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**FREE-TRADE AGREEMENT NEGOTIATIONS:
TRANS-PACIFIC PARTNERSHIP
AND TRANSATLANTIC TRADE
AND INVESTMENT PARTNERSHIP²**

ABSTRACT

Negotiations are currently underway on the creation of two regional free-trade agreements. First agreement The Trans-Pacific Partnership (TPP) is negotiating between United States and 11 countries throughout the Asia-Pacific region including Japan. Second one is an agreement between the United States and European Union also called Transatlantic Trade and Investment Partnership (TTIP) or sometimes Transatlantic Free Trade Area (TAFTA). The both negotiations initiated by the United States are very ambitious, comprehensive and should provide new market access.

When these negotiations are finalized the emerging agreements will have a major impact on international trade. This impact will be felt not only in the member countries of free trade agreements, but will also have an indirect impact on the countries that are outside of the newly formed regional agreements.

Key words: Japan, European Union, United States, free-trade agreements, TPP, TTIP.

The Trans-Pacific Partnership

Most trade agreements are bilateral, giving rise to an increasingly complex regime of different trade regulations. Critics argue that these overlapping regional

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trade regimes make international trade more complex and undermine World Trade Organization non-discrimination principles. However, proponents of regional trade agreements say they can lay the groundwork for future multilateral trade rules. Moreover, discrimination against non-parties can be reduced if the agreements are open and parties allow accession by third parties to existing agreements. Such enlargement and consolidation of existing agreements is happening to some degree in new negotiations such as the Trans-Pacific Partnership Agreement between 12 parties, most of which already have bilateral regional trade agreements with each other.³

The Trans-Pacific Partnership (TPP) is free-trade agreement that is being negotiated between United States and 11 other countries throughout the Asia-Pacific region (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam). The US plan for TPP is that it will provide new market access for made-in-America goods and services, strong and enforceable labor standards and environmental commitments, groundbreaking new rules on state-owned enterprises, a robust and balanced intellectual property rights framework, and a thriving digital economy. TPP will unlock opportunities for American workers, families, businesses, farmers, and ranchers by providing increased access to some of the fastest growing markets in the world. It will also include commitments that will improve the transparency and consistency of the regulatory environment to make it easier for small and medium-sized businesses to operate across the region.⁴ Trans-Pacific Partnership is a high priority for US and for the region.

The agreement began in 2005 as the Trans-Pacific Strategic Partnership Agreement (TPSEP or P4). Member countries set the goal of finishing negotiations in 2012, but contentious issues such as agriculture, intellectual property, services and investments have caused negotiations to continue into the present, with the last meeting in November 10, 2014. The negotiations to set up the TPSEP initially included three countries (Chile, New Zealand and Singapore), and Brunei subsequently joined the agreement. In January 2008, the US agreed to enter into talks with the Pacific 4 (P4) members regarding trade liberalization in financial services. On September 2008, US Trade Representative Susan C. Schwab announced that the US would begin negotiations with the P4 countries

³ World Trade Organization, Annual Report 2014, p. 67.

⁴ Office of the United States Trade Representative , Executive Office of the President, „Trans-Pacific Partnership (TPP)“, Internet, <http://www.ustr.gov/tpp>, 14/10/2014.

to join the TPP, with the first round of talks in early 2009. In November 2008, Australia, Vietnam, and Peru announced that they would join the P4 trade bloc. In October 2010, Malaysia announced that it had also joined the TPP negotiations (see table 1). In June 2012, Canada and Mexico announced that they were joining the TPP negotiations. Mexico's interest in joining was initially met with concern among TPP negotiators about its customs policies. In 2010, Canada had become an observer in the TPP talks, and expressed interest in officially joining, but was not committed to join, purportedly because the US and New Zealand blocked it due to concerns over Canadian agricultural policy (i.e. supply management, specifically dairy) and intellectual property-rights protection. Canada and Mexico formally became TPP negotiating participants in October 2012, following completion of the domestic consultation periods of the other nine members.

