The End Game for the Trans-Pacific Partnership

Bernard K. Gordon

There are five main things to know about the Trans-Pacific Partnership, which is usually referred to as the TPP:

- it is about much more than trade;
- it promises to be a genuinely big deal;
- it is soon to become a reality, either this year or next;
- it will change the rules of the road for the global economy’s major actors;
- it will introduce norms that are likely to have a profound impact on the Pacific region’s strategic environment.

Twelve nations are now involved in the TPP negotiations, though its roots are much smaller and date from late 2002. That is when three small and very open economies—Chile, New Zealand, and Singapore—agreed to form a “Common Economic Partnership,” in which open trade among them was the key feature. Brunei was quickly added, leading to a “P4,” which many regard as the TPP’s beginnings. Several nations gradually joined, and a big boost came in 2009 when President Barack Obama formally entered the United States into the TPP talks. Today’s members range from the very small, such as Brunei in Southeast Asia, to the very large, such as Japan and the United States. The others include Australia, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

Together, these twelve nations represent almost 800 million people. Although this number amounts to only 9 percent of the globe’s population, in economic terms, those 800 million people account for nearly 40 percent of the world’s economy. There is also a growing interest in Beijing about joining the TPP, which would bring it to more than half of the globe’s economy, but it is too early to predict.

Currently, the TPP is often referred to as the “centerpiece” of President Obama’s commitment to maintain a major American role in the Pacific region. Even without the TPP in place, there is already a very large U.S. trade involvement with the nations in the region. In 2013, 44 percent of America’s exports (worth approximately
Those figures begin to suggest the magnitude of the present American economic stake in the TPP, and over the next several years all TPP members are expected to experience large economic benefits. For the United States, according to a report by the Peterson Institute of International Economics, by 2025 gains to the American economy would reach $77 billion each year, and some smaller economies, for example Vietnam, would see especially high proportional benefits.\(^2\)

The main reason for these anticipated gains is that the TPP would break genuinely new ground, for the simple reason that it would establish a “Free Trade Agreement” among all its members. That is a fundamental point, though not often specifically highlighted. This is an odd omission because, from an American perspective, a central feature of the TPP is that it would establish a U.S. Free Trade Agreement with Japan. That goal has been something of a “holy grail” American objective since the 1980s, and the TPP means it is now close to being accomplished.

**The Japan Factor**

The Japan-U.S. trade relationship warrants separate mention because it illustrates some of the issues raised in the current TPP negotiations, and also because it sheds light on similar problems involving several of the other participants. Japan’s high-level interest in the TPP became evident in 2011 and 2012, under then-Prime Minister Yoshihiko Noda. At that time, both the gains and difficulties Japan would encounter if it joined the TPP were identified, especially in connection with its highly protected agricultural sectors. But it was not until Japan’s current Prime Minister Shinzo Abe took over that Tokyo decided to formally join the TPP negotiations in early 2013. One of Abe’s main goals has been to revitalize the Japanese economy, and a corollary has been his aim to introduce basic changes to Japanese agriculture. To do that he needed to break the back of JA-Zenchu, the Central Union of Agricultural Cooperatives, which he did in February of this year. That group for many years dominated Japanese agriculture, and...
its stranglehold was reflected for example in the tiny, 5-acre size of the average farm and the numerous restrictions on farmers that made their products uncompetitive, even within the country.

The now much reduced role of JA-Zenchu brought new attention to the powerful political role of farming interests in Japan, an issue also found in most other democratic societies. Yet nowhere is it more starkly clear than in Japan, whose economy before World War II was dominated by an agriculture sector that also accounted for most of Japan’s employment. Even by the end of the war, half of Japan’s workforce was related to farming, but that ratio then began to sharply decline. Today, agriculture accounts for less than 1.5 percent of Japan’s GDP, while farm-related employment has likewise fallen from 2.6 million less than a decade ago to just 750,000 people today. Most of these workers, as the prime minister himself recently pointed out, are part-time workers, with an average age older than sixty-six.

But the stubborn reality in Japan, as in France and elsewhere, is that a special place in the popular self-image, and in much of its culture, has been the original home village and its link to farming. That background has strongly affected U.S.-Japan trade discussions since at least the 1970s, in which issues of “market access” for America’s far more productive agriculture sectors have been a regular and often contentious feature. The case of rice is probably the best known because it has been protected by a nearly 800 percent effective tariff barrier. But other farm products, including Japan’s pork, sugar, and beef have also been involved.

All this has come to a head in the current TPP negotiations, because if the TPP is to include what amounts to a U.S.-Japan “Free Trade Agreement,” most or all such limitations will have to come to an end. That need not happen in a sudden single step, but instead will probably be achieved in phases and over an agreed period of years. The good news is that by late 2014 and in early 2015, Tokyo and Washington appear to have resolved most of those agricultural market-access issues. One sign was a recent announcement from America’s pork producers that they were satisfied by what they had heard from the U.S. team negotiating the TPP with Japan.

