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## **THE HEGEMON'S OUTSIDE OPTION: MEGA-REGIONAL TRADE AGREEMENTS AND UNITED STATES TRADE POLICY**

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**Abstract:** The United States is facing growing challenges to the advancement of its interests in the World Trade Organization. The assertiveness of emerging countries in advancing their interests in the Doha Round made the achievement of a deal almost impossible. Slow progress is being made (the Trade Facilitation Agreement, for example), but no broad and significant trade deal has been reached so far. There are ongoing suggestions that the Doha round should be abandoned for good. The TPP and TTIP represented two shots the United States has taken to advance its trade interests outside the scope of the WTO, escaping possible challenges imposed by emerging countries. The irony behind this is that the trade regime in force was created by the United States at the height of its hegemony. The questions driving this paper are: Is this option for trade agreements related to American hegemonic decline? And to what extent does this option weaken the multilateral trade regime embodied in the WTO? There is a brief discussion about the future of this strategy under Trump's presidency, who has a different stance regarding regional trade agreements.

**Keywords:** USA, TPP, TTIP, multilateralism, trade.

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## **I. Introduction**

The international system faces a moment of change and instability that can be perceived in every scope of international relations. The future of the international order does not seem so sure anymore. Most international regimes face increased pressure derived of changes in the international power distribution. There is the perception that new powers are on the rise while the traditional powers, including the hegemon – the United States – are facing decline. On one hand, emerging powers pressure for the accommodation of their interests in the existing order and claim for the renovation of norms and rules that were established without taking into account these countries interests and needs. On the other hand, there is growing talk of protectionism and unilateralism among the developed countries. China comes to the fore among the emerging countries as an important nuisance for developed countries in terms of trade regulation. This is so because China is currently one of the main players in international trade, increasing its interest in acquiring more influence over the creation and negotiation of trade rules.

The international trade regime faces increased obstacles to the advancement of the free trade agenda. Multilateral negotiations at the World Trade Organization (WTO) have been stalled for over a decade. The ambitious development agenda of the Doha Round has not been agreed upon and only minor deals - the Trade Facilitation Agreement, for example - have been concluded so far, despite the efforts of Secretary General Roberto Azevêdo. The difficulty in achieving further advances in trade negotiations in the multilateral scope have led many countries to seek opportunities outside the WTO. A range of bilateral and plurilateral trade agreements that are beyond the organization's scope have been negotiated by both developed and developing countries to strengthen economic partnerships regionally or bilaterally. In this sense, the American-led negotiations of the TPP and TTIP represented an important change of pattern in American trade policy. Before these new agreements, the US was engaged in plurilateral free trade agreements in the American continent and the multilateral route was preferred. These new mega regional trade deals point to the change of preference of the major sponsor of the international free trade market from the multilateral to the plurilateral route of negotiations.

The questions driving this paper are: Is this option for trade agreements related to American hegemonic decline? And to what extent does this option weaken the multilateral trade regime embodied in the WTO? The argument is that the recourse to plurilateral mega regional trade agreements intends to avoid the friction that is present in the multilateral system as a

consequence of the emergence of new powers as assertive demanding parts in the negotiations, which suggests a relative decline of American influence in the multilateral system. Free trade remains an important issue of American foreign policy since it is connected to geopolitical issues in the US. This is understood to be one of the reasons why the US chose to seek further opening of markets through mega-regional trade agreements, as a means to counterbalance the emerging powers and as a means to continue the process of markets overture for American goods. To answer the question of this article, we analyze the US's interest in the TPP and the TTIP in order to establish whether they are or not an outside option for advancing the country's trade agenda. First, we establish the connection between changes in power distribution and pressure over international regimes, then we comment on the change of strategy by the US to promote further trade liberalization during Obama's presidency. Following, we aim to establish the reasoning behind each mega trade deal and point out if they are a way of deviating from the WTO or not. Before the conclusion, we highlight the major challenges for these agreements during Trump's presidency.

## **II. Hegemonic Stability and Trade Regimes**

Much has been discussed in the literature over the importance of institutions and regimes for the international order and the relation of these institutions with the prominent powers of the system. This article is mostly concerned with the second issue at hand, more specifically, what is the relationship between the hegemonic power and its allies and the international trade regime. We understand that regimes and institutions matter and that they are deeply connected to the dynamics of power distribution of the international system. The hegemonic power is regarded as the state with significant superior economic and military power in comparison to others (Krasner 2010; Gilpin 1981). Usually, the hegemon is responsible for leading the creation of international regimes and institutions.

International regimes are created to promote order and stability through norms, rules, principles, and procedures. These regimes are created by the most powerful players in the system to enable the achievement of their interests in different areas of cooperation, including trade (Gilpin 1981; Keohane 1984). According to the hegemonic stability theory, whenever there is a hegemonic power in the international system, it will be responsible for leading international governance including the creation of institutions and regimes.

