

FRAMING MEGA REGIONAL TRADE AGREEMENTS WITHIN
GLOBAL CAPITALISM: AN ANALYSIS OF THE TPP, TTIP AND TISA
PROPOSALS

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ABSTRACT

FRAMING MEGA REGIONAL TRADE AGREEMENTS WITHIN GLOBAL CAPITALISM: AN ANALYSIS OF THE TPP, TTIP AND TISA PROPOSALS

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The thesis investigates the reasons behind the emergence of a new generation of mega trade liberalization agreements in different scales. These scales are the US-the EU scale which is concretized with Transatlantic Trade and Investment Partnership (TTIP), Asia-Pacific scale which is on scope of Transpacific Partnership (TPP), and Trade in Services Agreement (TISA) which is negotiated beyond these scales. The aim of the study is to identify the main structural factors, strategies and agencies which drive the process and assess their scope, content and implication on global scale as a form of regulation. Obama Administration brings forward the US-led trade trinity (TPP, TTIP and TISA) initiative in response to global economic recession which has been effective in post- 2008-9 crisis period. The thesis concludes with the assertion that these multi-purpose, wide-ranging and ambitious agreements aim to expedite value creation and value transfer for international

capital targeting protective regulatory frames through deepening liberalization within mega-regional scales. The obstruction of multilateral trade liberalization process within the World Trade Organization (WTO) leads the US to turn towards mega regional liberalization initiatives. These agreements will escalate competition on sphere of influence between partner states and non-partner states in global scale.

Keywords: *international trade, regional trade agreements, TTP, TTIP, TISA.*

ÖZ

MEGA TİCARET ANLAŞMALARINI KÜRESEL KAPİTALİZM ÇERÇEVESİNE YERLEŞTİRMEK: TPO, TTYO VE HTA ÖNERİLERİNİN BİR ANALİZİ

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Bu tez, yeni nesil çokuluslu ticaret serbestisi anlaşmalarının ortaya çıkış nedenlerini farklı ölçeklerde inceler. Bu ölçekler, Transatlantik Ticaret ve Yatırım Ortaklığı (TTYO) müzakerelerinde somutlanan Avrupa-ABD ölçeği, Transpasifik Yatırım Ortaklığı (TPO) kapsamındaki Asya-Pasifik ölçeği ve bu kıtasal ölçeklerin ötesinde görüşmeleri devam etmekte olan Hizmet Ticareti Anlaşması (HTA)'dır. Çalışmanın amacı, anlaşma ve müzakere süreçlerinin temel dinamiklerini, süreçte söz sahibi olan aktörleri ve stratejilerini belirlemek ve bu yeni nesil anlaşmaların kapsam, içerik ve olası sonuçlarını bir regülasyon biçimi olarak küresel ölçekte değerlendirmektir. ABD yönlendiriciliğindeki ticaret üçlüsü (TTYO, TPO ve HTA) girişimi, 2008-9 krizi sonrası dönemde etkisini göstermekte olan küresel ekonomik durgunluğa çözüm olarak Obama Yönetimi tarafından gündeme getirilmiştir.

Tezde, bu çok amaçlı, geniş kapsamlı ve iddialı anlaşmaların uluslararası sermayenin değer yaratım ve aktarım süreçlerini hızlandırmak doğrultusunda koruyucu düzenleme çerçevelerini, mega-bölgesel ölçeklerde, serbestleşmeyi derinleştirerek hedef aldığı sonucuna ulaşılır. Dünya Ticaret Örgütü'nün çok taraflı ticaret serbestleştirilmesi sürecinin tıkanması, ABD'nin mega bölgesel liberalizasyon inisiyatiflerine yönelmesine neden olmuştur. Anlaşmalar, taraf ülkeler ve taraf olmayan ülkeler arası etki alanı rekabetini küresel düzlemde artıracaktır.

Anahtar Kelimeler: *uluslararası ticaret, bölgesel ticaret anlaşmaları, TPO, TTYO, HTA.*

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LIST OF ABBREVIATIONS

AoA	Agreement on Agriculture
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
IBRD	International Bank for Reconstruction and Development
IMF	International Monetary Fund
IPR	Intellectual Property Rights
ISDS	Investor-State Dispute Settlement
ITO	International Trade Organization
MAI	Multilateral Agreement on Investment
MFN	Most Favoured Nation
OECD	Organization for Economic Co-operation and Development
RCEP	Regional Comprehensive Economic Partnership
TISA	Trade in Services Agreement
TRIMs	Agreement on Trade-Related Investment Measures
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TPP	Trans Pacific Partnership
TTIP	Transatlantic Trade and Investment Partnership
USTR	United States Trade Representative
WB	World Bank

WIPO World Intellectual Property Organization

WTO World Trade Organization

CHAPTER I

INTRODUCTION: THE PROBLEM

2008-9 financial crisis provoked academia into discussing relations, structures and processes of global economy more radically. As Anwar Shaikh has mentioned, “it is quite interesting to think that since the crisis the demand for different type of framework has grown dramatically in everywhere”.¹ This thesis aspires to be a part of the studies which aim to understand the dynamics of post-crisis period within a critical framework so as to challenge the neoliberal hegemony. Actually, at the beginning of my research, I searched for recovery agendas of international institutions such as the International Monetary Fund (IMF), the World Bank (WB) or the World Trade Organization (WTO), which in the past seemed to assume responsibility for guiding the global economic developments. However, surprisingly, the most influential economic institution of the post-crisis period has not been one of the Bretton Woods institutions but rather it has been the Fed and its monetary policy of quantitative easing which has still been the most determinant macroeconomic policy of global economy. I have interpreted this fact as inadequacy of global economic institutions concerning to provide an alternative policy to neoliberalism.² Hence, I continued searching for a concrete policy initiative which could help to understand the nature of post-

¹Anwar M. Shaikh, Capitalism: Competition, Conflict and Crises, Lecture 1: Introduction to Course at Henry George School of Social Science <http://www.hgsss.org/anwar-m-shaikh-capitalism-competition-conflict-and-crises/> .

² Recently, the IMF also starts to criticize neoliberalism but it does not actually mean that the IMF provides an alternative policy recommendation instead of some revisions. “Even the IMF Now Admits Neoliberalism Has Failed” <http://fortune.com/2016/06/03/imf-neoliberalism-failing/> and “Neoliberalism: Oversold?” <http://www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm> .

crisis period. Owing to the Obama Administration's acceleration of negotiations on new mega trade liberalization initiatives which offer a strategy to overcome the crisis, I found a concrete example for focusing on post-crisis period's dynamics in order to understand contemporary rivalries in the global economy.

Apart from the booms and slumps of business cycles, the world economy has experienced four major crises; 1873, 1929, 1973, and 2008-9 after its consolidation as a capitalist system in the midst of the 19th century (Davidson, 2016). As Gérard Duménil and Dominique Lévy stated: "Each of these earthquakes introduced the establishment of a new social order and deeply altered international relations" (Duménil & Lévy, 2011, p. 2). In a similar vein, an expectation for a transition from neoliberalism to *something else* has been contemplated in the immediate aftermath of the 2008-9 crisis. The present period provides a basis for analogies with the 1970s insofar as both periods are characterized by crisis dynamics.

The crisis of 1970s (stagflation crisis) ended up with neoliberalism which is a strategy based on "liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade" (Harvey, 2007, p. 2). Neoliberalism as a hegemonic project of the United States compels the member states of the world economic order to transform the structures of the Keynesian accumulation regime. These changes are particularly manifested within "domestic resource allocation, international economic integration, the reproduction of the state, ideology, and the reproduction of the working class" processes (Saad-Filho, 2011, p. 242-243). Briefly, neoliberalism is;

a new discipline of labour and management to the benefit of lenders and shareholders; the diminished intervention of the state concerning development and welfare; the dramatic growth of financial institutions; the implementation of new relationships between the financial and nonfinancial sectors to the benefit of the former; a new legal stand in

favour of mergers and acquisitions; the strengthening of central banks and the targeting of their activity toward price stability, and the new determination to drain the resources of the periphery toward the centre (Duménil & Lévy, 2004, p. 10).

David Harvey (2007) analyses neoliberalism as a political project of the corporate capitalist class to curb the power of labour which proved successful in terms of curbing economic and political power of labour. As many companies created production bases in the emerging economies to take advantage of low-cost labour, labour's share of national income across advanced economies has shrank, while the profits of the largest Western firms are up sharply.³

Neoliberal globalization aimed to increase international competition via deregulating and the opening up of domestic and financial markets. Nearly thirty years after the neoliberal experience, the 2008-9 global financial crisis showed that "neoliberalization has not been very effective in revitalizing global capital accumulation" (Harvey, 2007, p. 19). From a Marxist perspective, that crisis can thus be defined as "a *systemic crisis in neoliberal capitalism*" (Saad-Filho, 2011, p. 249). This, in turn, begs the question of what's at stake for the future of the capitalist world economy.

Mega regional trade initiatives of the Obama Administration which aim to sustain neoliberal globalization strategy gain saliency with its newly defined scales by deepening the process of liberalization. In this context a long list of acronyms indicating various plurilateral free trade agreements, such as TPP, TTIP, TISA, RCEP, CETA and many more, have been proposed to shape the world economy. The creation of free trade areas and the forging of further economic integration has been one of the top priorities of economic diplomacy of states in the period of neoliberal globalization. Regional trade agreements have become a trend in the world economy since the early 1990s,

³ September 2015, McKinsey Global Institute report: "Playing to win: The new global competition for corporate profits".

bearing the stamp of neoliberal globalism on behalf of the free trade myth of the mainstream economics (Shaikh, The economic mythology of neoliberalism, 2005). In the past, a trade liberalization agreement solely implied an agreement on tariffs, but by now these kinds of agreements have come to include many regulatory commitments well beyond tariffs. A new generation of trade agreements which are more complex, multi-layered and sophisticated, emerged as a major trend in regulating the world economy, particularly after the 2008-9 crisis. These deals envelop provisions on lowering barriers to trade and investment in goods and services. They also entail critical issues that will be focused upon in Chapter IV such as investor-state dispute settlements, intellectual property rights, and “regulatory coherence” entailing the following: labour, environmental issues, digital trade (e-commerce) and state-owned enterprises.

This thesis is devoted to analyse three of these new generation of trade agreements, by singling out and focusing on **the US-led mega regional initiatives** which will be referred as the **US-led trade trinity** throughout the thesis. Among them, the Trans Pacific Partnership (TPP) has been signed already, while the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) and Trade in Services Agreement (TISA) are still going on. On the other hand, the Comprehensive Economic and Trade Agreement (CETA), a trade agreement between Canada and the EU, which is often viewed as the “Canadian TTIP”⁴ and the Regional Comprehensive Economic Partnership (RCEP), an agreement between China and 15 states in the Asia-Pacific region (Brunei, Myanmar, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, Vietnam, Australia, India, Japan, South Korea and New Zealand), a treaty which can be seen as “Chinese TPP”, are excluded from the analysis, because the US as a trend-setter power of global economy are not a partner in either CETA or RCEP. **The US-led trade trinity**

⁴ The brief summary on similarities and differences between CETA and TTIP can be found at: <http://wiiw.ac.at/ceta-and-ttip-same-same-but-different--n-167.html> .

of TPP, TTIP and TISA are considered to be potentially more influential in global economy, as they would become a reference point in global exchange relations if they are ratified.

The US is putting a lot of effort in seeking to finalize the TPP, TTIP and TISA agreements. Apart from the question of accomplishment, the US-led trade trinity is highly ambitious in terms of its scope, dimension and content. Although the agreements included in them are newly debated in academic and global media circles, these deals are an attempt to create a new architecture for the world economy that would set the framework for trade relations in goods and services on a regional basis which deserve close attention.

Economist Joseph E. Stiglitz defines the new tendency in trade liberalization as a “mismanagement of globalization”, implying that the US-led trade initiatives potentially bears risk of rising inequality because mega-regional trade agreements are in the interest of the “American and global elite at the expense of everyone else”.⁵ While for Paul Krugman, on the other hand, they are “no big deal” due to their unrealistic claims.⁶ These two influential economists’ expectations are just the tip of the iceberg in the realm of global media. WikiLeaks has started to leak draft chapters of TPP, TTIP and TISA, and consequently the secret negotiations have begun to be discussed in the mass media.⁷ There are numerous country and (or) industry specific cost-benefit analyses such as Singapore's e-commerce sector, the Canadian dairy industry and (or) Japanese agro-business. Seemingly, TPP and TTIP are mostly gaining their support from business organizations from Silicon

⁵<http://opinionator.blogs.nytimes.com/2014/03/15/on-the-wrong-side-of-globalization/>

⁶<http://www.nytimes.com/2014/02/28/opinion/krugman-no-big-deal.html>

⁷<https://wikileaks.org/tisa/releases/>, <https://wikileaks.org/ttip/>, <https://wikileaks.org/tpp-final/>

Valley's tech groups to German Federation of Industries,⁸ while on the other hand trade unions, environmental activists and public right defenders against TPP, TTIP and TISA around the world from Berlin to Santiago or Auckland carry out mass protests.⁹

From the beginning of the 1990s onward the motto of the global economy has changed from perfect trust to the market as in “**get the prices right**”, to the necessity of legal reforms as in “**get the property rights right**” then from “**get the institutions and governance right**” to “**get the competitiveness right**” and in the end it turned to “**get the innovation system right**” for economic institutions (Reinert 2004, emphasis mine). For the post-crisis period it may be said that the motto is to **get them all right** and the example of the thesis – the US-led trade trinity – perfectly represents the formulation of “get them all right” in the minds of initiators.

The thesis is framing the trade deals within global capitalist relations on a higher level of abstraction. In other words, the thorough recognition of an elephant by touching only its trunk is not possible. Most studies dealing with these agreements have only focused on specific aspects of the trade agreements such as constitutional provisions, economic effects or geopolitical consequences. This thesis aims to contribute to the literature by situating the totality of the three agreements with their theoretical and historical background and their formal, economic and political motivations by framing them within global capitalist relations.

⁸US Tech Industry Associations endorse TPP <http://www.ip-watch.org/2016/03/31/us-tech-industry-associations-endorse-tpp/> . Silicon Valley Leadership Group unanimously votes to support TPP to help spur the economy and job growth <http://svlg.org/silicon-valley-leadership-group-unanimously-votes-to-support-tpp-to-help-spur-the-economy-and-job-growth> .

⁹<https://www.theguardian.com/world/2015/oct/10/berlin-anti-ttip-trade-deal-rally-hundreds-thousands-protesters> , <http://www.telesur.tv/english/multimedia/Chile-Takes-to-the-Streets-Against-TPP-20160205-0001.html> and http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11584458 .

The scope of the thesis is focused on the provisions of the US-led trade trinity and their theoretical, historical and newsworthy references. The study attempts to examine the content and forms of the negotiations of the noted agreements and aims to highlight the logic behind them, while at the same time revealing the contradictions and conflicts of interests. More directly, the thesis is to analyse proposals of the US-led trade trinity by investigating the incentive logic and historical background of these initiatives. In order to frame mega regional trade liberalization initiatives within global capitalism, the study identifies actors, analyses processes and underlines conflicts in the negotiation processes. The main argument of the thesis is that new generation of international trade agreements has to be analysed within capitalist relations, as the trade-related conflicts cannot be dissociated from contradictions of capitalism.

To elaborate further, Chapter II shortly evaluates international trade theory to dissect the ideological basis of the US-led trade trinity. The chapter also includes a brief overview of Marxism-inspired approaches towards international exchange relations. This will enable to make use of critical concepts such as value creation, value transfer and realization in the analysis of TPP, TTIP and TISA. Chapter III is dedicated to a historical analysis of trade liberalization process centring on the WTO to derive actors and dynamics in play behind the new generation of trade agreements. Chapter IV investigates TPP, TTIP and TISA with reference to their provisions and causations. Finally, the concluding chapter makes some inferences about trade relations in global capitalism and make some modest remarks on the question “What is to be done”.

CHAPTER II

A CRITICAL ASSESSMENT OF INTERNATIONAL TRADE THEORIES

2.1. Introduction

In his famous article on free trade, Paul Krugman argues that nearly all economists are free traders (Krugman, 1987). On the other hand, it has been stated “it would be very hard to find an expression that is more ambiguous than *free trade*” (Serfati, 2015, p.7). In fact, international trade is much more complex than different strategic positions in terms of free trade or protectionism indicate.¹⁰ For economists, international trade arrangements are mainly analysed by a model which conforms to ascribed data predicting prospective effects on the economy (Morgan & Katsikeas, 1997). In such a case, “simulations are frequently to be taken seriously only by those who have faith in them” (Serfati, 2015, p.8).

