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China's CPTPP Application

*Will It Succeed &
How Will It Impact US Trade Policy?*

October 20, 2021





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CPTPP Overview



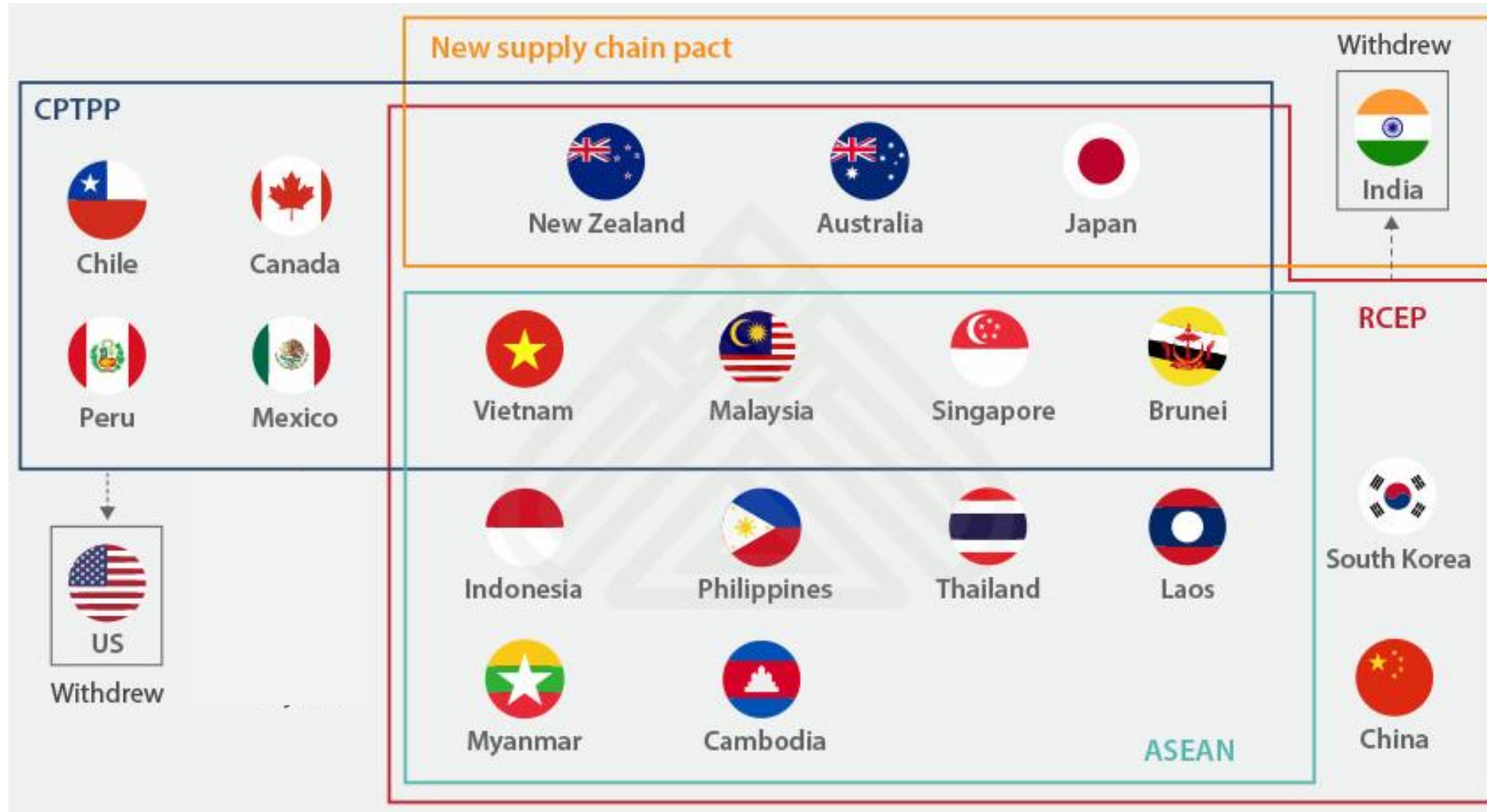
Comprehensive & Progressive Agreement for Trans-Pacific Partnership (CPTPP)