Of the 12 TPP countries, Japan is the most recent to join the negotiations. Japan officially joined the TPP negotiations on July 23, 2013. Japan's membership in the TPP with the United States would constitute a de facto US-Japan free-trade agreement.⁵ Prime Minister Abe Shinzo decision to commit Japan to joining the TPP should be understood as a necessary complement to his efforts to stimulate the Japanese economy with monetary easing and the related depreciation of the Yen. These efforts alone, without the type of economic reform the TPP will lead to, are unlikely to produce long-term improvements in Japan's growth prospects. Before Japan entered TPP negotiations in July 2013, it was reported that it would allow the US to continue imposing tariffs on Japanese vehicles, despite a „major premise of the TPP is to eliminate all tariffs in principle.“ Japan is compromising on auto tariffs because Tokyo wants to maintain tariffs on various agricultural products. Many fear that Tokyo will be more focused on protecting certain economic sectors than pushing for the deregulation and market opening that the TPP is supposed to provide.⁶

The TPP is the leading US trade policy initiative of the Obama Administration and a pillar of its efforts to “rebalance” US foreign policy priorities toward the Asia-Pacific region by playing a more active role in shaping the region's rules and norms. As the second-largest economy in Asia, the third-largest economy in the world, and a key link in the global supply chain, Japan's participation is pivotal to

⁵ William H. Cooper, Mark E. Manyin, Japan Joins the Trans-Pacific Partnership: What Are the Implications?, Congressional Research Service, August 13, 2013, p. 1.

⁶ Ralph A. Cossa , Brad Glosserman, Regional Overview: US Rebalance Continues Despite Distractions, Comparative Connections A Triannual E-Journal on East Asian Bilateral Relations, September 2013, p. 4.

the credibility and viability of the TPP as a regional trade arrangement. The inclusion of Japan will expand the amount of US trade and foreign investment that the TPP would cover if implemented.⁷ The Trans-Pacific is the fastest-growing, most populous, economically most dynamic region in the world. If partnership is finalized a deal would be both ambitious and comprehensive.

Table 1: Trans-Pacific Partnership negotiating countries

Country	Status
Australia	TPP negotiations from 2008
Brunei	P4 original signatory, 2005
Canada	observer 2010, TPP negotiations from 2012
Chile	P4 original signatory, 2005
Japan	TPP negotiations from 2013
Malaysia	TPP negotiations from 2010
Mexico	TPP negotiations from 2012
New Zealand	P4 original signatory, 2005
Peru	TPP negotiations from 2008
Singapore	P4 original signatory, 2005
United States	TPP negotiations from 2008
Vietnam	TPP negotiations from 2008

Countries that announced interest in joining: South Korea, Taiwan, Philippines, Laos, Colombia, Thailand and Indonesia. China, Cambodia, Bangladesh and India

The size and complexity of the negotiations and prospective free-trade agreement, covering a broad range of traditional and contemporary trade issues, make it hard to follow the progress in the talks. Like most international negotiations, the working drafts are classified and usually not available for public review.⁸ Before everything else this negotiations aim to substantially reduce barriers to trade and investment of goods and services. They cover traditional and new issues in trade and investment and upon final success promises to set a

⁷ William H. Cooper, Mark E. Manyin, Japan Joins the Trans-Pacific Partnership: What Are the Implications?, Congressional Research Service, August 13, 2013, p. 2.

⁸ Schott, Jeffrey J., Muir, Julia, Kotschwar, Barbara.; Understanding the Trans-Pacific Partnership, 2012. Peterson Institute For International Economics, p. 1.

new standard in rulemaking obligations. If successful it will make changes in areas such as intellectual property rights, investor-state dispute settlement provisions, and liberalization of border and regulatory barriers that distort trade and investment in agriculture, manufactures, and services.