If one seeks to question critically certain given positions it is necessary to address the theoretical dimension of those positions. At first, international trade creates a relationship between not only states, but also market actors and the nature of this relationship is a subject of theory. In this chapter, there will be provided a short analysis of international trade theories in order to be able

¹⁰This debate goes beyond the limits of this thesis, but a closer look at the debates surrounding the US Smoot-Hawley Tariff Act in 1930, which raised tariffs to an average of nearly 60% just after the Great Depression and furthermore the famous book of economist Ha- Joon Chang entitled *Kicking Away the Ladder: Development Strategy in Historical Perspective* (2002), in which Chang analyses how developed countries used protectionist and interventionist strategies rather than mere free trade for their own further development.

to explain the theoretical background of contemporary understandings international trade and trade-related agreements.

In a first step, it will be asked and analysed why liberal and neo-liberal approaches to international trade are considered as mainstream approaches and what their nature is.¹¹ Secondly, alternative approaches are evaluated in order to make use of some key concepts that will help to analyse international trade agreements, and specifically TTP, TTIP and TISA, throughout the course of this thesis.

2.2. The mainstream approaches of international trade

2.2.1 The Absolute and Comparative Advantage Theory of Classical Political Economy

The foundation of Classical Political Economy could be traced back to the Scottish Enlightenment, which historically coincided with the industrial revolution in British capitalism (Yalman, 2008). Adam Smith's *Wealth of Nations* (1776) and David Ricardo's *On the Principles of Political Economy and Taxation* (1817) are the most prominent and classical analyses of their time, not only but also in regard to trade theory. These classical political economists formulated free trade theories that were closely related to England's success in the field of industry and trade (Sen, 2005).

Adam Smith's theory of *absolute advantage* in international trade¹² stems from his approach towards the division of labour. The division of labour leads

¹¹Although I referred classical political economists as mainstream, it does not necessarily mean that classicals and neoclassicals have same objectives; at first sight, classicals more holistic approach to economic relations has to be appreciated as compared to the latter.

¹²Studying the classics, one has to be careful about the use of concepts. Adam Smith, for instance, uses "foreign trade" in order to designate the exchange between states. The very same phenomenon is called "international trade" today. As there is no essential difference between the two terms, the concept common in today's literature, "international trade", has been used in this thesis.

to the production of more output by employing the same amount of labour. For Smith, this constitutes “the greatest improvement in the productive powers of labour”.¹³ The parameter which designates the effect of the division of labour is the market. A more expanded market relates directly to a more effective division of labour and a more effective division of labour results in greater prosperity (Schumacher, 2012). The extension of international trade is thus determined in relation to the size of the market. A deepened and more developed division of labour creates more output complementarily, which is then sold and transported also internationally and thus as a result international trade creates wealth. To use Smith’s own words:

The tailor does not attempt to make his own shoes, but buys them of the shoemaker. The shoemaker does not attempt to make his own cloths, but employs a tailor... What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage.¹⁴

In other terms, if A produces good x in a cheaper way than B and B produces good y in a cheaper way than A, an exchange of the respective cheaper goods of A and B creates an advantage for both A and B. For Smith this demonstrates that the cost of production determines the dynamics of trade. Free trade, in turn, leads to the specialisation of states on the production of goods which bear a cost-related advantage (prices are not stable). However, Smith is accused of assuming the full mobility of labour and capital by some, while others argue that for Smith labour and capital are “partly mobile” (Schumacher, 2012). In economic literature, Smith's theory of absolute advantage has been considered as an advocacy in favour of free trade against mercantilism, regardless if the respective author agrees with Smith's underlying assumptions or not.

¹³Wealth of Nations <https://www.marxists.org/reference/archive/smith-adam/works/wealth-of-nations/book04/ch02.htm> .

¹⁴ Ibid. Book IV: On Systems of Political Economy, Chapter II.

The other prominent figure of classical political economy, David Ricardo, put forward the *comparative advantage theory*. It constitutes a more advanced version of the *absolute advantage theory*, insofar as it argues that Smith's theory does not concretely explain what kind of trade relation emerges when more than two products are produced for lower costs in one given country. In his seminal work *On the Principles of Political Economy and Taxation*, Ricardo considers a world economy comprising two nations, Portugal and England, which produce two goods which have indistinguishable quality, however Portugal produces both cloth and wine with less amount of labour time than England (Ricardo, 1891).

Table 1: Ricardo's example

Hours of work necessary to produce one unit		
Country	Cloth	Wine
England	100	120
Portugal	90	80

In 100 hours, England produces 1 unit of cloth but $\frac{5}{6}$ (1.2) unit of wine; in 100 hours, Portugal produce $\frac{10}{9}$ (1.111111111) unit of cloth but $\frac{10}{8}$ (1.25) wine. If England produces cloth and Portugal produce wine and these countries exchange their products with each other, both Portugal and England can produce more wine and cloth than a closed economy in the same amount of work hours (Ricardo, 1891). Even a country which is inferior in terms of productivity benefits from trade. That is the central idea behind the comparative advantage theory. For Ricardo, costs of production are measured

by labour-time. Although Ricardo's comparative cost analysis was a polemical counter argument to the Corn Laws, these "four magical numbers" became the main source of legitimation of free trade (Magnusson, 2004) (Samuelson, 1969). In other respects, for some authors "it [comparative advantage] is simply a rule that shows merchants how to make money in trade" (Pullen, 2006). Ricardo's comparative advantage theory is highly polemical in trade theory, however, alongside Smith's theory, it has become the basis for international trade theory.

2.2.2. Neo-classical adaptation of liberal theory of international trade

The tradition of abstaining from labour theory of value of classicals traced back to Jean Baptiste Say; formal equilibrium analyst and William Stanley Jevons (1871), Carl Menger (1871) and Léon Walras (1874-1877); marginal utility advocates that utility of individual started to be analysed as sources of prices that economics started to be dissociated from the labour theory value in the late nineteenth century. Smith and Ricardo's economic analyses focused on production (value) and distribution. On the contrary, neoclassicals started to leave aside value theory and assumed that prices are determined by interactions between supply and demand.

Following marginal utility theorists, Gottfried Haberler revised Ricardo's comparative advantage theory by "reinterpreting the doctrine of comparative costs in opportunity-cost terms" (Baldwin, 1982, p. 141). For Haberler, the homogeneous labour assumption of Ricardo is not correct, insofar other costs such as the costs of labour, capital, natural resources and entrepreneurship have to be considered as opportunity costs in trade relations. In economic history, Haberler is seen as the figure who reformed the "outdated" Ricardian labour theory of value and introduced the opportunity-cost model into international trade theory (Baldwin, 1982).

The Heckscher-Ohlin (named after Eli Heckscher and Bertil Ohlin who developed it) theory (hereafter, H-O theory) of factor proportions is derived from Ricardo's comparative advantage, but in his theory, advantage depends on the abundance or scarcity of given factors of nations. A country which has advantage in regard to one of the factors, such as labour, capital or natural resources, the country gains comparative advantage in the production of the goods relating to the factor in which it has an advantage those goods. The H-O theory differentiates labour-intensive goods and capital-intensive goods. Over time, more sophisticated trade theories emerged regarding different factors, proportions, differences within factors, technology or process. The H-O theory explains trade between labour-intensive and capital-intensive countries, in other terms it explains the trade between specific industries. There are three theorems based on factor endowment: the factor-price equalization theorem which argues that free trade equalizes factor endowments between states; the Stolper-Samuelson theorem which demonstrates that free trade is beneficial for rich factor endowments and consequently: protection is a good strategy for poor factor endowments. Finally, the Rybczynski theorem argues that if one factor's supply increases, the production of the good which uses this factor enlarges and the production of other types of goods narrows.

It is hard to determine the factor endowment of goods. In 1947, Leontief quantitatively contradicted the assumptions of the H-O model. Leontief confirmed that the USA exports labour-intensive goods instead imports capital-intensive goods. This finding is contradictory to the H-O theorem and is referred to as the Paradox of Leontief in trade theory. Keasing and Kenen, with their theory of qualified workforce present a neo-factor endowment theory in which they make a distinction between capital-intensive goods and qualified workforce goods.

In brief, mainstream international trade theory assumes that “there is perfect competition between firms”, “there is full employment of all factors of production”, “labour and capital are perfectly mobile within a country and do not move across national borders”, “a country’s gains from trade are captured by those living in the country and spent locally”, “a country’s external trade is always in balance” and “market prices accurately reflect the real (or social) costs of the products produced” (Hart-Landsberg, 2006). It is clearly seen that there are over-abundant assumptions in here. All these assumptions depend on conditions of perfect competition, however, lately theories of imperfect market analysis have emerged within the framework of new trade theory that new theories are different in terms of “consisting of the scale economies, imperfect markets, and product differentiation” (Sen, 2005).

The models within the framework of new trade theory “attempt to address the shortcomings of standard trade theory by dealing with some of the realities of trade in a more complex and sophisticated manner by incorporating a fuller range of factors. However, they provide few unambiguous conclusions” (Deraniyagala & Fine, 2001, p.4). New trade theory is “fully consonant with ‘traditional theory.’ It explores creatively and extensively the exceptions that the ‘traditional theory’ would admit to its standard results” (Darity & Davis, 2005). Thus, new trade theory actually is not new that much.

In brief, mainstream economics focus on “how much?” and “how distributed?” that the question of “*what is the social form and purpose of wealth?*” has been neglected (Murray, 2000, p. 28). Economic relations are social relations that economic analysis could become meaningful with historical and social contextualizations. The reason behind that the thesis use operational concepts which have been derived from Marxian labour theory of value is the need of social and historical contextualization of international trade relations. More concretely, it is argued in here that “free market” is not an “independent phenomenon”; “it is a moment of capital's circulation” (ibid).

Marx's theory of value is not so much a theory of wealth and labour as it is a theory of the peculiar *social form* of wealth and labour in capitalism. Indeed, *Marx's theory of value is nothing but his theory of the distinctive social form of wealth and labour in capitalism* (Murray, 2000, p.29).

2.3. The Critique of the Mainstream Trade Theory¹⁵

The Indian economist Deepak Nayyar conveys that his academic interest is influenced by his disappointment in the limited nature of “orthodox trade theory”: “the charm of its elegance was soon transformed into a frustration with its narrowness” and the “simplicity of theory is no match for the complexity of reality” (Nayyar, 2008). This goes not only for Nayyar, but many other scholars equally highlight the fact that international trade theory falls behind reality in that “many of the conventional arguments relating to the static and dynamic gains from liberalisation are based on fragile theoretical grounds” (Deraniyagala & Fine, 2001).

The tradition of the critique of political economy has mainly been inspired by the author of *Das Kapital*. In the chapter on foreign trade in Capital III, Marx discusses the relation between the decline of the rate of profit and foreign trade. In this section, Marx constitutively negates the idea that **commodity circulation is the source of surplus value** (Marx, 1959). Marx does not aim to focus solely on international trade relations whereas foreign trade itself takes place within the totality of the production and circulation spheres. Nonetheless, Marxist-inspired thinkers aim to derive a theory to understand international trade relations within the framework of Marx’s critique of

¹⁵As has been mentioned, the theoretical part of the thesis is limited with elaborating some operational concepts for analysis. Unfortunately, it was not possible to follow the trace of the intellectual debate, but the following theorists and works are of paramount importance for: R. Hilferding (*Finance Capital*), J.A. Hobson (*Imperialism, A Study*), Lenin (*Imperialism, the Highest Stage of Capitalism*), Rosa Luxembourge (*The Accumulation of Capital*), Samir Amin (*Unequal Development*), Arghiri Emanuel (*Unequal Exchange*) and Andre Gunder Frank (*Dependent Accumulation*).

political economy. Due to the fact that Marx's critique of political economy has an enormous research agenda, in this thesis it will only be referred to certain critical remarks of importance for the subject matter.

First, it is significant to underline that Marx's macroeconomics investigates the dual process of "how capital (any sum of money invested in order to make more money) creates surplus-value in the production process and how surplus-value creates capital as an accumulation process" (Mohun, 2015). Value is created by labour and it appears in the form of money in commodity production for exchange. Capitalism depends on commodity production for exchange and the **exchange value of goods** is determined by **the socially necessary labour time** for its production.¹⁶

The created **surplus value** enters into circulation with diversified choices or tactics by **individual capital**. The created surplus value can be used for:

- i) Investing in enhancing productivity (robotization etc.)
- ii) Investing in the form of productive capital
- iii) Saving in money form (financial assets etc.)
- iv) Investing in different regions (expansion) or new areas that have yet to become subject of commodification (privatization, land, water etc.)

Under all circumstances, capital accumulation prerequisites wage-labour, skilled labour, means of production and market and property rights. In the global economy, institutional forms are important insofar as they stabilize patterns of actions of individual capitals by codifying rules and norms.

Apart from abstract analysis, historically foreign trade is the first economic mechanism to expansion of capitalism and it conversely contributed to the

¹⁶The transition from feudalism to capitalism and the debate on what underlies the capitalist mode of production is, in fact, not discussed in the thesis. Commodity production independent from the transition debate emphasizes simply the general character of production, which is production for the market.

development of Western capitalism not only before, but also after Industrial Revolution (Boratav, 2015). Powerful centres and their privileged corporations controlled the structure and flow of trade between colonies, as well as tariffs, for a long time. It is important to remember here that the free trade theories of Smith and Ricardo coincided with England's industrial development. In the meantime, Western Europe and the former colony USA protected their development of industrial capitalism with higher tariffs in their respective regions. The starting point of unequal and hierarchic polarization in world economy starts with the division of labour between industrial capitalism and pre-capitalist raw material producers (Boratav, 2015). Likewise, foreign trade and accordingly foreign debt deepened the divergence between capitalist and pre-capitalist geographies. Capitalist expansion takes a more sophisticated form with FDIs and capital exports as investor corporations transfer their profits to the centres and as a result, another mechanism of divergence is formed between different regions in the world economy.

For Marx, free trade means expansion of the sphere of influence of capital. Marx accepts that imports decrease the prices of goods, but in the long run real wages do not increase in the same way, whereas a decrease in capital accumulation enlarges the industrial reserve army of labour in addition to a reduction in wages (Marx, 1848). This insight of Marx is significant as contemporary trade liberalization agreements lead to the loss of jobs. "Gross job and worker flows in response to changes in international factors imply that some individual firms and workers end up worse off while others end up better off" (Klein, Schuh, & Triest, 2003).

Capitalist expansion is not independent from international state system. Capitalist states ensure "general conditions for capital accumulation and realisation" through collective institutional mechanisms such as "multilateral institutions and other mechanisms of international and inter-regional co-

ordination” (Cammack, 2003). This coordination does not mean that states have no aim in taking “particular advantage over other states” while it leads to the divergence mentioned above. The uneven and combined nature of the development results in particular ventures and varieties of interests within the state system, as well as the corporate competition for bringing down “the cost of labour” and raising “the rate of profit” (Cammack, 2003). States institutionally design competitive and cooperative capitalist imperatives for the global economy.

It is critical to remark that the creation of the world market, i.e. capitalist expansion should not be evaluated within the limits of functional necessities or cyclical dynamics such as the stopping of the tendency of the rate of profit to fall or reducing the prices of “factors”. In order to abstain from the instrumentalist logic, the underlying expansionist feature of capitalist relations is emphasized in this thesis.

In the process of capitalist accumulation and expanded reproduction it is critical to understand the functions of international trade. Shortly, international trade is both the prerequisite and the result of the transition to capitalism in the process of its social establishment (Satlıgan, 2014) by realizing the produced surplus value and creating some extra profits.

It is seen that mainstream trade theory depends on perfect market or imperfect market assumptions whereas the labour theory of value handle economic relations as social relations. Thus, international trade as an economic activity is a social activity too. This activity is a profit-seeking activity for capital in other terms the logic of capitalist production depends on making profits. International trade is subject to the cycles of production; corporations always search the better ways of increase their profits.

As David McNally indicates:

“The whole point of engaging in the market, therefore, is to procure the commodities that make life possible. But things are very different for a capitalist enterprise. For a business, the operative formula is $M-C-M'$. The capitalist begins with money (M) then buys commodities (C), such as machines, raw materials, and labor-power, with which to produce new commodities (like bread or jeans) that are sold for money (M'). Money, not commodities for consumption, becomes the goal of production. But that only makes sense for a capitalist if the second sum of money is bigger than the first, which is why it is designated as M'. Otherwise the capitalist would be simply going through the whole cycle of investment only to come out with the same sum of money with which he began. Clearly something else is going on: the drive for profit, the drive to accumulate greater wealth.” (McNally, 2011, p. 73)

2.4. Conclusion

Although it has been questioned and criticized from time to time, the mantra that “international trade is comparatively advantageous for all nations” has preserved its status within the mainstream approaches because “there are no magic mechanisms that will automatically make all regions (nations) automatically equal” (Bieler & Morton, 2014). As Anwar Shaikh correctly puts it, “uneven development on a world scale is a direct consequence of free trade itself” (Shaikh, 1980). Nor is it competitive advantage, thus, “free trade does not make all nations equally competitive” either (ibid.). However, in global capitalism, the dynamic of international trade is not “comparative”, but “competitive advantage”.

