



Working Paper 09

The trade policy of the United States, and the current situation and a perspective of the CPTPP (TPP-11)

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Working Paper No. 9. The trade policy of the United States, and the current situation and a perspective of the CPTPP (TPP-11)

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Made in Mexico / Hecho en México

Abstract

The CPTPP allows economies and countries in other regions to formally incorporate trade flows with the Asia-Pacific and Pacific Rim, as well as boost trade with countries in these regions. The TPP was signed by 12 countries in February 2016 and on December 9 of the same year the Japanese government of Prime Minister Shinzo Abe approved the TPP by a majority in the House of Representatives. However, in January 2017, Trump, as the new President of the United States, officially declared the withdrawal of the United States from the TPP to fulfill one of his election promises. In this context, this paper focuses on the study of two axes: the process and strategy of U.S. trade policy, and the current situation and a perspective of the TPP 11.

Resumen

El CPTPP permite a las economías y países de otras regiones incorporar formalmente los flujos comerciales con la cuenca de Asia-Pacífico y el Pacífico, así como impulsar el comercio con los países de estas regiones. El TPP fue firmado por 12 países en febrero de 2016 y el 9 de diciembre del mismo año el gobierno japonés del primer ministro Shinzo Abe aprobó el TPP por mayoría en la Cámara de Representantes. Sin embargo, en enero de 2017, Trump, como nuevo presidente de los Estados Unidos, declaró oficialmente la retirada de Estados Unidos del TPP para cumplir una de sus promesas electorales. En este contexto, este trabajo se centra en el estudio de dos ejes: el proceso y la estrategia de la política comercial de Estados Unidos, y la situación actual y una perspectiva del TPP 11.

The trade policy of the United States, and the current situation and a perspective of the CPTPP (TPP-11)

Yasuhiro Tokoro and Virginia Valdivia

Introduction

In 2017, the announcement by President Donald Trump to withdraw from the TPP shocked the international trade system. The Pacific Basin represents 40% of the US GDP. The United States of America considered the TPP as a preliminary stage to eliminate tariffs in the APEC scheme. Former President Obama, during his 8-year presidency, undertook the Transpacific Partnership (TPP) commercial strategy as a platform to strengthen its economic presence in Asia. Washington sought to promote the TPP and the FTAAP with the same intention of expanding its economic activities in the Asia-Pacific markets.

The TPP was signed by 12 countries in February 2016 and on December 9 of the same year, before other member countries made the decision, the Japanese government under Prime Minister Shinzo Abe approved the TPP by a majority vote in the House of Representatives, comprised of the Liberal Democratic Party and other parties such as Komeito and Nippon Ishin No Kai, etc. However, in January 2017, Trump, as the new US president officially declared the withdrawal of the US from the TPP to fulfill one of his electoral promises. In this context, this paper will study the issue of the two points: the process and strategy of the US trade policy, and the current situation and a perspective of the TPP 11.

The process and strategy of the US trade policy

In the mid-1980s, the United States became the country with the largest debt burden in the world due to its immense military expenditures and economic support to allied countries. This was worsened by the US's large imports of products from Japan, Europe and the newly industrialized economies of Asia. Moreover, the army expansion strategy and the tax reduction policies established by the Reagan administration caused a serious fiscal deficit problem. Besides, the dollar exchange rate increased due to the government's policy to mitigate inflation. As a result, the American industries have lost their competitiveness in the international market.

The U.S. Council on Competitiveness was commissioned to solve this problem. However, the "Young Report" published in 1985 recommended expanding Japan's domestic demand and increasing the yen's exchange rate against the dollar to regain competitiveness. In other words, the US took advantage of the international agreement (Plaza Agreement) and monetary exchange policies to weaken the dollar instead of finding solutions to improve productivity and develop new industries. In 1986, the semiconductor agreement between the US and Japan concluded and continued to require Japan to self-regulate exports to the United States.

Under the Clinton presidency, this strategy continued through the Structural Impediments Initiative and the comprehensive trade negotiations until Mexico's currency crisis occurred in 1994. During this period, the US had invested a large amount of capital in the Mexican market. Therefore, everyone was concerned about the negative impact of Mexico's economic crisis on the US economy. This increased

the risk that foreign investors would withdraw their investments from the US equity markets. To prevent dollar devaluation, the US, Japan and Germany agreed to coordinate the monetary exchange in 1995.

