

# Breaking

How the Trans-Pacific Partnership Could



# Through

**Reshape the Global Economy** BY LYDIA DEPILLIS

## **TRANS-PACIFIC PARTNERSHIP**

Even now, six years after the United States entered the negotiating fray, it's likely that more Americans speak Urdu than have heard of the Trans-Pacific Partnership. That shouldn't be much of a surprise; the partnership, a far-reaching trade deal, has floated for years in a realm of wonk-speak beyond the competence of all but the most motivated observers. And yet it's poised to reshape how the international economic system functions, creating a host of winners and losers.

constituencies – labor and environmental groups – are reeling from two decades of trade agreements that have pried open America's economic borders, reducing tariffs and giving U.S. corporations nearly unfettered access to markets overseas. Another Nafta or Cafta (Central American Free Trade Agreement) could, once again, disrupt the prospects of American workers, skilled as well as unskilled.

But there's another reason that the backroom nature of the negotiations has made people worry: the TPP is not a traditional

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Indeed, the TPP is the most ambitious trade agreement the United States has ever negotiated, in the fastest-growing region of the world. The small print could lead to economic and political changes that will ripple all around the Pacific Rim in decades to come.

### **MYSTERY TREATY**

This, of course, is hardly the first time that a prospective international agreement with profound economic implications has slipped under the radar. Trade talks are nearly always conducted in secret, with copies of the draft text available on a read-only basis to elected officials upon request. That's because – at least according to game theory – the parties wouldn't be able to negotiate in good faith if the public were looking over their shoulders all the while.

This time, however, the secrecy has generated a lot more concern among the Washington-based activist set than previous trade deals. In part, that's because a couple of core liberal

trade deal. More than eliminating tariffs – which are mostly pretty low anyway – it takes on a host of impediments to economic integration, ranging from diverging safety standards to lax intellectual property protection. It's just as much a tool of domestic reform and an exercise in geopolitics as it is an agreement on the terms of global commerce.

The very comprehensiveness of the topics covered in the TPP explains in part why negotiations have stuttered along for five years, over 18 rounds of talks. There are now 12 parties to the talks, nations that collectively account for 40 percent of the world's GDP and exchanged some \$1.8 trillion in goods and services among them in 2012. The latest economic impact studies conclude that the TPP could increase U.S. exports by about \$120 billion per year and expand U.S. access to roughly 800 million consumers.

By now, most policy issues have been resolved, but the most contentious have yet to be sorted out. The negotiations were supposed to have concluded by the end of 2013, and the new target is the end of 2014. After that, each country's government must deal

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with legislators to get the treaty ratified. In some places, that amounts to a rubber stamp. In others – including the United States – it will be anything but.

#### **FROM LITTLE ACORNS**

Southeast Asia, seat of the modern miracle of export-led growth, isn't exactly new to the idea of trading partnerships. The United Nations-administered Asia-Pacific Trade Agreement has been around since 1975. Lots of business is sorted through groups like the Association of South East Asian Nations and the Asia Pacific Economic Cooperation forum (APEC). And there are dozens of bilateral agreements among Asian countries. Then, too, most countries in the region are members of the World Trade Organization, which brought down many barriers starting in the 1990s.

The TPP, however, arose in part out of a sense that none of those went far enough. In particular, the WTO's so-called Doha Round of trade liberalization, meant to assist developing nations around the world, wasn't progressing on schedule and now appears irretrievably stalled. So in 2003, Chile, Singapore and New Zealand conceived of an economic partnership as a step toward tighter Pacific integration; Brunei opted in shortly thereafter. In the fall of 2008, President Bush announced the White House's intention to participate as well, and the newly elected Barack Obama decided to stay the course.

U.S. involvement significantly raised the profile – and potential – of the pact. Other countries quickly joined. First, Vietnam, Peru and Australia; then, Malaysia, Canada and Mexico. Most recently, Japan decided to come on board. This expanded the scope as well as the potential complications, given the grip of protectionism in Japan's domestic politics. South Korea is now wondering whether it can afford to remain aloof.

Joining the TPP negotiations is no small undertaking. The founding parties insisted that it be a "high standards" agreement, one targeting tough issues like cross-border access for agriculture and uniform treatment of the state-owned companies that many Asian nations have used to guide their economies. Because of this, several potential partners have a long way to go before they can be considered for membership. Taiwan, for example, is attempting extensive domestic reforms – breaking down barriers to foreign investment and extracting the government from its involvement in large industrial sectors – in order to prove itself worthy of inclusion in the next round. In that way, the TPP has already had an impact, even though the treaty faces considerable time and effort before it is law.