In this chapter, origins of free trade argument have been critically discussed based on the principle of comparative advantage theory. It has been contended that those mainstream approaches which took comparative advantage theory for granted could not fulfil requirements of social analysis. The impact of this theory is also reflected in the current debates on globalization. For instance, it has been claimed in the Forbes Magazine that neoliberal globalization

ensures the “largest reduction in human poverty ever” as the poor benefits from being involved in trade relations¹⁷. Contrary to this argument, it has been observed that “the past 25 years (1980–2005) have seen a sharply slower rate of economic growth and reduced progress on social indicators for the vast majority of low- and middle-income countries” (Weisbrot, Baker, & Rosnick, 2005). These arguments show, that the conflict over the source of value rises from the ashes. “Free trade between nations operates in much the same manner as competition within a nation: it favours the (competitively) strong over the weak” (Shaikh, 2005). On the other hand, Marxist analyses based on the labour theory of value provide operational concepts that help to analyse international trade as a specific relation within the totality of capital accumulation process on a global level. The *raison d’être* of capitalist corporations is value creation and international trade has been the mediator of value transfer. Once international trade is taken to be understood within this frame, social protests against free trade agreements and the reluctance of working class to accept their provisions can be understandable.

If the free-traders cannot understand how one nation can grow rich at the expense of another, we need not wonder, since these same gentlemen also refuse to understand how within one country one class can enrich itself at the expense of another. (Marx, 1848)

Contrary to what mainstream trade theory claims, international trade is an activity done by “*businesses*” and business is obviously motivated by “profit” (ibid.). Mainstream approaches assume that “human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (Harvey, 2007). This assumption coincides with “the US stance towards the rest of the world” (ibid.). In fact, promoting free trade means promoting the freedom of corporate operations on a global scale.

¹⁷So What is this Neoliberal Globalisation Free Trade Thing About Anyway?
<http://www.forbes.com/sites/timworstall/2012/03/01/so-what-is-this-neoliberal-globalisation-free-trade-thing-about-anyway/#167e3cde5af5> .

International trade, finance, and investment are not “separate processes” conversely “interrelated” (Hart-Landsberg, 2006). This chapter tried to provide the theoretical basis for an analysis of international trade within global capitalist relations while the following chapter is dedicated to examine the historical background of international trade regulation.

CHAPTER III

REGULATION OF INTERNATIONAL TRADE: A HISTORICAL BACKGROUND

3.1. Introduction

There have been significant revivals “in the patterns and forms” of the “political, legal and institutional setting” of global economic interactions (Picciotto, 2011) with neoliberal globalization. “Liberalization has been accompanied and facilitated by the emergence of *regulation*” (ibid.). The regulation of international trade gets complicated in the process since liberalization did not generate “a unified free world market”; instead of such unified free world market there have been emerging many “regulatory cooperation, coordination and harmonization” connections throughout the world (ibid.).

There are many regulatory frameworks of international trade relations from preferential trade agreements to economic unions. Yet, the WTO is at the centre of trade relations as it has been a main regulatory body since its establishment. Therefore, the conflicts of international trade relations are crystallized in discussions on the WTO. Here a brief historical background shall be provided on the conflicting interests and parties behind the US-led trade trinity comprising TPP, TTIP and TISA.

In 1944, at the Bretton Woods conference, the Allied Nations signed an agreement that founded the IMF, the IBRD (the WB) and the ITO. However, the ITO’s bilateral negotiations failed because of the opposition from the US

Congress. Instead of the ITO, the GATT was signed in Geneva on October 30 1947 by 23 governments and took effect on January 1 1948. The “Non-discrimination principle” and “Most-Favoured Nation” (MFN) status were accepted by all parties of the agreement.¹⁸ The GATT was decided upon by 23 states, but the US was leading power with its position of “selling to everything to everybody... of being creditor to all and debtor to none” (Wilcox, 1949) after the Second World War.

The GATT’s principles were mainly “equal market access” “reciprocity”, “non-discrimination” and “transparency” in trade relations. From the Post-War period to the establishment of the WTO, the GATT proposed free trade as a target for the capitalist bloc. That is to create a frame that “countries can specialise in production according to their comparative advantage” (Lanjouw, 1995). Until the establishment the WTO, the GATT functioned as a “non-organizational form of cooperation” within capitalist world economy (Narlikar, 2005).

After the Second World War, “free trade in goods was encouraged under a system of fixed exchange rates anchored by the US dollar’s convertibility into gold at a fixed price. Fixed exchange rates were incompatible with free flows of capital that had to be controlled, but the US had to allow the free flow of the dollar beyond its borders if the dollar was to function as the global reserve currency. This system existed under the umbrella protection of US military power. Only the Soviet Union and the Cold War placed limits on its global reach” (Harvey, 2007). The transition of free trade from target (for capitalist bloc) to principle (for the world) could be possible with the establishment of the WTO and of course the end of Cold War. During the post-Soviet period, integration into global capitalism has accelerated with several means.

¹⁸The **Non- discrimination principle** means that members do not discriminate amongst other members in trade matters and **the most favored- nation** rule highlights the necessity of an equal reciprocal treatment of partners in trade.

International trade has become prominent feature of the term that not only former socialist countries but also relatively protectionist third world gradually integrated into capitalist world via trade and investment liberalization.

3.2. Multilateral WTO framework

WTO celebrated its 163rd member Liberia on 14th July 2016.¹⁹ After accession of Liberia, a few countries remain not being a member of the organization such as Iran, Iraq, Syria, Lebanon and Palestine. The organization's main objective is "trade opening" and it works as a "forum for governments to negotiate trade agreements" in addition to its role on trade-related issues as a dispute settlement platform.²⁰ Following Uruguay Round negotiations between 1986 and 1994 under the GATT frame, the WTO is established in 1 January 1995 with Marrakesh Agreement. WTO simply puts its founding principle as creating a "non-discriminative, more open, predictable and transparent, more beneficial for less developed countries, more competitive, protective for environment" multilateral trading system.²¹

The WTO depends on these founding agreements; General Agreement on Tariffs (GATT), Trade-Related Intellectual Property Rights (TRIPS), Trade Related Investment Measures (TRIMS) and General Agreement on Trade in Services (GATS). These agreements form basis not only multilateral trade relations but also further prospective bilateral or regional trade agreements. GATT regulates trade in goods on the principle of non-discrimination (no discrimination between importing country or importers and no discrimination between imported goods and domestic products). GATT Article XX regulates

¹⁹https://www.wto.org/english/news_e/news16_e/acc_lbr_14jul16_e.htm

²⁰https://www.wto.org/english/thewto_e/whatis_e/who_we_are_e.htm

²¹https://www.wto.org/english/thewto_e/whatis_e/what_stand_for_e.htm

exceptions that governments only can take into consider public health and food safety measurements.

3.2.1. TRIPS²²

TRIPS agreement of the WTO advocates that the agreement will “...reduce distortions and impediments to international trade ... taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade”.²³

The World Intellectual Property Organization (WIPO) defines intellectual property as “creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce that “industrial property includes patents for inventions, trademarks, industrial designs and geographical indications” and “copyright covers literary works, films, music, artistic works and architectural design”.²⁴ Similarly, the WIPO, copyright and patents are two types of IPRs in the TRIPS Agreement.

Intellectual property rights (IPRs) are legal protections conceded to the makers of IP from trademarks, copyright, patents, industrial design rights, and even trade secrets. IPRs are fundamentally associated with the duration of utilization. For the WTO, it is important to adjust finely to balance special interests with public interests about IPRs, albeit there is an irreconcilable difference between profit-seeking private interest and public benefit.²⁵

²²The discussion on TRIPS agreement will be detailed in here that intellectual property rights are very significant aspect of the US-led trade trinity.

²³https://www.wto.org/english/tratop_e/trips_e/t_agm1_e.htm .

²⁴<http://www.wipo.int/about-ip/en/>.

²⁵https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm .

Patent protection motivates inventors who are entrepreneurs at the same time. For TRIPS, “patent invention must be available for different inventions for at least 20 years” and “this includes patents for both products and processes” (Rikowski, 2006). Ruth Rikowski makes a significant contribution that “IPRs, through TRIPS, are being transformed into international tradable commodities. Value that is created from labour (and particularly from intellectual labour in this regard) becomes embedded in the commodity” (Rikowski, 2006).

It is obvious that corporations of developed countries mainly hold patents that developing countries are affected technological divergence between them and developed world. For instance, Table 1 shows the amount of money which transferred to patent holder countries, as it clearly seen that all these countries are developed countries (corporations of developed countries).

Developing countries have over a barrel due to uneven development of capitalism. In other words, strong patent protection constitutes an impediment to development of developing countries. IPRs are mainly supported depending on the idea that innovation comes only with strong enforcement of IP rules and evenly criticized that these rules protect developed world or corporations in against developing countries and public interests.

To be able understand the need of the US-led trade trinity which aims to strengthening intellectual property rights; it has to be considered exceptions of the WTO TRIPS. The implementation of compulsory licensing is significant exceptions within TRIPS. For TRIPS, “each member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted” and “each member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating

to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency”²⁶.

Table 2 South–North transfers of patent rents due to TRIPS²⁷

Country Millions of 2000 dollars
US 19,093
Germany 6,768
Japan 5,673
France 3,326
UK 2,968
Switzerland 2,000
Australia 1,097
Netherlands 241
Ireland 18
Total 41,184

In other words, TRIPS agreement does not indicate state of affair for compulsory licensing that it gives a “policy space” for governments about intellectual property provisions (Gallagher, 2008). The US-led trade trinity aims to limit this (already limited) policy space in TRIPS in terms of intellectual property by strengthening protection.

In Chapter II, it is argued that competition in capitalism depends on “profit-seeking” activity of business corporations. Thanks to intellectual property that protects technological and pharmaceutical innovations are mainly branded by

²⁶https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm .

²⁷ Source: World Bank (2002) as cited as (Gallagher, 2008).

corporations, creates **competition advantage** for innovative corporations in the market. Patents are highly important for corporations that patents are “proprietary and exclusive” and “a powerful tool in hindering competitors or creating income from royalties” (Eisdorfer & Hsu, 2011). Furthermore; today, these transnational corporations “account for 40 percent of productivity growth, 75 percent of private-sector research and development, and more than 80 percent of trade”²⁸.

Corporations aim to increase profits via patented innovations within different fields of knowledge. For instance, traditional or cultural knowledge started to be commodified by these corporations without licencing called as biopiracy led by pharmaceutical companies. Many transnational corporations particularly pharma and agribusiness firms are patenting seeds, livestock, dairy and poultry products and healing herbs as a result knowledge becomes monopolized on hands of corporations via patent protection.

Corporations abuse patent protection for the sake of their profits. As Steven Ratuva states “globalisation has sharpened the distinction and contradiction between commercialised western science and indigenous knowledge in the Pacific. The engagement between the two systems of knowledge are asymmetric and unequal, shaped not somuch by people’s sense of being and love of knowledge, but by market forces” (Ratuva, 2009).

3.2.2. TRIMS

Another pillar of the WTO is the Agreement on Trade Related Investment Measures (TRIMS). According to the WTO, TRIMS “recognizes that certain investment measures restrict and distort trade” and “WTO members may not apply any measure that discriminates against foreign products or that leads to

²⁸ September 2015, McKinsey Global Institute report: “Playing to win: The new global competition for corporate profits”.

quantitative restrictions”.²⁹ These measurements could be “local content policies”- obligation of using domestic products-,”trade-balancing measures” and “foreign exchange balancing requirements due to the fact that “there is no clear definition of TRIMS in the Agreement” (Greenfield, 2001). For instance, the Committee on TRIMS of the WTO announced an interesting list of allegations on the 16 April 2015.

The United States expressed for the first time concerns about Indonesia's draft regulations requiring products using the 4G LTE spectrum—including LTE smart phones—that are sold on the Indonesian market to meet local content requirements. It said that the regulations would make it significantly easier for Indonesian-owned companies to meet local content thresholds than foreign-owned companies. It said that by requiring companies to manufacture locally phone equipment, Indonesia would in effect be stealing investments from its smaller neighbours. Japan and Canada shared the US concerns. The EU expressed concerns about Turkey's local content requirements in electricity generation. It asked Turkey to explain how this measure would be in compliance with the WTO rules...³⁰

In general, TRIMS become a restriction on capability of “states to put performance requirements on foreign direct investment (FDI), encompassing those that would require the use of local inputs (including labour) or technology transfer” in practical terms (Greenfield, 2001). As it is seen above-mentioned example that developing countries are not against rules, these countries “still operate *within* an export-oriented industrialization (EOI) model” (ibid.). Thus, developing countries campaign for enhancing their competitiveness (in favour of local corporates) could not mean that their agenda include an alternative development strategy.

²⁹https://www.wto.org/english/tratop_e/invest_e/invest_info_e.htm .

³⁰ “Concerns raised about investment measures favouring local products”
https://www.wto.org/english/news_e/news15_e/monit_16apr15_e.htm .

3.3. The deadlock in the WTO

The WTO's decision-making procedure depends on "bargaining, consultation and consensus" of representatives, unless consensus is achieved, voting procedure is used on the "one member-one vote" tenet (Hoekman&Kostecki, 2001). The WTO is "member-driven" institution that "power is not delegated to a board of directors or the organization's head".³¹ The highest authority is the Ministerial Conference which has to meet at least once in two years. Consensus based decision making beclouds achieving agreement under the WTO frame. For instance, lately the Bali Package agreement has almost failed, thanks to Cuba (along with Bolivia, Nicaragua and Venezuela) was convinced on not barging his embargo problem in further trade facilitation agreements, the agreement could be concluded.³² Institutional deadlock of the WTO roots in not only decision-making mechanisms but also there are many bargaining sects which have varied economic and political priorities.

China's accession process ended in 2001 and Russia's in 2012. After these two countries got membered, India-led developing countries gain bargaining power against the US and the EU-led developed countries within institutional frame. The most prominent sign of this contestation has been clear failure of Doha Round which aimed to enhance liberalizations of the Uruguay Round. The Doha round showed confrontation between developing and developed countries that developing world wanted to protect domestic agricultural market and protecting trade in services in contrast to developed states wanted strong IPR regulations and liberalization of trade in services. In 2003, Doha Declaration 4. Annex underlined the importance of public health and developing countries gained a success in terms of production of generic drugs.

³¹ https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm

³²“Cuba drops veto, WTO clinches trade deal at Bali meeting”<http://timesofindia.indiatimes.com/business/international-business/Cuba-drops-veto-WTO-clinches-trade-deal-at-Bali-meeting/articleshow/27003590.cms> .

In negotiations, developed countries have prioritized freer trade in agriculture and services.

The most significant contested issues between developed and developing countries can be summarized as agricultural subsidiaries- agribusiness needs (developed) vs. protection of local farmers(developing)-, intellectual property rights-corporate profits/innovation (export-led pharmaceutical, chemical and digital technology industry of developed countries) vs. the need of technology transfer for development (developing) -, trade in services – international service corporations in need of market access (developed) vs. the fear of human capital flight and privatization-led deprivation (developing)-.

These confrontations show that there is not any harmony between interests as the institution (the WTO) has claimed its reason of being as; contribution to international peace, constructive handling of disputes, creating rule-based system instead power based one, diminishing cost of living, providing more options to consumers, increasing income gains, sustaining economic growth, establishing an efficient economic system and a good government (WTO n.d.: “10 benefits” (cited from Peet, 2009)).

Although, it is debateable that the WTO has fulfilled its promises or not, its main success can be seen in tariff and non-tariff barrier reductions; “average tariffs for many countries in 1950 were in the 20-30 per cent range” while “as of 2010, the average level of import protection had dropped to the 5-10 per cent range” (Hoekman, 2013). WTO’s arguments reflect neoliberal disciplinary logic behind its reason as “a forum for the exchange of **liberalization commitments**” [emphasis mine] (Hoekman&Kostecki, 2001). In other words, the replacement of the GATT by the WTO represents a new era in the frame of “neoliberal globalization” (Peet, 2009). After the collapse of socialism, free trade doctrine has been institutionalized as the WTO. Not

only promoting free trade but also counting nations as actors of international exchange, the WTO is consistent with mainstream trade doctrine of liberalism. In previous chapter, capitalism itself is discussed as contradictory system that the WTO has become the vital point of contradictions related with international trade.

Differently from the GATT, the WTO expands the scope of international trade matters that the institution presents a general framework for tariff elimination, non-tariff barriers, services liberalization, customs procedures, patent rights and government controls (IBON International, 2015).“The establishment of the WTO transformed the nature of global “trade” agreements” (Wallach & Woodall, 2004). Contrary to GATT which governs tariffs and quotas on trade in goods and had some general liberal principles, the WTO creates laws, regulations, administrative procedures intervening in domestic politics and these rules has become “a powerful mechanism to **lock in** corporate-led globalization” (Wallach & Woodall, 2004). At the same time, legitimacy crisis of the institution is reflected as mass demonstrations against its entity particularly in meetings of the WTO in Seattle (1999) and Cancun (2003) (ibid.).