The Trans-Pacific Partnership is expected to evolve into a major integration arrangement covering most of the members of the Asia Pacific Economic Cooperation (APEC) forum.⁹ The final chapters look ahead to how the TPP could advance economic integration and how China might participate later this decade. But the most fundamental challenge for the TPP project regarding China is that „it may not constitute a powerful enough enticement to propel China to sign on to these new standards on trade and investment. China so far has reacted by accelerating its own trade initiatives in Asia.“¹⁰

Global health professionals, internet freedom activists, environmentalists, organized labor, advocacy groups, and elected officials have criticized and protested the negotiations, in large part because of the proceedings' secrecy, the agreement's expansive scope, and controversial clauses in drafts leaked publicly. TPP covers a wide range of issues, but The TPP suffers from a serious lack of transparency, threatens to impose more stringent copyright without public input, and pressures foreign governments to adopt unbalanced laws. The Trans-Pacific Partnership is a secretive, multi-national trade agreement that threatens to extend restrictive intellectual property (IP) laws across the globe and rewrite international rules on its enforcement. The main problems are two-fold: (1) IP chapter: Leaked draft texts of the agreement show that the IP chapter would have extensive negative ramifications for users' freedom of speech, right to privacy and due process, and hinder peoples' abilities to innovate. (2) Lack of transparency: The entire process has shut out multi-stakeholder participation and is shrouded in secrecy.¹¹ The leaked Intellectual Property Rights Chapter is perhaps the most controversial chapter of the TPP due to its wide-ranging effects on medicines, publishers, internet services, civil liberties and biological patents. Significantly,

⁹ Schott, Jeffrey J., Muir, Julia, Kotschwar, Barbara.; *Understanding the Trans-Pacific Partnership*, 2012. Peterson Institute For International Economics, p. 1.

¹⁰ Mireya Solís, *The Containment Fallacy: China and the TPP*, Brookings Institute, Internet, <http://www.brookings.edu/blogs/up-front/posts/2013/05/24-china-transpacific-partnership-solis>, 28/11/2014.

¹¹ Electronic Frontier Fundation, *Trans-Pacific Partnership Agreement*, Internet, <https://www.eff.org/issues/tpp>, 12/10/2014.

the released text includes the negotiation positions and disagreements between all 12 prospective member states.¹²

The Transatlantic Trade and Investment Partnership

The Transatlantic Trade and Investment Partnership (TTIP) or sometimes Transatlantic Free Trade Area (TAFTA) is a proposed free-trade agreement and it is being negotiated between the European Union and the United States. It is supposed to be an ambitious, comprehensive, and high-standard trade and investment agreement. United States intention is to help unlock opportunity for American families, workers, businesses, farmers and ranchers through increased access to European markets for made-in-America goods and services. This will help to promote US international competitiveness, jobs and growth. For the EU this agreement could result in millions of euros of savings to companies and create hundreds of thousands of jobs. According to the an independent report it's expected that every year an average European household would gain €545, as EU economy would be boosted by 0.5% of GDP, or €120 billion annually, once fully implemented.¹³ The US and EU economies are two of the most modern, most developed, and most committed to high standards of consumer protection in the world. TTIP aims to bolster that already strong relationship in a way that will help boost economic growth and add to the more than 13 million American and EU jobs already supported by transatlantic trade and investment. TTIP will be a cutting edge agreement aimed at providing greater compatibility and transparency in trade and investment regulation, while maintaining high levels of health, safety, and environmental protection. TTIP presents an extraordinary opportunity to strengthen the bond between vital strategic and economic partners.¹⁴

The Transatlantic Trade and Investment Partnership aims at removing trade barriers in a wide range of economic sectors to make it easier to buy and sell goods and services between the EU and the US. On top of cutting tariffs across

¹² Public Knowledge, The Trans-Pacific Partnership Agreement Internet, <http://tppinfo.org/>, 5/10/2014.

¹³ Joseph Francois (project leader), Reducing Transatlantic Barriers to Trade and Investment An Economic Assessment, Centre for Economic Policy Research, London, prepared for the European Commission under implementing Framework Contract TRADE10/A2/A16, 2013.

