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THE POLITICS OF EXPERTISE IN TRANSNATIONAL ECONOMIC GOVERNANCE: BREAKING THE CYCLE

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Introduction: Trade in an Inward-Looking Era

The collapse of the Trans-Pacific Partnership was, by any account, spectacular. Within days of the US Presidential election, politicians of both US political parties declared the TPP dead. On January 23, just 3 days after taking office, President Trump signed a memorandum withdrawing from TPP.² Civil society groups on both the right and the left rejoiced.³ Pro-trade business groups were quiet. No one, it seemed, was willing to stand up for TPP. Around the world, although leaders half-heartedly rallied for a TPP-style agreement without the US, the larger geopolitical objective of the agreement had been lost.⁴

Among trade policy experts, most of the finger-pointing for the collapse of the TPP has been aimed at uninformed masses, manipulated by demagogues for their own purposes. As the Financial Times put it, “[The TPP] is the latest example — Brexit being another — of the dangers of popular democracy, proving that a country

¹ Jack G. Clarke Professor of Far East Legal Studies, Cornell Law School. I thank Liam Lawson for his research assistance.

² Presidential Memorandum Regarding Withdrawal of the United States from the Trans-Pacific Partnership Negotiations and Agreement, January 23, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-withdrawal-united-states-trans-pacific>.

³ Deirdre Fulton. ‘The TPP Is Officially Dead. Thank the People’s Movement, Not Trump.’ Common Dreams, January 23, 2017. <https://www.commondreams.org/news/2017/01/23/tpp-officially-dead-thank-peoples-movement-not-trump>; Kevin Zeese and Margaret Flowers. ‘The TPP is Dead: The People, For Now, Have Defeated the Transnationals.’ Occupy.com, November 15, 2016. <http://www.occupy.com/article/tpp-dead-people-now-have-defeated-transnationals#sthash.N3bemIHI.dpbs>; ____, ‘Fight for the Future Statement on the Death of the Trans-Pacific Partnership: “Donald Trump Didn’t Kill the TPP, We Did”’ Fight for the Future, November 11, 2016. <https://www.fightforthefuture.org/news/2016-11-11-fight-for-the-future-statement-on-the-death-of-the/>

⁴ Charlotte Greenfield and Stanley White. ‘After U.S. Exit, Asian nations try to save TPP trade deal.’ Reuters, January 24, 2017. <http://www.reuters.com/article/us-usa-trump-asia-idUSKBN15800V>; Mitsuru Obe. ‘Japan to Keep Pushing Free Trade as Trump Exits Pacific Pact.’ The Wall Street Journal, January 23, 2017. <https://www.wsj.com/articles/japan-to-keep-pushing-free-trade-as-trump-exits-pacific-pact-148522772>

should never leave questions of national interest in the hands of the uninterested and uninformed masses.”⁵ Another group of commentators--mostly on the political left--has pointed out, instead, that the substance of the agreement was deeply detrimental to the interests of workers, farmers, and consumers, and would lead to the destruction of cultural and institutional differences in the interests of global capitalism.⁶

Yet while both of these diagnoses of the failure of TPP--opposition to the substantive terms of the agreement and a turn against globalization-- have some merit, in themselves they do not fully explain the populist backlash. Rather, these more substantive bases for opposition to TPP merge with, and are colored by opposition to an internal rather than external threat—the perceived threat posed by domestic elites or “experts”. It is often said that the collapse of TPP evidenced a lack

5; Young, Audrey. “Trade Officials Head Off to Save the TPP.” The New Zealand Herald, May 1, 2017. http://www.nzherald.co.nz/the-country/news/article.cfm?c_id=16&objectid=11848269

⁵ Jamil Anderlini. ‘A Shaky Trade Pact that Signals American Decline.’ The Financial Times, October 5, 2016. <https://www.ft.com/content/6f14756c-8a1e-11e6-8aa5-f79f5696c731> See also Jason “Op-Ed: Can Epistocracy, or Knowledge-based Voting, Fix Democracy?” Los Angeles Times, August 28, 2016. <http://www.latimes.com/opinion/op-ed/la-oe-brennan-epistocracy-20160828-snap-story.html> (“high-information voters (regardless of race, income or gender) tend to support free trade, while low-information voters have the opposite view; the latter may well force politicians to squelch the Trans-Pacific Partnership, which most experts agree is good for the global economy”); Daniel Drezner. ‘Does the 2016 Campaign Provide a Mandate Against TPP?’ The Washington Post, June 23, 2016. https://www.washingtonpost.com/posteverything/wp/2016/06/23/does-the-2016-campaign-provide-a-mandate-against-tp/?utm_term=.5bc93a84c2df (“The truth about U.S. public opinion toward the Trans-Pacific Partnership is that, by and large, most Americans have no opinion about it because they have no idea what it is.”)

⁶ David Singh Grewal, Why President Obama is Wrong on Trade, Huffpost April 26, 2015, available at http://www.huffingtonpost.com/david-singh-grewal/obama-wrong-on-trade-tpp_b_7145984.html. ‘Public Citizen’s Global Trade Watch, TPP: Threats to Affordable Medicines.’ <https://www.citizen.org/our-work/globalization-and-trade/trans-pacific-partnership-restricting-access-affordable>. Elizabeth Warren, ‘The Trans-Pacific Partnership Clause Everyone Should Oppose’, The Washington Post, February 25, 2015 https://www.washingtonpost.com/opinions/kill-the-dispute-settlement-language-in-the-trans-pacific-partnership/2015/02/25/ec7705a2-bd1e-11e4-b274-e5209a3bc9a9_story.html?utm_term=.13504b667c4f. Reeve T. Bull, Nelson A Mahboubi, Richard Stewart & Jonathan B. Weiner, ‘New Approaches to International Regulatory Cooperation: The Challenge of TTIP, TPP, and Mega-Regional Trade Agreements’ (2015) 78 L & Contemp Prob. 1, 15-16

of trust across national boundaries. But it also evidenced a lack of trust within many nations in the institutions and the people that produced the TPP agreement.

Trade policy has long been the domain of "experts"--economists, lawyers, think tanks, policy wonks. If these experts' authority is premised on the superior quality of their knowledge, that authority is legitimately open to challenge by the quality of their work product. The TPP, like other mega-regional trade agreements, and indeed like most recent transnational regulatory frameworks across the economic field, from finance to intellectual property, exhibits a discouraging lack of creativity and imagination around the question of how to encourage greater transnational cooperation, reciprocity, and appreciation of shared interests across various segments of society. It lacks a vision as to how to temper economic nationalism in favor of a more cosmopolitan conception of economic justice. It lacks a concrete, thick understanding of the barriers to information sharing and regulatory cooperation, and thus a solid method for overcoming those barriers. It lacks a framework for bringing the many interests and perspectives in each locale into a collective dialogue that would build the political capital the TPP needs for survival. Its text is largely cut and pasted from prior US bilateral trade agreements.⁷ From this point of view, the failure of the TPP reflects a larger crisis in the politics of expertise.

