

The Opportunity Space of Overlapping Trade Regimes: Turkey, the Customs Union, and TTIP

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Abstract

The Republic of Turkey (RoT) is closely observing negotiations of the first three mega-regional preferential trade agreements. Of greatest concern to the Republic is the US–EU Transatlantic Trade and Investment Partnership (TTIP), intended to establish the standards for preferential regimes beyond ambitious next generation free trade areas (FTAs). The Republic's primary concern is TTIP's potential impact on the Turkish economy given interaction with the RoT–EU Customs Union (CU). This interaction reflects the problem of outdated trade agreements' overlap with the spaghetti bowls of next generation and now mega-regional agreements. Although immediate Turkish TTIP inclusion is unlikely, TTIP triggered a critical juncture for the Republic given the agreement's potential interaction with the CU's outdated features and hub-and-spoke structure. This juncture provides the Republic with strategic leverage to pursue the CU's review and possible revision. The RoT's strategic sequencing of its CU review with TTIP engagement may prove advantageous by altering its structural relationship with its hub and primary economic anchor of the EU as well as facilitating its entry into ambitious mega-regional agreements and contributing to its EU accession process. It also highlights the way in which states may strategically consolidate their particular cases of overlapping preferential trade agreements (PTAs).

Policy Implications

- The Turkish CU-TTIP overlap creates a critical juncture that the RoT may use to revise the RoT-EU CU. Revision of this CU will affect the problems highlighted by the CU-TTIP overlap.
- The Turkish CU-TTIP overlap highlights the problem of PTA-overlap resulting from preferential agreement proliferation. Although some suggest new mega-regional agreements such as TTIP may serve as a means of coordinating and consolidating this overlap, the CU-TTIP overlap suggests that other agreements – in this case a revised CU – may serve as the essential consolidation mechanism.
- The RoT must sequence its engagement of PTAs associated with the CU-TTIP overlap, beginning with the CU as opposed to the TTIP, in terms of its current desire for immediate, full TTIP membership. This sequencing will facilitate the Republic's realization of its long-term goals in a revised CU, EU accession and achievable mega-regional agreement membership.
- Mega-regional agreements, replacing next generation FTAs, will set international standards for trade and investment agreements including agreements' non-tariff barrier (NTB) terms. The Turkish CU-TTIP overlap highlights the impact of these standards on third-party countries such as Turkey.

CU-TTIP overlap as Turkish opportunity space

The Transatlantic Trade and Investment Partnership (TTIP) mega-regional agreement, under negotiation between the US and the EU, is slated to establish the most ambitious preferential trade and investment regime to date. This agreement is of concern to the Republic of Turkey (RoT) given its potential interaction effects with the RoT-European Commission (EC) Customs Union (CU).¹ Turkish TTIP commentaries generally focus on two issues: (1) the weakened competitiveness of Turkish products in the EU and (2) the entry of American industrial and processed agricultural goods into the Turkish market by means of the CU without reciprocity for Turkish goods' entry into the American market. For example, see: (Kirisci 2014). These commentaries,

which overwhelmingly offer the policy recommendation of full and immediate Turkish TTIP membership, exhibit three significant shortcomings. First, they have not tied the Turkish case to dynamics of preferential regime overlap that will arise from the three mega-regional experiments under negotiation. Second, their policy recommendations do not address the full ramifications of the CU-TTIP overlap given their predominant focus on TTIP membership. Third, they overlook the CU-TTIP overlap's policy-oriented opportunity space and how the Republic may use that space to strategically respond to those preferential trade agreements (PTAs) affecting the Republic by means of the CU.

This article speaks to the commentaries' shortcomings by framing the CU-TTIP overlap as a critical juncture in terms of the Republic's economic policy. If the RoT is able to

overcome a short-sighted focus on full, immediate TTIP membership, it may use the juncture's opportunity space to realize two medium to long-term economic policy interests. First is the Republic's initiation of the CU's long-needed review and possible revision, including addressing specific weaknesses of the CU as well as the hub-and-spoke structure it maintains between the Republic and Europe. Second is the Republic's realization of its larger European and global trade goals directly linked to its Centennial Vision 2023 strategy. This juncture is of importance to universalized global trade policy and the trade regime literature because it demonstrates the implications of overlap between multiple generations of preferential agreements that will now include mega-regional agreements, especially in terms of how such overlap affects the asymmetrical power structures of existing preferential trade regimes.

This article loosely applies historical and discursive new institutionalism to examine two policy vantages of the CU-TTIP juncture and its related opportunity space. First is the EC's recent commitment to review and possibly revise the CU due in part to Turkish pressure leveraged by the CU-TTIP overlap. Although the nature of this process has yet to be determined, the RoT must further leverage the juncture's opportunity space to establish and institutionalize its desired structural relationship with its EU economic anchor. Second is the way in which the RoT should sequence this CU review and possible revision with its TTIP and other CU-related PTA engagement. PTA overlap creates a short-term opportunity space in which states would likely prioritize an immediate PTA membership concern – such as original TTIP membership – but should instead prioritize and pursue long-term goals regarding preferential regime structures and trajectories.

