



TPP: Overview and Current Status

What is it? The Trans-Pacific Partnership (TPP) was a proposed free trade agreement (FTA), signed by 12 Asia-Pacific countries on February 4, 2016, after 8 years of negotiation. In January 2017, the United States gave notice to the other TPP signatories that it does not intend to ratify the agreement, effectively ending TPP’s potential entry into force as written. In November 2017, the remaining 11 TPP parties announced the broad outlines of the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP). CPTPP would essentially bring a slightly modified TPP into effect among the 11 remaining TPP signatories. The new agreement freezes a small set of issues that were included in the TPP, in part, at U.S. insistence. These suspended provisions, which include some commitments on investment and intellectual property rights, could potentially be reinstated were the United States to consider rejoining the agreement.

TPP aimed to reduce and eliminate tariff and nontariff barriers on goods, services, and agriculture. It would have established trade rules and disciplines that expanded on commitments at the World Trade Organization (WTO) and addressed new issues. The U.S. withdrawal has economic and foreign policy implications for the United States, and raises potential strategic issues regarding U.S. trade policy and broader regional engagement.

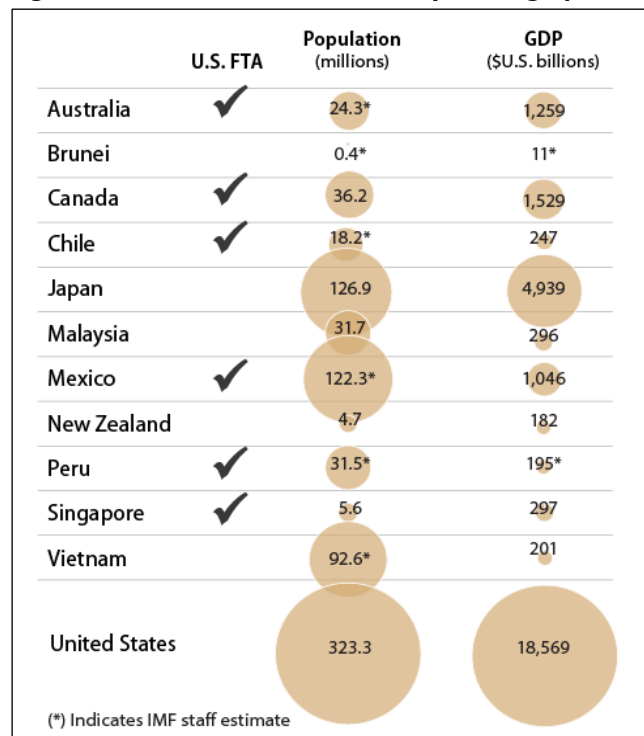
Withdrawal and U.S. Next Steps. President Trump’s withdrawal from TPP upheld a pledge of his presidential campaign and reflects his Administration’s view that previously negotiated U.S. FTAs have had poor outcomes. In August, the Administration began renegotiation of NAFTA, the largest U.S. FTA, with Canada and Mexico, and has held talks with South Korea on potential modifications to the U.S.-South Korea (KORUS) FTA. Both NAFTA countries were signatories to the TPP, which would have essentially modified the decades-old agreement. The Administration’s stated objectives for the NAFTA renegotiation, especially on issues such as digital trade, intellectual property rights, labor, and environment, draw on TPP provisions to an extent. Moving forward, the Administration intends to negotiate bilaterally on any new FTAs, and has suggested TPP countries, particularly Japan, as among the top candidates. No countries, however, have formally expressed interest in a bilateral negotiation with the United States, possibly a reflection of the contentious tenor of the NAFTA and KORUS talks.

Other Countries’ FTA Negotiations. The remaining TPP signatories are pursuing various trade initiatives beyond the CPTPP, including both bilateral trade agreements as well as other regional pacts. Key among the regional agreements is the Regional Comprehensive Economic Partnership (RCEP), an Association of Southeast Asian Nations (ASEAN)-led initiative that includes China and seven TPP countries, but not the United States. The European Union is

also negotiating FTAs with a number of Asian states, including Japan and Vietnam. To the extent these agreements take a different approach on issues such as the level of liberalization, intellectual property rights, labor and environment commitments, and new rules like state-owned enterprises and e-commerce, they could result in provisions favoring the parties involved and not the United States. They could also put U.S. exporters at a competitive disadvantage as these agreements lower market access barriers among the participants.

Stakeholders Views on the U.S. Withdrawal. Supporters of withdrawal opposed TPP over concerns it would increase U.S. imports, lead to job losses, and cede U.S. sovereignty. Opponents argue that withdrawal has lessened U.S. firms’ competitiveness in the region, given other countries, particularly China, greater influence in establishing regional trade rules, and removed significant incentives for economic reforms in TPP countries, such as Vietnam, as well as potential future participants. Many also argue the withdrawal signals declining U.S. political and economic engagement in the region in the face of China’s rise and increasing challenges to the U.S.-led rules-based trading system.