¹⁴ Office of the United States Trade Representative , Executive Office of the President, „Transatlantic Trade and Investment Partnership (T-TIP)“, Internet, <http://www.ustr.gov/ttip>, 25/10/2014.

all sectors, the EU and the US want to tackle barriers behind the customs border – such as differences in technical regulations, standards and approval procedures. These often cost unnecessary time and money for companies who want to sell their products on both markets. For example, when a car is approved as safe in the EU, it has to undergo a new approval procedure in the US even though the safety standards are similar. The TTIP negotiations will also look at opening both markets for services, investment, and public procurement. They could also shape global rules on trade.¹⁵

On the first round of TTIP negotiations (see table 2) the negotiating groups discussed investment, government procurement, cross-border services, textiles, rules of origin, energy and raw materials and legal issues, sanitary and phytosanitary measures, market access and industrial goods. The negotiating groups are also formed for talks on labor and environment, regulatory issues, e-commerce and telecommunications, intellectual property rights, and small and medium-sized enterprises. Other negotiating groups are responsible for the following areas: agricultural market access, investment, dispute settlement, the environment, financial services, competition, customs/trade facilitation, and state-owned enterprises. The first round of negotiations provided the opportunity to explore key issues that two sides expected to address in a comprehensive negotiation, and to identify areas of convergence and divergence.

Second round of TTIP negotiations was devoted to discussions on investment rules and trade in services, a range of regulatory issues, including regulatory coherence, technical barriers to trade, and sectorial approaches, as well as energy and raw materials, and on sanitary and phytosanitary measures and other topics. While the beginning of the negotiations were devoted entirely to talks on services and investment, negotiating groups in the regulatory area also began their meetings, starting with discussion of sectorial regulatory issues. These were followed by negotiations on regulatory coherence and on energy and raw materials. This second round has enabled negotiators to probe more deeply into US and EU respective approaches to specific trade and investment issues, and discuss areas of potential convergence in greater detail, including with respect to services, investment, and regulatory issues. (Table 2)

Third round of negotiations were over services, government procurement, energy and raw materials, market access, competition, trade facilitation,

¹⁵ European Commission, „What is the Transatlantic Trade and Investment Partnership (TTIP)?“, Internet, <http://ec.europa.eu/trade/policy/in-focus/ttip/about-ttip/>, 25/10/2014.

Table 2: TTIP Negotiating Rounds, Timetable

No	Place	Date
Round 1	Washington, D.C.	July 8–12, 2013
Round 2	Brussels, Belgium	November 11–15, 2013
Round 3	Washington, D.C.	December 16–20, 2013
Round 4	Brussels, Belgium	March 10–14, 2014
Round 5	Arlington, VA	May 19–23, 2014

Source: According to the data from Internet, <http://www.ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership/readouts>, 28/11/2014

investment, environment, technical barriers to trade, sanitary and phytosanitary barriers, intellectual property rights, labor and trade issues, textiles, small and medium-sized enterprises, regulatory coherence, and sectorial regulatory approaches. US and EU negotiators shared information with and heard viewpoints from more than 350 stakeholders from environmental, consumer, and other non-governmental organizations, labor unions, business, and academia. That was an opportunity to provide negotiators with valuable feedback on negotiating objectives for TTIP.

In Brussels on the fourth round of negotiations on a new EU-US trade and investment agreement, the Transatlantic Trade and Investment Partnership negotiators work has been focused on: services, labor, rules of origin, intellectual property, and regulatory sectors. The fifth round of negotiations on a Transatlantic Trade and Investment Partnership agreement focused on regulatory coherence, intellectual property rights, labor, and certain sectorial regulatory areas. Additional groups were negotiating on services and investment, technical barriers to trade, agricultural market access, and rules of origin. More than 300 individuals participated in a public forum during the fifth round. The presentations addressed a cross-section of issues including the benefits of harmonized regulations to the US and EU auto industry, the priorities of family farmers and ranchers, food safety standards, and the value of TTIP to small and medium sized enterprises (SMEs).¹⁶

Comprehensive agreement and topics that are negotiations in details make TTIP very serious and significant. There is a lot of work ahead of negotiators,

¹⁶ Office of the United States Trade Representative, Executive Office of the President, Readouts from T-TIP Negotiating Rounds, Internet, <http://www.ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership/readouts>, 26/11/2014.