The article begins with an institutional tracing of TTIP's and the CU's evolution from the Republic's vantage, including the nature of their overlap. It then identifies the specific leverage the CU-TTIP overlap provides to the Republic in terms of CU review and revision, including the circumscribed discursive threat of CU withdrawal. The article concludes with a review of how the RoT should still pursue TTIP engagement within a larger engagement strategy encompassing all the preferential regime platforms.

The mega-regional generation of PTA proliferation

Given the closed nature of TTIP negotiations, technical assessments of the CU-TTIP overlap cannot yet be established. The general dynamics of the likely interaction effects may, however, be estimated by means of its ongoing negotiation processes and its likely standard as well as novel content or mechanisms. Also relevant to TTIP's implications for PTA overlap, including that of the CU-TTIP overlap as well as suggesting why the RoT should prioritize CU revision over TTIP membership, is the review of mega-regional agreements' somewhat contradictory institutional purposes including: (1) addressing targeted American and European needs; (2) consolidating the PTA spaghetti bowl phenomenon; and (3) setting highly ambitious World Trade

Organization (WTO)-Plus and WTO-Extra thresholds for future PTAs. This identification suggests why the Republic should prioritize CU revision as opposed to TTIP membership.

The CU-TTIP interaction effects represent one of many cases of overlapping PTAs the trade regime literature portrays as spaghetti bowls. These spaghetti bowls conflict with the transparency and predictability priorities of the WTO's multilateral trade and investment system (MTIS) embodied in the most favored nation (MFN) and national treatment mechanisms. Ironically, these spaghetti bowls are also an unintended outcome of the MTIS' General Agreement on Tariffs and Trade Article XXIV that allows preferential agreements if a given agreement contributes to multilateral liberalization by covering a majority of members' shared trade and limiting tariff increases for non-members. The idea of a Trans-Atlantic FTA (TAFTA) arose in the 1990s, the time of the CU's establishment and the period of increased PTA pursuit, to compliment the North American Free Trade Agreement (NAFTA) and facilitate post-Cold War transatlantic integration. Instead of pursuing TAFTA, they parted ideological ways regarding preferential regimes with the Clinton administration's FTA prioritization (Bhagwati, 1996, p. 869) and the EC's MTIS promotion in conjunction with an FTA moratorium. The parties' interests coalesced with the EC's October 2006 Global Europe Act FTAs as the preferred liberalization mechanism (Commission of the European Communities, 2006; Europa, 2009), soon after which both parties began to pursue the more ambitious next generation FTAs.

In TAFTA's absence, the US and EU pursued economic cooperation by means of alternative institutions such as the Trans-Atlantic Economic Initiative (2004–2005) and the Transatlantic Economic Council (2007). These institutions proved insufficient to address their unique experience of the 2008 global financial crisis, leading the US and EU to establish the 2011 High-Level Working Group (HLWG) on Jobs and Growth. The Group recommended the parties pursue a 'comprehensive agreement' premised on WTO-Plus and WTO-Extra trade, investment, service, procurement and other regulator features 'to create additional bilateral market openings and establish new trade rules that are globally relevant' (US–EU High-Level Working Group in Jobs and Growth, 2013, p. 2).

The HLWG's recommendation for a mega-regional agreement represents the newest PTA generation with the unique features of (World Economic Forum, 2014, p.14):

1. Covering at least a quarter of global trade, investment, and services;
2. Including at least two global value chain hubs;
3. Applying broader and deeper features than existing PTA WTO-Plus measures;
4. Incorporating members maintaining multiple PTAs with non-members such as the RoT-EC CU.

The EU and US initiated TTIP negotiations in July 2013 with context-specific goals of increasing economic integration, checking stagnation, and reducing unemployment. The negotiation categories are market access (duties, services and Rules of Origin (RoO)); regulatory standards and other

non-tariff barriers (NTBs); and rules (investment, finance, trade defense instruments (TDIs) and public procurement). Targeted measures relevant to CU-TTIP overlap, either posing challenges for the Republic if a member or representing regime components of interest for a revised CU, are: (1) market entry facilitation as well as tariff and NTB elimination; (2) cross-border regulatory and standards alignment; (3) intellectual property rights alignment; (4) trade in services enhancement; (5) public procurement policy alignment; and (6) dispute settlement including investor-to-state dispute settlement.

The negotiating parties premised the initial TTIP framework on existing or coming next generation FTA templates of the Canadian–EU Trade Agreement, the Trans-Pacific Partnership Agreement (TPP), and the International Services Agreement. Important in terms of Turkish identification of possible TTIP content is the October 2015 completion of TPP negotiations; the public release of, and members' legislative debates regarding, TPP content will offer signals regarding TTIP's direction. That said, TTIP will likely overshadow TPP as the 'biggest bilateral trade and investment negotiation ever undertaken' (European Commission, 2013d) with the resulting trade bloc encompassing 46 per cent of the global economy, 50 per cent of global GDP and 70 per cent of global foreign direct investment. One of the few – and arguably most optimistic – TTIP impact analyses referenced by both negotiating parties identifies notable short and long-term benefits for both parties (Felbermayr, 2013; Francois, 2013).² Short-term benefits include a 28 per cent increase in total trade volume, including a 6 per cent increase in EU and 8 per cent increase in US exports. Regarding TTIP NTB features alone, preliminary assessments suggest that they will reduce 25 per cent of the negotiating parties' barriers (European Commission, 2013b; European Commission 2013c, p. 3) and represent up to 80 per cent of total agreement benefits (Francois, 2013). Long-term benefits include gains of €120 billion for the European and 95 billion Euros for the American economy by 2027, along with the cumulative creation of several million jobs (European Commission, 2013c, p. 2; Francois, 2013).