The reason the hegemonic power creates such regimes and institutions is to help sustain the order and the balance necessary for the endurance of its own hegemony. Hegemony is not

only about material capabilities preponderance, it is also about exercising leadership in the international system. The use of force to coerce a state to open its own market is not as efficient as the provision of an open structure through international cooperation (Krasner 2010). The hegemon uses its power to promote said institutions that reproduce the existing power asymmetry and the rules privileged by it (Harvey 2003). In this sense, international regimes and institutions can be a means to the exercise of hegemony.

The trade regime is of great importance to the hegemonic power for it allows continued accumulation of economic resources through the establishment of favorable terms of trade, which are important means for the hegemon to sustain its leadership (Gilpin 1981). The creation of a world market economy transformed the way in which the distribution of power changes in the international system (Gilpin 1981). This means that trade and other market related activities became of crucial importance for the acquisition of power capabilities.

Trade is an important means of accumulating wealth, and wealth is an important element of power. The status of a country in the international system is influenced by its position in the international economy (Gilpin 1981). When a country has control over its terms of trade it can reduce the price of its imports increasing its revenue in the international system improving its economic power position in the system as a whole (Gowa 1995). Also, the trade regime has been used as an important way of granting access to natural and energy resources, vital for the continuation of economic growth, not only by the hegemonic power but by other great powers as well (Hu 2015).

In this sense, a hegemonic configuration of economic power will generally lead to freer trade in the international system since it is the hegemon's interest to promote an international open market that allows continuous accumulation of economic capabilities (Krasner 2010). According to Stephen Krasner (2010), periods of hegemony are usually characterized by greater market openness as a result of the hegemon's role in keeping markets open and creating trust among actors through international institutions. In contrast, greater protectionism is to be expected when the hegemon is perceived to be in decline. In this sense, cooperation under these regimes would be facilitated by the presence of the hegemonic power since it would reduce the uncertainties and transaction costs (Keohane 1984). This does not mean that the hegemonic power imposes a certain framework for trade governance in the international system that must be accepted by every country. The rules of the international trade regime are defined through negotiations, nonetheless, they end up reflecting the interest of the dominant powers of the system (Gilpin 1981).

There are discussions of whether or not the existence of a leading power is necessary to the maintenance of cooperation and the existence of international regimes. According to Duncan Snidal (1985), a small group of countries would be able to exercise the same role that the hegemonic power does in promoting international cooperation through collective action. According to Robert Keohane (1984), the institutions would be able to survive even in the absence of a hegemonic power because of its intrinsic value for the states and economic interdependence. Both arguments neglect the issue that the structure of these international institutions usually reflect the status quo in terms of power distribution and that when there is a redistribution of power, a contradiction between the power structure embedded in them and the emerging power distribution.

### **III. The origins of the current trade regime and the rise of emerging countries**

The current international trade regime was created after World War II as the American hegemony in the system was being consolidated. The purpose was to promote trade liberalization and the opening of markets around the world to American goods. Increased market openness is generally found during the hegemonic power ascent (Krasner 2010). The multilateral trade system began as a transatlantic project, meaning that the US and its European allies have been important protagonists in the negotiation rounds for trade liberalization since the beginning (Young 2010).

The first element of the trade regime created after the war was the General Agreement on Trade and Tariffs (GATT) of 1947. This agreement established the three main principles of the multilateral trade regime: the most-favored-nation (MFN), reciprocity, and the solution of controversies (Winhan 2011). The international trade regime also included American principles like the pro-business inclination, multilateralism and the rule of law. The smooth way the GATT worked in the 1950s is considered one of the best examples of how cooperation under hegemony works (Keohane 1984). The United States, since the creation of the GATT has given privilege to the multilateral arena as its preferred stance to advance trade liberalization. During the 1970s, 1980s, and 1990s the US promoted rounds of multilateral negotiations to advance the free trade agenda (Mastanduno 2015). The World Trade Organization (WTO) was created in 1994 after the Uruguay Round, further institutionalizing the multilateral trade regime and becoming its center piece.

The promotion of free trade is deeply ingrained in the American-led international order, but the geopolitical is known to overlay the trade policy in American foreign policy (Barfield

2016). In this respect, the promotion of free trade and national defense are elements that can often appear together in American foreign policy (Lake 2010, p.148). During the Cold War, this was related to cementing alliances to contain the Soviet Union (Mastanduno 2015), to promote further economic interdependence and attract other countries to the American sphere of influence.

Until the Kennedy Round the American commitment to the multilateral trade regime was unquestionable and little attention was given to PTA's (Bhagwati 2008). The international trade regime under American leadership has had four main characteristics: the preference for openness, the preference for multilateralism, American leadership in the process of trade liberalization, and the enjoyment of privileges as a result of this leadership (Mastanduno 2015). These characteristics imply that the United States followed the pattern of privileging multilateral initiatives to the detriment of regional or plurilateral agreements (Mastanduno 2015).