Yet what is new is that the public has noticed. In many countries, the bargain between these experts and the public at large is rapidly unraveling. From public health, to environmental safety, to financial governance, expert claims to superior knowledge are ceasing to inspire public confidence. Worse yet, many people suspect the experts of holding ulterior motives. Presidential candidate Trump

⁷ Todd Allee and Andrew Lugg. 'Who Wrote the Rules for the Trans-Pacific Partnership?' 3 Research and Politics 1.

skillfully fanned these suspicions with statements like “the system is rigged.” At the same time, experts are increasingly skeptical about publics. The rhetoric of the pitchfork-bearing masses led by demagogues that one hears in trade policy debates since the demise of TPP speaks to this distrust and even anger. In many societies, there is a deep cultural divide that breeds suspicion and hostility on both sides.

The failure of TPP therefore is simply one indication of the urgent need for a vast transnational project of political and cultural reconciliation. As odd as it may sound, the necessary next step in trade policy after the collapse of TPP must be to build the premises for a more meaningful transnational conversation between experts and various publics in different locales and institutions, around different social, political and economic dimensions of trade and about the fundamental question of the costs and benefits of free trade.

In this essay, I explore the current transnational political crisis surrounding expertise using the perhaps unlikely example of the financial provisions of the TPP. I choose this example because, unlike the labor chapter of the TPP, for example, financial governance is not an area in which the exclusion of the public has generated a great deal of attention from progressive critics. The assumption seems to be that the issues are too technical to be of significant interest to the public, and also that the delegation of authority to experts in this area makes ample sense. Yet these issues nevertheless became a lightning rod for populist anger. Then Senator Jeff Sessions, for example, asserted that he was voting against TPP largely because of its failure to eliminate so-called "currency manipulation".⁸ I argue for the need for new platforms for transnational engagement between experts and non-experts

⁸ Boyle, Matthew. “Critical Alert’: Jeff Sessions Warns America Against Potentially Disastrous Obama Trade Deal.” Breitbart News, May 3, 2015.

across national boundaries. The result is an agenda that will not look like trade law as we know it. It seems too cultural, or too political, or too downright daunting. It requires engaging with people and positions trade experts don't understand at best and strongly oppose at worst. Yet if trade law claims for itself a broad social and economic transnational field, as the megaregional trade agreements do, the discipline must also transform to meet the challenge. Arguably the failure of TPP is a failure of the trade law project to live up to its own larger ambitions. From this vantage point, the crisis of TPP is also an opportunity.

TPP as an Exercise in Expert Power

In order to understand the political reaction that TPP provoked we need to begin by recognizing that, whatever else it was, TPP was also an exercise in expert power and authority. Both the process by which TPP came to be negotiated and the governance regime that it proposed were predicated on a view that the governance of the economy is a task for experts. This view was so pervasive and unquestioned that it was not even explicitly articulated or defended.

The negotiation of the TPP took place in unprecedented secrecy. Up until the very latest stages of the negotiation of the TPP, all proceedings were kept private. Even elected representatives were denied full access to the draft.⁹ The lack of transparency regarding the negotiations, while perhaps rational within the terms of the siloed world of negotiators themselves, turned out to be a colossal political error. For many, this secrecy also raised significant political questions about the nature and scope of democratic governance. TPP critics such as Jeff Sessions powerfully

⁹ George Zornick. 'Congress is Sick of the Secrecy Around the TPP.' The Nation, August 20, 2015. <https://www.thenation.com/article/congress-is-sick-of-the-secrecy-around-tpp/>

referred to the TPP as a global constitution that superseded laws created by duly elected national representatives and yet was negotiated without the input or even knowledge of the people.

The governance processes that TPP proposed to put in place likewise presumed a regime in which decisions would devolve to experts—bureaucrats within national trade regimes, financial regulators, and other government officials. As the editors of this collection point out, TPP gave far less of a role to formal legal institutions than bodies such as the WTO have done. TPP’s governance structures were also designed to mitigate interference from elected politicians. The authority over trade, and also over regulatory areas spanning from labor to the environment to health and finance was to lie instead with the “regulators’ club”.

An example is the TPP’s treatment of prudential regulation—the actions financial regulators take to monitor or ameliorate the solvency and resilience of financial institutions, such as bank inspections, reviews of banks’ capital holdings, and stress testing.¹⁰ One of the bedrock principles of the TPP was its non-discrimination requirement—the ban on any member country singling out foreign entities for harsher regulation, different forms of government supervision or different regulatory requirements, penalties or costs than would apply to domestic firms.¹¹ However financial regulators objected that this bedrock requirement could not apply to prudential regulation. They imagined a scenario in which efforts to gather

¹⁰ “Prudential reasons” includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross- border financial service suppliers as well as the safety, and financial and operational integrity of payment and clearing systems.” TPP Article 11.11.1 note 10.

¹¹ TPP Article 11.3 “Each Party shall accord to investors of another Party treatment no less favourable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.”

information about possible dangers to national economies by the actions of international financial institutions would be rebuffed by foreign market participants accusing regulators of anti-foreign bias.¹² Working on the assumption that government experts could and should be trusted to act on the basis of science and in the interest of the sanctity of the national and global markets, the text of the financial services chapter explicitly excludes “prudential regulation” from the non-discrimination requirement.¹³ Here, the TPP’s commitment to preserving expert authority trumps the TPP’s commitment to reducing discriminatory practices and barriers to trade.

Yet this exclusion in turn anticipates a further problem: what counts as “prudential regulation” such that it is excluded from the more general nondiscrimination requirement? The answer to this question illustrates even more clearly the power of experts in the TPP regime. One might expect this to be a standard question of legal interpretation—a problem to be addressed doctrinally by the dispute resolution tribunal.¹⁴ But the TPP regime takes this problem out of the realm of legal interpretation and delivers the power to determine the scope of expert authority to the expert community itself: A foreign financial firm must request a joint determination of home and host regulators that the regulation at issue is not a prudential regulation within the scope of the exception.¹⁵ In other words, a foreign firm cannot bring an action against a regulator for discriminatory treatment under the

¹² Anna Gelpern. ‘Financial Services’ in Kathleen Cimino-Isaacs and Jeffrey J. Schott (eds.), *Trans-Pacific Partnership: An Assessment* (Peterson Institute for International Economics, Washington D.C., 2016)

¹³ TPP Article 11.11(1) “a Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system.” (notes omitted)

¹⁴ See TPP Articles 9.18 through 9.24

¹⁵ TPP Article 11.22.2(a).