#### **LINCHPIN IN THE PIVOT TO ASIA?**

Trade pacts used to be about just that: trade. The conventional wisdom today, though, is that their primary function is to give integration-minded governments the leverage to confront parochial domestic interests, while the second most important function is positioning a country for maximum geopolitical advantage. With the TPP, that second aspect is all about China.

Beijing, after all, is East Asia's sun; even its most populous neighbors – India, Indonesia and Malaysia – ultimately travel in its orbit. China's influence comes not just from the magnitude of its imports as the hemisphere's biggest consumer market, but also its massive foreign investment in real estate, energy production and infrastructure projects. This worries American strategists, who fear the United States will lose influence as the region becomes more dependent on Chinese buying power and capital markets.

President Obama, nervous about China's military buildup, announced a "pivot" toward

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Asia in 2011. Since then, it has become apparent that his administration is reluctant to counter China's aggressive posture by repositioning American air and sea power, and that the White House is banking on the time it has spent sorting out the TPP to make up the substance of the shift in orientation. It can be a dangerous proposition for a small country in Asia to try to shield itself from China's influence – by taking measures to protect its intellectual property, for example. So creating a friendly alternative for trade and investment in other Pacific Rim nations may be the best way to reduce that risk.

Sometimes, the United States and its allies talk about bringing China into the deal, and Beijing itself suggested last year that it would explore the possibility. That may have been more rhetoric than reality, however, designed to ramp down tensions at stressful time for the Sino-U.S. relationship. In the wake of a subsequent APEC summit, the party-line *China Daily* newspaper offered a less friendly face, writing that the agreement was a way for the United States to “dominate economies” in Asia. Simultaneously, Beijing has proposed a “Regional Comprehensive Economic Partnership,” which addresses many of the same issues as the TPP, minus a few of the more contentious agricultural provisions – and the United States isn't invited.

### **NAFTA ON STEROIDS?**

By some measures, the proposed scope of the TPP eclipses that of the North American Free Trade Agreement; the Congressional Research Service estimates that the dollar value of U.S. imports and exports from the new trading bloc will be considerably greater than the levels attributable to Nafta. Accordingly, labor and environmental groups have charged that the TPP will have similar effects, sending jobs

to cheaper jurisdictions overseas and allowing rapacious environmental behavior in the name of free trade.

It's difficult, though, to sort out the impact that Nafta has actually had on the U.S. economy. It did not trigger – but probably did accelerate – a shift from manufacturing toward service jobs, which manifested itself in more shuttered factories and gutted main streets in the Rust Belt and more growth in some states, including Texas and California. Nafta's environmental legacy is similarly mixed. The resulting boom in manufacturing in Mexico combined with ongoing laxity in the enforcement of environmental rules probably contributed to higher industrial pollution levels. One of the more subtle impacts – and one that will likely recur with the TPP – arose from additional authority for companies to sue governments over harm to their investments, which has often taken the form of allegedly discriminatory changes in environmental, health and safety regulations that raised business costs.

The U.S. Trade Representative promises that Nafta is not the model here – that the TPP will have higher standards and stronger safeguards. In particular, as with all trade agreements, the administration is committed to the standards laid out in the 2007 “May 10th Agreement,” which cover a suite of labor rights and require adherence to seven major international environmental treaties.

The problem is, the United States may not be able to compel the large number of negotiating parties to the TPP to accept those standards. It had much more leverage in negotiating bilateral agreements with countries ranging from Colombia to Israel to South Korea. For example, the draft environment chapter of the TPP, made public by WikiLeaks, indicated that nearly every other country opposed the protections the United States was

asking for, including legally binding pollution controls and limitations on logging.

#### **CHANGE YOU CAN BELIEVE IN?**

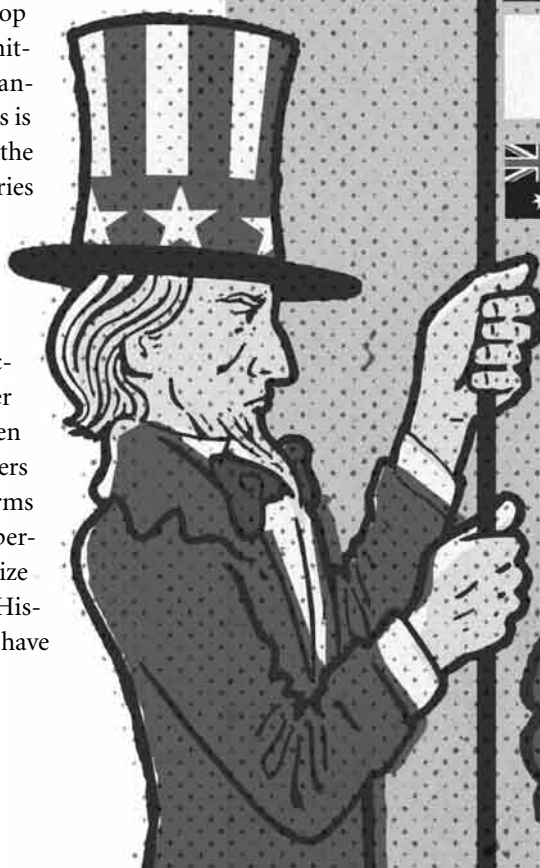
At this point, calling the TPP a “trade agreement” is really code for “ways in which governments will overhaul their domestic legal systems in order to facilitate international commerce.” While the full contents of the agreement won’t become public until the text is completed and put up for a vote among the parties, the major components belong in one of two buckets. The first is market access.

