

Does the U.S.-Japan Trade Deal Still Leave the United States at a Significant Disadvantage to CPTPP Members?

An Undergraduate Briefing Paper

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Introduction

The United States and Japan are two of the largest economies in the world. In recent history, the two countries have maintained friendly political relations and engaged in mutually beneficial trade. Upholding this relationship has proven to be increasingly important to the United States as of late. Stemming from rapid economic and technological development, countries in the Asia-Pacific have sought to further integrate their economies and promote fair trade throughout the region. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), a free trade agreement between 11 Asia-Pacific countries, was formed to bring the region closer to this goal.¹ The United States was originally part of the CPTPP's predecessor, the Trans-Pacific Partnership (TPP), but withdrew from it under the Trump administration. In pursuit of an alternate approach to the CPTPP, the Trump administration has primarily sought bilateral free trade agreements, including the U.S.-Japan Trade Agreement (USJTA).² However, the Asia-Pacific's continual economic development begs the question: how does the United States fare compared to CPTPP members in terms of market access in CPTPP member countries?

Background

The Asia-Pacific is one of the fastest developing economies in the world. It includes countries like Vietnam and Malaysia, which have shown average annual GDP growth of approximately 6.9% and 4.8% respectively over the past several years.³ This rapid economic growth has given birth to larger consumer markets to which American producers are looking to increase exports. However, the United States is not the only country trying to establish itself in the Asia-Pacific market. Global competitors such as Australia, Canada, and the European Union also have their sights set on obtaining a share of the expanding market. Because of this, countries in, or involved with, the Asia-Pacific have strong incentives to address trade barriers in the region, such as tariffs, intellectual property rights, and currency manipulation.

To address the bulk of these problems, 12 countries in the Asia-Pacific area – Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam – formed the TPP that was signed in February 2016. However, both 2016 presidential candidates, Donald Trump and Hillary Clinton, were unsupportive of the TPP, foreshadowing a difficult road forward for the TPP in the United States, regardless of the new administration.⁴ Shortly after the election, President Trump exited the deal, saying it was a

“potential disaster for our country.”⁵ After deliberation, the remaining 11 members decided to continue with the agreement without the United States under the new name (CPTPP). Notably, the original provisions advocated for by the United States were not removed, rather suspended or revised.⁶ Some argue that this showed the remaining members’ potential willingness to accept the United States back into the agreement if it so desired in the future.

Instead of pursuing multilateral, comprehensive deals, Trump has shown a preference for bilateral negotiations. A trademark of his administration’s approach to trade agreements is “phased” deals. Also called mini deals, this foot-in-the-door negotiation style focuses on resolving relatively narrow disputes between two countries in an early stage, followed by sequential phases that attempt to address increasingly complex issues. This deviates from the traditional approach to trade negotiations in that rather than delay potential gains until a comprehensive deal is struck, countries opt to take the “low hanging fruit” and use momentum from that small victory to tackle more difficult disagreements.⁷

The effectiveness of this negotiation approach is often debated. Proponents say it is pragmatic and causes participants to be more invested and willing to compromise on tougher issues. However, those who favor traditional trade strategies claim it is unsustainable and that phased deals are more difficult to enforce than multilateral agreements. One reason for this viewpoint is that bilateral phased deals by definition include fewer issues and have fewer participants than multilateral comprehensive agreements. Because of this, they often have fewer opportunities for tradeoffs and lack the enforceability that multiple members bring via strength in numbers.⁸ The shift in the U.S. presidency also has an impact. The Trump administration, which initiated the phased deals, will no longer be negotiating a second phase once president-elect Biden takes office, supporting the claim that this approach is unsustainable.

Under the Trump administration, the United States has negotiated phased deals with two of its largest trading partners – China and Japan. This briefing paper will investigate the USJTA in comparison to the CPTPP and offer insight on their respective outlooks.