TPP unless that foreign financial firm's home regulators agree that the particular issue does not qualify as "prudential regulation." The TPP then anticipates a friendly "good faith" discussion between the experts of the home and host countries about the meaning and scope of prudential regulation.¹⁶ Thus the TPP text sets up the regulators' club as a group that is competent, objective, and legitimately empowered to decide an issue of their own collective authority. It provides no standards for how this expert decision about the scope of experts' own authority is to be made—there is no assumption that expert reasoning must be constrained in the way the reasoning of legal or political actors, or private parties, is constrained. The result is both the shielding of regulators from changes to the scope of their regulatory authority and the elevation of the same experts as the legitimate and powerful protectors of states and state-based regulation.

In placing its hope in unelected experts, bound not by rules and doctrines, as judges would be, but by technical knowledge and by the social mores of a shared group of institutional, educational and cultural connections, TPP was not alone. In other areas of global governance, such as global financial and environmental regulation, it has become widely assumed that informal social and professional ties activated through peer review committees can produce resolutions to cross-border problems and compliance with international agreements better than law on the one hand, or politics on the other.¹⁷ As many scholars have argued, this so-called "new governance" model of expert-driven governance, elaborated most expansively in the

¹⁶ These experts' joint decision is binding on the tribunal. The financial firm can move forward with its claim only if the two regulators cannot agree (in which case the matter goes to a panel). TPP Article 11.22.2(b).

¹⁷ Annelise Riles. 'Is New Governance the Ideal Architecture for Global Financial Regulation?' in C. Goodhart, D. Gabor, I. Erturk, and J. Vestergaard (eds.), *Central Banking at a Crossroads: Europe and Beyond*. (Anthme Press, New York, 2013) 245-64

European Union expert opinion system¹⁸ has a glaring political and normative weakness: it excludes ordinary citizens from decision-making processes and hence intensifies the democratic deficit of international institutions.¹⁹ What recent events in the European Union also illustrate is that academics are not the only critics: the democracy deficit is highly salient to ordinary citizens also. Indeed, new governance seems to be a lightning rod for non-expert dissent.

The justification for this expert regime is an ideological view that trade policy is a technocratic problem, not a political problem—that it is more like developing a good vaccine or building a solid bridge, issues that should be left to experts, in the liberal world view, than it is like choosing to wage a war or redistribute property, issues that in the same world view should be delegated to the public through its elected officials. Yet there is a tension in the claim that trade policy should be the province of experts and not politicians: the core *raison d'être* of this agreement was precisely politics—geopolitics to be exact.²⁰ It originated with American concern about the rising power of China.

¹⁸ Megan Donaldson & Benedict Kingsbury, 'Ersatz Normativity or Public Law in Global Governance: The Hard Case of International Prescriptions for National Infrastructure Regulation'(2013) 14 *Chicago Journal of International Law* 1; Nico Krisch and Benedict Kingsbury, 'Introduction: Global Governance and Global Administrative Law in the International Legal Order' (2006) 17 *European Journal of International Law* 1; Benedict Kingsbury, Nico Krisch, Richard B. Stewart & Jonathan B. Wiener, 'Foreword: Global Governance as Administration – National and Transnational Approaches to Global Administrative Law' (2005) 68 *Law and Contemporary Problems* 1

¹⁹ Jens-Peter Bonde, 'The European Union's Democratic Deficit: How to Fix It' (2011) 17 *The Brown Journal of World Affairs* 147; Michael Goodhart, 'Europe's Democratic Deficits through the Looking Glass: The European Union as a Challenge for Democracy' (2007) 5 *Perspectives on Politics* 567; Nam-Kook Kim and Sa-Rang Jung, "Democratic Deficit, European Constitution, and a Vision of the Federal Europe: The EU's Path after the Lisbon Treaty" (2010) 17 *Journal of International and Area Studies* 53

²⁰ David Dollar. 'The Future of U.S.-China Economic Ties' Brookings Institute Report, October 4, 2016. <https://www.brookings.edu/research/the-future-of-u-s-china-trade-ties>. Patrick A. Messerlin. 'The Much Needed EU Pivoting to East Asia.' (2013) 10 *Asia-Pacific Journal of EU Studies* 1. Mireya Solis. 'The Case For Trade and the Trans-Pacific Partnership.' Brookings Institute Report, October 4, 2016.

The public revolt against expertise

But the TPP places its hope and legitimacy in expert knowledge at the very moment at which the public (and perhaps even the experts themselves) are losing faith and confidence in expertise as an effective, and fair political regime. The TPP agreement was killed by a powerful coalition of movements that transcended traditional divisions of political right and the political left.²¹ The failure of TPP therefore is larger than traditional politics; it signals a crisis of confidence in expert governance itself. As one critic of TPP puts it,

The Obama administration argues that it's important for TPP to succeed so that the United States — not China — gets to shape the rules that govern trade across the Pacific. But this argument only makes sense if you believe US negotiators have been taking positions that are in the broad interests of the American public. If, as critics contend, USTR's agenda is heavily tilted toward the interests of a few well-connected interest groups, then the deal may not be good for America at all.²²

Let's take as an example a key target of critics' anger—the TPP lack of strong provisions concerning “currency manipulation”. Originally, the TPP draft said nothing about currency manipulation. This provoked the ire of both houses of the US Congress, which had specifically included currency manipulation as a core area of concern in the legislation authorizing TPP negotiations. In response, TPP negotiators produced an addendum²³ that restates countries' existing obligations, as members of the IMF and WTO, not to engage in currency manipulation. Rather than allow for disputes to be submitted to formal adjudication, as in other parts of the agreement,

<https://www.brookings.edu/research/the-trans-pacific-partnership-the-politics-of-openness-and-leadership-in-the-asia-pacific/>

²¹ Sam Corey and Cyrus Jabbari. ‘Stupid Is as Stupid Votes: The TPP and the Free Trade of Misguided Economic Populism’ The Huffington Post, March 2, 2016; Pesek, William. “Obama’s Trade Legacy Trumped by Populism.” *Barron’s*, August 15, 2016.

²² Timothy Lee, ‘The Trans-Pacific Partnership Is Great for Elites. Is It Good for Anyone Else?’ *Vox*, October 7, 2015.

<http://www.vox.com/2015/4/17/8438995/why-obamas-new-trade-deal-is-so-controversial>

however, the addendum provides for a “consultation” system in which bureaucrats submit reports and provide peer review—so-called naming and shaming by fellow bureaucrats around the world.

Countries’ reticence to submit disputes over currency manipulation to adjudication once again protects the decision-making authority of the bureaucrats who make monetary policy. It reflects a view that the “grown-up” understanding, that the distinction between “good” monetary policy and “bad” currency manipulation is often a matter of shades of grey, can’t be fully explained to a public that sees things in black and white.²⁴ A more cynical reading of the addendum is that it is crafted to appear to respond to the politicians’—and hence the public’s—concerns without changing much of anything at all except for adding another expert meeting of to the agenda.