The negotiating parties intend TTIP to trigger global ripple effects as a laboratory for national and future PTA NTB innovations (European Commission, 2014a). In terms of regulatory NTBs, the parties believe their high thresholds, horizontal as well as vertical alignment, and established processes for future coordinated development will facilitate a global 'regulatory race to the top...' (European Commission, 2013b, p. 2) and offer €100 billion in direct global spillovers from reduced production and export costs (European Commission, 2013c, p. 2). The parties, however, have yet to determine if these global thresholds will be premised on scientific versus precautionary ideological premises and if standard-setting mechanisms will apply harmonization, equivalence, or mutual recognition. In terms of other NTBs, they also intend TTIP to contribute to the homogenization of complicated and highly varied RoOs.

TTIP's slow negotiation progress offers third-party states a strategic window in which to engage the negotiating parties.

The negotiations' closed nature, although standard for PTAs, complicates this engagement. TTIP negotiating parties claim unique transparency in terms of released position papers and routine post-round multi-sectoral stakeholder discussions. What is clear from available information is that potential third-party impact is not a negotiation priority given serious differences between the negotiating parties regarding the controversial issues of: (1) financial services; (2) geographic indicators for food products, conditions of sanitary and phytosanitary measures, identification of genetically modified organisms, and tariff or quota-free agricultural trade; (3) NTB regimes including ideological premises; and (4) reciprocal public procurement systems. The parties' domestic political complications are also limiting their concern for third-party states. These complications include the EU member states' standard divergence of interests as well as the priorities of the parties seizing additional votes in the 2014 European Parliamentary elections and American Congressional debate regarding the Trade Promotion Authority. Together, these differences and domestic political complications do offer an engagement window; however, render TTIP's ambitious TTIP passage deadline, based on the current American administration's final day (20 January 2017), improbable.

Without TTIP content completion or comparative mega-regional agreement implementation, analysis is left to conjecture or high-level theoretical assessments. In terms of the mega-regional PTAs, the trade regime literature is assessing the nature of negotiations and forecasting likely outcomes; addressing issues of negotiation transparency for the international community as well as domestic interests groups; and applying traditional analytical themes to this new agreement generation such as proliferation drivers, WTO-MTIS circumvention, and Vinerian concepts. Important here are suggestions that these institutions will increase global trade and investment homogenization, affect MTIS transparency and predictability (Baldwin, 2006; Bhagwati, 2008; Crawford and Fiorentio, 2005), increase the scope and ambitiousness of subsequent PTA content (World Economic Forum, 2014), and contribute to PTA spaghetti bowl consolidation. This last point is of specific interest to this article, especially as the World Economic Forum's characteristics of mega-regional agreements include that of members maintaining multiple PTAs with states that are not members to the given mega-regional agreement.

This article emphasizes mega-regional agreements' interaction with outdated PTAs, exemplified by the CU-TTIP overlap. In 1992, prior to aggressive preferential regime proliferation, Kowalczyk and Wonnacott argued that the trade regime literature dedicated insufficient attention to PTA overlap. The current application of Bhagwati's spaghetti bowl critique of regime proliferation is central to, but does not fully assess or address, mixed generational regime interaction within the given bowls or PTA hub members' preferential regime proliferation impact on their spoke members (For example, see: De Benedicts et al., 2005). Although the CU-TTIP overlap is a case of multi-generational preferential regime interaction, Turkish commentaries generally focus on the immediate Turkish concerns of this specific interaction.

They overlook: (1) the overlap's relevance to the spaghetti bowl phenomenon; (2) TTIP's impact on other unique third-party outliers Canada, Mexico, Norway and Switzerland; and (3) the long-term trade and investment goals the Republic may achieve with the strategic use of the CU-TTIP overlap's opportunity space.

Strategic use of the CU-TTIP juncture

The CU-TTIP critical juncture was one bound to occur given the trajectory of PTA proliferation, the EU's participation in that trajectory, and the Turkish-European structural relationship maintained by the 20-year-old Union. This structural relationship places the RoT in a precarious position regarding TTIP because it is not a standard TTIP third-party state, an EU-represented state, or an independent TTIP negotiating state. To alter its position regarding TTIP, the RoT must revise its structural relationship within the CU as well as the institution of the Union itself. The Republic's initiation of this revision requires leverage it previously lacked through means including the strategic use of the short-term opportunity space of the overlap's critical juncture, such as the discursive threat of CU withdrawal in direct response to Turkish exclusion from TTIP. Such means, however, come with limitations that require their cautious use.

