

Calling a halt to the pseudo “trade deals”

By Jayati Ghosh

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On Friday 12 June, the US House of Representatives stalled a bill that would have set in motion the process of confirming a major new trade deal, the Trans Pacific Partnership Agreement (TPP, between the US and 15 countries in Asia and Latin America, but excluding China). This was a major blow to President Obama, who has put a huge amount of his personal effort into achieving this and the Trans Atlantic Trade and Investment Partnership Agreement (T-TIP, between the US and countries in Europe) – and it was a blow coming from his own party since the Republicans in Congress all support both deals.

It is understandable that Mr Obama wants to leave behind a legacy, after a Presidency that many of his own supporters have found disappointing on many fronts. What is surprising, though, is that he has chosen this area in particular, and seems to be convinced that trade deals like these will leave a positive legacy. So what explains this conviction, and what explains the equally fervent opposition in a significant section of US society and in his own party?

Obama’s position is probably more geopolitical than purely economic. The TPP is part of his currently less than successful “pivot to Asia”. He may believe that tying countries into deeper trade and investment relations—effectively on the US’ terms – will strengthen US hegemony. As he has argued “We have to make sure America writes the rules of the global economy. And we should do it today, while our economy is in the position of global strength. Because if we don’t write the rules for trade around the world – guess what – China will.” Subsequently, the US Trade Representative Mike Froman emphasised that “getting this done is important to US leadership in this region”.

The opposition to the TPP comes in part from US workers who feel that this deal will further undermine their bargaining position by exposing them to competitive pressure from producers in other parts of the world (especially in Asia) who operate on the basis of much lower wages and worse working conditions of workers. They point to the workings of NAFTA or the entry of China into the World Trade Organisation, after which less skilled workers in the US have been at a disadvantage (even though, ironically, workers in Mexico for example have not really gained).

But as it happens, looking at trade results for assessing the gains and losses of either the TPP or the TTIP actually completely misses the point. Neither of these deals is really about trade at all: they are both about strengthening the rules that favour capital over not just workers but over citizens in general. It is true that countries like Vietnam are being enticed into the TPP with promises of greater market access into the US, but the devil in the detail may well generate much less benefit than expected, as many previous participants in bilateral trade deals with the US have found. In any case, this will eventually amount to a relatively small part of the overall change that will occur even for that country, where the agreement would affect all kinds of investment and production rules, regulations that protect workers and consumers, access to knowledge, and so on.

Consider the projections of the trade impact that are being bandied about in the media after frantic lobbying by the corporate world. The most favourable studies of the potential positive effects of the TPP suggest increase in trade amounting to around 0.4 per cent of the total GDP of the countries concerned to be achieved over several years, and even this

paltry result is achieved through dubious econometric models making all sorts of questionable assumptions. For the TTIP, the projections are if possible even more suspect: since tariffs between the US and Europe are already so low, all the proposed “positive” impacts that would amount to a maximum of 0.7 per cent of GDP of the signing countries, are to be derived not from cross-border trade per se but from regulatory changes that allow more freedom to capital to operate in ways that are currently restricted in the interests of society.

This is probably why the negotiations for both treaties are being conducted in such conditions of strict secrecy. After the wikileaks exposure of a draft chapter on intellectual property in the TPP last summer created widespread public outcry, there has been a further tightening of the confidentiality measures under which all negotiating parties have to operate. This in itself causes concern: if a so-called trade deal is supposed to be so good for the participating countries, why do its elements have to be strictly guarded from being publicly revealed? Even in the US, while the public at large is denied access to the negotiating documents, a group of around 500 corporate “trade advisors” largely representing the interests of big business are privy to the details.

As a result, even what is in the proposed deals is only suspected through rumours, and leaks by concerned parties. But the reality is recognised by those in a position to know. Even the infamous former US Presidential advisor Larry Summers, in the past a fervent supporter of both multilateral and bilateral trade deals, has admitted in a recent article in the Financial Times that “What we call trade agreements are in fact deals on the protection of investment and on achieving regulatory harmonisation and establishment of standards in areas such as intellectual property.” Some members of the European Parliament who have seen drafts of the TTIP documents under strict conditions have also noted that.

In the TPP, for example, it has been suggested that only 5 out of 23 chapters actually deal with trade – the rest are all about reducing or easing regulations on investors and business operation. These cover all sorts of critical areas: safety standards for food products, for other products like automobiles, and most critically for medicines; environmental regulation designed to reduce pollution and over-exploitation or degradation of nature; financial regulations designed to prevent banks and other institutions from behaving irresponsibly and thereby creating another crisis; worker protection and social security rules; other regulations in the public interest that capital finds annoying or expensive.

These crucial regulations, which are typically designed and implemented in most democracies as a result of social need and public demand, have been redesignated in these draft treaties as “non trade barriers” or “trade irritants”. The idea behind such treaties then is to write in rigid and binding international rules that will prevent national governments from legislating or implementing laws in the interests of citizens at large, whether they are workers or consumers or just people having to survive in increasing fraught and fragile natural and social environments.

Each of these areas of regulation has potentially huge implications. In the area of finance alone, even within the US, laws such as the Sarbanes-Oxley Act of 2002, which tightened accounting standards to prevent a repeat of corporate frauds like those of Enron and WorldCom, could be seen as “non tariff barriers” to the functioning of international finance.

Even Basel norms that demand banks to hold more capital and limit financial firms’ activities in order to prevent financial instability could potentially be targeted.

Furthermore, all these issues, whether relating to consumer safety or health or product safety or financial markets, would then be subject to “investor-state dispute settlement” (ISDS),

which allows companies to sue governments directly for unfair restrictions. As many developing countries already know to their costs because of bilateral investment agreements that allow this, ISDS tribunals generally have a pro-investor bias, taking a very expansive view of “expropriation” that includes anything that affects the profitability of capital, even when the matters concerns the human rights of the citizenry.

The other area that is of great significance in these deals concerns intellectual property. It is evident that both of these deals involve a further tightening of the rules around what is defined as intellectual property, thereby increasing corporate control over knowledge and reducing the access of developing country producers to important sources of technological advance.

These issues are obviously of concern to all citizens of the countries that are participating in the negotiations for such deals. But they also

matter to everyone else in other countries, because these deals then effectively become the template for all future deals whether multilateral or regional or bilateral. In other words, the US – and particularly US corporations– do indeed set the rules of the game for everyone, not just in trade matters, but in all matters affecting the economy and society and nature.

So it is clear why corporate lobbies everywhere would be in favour of such deals, because they amount to transnational controls on governments that would reduce their capacity to make or implements rules and laws in the public interest and privilege big business over everyone else. What is less clear is why democratically elected governments would be so keen to push these through, unless they are more concerned with meeting the demand of their electoral paymasters than with the needs of the citizens who actually vote them in.