Through this coordination, the interest rate of the US had risen while the interest rate of Japan and Germany fell. Moreover, the purchase of the dollar and the sale of the yen and German mark induced a continuing trend of the high exchange rate of the US dollar and the low rate in the major developed countries since 1995. As a result, the capital flow to the US was maintained by the high exchange rate. On the other hand, the creditor of the US, like Japan, supported the high dollar exchange rate by buying US Treasury bonds.

Former president Bill Clinton promoted trade policy to revitalize the national industry. With the initiative of the National Economic Committee, which sought to solve the problem of the current account and fiscal deficit (twin deficit), to strengthen the international competitiveness of US companies and create employment. In this process, the US revived the super 301 to protect the national industry and established the “National Export Strategy” to promote export. This strategy aimed at exploring new commercial routes by demanding economic reform and open markets to counterpart countries through negotiations.

Likewise, this strategy promoted the conclusion of the Free Trade Agreement (FTA) as a commercial policy that complements the GATT scheme. “The Enterprise for the Americas Initiative” was proposed in 1990 under the Bush presidency to create regional integration that would encompass the entire American continent. And Clinton re-proposed a new version of that Initiative, which was the Free Trade Area of the Americas (FTAA). In this way, it sought to establish a free trade area among the 34 countries of the American continent.

But negotiations for the creation of the FTAA have been suspended because of subsidy problems related to the US agricultural industry and the “Singapore issue” which led to conflict between the US and developing countries.

As soon as this Initiative was suspended, the US focused on concluding bilateral FTAs that were more easily agreed upon and tried to achieve regionalism through FTA, while maintaining commercial multilateralism through the World Trade Organisation (WTO). One of the most important antecedents in this US regional strategy was the North American Free Trade Agreement (NAFTA) that went into effect in 1994. At first, within the US there were several entities such as the environmental protection groups, trade unions (e.g. AFL-CIO) and other non-governmental organizations that opposed the conclusion of NAFTA. These entities were concerned about the possible worsening of the environment and working conditions for Americans with NAFTA. However, after the Reagan administration, there was an “attack” by the government against trade unions, such as the strike of professional air traffic controllers. When NAFTA went into force, the workers had already lost the power of negotiation and resistance. (Kolko, 1988, p.14)

NAFTA is characterized by the following features: 1) has deferred the agreement that seeks monetary integration or labor migration among member countries such as the European Union; 2) despite the participation of the three countries, Canada and Mexico are highly dependent on the size of the economy and market of the US; 3) consist of two developed countries and one developing country that have unequal economy; 4) represents an integral scheme that covers not

only the suppression of tariff barriers of goods and services, but also the liberalization of investment, protection of intellectual property rights and the resolution of conflicts; and 5) establishes strict rules of origin for important industries.

We see the current foreign trade of the US, including the impact of NAFTA. The behavior of US trade, in general, is that the trade deficit has accumulated against Japan until the mid-1980s, but increase with regard to Canada and Mexico after the entry into force of NAFTA. For instance, the trade deficit with Mexico increased, and with China after China joined the WTO in 2001.

According to the proportion of countries and regions with which the US has a trade deficit; NAFTA (Canada and Mexico) represents 11.1%, EU (28 countries) 19.0%, Japan 8.66%, China 47.2%, ASEAN (10 countries) 11.5% and Korea represents 2.91%. Although Trump claimed the reduction of the trade deficit with Mexico, its amount is about 70.95 million dollars, which represents only 8.92% of the total. This figure is less than those with Japan and Germany and did not mention the figure with China accounting for 375.57 million dollars. (JETRO, 2018, p.6)

While the amount of gross exports from China to the rest of the world increases, it does not necessarily mean that the domestic value-added content of gross exports increases. For example, even if exports of vehicles from Mexico or electronic devices from China to the US increase, the final products contain not only the goods (intermediate goods) manufactured in Mexico or China, but also those from the US and Japan.

The strategy of TPP aimed to help the US multinational companies, which explore specific areas, such as finance, insurance, phar-

maceutical and agro-industry, to benefit from Asian markets. The main companies in these sectors are part of the “Business Coalition of the US for the TPP”. In the TPP negotiations on intellectual property protection, they sought to maximize benefits in the pharmaceutical (medical patents protection), agricultural, entertainment and communications industries. In addition, the TPP had a liberating and deregulatory provision of the market so that interested sectors such as banking and insurance could actively intervene in foreign markets.

Nonetheless, trade liberalization and capital flow under regional trade agreements such as NAFTA caused the offshoring of US multinationals abroad, while cheap products made in China and Mexico were imported. As a result, the factories in the United States moved abroad, as well as national employments.