Turkey's European anchor and hub

The RoT-EC CU was and remains unique among the EC's institutional innovations as the Commission's first attempt to share its legal systems with a non-EU member.³ This institutional innovation dovetailed with the Republic's development strategy by contributing to its transformation from being a factor-driven and labor-intensive economy to being an efficiency-driven, capital-intensive economy. These CU contributions originated from its 1/95 Association Council Decision requiring: (1) the simplification and alignment of the Republic's commercial policy with the EC's Common Commercial Policy; (2) the simplification and harmonization of the Republic's external tariffs and equivalent charges with the European Common External Tariff; (3) adjustments of the Republic's NTBs including the Turkish Customs Authority overhaul, relevant tax alignment, and intellectual property rights (IPRs) as well as industrial and commercial property revisions (Republic of Turkey Ministry of European Affairs, 2007; WTO, 2003; World Bank, 2014b); and (4) progressive adoption of EU commercial policies and preferential arrangements with non-CU states. Other emphasized reforms included the minimization of trade distorting subsidies, the establishment of a Competition Authority, the limitation of state monopolies, and checks on technical barriers to trade (Republic of Turkey Ministry of European Affairs, 2007).

The CU's implementation package included accompanying measures to facilitate the Union's contribution to deeper RoT-EU integration as established by Article 28 of the Ankara Agreement. This article defines the CU as more than a preferential regime in its role as the second, or transitional, of three stages towards the Turkish goal of full

EU membership. For example, the Resolution on Accompanying Measures was to deepen integration of industrial cooperation, consumer protection, telecommunications, agriculture, trans-European networks, etc. Other accompanying measures included Decision 1/98 of the RoT-EC Associational Council and the 1996 RoT-ECSC FTA. The CU, together with these accompanying measures and the Acquis, collectively represent the Turkish-European trade and investment regime that facilitated the Republic's international liberalization driven by its European liberalization. More importantly, this regime extended the CU's nature beyond that of a traditional CU, making the CU-TTIP overlap an outlier among overlapping PTAs.

Although reflecting the special nature of the Turkish-European economic relationship, the CU's innovative singularity introduced an unpredictable institutional trajectory. This included several unintended outcomes detrimental to Turkish-EU economic interactions and continued Turkish economic development. First, in application, CU-based Turkish tariff alignment did not secure universal simplification by introducing relatively complex or specialized mixed, formula-based, and compound duties (WTO, 2003, para. 2). Second, the CU's hub-and-spoke structure perpetuates asymmetrical distributions of power and authority, affecting routine RoT-EC economic relations as well as RoT relations with third-party EU partners. For instance, the RoT is able to apply the already low CU-based MFN rate for industrial and processed agricultural goods to few states due to the depth and breadth of European preferential regimes. The RoT must also observe the highly varied, technical European RoOs (World Bank, 2014b). Third, although the CU did eliminate intra-Union RoOs, it did not prevent trade-limiting discrete origin-based barriers in the form of business visa requirements and logistics quotas. As noted by iKV (Iktisadi Kalkinma Vakfi) members in interviews, primary visa concerns include the sensitive information necessary for applications and Turkish businessmen's dependence on supporting letters from potential European partners. As a step towards Turkish visa-free European travel, the RoT signed a European Readmission Agreement in December 2013 with the Visa Liberalization Dialogue and a related roadmap requiring Turkish repatriation of illegal immigrants. Although Turkish goods primarily enter Europe by truck with one of Europe's largest shipping fleets, they cannot equally compete in Europe given logistics-based quotas that undermine competition, especially in terms of just-in-time logistics demands. Fourth, Turkish goods entering European markets face TDIs⁴ that collectively cost CU members US\$1 billion in merchandise trade (World Bank, 2014b, p. ii), biting into the Union's benefits. The CU's weaknesses also instigate other passive trade-limiting Turkish retaliations such as discriminatory tax measures. Finally, the CU's limited scope excludes important Turkish sectors from Union preferences.

The EC itself defines the CU as outdated given 'its obsolete nature, lack of a dispute settlement mechanisms, and the Turkish side's wish to review the CU which it claims is unduly asymmetrical' (European Commission 2015, p. 2). Other EC-identified CU functional problems relate to CU

design and as institutional implementation such as 'market access and trade irritants, lack of compliance with some basic provisions of the CU (common external tariff, NTBs, export and import restrictions) and constant pressures on the smooth functioning of the CU...' (European Commission 2015, p. 2). Commenting on inter-generational European PTA variation, the European Commissioner for Enlargement stated that the CU is more narrow than the EC's new FTAs (Fule, 2014), with the EC recognizing FTAs as 'deeper and more comprehensive' in nature (European Commission 2015, p. 1, Fule, 2014).