Figure 1. 2016 TPP and U.S. Country Demographics



Source: IMF World Economic Outlook, April 2017. CRS graphic.

Key Provisions

The TPP, as originally signed by the United States, included 30 separate chapters. Some of its provisions could

serve as a starting point for future U.S. trade negotiations. TPP without the CPTPP modifications, would have had the following potential outcomes:

Agriculture. Would reduce and eliminate tariff and nontariff barriers on agriculture products and address the resolution of disputes regarding sanitary and phytosanitary standards (SPS). Tariff and quota protections would remain on some sensitive products.

Autos. Would require eventual elimination of auto and auto parts tariffs, including U.S. 2.5% auto and 25% truck tariffs over 25 and 30 years. Special provisions would target U.S.-Japan trade, requiring Japan to address nontariff barriers relating to transparency and distribution, among others.

Currency. Would affirm commitments to transparency and against competitive devaluations. This language is in a joint declaration, and would not be subject to dispute settlement.

E-Commerce/Digital Trade. Would require free flow of data across borders, with exceptions for public policy interest regulations. Would prohibit requirements to localize computing facilities or share source code to gain market entry, and prohibit duties on digital products. Financial services are excluded from the e-commerce chapter, including forced localization commitments, but are covered by a separate sector-specific data flows provision.

Government Procurement. Would require transparent, nondiscriminatory treatment toward domestic and foreign firms in purchasing decisions by the U.S. government at the federal level above certain thresholds. Would open procurement markets of Brunei, Malaysia, and Vietnam to TPP countries for the first time.

Goods Tariffs. Would immediately eliminate most tariffs among TPP countries. U.S. tariff commitments were made on a bilateral basis, and are most significant for countries without an existing U.S. FTA (Brunei, Japan, Malaysia, New Zealand, and Vietnam). Once fully implemented, on average, 98% and 99% of tariff lines would be duty free for U.S. exports and imports, respectively, with these countries.

Intellectual Property Rights (IPR). Contains provisions to protect patents, copyrights, trademarks, and includes new disciplines on trade secrets to combat cyber-theft. Would phase in additional patent protections for medicines for developing countries and include for biologics an eight-year data exclusivity, or alternatively, at least five years with possible additional measures that could “deliver a comparable market outcome.” Includes prohibitions against circumvention of technological protection measures and would require adoption of “notice and takedown” provisions to address Internet service provider liability.

Investment. Would remove barriers and provide protections for foreign investors in TPP countries, including non-discriminatory and minimum standards of treatment, though each country has exempted some sectors or practices through non-conforming measures (NCMs). Includes an investor-state dispute settlement (ISDS) mechanism with modifications aimed at ensuring each country’s right to regulate, and would allow countries to block challenges of tobacco control measures under ISDS.

Worker Rights. Would require countries to adopt and not derogate from laws consistent with core ILO Principles on freedom of association and elimination of forced labor, child labor and employment discrimination in matters related to trade and investment. Includes specific implementation plans for Brunei, Malaysia, and Vietnam.

Environment. Would require countries to enforce and not derogate from their environmental laws to attract trade and investment, implement specified multilateral environmental agreements (MEA) they have joined, and prohibit certain fishing subsidies, among other provisions.

Rules of Origin (ROOs). Would determine whether goods originate within TPP and are eligible for TPP benefits. Would establish a yarn-forward ROO for textile and apparel products with exemptions based on a short-supply list, and 45%-55% regional value content ROO for autos and 35%-45% for auto parts, depending on the calculation method.

Services. Would provide core obligations of national treatment, most-favored nation treatment, market access, and local presence on a negative list basis applicable to all cross-border services sectors, except those explicitly excepted as NCMs. Includes separate provisions for financial services, with added sector-specific exemptions.

State-Owned Enterprises (SOEs). Includes, with exceptions, enforceable disciplines on SOEs principally engaged in commercial activities. Provisions would require purchases and sales be made on the basis of commercial considerations, impartial enforcement of regulations, and restriction of noncommercial assistance (subsidies).

“Ministers agree that the CPTPP maintains the high standards, overall balance, and integrity of the TPP.”

CPTPP Trade Ministers Statement, November 11, 2017

Issues for Congress

U.S. TPP withdrawal signals a major shift in U.S. trade policy and raises questions for Congress as it works with the Trump Administration on trade agreement negotiations and trade policy priorities. The notification and consultation requirements and U.S. negotiating objectives in the 2015 Trade Promotion Authority (TPA) legislation continue to guide this process. Key questions for consideration include:

- What role should FTAs have in U.S. trade policy and how should the United States prioritize potential future bilateral partners?
- What aspects of TPP should be incorporated in new or renegotiated U.S. FTAs? What needs changing?
- How do other countries’ FTAs affect U.S. firms’ competitiveness abroad, and what is the best response?
- How important is U.S. leadership in establishing trade rules in the Asia-Pacific and globally?
- What are the costs and benefits of a bilateral versus multi-party approach to U.S. trade negotiations?

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