- Free trade agreement between 11 countries in the Asia-Pacific region
(Evolved from the Trans-Pacific Partnership (TPP), which never entered into force due to withdrawal of the United States)
- Entered into force on December 30, 2018
(after majority of signatories ratified the agreement signed on March 8, 2018)
- Creates one of the largest free-trade areas
 - Represents 13.4% of global GDP
(approximately USD 13.5 trillion)
 - Only other free trade areas larger are:
 - United States–Mexico–Canada Agreement (USMCA)
 - European Single Market
 - Regional Comprehensive Economic Partnership (RCEP)
- Is a “next-generation” trade agreement with high standards and requirements

	Country	Domestic Ratification	CPTPP Notification	Entry Into Force
	Mexico	April 24, 2018	June 28, 2018	December 30, 2018
	Japan	June 13, 2018	July 6, 2018	December 30, 2018
	Singapore	July 19, 2018	July 19, 2018	December 30, 2018
	Australia	October 19, 2018	October 31, 2018	December 30, 2018
	Canada	October 25, 2018	October 29, 2018	December 30, 2018
	New Zealand	October 25, 2018	October 25, 2018	December 30, 2018
	Vietnam	November 12, 2018	November 15, 2018	January 14, 2019
	Peru	July 14, 2021	July 21, 2021	August 21, 2021
	Brunei	~	~	~
	Chile	~	~	~
	Malaysia	~	~	~

Key Asia-Pacific Multilateral Trade Agreements



Key CPTPP Provisions

Digital trade & E-commerce

- Facilitates business-related data transfers and trade in digital products by introducing:
 - Prohibition on data localization measures
 - Commitment to allow cross-border transfer of information by electronic means when such activity is for conduct of business
 - Prohibition on imposing customs duties on electronic transmissions
- Prohibits a requiring access to source code as a condition for the import, sale or use of software

Investment

- Establishes high-standard provisions for investors and covers full life cycle of an investment—from establishment or acquisition, management, operation, expansion and disposition
- Provisions include core obligations of:
 - National treatment and most-favored nation (MFN) treatment
 - Expropriation and compensation
 - Performance requirements and transfers
- Includes Investor-State Dispute Settlement (ISDS) provisions, but ISDS claims scope narrowed (*e.g., private companies cannot make ISDS claims relating to investment contracts they have entered into with governments*)

Supply Chains, Goods, Rules of Origin, & Certification

- Supports development of CPTPP-wide supply chains by allowing for "accumulation" within CPTPP region – confirms ability to further process or add materials of one signatory country to products in another signatory country (which will then be treated as originating in the latter country) has become a standard feature in modern trade agreements
- Includes trade facilitative provisions on self- certification of origin, advanced rulings and customs clearance timelines

Labor

- Binding commitments that require domestic laws to uphold the following rights as set forth International Labor Organization (ILO) Declaration:
 - Freedom of association and collective bargaining;
 - Elimination of forced labor
 - Abolition of child labor; and
 - Elimination of employment discrimination

Services




(including financial services)






- Provides improved protection, predictability and transparency for service suppliers
- Adopts a "negative list" approach – meaning all services sectors are considered liberalized, except those expressly excluded from coverage in the form of non-conforming measures
 - Negative lists include two types of "non-conforming measures" which are exempt from the Chapter's MFN, national treatment, market access, and/or local presence commitments:
 - Measures subject to a "standstill and ratchet" obligation cannot become more restrictive in future and any future liberalization cannot be reversed
 - Reservations whereby participants maintain complete discretion as to their current and future policy
- Includes transparency obligations and commitments to allow a financial institution to supply new financial services that a country would allow for its own financial institutions.
- Additionally, special dispute settlement provisions are tailored to financial services