On its face, one would not expect the issue of currency manipulation to generate as much popular attention as other issues raised by TPP. Unlike rules on imports, for example, the effect on US domestic markets—making foreign goods cheaper in US dollars and making US goods more expensive in foreign currency— is one step removed and harder to understand intuitively. Moreover, the implications for the ordinary person are ambiguous: while weak foreign currencies make it harder to sell

²³ See ‘Joint Declaration of the Macroeconomic Policy Authorities of Trans-Pacific Partnership Countries’ https://www.treasury.gov/initiatives/Documents/TPP_Currency_November%202015.pdf

²⁴ The Peterson Institute for International Economics report chapter on “TPP and exchange rates” goes to quite remarkable extremes to waive this problem away with a statement that few economists could endorse: “there is widespread international agreement that there are fundamental differences between QE and manipulation. QE pursues domestic economic goals through the use of domestic policy instruments, whereas manipulation refers to direct intervention in the markets for foreign currencies to affect the trade balance.” See Fred Bergsten and others, ‘Assessing the Trans-Pacific Partnership, Volume 2: Innovations in Trading Rules,’ Peterson Institute for International Economics Briefing, March 2016. <https://piie.com/publications/piie-briefings/assessing-trans-pacific-partnership-volume-2-innovations-trading-rules>

US goods to American and foreign consumers and hence arguably hurt jobs, weak foreign currencies also make imported consumer goods cheaper and hence arguably benefit US consumers. And yet many prominent critics of TPP claimed that it was ultimately the TPP's response to currency manipulation that led them to oppose it.

Senator Sessions' and others' frustrations with the currency provisions of the TPP reflect, in my view, at least in part a rebellion against the expert authorities who create such provisions, devolve power to themselves, and tell overly simple stories to the public and the politicians. It reflects a breakdown of trust between the experts and the public, and a certain degree of cynicism about whether the experts really have the public's best interest at heart. In other words, for critics of TPP, the enemy was not just China; it became also the experts themselves. Joseph Stiglitz summarizes the critique:

If negotiators created a genuine free-trade regime that put the public interest first, with the views of ordinary citizens given at least as much weight as those of corporate lobbyists, I might be optimistic that what would emerge would strengthen the economy and improve social well-being. The reality, however, is that we have a managed trade regime that puts corporate interests first, and a process of negotiations that is undemocratic and non-transparent.²⁵

The politics of expertise--the state of the social science

The troubled relationship of experts and non-experts is not a unique problem of trade law. It pervades many fields, from medicine, to environmentalism, to financial governance. A now extensive body of scholarship in science and technology studies, sociology, anthropology, political science, philosophy, and legal studies has given us a repertoire of insights relevant to the current crisis in the trade regime.

²⁵ Joseph Stiglitz, The Free Trade Charade, Project Syndicate, July 4, 2013. <https://www.project-syndicate.org/commentary/transatlantic-and-transpacific-free-trade-trouble-by-joseph-e--stiglitz?barrier=accessreg>

The mainstream position in this literature focuses on expert power.²⁶ Contrary to the claims experts often make that they are simply cogs in the wheels of larger political processes, or that their actions are deeply constrained by outside facts or processes, this literature shows how experts wield considerable power, by virtue of their expertise. Scholars in the social studies of science often think of expertise as a privileged access to a body of specialized knowledge that confers authority.²⁷ From this point of view it makes sense to speak of a “politics of expertise,” since expert actions are political by virtue of being powerful. For example, encounters between doctors and patients inform how patients think of and even physically experience their own bodies, their lives and their health.²⁸ With this power, some scholars argue, often comes a certain arrogance, or at least a lack of critical self-reflection on the limits of one’s own perspective.²⁹

This view of the the expert as an absolute believer in the accuracy of his or her own expertise is surely overblown—my own research shows that, to the contrary, “experts are often painfully aware of the limits of their own expertise.”³⁰ Moreover,

²⁶ Sheila Jasanoff, *Designs on Nature: Science and Democracy in Europe and the United States*, (Princeton University Press, Princeton NJ, 2005)

²⁷ Linda Hogle, ‘Introduction: Jurisdictions of Authority and Expertise in Science and Medicine’ (2002) 21 *Medical Anthropology* 231; Coral Wayland ‘Contextualizing the Politics of Knowledge: Physicians’ Attitudes Toward Medicinal Plants. (2003) 17 *Medical Anthropology Quarterly* 483; Carol Cohn ‘Sex and Death in the Rational World of Defense Intellectuals’ (1987) 12 *Signs: J. Women Cult. Soc.* 687; Sharon Traweek. *Beamtimes and Lifetimes: The World of High Energy Physicists*. (Harvard University Press, Cambridge MA, 1988)

²⁸ Judith Farquhar. *Knowing Practice: The Clinical Encounter of Chinese Medicine*. (Westview Press, Boulder CO, 1994). Scholars working in the Foucauldian tradition speak of expert power as both “repressive and productive” because expertise goes beyond simply compelling action; it changes the way non-experts imagine their world and think about their options within it. Michel Foucault. *The History of Sexuality. Volume 1, An Introduction*. (Random House, New York, 1978); Canguilhem, Georges. 1994. *A Vital Rationalist: Selected Writings from Georges Canguilhem*. New York: Zone Books.

²⁹ Timothy Mitchell. *Rule of Experts: Egypt, Techno-politics, Modernity*. (University of California Press, Berkeley CA, 2002). (British colonial officers in Egypt arrogantly believed in the universal relevance of British property law).

³⁰ Annelise Riles, ‘Collateral Expertise: Legal Knowledge in the Global Financial Markets’ (2010) 51 *Current Anthropology* 795, 800. See also David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton University Press, Princeton NJ,

many experts in the economic field in particular are now facing an internal crisis of faith in their own expertise. In the area of financial governance, for example, financial regulators and central bankers are in intellectual disarray over the fact that markets are no longer behaving as the economic models predict that they should.³¹

Yet this literature does help us to understand some of the weaknesses of TPP. One of the features of expertise is that it must exclude certain other forms of knowledge in order to define its own parameters. The very nature of expertise—what enables it to do its work—is the limit it places on one’s ways of knowing a given object.³² Expert communities – professions, schools, and disciplines – define themselves by the way they set boundaries between specific ways of knowing the same object. This in turn necessarily creates blind spots – areas that are not germane to the given form of expert knowledge.³³ The result is that policies often reflect the specific blind spots of the expertise on which they are built.³⁴

2016), 9 (“The most accomplished experts are not surprised— or troubled— by the uncertainty of their expertise. Often they seem emboldened.”)