The relevance of these newer PTAs for the Republic is two-fold. First, the CU's outdated nature in comparison to these newer European PTAs diminishes returns on Turkish preferences and minimizes the RoT's prioritization in the European market. Generally, the EC believes the Republic and Europe require 'a more ambitious level of liberalization and integration' (European Commission 2015, p. 2) as modern economies. Second, the Republic is indirectly linked to the EC's 'deeper and more comprehensive' trade agreements by means of the RoT-EC Association Council Decision 1/95 Articles 16 and 54. These articles require full Turkish tariff alignment in CU-relevant sectors with European preferential regimes despite the Republic's exclusion from those regimes' negotiations, membership and benefits. Not only must Turkey align with the EC's existing third-party preferential regimes, but it must also 'negotiate agreements on mutually advantageous basis with the countries concerned' (Decision 1/95 Article 16, paragraph 1). Turkish parallel negotiations cannot easily keep pace of EC FTAs: the EC signed approximately 50 agreements with an additional 20 in progress whereas the RoT signed 19, of which 17 are in force, with approximately 14 in negotiation and 12 planned for future negotiation. The EC's agreement rate will remain constant or increase given stalled WTO negotiations and the European application of FTAs to tap the 90 per cent of increasing global demand from non-European markets (European Commission, 2013a, Introductory Paragraph). The EC discursively supports parallel Turkish FTA development with a Turkey clause in its FTAs, compelling partners to pursue a Turkish FTA. These EC partners, however, do not necessarily observe the clause given rational sovereign calculations as exemplified by South Africa after signing its 2000 EU Trade, Development and Cooperative Agreement. Compounding this FTA concern is the restriction on the Republic from pursuing FTAs with states lacking an EU FTA or for which the EC does not provide at least implicit approval, suggesting why the RoT did not pursue Russian or Azerbaijani FTAs (World Bank, 2014b). Articles 16 and 54 differentiate this from other CUs in that the EC does not need to seek Turkish approval before pursuing its third-party FTAs. These articles were not of great concern in the 1990s given the Republic's desire to avoid participation in Cyprus-related agreements and the unforeseen proliferation trajectory, with the EC maintaining an FTA moratorium in favor of the MTIS until the 2006 EC Global European Act. Despite concerns regarding Articles 16 and 54, the Republic is proving resolute in its pursuit of multiple FTAs with EU FTA part-

ners such as Mexico and Singapore. These negotiations, and the RoT's recent completion of its first next generation FTA, signal the Republic's PTA capacity development associated with this CU element. Turkish ministerial and prime ministerial comments regarding the Republic's intention to complete several East Asian FTAs before the EC in January 2014 represented a discursive assertion of Turkish political will prompted by the TTIP critical juncture.

Despite criticisms noted here, most assessments recognize the CU's initial and continued advantages for the Republic. The World Bank's (2014b) CU assessment clearly defended the extent to which the CU, despite its weaknesses including Article 16 and 54, was far more beneficial for the Republic in terms of rapid post-2002 development than had the parties pursued the option of a 1990s-style FTA (World Bank, 2014b, para. 46–47 and Tables 8–9). Contemporary questions regarding the CU should not lead to the wholesale rejection of the contributions made by its institutional trajectory. Change in institutions' benefits over time are inevitable, as are institutional interactions between dated and new PTA generations. The RoT-EC CU represented a unique institutional innovation established when the Republic possessed less and different negotiation leverage *vis-à-vis* the EC, could not foresee the EC's PTA proliferation, and interpreted the CU as only the transitional step towards full EU membership by 2000. TTIP is, at least for the RoT, a signal for change in the PTAs of its individual spaghetti bowl. However, because the CU-TTIP overlap will potentially exaggerate these unintended CU outcomes, engagement of the CU-TTIP overlap should prioritize CU review if not revision.

Withdrawal discourse

Although both parties clearly understood the CU's limitations for some time, the CU-TTIP juncture prompted the Turkish government to respond with discursive threats of CU withdrawal. Threats included former Turkish Minister of Economy Caglayan's public contemplation of withdrawal on the premise that the Union is 'now working against Turkey' (Staff Writer, 2013). Current Minister Zeybekci continued this discourse in September 2014, stating that the RoT's TTIP exclusion signaled the Union's end and requesting tripartite discussions to finalize the Republic's TTIP inclusion status. The blunt policy option of full CU exit would break the hub-and-spoke structure and, in so doing, its CU-TTIP overlap predicament.

Even if withdrawal is improbable, the discursive threats: (1) signaled that TTIP represented the Republic's final tipping point regarding continued acceptance of the Union's hub-and-spoke structure and (2) elevated long-standing CU criticisms to a point of crisis with an international audience. This elevation provided greater leverage than the Republic possessed during the CU's formation or at any time prior to 2013. Even if useful for these reasons, withdrawal threats represent a high-risk strategy for three reasons. First, the threat's legitimacy and therefore its leverage has a short shelf-life before action must be taken or credibility lost. Second, CU withdrawal raises technical concerns including the

establishment of an alternative arrangement that increases the CU's benefits and minimizes its costs. The most likely alternative would be a next-generation RoT-EU FTA, although the Republic has successfully completed only one such agreement to date. These FTAs cover trade in goods and services, investment mechanisms, competition policies, public procurement, intellectual property rights and dispute settlement mechanisms. This option also frees the Republic to independently pursue PTAs without the EU's permission, requires less regulatory or other policy alignment, and offers relatively flexible negotiation templates.⁵ That said, such an FTA would minimize Turkish-European trade volume by reintroducing RoOs, tariffs, and related protections to their exchanges (World Bank, 2014b, para. 46–47).