There has been an increase in the creation of regional trade agreements throughout the 1990s and 2000s and this could be related to issues other than the interest in further trade liberalization, since "governments often enter regional economic agreements primarily for political rather than economic reasons" (Ravenhill 2011). One of the interests that drives the hegemon to pursue the preferential trade route instead of the multilateral one is the need to advance trade-unrelated agenda (Bhagwati 2008). The American support for plurilateral and regional or bilateral trade agreements has always been accompanied by geopolitical interest. For example, the American support for the European Community was related to the reconstruction of Germany and the containment of the USSR from advancing over European territory. Also, trade relations have been used to strengthen alliances (Mastanduno 2015). The PTA's signed after 2000 were generally connected to geopolitical interests, for example, the agreements with Middle Eastern countries like Israel, Jordan, Bahrain, Oman, and Morocco (Badin 2012).

The historical commitment to general openness of markets does not imply that the US plays by the free trade playbook all the time. Protectionist measures have been adopted by the US in the name of "free trade" (Reich & Lebow 2014). The privilege of being the leader of the international trade regime entails the liberty of rule-breaking according to its interests and necessities (Mastanduno 2015). One example is the denial of the US to reduce agriculture subsidies - a form of protectionism - which are an important demand from developing countries and could help achieve an agreement in the Doha Round of negotiations (Young 2010).

The relative stability and order promoted by the American hegemony in the international system allowed other countries to benefit from economic growth and greater participation in international trade flows. In the 1980s, Japan and Europe had quickly rebuilt their war-torn economies and were emerging as great economic powers thanks to their integration in this economic system. More recently, China has kept an impressive growth rate based on an export-led model of development which has benefited from the further integration of the country in the international multilateral trade regime, especially since the country became a full member of the WTO in 2001. Other emerging economies like Brazil, India, Mexico, and South Africa have also become important players in the trade arena. China is, today, the largest exporter and the second largest importer, meaning the country has increasing importance and seeks greater influence in the trade regime. China is active in all levels of trade promotion: in the WTO and through bilateral and regional trade agreements (Hu 2015).

Negotiations on the WTO system require a consensus among the 164 (and counting) members of the organization. Nonetheless, developing countries have always been marginal players in the international trade regime (Winhan 2011). Despite the “veto” power every WTO member has, the political costs of opposing the agenda promoted by the US and Europe was prohibitive of exercising such veto. Also, developing countries usually lack bargaining power, but the rise of China has begun to change the balance of power towards the developing countries (Hung 2016). This change in the distribution of power in the international system has allowed emerging countries to adopt a more assertive position in multilateral trade negotiations seeking to advance their own agenda and interests. This phenomenon can be understood as the cause for the greater difficulty in reaching a conclusion for the Doha Round of negotiations. The increased influence of developing countries in the rounds of negotiations has reduced the ability of both the US and the EU to achieve the outcomes expected (Young 2010). The costs of opposing the demands of developed countries agenda have decreased opening the way for greater protagonism of the developing world in determining the trade agenda in the multilateral system. This makes the possibility of a consensual decision almost impossible.

The financial crises of 2009 changed the domestic support for trade deals in the US in face of economic instability. The moment of economic crisis created negative pressures domestically to the conclusion of trade deals promoting further trade liberalization, hindering a possible conclusion of the Doha Round or other trade negotiation (Mendonça 2016). There is increasing pressure from the population over the loss of employments in the US as a result of globalization and free trade.



More than a decade later after the beginning of the Doha Round, no deal has been reached and many argue for the complete dismissal of the round. This reveals the US' growing inability of further promoting trade rules according to its interests through the multilateral route. The WTO is no longer the tool that the US and other developed countries use to open the markets of developing countries while not making enough concessions of their own and managing to keep their markets protected (Hung 2016).

The main goal of American foreign policy has been to preserve its hegemony and renew its strength in exercising the leading role in the international system (Pecequilo 2011). In times of crisis in the international order, the hegemonic power will seek new ways to forward its agenda. One strategy is through the creation of ad hoc treaties or the reformulation of the norms and rules of the order. Ad hoc regimes are common when the hegemon's power capabilities are declining (Keohane 1984). In this sense, the proposition of trade agreements outside the WTO by the US can be understood as the proposition of ad hoc rules and norms aiming to keep pushing forward the free trade agenda and the maintenance of American dominance over the trade regime. The dynamic of power redistribution is important to understand the option for regional trade agreements of large scope. In this respect, China's ascension is then seen as an important catalyst to the profusion of Mega-Regional Trade Agreements (MRTA) (Bown 2016). The Obama administration chose the path of MRTAs in an effort to reinforce US's role as the main promoter of trade rules in the system despite its declining influence over the multilateral trade system.

#### **IV. New strategy: mega-regional trade agreements**

The changes in the power distribution and the ensuing increased assertiveness of emerging countries in WTO's negotiations further complicated the US' ability to enhance its trade agenda without having to make greater concessions. The United States refuses to meet the demands of developing countries in some issue-areas. For example, one reason the Doha Round is deadlocked is because the United States refuses to curb subsidies to large farmers, one of the most important demands of developing countries (Alden 2015). However, the pressure is not only in the international environment. The domestic scene seems less receptive and no longer provides the enabling environment for multilateral trade liberalization (Mastanduno 2015). There is growing discontentment among Americans over the consequences of international trade liberalization and globalization, especially concerning China and its supposedly predatory trade policies.