Analysis

Arguably the most significant provisions included in the USJTA are those pertaining to the agricultural industry. Withdrawal from the TPP prior to its enactment meant that the United States risked losing out on potential tariff reductions on major agricultural exports to Japan, such as beef, pork, and cheese.⁹ The remaining countries in the agreement later went forward without the United States to transform it into the CPTPP. In December of 2018, the CPTPP entered into force in six countries, including major U.S. agriculture competitors Australia and Canada. Through the agreement, these competitors experienced tariff reductions on their agricultural exports to other CPTPP member states. Consequently, they gained a competitive edge over the United States and obtained an increased market access in Japan.¹⁰ Once the USJTA was signed in October 2019 and entered into force in January 2020, U.S. beef, pork, and cheese were

granted the same tariff reduction schedule as those in the CPTPP. However, not all U.S. agricultural sectors are beneficiaries of this deal.

One key product left out of the USJTA is rice. U.S. domestic rice growers will not receive tariff-free quotas as they would have under the TPP. Similarly, U.S. barley, condensed milk, butter, and other dairy products are at a disadvantage in the Japanese market compared to current CPTPP members.

Provisions addressing digital trade in the USJTA are seen as a major win for the United States and a step up from those in the CPTPP. The digital provisions protect against forced technology transfer (FTT) and prevent taxes on digital downloads across borders.¹¹ Digital trade disputes have been a particularly hot topic for the United States as it works to combat China's unfair trade practices regarding FTT and intellectual property rights. By finding an ally in Japan on this matter, the United States has reason to celebrate its progress towards protecting fair digital trade.

Another point to consider when comparing the USJTA and the CPTPP is the trajectory of the two deals. Although there are tradeoffs between the two as they currently stand, the respective outlooks for the two deals are headed in different directions. Conversations regarding phase two negotiations for the USJTA appear to have lost steam as the United States turns its focus towards domestic issues and Japan prepares for a "leaderless era" in the United States' global influence.¹² Specifically, the shift to the Biden administration brings uncertainty to the USJTA and U.S. trade policy as a whole. Biden has been clear he will prioritize domestic economic issues and the COVID-19 pandemic, and he will also take time to appoint people to important trade policy positions like the U.S. trade representative. Both of these factors make the United States' quick return to trade negotiations with Japan highly unlikely.

Originally, phase two negotiations were expected to begin in May 2020 but were delayed by the COVID-19 pandemic.¹³ As of early September 2020, phase two was said to begin within the "next few months," but neither a clear timeline nor list of issues to be addressed were present.¹⁴ Talks of phase two negotiations may be delayed even further due to the recent change in Japan's prime minister. The new prime minister, Yoshihide Suga, although a well-established politician, said he does not think he can match his predecessor Shinzo Abe's "leadership diplomacy," indicating he may take more time to build personal relationships with other world leaders.¹⁵

While the future of the USJTA and its progression remains unclear, the CPTPP has been receiving interest from other countries. Currently, several countries are interested in acceding to the CPTPP, including the United Kingdom, a major economy, and also Thailand. Although these two are the most likely to join as of now, Brexit and domestic skepticism may complicate the process in the respective countries. China has also expressed interest in joining the agreement. However, questions as to whether China will actually begin the accession process have been raised, largely due to the country's unlikeliness to commit to CPTPP agreements on labor, digital trade, and state-owned enterprises. Also important to note is that four current members of the trade deal have yet to ratify it in their respective countries, delaying potential benefits.¹⁶

Nevertheless, CPTPP members are actively seeking to expand the multilateral free trade agreement beyond the current 11 members.¹⁷

Outlook

Although the USJTA and the CPTPP are on a similar playing field regarding the industries they address, i.e. agriculture, the outlook for the two agreements is drastically different. While the next phase of the USJTA appears to be distant and uncertain, the CPTPP is already a comprehensive deal. Compared to the narrow scope of a phased deal, a comprehensive deal like the CPTPP addresses a wider range of sectors, generally leading to a more impactful economic effect. As a result, there is more stability and growth potential in a comprehensive deal like the CPTPP.

If the United States had remained a member of the TPP, it would have essentially kept a seat at the table as rapid economic development continues in the Asia-Pacific. Conversely, the current bilateral approach, as opposed to dealing with the region as a whole, creates an extra layer of separation between the United States and the booming region. Of course, the CPTPP is not a perfect free trade agreement, and some of its provisions could benefit from renegotiation, particularly in digital trade. Despite its flaws, the CPTPP shows more potential for growth than the USJTA, and its multilateral nature would be an ideal means for the United States to retain political influence in the Asia-Pacific. Consequently, the United States will likely be at a significant disadvantage to CPTPP members within the near future if it does not reevaluate its trade policy priorities.