It is known that the current US president Trump harshly criticized NAFTA, stating that “it is the worst commercial treaty in history.” Also, he considers that “NAFTA has deprived and continues to deprive the US of employment opportunity”. He stated the same regarding the TPP.

The TPP and NAFTA have some common aspects. First, both agreements not only eliminate direct tariffs and non-tariff barriers, but also establish a global framework that promotes investment, exchange of services, intellectual property protection, government procurement and conflict resolution. Both schemes adopt an advanced standard regarding the elimination of tariffs, which is because the US promoted the negotiations of other FTAs from 2000 based on the NAFTA rules. Secondly, at the economic level of the participating countries, both treaties are not between advanced countries but between advanced countries and developing countries. Third, both TPP

and NAFTA not only seek to strengthen the economic link but also the security alliance. In the NAFTA scheme, the “Security and Partnership for Prosperity in North America (SPP)” was created in 2005. Regarding the TPP, the Japanese government has declared the same: “Deepening the economic bond mutually will favor both the security of our country and peace in Asia-Pacific” (Prime Minister of Japan and his Cabinet, 2013).

Trade liberalization and capital flow under regional trade agreements such as NAFTA caused the fleeing of multinational US companies abroad, while cheap products made in China and Mexico are flooding the US market. Consequently, the United States saw its industrial infrastructure and employment weakened and moving outside, which is why Trump managed to get great support and sympathy from Americans. Trump’s statement “We must protect our borders from the ravages of other countries making our products, stealing our companies, and destroying our jobs”, was a convincing speech to many Americans.

However, US policies directed by President Trump are not completely protectionist. The Republican Party, a defender of free trade and investment liberalization, won a majority in the U.S. Senate and House of Representatives elections in the US Congress in November 2016. The Trump administration does not prioritize multilateral agreements such as TPP. Therefore, the US will probably press more on its commercial counterparts with the option of bilateral treaties demanding the purchase of US products.

The current situation and a perspective of the CPTPP (TPP 11)

After the US decision to withdraw from the TPP, its other members decided to continue with this agreement. They signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which includes 11 countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam) and it is known as TPP-11, on 8th March 2018 in Chile.

The CPTPP is one of the largest free trade agreements due to the fact that Asia-Pacific is one of the most dynamic trade regions in the world: it represents nearly 13.5% of global Gross Domestic Product (GDP) (Government of México, 2016) or 10,205 billion of dollars, 15% of international trade (\$ 4 827 billion) (Government of México, 2016). In contrast, the World Trade Organization (WTO) concentrates 98% of international trade, (WTO, 2018) the Free Trade Area of the Asia Pacific (FTAAP) 57% of GDP and 49% of global trade, (Xinhua News, 2016) and the Regional Comprehensive Economic Partnership (RCEP)¹ contributes about 30% of global GDP and over a quarter of the world exports. (ASEAN, 2018) CPTPP also embodies a market of 500 million people.

The importance of these treaties is not only their volume of global trade but also the number of trade areas they include, specially these areas that are not exclusive for trade (e.g. government procurement, competition policy, intellectual property, labor, environment

¹ Regional Comprehensive Economic Partnership (RCEP) is being negotiated by the 10 ASEAN members as well as Australia, China, India, Japan, New Zealand and South Korea

and transparency and anti-corruption). For this reason, until 2019, the TPP-11 is the broadest negotiation in terms of free trade achieved worldwide.

In terms of negotiation, some scholars view the CPTPP as a towards broader free trade negotiations. According to this, Schott *et al.* (2013) said that: “The value of the TPP, however, goes well beyond its impetus to trade and invest. The TPP serves as an instructive negotiating laboratory that could yield useful precedents for other trade initiatives. The TPP is a central pathway for economic integration in the APEC region and hopefully will also inspire new global trade talks. Perhaps even more important is its strategic value in reinforcing economic and political relationships among the Asia-Pacific countries”. (Schott *et al.*, 2013, p.1) So that CPTPP represents a huge treaty where multi-issues and multi-parties are involved, and it is a platform to get consensus before negotiations in WTO or FTAAP and to get ratification or access to other agreements because TPP 11 has an expansive character and includes other treaties.

Hence Article 18.7 “International Agreements” states that each party of the CPTPP affirms that it has ratified or acceded to the following agreements: (a) Patent Cooperation Treaty, as amended September 28, 1979; (b) Paris Convention; and (c) Berne Convention. And each Party shall ratify or accede to each of the following agreements, if it is not already a party to that agreement, by the date of entry into force of this Agreement for that Party: (a) Madrid Protocol; (b) Budapest Treaty; (c) Singapore Treaty; (d) The International Union for the Protection of New Varieties of Plants (UPOV) 1991; (e) WIPO Copyright Treaty (WCT); and (f) WIPO Performances and Phonograms Treaty (WPPT).