The United States began considering preferential trade agreements in the early 1990s as a means of securing and spreading liberalism in the wake of Cold War's end (Ravenhill 2011; Mastanduno 2015). According to Michael Mastanduno (2015), a country's commitment to multilateralism is related to its economic dominance in the international system. This would mean that the growing appeal to regional trade agreements by the US is a reflection of the perceptions of its declining economic power. The problem with this proposition is that many developing and less-developed countries seem to be also committed to multilateralism even though they do not have dominance over the international system. Another issue is that the commitment to multilateralism seems to still be present in American foreign policy for now, what has changed is that multilateralism is no longer the favored route for advancing the country's trade agenda.

Before 2000, the US had only two preferential trade agreements in force, but in the face of the Doha deadlock, the country has ratified a series of preferential trade agreements since then (Badin, 2012). As was already discussed, most of these were bilateral agreements backed by geopolitical interests.

The first American initiative in regional preferential agreements was the North America Free Trade Agreement, concluded in 1994. Concomitantly, the US sought a similar agreement with Latin American, pushing for a Free Trade Area of the Americas, which was not concluded due to rejection from Latin American countries. Most of this rejection was related to pressures from the public opinion about the negative effects that a preferential trade agreement with the United States would have over the region. For example, in Brazil the deal was strongly rejected by the population through a referendum that removed the country from the negotiations. However, since 2006, a regional trade agreement with Central American countries entered into force. These can be understood as an attempt to cement closer trade ties with the immediate region for US' power projection. Today, the country has 13 preferential regional trade agreements in force (WTO 2016). Notwithstanding, none of these agreements has the same large scope in terms of counterparts and issues covered as the TPP and TTIP.

The issues generally covered by American preferential trade agreements tend to increment the WTO rules, being characterized as "WTO-plus", and some agreements even include rules that are not in the WTO, "WTO-extra" (Badin 2012). For example, free trade agreements signed by the US since 2009 have clauses concerning labor rights such as: right of collective bargaining, end of compulsory labor, end of child labor, and elimination of discrimination (Haufbauer & Cimino-Isaacs 2016). Issues where the WTO rules are still lagging

behind, such as intellectual property, government purchases, services, competition, and environment, are among main themes promoted by the US in these agreements (Badin 2012).

These issues have run into systematic rejection by developing countries (Haufbauer & Cimino-Isaacs 2016). This makes it easier to reach an agreement over these rules in the smaller scope of regional and preferential trade agreements than facing the hurdles of the multilateral process of negotiations in the WTO. The mega-regional trade agreements can be understood as an attempt to replicate the strategy of preferential trade agreements with a membership scope larger than regular agreements but still smaller than the WTO scope. The choice for mega-regional trade agreements can be seen as a strategy to prolong American hegemony in the international trade regime, and also, sustain its status as the main rule-setter of international trade.

The pursuit of MRTAs can be understood to be intimately connected to geopolitical interests. These trade deals are seen as a means of counterbalancing China's influence in international trade. The TPP aims to reaffirm American influence in the Pacific-rim despite China's growing influence. The TTIP would further solidify the transatlantic alliance and reduce the impact of China's growing approximation and influence over Europe. The conclusion of both agreements and the increase of trade flows from the US to its trade partners could also help diminish the trade deficit the country now holds in relation to China. In sum, the US seeks to rebalance China's influence in the trade regime and the growing economic interdependence not only of the United States but of its main allies with China.

Jointly, the international and domestic issues causing friction in the promotion of free trade led the United States towards a new strategy for promoting this agenda. The loss of strength in the multilateral arena directed the US towards mega-regional agreements like the TPP and the TTIP (Mendonça 2016). Daniel Hamilton (2014) names this "the mega-regional trade diplomacy". Both initiatives aim at preserving American preeminence in the establishment of trade rules globally (Oliveira 2016). The preservation of this position is vital to countering the decline of American influence over the international trade regime. The neglect of the multilateral initiatives by the United States puts pressure on the WTO to abandon its moment of inaction but also makes possible the advancement of American interests regarding trade in the international system without the need for multilateral organizations (Mendonça 2016).

#### IV.1. The Trans-Pacific Partnership (TPP)

The TPP is considered the biggest trade deal in history and a new model for trade agreements in the 21<sup>st</sup> century (Oliveira 2016). The agreement was negotiated among the members of the Asia-Pacific Economic Cooperation (APEC) aiming to turn this into an initiative of trade liberalization (Oliveira 2016). It was signed in February 2016 in Auckland, New Zealand. The member-states had a two-year deadline to ratify the agreement or it could have entered into force if members representing 85% of the total GDP ratified it before the date limit. With the United States dropout, it went through a new phase of renegotiation and was signed again on March 2018 by the remaining 11 members.

