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US-China Relations and the Geopolitics of the Trans Pacific Partnership Agreement (TPPA)

By Jane Kelsey

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*In criticising the leaders of her native New Zealand for their myopia in treating the TPPA as a depoliticised international agreement, **Jane Kelsey** argues that China is the ultimate target of every major US proposal in this ‘new-generation, twenty-first-century agreement.’*

The term ‘competitive imperialism’ applies where ‘free trade is subservient to the goal of projecting influence to another country or throughout a region, and checking actual or perceived reciprocal efforts by another power’. Last decade, it was used to describe the contest between the US and the European Union (EU) as they competed to secure new-generation free trade agreements (FTAs) for strategic reasons. Today, ‘competitive imperialism’ is more appropriately used to describe the growing desperation of the US to neutralise the ascent of the ‘BRICS’ – Brazil, Russia, India, China and South Africa. China is preeminent among them, to the point that, even though it is not a party to the proposed Trans-Pacific Partnership Agreement (TPPA), it is the elephant that is constantly in the room and the ultimate target of the US’s most aggressive proposals.

The strategic and foreign policy dimension of the TPPA has especially serious implications for a country like New Zealand which wants to remain best friends with both sides. On the one hand, Trade Minister Tim Groser warned in February 2012 that New Zealand would pull out of the

negotiations if politicians in the United States used them as a vehicle to try to contain the rise of China. Senior government representatives from New Zealand and Australia are believed to have been very uncomfortable with some of Washington's anti-China rhetoric. As detailed below, that rhetoric continues unabated, but predictably Groser has not walked away.

At other times, political leaders and journalists resort to that happy place where New Zealand can claim neutrality as an independent small power and play on both teams. In late 2012 Prime Minister John Key welcomed the talks for a mega-deal involving China and the Association of South-East Asian Nations (ASEAN), 'but TPP is the big game for us at the moment'.

New Zealand's approach is to treat the TPPA as a depoliticised international economic arrangement and float above the geopolitics. That may be achievable in the early stages, but if this becomes a Cold War by proxy each side will expect friends to become allies. A similar studied myopia informs the grand plan for all members of the Asia-Pacific Economic Cooperation (APEC) forum and their other agreements to 'dock' onto this US-centred treaty and form one regional APEC free trade agreement. Repeated attempts to achieve that goal have foundered since it was first proposed in the early 1990s because there are divergent economic models and strategic relationships among APEC's 23 members. It is true that all the TPPA countries have their own reasons for being in this game, and some, such as Vietnam, see it as constructing their own bulwark against China. But there is no evidence to suggest those decades of resistance to a binding and enforceable US template for the Asia-Pacific will simply melt away.

The US Pacific century

US President Barack Obama and Secretary of State Hillary Clinton left no doubts at the APEC meeting they hosted in Honolulu in November 2011 about the drivers behind the TPPA. The US aims to revive its geopolitical, strategic and economic influence in the Asian region to counter the ascent of China, in part through constructing a region-wide legal regime that serves the interests of, and is enforceable by, the US and its corporations. In the TPPA context, what the US wants is ultimately what counts.

Expanding on her article entitled 'America's Pacific Century' in the November 2011 issue of Foreign Policy magazine, Clinton said the security and economic challenges that currently confront the Asia-Pacific 'demand America's leadership'. Officials described the US role as 'the anchor of stability in the region', committed to 'managing the relationship with China, economically and militarily'.

According to Obama's advisers, he made it 'very clear' during his bilateral discussions with China's President Hu Jintao 'that the American people and the American business community were growing increasingly impatient and frustrated with the state of change in the China economic policy and the evolution of the US-China economic relationship'. China had failed to show the same sense of 'responsible leadership' as the US had tried to do.

At the TPPA leaders' meeting Obama had talked about establishing international norms that would 'be good for the United States, good for Asia, good for the international trading system –

good for any country in dealing with issues like innovation and the discipline of state-owned enterprises (SOEs), creating a competitive and level playing field'. Above all, the TPPA would create international norms that would be good for resurrecting US strategic and economic hegemony.

The bellicose tone intensified during the 2012 US presidential election campaign. Republican candidate Mitt Romney complained that Obama had not been tough enough with China and then endorsed the TPPA as a 'dramatic geopolitical and economic bulwark against China'. Obama was equally belligerent. While China could be a partner, America was 'sending a very clear signal' that it is a Pacific power and intended to have a presence there. In a coded reference to the TPPA he said 'we're organising trade relations with countries other than China so that China starts feeling more pressure about meeting basic international standards. That's the kind of leadership we've shown in the region. That's the kind of leadership that we'll continue to show'.

There is some tension between the antagonistic foreign policy position of the State Department and the commercial drivers of the TPPA. China is the ultimate target of every US major proposal in this 'new generation, twenty-first century agreement', in particular stricter protection for intellectual property rights, disciplines on 'anti-competitive' state-owned enterprises, and processes and rules to stop 'unjustified and overly burdensome' regulation. It is unclear how they intend to get China to adopt these rules. Sometimes it sounds like an encirclement strategy, creating a model that dominates the Asia-Pacific and forces China first to adjust, and ultimately to accede to the TPPA. At other times, the target seems to be China's alliances and operations in third countries to undercut its economic foothold and strategic influence.