³¹ Annelise Riles, *The Changing Politics of Central Banking* (forthcoming, Cornell University Press, 2017)

³² Andrew Abbot, *The System of Professions* (University of Chicago Press, Chicago, 1988); Andrew Abbot ‘Boundaries of Social Work and the Social Work of Boundaries’, (1995) 69 *Social Service Review* 545; Mary Douglas. *How Institutions Think* (Syracuse University Press, Syracuse NY, 1986); Hogle, ‘Introduction: Jurisdictions of Authority and Expertise in Science and Medicine’

³³ See generally Gillian Tett. 2015. *The Silo Effect: The Peril of Expertise and the Promise of Breaking Down Barriers*. (New York, NY: Simon and Schuster, New York, 2015); Joseph Masco. ‘Nuclear Technoaesthetics: Sensory Politics from Trinity to the Virtual Bomb in Los Alamos.’ 31 *American Ethnologist* 1

³⁴ For example, in the case of efforts to develop response capacities to biothreats, Andrew Lakoff argues that the U.S. government approaches biosecurity according to a historically specific “logic” for generating knowledge about disease drawn from the nuclear attack civil defense drills of the Cold War. Security agencies’ attempts to learn vital national infrastructures are most vulnerable and to cultivate preparedness disasters by conducting rehearsal scenarios turn out to be inadequate because the experts involved in their creation are only able to predict scenarios based on their own narrow field of expertise. These preparedness exercises have proven highly ineffective for real crises such as SARS or the East Japan earthquake where the

In particular, one of the hallmarks of expertise is a certain “cut and paste” approach like the one deployed in the drafting of TPP—models, language, tools or routines developed in one context are transplanted by the expert, to another context. Preparedness drills for nuclear war are repurposed as preparedness drills for bio threats. Colonial policies and institutions developed for India are repurposed for Fiji.³⁵ Economic programs developed for the United States are transposed to Latin America.³⁶ This replicative method allows for dramatic economies of scale, but it also exponentially increases the impact of blind spots as the premises, purposes, and background knowledge behind programs is lost in the transplantation, and as projects developed for one context are repurposed for a very different one.

But what is missing from the social science of experts, for present purposes, is a sufficiently thorough investigation of the relationship between experts and non-experts. Too often, the assumption is that experts overpower and shape non-experts with little attention to the ways non-experts resist, stall or transform expert power structures. In the trade context, the non-experts have, at least for the moment, gained the upper hand.

By non-experts, I do not simply mean people who lack a certain body of sophisticated knowledge. The kind of expertise entailed in international negotiations is in fact less difficult to attain than one might assume; as I have shown

crisis is multifaceted, or could not be extrapolated from past models. See Andrew Lakoff. ‘From Population to Vital System: National Security and the Changing Object of Public Health’ In Andrew Lakoff and Stephen Collier (eds.) *Biosecurity Interventions: Global Health & Security in Question* (Columbia University Press, New York, 2008) 33-60.

³⁵ Annelise Riles, ‘Law as Object.’ In Sally Merry and Donald Brenneis (eds.) *Law and Empire in the Pacific: Fiji and Hawaii* (School of American Research Press, Santa Fe NM, 2004), 187-212

³⁶ Yves Dezalay and Bryant Garth. *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (Chicago, University of Chicago Press, 2010)

in past work on the United Nations, the power of international legal negotiations is in part a power to draw a remarkably diverse range of participants into the regime.³⁷

In fact, we might question whether these “outsiders” who attack the TPP regime are really outsiders at all. In previous research on international agreements, I have described how insiders sometimes take turns performing the role of outsiders, because the voice of the outsider, even when it is critical, is in fact critical to the legitimacy of work of the expert regime, which is defined as serving, or regulating “the rest”. What I mean by non-experts, therefore, is not people who lack a body of expert knowledge, but rather, political actors who purposely position themselves outside of the expert regime. It is not that they don’t understand the trade regime; it is that they understand it so well and so subtly that they know exactly how to *perform being outside it*.

An analysis of the grammar of the trade debate will make this more concrete. In his recent book on international legal experts, David Kennedy describes an “insider style and common sense” that defines the “terrain of debate”. This insider style is defined by “boundary work” that distinguishes it from what these experts think of as the “outsider style”: those outside the realm of international experts are people who are “contesting common sense” and deploying excessively “heterodox ideas.”³⁸ For example, in the realm of legal entitlements, a remarkably vast range of positions and commitments are acceptable and debatable, but two specific arguments are never OK: “I desire it and can take it by force” or “my religion, ethics or ideology demands it”.³⁹

³⁷ Annelise Riles. *The Network Inside Out* (University of Michigan Press, Ann Arbor MI, 2001)

³⁸ Kennedy, David. 2016. *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy*. (Princeton University Press, Princeton NJ, 2016), 155.

³⁹ Kennedy. *A World of Struggle*, 157.

What has happened with the recent revolt against TPP is that these precise assertions have been invoked to destroy the agreement—“my ideology (American First) demands its destruction” and “I have the power to demand that trade partners comply with my ground rules by force”. It seems that the enemies of TPP, far from being total “outsiders,” have understood the rules of the game remarkably well. They have grasped the grammar of the “boundary work” of expertise so well that they are able to conduct a surgical strike against the entire regime by asserting the very few positions that are off limits. It is a purposeful performance of absurdity or irrationality (because that is the only position that expert discourse cannot tolerate), a sophisticated attack on the expert class that produced TPP by those who know the experts best—their political subjects.

Anthropologists have long argued that boundaries—between groups, positions or cultural categories—are collectively held and negotiated entities.⁴⁰ From this point of view, if experts and non-experts share a singular boundary vocabulary then they are a part of a singular community, even if they position themselves on different sides of that boundary and understand themselves to be in deep ideological conflict. Each group is defined in relationship to the other: experts are people who are not outsiders to the trade regime while outsiders to the trade regime are people who are not experts. If this is correct, then we can understand how the current attack on trade mega-agreements is a form of politics that has experts, as much as foreign nations, as its audience and its target. And if this is so, then we must also presume that the crisis of expertise is not just a crisis for experts, although they are the explicit targets.

⁴⁰ Douglas, Mary. 1986. *How Institutions Think*. Syracuse, NY: Syracuse University Press; Mary Douglas, *Natural Symbols: Explorations In Cosmology* (Routledge, London, 1996), 50-51

The collapse of the boundary between experts and non-experts leaves behind a crisis of identity for non-experts as well.

Breaking the Cycle

This analysis suggests that what is needed now is not just some new legal technology to square the circle between bilateral and multilateral trade agreements, or some new policy formula to divide the pie between corporate and labor interests, but rather a serious and creative dialogue—one that is transformative of the relationship between experts and non-experts.