Initially, the agreement was seen as another US endeavor to promote economic integration with the Pacific-rim countries and to solidify its clout over Asia (Hamilton 2014; Oliveira 2016). Among the members of the TPP were Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Japan, Singapore, the United States, and Vietnam. Together these countries accounted for nearly 40% of international output making this agreement the most ambitious in comparison to the TTIP (Alden 2015). The TPP represented an opportunity to solidify trade relations with the region in the world that registers the highest growth rates, representing 30% of international trade, and 50% of the projected GDP growth (Biden 2016).

The TPP in its first format was a free trade and investment agreement (Haufbauer & Cimino-Isaacs 2015). The reduction of trade tariffs applied on the border was the main American interest in the TPP negotiations (Hamilton 2014). Nevertheless, tariffs practiced among the countries in the agreement were already low, meaning the major gains for the US would come from investment and increased influence over the other partners (Hufbauer & Cimino-Isaacs 2015). The innovations promised by this deal included rules on e-commerce, state-owned enterprises (SOEs), and small business exports (Alden 2015). Protection of workers' rights, intellectual property, and environment issues were among the themes covered by the TPP as well (Biden 2016). Despite rejecting negotiations over exchange rates in the WTO, the US sought a commitment from the other TPP counterparts, especially the Asian countries, to abstain from manipulation of their exchange rates that could cause trade disruption (Haufbauer & Cimino-Isaacs 2016). This can be understood as a counter measure in relation to China, whose exchange policies are seen as the main responsible for the US-China trade deficit.

The TPP was important for the US not only because of its promises of enhanced trade and investment relations among its participants, but also because of its geopolitical meaning (Stavridis 2016). Among the TPP and the TTIP, the first one, apparently, was more intricately connected to American geopolitical interests since it was understood as an enterprise to

counterbalance growing Chinese influence in the Asia-Pacific region due to the deepening of economic ties with its neighboring countries, regarded as a threat to American dominance in the region. China has already become the most important trading partner of two traditional Asian US-allies: South Korea and Japan (Arrighi 2008).

The American clout in the Asian continent is important for the maintenance of its regional and global leadership, and the security of its economic interests since the country is increasingly reliant on the Asia-Pacific region in terms of flows of capital and goods (Wang & Zhu, 2015). This brings to perspective the importance of the agreement in relation to the “Pivot to Asia” policy of the Obama administration. The change of administration in the US government led to a major overhaul of American trade policy including the withdrawal from the TPP – which now has been renegotiated by the remaining members. The Trump administration assumes that such a deal would bring more harm to the American economy than benefits. Trump’s nationalist views on trade are behind the causes that led to the American withdrawal from this important agreement in terms of trade but also geopolitics. On this second front, the Trump administration seems to prefer a more direct and confrontational stance.

Concurrently, there has been the negotiation of another MRTA that includes China but not the US, an initiative of the ASEAN countries, the Regional Comprehensive Economic Partnership (RCEP). The RCEP would be reunion of all the ASEAN+1 agreements integrating all the ASEAN members plus China, India, Japan, South Korea, Australia, and New Zealand. The prospects of further enlargement of the agreement to include other Asian countries would mean an opportunity to strengthen Chinese influence in the region (Hufbauer & Cimino-Isaacs 2015). So far, the agreement has not been signed yet. China is also negotiating an FTA with Japan and South Korea, important economies and American allies in Asia (Oliveira 2016). These agreements include new trade issues, but its provisions are still less ambitious than the TPP’s (Hamilton 2014).

#### IV.2. Transatlantic Trade and Investment Partnership (TTIP)

The TTIP agreement involved two important actors in international trade: the United States and the European Union. Together, this colossus could have pushed forward trade rules that would end up being adopted and applied by other countries who were interested in securing market access to these large economies. The importance of this agreement and its impact on the multilateral trading system stemmed from the fact that both remain among the most important exporters and importers in terms of volume. The agreement between the EU and the US might

no longer be sufficient to achieve the conclusion of a negotiation round in the WTO, but it could be an important push forward since both are major global trade players (Young 2010). This means that whatever rules were agreed upon by both parts in this trade deal it would, nevertheless, impact trade globally, since the establishment of rules between the major powers in the system is the foundation of the rules for the whole system (Gilpin 1981).

The agreement focused on reducing non-tariff barriers to trade since trade tariffs are already very low between the negotiating parts. The agreement also sought to create regulation that would further facilitate market access through the removal of non-tariff barriers to trade. The change of these rules was expected to have a profound impact in the WTO system (Haufbauer & Cimino-Isaacs 2015).

Further liberalization in services trade was expected to bring the greatest gains for both the US and the EU since both are strongly competitive in this sector, and the services economy is important as a job provider and accounts for the majority of their GDPs (Hamilton 2014). The TTIP was more than just about trade, it was about further regulatory coherence and reduction of non-tariff barriers and convergence of global standards (Hamilton, 2014; Haufbauer & Cimino-Isaacs 2016). It was also about strengthening the leadership of the transatlantic alliance and its position at the heart of the creation of international trade standards, norms, and rules.

The great novelty the TTIP would bring would be an Investment Court System (ICS) to rule over conflicts regarding investment (Lasik 2016). The importance of this stems from the fact that the WTO does not have such a mechanism where the individual members of the EU could potentially initiate a dispute by themselves. The ICS would allow parts other than the states to bring up cases to the court as well (Lasik 2016).