Endnotes

- ¹ Jack Caporal, “The CPTPP: (Almost) One Year Later,” *Center for Strategic & International Studies*, November 5, 2019, <https://www.csis.org/analysis/cptpp-almost-one-year-later>
- ² Robert E. Lighthizer, “Trump’s Trade Policy Is Making America Stronger,” *Foreign Affairs*, July 20, 2020, <https://www.foreignaffairs.com/articles/china/2020-07-20/trumps-trade-policy-making-america-stronger>.
- ³ “Regional Economic Outlook: Asia and Pacific,” International Monetary Fund, last updated October 21, 2020, <https://data.imf.org/?sk=ABFF6C02-73A8-475C-89CC-AD515033E662&sId=1462204389301>
- ⁴ Anne Gearan and David Nakamura, “Hillary Clinton comes out against Obama’s Pacific trade deal,” *The Washington Post*, October 7, 2015, <https://www.washingtonpost.com/news/post-politics/wp/2015/10/07/hillary-clinton-comes-out-against-obamas-pacific-trade-deal/>
- ⁵ Adam Taylor, “A Timeline of Trump’s Complicated Relationship with the TPP,” *The Washington Post*, April 13, 2018, <https://www.washingtonpost.com/news/worldviews/wp/2018/04/13/a-timeline-of-trumps-complicated-relationship-with-the-tpp/>
- ⁶ Matthew Goodman, “From TPP to CPTPP,” *Center for Strategic & International Studies*, March 8, 2018, <https://www.csis.org/analysis/tpp-cptpp>
- ⁷ Andrea Durkin, “Is it Just a Phase? Redesigning Trade Deals in the Age of Trump,” *Tradevistas*, January 16, 2020, <https://tradevistas.org/redesigning-trade-deals-in-the-age-of-trump/>
- ⁸ Wendy Cutler, “Strength In Numbers: Collaborating Approaches to Addressing Concerns with China’s State-Led Economic Model,” *Asia Society Policy Institute*, April 2019
- ⁹ David Lawder, “U.S.-Japan trade deal versus TPP: where it falls short, where it exceeds,” *Reuters*, October 7, 2019, <https://www.reuters.com/article/us-usa-trade-japan/u-s-japan-trade-deal-versus-tpp-where-it-falls-short-where-it-exceeds-idUSKBN1WM0A3>
- ¹⁰ Jack Caporal, “The CPTPP: (Almost) One Year Later”
- ¹¹ David Lawder, “U.S.-Japan trade deal versus TPP: where it falls short, where it exceeds”
- ¹² Linda Sieg, “Japan should brace for ‘leaderless era’ as U.S. turns inward, Suga adviser says,” *The Japan Times*, November 10, 2020, <https://www.japantimes.co.jp/news/2020/11/10/national/japan-leaderless-us-yoshihide-suga/>
- ¹³ Brock Williams and Cathleen Cimino-Isaacs, “U.S.-Japan Trade Agreement Negotiations,” *Congressional Research Service*, January 16, 2020, <https://crsreports.congress.gov/product/pdf/IF/IF11120>
- ¹⁴ Marc Busch, “Covid-19 and the U.S.-Japan Trade Agreement Phase 2” *National Review*, September 8, 2020, <https://www.nationalreview.com/2020/09/covid-19-us-japan-trade-agreement-phase-2-crucial-next-step/>
- ¹⁵ Amy Gunia, “Yoshihide Suga is Japan’s New Prime Minister. Here’s What that Means for the U.S.,” *Time Magazine*, September 17, 2020, <https://time.com/5888989/yoshihide-suga-japan-new-prime-minister/>
- ¹⁶ “What is the CPTPP?” Government of Canada, last updated October 6, 2020, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptppg/index.aspx?lang=eng>
- ¹⁷ Wendy Cutler, “Reengaging the Asia-Pacific on Trade: A TPP Roadmap for the Next U.S. Administration,” *Asia Society Policy Institute*, September 2020