Following chapter is devoted to analyse TPP, TTIP and TISA that their issues are similar with discussion within the WTO framework. The contradictions in global capitalism originated from its “inherently contradictory” nature that there are conflicting interests between classes and developmental needs are rooted in uneven and combined development. For instance, African and Latin American farmers are main losers of free trade doctrine of neoliberal globalization that their products are not capable competing with US and EU agricultural products³³.

³³<http://www.birgun.net/haber-detay/emperyalizm-ve-kaybedenlerin-isyani-127579.html>

3.3.1. Doha Round

The Doha Round negotiations started in 2001 and still wait to be finalised (2016). Trade in agricultural and industrial goods, services, access to public procurement and intellectual property rights have been discussed for 15 years as of this writing. There are many divisions between the US, the EU, Japan and India, Brazil and China. Unlike during the Uruguay round, developing nations have more bargaining power particularly China and India, thus expectations of the transatlantic powers could not be achieved easily.

In Doha Round, “the main issues at stake are: reforming agricultural subsidies; ensuring that new liberalisation in the global economy respects the need for sustainable economic growth in developing countries and improving developing countries' access to global markets for their exports”³⁴.

Table 3: The Doha agenda

Issues	Aims
Agriculture	Market access, elimination of export subsidies, reducing domestic support
Non-agricultural market access	Elimination of tariffs
Services	Market access
Trade facilitation	To ease customs procedures
The environment	Freer trade in environmental goods (wind turbines, carbon capture and storage technologies, solar panels)

According to Kevin Gallagher, “the WTO system provided policy space in the following areas by allowing nations to use average tariffs to sequence certain industries into world markets; to restrict the liberalization of certain service industries and to ‘limit’ the liberalization of other industries to steer

³⁴<http://ec.europa.eu/trade/policy/eu-and-wto/doha-development-agenda/> .

liberalization toward development; to issue compulsory licenses under the TRIPs; and to require foreign firms to transfer technology, form joint ventures and perform R&D in the host country” (Gallagher, 2008). Above-listed policy spaces of countries are occasionally used by governments particularly after 2008-9 crises to protect their own markets.

3.4. Conclusion

The 2008-9 financial crisis radically affected the volume of global trade and GDP levels accompanied by worsening unemployment rates. As *UNCTAD Trade and Development Report 2015* stated: “Between 2012 and 2014, world merchandise trade grew between 2 and 2.5 per cent (very similar to the rates of global output). These growth rates are *significantly* below the average annual rate of 7.2 per cent recorded during the 2003–2007 pre-crisis period. In 2014, world merchandise trade, at current prices, remained almost stagnant (growing only by 0.3 per cent) due to the significant fall in the prices of the main commodities.”³⁵

In fact, there was only limited and uneven recovery from the crisis in the world economy as some regions such as the Eurozone were still suffering from it. In response, the Obama administration calls for mega regional trade agreements for speeding up economic recovery. The main motivation behind the US-led trade trinity is deepening liberalization in the world economy which would encompass different segments such as financial services, investment, intellectual property rights and public service

³⁵ UNCTAD *Trade and Development Report 2015*

CHAPTER IV

THE PROVISIONS of TPP, TTIP and TISA: AN ANALYSIS OF AGREEMENTS and NEGOTIATION PROCESSES

Harnessing Asia's growth and dynamism is central to American economic and strategic interests and a key priority for President Obama. Open markets in Asia provide the United States with unprecedented opportunities for investment, trade, and access to cutting-edge technology. **Our economic recovery at home will depend on exports and the ability of American firms to tap into the vast and growing consumer base of Asia.** (...) By virtue of our unique geography, the United States is both an Atlantic and a Pacific power. We are proud of our European partnerships and all that they deliver. Our challenge now is to **build a web of partnerships and institutions across the Pacific that is as durable and as consistent with American interests** and values as the web we have built across the Atlantic. That is the touchstone of our efforts in all these areas.

Hillary Clinton³⁶

4.1. Introduction

The outline drawn in the previous chapters forms a basis for the analysis of provisions of TPP, TTIP and TISA. It is important to analyse these trade liberalization agreements within the frame of capitalist relations, whereas different strategies subsumed under the two broad concepts of protectionism and free trade, emerge out of the cyclical needs of capital accumulation.

As it has been argued above, trade relations coincide with the moment of realization of surplus value extraction, while at the same time not being independent from the logic, context, practice and contradictions of capitalist

³⁶ Foreign Policy, *America's Pacific Century*, 11 October 2011.

relations. Value surfaces in the production process, but its realization is possible only when there is exchange value replacing the use value. Thus, the US-led trade trinity reflects the aim of eliminating barriers for trade and investment on different scales of enormous proportions. Different regulations on different scales are potentially risky for capital, while the US-led trade trinity promises mega-safety scales for capital investments and trade operations.

The pressure of technological innovation, new markets, competition and coordination in the market sphere is higher than the pressure of social reproduction for international capital. In other words, the pursuit of profitability is much more important than inequality or unemployment for international capital. When analysing provisions of agreements, for example patent rights explored in detail in this chapter, it becomes clear that there are conflicting interests between capital and labour on an international scale.³⁷

This chapter aims to represent a concrete analysis of the textual provisions underlying the common and different aspects of the trade agreements in question. Michael B. Froman, who is the incumbent US Trade Representative since 2013, underlines the importance of trade for the US economy, drawing up a direct correlation between trade and economic growth. He further argues that the US grand trade strategy is increasing US competitiveness within the realm of the world economy. “The Obama administration’s trade policy seeks to make the United States even more attractive to investors by positioning the country at the centre of a web of agreement that will provide unfettered access to nearly two thirds of the global economy... With some of the most innovative companies and productive workers in the world, the United States

³⁷“The TPP and Pharmaceutical Protections: Too Strong, Too Weak, or Just Right?”<http://www.cato.org/events/tpp-pharmaceutical-protections-too-strong-too-weak-or-just-right>

can compete in the global marketplace and win – if the playing field is level (Froman, 2014)”.

It is important to understand that the US administration wants to attract more productive investments by standardizing the world economic structure, at least in regions where there is the capability to do so. The “*Made in America*” strategy, which is the formula of enhancement of the US producers, is also a strong component of US economic initiatives. In other words, the US wants to enjoy the best of both worlds – attracting investments particularly from the EU and Japan and making investments in developing countries in particular.

The potential contribution of the deals to global norms and rules is emphasized by the US trade representative Froman and the US president Obama in particular. They indicate that the US wants to sustain its hegemonic rule-making capacity in the world economy and use this capacity to gain the consent of other countries for these agreements.³⁸

The expectations from the European Union in the framework of TTIP are roughly the same. On June 17, 2013 in Lough Erne, Northern Ireland, US president Barack Obama, British Prime Minister David Cameron, the president of the European Council Herman Van Rompuy and the president of the European Commission Jose Manuel Barroso officially declared the beginning of TTIP negotiations. At the press conference, Cameron claimed that TTIP “could add as much as a £100 billion to the EU economy, £80

³⁸ https://www.washingtonpost.com/opinions/president-obama-the-tpp-would-let-america-not-china-lead-the-way-on-global-trade/2016/05/02/680540e4-0fd0-11e6-93ae-50921721165d_story.html?utm_term=.d0bc98f06026 .

billion to the U.S. economy, and as much as £85 billion to the rest of the world.”³⁹ ⁴⁰

Trade agreements not only provide insight about operational mechanisms of the global economy with their scope, context and related aspects, but they are political prescriptions as well. Additionally, sanctions foreseen in texts would also transform state-society relations in accordance with their scales. For instance, in the case of NAFTA there is a particular significance in that the year of 1994 was a turning point in the transformation of state-society relations in Mexico. US corporations have taken advantage of lower wages and unregulated working conditions in Mexico. Consequently, they started to dominate the Mexican market⁴¹. In short, this is another example that highlights the logic underlying these trade agreements in deepening liberalization, which in turn have powerful social impact.

TPP is a trade liberalization agreement signed on February 4, 2016 by the United States (US) and 11 other states around the Pacific Rim: Canada, Mexico, Australia, New Zealand, Japan, Singapore, Brunei, Chile, Vietnam, Peru and Malaysia.⁴² Although these Pacific Rim states already had bilateral

³⁹ <https://www.whitehouse.gov/the-press-office/2013/06/17/remarks-president-obama-uk-prime-minister-cameron-european-commission-pr>.

⁴⁰It seems that these expectations have to be revised, however, due to the results of the Brexit referendum three years after said press conference.

⁴¹ For complementary information: Cyper, J. M. (2011). Mexico Since NAFTA Elite Delusions and the Reality of Decline. *New Labor Forum*, 20(3), 61-69; Otero, G. (2011). Neoliberal Globalization, NAFTA, and Migration: Mexico's Loss of Food and Labor Sovereignty. *Journal of Poverty*, 15, 384-402 and *Maquilapolis (City of Factories)* 2006 documentary by Vicky Funari & Sergio de la Torre shows the change of social conditions in factories which are tariff-free basis for assembly, from the view of workers in Mexico.

⁴²According to the World Bank data, Vietnam is the only “lower middle” income country and Mexico, Malaysia, Peru have “upper middle” incomes and the rest – the US, Brunei, Japan, New Zealand, Australia, Canada, Chile and Singapore – is classified as “high” income countries on the list. Countries involved in the TPP account for nearly 40 percent of the global GDP.

and plurilateral⁴³ preferential trade agreements among each other, the most famous and well known agreement among them being NAFTA which was implemented in January 1994 between the US, Canada and Mexico, TPP is a “forum-shifting” initiative insofar it goes well beyond the boundaries of the WTO multilateral liberalization to defined scale one (Shah, Tiedemann, & Kotas, 2015). TPP will come into force only if it is ratified by all national executives.

The negotiations for TTIP between the US and European Union (EU) started in 2013 and progress in the form of rounds.⁴⁴ At this stage, a pitched battle continues not only between the US and the EU negotiators, but also between negotiating authorities and public rights organizations.

The last agreement which will be considered in this thesis is TISA, which is negotiated by the members one of the WTO sub-groups that calls itself Really Good Friends (Australia, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, the EU, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Turkey and the US) aiming to accelerate services liberalization.

Presently, only one of the cases dealt with in this thesis, TPP, is already signed, although it seems that its ratification is pending and dependent on the fact if the next president of the US will be the Republican candidate Donald Trump or the candidate of the Democratic Party Hillary Clinton after the

⁴³For Deardorffs' Glossary of International Economics: “Plurilateral agreements, both within the WTO and separate from it, contrast with larger multilateral agreements in that the former are signed by, and apply to, only those countries that choose to do so, while all WTO members must be party to the multilateral agreements” <http://www-personal.umich.edu/~alandear/glossary/p.html> .

⁴⁴EU officially informed the latest round as 14th round which is held between 11-15 July in Brussels.

November 2016 elections. In one other case, the negotiation of TTIP continues despite the fact that referendum in Britain resulted in the majority of the population deciding to split from the EU. The last case, TISA, is still in an embryonic stage and has been negotiated in secrecy. Thanks to WikiLeaks, important information about these negotiations has been leaked to the public.

The US-led trade trinity is analysed in this thesis according to their common aspects as well as in regard to their specific differences. TPP, TTIP and TISA have common provisions in services liberalization, regulation on government procurements, creating investor-state dispute settlement mechanisms and expanding intellectual property rights, all of which will be closer examined in the section of common provisions.

The most contentious provisions of the agreements are the elimination of tariff and non-tariff barriers and related issues, such as consumer protection, food safety, strengthening IPRs, accession to cheap medicines, ISDS, investment and services liberalization and more.

TPP, TTIP and TISA also have some differences among them, in particular the reasoning behind their geographical reach. For instance, the TPP's two significant partners, namely Mexico and Vietnam, would be strongly affected from provisions and deserve closed attention as they are enlisted in the category of developing countries. According to its diverse features, TPP is described as “enlarging NAFTA”, TTIP is understood as “cementing the transatlantic bloc” and, lastly, TISA is explored in detail with its specific aspects in section 4.3.

4.2. Deepening liberalization

The main economic argument behind the US-led trade trinity is that these agreements will boost growth, create new jobs and increase competitiveness in the territories they affect. The US International Trade Commission estimated the effect on gross domestic product TPP would have and it found that the GDP “would be \$42.7 billion bigger” and that “there would be 128,000 more full-time jobs” in the US economy within 15 years.⁴⁵ A working paper on behalf of the Peterson Institute for International Economics advocates that “the TPP will increase annual real incomes in the United States by \$131 billion, or 0.5 percent of GDP, and annual exports by \$357 billion, or 9.1 percent of exports” in 2030, the year in which the agreement would be fully implemented (Petri & Plummer, 2016). The study also calculates that “annual income gains by 2030 will be \$492 billion for the world” as a whole, especially for Japan, Vietnam and Malaysia (Petri & Plummer, 2016). Due to the fact that jobs are a highly controversial issue in most public discussions, it is shyly admitted that there would be “movements of jobs between firms” and that this would “impose adjustment costs on some workers”, instead of naming the matter right away and admitting that there would be job losses (which is claimed in their very own study) (Petri & Plummer, 2016).

At the same time, for TTIP – talks about which started in 2013 – it is estimated that the agreement “would boost the combined GDP of Europe and the US by almost 1 percent in the short to medium term” and additionally would generate “an extra \$150 billion annually for the EU, and \$120 billion in the US” with “two million extra jobs, more choices, higher quality and lower prices for consumers”.⁴⁶

⁴⁵<https://www.usitc.gov/publications/332/pub4607.pdf>,
http://www.nytimes.com/2016/07/27/business/economy/why-dropping-the-trans-pacific-partnership-may-be-a-bad-idea.html?emc=edit_tnt_20160726&nlid=69857309&tntemail0=y&r=0.

⁴⁶<http://www.atlantic-community.org/-/it-s-about-investments-not-just-trade>.

In the TACD Multi-Stakeholder Forum in Brussels, the EU Commissioner for Trade Cecilia Malmström held a speech on the importance of market access in goods and services for both the EU and the US, particularly for European fashion and clothing industries, which would export to the US market and conversely for the US auto industry, which would export to the EU market. The trade commissioner also highlighted the need for “ethical supply chains” and argued that the EU's regulatory and precautionary cooperation with the US would provide the need.

Prospective effects of the agreements are correlated with market access. TPP comes to the forefront with the elimination of tariffs and non-tariff barriers in trade, conversely, TTIP has been accused of having little impact in terms of tariff elimination, because tariffs are already low between the EU and the US.⁴⁷ For both of these agreements, it is a valid claim that tariff elimination, which in will be dealt with in more detail below, is a significant part of the respective texts of the agreements.

Tariff elimination in TPP can be mainly divided in two categories. The first category is that tariffs are completely eliminated for all members, and the second is related to critical industries, while tariff elimination is relegated to bilateral negotiations. The US becomes a prominent country in terms of tariff elimination in the TPP region and would be required to cut taxes for over 18,000 American goods. The US regards the Asia-Pacific region as a significant market for selling their products, predicting that “by 2030, there are expected to be 3.2 billion middle class consumers in Asia alone”.⁴⁸ It is too hard to document in detail the 18,000 tariff-free American goods that are foreseen in TPP, but some examples shall be given in order to demonstrate the scope of the agreement: taxes on car engines (especially important for the

⁴⁷Claude Serfati attributes to the European Commission that “customs dues levied amount in the case of the EU to 5.2% and in that of the US to 3.5%” (Serfati, 2015).

⁴⁸<https://ustr.gov/sites/default/files/TPP-Guide-to-18000-Tax-Cuts.pdf>.

State of Indiana) will drop from 50% to 0%, iron and steel (Alabama) will drop from 20% to 0%, headphones (California) will drop from 15% to 0%, wine (California) will drop from 55% to 0%, the fishery tax (Louisiana) tax will drop to 0% from % 55 and thus the list goes on from tractors to beef, apples, beauty products and many diverse products more.⁴⁹

It is generally acknowledged that customs duties between the EU and the US are already low, however, the EU expects that variable tariffs on raw tobacco, peanuts, cars and train carriages would be totally eliminated in TTIP⁵⁰ and the US wants to get “fully reciprocal access to the EU market for U.S. textile and apparel products” in addition to the elimination of “all tariffs and other duties and charges on trade in agricultural, industrial and consumer products”.⁵¹

It is asserted that tariff elimination would be beneficial in particular for small and medium-sized enterprises (SMEs). For instance, in 2013, SME's in the US represented around 35% of the total goods' export value and are thus of non-negligible size for the US economy.

Non-tariff barriers (NTBs) are also crucial in negotiation processes of agreements, as a general tendency, new generation of agreements want to eliminate or at least reduce non-tariff barriers (non-tariff measurements) alongside the elimination of tariffs⁵². The US aims to get over “unwarranted

⁴⁹Over 18,000 tax cuts for Made-In-America exports <https://ustr.gov/sites/default/files/TPP-Guide-to-18000-Tax-Cuts.pdf> .