Another expansive characteristic of CPTPP is open negotiations to a new partnership. There is no doubt that one of the best achievements for global free trade is the inclusion of new members not exclusive from Pacific Rim region but from other regions of the world. This means that CPTPP is returning to Asian regionalism principles, an open regionalism that considers cooperation with countries from other regions and not a strict membership as European Union (EU), for example. For this reason, Article 5: accession declares the following “after the date of entry into force of this Agreement, any State or separate customs territory may accede to this Agreement, subject to such terms and conditions as may be agreed between the Parties and that State or separate customs territory” (CPTPP, 2019, Article 5). Prior to the TPP, APEC members may join it or any other state or separate customs territory that the Parties agree to.

Therefore, Colombia, South Korea, Indonesia, Thailand, The Philippines, Taiwan and the United Kingdom have expressed their interest in joining the CPTPP. For the UK this is a strategy to be able to face possible Brexit. While Taiwan’s access may be difficult due to China being able to oppose, it is also because China is pushing forward its own trade agreements (e.g. RCEP). But the acceptance of more members to the CPTPP would accelerate and deepen regional and global economic integration.

Although the CPTPP is different from TPP and it does not represent US’s trade interests anymore, “most of the original TPP text remains intact, and two-thirds of the CPTPP’s 30 chapters are identical to TPP”. (Goodman, 2018) The CPTPP has seven articles, the first one incorporates original TPP text except for Article 30.4 (Accession), Article 30.5 (Entry into Force), Article 30.6 (Withdrawal) and Article 30.8

(Authentic Texts) and the second one suspends the application of certain provisions.

For this reason, in the CPTPP were suspended the application of a limited number of provisions, a total of 22, related to rules that were introduced by the United States, despite, this agreement still represents a step forward for regional trade and new international trade rules. Some of the dispositions eliminated from the original TPP are about protection of labor rights and the environment, and intellectual property and patents. This means that no entire chapter from the original TPP text was removed only parts of them. See Table 1.

Table 1. Content of CPTPP

Articles and Chapters	
Article 1	Incorporation of the Trans-Pacific Partnership Agreement
Article 2	Suspension of the Application of Certain Provisions
Article 3	Entry into Force
Article 4	Withdrawal
Article 5	Accession
Article 6	Review of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership
Article 7	Authentic Texts
Chapters of original TPP text incorporate to CPTPP	
Chapter 1. Initial Provisions and General Definitions	Chapter 16. Competition Policy

Chapter 2. National Treatment and Market Access for Goods	Chapter 17. State-Owned Enterprises and Designated Monopolies.
Chapter 3. Rules of Origin and Origin Procedures	Chapter 18. Intellectual Property
Chapter 4. Textile and Apparel Goods	Chapter 19. Labor
Chapter 5. Customs Administration and Trade Fa- cilitation	Chapter 20. Environment
Chapter 6. Trade Remedies	Chapter 21. Cooperation and Capacity Building
Chapter 7. Sanitary and Phytosanitary Measures	Chapter 22. Competitiveness and Business Facilitation
Chapter 8. Technical Barriers to Trade	Chapter 23. Development
Chapter 9. Investment	Chapter 24. Small and Medium-Sized Enterprises
Chapter 10. Cross-Border Trade in Services	Chapter 25. Regulatory Coherence
Chapter 11. Financial Services	Chapter 26. Transparency and Anti-Corruption
Chapter 12. Temporary Entry for Business Persons	Chapter 27. Administrative and Institutional Provisions
Chapter 13. Telecommunications	Chapter 28. Dispute Settlement
Chapter 14. Electronic Commerce	Chapter 29. Exceptions and General Provisions
Chapter 15. Government Procurement	Chapter 30. Final Provisions

Source: Table compiled based on CPTPP (2019).

The TPP-11 entered into force on December 30, 2018 to Australia, Canada, Japan, Mexico, New Zealand and Singapore. This occurs, according to the third article of CPTPP “60 days after six or at least 50 per cent of the number of signatories to this Agreement, whichever is smaller, have notified the Depositary in writing of the completion of their applicable legal procedures”. In the case of Vietnam, it entered into force on January 15, 2019. See Table 2.