This is necessary not simply because without greater popular buy-in, mega-regional trade agreements are politically unachievable. As suggested above, expertise has blind spots, and the technologies and paradigms of trade law and policy are ripe for new thinking. Parallel experience with citizen environmental science,⁴¹ for example, has demonstrated that expertise is actually improved when it engages imaginatively and generously with knowledges and discourses outside its own parameters. Most importantly, trade agreements are political, and not simply technical phenomena—they have consequences for local governance, and they disproportionately benefit some segments of local societies at the expense of others. If trade is political, then the decisions at stake are matters of judgment, not just of

⁴¹ C. B. Cooper and others. 'Citizen Science as a Tool for Conservation in Residential Ecosystems' 12 *Ecology and Society* 11. Janice Dickinson and others, 'The current state of citizen science as a tool for ecological research and public engagement' (2012) 10 *Frontiers in Ecology and the Environment* 291; Janis Dickinson, Benjamin Zuckerberg, and David Bonter, 'Citizen Science as an Ecological Research Tool: Challenges and Benefits' 41 *Annual Review of Ecology, Evolution, and Systematics* 149

expertise—and they are matters about which the public at large has a legitimate stake in participating.⁴²

Of course it takes two sides to transform a relationship. The public also bears responsibility for the current dysfunctional state of affairs. If trade policy is a matter of politics, then citizens have a crucial role to play in ensuring the quality of that politics, beyond simply deferring to experts on the one hand, or railing against them on the other, just as they do for the quality of the democratic process more generally. Moreover, when publics turn their attention to trade as a site of politics, they will find that the citizenry of the mega-regional agreement is not national but global. An opponent of TPP in Bangkok in fact has a great deal of common interests with an opponent of TPP in Milwaukee, or Sapporo. Thus, the effort to reimagine the relationship between experts and non-experts must be a transnational effort, an effort that follows the same institutional pathways as trade agreements themselves.

Text

Nevertheless, to trade experts, the question of the relationship between experts and non-experts does not look like a question of trade law. Trade law does not think of the relationship between experts and non-experts as its target. This is because it defines that relationship as a “local” problem outside the scope of trade law. Yet is it good strategy or wise policy to cordon off the question of expertise in this way? As many scholars have suggested, the weakness of international agreements is their disconnectedness from local politics. If there is a standard flaw to the process by which transnational agreements are created, it is that negotiations take place on one expert and international plane and yet ratification takes place on another local plane, subject to very different political forces and pressures. In other

⁴² Riles, *The Changing Politics of Central Banking* (forthcoming Cornell University)

words, the weakness of international agreements is precisely the point of disconnect between experts and non-experts.

To put it another way, trade law has so far failed to acknowledge and engage the social grounding of trade relations. The assumption behind TPP that provoked so much ire on the right and on the left was what Jeff Sessions termed its “constitutional” orientation—the notion that societies and regulatory cultures could be remade through international law. Again, this conceit is hardly unique to trade law. The crisis of the Euro is now routinely attributed to a similar conceit that social and economic unity could be engineered through bureaucratic means. The lesson of the Euro crisis for many observers is that regulatory structures can only lead so far. Regulatory union must begin with, and reflect, social and economic union. Economic nationalism is a social phenomenon and it must be addressed in social terms.

In this respect, the megaregional trade agreement model seems woefully out of date. It has failed to learn the hard lesson of the primacy of social relations over regulatory ties. Indeed, there is even less attention to building shared values and relations between individuals and groups within the regulatory community in the megaregional trade agreement than in the case of the European Union. There is even less attention, likewise, to the cultural and social distance between the experts and the governed. The failure of the TPP suggests however that it is time for the expert/ non-expert relationship to be brought onto the international plane, within the parameter of the trade agreement, rather than defined as residue to that agreement, outside and elsewhere.

One possible response might be to resolve that next time a mega-regional trade agreement is negotiated, efforts are made to ensure that the public is adequately informed about the proceedings and that representatives of a wider range of political constituencies be represented in the negotiations. But mere transparency—keeping the public informed— will not be enough to fix the problem this time.⁴³ Simply adding representatives of labor or environmental agencies or even non-governmental groups to delegations, for example, will not be sufficient. We can't simply go back and do things better the next time around because conditions have changed: a longstanding but implicit compact between the experts and the citizenry in numerous countries now seems broken. The crisis now is no longer simply around trade; it is now also around the relationship between experts and outsiders. This relationship needs to be addressed directly. From this point of view, the problem with existing trade negotiation processes is precisely what their proponents rightly claim is their strength: they drive too directly towards a pre-defined result, the conclusion of an international agreement (on the model of other such agreements). What is needed at the same time is not a new inter-state agreement on trade but a transformed relationship—between elites and publics transnationally.

We must therefore now find ways to stage and sustain a serious and creative dialogue—one that is transformative of the relationship between experts and non-experts. The trade negotiation toolbox must be radically revamped to include direct attention to the relationship between experts and publics, and to include methodologies and academic debates, such as the social studies of expertise, international organizations and social movements, that help us to make sense of the

⁴³ Sally Merry, 'Measuring the World: Indicators, Human Rights, and Global Governance: with CA

evolving relationship between experts and non-experts in different locales. The goal would be to create a new blueprint for global trade agreements. But it would also be to create a new community of stakeholders, across national divides but also across the divide between experts and non-experts who are both personally and politically committed to agreement.

Yet how do relationships get transformed? Anthropologists have shown that empathy, trust and a common sense of mission come from only one source—social engagement. People must be implicated in shared social relations, where something is risked and created collectively, and, through repeated engagement, they interact as multidimensional people defined not by a singular political issue but rather by cross-cutting social commitments and ties. Real social relations (unlike trade negotiations or political disputes surrounding trade) are always only partially strategic; there is room for play, for wasting time together, for making mistakes and experimenting with unformed positions. International trade law is obviously ill-equipped for this task. We therefore need to begin to imagine new modalities of engagement to replace the structure, protocols and processes by which trade agreements are reached.

One possible existing model is the United Nations Global Conference. These conferences, convened on topics ranging from the environment⁴⁴ to women's rights⁴⁵ to indigenous rights⁴⁶ to the needs of small island nations,⁴⁷ are formally

comment by John M. Conley' (2011) 5, Current Anthropology, Supplement 3, S83

⁴⁴ 'The Rio Declaration on Environment and Development,' United Nations Conference Declaration, June 14, 1992 available at http://www.unesco.org/education/pdf/RIO_E.PDF

⁴⁵ "Beijing Declaration and Platform for Action,' United Nations Conference Declaration, September 15, 1995, available at <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>. See also, Charlotte Bunch and Susana Fried 'Beijing '95: Moving Women's Human Rights from Margin to Center' (1996) 22 Signs: Journal of Women in Culture and Society 200

⁴⁶ 'Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples,' United Nations Resolution, September 22, 2013, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/2

speaking state to state negotiations leading to a non-binding inter-state agreement. Yet the premise of these conferences is that the real action the conference seeks to effectuate must occur beyond the state, in civil society. Hence their core technology is an integration of a parallel NGO Forum with the state to state meeting. The latter is extremely open and inclusive. Its goal is not to produce consensus but to build networks across national boundaries and across particular forms of expertise or areas of substantive interest. The “experts” (government representatives who are usually representatives of particular state bureaucracies) often describe an evolution of their own thinking as a result of coming into contact with civil society groups at the parallel NGO forum. Conversely, members of civil society—even those who define themselves as opponents or even enemies of state bureaucracies—often become drawn into expert practices as a result of their involvement in these conferences. Here, then, we have a model of global agreement that is rooted in transformative dialogue and networks across the divide that separates experts and non-experts. One could imagine a UN, or WTO, or even multilateral government sponsored conference on the future of global trade whose task would be to define basic global commitments around trade policy.