Of equal concern, such an agreement would limit the uniqueness of the Turkish-EU relationship, making it equal to other European FTAs. Third, withdrawal would weaken global confidence in the Turkish market, leading to decreased growth prospects and credit worthiness as well as prompting increased investor hesitancy. Even continued withdrawal threats are problematic, sending mixed signals in terms of the Republic's intentionality behind its political discourse and the trajectory of its EU alignment. Simultaneously with its 2014 withdrawal threats, the Republic named 2014 the Year of the EU and introduced the New EU Strategy (RoT Ministry for EU Affairs, 2014). The EC already believes the RoT is determined to 'remain anchored to the European economy as its main vector for economic growth' (European Commission, 2015, p. 2) despite its threats because: (1) the Republic is unlikely to take a step backwards in the Ankara Agreement and (2) the Republic still depends on Europe as its economic anchor, regardless of increased Turkish market diversification or European trade and investment variation.

Once CU withdrawal is off the table, revision or a close CU supplement becomes necessary. CU revision is not novel. Past attempts to update the CU, at least in relationship to trade in services and public procurement, failed (European Commission, 2015, Context, p. 1). The EC has suggested that a contemporary attempt may prove successful given the Republic's post-2013 maturation regarding the Union (European Commission, 2015, Context, p. 1), although it has not referenced factors of that evolution such as the post-2012 Positive Agenda or TTIP's tipping-point. This perceived maturation facilitates what the EC describes as contexts in which to:

...contemplate the enhancement of bilateral trade relations, alongside consideration of some EU and Turkish concerns related to the functioning of the CU, such as Turkey's situation with regard to the FTAs concluded by the EU with third countries and the absence of an efficient and operational dispute settlement mechanism (European Commission, 2015, Context, p. 1).

The Commission also holds out a discursive carrot regarding TTIP in that a broader and deeper CU, coupled with other developments of EU-Turkey bilateral trade relations, would support Turkish reforms facilitating entry into 'challenging trade deals such as TTIP' (European Commission, 2015, Context, p. 1). Despite discursive nods to the Republic, the EC also critiques the Republic's observance of current CU components and warns that it must maintain or improve CU observance during CU review and possible revision processes. These critiques enable the EC to rebalance the leverage gained by the RoT in the CU-TTIP juncture.

The EC, drawn into CU review and possible revision in part by the CU-TTIP overlap, currently dominates the initial

Table 1. European Commission, 2015, Part B. Option Mapping, pp.3-4

No.	Option	EC opinion
1	Maintain the status quo	Unlikely given the economic and relational losses of lost opportunities, diminished political relations, reduced compliance and weakened relationship with new trade and investment contexts
2	Modernize the CU by amending Decision 1/95 without changing its fundamental scope	Possible given its likely ability 'to allow a smoother, wider and more beneficial implementation of the CU', but requiring a 'comprehensive package deal' (European Commission 2015, Part B. Option Mapping)
3	Revise RoT-EU economic relations paralleling EU next generation FTAs by means of a new Association Council Decision or Association Agreement Protocol applying treaty-making procedures of Treaty on the Functioning of the EU (TFEU) Articles 217 and 218	Possible given its contribution of at least threshold gains for each party
4	Combine the modernization and full revision options by adapting Decision 1/95 and establishing a new Association Council Decision or an Association Agreement	Possible if capturing necessary changes without backtracking on accession
5	Replace the CU with a next generation FTA including adaptations of the Association Agreement	Unlikely according to EC preference given its indication of backtracking from accession-oriented RoT-EU relations as well as its transaction costs related to mechanisms including RoOs, etc.

process in terms of the foundational policy research. An EC-established senior working group has already recommended focus on services, public procurement, agricultural liberalization and general development. In August 2015, the Commission identified five options as a part of its inception impact assessment initiative 'Enhancement of EU-Turkey Trade Relations and Modernization of the EU-Turkey Bilateral Trade Relations and Modernization of the EU-Turkey Customs Union.' Table 1 shows these options and the related EC evaluations.

The extent to which the RoT may or will shape the above options, or otherwise reassume some discursive leverage from its initial CU withdrawal threats, has yet to be determined. At this stage, the Republic needs to apply more detailed coordinative and communicative language with a clear, researched strategy exemplified by such tools as policy documents paralleling those of the CU. The Republic must also determine the specific development goals – especially those related to Vision 2023 – it intends CU revision to support, just as the original CU supported Turkish liberalization of the 1990s.

Sequential Turkish TTIP engagement

The trade regime literature is relatively silent on individual states' strategic sequencing of engagement regarding their particular set of overlapping preferential regimes represented here by the CU-TTIP juncture. This article prioritizes the Republic's long-term interests of CU review and revision over the short-term interest in immediate TTIP inclusion. However, it also recommends that the Republic establish a TTIP engagement strategy beyond threatened CU withdrawal. This strategy must be customized for the circumscribed spaghetti bowl in which the Republic finds itself given its CU membership. This CU-based bowl includes five existing or potential trade and investment platforms: (1) the CU as the foundational platform; (2) the CU-TTIP overlap; (3) the EC FTAs relevant to the RoT based upon CU Articles 16 and 54; (4) pending EU accession of the Acquis; and (5) a potential RoT-US FTA as well as existing coordinative institutions such as the Turkish-American High-Level Committee (HLC). These platforms, although related to independent institutions, are interrelated for the Republic and so must be collectively addressed.