but they are making steady progress. TTIP is not a traditional trade agreement designed primarily to reduce tariffs on imports between trading partners, as tariffs between the EU and USA are already at minimal levels. Officials from both sides declare that the main goal of TTIP is to remove regulatory barriers which restrict the potential profits to be made by transnational corporations on both sides of the Atlantic. Critics consider that barriers are in reality some of most prized social standards and environmental regulations, such as labor rights, food safety rules (including restrictions on GMOs), regulations on the use of toxic chemicals, digital privacy laws and even new banking safeguards introduced to prevent a repeat of the 2008 financial crisis. The stakes, in other words, could not be higher.¹⁷ The European Commission's negotiating mandate (classified as confidential under EU rules, and thus only available as a leaked document) identifies the elimination of regulatory obstacles as one of its top priorities for TTIP, thus belying the European Commission's subsequent claims that deregulation is not on the agenda.¹⁸

The United States and the European Union are the world's two largest economies, and currently account for almost 50 percent of global GDP and 30 percent of global trade. When completed, T-TIP will promote jobs and growth across the Atlantic, and add to the 13 million American and EU jobs already supported by transatlantic trade and investment.¹⁹ For the proposed free trade pact between the US and the European Union the hard talks will take place between February and July 2015 as the contours of a deal become clearer. The US wants to conclude the pact within a year while Barack Obama is still in the White House. The Europeans would also like this, but appear less stressed about the deadline.

The easy part will be the removal of tariffs and duties on goods which only amount to 3% of their aggregate value. Eighty percent of the perceived benefits would come from a breakthrough on non-tariff barriers, which could usher in the harmonization of transatlantic standards and regulations on everything from food labeling and drugs-testing to the manufacture of cars or electrical

¹⁷ War on Want, What is TTIP?, Internet, <http://www.waronwant.org/campaigns/trade-justice/more/inform/18078-what-is-ttip>, 13/11/2014.

¹⁸ 'Directives for the negotiation on the Transatlantic Trade and Investment Partnership between the European Union and the United States of America', Brussels: Council of the European Union, 17 June 2013.

¹⁹ Office of the United States Trade Representative, Executive Office of the President, Round 5: Arlington, Virginia, Internet, <http://www.ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership/readouts/round5>, 29/10/2014.

components.²⁰ The Europeans want access to financial services in the US, Washington is resisting. Brussels also insists on equal access to public procurement tendering and contracts in the US. And it wants to protect European foodstuffs through the protective system that decides what can be called champagne or camembert, Parma ham, or scotch whisky. Geographical indicators are very important to the EU, but the US has different ideas. The negotiators promise that there is nothing in the talks that could facilitate the privatization of public services such as the NHS. Audio-visual services have also been excluded to appease French fears of Hollywood and Silicon Valley decimating the French film and television industries. American hormone-fed beef, GM foods, or chlorine-washed chickens will not be allowed in Europe, the European commission maintains, for as long as they are proscribed in the EU.

Public opinion in the EU strongly opposed proposed TTIP. Resistance is most acute in Germany, as well as in Austria and France. The biggest issue in the talks and the focus of the growing opposition to the pact is a touchstone for all these inchoate fears – investor protection, or the system known as investor-state dispute settlement (ISDS), which allows companies to bypass national courts and sue governments for damages on lost investments in extra-territorial arbitration panels. For the critics, this amounts to a surrender of national political sovereignty to the deep-pocketed multinationals, with business, not government, setting the rules of international trade. The ISDS system has existed for almost half a century, and there are 9,000 such agreements operating globally, 1,400 of them in the EU. Although Germany has practiced the system since 1969, Germany remains the biggest opponent of writing ISDS in to the trade pact.

Potential impact of TPP and TTIP

The ongoing negotiation of the Transatlantic Trade and Investment Partnership and of the Trans-Pacific Partnership Agreement has also spurred further research on the potential impact of trade facilitation. The Centre for Economic Policy Research estimated the potential economic gains given by the TTIP under different scenarios. The most comprehensive and ambitious version of the agreement, corresponding to a full elimination of tariffs, a 25% decrease of non-tariff barriers (NTBs) on both goods and services and a 50% reduction of NTBs on procurement, would result in a permanent increase of annual GDP

²⁰ The Guardian , TTIP divides a continent as EU negotiators cross the Atlantic , Internet, <http://www.theguardian.com/business/2014/dec/08/transatlantic-trade-partnership-ttip-dividing-europe-cecilia-malmstroem-washington-debut>.

