

The Trans-Pacific Partnership: For, Against and Prospects

Written by Richard Higgott and Richard Stubbs

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<https://www.e-ir.info/2016/04/13/the-trans-pacific-partnership-for-against-and-prospects/>

RICHARD HIGGOTT AND RICHARD STUBBS, APR 13 2016

The Trans-Pacific Partnership (TPP) is an agreement among 12 countries with very different economies – Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam.

Negotiations over the 30 chapters of the TPP Agreement concluded in early October 2015 with the legal text being signed on February 4, 2016. To 'enter into force' the TPP must be ratified by all 12 members. If this has not happened after two years, then it can enter into force if 6 of the 12 members representing 85 % of the total GDP of all members have ratified it. Essentially, therefore, the US with nearly 62% and Japan with over 17% of the membership's total GDP, each has a veto over the ratification of the TPP.

The TPP Agreement is highly contentious. While ratification may well occur in both the US and Japan in neither country is it assured (Mulgan 2016; Stephens 2016). Most of the leaders whose governments signed the TPP are strong advocates of the Agreement, as are major corporations who will gain from its implementation. But large numbers of people have taken to the streets in member countries to demonstrate against the Agreement. And a wide range of civil society groups – from union and environmental organizations to health professionals – as well as the top two contenders for the US Presidency from both the Democratic and Republican parties in the US – have all declared that they cannot support the TPP. What, then, are the arguments for and against the TPP? There are four main arguments in favour of the Agreement and five against.

The Case for TPP

First, the TPP is seen as a major step forward in opening up trade in goods among the member countries. The combined population of the 12 members is just under 800 million and the total GDP is approximately \$28.5 trillion. As supporters argue, this means that it provides all members with considerably enhanced export opportunities. Advocates of the TPP point out that roughly 98% of tariffs in the region will be eliminated and customs administration and trade facilitation measures will ensure that goods are moved between members as quickly and easily as possible (USTR; Kenny 2015).

Second, the proponents of the TPP point to the dismantling of non-tariff barriers (NTBs) as a major step forward in promoting increased trade in goods and services. With 'behind the borders' measures being taken to ensure that restrictions on trade between members are reduced, if not eliminated altogether over a period of time, champions of the TPP Agreement see added trading opportunities for all members. They note, for example, the importance of regulations being transparent as well as the harmonisation and mutual acceptance of regulations and standards among members encouraging greater trade and investment (Chia 2015).

Third, some governments and corporate lobby groups have argued that the TPP makes for a 'fairer playing field' especially for foreign businesses. The TPP Agreement is said to limit subsidies, discriminatory treatment, and favouritism often afforded to state-owned enterprises by governments. This will make it much easier for foreign private-sector companies to be competitive. In addition, the Agreement establishes common labour and environmental standards throughout the TPP trade area, thereby putting all members on a more equal footing when it

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comes to exporting goods and services (USCIB 2016).

Fourth, there is the argument that the TPP reinforces US links to the East Asian region at a time when China is expanding its influence and destabilizing the region. It is in the interests of both the US and regional members, so the argument goes, to balance off the rising power of China. Furthermore, advocates of the TPP argue that in the long term it is better to have any future Asia Pacific regional economic integration based on the rules-based, high-quality, comprehensive, twenty-first century TPP Agreement than on any weaker agreement championed by China (Solis 2015).

The Case Against TPP

Opponents of the TPP have a variety of criticisms to make. First, the negotiations and some of the provisions of the Agreement are seen as anti-democratic. During the negotiations corporate lobbyists were consulted extensively but no meaningful consultations took place with consumer groups, taxpayer organizations, union organizations, healthcare professionals or environmentalists. Even elected representatives, such as members of Congress in the US, were given only very restricted access to the negotiating documents and then were not allowed to discuss them with anyone. Detractors, therefore, see the TPP as an agreement that was negotiated in the interests of major corporations not in the interest of the general populations of the member countries (CBC News 2016; Reich 2015).

Second, opponents of the TPP in developed countries see previous trade agreements, such as NAFTA and the recent Korean-US FTA, as contributing to the hollowing out of the industrial and manufacturing sectors in their economies and the shipping of jobs offshore. TPP, they argue, will mean more of the same. In promoting past FTAs, governments in developed countries have made promises of increased exports which have failed to materialize while increased imports from low-cost manufacturing countries have risen beyond expectations. As a result, corporations that have moved jobs overseas have increased their profits while workers back home have been forced to take on precarious, lower paid employment. Importantly it now transpires that workers who lost their jobs have had more difficulty finding new employment than economic models had predicted and that the resulting poverty is passed on from one generation to the next. The TPP, opponents argue, will only contribute further to this continuing cycle (Harford 2016; Wallach 2016).

Third, critics make the point that the TPP is as much about investor rights and promoting investors' interests as it is about freeing up trade. There are a number of concerns here. For example, it is argued that the investor-state dispute settlement mechanism (ISDS) gives foreign corporations the right to by-pass domestic courts and to go before an international tribunal to seek compensation if a member government introduces a policy that interferes with their ability to make a profit. While there are some restrictions on corporations' rights to sue, those who are against the TPP point out this severely limits the sovereignty of democratically elected governments particularly in vital policy areas such as environmental and general public health issues and the regulation of key sectors such as real estate and finance (Warren 2015).

Those against the TPP also see the Intellectual Property Rights (IPR) chapter of the TPP Agreement as creating other problems rooted in the underlying philosophy of protecting investor rights. For example, they note that the rights of IP holders are referred to as mandatory while those of users are generally noted as optional. Similarly, the extension of copyright provisions and the often disproportionate penalties for infringing on these provisions are also deplored. And one of the most often cited problems is the substantial increase in the cost of pharmaceuticals that will result from the provisions in the IPR chapter (Geist 2016).

Fourth, opponents of the TPP argue that the Agreement locks in place the existing economic and technological hierarchy among members. Those TPP countries that produce high-tech products and hold large numbers of patents – essentially the US, Japan and to some extent Singapore – will be able to protect their high-tech industries through the IPR and other provisions but lose manufacturing jobs, while resource extraction countries and low-cost manufacturing economies will find it difficult to move up the technological ladder in any meaningful way (Balsillie 2016).

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Fifth, and reinforcing the fourth point, critics of the TPP indicate that it limits the role of government to such an extent that it will be difficult to address a whole series of problems including those associated with global warming, financial crises, and health emergencies. The TPP, so the argument goes, limits the public polity space afforded governments through, for example, the SOE, Investment, Competition and IPR chapters of the Agreement so as to ensure that the rights of investors are fully protected. Moreover, the fact that increasing inequality is a global problem that only governments can rectify makes the TPP's restrictions on government action particularly problematic so critics argue (Blackwell 2015; Capaldo et al 2016). The pendulum is said to have swung too far towards investor protection and away from the rights of consumers and workers, a trend that the TPP will only make it worse.

Conclusion

TPP is signed but it is not a done deal. Its trans-Atlantic equivalent—TTIP—is going nowhere given the current European malaise. TPP will not be ratified in the US before a presidential election and the likely contestants of that election are not in favour—at least not prior to election. The divergences between the for and against cases are as much questions of politics and ideology as they are fact. The debate has not been open and transparent to-date. The arguments for and against are, in their own way strong. It may still be a debate that has to be had in fuller fashion in the US, and indeed several other signatory states, before a conclusion is reached.

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