The UN global conference model has a number of limitations, however. First, they are unruly, expansive, politicized events that are better suited to, say, building a normative consensus that “women’s rights are human rights” or setting non-binding national commitments regarding carbon dioxide emissions than they are, say, to formulating specific rules regarding sexual harassment or setting emission standards on particular classes of vehicles. For precisely this reason, they are in fact far less

⁴⁷ See ‘SIDS Accelerated Modalities of Action (SAMOA) Pathway,’ United Nations Resolution, November 14, 2015, available at

effective sites of idea generation than they are networking opportunities. The ideas, positions and agendas on display at global conferences are already well-formed, and even the government agreement is first drafted by a powerful but anonymous expert secretariat. Hence the conversation at the global conference relies heavily on a prior stage of idea generation—one that is far more expert driven and far less representative. As a result, the agreements that emerge from these global conferences are less innovative and imaginative than they are opportunities expand the audience and the consensus around certain policy topics. Finally, for all the openness of the global forum, it is still accessible only to a very limited few. The cost of attendance at international meetings effectively ensures that for the most part only the political entrepreneurs will participate.

All of this suggests that such global conferences cannot in themselves solve the crisis of expertise surrounding trade agreements. The crisis of expertise is also a crisis of ideas—the trade problem requires new creative thinking. But that thinking must engage a far more diverse range of participants than in the past. The challenge that remains, therefore, is how to create a platform for debate about the rules of global governance that is both inclusive and able to foster transnational dialogue between experts and non-experts on the one hand, and yet also able to tackle specific technical governance questions with precision and sophistication on the other hand. This suggests that attention needs to be paid to a stage prior to the global conference—to the stage of idea generation. Would it be possible to open up the idea incubation process to a wider global community of stakeholders—to devise a more collaborative, democratic process for generating the frameworks and categories for a global conversation about trade?

http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/69/15&Lang=E; see also Annelise

In sum, what is needed at this moment is a new kind of platform for engagement, across barriers of nation-states but also across the cultural divides that separate experts and non-experts, and government officials from civil society. This platform must be both able to accommodate broad normative and ethical questions and able to address specialized technical issues. It must make room for a diversity of points of view and for agendas driven from the bottom up, yet it must also be managed and results-driven. It must be engineered to enable persons of different linguistic, social, economic, scholarly, and political vantage points to usefully input into the process.

In my view, the design and implementation of this platform is among the most pressing issues now facing scholars, activists and policy-makers at this political juncture. Most of all, it must be a collaborative effort across the boundaries of the academy, government, the private sector, and civil society. Over the past five years, I have been experimenting with a prototype for this kind of platform. Meridian 180, “a multilingual platform for policy experimentation + innovation,” brings together more than 800 policy-makers, industry representatives, academics and representatives of civil society from 39 countries, around a model for policy dialogue that aims to be at once as open as the UN global conference to diverse points of view, and yet as able to produce precise and technical policy innovation as the new governance model. The organizational structure is a hybrid of an international membership organization—in which policy-makers and representatives of civil society participate as private individuals and then feed ideas and solutions to their own institutions, communities and networks—with a federation of universities—in which resources, links to national policy-makers, university presses, and intellectual talent pools are shared across national boundaries. The Meridian 180 experience may be useful for

Riles, *The Network inside Out*. (University of Michigan Press, Ann Arbor MI, 2001)

beginning a conversation about what kind of institutional, technical and cultural platforms might enable the conversations for our times by articulating some of necessary features.

1. The platform must be deeply inclusive and diverse—representatives of different national linguistic, social, economic, scholarly, professional and political vantage points must be engaged. The goal here must be to ensure that possible critiques of the governance regime are brought in and addressed at early stages so that agreements do not find themselves exposed to fundamental outside critiques at the final stage. More generally, the model here—of a trade regime that accommodates not simply national diversity but cultural and political diversity within the nation state proceeds from a recognition addressed up to now only at the “local” level of accession or implementation: that societies are divided, and hence that nations do not speak with one voice about trade. Further, such an arrangement allows for a recognition that the key coalitions that either enable or impede free trade agreements may not be national blocks. They may be transnational corporate, or environmental or labor or religious organizations, or they may be clusters of voters united by affective rather than explicit political ties.

It will be crucial to ensure that participation by both interest groups and individuals is possible. At the idea incubation stage we will want the unfiltered participation of individuals, and not just of the usual political entrepreneurs. Academics are of course one important group of individual idea generators, but it is important to recognize that there are thought leaders outside the formal academic institutions who must be engaged as well. Moreover, in order for new ideas to emerge (not to mention for new social ties across existing fault lines to emerge) we need to preserve some space for risk-taking and free play. That is, people who work

within and often represent relevant institutions in the trade debate (corporations, governments, NGOs etc) need the freedom to experiment with ideas, to take risks, and take time to become curious about ideas different from their own, and this requires freeing them from the burden of “representing” their institution or constituency.

A key feature of Meridian 180 is that corporate interests, nation-states, and even civil society groups are only informally represented in the discussions by people who participate in their individual capacities (albeit with an understanding that their point of view is shaped by the networks and institutions they represent). In this respect, the discussions are both within but beyond the state, and other twentieth century collectivities such as the university, the union, the social movement or the professional organization. Discussions are multilingual in order to ensure a broader range of participation, and problems are framed for dialogue from the ground up by local clusters of participants, but then filtered through a refining process entailing online discussions, live meetings, more sustained working groups and ultimately distribution channels such as think tanks and university presses.

How to ensure meaningful diverse and inclusive participation is of course a great challenge. Ten years ago, such a conversation would have seemed impossible. The logistical hurdles were insurmountable. But new information technologies, and the increasingly widespread availability of those technologies even in the developing world opens up new possibilities. First, unnecessary barriers to participation (in particular expensive travel costs associated with meetings, and linguistic barriers) must be lessened through the usage of online meeting technologies, artificial intelligence and crowd-sourced translation technologies, and technologies that

enable ideas to be bundled, weighted according to their degree of support, and edited collectively.