⁵⁰Factsheet on Trade in goods and customs duties in TTIP
http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_152998.1%20Trade%20in%20goods%20and%20customs%20tariffs.pdf .

⁵¹<https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip-0> and <https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip-1> .

⁵²According to the WTO, NTBs are “bureaucratic or legal issues that could involve hindrances to trade” such as “import licensing, rules for the valuation of goods at customs,

sanitary and phytosanitary (SPS) restrictions that are not based on science, unjustified technical barriers to trade (TBT), and other “behind-the-border” barriers, including the restrictive administration of tariff-rate quotas and permit and licensing barriers” in the EU market with TTIP⁵³. Although the EU and the US work together on the World Trade Organization’s Agreement on Technical Barriers to Trade, the US demands listed above are alarming to the EU public, particularly in regard to food standards. As for TPP, the unification of technical standards is significant as well. In the TPP text, there are annexes on “cosmetics, medical devices, and pharmaceuticals” and the agreement is binding on “specified and publically available criteria” and “provid[ing] reasons for rejecting applications”, and “establish[ing] due process procedures that allow for appeal” preventing unfair and distinctive practises⁵⁴. In terms of deepening liberalization, both the EU and the US aim to simplify the rules of origin in order to accelerate trade⁵⁵.

4.2.1. Services liberalization

For many economists, the free flow of goods is quantitatively measurable in global value chains without noticing that these goods are agricultural or manufactured ones however services are still somewhat problematic. From accounting to insurances, engineering to healthcare-education and of course for the finance sector, the global services sector is expanding. Services liberalization is part of the issue of deepening liberalization topic, but in terms of its specific place in the US-led trade trinity, it deserves a more detailed

preshipment inspection: further checks on imports, rules of origin: made in... where? and investment measures”.

⁵³<https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip-2> .

⁵⁴<https://medium.com/the-trans-pacific-partnership/technical-barriers-to-trade-20e57df6a7d1#.vundqvtwh> .

⁵⁵According to the WTO, rules of origin “are the criteria needed to determine the national source of a product”.

focus. The total US services export was \$710,565 million in 2014, which makes the country “the largest services exporter in the world, and services industries account for four out of five U.S. Jobs”⁵⁶. Services liberalization is one the most important issues in the US trade agenda, and the third sister (TISA) of US-led trade trinity is fully devoted to the issue, in addition to related chapters in the TPP and TTIP agreements.

The chapters of the TPP are full of provisions on services liberalization, such as Chapter 10 on Cross Border Trade in Services; Chapter 11 on Financial Services; Chapter 12 on Temporary Entry for Business Persons; and Chapter 13 on Telecommunications, which are directly related with services liberalization and some others are also related to the issue in some way, such as Chapter 9 on Investment; Chapter 14 on Electronic Commerce and Chapter 17 on State-Owned Enterprises (Hufbauer, 2016).

⁵⁶<https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip-4#> .

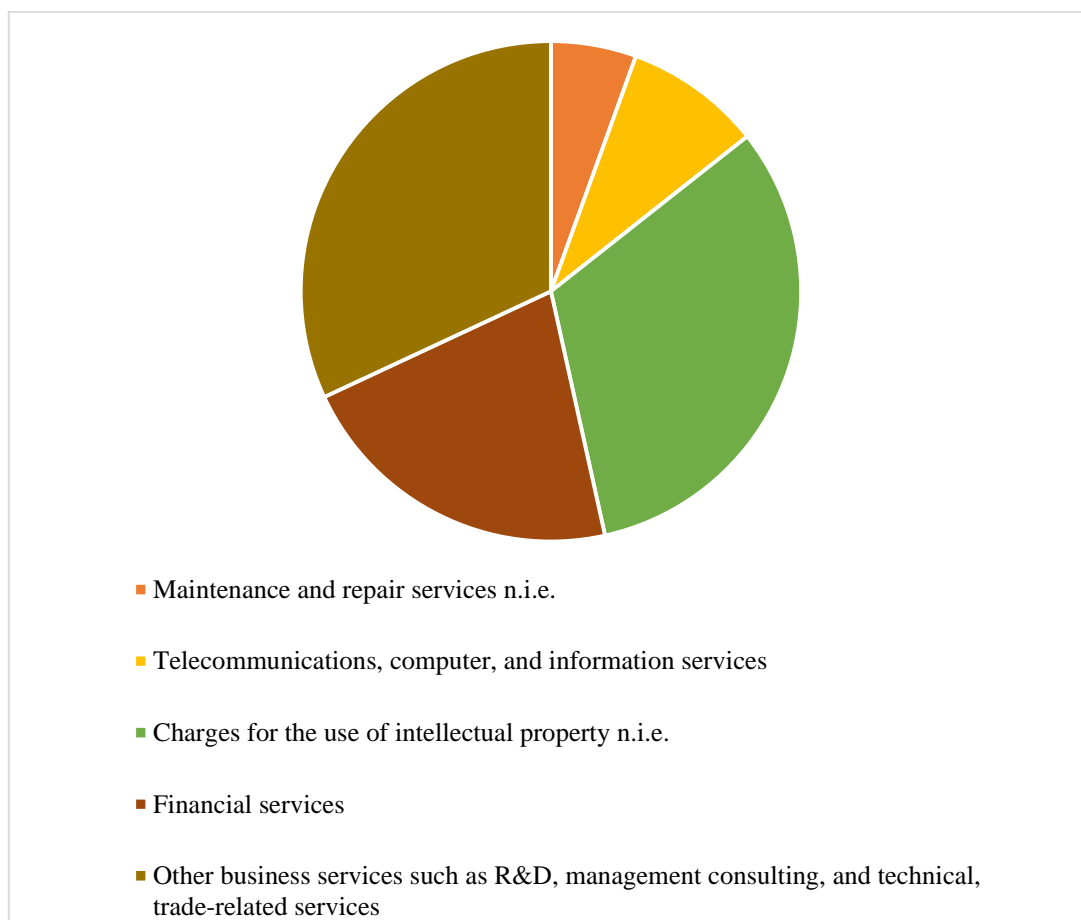


Figure 1: Exports of the US Trade in Services in 2014, by type of Service, Millions of Dollars⁵⁷

According to Chapter 11 of the TPP, “no country shall discriminate against foreign providers of services in favour of its own nationals; no country shall discriminate in favour of one TPP country over another TPP country, or a non-TPP country with regard to the cross-border supply of specifically listed financial services (such as marine, aviation, transportation insurance and financial advisory services) and no country may impose quantitative restrictions on the number of financial institutions, total value or number of financial services transactions or assets or restrictions on the type of legal

⁵⁷Source: P. Kahya based on Bureau of Economic Analysis of US Department of Commerce releasing data on October 15, 2015

<http://www.bea.gov/iTable/iTable.cfm?ReqID=62&step=1#reqid=62&step=6&isuri=1&6221=0&6220=1&6210=4&6200=160&6224=&6223=&6222=&6230=1> .

entity through which a financial institution may supply a service in another TPP market”⁵⁸. These provisions are clearly a continuation of the commodification of public goods and services, which is one of the main characteristics of neoliberalism (Raza, 2016).

4.2.2. “Levelling the playing field”

Since the end of Second World War II, one of the major priorities of American trade policy has been “levelling the playing field” for American corporations. In the era of neoliberal globalization, the restraining of the activities of State-Owned-Enterprises (SOEs) and non-discrimination in government procurements are used to achieve this aim. The US-led trade trinity proposes to fight against “unfair competition” as a prerequisite for healthy trade relations and all the treaties contain elements on state-owned enterprises and government procurements to sustain “fair competition”.

According to the US view of the matter, particularly the practices of SOEs’ and government procurements in Asia are against fair competition and thus, trade liberalization has to imply a regulation, rather a restriction of activities (discriminatory regulation, subsidies, or favouritism) of SOEs, while transparency is considered a main condition for government procurements. The US attitude is also analogous with multinational enterprises’ (MNEs) expectations from governments in terms of that “rule of law, due process, transparency and other elements of a stable business environment and measures that contribute to anti-corruption outcomes”⁵⁹. Obviously, the main focus of private companies are profit maximisation instead that SOEs

⁵⁸<https://medium.com/the-trans-pacific-partnership/financial-services-b92dd3022b64#.xib9srayh>.

⁵⁹World Economic Forum, What Companies Want from the World Trading System Report 2015

can be (not always) defined within the borders of *strategic selectivity of states*.⁶⁰

“Ownership structures directly influence the growth strategies and operating style of these emerging-market companies. Half of the world’s s largest state-owned firms are in China, and another quarter are in other emerging economies.”⁶¹ According to World Economic Forum, Executive Opinion Survey in 2015, the most problematic factors for doing business are listed as government bureaucracy 14.2, tax rates 13.1, restrictive labour regulations 12.8, access to finance 10.8, complexity of tax regulations 8.8 for developed countries whereas, access to finance 11.7, corruption 11.4, government bureaucracy 11.3, tax rates 8.1 and inadequate supply of infrastructure 8.0 for developing countries by investors⁶². State affiliated problems come to the forefront for capital despite neoliberal consensus of about thirty years.

Chapters 16 and 17 of the TPP have as their subject competition policy, while SOEs have to provide security according to the expectations of international capital and are supposed to alleviate some potential fears. The USTR aims to “establish appropriate, globally relevant disciplines on state trading enterprises, SOEs, and designated monopolies, such as disciplines that promote transparency and reduce trade distortions”.⁶³

⁶⁰The *strategic selectivity of states* concept is used by Bob Jessop who is inspired Poulantzas. The Strategic Selectivity of the State: Reflections on a Theme of Poulantzas <https://bobjessop.org/2014/06/16/the-strategic-selectivity-of-the-state-reflections-on-a-theme-of-poulantzas/>.

⁶¹September 2015, McKinsey Global Institute report: “Playing to win: The new global competition for corporate profits”.

⁶² World Economic Forum, Global Competitiveness Report 2015-2016 <http://reports.weforum.org/global-competitiveness-report-2015-2016/> .

⁶³<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2014/March/US-Objectives-US-Benefits-In-the-TTIP-a-Detailed-View> .

According to textual provision, “TPP Parties [are] to ensure that their SOEs make commercial purchases and sales on the basis of commercial considerations, except when doing so would be inconsistent with any mandate under which an SOE is operating that would require it to provide public services [postal services etc.]”. The governments bound by the TPP also agree to ensure that their SOEs or designated monopolies do not discriminate against the enterprises, goods, and services of other Parties”.⁶⁴

For TTIP, both the US and the EU share same vision on government procurement rules but negotiations has become compelling in “procurement that is subject to those rules” (Woolcock & Grier, 2015). Both the EU and the US are partner of the WTO Government Procurement Agreement, however, seven parties of the TPP, namely Australia, Brunei, Chile, Malaysia, Mexico, Peru, and Vietnam, are not. The main aim is to abolish discrimination of parties in government procurements.

4.2.3. Strengthening Intellectual Property Rights

In Chapter III TRIPS-related debate is treated that differences between the WTO’s TRIPS and the TPP’s IPRs provisions are listed in Table 4.

Table 4: The difference between TRIPS and TPP IPR Provisions

	TRIPS	TPP IPR Provisions
trademark protection	7 years	No less than 10 years
copyright protection	minimum 50 years	min. 70 years + criminal prosecution against violation

⁶⁴ <https://ustr.gov/sites/default/files/TPP-Final-Text-State-Owned-Enterprises-and-Designated-Monopolies.pdf> .

trade secrets	No specification	protection under the law
undisclosed test data submitted for marketing approvals	No specification	10 years for agricultural chemicals 5 to 8 years for pharmaceuticals

The Patent Cooperation Treaty (1979), the Paris Convention for the Protection of Industrial Property (1967) (the Paris Convention), the Berne Convention for the Protection of Literary and Artistic Works (1971), and the World Intellectual Property Organization (WIPO) Copyright Treaty (1996), and Performances and Phonograms Treaty (1996) all are former regulatory treaties which TPP partners agreed on ratifying additionally to the IP Chapter contained in the TPP.

IPRs are mainly supported depending on the idea that innovation comes only with strong enforcement of IP rules, yet they have been criticized for these rules supposedly protect the developed world or corporations against developing countries and public interests. The US is a pioneer state on behalf of stronger IPRs in the global economy. According to McKinsey report, “today sectors such as pharmaceuticals, media, finance, and information technology have the highest profit margins, and Western firms remain the dominant players within these industries. Asset-light, idea-intensive sectors accounted for 17 percent of the profits generated by Western companies in 1999. Today that share is 31 percent. Value is increasingly created from patents, brands, trademarks, and copyrights rather than industrial machinery or factories.”⁶⁵

The common idea is that if there are enough strong protections on IP, innovation would be enabled and economic growth comes with innovation.

⁶⁵September 2015, McKinsey Global Institute report: “Playing to win: The new global competition for corporate profits”.

There is a gap within this argument, insofar as not strong IP rules, but rather economic development generates innovation and thus, to force developing countries to accept strong IPRs is almost equal to a cessation of economic growth for them. In other words, there is a divergence between developed capitalist economies and developing capitalist ones on IPRs. However, this obvious divergence should not conceal another divergence within developed states, which is that strong IPRs also harm the working classes' purchasing power capacity of main consumer goods as well.

For instance, TPP and TTIP provisions on IPRs overlap with India's and Brazil's successes on developing generic drugs for the developing world or Chinese technological productions, which are mainly copycat versions of the ones of US firms. Yet, global economic growth owes its growth rates since 2008-9 crises largely to these kind of enterprises.⁶⁶

The-US-led trade trinity exceeds TRIPS agreement of the WTO. TRIPS are harshly being criticised and many issues could not be solved in favour of developed countries on the WTO table. Thus, the US and partners have shifted the forum from multilateral WTO to mega regional dimension. Thus, it has been said that strong intellectual rights "will harm access to more affordable medicines in both the US and its trading partners" (Baker, 2016).

4.3. Investor-State Dispute Settlement (ISDS) Mechanism

The most controversial issue in the US-led trade trinity is the provision of creating special arbitration mechanisms for disputes between investors and states. There have already been many arbitral tribunals for investor-state disputes, such as the London Court of International Arbitration, the International Chamber of Commerce, the Hong Kong International

⁶⁶http://www.slate.com/articles/technology/future_tense/2016/06/the_u_s_chamber_of_commerce_s_ip_index_is_misleading_here_s_why.html .

Arbitration Centre, the UNCITRAL Arbitration rules, the International Centre for Settlement of Investment Disputes of the World Bank and Chapter 11 of NAFTA. The TPP would create its own arbitration mechanisms and TTIP negotiations have still not concluded and thus the “net merits of ISDS in the Trans-Atlantic context are uncertain” (Venzke, 2016).

Investors sue governments mainly in causes stemming from profit-damaging activities of host states and the damage in some cases can be highly difficult to determine. For instance, one case at the International Centre for Settlement of Investment Disputes between the Republic of Ecuador and an US-based oil company, Occidental Petroleum, resulted in the decision that Ecuador has to pay \$1.8bn to the company in return for its cancellation of the contract, which had been cancelled due to public protests against the company⁶⁷. El Salvador also faces a similar tribunal coming from the mining corporation Australian/Canadian Oceania Gold/Pacific Rim (Canadian Pacific Rim has been bought by Oceania Gold in 2013) due to the fact that El Salvador did not allow polluting mining activities in its fresh-water basin. At the end, the rather poor country lost \$301 million because of this international arbitration⁶⁸.

The cases mentioned above are examples of disputes of less-developed countries against multinational corporations, but there are many lawsuits against developed states as well. For instance, one of the most sued states is Canada particularly in relation to NAFTA⁶⁹. The Vattenfall case is equally a developed state, namely the EU member Germany, because of the decision of the country to end nuclear energy within its borders and to accelerate the

⁶⁷<http://www.reuters.com/article/us-ecuador-occidental-idUSKCN0SR24V20151102> .

⁶⁸http://www.nytimes.com/2014/12/04/opinion/when-corporations-sue-governments.html?_r=0 .

⁶⁹Documentary: TTIP: Might is Right (VPRO Backlight)
<https://www.youtube.com/watch?v=j0LOwmwgkdA> .

transition to renewable energies. Consequently, Vattenfall and some other nuclear energy companies declared their losses resulting from that decision and sued Germany for compensation⁷⁰.

Investors can sue governments based on justifications such as losing “expected profits”, “indirect expropriation”, “and violations of the rules on minimum treatment guarantees”. These accusations are flexible enough to ignore judiciary rights of national authorities. For instance, because Egypt raised the national minimum wage, the French company Veolia sued the government of Egypt in 2012, and Philip Morris started a lawsuit against the Australian government due to plain packaging and the like.