#### **Who can sell how much of what**

A fundamental goal of the TPP is complete elimination of some 11,000 tariffs. Although duties are already relatively low (ranging between zero and 10 percent on most products), there are still a few countries where phasing them out could significantly alter trading dynamics. Exhibit A here is Vietnam: tariffs on its textile and footwear exports are still around 10 percent, and clothing manufacturers would probably rush to set up shop in the country if they were lifted. To mitigate the cost pressure on American-based manufacturing, the United States is asking for rules that would require all the raw materials to come from countries within the pact – which is usually code for “not China,” where inputs can be bought most cheaply.

Trade in services, like banking and insurance, is smaller than in manufacturing, but growing rapidly. Rather than tariffs, the services trade has been restricted by less quantifiable barriers like limitations on the number of firms from different countries that could operate domestically, or refusal to recognize foreign professional certifications. Historically, the United States’ trade deals have

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washed those away, allowing a level playing field for law firms, telecom providers, e-commerce companies and the like. Freer trade in services is likely to prove contentious for countries that typically regulate those industries for the purpose of protecting domestic jobs. The United States, moreover, is not entirely innocent in this regard, as government procurement policies discriminate against foreign suppliers.

The thorniest market-access questions, though, have to do with agriculture. Most parties to the TPP have potent farm lobbies, which demand unfettered access to other markets while maintaining protections against imports. The U.S. dairy industry, for example, wants to be able to sell milk products in Malaysia and Indonesia, but has opposed the New Zealand dairy industry's efforts to compete in the United States. Negotiations have been particularly difficult with Japan, which has traditionally regarded its meat, rice, wheat, dairy and sugar industries as sacrosanct.

Despite its ambitious goal of vaporizing barriers across the board, then, the market-access section will surely be rife with compromises, with countries trading a little more in one sector for a little less in another. Everyone's a hypocrite when it comes to the industries that grease the wheels of domestic politics.

There is one product that a number of countries would like to be able to restrict at will: tobacco, which, public health groups note, is the one substance that, if used correctly, eventually kills the consumer. A few countries are currently defending their smoking-deterrence laws against Philip Morris, which challenged them at the World Trade Organization. The TPP may give investors broader power to sue governments over laws that harm their interests, but tobacco is likely to be treated as an exception.

### **He who makes the rules**

The next big bucket of issues is regulation. The TPP is full of technical provisions about how the treaty should be enforced and who has claims against whom. But these generally fall under the rubric of the enforcement of property rights – notably, intellectual property rights.

Start with the most important, at least among American corporations: pharmaceuticals. According to the Sunlight Foundation, a non-profit that promotes government transparency, the drug industry has filed two and a half times as many lobbying disclosure forms on the TPP than the automotive industry, which places second. That's because it has a lot to gain. Longer exclusivity periods on patents would allow drug companies to sustain profits from their blockbuster drugs in new markets, where they're most threatened by knockoffs and generics. U.S. negotiators have supported these requests while attempting to balance Big Pharma's interests against the need to preserve access to critical medicines in developing nations.

The other monster in the intellectual property box is the creative arts. The film and music industries have fought for strong enforcement of copyright protection through essentially whatever means are available. That has put them in conflict with the tech industry, which wants parties to agree to allow data to flow freely across borders. The tech lobbies would bar all forms of censorship, and also prevent countries from requiring data to be stored on local servers in order for people to access it, which some countries want in order to protect the security of their networks.

Another sticking point in negotiations is rules for government-owned enterprises. Even the United States has some of these – think Fannie Mae and, of course, the Postal Service. The degree to which the treaty will

limit their behavior in international markets isn't clear. But there probably will be language establishing the principle (if not the reality) that they must compete on the same terms as their private counterparts.