The US's potential leverage over China stepped up a notch with the announcement in February 2013 of negotiations for a Trans-Atlantic Free Trade Area (TAFTA) between the US and the EU bloc of 27 countries. There is a synergy between the EU's Global Europe strategy to externalise its internal regulatory regime and the US goal for the TPPA to provide a seamless regulatory environment for capital, goods, services, data and elite personnel throughout the Asia-Pacific. But there is the sticky question of whose regime would rule, given their longstanding conflicts in areas such as agriculture, food safety, telecommunications and intellectual property. The commercial and strategic attractions of a trans-Atlantic pact are obvious, especially for the US. If they were able to pull it off, America would span the powerful TPPA and TAFTA blocs, massively boosting its power in the face of the BRICS.

China's diplomatic counter

China's public response has been measured. In late September 2011, China's Ambassador to the World Trade Organisation (WTO) said diplomatically that they had 'no objections to the TPP' and were waiting to see whether there was a possibility that China might be involved in the discussions. Speaking immediately before the APEC Summit in 2011, a senior Chinese official more sharply criticised US goals as 'too ambitious' and called for a balance between the TPPA and 'other paths to achieve multilateral and regional trade liberalisation'. The TPPA negotiations should be 'open'; China had not been invited to participate. The US replied that any country must apply to join and demonstrate that it is prepared to operate by the TPPA's gold-standard 21st-century rules.

China has a number of options. Ignoring the TPPA in the hope that it stalls and goes the way of the Doha Round of WTO negotiations and the moribund Free Trade Area of the Americas carries too high a risk. China could seek to join the talks indirectly through its Hong Kong proxy, but that would bring the extensive holdings of China's SOEs in Hong Kong under the TPPA disciplines. It would also expose Hong Kong's governance processes to unpalatable obligations on process, disclosure and external participation.

China could make a direct request to participate in the TPPA. That would set off a feeding frenzy among the TPPA negotiating countries that do not have a free trade agreement with China: the US, plus Canada, Japan, Mexico and Australia. But accession involves a lengthy and demeaning process of bilateral discussions and endorsement by each existing participant, then a collective decision to allow them entry, followed by a 90-day notification to the US Congress. The process for Canada and Mexico took a year. They were told they had to accept everything that had been agreed by the time they formally joined the negotiations, but they were not permitted to see the text itself before then. Even though the US ensured that Japan's accession was expedited, it will come to the table in late July 2013 on the same terms: Japan will not have had access to the formal texts and will not be able to reopen anything that has already been agreed in negotiations. In reality, many of the chapters of greatest interest to Japan will not have been concluded, which guarantees that an October deadline is unachievable.

It seems inconceivable that China would agree to a process of bilateral discussions and arduous preconditions simply to get to the table, and accept a raft of US-drafted rules that are designed to cripple China's principal sources of commercial advantage.

The most realistic option is for China to grow its own mega-group. That is already in play. China has a free trade agreement with ASEAN whose scope has progressively expanded from goods to services to investment. It is in bilateral negotiations with South Korea, and the first talks for a China-Japan-Korea FTA were held in March 2013. These relationships are crucial for China. There are ongoing foreign policy tensions with Japan over the disputed Diaoyu/Senkaku islands and this was clearly a factor in Japan joining the TPPA talks, despite vigorous domestic opposition. However, South Korea has said it will not follow suit at this stage because it is focusing on the China negotiations and the three-way deal with Japan.

China's other major counter-play is the 16-country Regional Comprehensive Economic Partnership (RCEP), which brings China and the 10 ASEAN countries together with India, South Korea, Japan, Australia and New Zealand – but not the US. The talks were launched in November 2012. The rhetoric is similar to the TPPA, with supporters describing it as 'a framework within which business can use the region's resources to best effect in generating higher living standards and welfare for the region's people'. There are similar expectations around services and investment liberalisation, supply chains and connectivity, but they are weaker in relation to intellectual property, domestic regulatory reforms, environment, labour, government procurement and non-tariff measures such as consumer protection laws.

Whereas the US sees the TPPA as a vehicle for American leadership in the Asia-Pacific, ASEAN researchers assert 'it is in the interests of East Asia and the world as a whole that East Asia should be the engine of growth for the world economy', while being open to the rest of the

world. The RCEP negotiations and agreement itself should follow the precedent set by the ASEAN Economic Community and should be guided by the ‘ASEAN way’.

The ethos of the China and ASEAN-led project is fundamentally different from the US-led TPPA. Rather than a uniform commitment to a ‘gold-standard twenty-first century agreement’, the RCEP will recognise ‘the individual and diverse circumstances of the participating countries’. Whereas the TPPA has rejected any special and differential treatment for poorer countries beyond longer phase-in periods and some technical assistance, the RCEP promises to ‘include appropriate forms of flexibility including provision for special and differential treatment’, especially for least developed countries.

Seven countries currently span both sets of negotiations: Australia, Brunei, Japan, Malaysia, New Zealand, Singapore and Vietnam. The timeframe is to conclude an RCEP agreement by the end of 2015. The US clearly does not want these negotiations to advance until it has locked the crossover countries into the orbit of its own TPPA rules, especially those with which it does not already have a free trade agreement. That will become more difficult with Japan at the table.

If both agreements were eventually concluded, countries like New Zealand that are party to both would face some hard decisions further down the line. The two agreements will reflect divergent paradigms, as well as geopolitical allegiances. Parties would be required to implement quite different sets of obligations, and compliance with them both would be enforceable by state parties and foreign firms.