ISDS is significant insofar as in the world economy, the main motivation of states is to increase their competitiveness by extracting foreign investments and the desire of investors is to make profit. The US-led trade trinity aims to create a special arbitration mechanism within the real covered by the agreement. The special judiciary mechanism of the US-led trade trinity to settle disputes between investors and states substantiates Stephen Gill’s ‘new constitutionalism’ conceptualization which defines neoliberal disciplinary logic.

“New constitutionalism is a subtle attempt to legitimate neo-liberal globalisation. It mandates a particular set of state policies geared to maintaining business confidence through the delivery of a consistent and credible climate for investment and thus for the accumulation of capital. It relies on a combination of political and economic discipline and ideas concerning efficiency, welfare and democracy. It stresses the rule of law. Thus we are witnessing an expansion of state activity to provide greater legal and other protections for business, and efforts to stabilise the investment climate worldwide. Many governments have sought to expand the scope of free enterprise as the primary motor force of accumulation, and at the same time to roll back other aspects of the state’s responsibilities by desocialising risk provision. In this way there is a change in the institutional balance between

⁷⁰Guy Chazan, “Eon and RWE sue German government over nuclear shutdown”
<http://www.ft.com/cms/s/0/df44d1ee-e792-11e5-bc31-138df2ae9ee6.html?siteedition=intl#axzz4IpOuyEOM> .

state and civil society (for example through privatisation in pensions, health, education).”(Gill, 1998, p.184)

ISDS provisions of these agreements are accused of being disregarding of public interests and needs that the reason is “supposedly inherent to the current mechanics of the arbitration process” (Schubert & Saz-Carranza, 2016). The numbers are supported the claim for instance “considering only the cases decided on the merits (i.e., tribunals judged over the actual case matter), the proportions differ drastically, with 62% being decided in favour of investors and 38% in favour of states” (Schubert & Saz-Carranza, 2016). In general, ISDS provisions of these agreements are accused of being disregarding public needs by bypassing democratic mechanisms of states i.e. existing judiciary mechanisms.

4.4. “Regulatory coherence”

Regulatory coherence provisions of the US-led trade trinity have gone beyond traditional borders of trade agreements. Regulation of domestic public policies such as health and safety measurements, environmental and labour regulations and building codes are conventionally under the authority of legislation mechanisms of nation states. Trade deals’ commitments create a “lock in” mechanism for domestic legislations. For the EU, regulatory coherence and cooperation is necessary for easing exports with similar rules. Regulatory coherence and cooperation proposals predict an institutional body depending on open-ended process. There is the demand of transnational corporations behind that public right activists do not trust **about** protection promises of negotiators. The most common causation is “cutting red tape” for firms.

According to the US Chamber of Commerce, regulatory coherence “is about good regulatory practices, transparency, and stakeholder engagement in a *domestic* regulatory process”.⁷¹ Although the EU declares that TTIP is the way out of recession, standardization of rules and norms are highly debated in Europe since the US safety standards are very different from the EU standards.

“Harmonisation” of standards within the transatlantic scale fears European people. For instance, 1321 chemicals are banned cosmetic industry in the EU whereas it is just 11 in the US. It seems that negotiations would end up with the increase of allowed chemicals in the EU. The EU standards on “energy efficiency labels; fuel efficiency standards for cars; sustainable public procurement policies; regulation of unconventional fossil fuel extraction, including shale gas and tar sands; sustainability standards for bioenergy; and the banning of climate-damaging f-gases in appliances such as refrigerators and freezers” are issued as “technical barriers” to trade in negotiation process.

For Greenpeace, “TTIP could allow a lot more GM food into Europe and reverse EU policies on food labelling”.⁷² Greenpeace also listed fears as “eating fruit and vegetables with much higher pesticide residues”, “meat from pigs and cattle treated with growth hormones” and “chicken treated with chlorine”. Due to growing opposition and criticisms, the EU Commission published a brochure called as “Facts and Myths” to convince European public that TTIP does not change European standards. It is argued in there that “EU standards simply aren’t up for negotiation even TTIP would uphold

⁷¹https://www.uschamber.com/sites/default/files/regulatory_coherence_regulatory_cooperation_chamber_ttippaper-final_2.pdf.

⁷²<http://www.greenpeace.org/eu-unit/Global/eu-unit/reports-briefings/2016/201602%20comprehensive%20QandA%20TTIP%20FINAL.pdf>.

them all” and “TTIP will fully uphold food safety standards and the way the EU sets them”.

The German transnational pharmaceutical corporation Bayer made an acquisition of the US agribusiness giant Monsanto which is the main producer of Genetically Modified Organisms (GMOs) on September 2016. For Financial Times, “the wave of consolidation that has swept across the industry (agribusiness) could result in more than 60 per cent of the global seeds and chemicals market being controlled by just a handful of companies”⁷³. This acquisition is quite significant that an EU- based transnational corporation would brand Monsanto whose products are not proper to European standards. The US chlorine washed chicken has become the symbol of anti-TTIP protests in regard to protect European standards. The most criticised agribusiness firm of the world, Monsanto belongs to a European corporation now.

4.5. Dimensions of the agreements

The provisions of the US-led trade trinity lay bare the confrontations of different sets of interests. Additionally, TPP in the Asia-Pacific region, and TTIP in the Atlantic region and TISA aim to create a sphere of influence on these confrontational interests. Put another way, these defined regulatory frames, due to their regional nature, emerge out of competition between states over spheres of influence. Due to the fact that “scalar spatial configurations, whether physical, ecological, in terms of regulatory order(s), or as discursive representations, are always already a result, an outcome, of the perpetual movement of the flux of socio-spatial dynamics” (Swyngedouw, 1997), it is important to underline potential regulatory scales of these treaties.

⁷³<https://www.ft.com/content/36dd6bea-73bc-11e6-bf48-b372cdb1043a> .



Figure 2: TPP

TPP includes 12 Pacific-rim states, namely the US, Canada, Mexico, Chile, Peru, Australia, New Zealand, Japan, Malaysia, Brunei, Vietnam and Singapore. These states account for roughly 40 percent of world economy. Other Pacific- Rim states, such as Korea, Colombia, Indonesia and the Philippines have indicated in interest in joining.

Kimberly Elliott analyses the implications of TPP and TTIP on developing countries primarily focusing on the case of Vietnam. The “development-friendly” list includes “an explicit exception for capital controls in a crisis”, “allowing countries to preclude foreign investor challenges to tobacco control regulations”, “prohibiting certain fisheries subsidies”, “calling for action against imports produced with forced labor” however, there are also harmful aspects for developing countries such as “limited and discriminatory agricultural liberalization in key sectors”, “overly restrictive rules of origin

fortextiles and apparel” and “overly strong intellectual property” (Elliot, 2016).

London-based multinational services network Price Water House Coopers (PwC) in the September edition of Global Economic Watch (2016) states that between 2006 and 2016, “global services exports grew at an annual average rate of around 6.5% -higher than the growth rate of nominal global GDP and global goods exports- has pushed the value of services exports around the world up to around \$5 trillion”.⁷⁴ TISA negotiations specifically focus on liberalization of services more large scale than TPP and TTIP with its 23 partner states. TISA is a constitutional-style document aiming at liberalization of trade in services, which is currently negotiated by 23 governments. These are: Australia, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, South Korea, Switzerland, Turkey, the United States and the European Union. The TISA participants were mostly proponents of services liberalization in the failed negotiations at the WTO’s Doha Round in 2001. In addition to these, China also wants to be part of the negotiations, but this request has not been realized yet. The TISA is bypassing the WTO framework and aimed at enlargement one by one because of that it is clearly simpler to enforce rules.

⁷⁴<http://www.pwc.com/gx/en/issues/economy/global-economy-watch/global-services-exports-have-been-growing-strongly.html#1> .

government-subsidized, state-owned enterprises” and to “respect intellectual property rights” whereas TPP provides.⁷⁵

China has not openly taken the TPP at least on its political discourse. China aims to transform its labour-intensive production to technology-based one and to preserve its status as global exporter continuing to invest science and technology. The former Chinese leader Deng Xiaoping followed a “low profile” foreign policy focusing on economic enhancement. Currently, Chinese leader Xi Jinping increases Chinese military existence on South China Sea. Nonetheless, the foreign policy strategy of China is to “wait and see”. This strategy does not mean passivism but rather it could be called as “following your own way” that there are many international initiatives of China such as Shanghai Cooperation Organization, the BRICS group, the Asian Infrastructure Investment Bank, One Belt One Road Project and of course many bilateral and regional trade agreements without the consent of the US. Not interestingly, many TPP partners also negotiate China-led RCEP agreement such as Malaysia, Singapore, Brunei, Vietnam, Japan and some others. Not only RCEP but also many regional groupings pave the way for competition of sphere of influence in Asia.

⁷⁵https://www.washingtonpost.com/opinions/president-obama-the-tpp-would-let-america-not-china-lead-the-way-on-global-trade/2016/05/02/680540e4-0fd0-11e6-93ae-50921721165d_story.html?utm_term=.f65267a34c7c .

CHAPTER V

CONCLUSION

As participants in the resistance, we must work to ensure that our many struggles are waged in ways that help working people had better understand the nature of the accumulation processes that are reshaping our lives. In this way, we can illuminate the common capitalist roots of the problems we face and the importance of building movements committed to radical social transformation and (international) solidarity.

(Hart-Landsberg, 2006)

The mega regional trade initiatives of the US aim to regulate international trade relations within three regional scales. These agreements propose to eliminate tariff and nontariff barriers to trade. From the US point of view, these tariff eliminations would improve the well-being of American people by increasing “Made-in-America” exports. The US-led trade trinity provide a protection for private enterprises to countervail SOEs activity particularly in Asian markets by demanding fair trade. These deals also establish a regulation to force equal treatment on government procurements. Both SOE and government procurement provisions reflect that the US desires to promote American type of market values.

IPR provisions are strengthening patent protection and ISDS mechanism proposes special arbitration tribunals. Another aspect of the agreements is to sustain regulatory coherence and cooperation of partners. These provisions include standardization and harmonization of rules particularly on goods and services. Overall, provisions of the US-led trade trinity aims deepening liberalization in a wide spectrum of issues from regulatory standards to liberalization of services and scales from the Asia-Pacific to Atlantic.

The offers of the US-led trade trinity such as deepening liberalization attempt to go beyond the WTO by incorporating into the agreements financial services, investment, IPRs and public services. They aim to further the mobility of international capital, so as to facilitate the value creation and value transfer, as this thesis aimed to indicate. Furthermore, they targetted the frameworks by which the social rights are protected in different localities.

Specially authorized state-investor dispute courts and mechanisms of local jurisdiction are to be bypassed, local standards and norms are to be left to international organizational bargaining processes under the name of regulatory harmonization. Thus, it will be possible for the specially authorized institutions which are not elected bodies such as European Union Commission would have the privilege to make decisions free from the popular demands so as to de-politicize trade relations. International commercial activity is desired to be excluded from the popular political arena and transfered to technocrats just like the monetary policy and the process of the decentralization of Central Banks.

The US-led trade trinity aims maintain the neoliberal globalization policies by making institutional changes in the forum of international trade relations. The most important motive in the forming of these treaties is the fact that the growth rates and the expectations of trade transactions could not reach those of pre-2008-9 crisis-era. However, international trade and related-agreements cannot be dealt in a way that is disassociated from their social context. For this reason, mainstream comparative advantages theory and its modern versions are not good enough for the assessment of commercial dynamics. Most particularly, while it is now widely accepted by IMF and Nobel laureate economists that neoliberalism increases income inequality and carries the company profits higher up compared with the Keynesian era, it is quite absurd to claim that a neoliberal trade agreement can provide employment and economic growth.

In this regard, the growing opposition to TPP, TTIP and TISA from non-governmental organizations is very important. However, this thesis asserts that all the regulations in regards to - the standardization of carbon emission, privatization of health, education and water services, consumption of chicken washed with chlorine or the genetically modified food – which directly affect the social life are all related to the system. It is clear that individual capitalists wish to regulate the international trade relations to their advantage by corporational coordination as a mediator process of value transfer. Moreover, these regulations aim to provide international capital with guarantees for investments in new areas of commodification and privatization.

In a recently penned article, Barack Obama reminds the virtues of capitalism and claims that its undesirable consequences such as the widening income gap between and within nations will be eliminated with the implementation of these agreements. However, as this thesis argued the proposals of US trade trinity could not be considered a break from neoliberalism, as they intended to move the international trade relations to the mega regional scale since it was impossible for the USA to realize its objectives in the global arena in the short term.

Roughly, comparative advantages theory held that it is possible to defend the agreement on the grounds that it would boost growth. By the same token, President Obama has been contending that they would contribute to the reduction of unemployment. However, the thesis's claim is that international trade relations ought to be studied by paying attention to the the social and political aspects of these relations. By adopting, a framework inspired by the Marxist labour theory of value it could be possible to reveal the struggle between capital and labour as well as the conflicts between developed and developing countries entailed in the US-led trade trinity. Furthermore, the uneven nature of capitalist development entailing competition in an unequal manner between individual capitals and/or nations. In other words to

disregard the fact that capitalism is a social order full of inequalities and contradictions, is to miss the whole truth.

However, there are obviously strong interests such as export oriented capital groups that wish the adoption of regulations similar to the proposals of TPP, TTIP and TISA. Yet, there are also a series of contradictory interests, as this thesis tried to show, within the capitalist world economy, ranging from the EU to China. From the parties in negotiation process such as the EU Commission and USA trade representative, to various neoliberal think tanks supporting these agreements, common reference point of advocates of US trade trinity is neoclassical trade theory. Nevertheless, there is no methodological and discursive cooperation between the groups opposing to the agreements. Even so, there is a core of anticapitalist ideas in the social opposition formed against the mega regional trade agreements.

The implementation of the agreements depend on political and social developments. It is quite possible that there will be some difficulties in the implementation of these agreements even if they get approval from the executive organ, especially when the two candidates in the USA seem reluctant as of September 2016. Today, various proposals exists for the exit from economic stagnation caused by 2008-9 crises. For example, while Clinton supports economic measures such as investing in the middle classes and slightly increasing taxes, Trump promises to boost economy by preventing the loss of manufacturing industry investments to Mexico and China and by making investments in infrastructure such as bridges, airports.

When it is a period in which the WTO negotiations stopped, hundreds of bilateral, multilateral and regional trade agreements are signed in the framework of an international trade order or more truly disorder, and when the competition between capitals and between the countries escalate, the most reasonable statement would be that all the social actors, national and

transnational enterprises bear the scar of the attempt to overcome post- crisis economic stagnation since 2008. In this thesis, US-led trade trinity is questioned and studied in response to this quest.

Barack Obama reminds the significance of capitalism for the US to the opponents of trade agreements emphasizing: “The profit motive can be a powerful force for the common good, driving businesses to create products that consumers rave about or motivating banks to lend to growing businesses.”⁷⁶ However, this thesis shows that Obama is wrong about these trade deals and even he is wrong about “common good”. The US-led trade trinity is more sophisticated version of old neoliberal forerunners. Thus, if Obama and (or) others think that growing inequality is problem, the solution could not be neoliberal trade deals.

The US-led trade trinity aims to prevent the decrease in corporate profit pool by deepening liberalization. The world’s largest management consulting firm, McKinsey & Company draws a pessimistic scenario for the future of corporations:

Between now and 2025, the corporate profit pool could decrease from 10 percent of global GDP to about 7.9 percent—practically reverting to its level in 1980, before the boom began. Part of this decline will stem from the competitive forces unleashed by two groups of hard charging competitors. On one side is an enormous wave of companies based in emerging markets. The most prominent have been operating as industrial giants for decades, but over the past ten to 15 years, they have reached massive scale in their home markets. ⁷⁷

There are many opponents of these deals from different countries and varying arguments. Why people are against TPP, TTIP and TISA? Arguments:

⁷⁶ Barack Obama, The way ahead <http://www.economist.com/news/briefing/21708216-america-president-writes-us-about-four-crucial-areas-unfinished-business-economic> .

⁷⁷September 2015, McKinsey Global Institute report: “Playing to win: The new global competition for corporate profits”.

These deals will erode consumer protection that standards of goods and services will lower.

These deals will pave the way for privatisation of public services especially health, education and water services.

These deals will erode environmental protection.

These deals will lead job losses.

These deals protect corporations.

These deals are not democratic.

These deals will lock in democratic institutions.⁷⁸

“Experts” deny all these arguments simply stating that “no, they are not” however; nobody wants to listen experts any more in Europe, in the US and other parts of the world. This shows that decline in the consent power of neoliberal hegemony among popular classes. Initiatives that propose economic growth and welfare seems having lost their credibility.

The problem is capitalism itself as a dynamic- exploitative system. Raj Bhala, an Indian-American lawyer wants to grok *the intellectual origins* of anti-WTO movements and finally he concluded that the origin goes to Marx (Bhala notes that he is “not calling all critics of the WTO and sceptics of international trade law Marxists but for him “some may be, whether they know it or not”) (Bhala, 2000). Could Bhala’s intuition be right?