Environment

- Binding and non-binding commitments relating to environmental protection – binding obligations prohibit:
 - Failing to effectively enforce environmental laws in a manner affecting trade or investment
 - Waiving or otherwise derogating environmental laws to encourage trade or investment
 - Providing certain types of fisheries subsidies that negatively impact overfished stocks

Applicants

Applicants		
Country	Status	Date
 United Kingdom	Working Group established	June 2, 2021
 China	Formal application submitted	September 16, 2021
 Taiwan *	Formal application submitted	September 22, 2021

Potential Applicants		
Country	Status	Date
 United States	Announced interest	2018
 Indonesia	Announced interest	2018
 South Korea	Announced interest	2018
 Thailand	Announced interest	2018
 Philippines	Announced interest	2021

* Taiwan officially filed application under the name of "The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TPKM)."

Accession Process

<p>Informal</p>	<ul style="list-style-type: none"> ➤ Before lodging accession request, can engage informally with members to better understand the Agreement <p style="text-align: right;"><i>Formal Application for Accession Submitted</i></p>
<p>Formal Consultations</p>	<ul style="list-style-type: none"> ➤ After formal accession request submitted, encourage to have consultations with each member, to address questions or concerns on areas of interest
<p>Formal Working Group</p> <p><i>If CPTPP Commission (Agreement's peak decision-making body) decides whether to commence accession process with applicant</i></p>	<ul style="list-style-type: none"> ➤ If CPTPP Commission decides to proceed, Working Group of participants from all CPTPP Parties will be setup ➤ Must demonstrate efforts made, and any additional changes needed, to comply with CPTPP obligations as well as table and negotiate its market access offers – must meet CPTPP benchmarks for comprehensive market access via elimination of tariffs and other barriers to goods and services trade and investment ➤ When Working Group concludes, it will report back to CPTPP Commission on terms and conditions required for applicant's accession to CPTPP
<p>Formal Commission Decision on Accession</p>	<ul style="list-style-type: none"> ➤ CPTPP Commission will determine, by consensus, whether to approve terms and conditions for applicant's accession, as submitted by Accession Working Group ➤ Applicant is then able to accede by accepting the terms and conditions decided by the CPTPP Commission



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China's Application





“China's application to join the CPTPP again attests to China's determination to expand opening-up and promote regional economic cooperation.

China is promoting economic cooperation and regional economic integration, while the US is pushing for war and destruction”

Zhao Lijian

spokesperson for the Chinese Foreign Ministry
September 17, 2021

Why Did China Apply Now



**Domestic
Policy Reforms**



**Other Trade & Security
Agreements**



**Other Potential
CPTPP Applicants**

Can China Qualify for CPTPP *obstacles*



**Meeting
Agreement Standards**



**Trade or Other Disputes
with Some CPTPP Members**



**USMCA
“Poison Pill”**

Can China Qualify for CPTPP *select reform issues*



**State Owned
Enterprises (SOEs)**



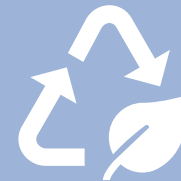
**Data
Policy**



**Market
Access**



**Labor
Standards**



**Environmental
Standards**



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Effect on US Trade Policy in Asia





The TPP, which is the basis for the CPTPP, was something that was negotiated several years ago now. It concluded, I think, six years ago almost exactly.

The world economy has shown us realities in the intervening years that I think we really have to pay attention to.

In terms of our continued investment and engagement with our partners and allies in the Indo-Pacific, I think what we need to do is to fully engage and address the realities and challenges that we see today.

Katherine Tai
United States Trade Representative
October 4, 2021

US CPTPP Engagement *obstacles*



**Prioritization of
Domestic Agenda**



**“Worker-Centered”
Trade Policy**



**Congressional
Approval**

US CPTPP Engagement *possible scenarios*



**CPTPP
Accession**



**CPTPP
Plus**



**Bilateral Agreements
with Select Countries**

Investor Resources



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