Until May 2019, Brunei, Chile, Malaysia and Peru have not concluded their internal procedures to ratify the deal.

Table 2. CPTPP ratification and entry into force

Members of TPP-11	Ratification	Entry into force
Australia	October 31, 2018	December 30, 2018
Brunei	-----	-----
Canada	October 29, 2018	December 30, 2018
Chile	-----	-----
Japan	July 6, 2018	December 30, 2018
Malaysia	-----	-----
Mexico	April 24, 2018	December 30, 2018
New Zealand	October 25, 2018	December 30, 2018
Peru	-----	-----
Singapore	July 19, 2018	December 30, 2018
Vietnam	November 12, 2018	January 14, 2019

Source: Table compiled based on CPTPP (2019).

After the TPP-11 entered into force, on January 19, 2019, the Members celebrated the first commission meeting of the Agreement

held in Japan. In this meeting, members reaffirm their commitment to an effective, open, inclusive and rules-based trading system and the Commission meeting agreed on a framework for the accession of new members and decisions about implementation of the treaty.

For the adhesion process to CPTPP, the parties agreed to create an Accession Working Group in charge of it. The aspirant economy will, via the Accession Working Group and bilaterally (as appropriate), negotiate its market access offers and demonstrate how it will meet the Benchmarks and its commitment to CPTPP dispositions; after these negotiations, the Accession Working Group will submit a written report to the Commission. The Commission will determine, by consensus, whether to approve the terms and conditions for the aspirant economy's accession to the CPTPP (CPTPP, 2019). This process not only represents an open regionalism, it also means a broader economic integration more global than regional.

Because of the implementation of the CPTPP, countries like Malaysia, Singapore, Brunei and Vietnam would receive an economic boost of more than 2% by the year 2030, while New Zealand, Japan, Canada, Mexico, Chile and Australia would grow close to an additional 1% (BBC Mundo, 2018). Also, this agreement opens opportunities for new trade partnerships between its members.

General benefits, commitments and results of CPTPP will be: a) a regional commitment and decision-making, b) inclusion of new issues in multilateral trade relations and new challenges to member companies (such as intellectual property, e-commerce); c) reduction of tariffs by almost 90%; e) inclusive and expansive commerce (within the Pacific Rim and beyond); and f) a step to access new mega-agreements.

The main disadvantages of TPP-11 will be: a) the differences in economic and other terms between its members (stages of economic development, labor and environmental standards and rules); b) reduction of tariffs in “sensitive” and “protected” sectors (such as agriculture for Japanese or dairy for Canadians); c) change of labor practices (some countries face situations of labor rights violations); d) commercial standards for state-owned enterprises (a controversial issue for some countries such as Vietnam); and e) intellectual property rules that can damage some national practices allowed.

Conclusion

CPTPP still represents a commitment to free global trade and the promotion of multilateral agreements despite the protectionist and bilateral policies of the Donald Trump administration and the withdrawal of the United States from CPTPP. Several countries continue to prioritize multilateral agreements and the CPTPP as win-win negotiations, that is, where all parties benefit. In this sense, the US retired as a leader of regional trade agreements in Asia Pacific and the Pacific Rim, Australia and Japan have taken command in CPTPP and China in RCEP, this means that Asian countries with different mechanisms (e.g. RCEP, CPTPP, and New Silk Road) are shaping the future of Asia Pacific trade. If the new US administration does not join the CPTPP, Japan and Australia will remain leaders of this agreement and must show an active role in stimulating regional and global trade through the CPTPP.

Even though recent trends toward protectionist and nationalist trade policy, the bilateral, regional and mega agreements still operate under WTO rules. In this sense, the CPTPP is a platform to get consensus before negotiations in WTO or FTAAP; some members have seen this treaty as a previous step to get gains before obtaining them in multilateral forums. The CPTPP allows economies and countries in other regions to formally incorporate trade flows with the Asia Pacific and Pacific Basin and boost trade with countries from these regions.

In the end, Trump's decision to withdraw the United States from the TPP has only excluded the United States from strengthening its trade ties with the Pacific Rim, establishing the new rules of the 21st century for multilateral trade and even the most important dealing with the mega agreements and global trade projects promoted by China. For that reason, it is important that the next government of the United States considers the CPTPP as a strategy and as an instrument for US trade policy.

While Donald Trump continues to be its president, the main foreign trade policy instruments of his country will be bilateral agreements and not multilateral ones. The CPTPP will not be a priority for the Donald Trump government, but the commercial war against China, USMCA and the bilateral trade treaties will be.

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