⁷⁸ Look at activist web sites such as War on Want, Public Citizen, Electronic Frontier, Democracy Now and Greenpeace.

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APPENDICIES

A. TURKISH SUMMARY/ TRKE ZET

2008-9 finansal krizi, akademinin, kresel ekonomik iliřkileri ve kresel ekonominin yapı ve srelerini daha radikal bir biimde tartiřmasına neden oldu. Bu tez, 2008-9 finansal krizi sonrası, kresel dinamikleri neoliberal hegemonyaya karřı eleřtirel bir erveden deęerlendiren bylesi akademik alıřmaların bir parasıdır. Kriz sonrası dnemin dinamiklerini ele alma konusunda, Obama Ynetimi'nin mega ticaret anlařmaları srecini hızlandırması, bu tezin kriz sonrası geliřmeleri, somut bir olgu etrafında tartiřmasını olanaklı kılmıřtır.

Kapitalizm, konjonktrel iř evrimlerinin ykseliř ve dřřlerini bir yana bırakırsak, 1873, 1929, 1973 ve 2008-9 krizleri olmak zere drt byk kriz atlatmıřtır. Bu krizleri ise "yeni bir sosyal dzen" ve uluslararası iliřkilerin deęiřimi takip etmiřtir (Dumnil & Lvy, 2011). 2008-9 krizinden sonra da byle bir deęiřim beklentisi ortaya ıkmıřtır. İinde bulunduęumuz dnem, kriz dinamikleri ile, bařka bir kriz dnemi olan 1970lere olduka benzemektedir.

ABD'nin hegemonik projesi olarak, 1970lerden sonra ortaya ıkan neoliberalizm, Keynesyen sermaye birikiminin tm yapılarını dnřtrmřtir. Sermaye sınıfının ıkarları doęrultusunda, iři sınıfının politik ve iktisadi gcnn kırılması demek olan neoliberalizm, glendirilmiř mlkiyet hakları, serbest piyasalar ve serbest ticaret hedefleri ile yerel blřm iliřkileri, uluslararası ekonomik entegrasyon biimleri ile devlet, ideoloji ve sınıflar mcadelesi esaslarını dnřtrmeyi bařarmıřtır. Neoliberalizmin otuz yıllık hegemonyasına en byk darbe 2008-9 krizinden gelmiř gibi grnmektedir. Bu kriz neoliberalizmin kresel sermaye birikimini diriltmek noktasındaki bařarısızlıęını gstermiřtir.

Neoliberalizmin krizi tartışılmayı sürdürürken, Obama Yönetimi'nin mega bölgesel ticaret serbestisi anlaşması girişimleri, neoliberal küreselleşme stratejisini yeni tanımlanan ölçeklerde, liberalleşmeyi derinleştirerek, sürdürme niyetinde olduğunu göstermektedir. Bu girişimler, neoliberalizme olan sadakatiyle neoliberal hegemonyayı sürdürmek doğrultusunda bir politik açılım iken, yani neoliberal strateji açısından bir süreklilik arz ederken, küresel DTÖ ölçeğini bir yana koyup, mega bölgesel ölçeklerde liberalizasyonu derinleştirmeyi hedeflemeleri ile küresel ekonomide bir “forum-değişikliği” arayışı olduğuna işaret etmektedirler.

Ticaret anlaşmaları yeni ortaya çıkmış değildir ancak bu yeni anlaşmalar, 2008-9 krizi sonrası oluşan yeni bir olguya işaret etmektedirler. Yeni jenerasyon ticaret anlaşmaları, yalnızca mal ve hizmet ticaretinin önündeki engelleri kaldırmak istememekte, yatırımcı-devlet uyumsuzluğu çözümü, fikri mülkiyet hakları ve emek, çevre ve mal ve hizmet normları konusunda regülasyon uyumlulaştırılması gibi önemli başlıkları da içermektedirler.

Bu tez, ABD öncülüğündeki mega bölgesel ticaret anlaşması girişimlerine odaklanmaktadır. İmzalanan Trans-Pasifik Ortaklığı (TPO) ve görüşmeleri devam eden Transatlantik Ticaret ve Yatırım Ortaklığı (TTYO) ve Hizmet Ticareti Anlaşması (HTA), ABD öncülüğündeki yeni ticaret serbestisi girişimleri olarak değerlendirilmektedir. Bu anlaşmalar, hayata geçirilip geçirilmeyeceklerinden bağımsız olarak; içerik, bağlam ve boyutları ile hayli iddialı anlaşmalardır. Bu anlaşmalar yeni bir dünya ekonomisi mimarisini inşa etmek iddiasındadırlar.

Tezde, ABD ticaret üçlüsü olarak adlandırılan TPO, TTYO ve HTA teorik, tarihsel ve güncel bağlamlarıyla ele alınır. Bu çalışma, bu anlaşmaların ardındaki rasyonaliteyi, görüşmelerin içerik ve biçimlerini analiz ederek ve bu sürecin çelişkilerini göstererek analiz etme iddiasındadır. Diğer bir

değişle, bu tez ABD ticaret üçlüsünü ortaya çıkaran rasyonaliteyi ve tarihsel gelişmeleri analiz etmektedir. Tezin ana argümanı, yeni jenerasyon uluslararası ticaret anlaşmalarının kapitalist ilişkilerin bütünselliği çerçevesinde değerlendirilmesi gerektiğidir.

Tezde öncelikle, bu anlaşmaların ardındaki rasyonalitenin açığa çıkarılması doğrultusunda anaakım uluslararası ticaret teorileri incelenmiş, ardından bu teorilerin kısıtlarından yola çıkarak, tarihsel ve sosyal bütünlük çerçevesinde ticaret ilişkilerinin değerlendirilmesi gerektiği ifade edilmiştir. Bu bağlamda, uluslararası ticaretin kavramsallaştırılması noktasında Marksist emek-değer kuramının operasyonel kavram seti kullanılmıştır.

Bir sosyal olgunun, tarihsel sorgulamasının yapılması elzem görülerek, tezde Dünya Ticaret Örgütü (DTÖ) tartışmaları aktarılmıştır. DTÖ tartışmaları, uluslararası ticari ilişkilerin doğasını ve çatışmalarını yansıtmaları itibariyle önemlidir. Dahası, tezin asıl uğraşısı olan ABD ticaret üçlüsüne bakiye tartışmaları da göstermektedir. DTÖ ile ABD ticaret üçlüsü arasında ne tür bir süreklilik ve kopuş ilişkisi olduğu incelenmiştir.

Klasik politik ekonominin öncüleri, Adam Smith ve David Ricardo'nun uluslararası ticarete yaklaşımları, uluslararası ticaret teorisinin temelini oluşturur. Adam Smith'in *mutlak üstünlük* teorisi, iş bölümünün üretimi artıracığı varsayımına dayanır. İş bölümü, emeğin üretici gücünün gelişimini sağlar. Uluslararası ticaret ise iş bölümünün üretkenliği artırması ile ilişkili olarak mutlak üstünlük durumudur. Ricardo'nun *karşılaştırmalı üstünlük* teorisi ise, emek üretkenliği konusunda bir taraf üstün olsa dahi karşılaştırmalı olarak ticaretin her iki tarafın faydasına olacağını varsayar. Diğer bir değişle, Smith için daha düşük maliyetle üretilen ürünlerin karşılıklı ticareti faydalı iken, Ricardo, bir ülke tüm ürünlerde üretim üstünlüğüne sahip olsa dahi, uluslararası ticaretin yaratacağı iş bölümünün ticaretin tüm tarafları için bir kazan- kazan durumu yaratacağını söyler. Klasik politik iktisatçıların,

serbest ticaret olumlamaları, anaakım iktisadın vazgeçilmez teorik temelini oluşturur. Emek dışındaki faktörleri de hesaba katma noktasında klasiklerden ayrılan neoklasik iktisatçılar, klasiklerin serbest ticaret yaklaşımlarını sürdürmüşlerdir.

Serbest ticaretin olumlanması, neoklasik iktisadın tam rakabet varsayımı ile ilişkilidir, bu yaklaşımlar kapitalizmi dolayısıyla uluslararası ticareti tarihsel olmayan bir yaklaşımla ele alırlar. Anaakım uluslararası ticaret yaklaşımları, sosyal bir ilişki olan uluslararası ticareti sosyalliği ve tarihselliğinden kopararak, kapalı bir metodolojiye hapsolarak incelerler.

Ekonomik ilişkiler, sosyal ilişkilerdir, dolayısıyla tarihsel ve sosyal bağlamlaştırmalardan azade bir uluslararası ticaret ilişkilene analizi metodolojik olarak bütünsel gerçekliği kaçırır. Bu nedenle, bu tezde üretim ilişkilerini bir sosyal ilişki olarak analiz eden Marx'ın emek-değer teorisi, uluslararası ticareti kapitalist ilişkilerin bütünselliği içerisinde yansıtacağı için analiz seti olarak kullanılmıştır. Uluslararası ticaret, bağımsız bir biçim/ ilişkilene değil, sermaye çevriminin bir parçasıdır. Marx, Kapital III'de karların düşme eğilimi ve dış ticaret ilişkisini tartışır, Marx değerın kaynağının meta dolaşımı süreci olduğu iddiasını reddeder. Marx'ın ekonomik analizi sermayenin üretim sürecinde yarattığı artık değer ile, artık değerın birikim sürecinde yarattığı sermaye süreci incelemesine dayanmaktadır. Kısaca, değişim değer yaratmaz ancak üretim sürecinde üretilen değerın gerçekleşmesini mümkün kılar. Uluslararası ticaret, değerın gerçekleşmesi sürecinde ele alınmalıdır. Bu soyutlama düzeyinde, uluslararası ticaretin ekonomik büyümenin kaynağı olduğu tezine karşı, üretimin ekonomik büyümenin kaynağı olduğu ticaretin ise yaratılmış değerın gerçekleşmesi sürecinin parçası olduğunu ifade etmek gerekir. Yöntemsel olarak böyle bir konum alış, Çin'in büyümesinde esas faktör olarak ticari entegrasyonu değil, üretim ilişkilerinin dönüşümünü merkeze alır.

Daha önce belirtildiği gibi, ekonomik ilişkiler, dolayısıyla üretim ilişkileri sosyal koşullanmalardan ve tarihsel bağlamdan bağımsız düşünülemez. Anaakım iktisattaki karşılaştırmalı üstünlük teorisi, uluslararası ticari ilişkilerin tarihsel ve sosyal analizi noktasında yeterli değildir. Uluslararası ticaretin değer transferine aracılığı, dolayısıyla bu sürecin öznesi olarak tekil sermayelerin “kar arayışı” ile sermayeler arası rekabet, emek-değer kuramı çerçevesinde analize dahil olma imkanı bulur. Uluslararası ticaretin metodolojik öznesini bireyler ve uluslardan çıkaran tarihsel yöntem, ticari ilişkileri küresel kapitalizm çerçevesinde değerlendirirken uluslararası faaliyet yürüten sermaye sınıfını bir aktör olarak analizine dahil eder.

Uluslararası ticari ilişkilermeler, çokuluslu DTÖ çatısı altında 1995 yılından itibaren düzenlenmeye başlamıştır. DTÖ’nün kuruluşu neoliberal küreselleşmenin kurumsallaşmasının önemli bir vechesidir. DTÖ’nün en temel görevi, uluslararası ticareti serbestleştirmektir. DTÖ’nün üç temel anlaşması; Ticaretle Bağlantılı Yatırım Tedbirleri Anlaşması (TRIMS), Ticaretle Bağlantılı Fikri Mülkiyet Anlaşması (TRIPS) ve Gümrük Tarifeleri ve Ticaret Genel Anlaşması (GATT)’tır. DTÖ bu anlaşmaların tamamında “en çok kayırılan ülke” ve “ayrım yapmama” ilkelerini temel alır. Bunlar, ticari ilişkilerde karşılıklılık ve yine ticari ilişkilerde üyelerin diğer üyeler arasında ayrım yapmaması prensipleridir.

TRIPS anlaşması fikri mülkiyet haklarının korunmasını temel alır. Uluslararası ticari ilişkilerde patentler fikri mülkiyet haklarının hayli önemli bir alanıdır. Yeni buluş ve keşiflerin patentler aracılığıyla metalaştırılması tartışmalı bir meseledir. DTÖ, özel çıkar ve kamu yararı arasında patentler aracılığıyla ortaya çıkan bu çatışmayı dengelemek üzere düzenlemelere gitmektedir. Ancak, uluslararası şirketlerin özellikle teknoloji ve ilaç devlerinin fikri mülkiyet haklarını güçlendirme yönündeki basınçları, gelişmekte olan ülkeler ve gelişmiş ülkelerin alt sınıfları ile merkez kapitalist ülkelerin sermaye sınıfları arasındaki çıkar çatışmasını gözler önüne

sermektedir. Keşifler, patentleri elinde bulunduran sermaye gruplarına rekabet üstünlüğü sağlamaktadır. Fikri mülkiyet haklarının güçlendirilmesi, özellikle patent koruma sürelerinin uzatılması bireysel sermayeler arası rekabeti artıran da bir olgudur. ABD ticaret üçlüsü fikri mülkiyeti koruma konusunda TRIPS’den daha güçlüdür.

DTÖ, 1990ların sonu ve 2000lerin başındaki küreselleşme karşıtı hareketin hedef aldığı en önemli organizasyondur. DTÖ yalnızca küreselleşme karşıtlarının hedefi olmakla kalmamış, kendi işleyiş prensipleri özellikle de karar alma sürecindeki zorluklar ve gelişmiş ve gelişmekte olan ülkelerin farklı regülasyon beklentileri nedeniyle de kurulmasının hemen arefesinde meşruiyet krizi içerisine girmiştir. 2001 yılında başlayan Doha görüşmeleri aradan geçen yaklaşık 15 yıla rağmen halen sonuçlanmamış, üstelik müzakare sürecinin askıya alınmasına yönelik sesler de yükselmeye başlamıştır.

Kurulmasından bugüne, DTÖ gümrük vergilerinin kaldırılması hususunda başarılı olsa da, neoliberalizmin liberalleşme dalgasını hızlandırmayı, ABD hegemonyasındaki uluslararası sermaye sınıfının istediği ölçüde başaramamıştır. Özellikle 2008-9 krizi sonrası ortaya çıkan küresel resesyondüşük büyüme, azalan ticaret, yüksek işsizlik- koşullarında artan değer yaratımı ve aktarımı rekabetinin sorumluluğunu bu çevrelerin nezdinde taşıyamamıştır. Bu durum, ABD öncülüğündeki bir çok ülkenin küresel ticaret serbestleşmesi forumu olan DTÖ’yu beklemeyip mega bölgesel forumlara yönelmesine neden olmuştur. Burada, ticareti kolaylaştıran ikili ya da çoklu anlaşmalardan hem DTÖ hem de ABD ticaret üçlüsünü ayırmak gerektiği not edilmelidir. Ülkeler ticari ilişkilere girerler ve özellikle tarifeler konusunda birbirlerine karşı çeşitli imtiyazlar tanıyabilirler. Bu anlaşmaların farkı, ticaretin çok ötesinde bağlayıcı hükümlere sahip olmalarıdır. Kriz sonrası dönem koşullarında ortaya çıkan, TPO, TTYO ve HTA üç farklı ölçekte ticari düzenleme hedefler. TPO’ya ABD ve 11 Pasifik-kıyısı ülkesi (Avustralya, Kanada, Japonya, Malezya, Meksika, Peru, Singapur, Brunei,

Vietnam, Şili, Yeni Zelanda) , TTYO'ya ABD ve AB, HTA'ya ise DTÖ'nün müzakere hiziplerinden olan ABD öncülüğündeki bir grup ülke taraftır (Avustralya, Kanada, Şili, Kolombiya, Kosta Rika, AB, Hong Kong, İzlanda, İsrail, Japonya, Kore, Meksika, Pakistan, Türkiye, Panama, Peru, İsviçre, ABD, Tayvan, Lihtenştayn, Mauritius, Yeni Zelanda, Norveç). Bu üç ticaret anlaşması, neoliberal globalleşmenin önemli bir payandası olan ticari liberalizasyonu derinleştirmeyi amaçlar. Üç mega bölgesel ölçekte, mal ve hizmet ticaretindeki gümrük tarifelerinin ve tarife dışı ticari kısıtlamaların kaldırılmasının yanısıra, özel bir yatırımcı-devlet uyumsuzluğu çözüm mekanizması oluşturma, fikri mülkiyet haklarını güçlendirme, devlet alımlarında liberalizasyon ve ticaret standartlarının uyumlulaştırılmasını hedefler.