Sometimes, barriers to trade aren't intended as protection, but are simply the by-product of the fact that dealing with multiple regulatory regimes raises business costs. One country, for example, might do safety certifications in a way that differs from another's, so that companies would have to jump through multiple sets of hoops, even if the targeted

and each U.S. state – though it stops short of putting dollar figures on the likely benefits. The Trade Representative is starting to stage events with trendy small businesses, highlighting how they would gain new access to foreign markets.

The more difficult and important analysis, however, is how those gains from trade would be distributed across the income spectrum. Some economists, most prominently the Nobel Prize winner Joe Stiglitz and Dean Baker of the Center for Economic and Policy Research, have argued that U.S. trade policy has

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level of safety is identical. That's why the TPP asks countries to "endeavor" to align their business policies to eliminate redundancies, and also to set up bodies similar to the U.S. Office of Information and Regulatory Affairs to review the costs and benefits of new rules. All of it is voluntary, however, which means there's no telling whether it will make a difference in practice.

#### **THE ECONOMIC IMPACT**

Analyses of the TPP suggest that it would add quite a bit to U.S. GDP. The Peterson Institute for International Economics in Washington estimates U.S. income will increase by \$78 billion per year under its assumptions about what the TPP will include, and \$267 billion annually if free trade is expanded to the rest of the Asia-Pacific region. The Business Roundtable, which counts the nation's largest companies among its members and has been working hard to push the TPP forward, details the economic ties between the TPP countries

been a primary driver of inequality since it has encouraged the owners of capital to put it to work where labor is cheapest. In the past, that has meant a loss of good manufacturing jobs, which have been replaced in part by lower-paying service jobs.

The Obama administration talks a lot about a manufacturing renaissance driven by cheap natural gas and the increasing risk of managing long global supply chains that run through unstable regions. But what competitive advantage the United States has built in this arena also depends on the fact that its labor costs, after two decades of wage stagnation, are now among the lowest in the developed world. Hence, the jobs to be created by the TPP are unlikely to pay the family-supporting wages they used to.

#### **THE CONGRESSIONAL HURDLE**

Even if the TPP negotiations reach the point where the 12 negotiating parties can live with what's in it, the hardest part still awaits:

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convincing their legislative branches, many of which are undisciplined, interest-group ridden and highly partisan, to sign off on the whole deal.

Ratification will be as tricky in the United States as anywhere. The Constitution gives Congress the right of advice and consent on trade agreements. But to ease the process in recent decades, Congress has voluntarily tied its own hands by granting the President something called “trade promotion,” or “fast track,” authority, which is the right to an up-or-down vote on the treaty as negotiated by the administration. Fast track helps to solve the nearly intractable problem of managing special interest amendments, which at best would require renegotiation with other signatories or simply derail the effort.

But while the fast track changes the dimensions of the legislative hurdle, it doesn’t finessé it entirely. The authority requires reauthorization, which gives Congress the chance to set up “negotiating objectives” that the administration commits to pursuing.

Fast-track authority expired in 2007; now that the TPP deal is almost done, time is growing short for Congress to resurrect it. That has created a weird moment in Obama World. Congressional Democrats are bucking a Democratic president, while establishment Republicans try not to look too cozy with the administration, even though their big-business backers desperately want them to cut a deal. Meanwhile, Tea Party elements of the Republican Party have joined with the populist, progressive left in charging that the White House is caving to corporate lobbies.

The Democratic Congressional leadership has officially opposed renewal of fast-track authority. But that’s in part because these leaders are engaged in their own dance with the administration with the goal of minimizing

the pain for organized labor and environmental groups without destroying the whole thing.

Negotiation objectives thus far have focused on requiring more consultation and transparency. The most substantive request – that the U.S. negotiators do what they can to address “currency manipulation” – would be a heavy lift in a treaty that’s already so weighted with interest-group compromises that pieces of it are starting to break off on the margins.

Much is now leveraged on Congressional approval. From the beginning, America has been a driving force behind the deal. If it loses the will to finish it, the entire thing may fall apart.

### **NO TURNING BACK?**

Watching from Singapore, one of the original four Asian countries to sign up for the TPP, the minister of law and foreign affairs, K. Shanmugam, recently delivered a message to the American people via a group of visiting journalists. “I think it’s a little bit regretful that America, which was so confident in itself, so sure of its technological ability and ability to compete in the world, is beginning to be less confident,” he mused. “When unemployment is high, it becomes politically attractive for some politicians to look at ways of cutting off from the world.”

His follow-up was more admonition than lament: “The entire world has learned the lessons of free economics from the U.S. ... Yes, there will be some pain.” But what would the failure to ratify the treaty mean for U.S. leadership? “My message is really to the American public at large, that it is in their interest to see a deal through.”

Of course, it’s doubtful that the American public is listening. The unanswered question is whether their elected representatives are willing to accept the economic dislocation required of the global leader. **M**