To date, the Republic has failed to achieve its TTIP engagement strategy of full, original TTIP inclusion even though Turkish officials and business organizations actively lobbied both the EC and the USTR. The parties premised their rejections on the fact that the Republic is neither an EU member nor represented by the EC in preferential regime negotiations. The RoT, which cannot force its inclusion, continues to lobby by means of uncoordinated actions on the part of government entities and business associations. Even if Turkish lobbying proves successful, the Republic will then confront the concerning issue regarding its capacity to enter and implement the ambitious components of TTIP, especially given the EC's existing concern regarding the Republic's inability to fully implement all components of

the outdated CU. As suggested by the EC, CU revision may assist the RoT's transition towards EU accession as well as TTIP membership. To fully maximize this transitional step, the RoT must guide every step of CU review and potential revision with its potential PTA interactions in mind by the current mid-2016 target.

In addition to lobbying, Turkey requires diverse strategic options that are: (1) carefully tailored to its unique trade and investment relationship with each of the negotiating parties and (2) interrelated to gain leverage between strategies. For example, discursive CU withdrawal threats *vis-à-vis* the CU-TTIP overlap offers the Republic effective leverage over the EC only until the EC agrees to the review and possible revision processes; however, completed CU review then provides the RoT with possible entry leverage *vis-à-vis* TTIP.

In terms of carefully tailored strategies, the CU does provide the RoT with institutionalized interfaces such as the CU Commission. These interfaces do not provide the RoT with unique TTIP negotiation information. The Republic lacks representation in EU FTA negotiating teams or relevant working groups. The EC does brief the RoT on TTIP negotiation progress following each round, the 10th of which negotiating parties completed in July 2015, although Turkish representatives had to be prepared with specific questions for specific European responses. The Republic will not access any additional TTIP information during the CU review and revision process, although Union revision may include mechanisms for inclusion in, or more information regarding, those negotiations.

Turkish engagement with the US obviously followed a different trajectory. This trajectory began with traditional diplomatic overtures including high-level symbolic gestures such as a letter from the former prime minister and current President Erdogan to his American counterpart. Turkish business associations also engaged American representatives, usually independently, exemplified by the Turkish Exporter's Assembly's RoT-US FTA impact analysis and the Turkish Industry and Business Association's mobilization of its Washington, DC branch. In terms of an institutional interface, the US and RoT established the HLC during Erdogan's May 2013 US visit as an extension of the 2009 US-RoT Framework for Strategic Economic Commercial Cooperation. US comments from November 2014 suggested that the RoT should build-out this initial institutional interface, unique for a third-party TTIP state, before full, immediate TTIP membership.

If it cannot achieve full TTIP inclusion and is still bound to CU Articles 16 and 54, the RoT must then pursue TTIP docking. Docking allows states to enter into a completed PTA regime without altering original agreement content excepting market access and other specific entrant terms. Communicative Turkish discourse defined docking as unacceptable in 2013. It is now of greater interest because, if the RoT does not withdraw from an unrevised CU, it must either dock into TTIP or establish a parallel FTA with the US. Analysis of the docking option desperately requires relevant comparative case studies but, unfortunately, there are no such

mega-regional docking examples to date. Turkish TTIP commentaries always refer to Japan's TPP membership first slated to be implemented by means of docking. This example is irrelevant given TPP's status, Japan's subsequent full TPP inclusion, the different orientation of TPP from TTIP in terms of membership expansion, and the Japanese-TPP case's lack of sufficient comparability. Commentators and the RoT might draw circumscribed examples from the US-driven docking of the Dominican Republic to the 2004 Central America Free Trade Agreement (CAFTA) (US Senate Committee on Finance, 2004), although the USTR and EC enjoy equal leverage (Akhtar and Jones, 2014, p.6) internal TTIP dynamics differ from US-dominated CAFTA dynamics. The RoT must also be cautious regarding docking for two reasons. First, docking theoretically establishes asymmetrical power relations between original and docked members. Second, docking requires full buy-in of the original members during their closed negotiations, meaning the RoT cannot unilaterally pursue this option. The RoT must then apply for entry and be accepted according to the given docking provision.

If excluded from original or docked TTIP membership, the RoT must pursue parallel negotiation of a US FTA. Such negotiations would represent a requirement, not a strategy, without revision of CU Article 16 and 54. Although a requirement, this FTA would offer the Republic direct and indirect benefits. Direct benefits include lower tariffs for certain product lines, especially apparel and autos, although the RoT would need extensive sector-specific data and impact analyses to secure such benefits. NTB alignment may also be beneficial, such as regulatory alignment relevant to automotive components and machine parts. That said, NTBs related to IPRs, good manufacturing practices, certain procedures for processed agriculture products and public procurement may be more challenging, exemplified by the 2010 Turkish application of strict Sanitary and Phytosanitary Standards (SPS) biotechnology regulations *vis-à-vis* Turkish imports of American cotton and animal feed. Such alignments would limit Turkish regulatory control but prompt NTB reforms that may serve as a bridge to Acquis-compliant regulatory reforms. Finally, this FTA would indirectly reduce the RoT's dependence on its European anchor by: (1) building on a pre-existing market-based niche played by the US in the Republic's first waves of industrialization and its initial export-oriented development strategy and (2) complementing the post-2008 Turkish market diversification strategy related to the 2011 Dış Ekonomik İlişkiler Kurulu (DEİK) / Foreign Economic Relations Board (DEİK) -created US export diversification strategy.