Nevertheless, other vocal American interests, especially those involved in the automotive industry, remain dissatisfied with the market-access provisions that affect them. The Ford Motor Company and its associated labor unions have been the most prominent, and their case has been very strongly reinforced by a sizeable number of congressional voices. Those issues, and other public and congressional complaints—particularly that the TPP negotiations have been conducted with too much secrecy—still have much potential to stop the Partnership from being established.

The TPP’s Non-Trade Features

Those concerns, which include what are sometimes referred to as the TPP’s “behind the border” issues, need now to be identified, for two main reasons. First, because they underline the point made earlier: that the TPP is about much more than trade. Second,
because the TPP’s ‘non-trade’ categories highlight specific problems one or another member faces in the negotiations. The talks have been organized around more than two dozen chapters, and include the following issues:

- state-owned enterprises;
- government procurement;
- small and medium businesses;
- labor and the environment;
- intellectual property rights;
- investment;
- telecommunications; and more.

A list that long (and there are more!) would be challenging for even two nations aiming for a bilateral agreement, and the problem is compounded because the TPP often involves long-standing domestic policies of its dozen members. In the United States, for example, government procurement practices may be bound by the “Buy American” laws of individual states, which mandate that preference be given to locally made products. The impact of those laws would need to be alleviated if another TPP member hoped to sell its products in the United States.

Another category is laws governing labor and workers’ rights, which are often less protective in some TPP members than in Australia, Canada, or the United States. Issues of child labor illustrate the point: goods produced in nations which allow or depend on child labor, as is alleged to be the case in, for example, Vietnam, raise obvious competitiveness issues in markets where child labor is prohibited. Or consider the TPP’s concern with workers’ rights in countries such as Malaysia, whose Bumiputra laws mandate preferences for workers of specific ethnic groups.

TPP negotiators have also had to grapple with the broader question regarding products of state-owned enterprises (SOEs), which in some cases dominate whole economic and industrial sectors. Among the problems these SOEs raise is whether those products should be treated with the same openness as goods produced in economies based on private ownership, and which must therefore generate profits. All such questions stem from the conviction that in their trade activities, all TPP members should expect to encounter a level playing field.

Another goal not seen in earlier trade agreements is the TPP provision to encourage foreign trade by SMEs—trade-speak for “small and medium enterprises.” Such smaller firms generally have little experience with the complexities of selling in foreign markets, and the SME category aims to assist them in dealing with issues such as licensing, shipping, customs, and the myriad of other practical tasks long familiar to large corporations, but not to small firms. Interestingly, and even without the TPP in place, recent American experience has shown that such assistance, for example by FedEx, has already resulted in new exports and greater involvement in foreign trade by smaller firms.

Issues of this nature help explain why the TPP is often referred to as a “21st Century Trade Agreement”—a label much favored by TPP advocates in the United States.
Washington’s negotiators have been frankly concerned to assure that the often highly specialized goods and services produced by the United States and some others will be accorded the same kinds of treatment found in, for example, the U.S.-Korea and U.S.-Australia Free Trade Agreements. Not surprisingly, leading pharmaceutical firms, many of them based in the United States, have been at the forefront of this goal because matters of worldwide drug prices are now a hot-button issue. Interested and affected groups worldwide, especially in the developing world, have issued many warnings that the TPP will institutionalize or “lock in” drug prices beyond what is affordable in developing economies.

The broader issue concerns the rules affecting intellectual property, in particular the lengths of time during which patents and copyrights are protected from infringement. Here it has to be said that a prime force behind much of the TPP’s overall model is an American model, specifically Washington’s concern that the goods and services generated by America’s advanced and high-technology sectors will be protected from the activities of late-arriving “free riders” who produce similar goods and services. Japan, Singapore, and a few others are among those with similar advanced capabilities, making it likely that these aspects of the TPP as a “21st Century Agreement” will have support beyond the United States alone.

Setting the Rules and The China Factor

Because the TPP includes that range of issues, and includes the twelve nations whose economies comprise roughly 40 percent of global GDP, the norms established by the TPP will have a profound impact on how the globe’s economies operate and interact. It will be setting the rules of the road—a point now well understood by the United States. As President Obama recently said, “We have to make sure the United States—and not countries like China—is the one writing this century’s rules for the world’s economy.”

Yet China was decidedly not a factor of concern when those first steps leading to the TPP were taken in 2002-2003 by Chile, New Zealand, and Singapore. Nor was China a matter of particular interest to then U.S. Trade Representative Susan Schwab, who in the last days of the George W. Bush administration first expressed an official U.S. interest in the TPP project. In a period when much U.S. attention was directed to the Middle East, her concern was instead with a declining American trade presence in the Asia-Pacific, and she saw the TPP as a way to ensure that the United States would not be “left out” of the region’s vibrant economies.