Halihazırda NAFTA üyesi olan Meksika ve Kanada'nın yanısıra Vietnam Komünist Partisi yönetimi altındaki Vietnam'ın TPO'ya dahil olması olguları göz önünde bulundurulacak olursa, anlaşmanın ticari liberalizasyonu derinleştirmenin yanısıra, Meksika ve Kanada (keza ABD) için NAFTA'nın genişletilmesi, Vietnam için ise kapitalizme geçiş sürecini hızlandırması anlamında önemli etkileri olasıdır. Dahası, ABD'nin Asya politikasının bir parçası olarak görülen TPO, Çin'e karşı bir dengeleme politikasının sonucu olarak önem kazanmaktadır. Çin'in dahil olmadığı bir Asya ticari bloğunun dünya siyasetinde Çin-ABD manşeyli sermayeler arasındaki rekabetin ölçekler arası etki alanı rekabeti üzerinden farklı bir boyuta taşınma potansiyeli vardır.

TTYO'nun ABD ve AB arasında sürmekte olan müzakere süreci ise, hem ABD hem de AB içerisindeki ekonomik ve siyasal tartışmaları önemli ölçüde etkilemektedir. Neoliberal küreselleşmenin ve finansal krizin etkilerinin sürdüğü bu ölçekte, olası iki ABD başkan adayı Hillary Clinton ve Donald Trump bu anlaşmaları yeniden görüşeceklerini, hatta Obama Yönetimi'nin kurguladığı hali ile anlaşmaları kabul etmeyeceklerini beyan etmişler, AB'de

ise Britanya'nın AB'den çıkma işlemlerine 2017 yılında başlayacak olması, ticaret serbestisi anlaşmalarına yönelik yoğun kamuoyu tepkisi, neoliberal hegemonyanın bir meşruiyet krizi içerisinde olduğunu göstermektedir. Kıtada, TTYO'na kamuoyu tepkisi özellikle Amerikan standartlarının AB standartlarına uygun olmaması noktasında yoğunlaşmaktadır. Neoliberal küreselleşme politikalarının kaybedenleri olan ABD ve AB'nin geleneksel işçi sınıfları ise anlaşmalara tepkilerini politik olarak yoğun bir göçmen karşıtlığı ile nitelenen aşırı sağa destek vererek (şimdilik) göstermektedir.

Ticaretin liberalizasyonunu kıtasal ölçeklerde derinleştirecek ABD ticaret üçlüsü, gümrük tarifelerini ve tarife-dışı ticari önlemleri kaldıracaktır. ABD Ticaret Temsilciliği, TPO ile 18000 Amerikan mamülüne uygulanan tarifenin kaldırılacak olduğunu duyurmuştur. Tarifelerin kaldırılması dışında önemli bir açılım, ABD'nin haksız rekabeti önlemek adına devlet işletmelerinin piyasada kayrılmasının önlenmesi ve kamu ihalelerinin uluslararası yatırımcılara açılmasına yaptığı vurgudur. ABD özellikle Asya'da, Amerikan ulusötesi şirketlerinin özellikle Çin devlet işletmelerine karşı rekabet edebilirliğini artırmak arzusundadır.

ABD ticaret üçlüsünün önemli bir önerisi, TRIPS anlaşmasındaki fikri mülkiyet haklarını güçlendirmesidir. TRIPS anlaşmasında 7-yıl olan ticari marka koruması 10 yıldan az olmayacak şartına, telif hakkı minimum 50 yıldan 70 yıla (ihlali halinde cezai yaptırıma) tabi olmuştur. Dahası TRIPS'de herhangi bir şarta bağlanmayan ticari sırlar TPO ile düzenlenmiş ve yasal koruma altına alınmıştır. Data koruması, zirai kimyasallar için 10 yıl, tıbbi ilaçlar için 5-8 yıl arası olarak kabul edilmiştir. Bu düzenlemeler, çeşitli sivil toplum örgütlerinden tepkisi görmektedir. Fikri mülkiyet haklarının güçlendirilmesinin ilaç teminini güçlendirebileceği vurgulanmaktadır.

Özel yatırımcı-devlet uyuşmazlığı mahkemelerinin oluşturulması ise neoliberal küreselleşmenin sermaye güvenliği için aldığı önlemleri

geliştirmiştir. Uluslararası sermaye için yatırımlarını özel mahkemeler aracılığıyla koruma altına almak, yatırım için uygun ortamların yaratılması ve bu yatırımların ve karlılığın garantilenmesi olarak görülmektedir. Kapitalist pazarın uluslararası sermaye çevrelerince risksizleştirilmesi arzu edilmektedir. Uluslararası şirketler, devletleri kar kayıpları ve hatta *olası* kar kayıpları nedeniyle bu yapılandırılmış mahkemelere şikayet edebileceklerdir. Bir ülkenin ulusal ve yerel politika alanını daraltıcı böylesi bir uluslararası mekanizma, politikacıların neoliberal politikalar izlemesinin zorunlu olduğu bir kurumsal düzen dayatmaktır. Başka bir deyişle, ABD ticaret üçlüsü ülkeleri rekabet edebilirlik havucu ve uluslararası mahkeme ile ağır tazminatlar sopasıyla neoliberalizme hapsetmeyi hedeflemektedir.

Düzenleme uyumlulaştırılması ve regülasyon standardizasyonu anlaşmaların bir diğer veçhesidir. Bu anlaşmalarla, ülkeler arasındaki standartların Amerikan standartlarına yakınlaştırılması hedeflenmektedir. ABD’de yasal olan bir çok kimyasal prosedür AB’de ihtiyati tedbir gerekçesiyle yasaklanmıştır. Ancak ticari işlemleri kolaylaştırmayı arzu eden bu anlaşmaların, standartları yükselteceği değil düşüreceği açıktır. Dolayısıyla, AB standartları ABD seviyesi ile orta noktayı bulmak durumunda kalacaktır.

İçerik olarak ticari liberalizasyonu derinleştirmek ve uluslararası sermaye lehine kurumsal koordinasyon sağlamak önerilerinde bulundukları şeklinde bir çıkarım yapabileceğimiz bu anlaşmaların, ölçekleri ile ilgili de bir tartışma yürütmek gerekmektedir. ABD ticaret üçlüsünün en çarpıcı özelliği, neoliberal küreselleşmecilerin beklediğinin aksine bölgesel nitelikte olmasıdır. Özellikle TPO’da Çin’in olmaması, Çin ve ABD arasında ortaya çıkacak küresel egemenlik rekabeti beklentisini artırmıştır. ABD’nin özellikle Barack Obama ve çeşitli devlet yetkilileri tarafından, Çin’in 21. yüzyıl ticaret kurallarını belirleyici güç olmaması gerektiği benzeri açıklamalarına rağmen Çin, TPO konusunda sessizdir. Bu durum Çin’in dış politikada izlediği ABD ile herhangi bir gerilime girmeme politikasıyla da

bağlantılıdır. Ancak, Çin'in öncülüğünde gerçekleşen çeşitli uluslararası işbirliği girişimleri göstermektedir ki Çin küresel olarak etkili bir güç olmak istemektedir. Şangay İşbirliği Örgütü, BRICS, Asya Altyapı Yatırım Bankası, Bölgesel Kapsamlı Ekonomik Ortaklık (RCEP), Yeni İpek Yolu v.b. girişimler, Çin'in uluslararası alanda kendi yolunu takip ettiğini göstermektedir.

ABD ticaret üçlüsü neoliberal küreselleşme politikalarını, bir forum değişikliğine giderek devam ettirmeyi amaçlamaktadır. 2008-9 krizi sonrası büyüme oranları ve ticari işlem beklentisinin hala kriz-öncesi döneme ulaşamaması bu anlaşmaların ortaya çıkmasındaki en önemli etkindir. Ancak, uluslararası ticaret ve anlaşmaları sosyal bağlamdan ayrı düşünülemez. Bu nedenle anaakım ticaret teorisinin karşılaştırmalı üstünlük teorisi ve onun modern versiyonları, ticari dinamikleri anlamlandırmak için yeterli değildir. Özellikle, neoliberalizmin gelir eşitsizliğini artırdığı ve şirket karlarını Keynesyen dönemin çok ötesine taşıdığı artık IMF'den tutun, Nobel ödüllü iktisatçılara bir çok çevre tarafından kabul edilmekteyken, neoliberal bir ticari sözleşmenin istihdam ve ekonomik büyüme sağlayacağını iddia etmek abesle iştirigaldir.

Dolayısıyla, bu anlaşmaların içeriğine baktığımızda, DTÖ'nün serbestleştirme girişiminin derinleştirilmesinden ve uluslararası sermaye sınıfının hareket kabiliyetini -ki bu tezin metodolojik açılımı itibari ile bu değer yaratım ve değer aktarımı süreçleri anlamına gelmektedir- kolaylaştırması ve kamusal hakların korunduğu çerçeveleri yine uluslararası sermaye lehine hedef alması önerilerini görmekteyiz. Özel yetkili devlet-yatırımcı uyuşmazlık mahkemeleri ile yerel yargı mekanizmaları bypass edilmekte, düzenleme uyumlulaştırılması adı altında yerel standard ve normlar uluslararası pazarlık süreçlerine bırakılmaktadır. Devletlerin çeşitli bürokratik özel görevli bürolarından tutun, Avrupa Birliği Komisyonu gibi seçim ile yetki almayan organların ve dahi popüler taleplerden azade karar

verebilme ayrıcalığına sahip olabilecek mahkemelerin ticari ilişkileri depolitize etmesi böylece mümkün olacaktır. Toplumsal ilişkilerin en önemli mekanizmalarından biri olan uluslararası ticari faaliyet tıpkı para politikası ve Merkez Bankalarının özerkleştirilmesi sürecinde olduğu gibi popüler politik alandan uzaklaştırılmak ve teknokratlara devredilmek istenmektedir.

Bu doğrultuda, TPO, TTYO ve HTA'ya yönelik sivil toplum örgütlerinden gelen muhalefet oldukça önemlidir. Ancak, bu tez karbon salınımını artıracak bir standardizasyon, sağlık, eğitim ve su hizmetlerinin özelleştirilmesi, klorinle yıkanan tavuğun ya da genetiği ile oynanan gıdaların tüketimi, patent kurallarının sıkılaştırılmasıyla eşdeğer ilaç üretiminin zorlaştırılması ve benzeri toplumsal yaşamı doğrudan etkileyecek bütün bu düzenlemelerin sistemle ilgili olduğunu ortaya koymuştur. Bireysel kapitalistlerin değer aktarımının bir aracı (mediator) süreci olarak uluslararası ticaret ilişkilerini kendi lehlerine kurumsal koordinasyon ile düzenleme arzusunda oldukları açıktır. Dahası, bu düzenlemeler ticari faaliyetin ötesinde uluslararası sermayeye yeni metalaştırma ve özelleştirme alanı açmakta, yatırımlarını güvence altına almaktadır.

Dolayısıyla, kapitalist sermaye birikim süreci ve onun genişleyerek yeniden üretim süreci, 2008-9 krizi benzeri durumlarla karşılaştığında ABD ticaret üçlüsü benzeri girişimleri öyle ya da böyle gündeme getirmek durumunda kalıyor. Çünkü sermaye karlılığının sürdürmek istiyor ve küresel ekonominin dinamosu olarak görülen çokuluslu şirketler ve onların faaliyetlerinin kısıtlanmaması dünyadaki büyüme beklentilerinin tutturulması anlamında politikacıların özellikle ABD'nin esas gündemidir.

Barack Obama gider ayak yayınladığı bir yazıda, kapitalizmin ABD için önemini hatırlatmak zorunda kalıyor ve gelir uçurumunun bu anlaşmalarla giderileceğini iddia ediyor. Ancak, daha önce belirtildiği üzere bu tez, ABD ticaret üçlüsünün önerilerini incelemiş ve DTÖ'deki liberalleşme dalgasına

ayak direyen geliřmekte olan ölkeler ve küreselleřme karřtı hareketin DTÖ'nün meřruiyet kaybına sebep olması nedeniyle ABD'nin DTÖ'de yapamasıęını bu üçlüyle yapma arzusunda olduęunu göstermiřtir. Dolayısıyla, bu anlařmalar neoliberalizmden bir kopuř deęil, ABD'nin küresel düzlemde kısa vadede gerekleřmesi mümkün olmayan uluslararası sermaye düzenlemesini mega bölgesel öleęe taşımasıdır.

Tezin iddiası, uluslararası ticarete Marksist emek-deęer teorisi çerevesinde bakılabileceęi, böylesi bir metodolojik tercihin uluslararası ticari iliřkilenmelerin sosyal ve politik yönlerini de -sürecin öznelerini belirginleřtirdięi ölüde - aıęa çıkaracaęı iddiasıdır. Kabaca örnek vermek gerekirse, aynı anlařmayı büyümeyi artıracaaęı gerekesiyle savunmak ya da aynı anlařmaya işsizlięe neden olacaęı iddiasıyla karřı çıkmak aynı anda nasıl mümkün oluyor, karřılařtımalı üstünlük teorisinin açıklayamadıęı bir olgudur. Kapitalizmin sermaye sınıfı ve işi sınıfı arasında bir karřıtlık olmadan ya da günümüz itibariyle geliřmiř ve geliřmekte olan ölkeler arasında bir farklılık ve hatta bireysel sermayeler arası bir rekabet eřiitsizlięi olduęunu görmeden yani kapitalizmin eřiitsiz ve eliřkili bir sosyal işleyiř olduęunu görmeden yapılan analizler gereęin bütünsellięini ıskalamaktadır.

Dolayısıyla, anaakım savunucularının ısrarla iddia ettięinin aksine ticaret anlařmaları ulusların, bölgelerin genel ıkarına hizmet etmemektedir. Sınıfsal olarak karlılıęının azalmasından endiře duyan uluslararası sermaye sınıfının genel ıkarlarına hizmet etmektedir. Burada gündeme getirilebilecek bir kaç istisna olması mümkündür ancak, uluslararası faaliyet yürütecek kapasiteye gelmiř her ihracaat odaklı sermaye -ki sermayenin günümüzdeki genel eęilimi budur- ABD ticaret üçlüsünde yer alan önerilere benzer düzenlemeler arzu etmektedir. Tezin kapsamında yer almasa dahi in'in ticaret anlařmaları da alternatif bir geliřme politikası önermekten uzak, yalnızca belki daha yumuřak bir liberalizasyon denilebilecek muhtevaya sahiplerdir.

Müzakere süreçlerindeki öznelerinden AB Komisyonu'ndan tutun, ABD Ticaret Temsilcisi'ne ve bu anlaşmaları savunan çeşitli neoliberal düşünce kuruluşlarına, ABD ticaret üçlüsünün savuncularının ortak referansları neoklasik ticaret teorisidir. Ancak, anlaşmalara karşı çıkan grupların benzer bir yöntemsel ve söylemsel ortaklığı bulunmamaktadır ancak mega bölgesel ticaret anlaşmalarına karşı oluşan toplumsal muhalefette antikapitalist düşüncenin nüveleri mevcuttur.

Anlaşmaların hayata geçip geçmeyeceği, siyasal ve toplumsal gelişmelere bağlıdır. 2016 yılının Eylül ayı itibariyle özellikle ABD'de olası iki başkan adayının da mesafeli durduğu bu anlaşmaların yürütmelerden onay alsa dahi uygulanmalarında çeşitli pürüzler çıkması olasıdır. Bugün 2008-9 krizinin yarattığı ekonomik durgunluktan çıkış için çeşitli öneriler mevcuttur. Örneğin, ABD için Hillary Clinton orta sınıflara yatırım yapmak, vergileri bir nebze artırmak gibi ekonomik önlemleri savunurken; Trump imalat sanayi yatırımlarının Meksika ve Çin'e kaçışını önlemek ve köprü, havaalanı vb. altyapı yatırımları ile ekonomiyi ivmelendirme sözü vermektedir.

DTÖ görüşmelerinin tıkanıdığı, yüzlerce ikili, çoklu ve bölgesel ticaret sözleşmesinin imzalandığı bir uluslararası ticari düzenleme ya da düzensizlik çerçevesinde, hem sermayeler arası hem de ülkeler arası rekabet artmakta iken söylenebilecek en makul söz, toplumsal bütün aktörlerin ulusal ve ulusötesi girişimlerin 2008-9 krizi sonrası belirginleşen ekonomik durgunluktan iktisadi ve politik çıkış arayışının izlerini taşımakta olduğu yargısıdır. Tezde, ABD ticaret üçlüsü bu arayışa verdiği yanıt itibariyle sorgulanmış ve irdelenmiştir.

B. TEZ FOTOKOPİSİ İZİN FORMU

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YAZARIN

Soyadı : Kahya
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Bölümü : Siyaset Bilimi ve Kamu Yönetimi

TEZİN ADI (İngilizce) : FRAMING MEGA REGIONAL TRADE AGREEMENTS WITHIN GLOBAL CAPITALISM: AN ANALYSIS OF THE TPP, TTIP AND TISA PROPOSALS

TEZİN TÜRÜ : Yüksek Lisans ☒ Doktora ☐

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