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US trade policy and politics in 2013

Summary

- The granting of the Permanent Normal Trade Relations (PNTR) status to Russia by the US last week is probably the most significant US trade policy development in a year when the Obama administration has offered little to domestic business constituencies in terms of proactive market opening abroad.
- The key test of the Obama administration's willingness to open up a major new front in trade policy in 2013 will be the idea of a Trans-Atlantic Free Trade Agreement, which is now being promoted assertively by the EU and has some support from US business. Such a negotiation is politically attractive, but likely to be practically hard to deliver at any depth.
- More widely, there are two big factors pushing against a revived US trade liberalisation agenda. The first is disenchantment with the WTO. The second is a faltering domestic political consensus on free trade that makes and renewed FTA agenda a potential vote loser with both Republican and Democrat voters.
- Politically, as in the EU and elsewhere, the focus is likely to be on export promotion as a cure for unemployment and manufacturing decline. But the same politics that are driving the export push are also restricting the scope for selling voters the difficult prospect of import competition. How a room full of 'export promoters' reach a meaningful trade deal is pretty much the big political question hanging over global trade policy.

Last Friday the Obama administration signed into law the establishment of Permanent Normal Trade Relations for Russia, revoking the 1974 Jackson-Vanik amendment. Removing from the books a piece of cold war legislation permitting discrimination against Russia on the basis of its restrictive emigration policy has been a key Obama administration aim in 2012, forced on it by Russia's accession to the WTO in 2012 and the US' parallel commitment to normalise its own trade relations with Moscow. This was probably the biggest trade policy development in a year when the Obama administration has offered little to domestic business constituencies in terms of proactive market opening abroad.

However, the political capital Washington might have earned in Moscow with the Jackson-Vanik repeal it has quickly spent with the 'Magnitsky' provisions in the new Act. These replace the Jackson-Vanik restrictions with a set of narrower provisions that oblige the US administration to maintain a blacklist of Russian officials involved in human rights abuses, and the option of subjecting them to asset freezes and visa bans. The securing of PNTR is a symbolic and important, but it has been done by way of a confrontational gesture that irritates Moscow, potentially in ways that handicap US corporates with the Kremlin.

Many of the US business groups that welcomed the Jackson-Vanik repeal took the opportunity to ask publically if it might usher in a new round of US trade policy activism in 2013. They are likely to be disappointed. The first-term Obama administration was the least proactive US Presidential administration on the trade deal front for two decades. The second term is likely to be much the same. This Global Counsel Insight note explains why.

The post-multilateral President

US trade policy in the Obama administration's first term was dominated by three basic themes: completing the Bush-era FTAs with Latin America and South Korea, continuing negotiations on the Trans-Pacific Partnership (TPP) trade agreement and a steady run of WTO dispute cases against China. All of these were essentially inherited from the Bush administration. Obama's administration may yet show a burst of new negotiating enthusiasm by launching talks with the European Union in 2013, but there are two big factors pushing against a revived US trade liberalisation agenda. The first is disenchantment with the WTO. The second is a faltering domestic political consensus on free trade.

The first of these is often overlooked in thinking about the future of US trade policy, but it is key. President Obama is the first US President in fifteen years to be making trade policy outside of a framework in which the WTO is central. Bill Clinton's Presidency was dominated by the process of creating the WTO and then shepherding China into it. George W. Bush launched a small flotilla of bilateral FTA negotiations, but his administration also launched the WTO Doha Round in 2001 as part of a global package of political responses to the September 11 attacks and the US stuck with the Doha process to some degree until its eventual failure in Geneva in 2008.

Obama inherited a US trade policy machinery in 2008 exhausted with multilaterialism and frustrated with the WTO and his administration has shown no interest in reviving the multilateral trade round. Indeed almost every aspect of US trade policy since, from the focus on the TPP to the growing interest in a possible Trans-Atlantic agreement, reflects a system that no longer sees multilateral WTO negotiation as a credible vehicle for serious new market access (*GCI The dragon in the room: US trade policy after the Doha Round*). Mitt Romney's proposed 'Reagan Economic Zone' Free Trade Area would have been an even more explicit rejection of the WTO as the basic framework for American trade policy.

Although the US continues to advocate an agreement through the WTO machinery on services trade, this would be a 'plurilateral' agreement between a self-selecting subset of the total WTO membership in which the US has greater scope to define the negotiating territory, and in which the outcome would in theory be less vulnerable to dilution by more defensive WTO members.

The idea of an International Services Agreement on the model of the current WTO Government Procurement Agreement and Information Technology Agreement has developed some limited traction in the last few weeks, but are still exploratory, and still include none of the major emerging economies. It is however the one part of the WTO negotiating agenda in which the US is likely to be genuinely engaged, and where progress, even if limited, remains at least possible.

A tale of two oceans

Outside of the WTO, the key test of the Obama administration's willingness to open up a major new front in trade policy in 2013 will be the idea of a Trans-Atlantic Free Trade Agreement, which is now being promoted assertively by the EU and has some support from US business such as General Electric and the National Association of Manufacturers. Aside from its potential size, the political upside of a 'TAFTA' is that it has bipartisan political support, including from important regional constituencies like trade-sensitive Ohio. The US and the EU are both comparatively transparent, and the sensitive issue of price undercutting through weak labour standards that bugged the Bush-era Latin American FTAs in particular would not be an issue.

