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Miscalculation and Mrs. Clinton: Why The Trans-Pacific Partnership May Be Trans-Presidential, Too

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Two months after negotiators reached a deal six years in the making, the Trans-Pacific Partnership is in trouble. Prospects for ratification of *this* deal by *this* Congress appear to be somewhere between questionable and doubtful. That could change in the months ahead, but if the TPP spills over to the next Congress and administration – with all of the uncertainty that portends – President Obama will have his own miscalculations to blame. That and Hillary Clinton.

Merely hours after the administration published the TPP's 5,000-plus pages of text last month, the speed readers at K Street's labor and environmental lobbies were proclaiming the deal "even worse" than expected. Endorsements by business groups have been few and far between, while criticism of the deal on Capitol Hill has been abundant and bipartisan. Meanwhile, likely 2016 Democratic presidential nominee Hillary Clinton, an architect and champion of the TPP as President Obama's Secretary of State, recently concluded, "I can't support this agreement."

The TPP is a victim of bad strategy, poor execution, and excessive hubris. How else to characterize a trade deal that instantly offends the Senate Majority Leader and the Finance Committee Chairman – arguably, the two people whose support is most critical to TPP's ratification? President Obama deserves much of the blame, although he was dealt a bad hand at the outset.

For economic and foreign policy reasons, trade liberalization has long been embraced by the occupant of the White House, regardless of political party. From the end of World War II until the early 1990s, there was broad bipartisan support for trade liberalization in the U.S. Congress, as well. During that period, eight successful rounds of multilateral liberalization were agreed under the auspices of the General Agreement of Tariffs and Trade (GATT) and ratified by Democratic and Republican congresses.

Triggered by the national debate over the North American Free Trade Agreement, the bipartisan pro-trade consensus began to break down in the early 1990s. Congressional Democrats – increasingly beholden to organized labor – started peeling off in opposition to the trade agenda. By 1998, Democrats had all but totally rejected trade agreements, when they voted

overwhelmingly against renewing fast track trade negotiating authority for their own president, Bill Clinton.

The mood only worsened over the ensuing decade, so when President Obama took office in 2009, congressional Democrats were more rabidly anti-trade than ever before. They had succeeded in derailing the last two years of the Bush administration's trade agenda, stranding three completed bilateral agreements with Colombia, Panama, and South Korea. So, later that year, it was difficult to take President Obama seriously when he announced his intention to pursue a Trans-Pacific Partnership agreement. After all, he had shown no willingness to shepherd the stranded bilateral deals through Congress, which would have to be ratified before any subsequent negotiating partner would be willing to enter a new trade agreement with the United States. The president seemed to want to avoid making waves with then-House Speaker Nancy Pelosi and then-Senate Majority Leader Harry Reid, who reminded him that trade was an issue that divided congressional Democrats and united Republicans, so better to just avoid the subject. Ratification of the TPP is in doubt today because the president religiously heeded that advice for six years.

For six years, as the TPP negotiations were progressing, the president said little about the benefits of trade and the importance of the TPP. He refused to engage congressional leadership about renewing trade promotion authority. So averse was the president to making an affirmative case for his trade agenda that he convinced himself that he could quietly conclude the TPP, show it to Congress, and by virtue of its awesomeness be granted trade promotion authority without so much as a debate. On the rare occasions when he spoke publicly on the topic, it was to reinforce popular myths that trade is a zero sum contest between Team America and Team China, that it was imperative that the United States beat China at the game, and that the way to "win" was to write the 21st century's trade rules before China did. That, sadly, has been the substance of the president's TPP pitch.

It is apparent that the president underestimated what it would take to win support for trade liberalization. The inadequacy of his outreach efforts was reflected in the paucity of Democratic support for trade promotion authority last June, when only 28 House Democrats voted to grant TPA to the president. That outcome convinced the president to defy recent history and avoid the path of least resistance, which was to focus on securing more easily attainable Republican votes, in favor of winning more support from fellow Democrats for eventual TPP ratification.

That was a gamble that President Obama probably had to take. It is one thing for a Republican president to work exclusively with a Republican majority in Congress over the objections of Democrats – which is how the Bush administration succeeded in securing ratification of the numerous trade agreements it concluded – but quite another for a Democratic president to shun his party and reject its orthodoxy, wrong-headed as it may be.

So far, the president's efforts to woo Democrats have backfired. His aversion to making a comprehensive moral and economic argument for TPP, focusing instead on the deal's "progressive" features – enforceable labor and environmental provisions, anti-tobacco provisions, limitations on intellectual property protection for pharmaceutical products – has attracted fewer Democrats than it has repelled Republicans. That formula begs for failure, or at least deferral, of TPP ratification.

Ironically, the one person who can deliver the TPP for President Obama is Hillary Clinton. Yes, she recently registered her opposition, but everyone knows that's a position erected on a foundation of sand. A TPP endorsement from Clinton, with the right economic message, would deliver dozens, perhaps scores, of congressional Democrats, who understand that a majority of registered Democratic voters supports trade liberalization and embraces globalization, that registered Democrats are now more likely than registered Republicans to hold pro-trade views, and that their political future is on the rational side of the economic schism that is dividing the Democratic Party.

The problem for Obama is that Clinton knows that she is likely to be the primary beneficiary of a deferred TPP ratification vote. If this Congress rejects or fails to consider TPP ratification, the next president will have the opportunity to reopen and renegotiate the deal, tweaking the terms enough to claim ownership and secure a trade legacy. Clinton is banking on this outcome. Obama should call her out.

Forthcoming events, such as publication of the U.S. International Trade Commission's TPP economic impact study, a congressional vote on the so-called Customs Bill, primary elections, and congressional horse trading will affect prospects for TPP ratification in 2016. But if the president really wants to get TPP done on his watch, putting the pressure on Hillary Clinton to come clean now, and emphasizing her hypocrisy and duplicity if she doesn't, is the strategy most likely to deliver the goods.

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