Since then the TPP has both intensified its aims and expanded its membership, and it is often—though wrongly—described as the economic aspect of the United States “pivot,” or rebalancing move to the Asia-Pacific region. That view is not supported.

either by the TPP’s origins nor the circumstances of America’s initial involvement in 2009. Moreover, from its outset, the TPP has been open to any state that aims to meet its standards, a point stressed by President Obama’s National Security Advisor Susan Rice in her speech at Georgetown University on 20 November 2013. With regard to China her words bear repeating: “We welcome any nation that is willing to live up to the high-standards of this agreement to join and share in the benefits of the TPP, and that includes China.”

China, for its part, has taken a leading role in a proposed alternative economic format for the region, known as the “Regional Comprehensive Economic Partnership,” or RCEP. Its initial concerns have emphasized traditional “free trade” arrangements among its sixteen proposed members: the ten ASEAN states, Japan, Korea, Australia, New Zealand, and India, but not the United States. Because of its size, the RCEP may initially appear to be an impressive grouping, but it is not analogous to the TPP nor is it likely to soon come into being. Even if it were, there is little reason to expect RCEP to accomplish much, for reasons that recall Pharaoh’s command in the Book of Exodus to “make bricks without straw.”

Among those missing straws are (1) the continuing tense Korea-Japan relationship, which would mitigate against any close formal economic interaction; (2) the absence of a genuine Indian interest in the RCEP scheme and the likelihood that in practice India would oppose its goals; and (3) despite RCEP’s statement that it is based on something called “ASEAN centrality,” ASEAN will not anytime soon accomplish the sorts of intra-regional economic cooperation it has long promoted. As a highly experienced participant put it recently, “ASEAN integration remains an illusion.”

Moreover, and despite China’s sponsorship of the RCEP, there is no single authoritative statement affirming which (if any) of Asia’s developing regional formats will ultimately include China. Indeed, beginning in mid-2013, the first signs emerged that Beijing was no longer dismissive of the TPP and might seek membership. In May China’s then-Commerce Minister Gao Hucheng announced “a serious study of the TPP,” and in June President Xi Jinping raised the issue with President Obama at their Sunnylands summit. Later in November, China held its very important Third Plenum, notable for its emphasis on the “decisive” role of the market and its calls for basic reforms to better connect China with the global economy.

Other signs suggesting a genuine interest in the TPP then followed. For example, in January 2014 the prominent Peking University economist Yiping Huang reported that

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“an increasing number of policy advisors are now urging the government to apply to join the TPP negotiations as early as possible,” and a few weeks later China’s former World Bank Senior Vice President, Justin Yifu Lin, openly called for Beijing to participate in the TPP. This interest likely stems from China’s leaders recognizing that if the TPP is established, then it will indeed set the rules for the next phase of global economic development, as well as from leaders’ belief that Beijing cannot afford to be left out.

None of this means China now actively seeks TPP membership, and Beijing’s often assertive behavior toward Asia’s smaller states reflects long-standing concepts that evoke the traditional tributary relationship. In mid-2010, for example, Beijing’s Foreign Minister Yang Jiechi famously reminded its ASEAN neighbors that “China is a big country and other countries are small countries, and that’s just a fact.” Since then, China’s foreign policy has alternated between that hard line and a more relaxed posture, but the lesson has not been lost. It is reinforced by China’s continued insistence on dealing with each much smaller ASEAN member separately, rather than dealing with ASEAN as a group. In this context, a main strategic value of the TPP is that it holds out to Asia-Pacific nations the utility of a strong connection to the United States and the global economy—a system not inevitably tied to China’s role in the region.

Will the TPP Happen?

Aside from the issue of China, the TPP continues to face other major hurdles. The fact that its negotiating text has not been publicly available has remained a contentious issue in the U.S. Congress as well as among several TPP nations. Specific questions such as how disputes are to be settled have also reemerged as difficult sticking points.

Yet major voices in both parties in the U.S. Congress have appeared to be sufficiently supportive. Senator Orrin Hatch, the Chairman of the Senate Finance Committee, has long been favorable and there is much similar sentiment in his party. Senator Ron Wyden, Senator Hatch’s Democratic counterpart in the Committee, is from Oregon, a state very concerned with Pacific trade, and he has long been more favorable to trade agreements than some in his party. But Senator Wyden has also been especially critical of the lack of openness associated with the TPP negotiations and the issue has generated much support among other Democrats. Additionally, Senator Elizabeth Warren’s recent, very critical statement on the dispute-settlement issue was a step that greatly encouraged the TPP’s domestic opponents.

On balance, however, the TPP will come into being because of the fundamental fact that the United States is a market of more than 300 million people whose propensity to consume is matched nowhere else. It is a powerful magnet that none of the other

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participants will be willing to ignore, a point well made by the Director of Export of New Zealand, who has written quite simply that her country “can’t afford to miss out on Trans-Pacific Partnership.” That was among the reasons that led a senior U.S. Chamber of Commerce official to predict that the TPP is likely to become reality by June of this year, and that is how the issue seems from here as well.

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