How will participants be selected? The most democratic means—the means least open to outside criticism—is self-selection. Ideally, we should devise a system in which participation at succeeding higher levels of engagement is made available based on individuals' demonstrated commitment to participate in a serious and sustained way, and based on their ability to garner the support and respect of others at the table, more than based on invitations based on expert qualifications. This is the model of participation in local politics in many places; the challenge is to scale local politics up to the global level. In Meridian 180, we have found that a self-selection model produces remarkable quality and commitment; those around the table are engaged because they want to be, rather than because of pecuniary or other rewards. They find satisfaction and excitement in meeting other equally engaged individuals from very different backgrounds. What has been most surprising to me about this experiment is that, contrary to the collective wisdom that the very best people must be rewarded financially or with opportunities for travel to far away conferences in order to convince them to do this work, we have found that the quality of the people who choose to devote themselves out of pure commitment to, and love of the project of idea generation is remarkably high.

Technologically, communication across such a large and diverse group requires a tiered system of committees with successively larger degrees of responsibility. Membership in the lowest ranking committees should be open to all (subject to certain geographical and knowledge quotas with choices made by lottery and waiting lists). Committees at all level would deploy a collaborative means of ranking or scoring the value of participation other than by institutional affiliation or educational

pedigree. For example, individual comments as well as overall individual participation in the committee structure could be subject to 360 degree review by all other participants using a starring mechanism, with individuals with the highest rankings over time advancing to leadership roles while individuals with consistently low ratings being excluded from further rounds of discussion. Universities, colleges and technical schools have an especially important role to play both in recruiting participants and in staging these conversations. Existing networks of elite and community-based education within nations and across national borders could serve as an important institutional backbone.

2. The methodology must enable discussion of policy details without losing sophistication. A second challenge is to devise a discursive structure that enables serious deliberation on concrete issues while allowing the agenda to emerge more organically from the ground up rather than relying on back room expert secretariats to set the agenda. This is important to the legitimacy of the process but it is also crucial to idea generation: new ideas by definition cannot be anticipated in advance by a secretariat.

In Meridian 180 we have addressed this by staging multiple rounds of discussions, with shifting groups of participants depending on the scope or stage of the discussion. An initial grouping of participants engaged in brainstorming over a relatively short period of time online might generate a series of questions that must be addressed separately by smaller groups of participants with specific knowledge or experience over a longer period of time. For example, in the area of financial regulation, an initial open-ended discussion of the limits and achievements of past megaregional agreements might generate the need for a more specialized and focused discussion on the question of the definition of currency manipulation and

how to manage the cross-border effects of monetary policy. The results of those deliberations can then be fed back into the larger group discussions, or may lead to further proposals or ideas to be taken up by other smaller groupings. A process of multiple refinements of the positions through dialogue between the various groups, in successive versions, linked to a rigorous self-evaluation procedure in which participants determine whether individual participants, and the group as a whole is on the right track, allows ideas to emerge from the ground up. The key is that any idea for discussion that garners a substantial threshold of interest must be given a chance to float a trial balloon, with the appreciation that most of these trial balloons should and will fail.

This process is admittedly longer and more deliberative than existing negotiations. Yet it is important to remember that the process has two goals, and not simply one. The first goal of course is to generate agreement on trade policy but the second and equally important goal is to build social ties and break down cultural barriers. What may seem like wasted effort from the standpoint of the first goal may be precisely the engine of progress from the standpoint of the second goal.

3. There must exist a pipeline from the idea incubation process to the formal state to state negotiation process. In the traditional intergovernmental and international nongovernmental process, the dialogue ends with an output—be it an agreement, a report, or a call to action. This is one possible outcome of this more inclusive idea generation process. Yet the experience with TPP suggests that when negotiations become too fixated on the endpoint, the process itself becomes quite teleological and that the internal conversation becomes defined in terms of the production of the output. The output model has another flaw as well: it must then be sold to “local” constituencies; it presumes that the people who are doing the

drafting and the people who are doing in the implementing are two distinct social groups. In other words, it presumes the expert- non-expert divide.

If the goal is not simply to answer a policy question but to stage a cultural shift, we should instead seek to create as porous a barrier between the world of the deliberations and the world of implementation as possible. Here, the participants in the deliberations come to serve a different function: they have been brought into the process not simply because of their knowledge but because of their local ties. It is they who must take the ideas that emerge from the discussions and bring them forward for discussion and action in the other settings in which they find themselves, the other political sites in which they act. For example academics might begin writing about these issues, teaching about them or spearheading new university partnerships, while activists might find uses for and hence become champions for these ideas in their own local, regional or international campaigns, and national regulators might incorporate these ideas into policy proposals. The idea is that rather than one conduit to policy a myriad such conduits, each with their own backers and constituencies, open up. The people who create the ideas become the most appropriate champions for those ideas. Ideally, in the process, they draw on the social linkages they have built through the process itself—an activist from one part of the world teams up with someone else from another, or with a corporate executive she has met through the process for example. In this way the social dimension of the exercise becomes the engine of exponential increases in power and legitimacy.

Of course Meridian 180 is but one model for a platform and a still fragile and struggling one at that. Yet the experience of Meridian 180 amply demonstrates the ability of remarkable people on all sides of current divides to work collectively, as individuals and groups, to resolve concrete problems that seem beyond the reach of

governments, markets and the academy alone and to build a new political and intellectual infrastructure more attuned to the cultural moment.

Conclusion

The TPP framework was constructed from the assumption that the key barriers of our time were the boundaries of the nation-state. What the collapse of the TPP has demonstrated is that even more profound social and cultural barriers, within and across nation-states, divide elites and non-elites, experts and non-experts. In this sense, the political failure of TPP heralds a political crisis surrounding the legitimacy and value of expertise—a rejection of experts' political authority but also a failure of dominant expert knowledge to grasp the challenges and respond in a creative and forward-looking way.

Mega-regional trade agreements define themselves as taking on—even preempting—a vast regulatory and social field. As supporters of TPP have aptly explained, this broad scope is necessary to respond to the emergence of new transnational economic forms, such as global supply chains. Yet with such new economic forms come also new transnational forms of social and cultural conflict. Having claimed for itself such a broad economic scope, the trade mega-agreement must also take on the broad cultural conflict that it reflects and precipitates. In the aftermath of the collapse of the TPP and the larger skepticism in many parts of the world towards twentieth century style globalization projects, a new transnational project, on the order of the scale of the TPP itself, is needed to address these barriers.

The question of how to manage the transnational politics of expertise is not a problem for the trade field alone. It pervades many regulatory areas. The current crisis surrounding expertise in trade law raises larger questions about the premises and possibility of expert coordination in democratic governance, and the mechanisms by which authority can or should be meaningfully delegated by the citizenry. To address this challenge, therefore, is not simply to build the architecture for a future trade regime but also to repair and transform the meaning and infrastructure of democracy itself. This is work that will take a new and different form, beyond the usual silos of law and policy, trade and development, or indeed, the academy, government, the market and social movements.