It was expected that the impact of the TTIP in intellectual property and technical barriers to trade (TBT) on the multilateral trade regime would be significant since it aimed to provide rules beyond the WTO's scope. There were negotiations to improve the harmonization of TBT on nine sectors including autos, chemicals, cosmetics, engineering, medical devices, pharmaceuticals, pesticides, information and communications technology, and textiles and clothing (Haufbauer & Cimino-Isaacs 2016).

Despite an overall interest in strengthening the transatlantic partnership, each side had its own particular interests. The European Union was pushing for further market access to American energy exports seeking the elimination of remaining quantitative restrictions to trade (Haufbauer & Cimino-Isaacs 2016). The American interest in this agreement was more focused on the regulation of investment flows and trade in services (Hamilton 2014). The TTIP was also

seen by some Americans and Europeans as an important tool for the continuity of the West's primacy over trade governance even though it would represent a significant step back from the multilateral system (Kundnani 2016; Lasik, 2016). The agreement, though, has been currently abandoned by both parts (Laïki 2018).

## **V. The multilateral regime and the MRTAs**

The choice for MRTAs shows that the United States is seeking options outside of the multilateral organization that it sponsored as part of its international hegemonic order. In this sense, the US would now prefer forums other than the WTO to achieve its interests even when aiming for a larger crowd than bilateral agreements allow. If both deals had been successfully concluded and ratified, the US and the other parts of these agreements would have promoted further liberalization of trade and investment over two-thirds of global output (Hamilton 2016). The issue is that this advancement would be achieved outside WTO's sphere excluding a significant parcel of the world from such negotiations, including China, one of the world's main traders. The strategy of using means other than multilateral organizations to achieve its real interests is not new to American foreign policy, having previously used trade agreements to secure other political interests. What is new is that this strategy is being applied in larger scope, in terms of the agreement size and scope of themes included, in order to secure the advancement of the American trade and geopolitical agenda. Like a hail-Mary play, one more attempt to score.

The WTO does not prohibit the creation of regional and preferential trade agreements, the Article 24 of the GATT disciplines PTA's, nevertheless, the organization requires that these be notified and must be in accordance to international free trade promotion in general. Since the creation of the GATT, the main concern was that RTAs would not increase overall tariff levels against non-members (Bown 2016), becoming a new form of discrimination. Regional trade agreements have been a controversial issue of the trade regime.

The discussion of whether regional trade agreements are "building or stumbling blocks" to international trade is not new. Jagdish Bhagwati (2008) has long stated that Preferential Trade Agreements "are eating away at the multilateral trade system...". It is believed that these agreements may cause trade distortion changing trade partners, increasing or decreasing the relevance of one in relation to another, but mostly these agreements lead to a surge in trade transactions among member countries to the detriment of outsiders (Ravenhill 2011). Also, they go against the basic principle of nondiscrimination of the international trade regime, since

PTA's mean that the countries that are not members of the agreement will not take part on its privileges (Bhagwati 2008). History has proven that it can go both ways, promoting further liberalization globally or trade distortion (Bown 2016). For authors like Edward Alden (2015), the TPP and the TTIP might become stepping stones to advance trade liberalization negotiations, inaugurating a new moment of free trade promotion in international relations through other bilateral and plurilateral trade agreements or reinvigorate the international multilateral system.

Nevertheless, these discussions were mostly related to smaller scope trade agreements. Mega-regional trade agreements (MRTAs) are a novelty in the trade regime and the impacts of these agreements are yet unknown, especially over the multilateral regime embodied on the WTO. These MRTAs bring WTO-extra and WTO-plus rules and go beyond the traditional exclusive preoccupation with the removal of protectionist measures (Bohnenberger 2016). MRTAs shortcut the path to trade liberalization, avoiding the obligation of consensus among WTO members, the risk of other countries obstructing the negotiations, and the need for single undertaking – meaning that every issue negotiated under a Round must be accepted as a single package.

The major impact expected from both the TPP and the TTIP would be in terms of non-tariff barriers due to the already low tariffs practiced by the main parts of both agreements (Bown 2016). Ergo headways in greater regulatory coherence and sectoral commitments in respect of Technical Barriers to Trade (TBT) are expected in contrast to the existing multilateral rules (Haufbauer & Cimino-Isaacs 2016). On the negative side, new non-tariff barriers could be imposed against non-members. But there is some expectation that the emergence of such mega-regional deals might push forward reforms in the WTO system since the organization's rules are considered lacking in comparison to other free-trade agreements in a range of matters like trade-related investment and intellectual property (Haufbauer & Cimino-Isaacs 2016). It may also lead to the broadening of preferential agreements negotiated under WTO auspices such as the Trade in Services Agreement (TiSA), which is being negotiated by 24 WTO members with overlapping membership with the TPP and the TTIP (Haufbauer & Cimino-Isaacs 2016). China and India, important trade players are not part of TiSA negotiations (Bown 2016).