The downside is that, given the inevitable need to focus on trade and investment standards in the absence of any large number of serious remaining tariff barriers between the two markets, it would be a torturous process that would struggle to deliver at any real depth. A substantive agreement would quickly push up against complex and politically sensitive areas such as the regulation of consumer safety standards, genetically modified food and the protection of European regional trade marks for food and wines.

From the EU side, the interest in a Trans-Atlantic negotiation is partly simple political attraction to a large and politically symbolic initiative, partly a nagging anxiety about the long term consequences of a wider US pivot in foreign economic policy towards its Pacific markets. The British in particular are drawn to an agreement that can be presented as Anglo-American reassertion of the free trade agenda. But among European trade policymakers there is also a desire to call the US's bluff with respect to the Trans-Pacific Partnership, which Washington has presented as an attempt to re-inject some ambition into trade liberalisation, especially for investment rules. For EU trade negotiators, a 'Trans-Atlantic

Partnership' (the difference in preferred moniker is important) is an opportunity to test this rhetoric.

Businesses enthusiastic at the concept of a new wave of Trans-Atlantic liberalisation need to be realistic. The TPP is likely to remain the basic priority for the Obama administration in 2013, not least because it is an integral part of a wider China strategy. A priority for 2013 will be determining the scope for Japanese inclusion in the TPP, which would slow subsequent negotiations to a crawl, but strengthen the TPP's basic aim of encircling China with a US-dominated trade agreement that liberalises its backyard. The odds on a TAFTA/TAP being launched in Obama's second term are probably better than even. The chances of it being concluded are probably nil.

Elsewhere, US trade policy in Obama's second term is likely to look much like the first. The focus in China will remain using the WTO dispute resolution system to prosecute American complaints on Chinese export and import restrictions and industrial subsidies. A bump in case launches in the election years of 2010 and 2012 produced a politically useful ruling on Chinese steel tariffs in 2012 and will see a string of cases prosecuted through 2013 on Chinese trade restrictions on US chicken and automobile exports and a major case on Chinese export duties on rare earths.

This will provide the administration with enough political evidence that it is taking a tough line on China, without unduly hindering the scope for building relations with the new Chinese leadership. Beyond this, the core of US trade policy on China will in fact be the TPP, which is designed to encircle China with a US-led free trade community to create a new incentive for China to negotiate in US priority areas such as investment and intellectual property protections.

We are all export promoters now

Obama's trade policy choices matter for a number of reasons, including for businesses contemplating their own trade policy advocacy. The US' priorities inevitably shape the wider global landscape for trade policy – especially at the multilateral level. US disengagement from multilateral liberalisation through the WTO matters less in a world in which China and India are also comparatively cool on the idea of serious multilateral negotiation. But Washington's outlook is still key to any revival of the WTO's scope for driving liberalisation at the global level.

The Obama administration's priorities also give us a sense of the way in which views of trade policy in Washington may be evolving, almost irrespective of who is President. Disenchanted with the pace and focus of WTO negotiations and wary of voter sentiment on free trade, the US system has no appetite for a big global trade deal, and limited appetite for selling the US electorate on the import competition that comes with FTAs. Polling suggests why.

A recent Kantar Media study of campaign ads in the 2012 US election suggested that trade-themed ads attacking NAFTA-style FTAs for both candidates aired 83,000 times in 2012 – double the airing times in 2008. Of the 125 paid-for ads procured by Congressional candidates, only one explicitly indicated support for free trade – for Republican Senate candidate Linda Lingle in Hawaii, who lost. An Angus Reid poll in May 2012 suggested that only a quarter of Americans felt US workers had benefited from NAFTA. Although Obama made a bipartisan virtue of renegotiating and pushing through the Bush-era FTAs with South Korea, Panama and Colombia, polling after they passed suggested a majority of Americans opposed them, including two out of three blue collar Republicans. These kinds of results are part of a wider decline in public support for free trade in the US.

They partly explain why, since 2008, Obama has been reluctant to spend political capital seeking the renewal of 'fast track' Trade Promotion Authority (TPA) which limits Congressional scope for constraining the President on the detail of new US trade deals (and thus strengthens his negotiating position). In large part this is because he knows that the price tag of renewal of TPA for Democratic legislators would be pre-agreement on writing provision on labour and environmental standards into any FTAs. This would be a deeply unpopular idea with many potential US FTA partners in the emerging world. If Obama seeks renewal of TPA in 2013, it may well only be on the specific ticket of completing the TPP.

In large part, this also explains why, when trade came up on the US campaign trail in 2012, the focus was on doubling US exports, opening new markets in China and, where possible, pursuing China through the WTO for subsidy policies that breach WTO rules. Mitt Romney briefly raised the idea of new FTAs with Central America, but never developed the idea. The National Export Initiative (NEI) launched in 2010 is a multi-agency initiative to channel finance and trade support to exporting SMEs, lead trade missions to key markets and increase the US government's focus on 'commercial advocacy'. What all these measures have in common is boosting exports without raising the difficult political question of imports.

The US and the Obama administration are hardly alone in seeing growing exports as a key part of a political response to downturn and unemployment. But the same politics that are driving the export push are also likely to restrict the scope for selling voters the difficult prospect of import competition. They are also why the Obama administration is likely to talk a lot more about 'export promotion' than 'free trade'. How a room full of 'export promoters' reach a meaningful trade deal is the big political question hanging over global trade policy.

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