Conflicting with positive discourses regarding a Turkish-American FTA, both parties have already sought to increase their negotiation leverage by means including strategic TDI engagement of relevant export industries.⁶ The next step requires that the parties develop a strategic document outlining engagement steps. The RoT has submitted a proposal yet the US has not yet engaged with it. The RoT's work towards a revised CU may, however, alter the US interest in a Turkish FTA. This revised CU is a remote possibility until at

least mid-2016, placing a US FTA in the more distant future. In the interim, the Republic should conduct a comparative case review and impact analysis of the RoT-South Korean FTA, its first next generation agreement with a major economy; unfortunately, the South Korean institution is not yet fully implemented. The Republic should also assess the Turkish use of the General Systems of Preferences, renewed with the TPA, as well as any other such mechanisms to supplement for direct TTIP engagement until an FTA is established.

Consolidating the Turkish spaghetti bowl

Technical and theoretical trade regime assessments have identified TTIP as representing, among other things, a potential consolidating mechanism for PTA proliferation, or the spaghetti bowl phenomenon. Although the spaghetti bowl serves the trade regime literature as a generalized image for the widespread proliferation phenomenon, this article examined it from the perspective of the RoT as an individual state trapped in a set of PTAs given the asymmetrical structure of its unique, outdated CU. The CU-TTIP overlap case exemplifies the need to unpack the specific relationships between involved PTAs in terms of their institutional trajectories' relationships. In the case of the CU-TTIP overlap, the institutional trajectories of all involved PTAs must be considered, both those in which the RoT is a direct member as well as those to which the Republic is bound by CU Articles 16 and 54. The case also exemplifies the need to carefully assess what is meant by PTA consolidation, how to identify the specific institution to serve as a consolidating mechanism for each specific spaghetti bowl, and why it is necessary to differentiate short and long-term goals of specific states' *vis-à-vis* each PTA of the given spaghetti bowl as well as the general process of consolidation. In the case of the Republic's spaghetti bowl, the CU as opposed to TTIP is the consolidation mechanism. It became this mechanism with its review and possible revision, although TTIP's negotiation established the critical juncture for that review.

As previously noted, the CU is a singular, innovative institution established in the 1990s. Its origins and development, which reflects the Republic's unique economic relationship with the EU, introduces unpredictability into its institutional trajectory. Although this unpredictability has represented a handicap for the RoT, it makes the CU-TTIP overlap an opportunity for strategic Turkish action regarding CU review and revision. The Republic must maintain at least a balanced say relative to the EC in these coming processes. Because the RoT's leverage from its withdrawal discourse was expended on reaching this initial commitment for Union review and possible revision, it must re-establish a degree of this leverage by means of a response policy paralleling that of the EC's August 2015 CU assessment.

Intimately related to the CU and extensively examined by the Republic's large cadre of Europeanists is the issue of EU accession, which this article included as a relevant platform. Although the CU underlies the Turkish PTA spaghetti bowl and its potential consolidation, EU accession is the CU's

fundamental goal as stated in the Union's Article 28. For this reason, the RoT must coordinate CU review and possible revision with the Acquis' nine economic chapters, one of which includes the CU and several of which are currently suspended. Attention to these nine chapters requires the Republic to focus on domestic economic policy. As found by the EC in the 2014 *Turkey Progress Report*, 'the consensus on economic policy essentials has apparently weakened' (European Commission, 2014b, p. 20). This weakening is relevant to the Republic's struggle with its current account deficit, dependence on consumer spending, unconventional central bank policy decisions, stalled price liberalization, and inflation issues (European Commission, 2014b). The RoT also struggles with veterinary standards, food safety and other phytosanitary policies, state aid applications, and public procurement reform (European Commission, 2014b, pp. 26–27 and 35). By addressing these and related weaknesses in addition to CU revision, the RoT will increase its capacity regarding entry into next generation FTAs with partners such as the US as well as advance its accession and prepare it to enter a mega-regional PTA.

Notes

1. This article was written prior to the completion of the TPP and the initiation of RoT-EU discussions regarding potential CU revision.
2. This article references the EC-commissioned Francois (2013) study of the Center for Economic Policy Research, which applied a standard computable general equilibrium model with varying levels of economic assumptions. Capaldo's (2014) study, applying the UN Global Policy model, offers rival estimates.
3. The Republic's CU was followed by only three additional unions with Andorra, Monaco and San Marino.
4. The EC launched seven TDIs against the RoT between 2004 and 2014, two of which occurred in 2014 representing one-eighth of the year's applied European defense instruments.
5. This negotiation includes both a Framework and a Trade in Goods Agreement with the former composed of services, investments, and all other agreements selected by the negotiating parties.
6. Prusa and Durling provide a multi-country analysis of strategic TDI application, especially by developed states, in the hot-rolled steel sector (2004).

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