One area of the multilateral trade regime embodied in the WTO that could be negatively affected by these MRTAs is the Dispute Settlement Mechanism (DSM). The the TTIP would have such mechanism of its own that could lead both the US and EU to prefer it over the WTO's mechanism, at least in their bilateral relations (Lasik 2016). This would have a significant



impact over the DSM since both the US and the EU are among its most frequent suitors. The TPP also has provisions for its own DSM.

There is also concerns about the impact of MRTAs in developing countries. The WTO provided these countries with an opportunity to establish coalitions to promote their own interests in the trade regime. Also, the organization's rules have provisions that acknowledge the need for special treatment for developing and least-developed countries. Developing countries could face greater discrimination, loss of competitiveness, and might also face the reduction of access to capital and technology (Bohnenberger 2016). There could also be a decrease of their influence in trade negotiations since MRTAs might fracture important coalitions focused on the promotion of the developing countries' trade agenda, but emerging countries like Brazil, India, and China are expected to be less negatively impacted by these agreements since they have enough economic strength to promote their own agreements, like China is doing with the RCEP (Bohnenberger 2016). Another negative aspect is that MRTAs might give the impression that their goal is to counterbalance developing countries, this could stir up the competition and result in the creation of rival blocs, increasing trade costs for all countries (Bohnenberger 2016). These agreements are unlikely to be extended to developing countries such as Brazil, India, and South Africa who have become a major obstacle to the conclusion of the Doha round (Alden 2015).

The profusion of FTAs and PTAs negotiations diverts the attention of countries from negotiations in the multilateral system, further weakening the deadlocked Doha round, and erodes WTO's preeminence (Haufbauer & Cimino-Isaacs 2016). The prospects of achieving a deal in the WTO seem smaller every day. Despite some advancements in the ministerial meetings in Nairobi and Bali, these have been shy of the original target. The US and the EU sustain that the Doha round should be abandoned giving place to new multilateral initiatives to negotiate themes like intellectual property, e-commerce, and other new issues. Developing countries do not want to abandon the Doha round because of its commitment to a pro-development agenda. The pro-multilateralism argument affirms that the WTO should be valued and strengthened because it provides transparency, making accessible information about changes in trade policies that might affect market access (Bown 2016).

Authors like Chad Bown (2016) believe that the WTO is not doing enough regarding MRTAs in the sense of self-preservation, in spite of the fact that the organization's agenda is knowingly member-driven, which means that its agenda is set by its members who would have to demand for further regulation of RTAs. The greater the trade covered by these MRTAs, the less relevant the WTO and the MFN clause would become (Bown 2016).

Some positive perspectives suggest that the WTO will remain central to the international trade regime but its functions will be negatively affected while the governance of the international trade system stays focused on RTAs (Trommer 2016). The main attributes of the WTO, the central piece of the multilateral trade regime, is that it is the major arena for the negotiation of trade rules, it also provides transparency of trade rules and policies, and solution of controversies (Bown 2016). The first attribute is being challenged, the second has no imminent alternatives, and new agreements like the TPP, TTIP, and the RCEP all bring their own DSMs.

Nevertheless, the WTO is still essential to international trade. The provision of transparency of trade policies and information from and for all countries is one of the main reasons the WTO will remain central in the trade system (Trommer 2016). There is no other organization in the trade regime with an efficient mechanism of dispute settlement such as the WTO's. There have been requests for the extension of the WTO's DSM scope to include disputes under regional trade agreements since nearly 15% of all litigation in the WTO are already between counterparts in RTAs using the mechanism to resolve bilateral trade disagreements (Bown 2016).

The American discourse used to reaffirm its commitment to the WTO and to the multilateral trade regime embodied in this organization. The USTR, during Obama's administration, presented both MRTAs as opportunities to advance trade regulation towards more liberalization that could be channeled back to the multilateral system (ICTSD 2016b). In practice, the United States has a history of not complying to WTO's ruling on trade disputes and ignoring some rules when it pleases to do so. For once, the US continues to treat China as a non-market economy in anti-dumping investigations despite the end of the fifteen-year clause included in China's WTO accession agreement (Gao 2018).

Together, both the TTIP and the TPP would cover a significant amount of world trade, meaning that the rules established in these agreements would have an important effect on the multilateral regime and the creation of global standards (Hufbauer & Cimino-Isaacs 2015; Hamilton 2014). In sum, the MRTAs diplomacy could be considered a shortcut for the US to implement its trade agenda that it is no longer easily able to do so in the WTO.

## **VI. The current scenario**

Despite American engagement in the negotiations of these mega-regional trade agreements, conjuncture shifts completely changed the future prospects for both of these deals.

The domestic sphere in the US is getting more adverse against further trade liberalization. The result of the last election is evidence of great discontent among the population with globalization, closer economic interdependence, and the relocation of production to countries with lower wages. During the campaign both candidates, Hillary Clinton and Donald Trump, affirmed to be against the ratification of the TPP (ICTSD 2016). Public opinion believed this deal would deteriorate even further employment issues and wellbeing in the country. The now elected president, Donald Trump, has even renegotiated the NAFTA agreement with Canada and Mexico to US' "own terms". Overall, Trump's promises are more inclined to protectionism and nationalism than to further trade liberalization.