of about US\$ 95 billion for the United States, US\$ 119 billion for the European Union and US\$ 99 billion for the rest of the world. The reduction of NTBs could account for as much as 80% of these economic gains.²¹ A Quantitative Assessment done in 2011 has estimated that annual global GDP could increase by as much as US\$ 104 billion thanks to the implementation of the TPP. This figure would increase to US\$ 862 billion if trade liberalization went as far as establishing a Free Trade Area in Asia-Pacific. Vietnam, Hong Kong SAR, Russia and Malaysia would benefit the most from this scenario.²² The gains of trade-enabling measures are multiple and far reaching, extending beyond trade and contributing to broader development objectives. These include: export

Table 3: Development and trade indicators, 2013, TPP

Country	GDP (millions USDs)	Rank	Population	Rank	Goods (billions USD)		Services (billions USD)	
					Exports	Imports	Exports	Imports
Australia	1,560,597	12	23,342,553	51	253	242	52	62
Brunei	16,111	113	417,784	174	12 ^a	3 ^a	1 ^a	2 ^a
Canada	1,826,769	11	35,181,704	37	458	474	78	105
Chile	277,199	38	17,619,708	60	77	79	13	15
Japan	4,901,530	3	127,143,577	10	715	833	145	162
Malaysia	312,435	35	29,716,965	43	228	206	40	45
Mexico	1,260,915	15	122,332,399	11	380	391	20	29
New Zealand	185,787	54	4,505,761	122	39	40	13	12
Peru	202,296	51	30,375,603	42	42	44	5 ^a	6 ^a
Singapore	297,941	36	5,411,737	115	410	373	122	128
United States	16,800,000	1	320,050,716	3	1580	2329	662	432
Vietnam	171,392	57	91,679,733	14	132	132	10	13

Source: World Development Indicators database, World Bank, 22 September 2014; World Population by Country (2013), United Nations Population Division of the Department of Economic and Social Affairs, United Nations; World Trade Organization, International Trade Statistics 2014; ^aData from year 2011.

²¹ Centre for Economic Policy Research, 2013, “Reducing Transatlantic Barriers to Trade and Investment, An Economic Assessment.” London.

²² Petri, P. A., M. G. Plummer, and F. Zhai, 2011, “The Trans-Pacific Partnership and Asia-Pacific Integration: A Quantitative Assessment”, East-West Center Working Papers – Economic Series, No. 119. Honolulu: East-West Center.

competitiveness, private sector development and foreign direct investment, market integration, economic growth and employment, and finally, most trade-enabling measures have positive spillover effects.²³

The TPP is the largest-ever economic treaty, encompassing nations representing more than 40 per cent of the world's GDP (see table 3).

Conclusion

The common nominator between two free-trade agreements is United States. United States is the driving force for the ongoing negotiations with the aim to finish these negotiations as soon as possible. On one hand the Trans-Pacific Partnership, agreement in progress with diverse countries thorough the Asia-Pacific region and on the other hand future agreement with European Union called Transatlantic Trade and Investment Partnership. It seems that the US is tightening economic relations on both sides of their country. Asia-Pacific region composes of the countries that are one of the fastest growing economies in the world, with Japan as a lever, and EU as one of the steady US partners with whom it already achieves large amount of trade and investment. These free-trade agreements, or with some criticism we may call them trade blocks, are potentially the largest regional free-trade agreements in the world ever. Together, the TPP and TTIP will cover more than 60 per cent of global GDP. These agreements are still in process of forming but already we can sense the effects on involving countries and the rest of the world. This is the large impact on world trade and world economy. One of the indirect effects is the conclusion of the Bali package within WTO at the end of the 2013 as a come back for multilateral negotiations. Also interesting effect is raising public voices in order to make difference and make changes during the process of negotiations and not only after the rules are already been set. It seems that regional agreements today are the driving force for expanding economic interests.

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²³ Margareta Drzeniek Hanouz, Thierry Geiger, Sean Doherty, Editors, The Global Enabling Trade Report 2014, World Economic Forum, Geneva, 2014, p. 3.

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