bipartisan TPA bill passed within the next couple of months, showcasing the fact that the new Republican Congress is not all about shutting down Obama's final two-year agenda. TPA may just give the TPP negotiators the good news they need to reach a breakthrough deal before June. And the good will of a TPP agreement may just breed success for inking the ITA and TISA agreements. With the TFA done and a post-Bali Doha agenda possibly off life-support, 2015 could be a hallmark year for advancing global trade. TFR

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