The hope for the TPP was that the Congress would ratify it before the beginning of Trump's term in office. Overall, the new president's concern is that the US is being taken advantage of by trade partners like China and the country needs to reassert itself and take back the leading position in trade negotiations (Mendonça 2016). Trump issued a decree withdrawing the US from the TPP in his first week in office. According to his administration, the country will instead pursue bilateral trade deals with Asian countries (Panda 2017).

The claims against trade agreements in the United States indicate the perception that American economic power and its ability to craft advantageous agreements for the country's economy has been decreasing, harming employment and social issues domestically. It reinforces the perspective that American leadership is being weakened by domestic and international factors.

The rejection of the TPP by the United States can be considered a victory for China since it keeps "the room open" for its continuous expansion and would further reduce American influence in the Asian continent (Stavridis 2016). This could also give new impetus to the conclusion of the RCEP, the agreement sponsored by China and facilitate the implementation of the One Belt, One Road initiative which also involves trade and the deepening of commercial ties between China and other Asian trading partners.

Even without the US, the TTP has been renegotiated by the remaining members, received a new name (CPTPP), has been signed, and came into force December 30, 2018. The RCEP is still being negotiated. There are current negotiations of a PTA between MERCOSUR and the European Union. All these facts point to the fact that, even if the United States have abandoned the MRTAs strategy under Trump, this kind of PTA seems to be a new permanent fixture of global trade governance.

European diplomats have commented that the TTIP negotiations have stalled and even though the agreement might seem easier to be ratified by the American Congress, there is

growing opposition in Europe to such deal (Alden 2015; Kundnani 2016). The European Union faces major domestic issues ranging from Brexit to growing anti-European and anti-globalization sentiment among member-states' population. There were also rumors of growing cleavage among the negotiating parts. In the United States, there seems to be less antagonism to the TTIP since Europe is not regarded as stealing American job posts. However, it remains to be seen whether the TTIP is part of Trump's vision of American national interests (ICTSD 2016a).

No matter what, it seems the days of the US as the greatest and core promoter of free trade in the international system are getting closer to an end. This will probably leave a leadership gap to be filled leaving a very good opportunity for China to assume this position. President Xi Jinping's statement in the World Economic Forum in January 2017 was regarded as an anti-Trump speech in favor of globalization and commitment to international trade. In this speech, Xi reaffirms China's commitment to international economic stability and its desire to continue to work towards a more integrated and prosperous international economy (Xi 2017). Concomitantly, China remains committed to the multilateral regimes respecting deadlines and complying to WTO's ruling of trade disputes involving the country even when it loses (at least on paper) proving that the country respects the WTO's authority and the legitimacy of its rules (Gao 2018). Currently, China and the United States are considered to be going through a "trade-war". The Trump administration raised the tariffs over a number of Chinese products sparking a reaction from Beijing that raised tariffs over American products and initiated a dispute on the WTO's DSM. This same DSM has been slowed down by Trump's blockage of the appointment of new judges to the Appellate Body claiming that the organization infringes upon American sovereignty (Laidi 2018). The raise in tariffs by the USA affected other countries as well, but China can be considered its main target. This reinforces the view that China and United States are in different sides regarding trade promotion and it seems that the US – the "Liberal Leviathan", as named by Ikenberry (2011) – is on the opposite side of trade liberalization.

## **VII. Conclusion**

The purpose of this research was to identify whether the choice for MRTAs by the United States is related to its decline as the hegemonic power and main leader of the international trade regime. The conclusion is that the US has been resorting to MRTAs as a means to advance its trade agenda without the existing constraints in the WTO due to the emergence of new powers in the international system. Both mega-regional trade agreements

seek to promote WTO-plus and WTO-extra rules on such a large scale that it is expected to affect a great amount of international trade, pushing countries outside these deals to adopt the new standards so they will be able to trade with members from both agreements in a competitive way. In this sense, the US is trying to use MRTAs as a shortcut to advance its trade agenda in an almost global way, but not through the multilateral trade regime embodied in the WTO, the same organization that was created under American sponsorship as a result of the US' commitment to trade liberalization.

Whether these agreements will be stumbling or building blocks for the international trading system remains to be seen, since one agreement has not come into force and the other came into force recently. The Trump era brought fears of a more protectionist US, meaning the TTIP might have no future at all and the TPP will not be backed by the US. The TPP's, or better, the CPTPP's impact and reach over global trade will be smaller than initially intended but significant nevertheless. It is clear that the US' ability to keep providing international economic stability is being questioned, reducing the country's capacity of meeting the expectations of its domestic constituency's and the world's interests (Mastanduno 2015). This can be understood as part of the process of US' hegemonic slow and continuous decline, especially in economic terms. Meanwhile, a vacuum of leadership emerges in international trade governance that could possibly be occupied by China, in the future, since Beijing claims to be committed to promoting trade liberalization and achieving greater market access for Chinese products.

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