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Japan's Entry into the TPP Negotiations Raises the Economic Stakes

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"America's important security alliances across the Pacific need an economic underpinning." Ambassador Robert Zoellick, May 1, 2013

To use one of the Obama Administration's favorite terms, the entry of Japan in April 2013 into the three-year-old Trans-Pacific Partnership (TPP) negotiations later this year is a "game-changer."

Prior to Japan's commitment as the 12th TPP partner, U.S. participation in the TPP negotiations could be seen as an important piece of the nation's "pivot" toward Asia, part of a new emphasis on economic, political and security relationships in Asia and an element of various initiatives to counterbalance China's growing, not always benign, influence in its own backyard. But for the United States at least, the economic rationale was weak. The United States already has adequate free trade agreements with six of the other TPP partners, Australia, Canada, Chile, Mexico, Peru and Singapore. While improving trade relations with emerging trade heavyweight Vietnam and perhaps Malaysia would be a significant benefit for some U.S. importers and exporters, it was difficult to make an economic case for closer trade relations with Brunei and New Zealand.

All this is now changed. Major uncertainties regarding Japan's intentions were resolved in March 2013, when Prime Minister Abe, in announcing on national television Japan's plans to join the negotiations described the TPP as "Japan's last chance to remain an economic power in Asia and shape the region's future." A month later Japan was approved for entry into the TPP negotiations by the other 11 negotiating partners, with all welcoming "Japan's commitment to achieving the shared goal of a comprehensive, high-ambition, next-generation agreement as rapidly as possible…." The United States agreed only after a series of bilateral negotiations with Japan resulting in a series of "actions and agreements" focusing on automobiles, insurance and other non-tariff measures. Two sets of parallel talks will continue between Japan and the United States, one addressing automotive trade (including special safeguards and dispute settlement) and the other non-tariff barriers.

According to Department of Commerce data, Japan's GDP (2011) of approximately $5.9 trillion exceeds the aggregate GDP of the other ten non-U.S. TPP partners ($5.6 trillion). The TPP countries without Japan represented about 7.5% of U.S. trade in goods; with Japan TPP represents 32.6% of U.S. goods trade. Although trade volumes are important, what TPP signifies to the United States and the other TPP partners is that Japan after two decades of stagnation finally seems willing to make the structural reforms necessary to get the Japanese economy moving again. As

Ambassador Zoellick has observed, both “Prime Minister Abe and Finance Minister Aso seem to recognize the need for Japan to make serious economic reforms,” something the United States has been advocating in bilateral discussions with Japan as the “Structural Impediments Initiative” (SII) on and off for more than 20 years.

The challenges to completing the TPP negotiations remain daunting, complicated inter alia by the entry of Mexico and Canada late in 2012 and now Japan. But the TPP has always been an extraordinary ambitious undertaking. The TPP’s 29 chapters would cover the full range of the existing “wide and deep” U.S. FTAs beginning with NAFTA, including not only trade in goods (including agriculture), trade in services, government procurement, services, investor protection, TRIPs-Plus, labor, environment and mandatory dispute settlement. TPP also addresses e-commerce and areas of importance for increasingly globalized manufacturing, disciplines for state-owned industries (SOEs) along with supply chain management, regulatory coherence and trade facilitation. Many of these raise concerns with individual TPP partners, who may oppose certain U.S. proposals as a matter of principle (e.g., enforceability of labor and environmental obligations) or simply have different ideas about scope and coverage, as with SOE disciplines. Added to the mix are some of the more traditional aspects of U.S. protectionism, such as tariff-quotas on sugar, high footwear tariffs and the insistence on strict rules of origin (“yarn forward”) for apparel imports (primarily affecting Vietnam). Should the Obama Administration decide to preserve such protection for stagnant or dying U.S. industries in the TPP there will likely be a cost in terms of losing out on increased market access and other potential benefits for U.S. exporters.

Additional complexities result from the potential conflicts between the TPP and earlier regional trade agreements among the participants, including but not limited to the United States. It is estimated that the twelve TPP partners have at least forty bilateral or multiple party FTAs among them. Avoiding further exacerbation of Professor Jagwash Bhagwati’s “spaghetti bowl” in the region will be one of ongoing challenges. Nor is other FTA activity among the partners being deferred pending the conclusion of the TPP. Among the most potentially significant competing FTA negotiations is the “Regional Comprehensive Economic Partnership” (RCEP) among the 10 ASEAN nations plus Australia, China, India, Japan, Korea and New Zealand.

While the TPP currently appears to enjoy a relatively high level of bipartisan support in the U.S. Congress, the Administration and USTR’s negotiators are facing the usual range of important interest groups. These include but are not limited to various agricultural producers, including those representing dairy products, beef and sugar; the textile and apparel and footwear industries; advocates for stronger, enforceable labor and environmental provisions; those supporting or opposing “TRIPS-Plus” protections for pharmaceutical and agricultural chemical producers; and differing groups seeking greater or reduced protection for foreign investors.

Many of these differences are likely to surface after a bill seeking renewal of Trade Promotion Authority (TPA or “fast-track”) is ultimately introduced, probably in June or July. The Administration to date has avoided formally seeking TPA but has been careful to follow most of the expired TPA procedural requirements relating to consultation with Congress, including holding off the initiation of formal negotiations with Japan only after the requisite 90-day notice to Congress. Some TPP supporters, including retiring Senator Baucus (D-Montana), have grown impatient with the Administration’s reluctance to move forward with TPA, fearing that without TPA’s guarantee that Congress will not seek to modify the TPP agreement after the fact or indefinitely delay its passage the other negotiating partners will be unwilling to close the deal. Others fear that USTR will suffer from the absence of detailed negotiating guidance that only a new TPA can provide, and that a long debate over TPA in Congress could delay completing the negotiations.

Consequently, Senator Baucus has promised to introduce a bipartisan TPA bill in June, with or without the formal support of the Obama Administration, although he and other proponents of TPA obviously would prefer to work with the White House on the draft legislation and on a strategy for obtaining passage of the bill in the House and Senate. Such legislation is likely to apply not only to the TPP but to the soon to be initiated "Transatlantic Trade and Investment Partnership" (TTIP) between the United States and the European Union.

While the Obama Administration has expressed the hope that the TPP negotiations could be concluded by the time of the October 2013 APEC meeting in Indonesia, such a tentative deadline seems more that a little optimistic. Only three TPP negotiating sessions have been planned in 2013 prior to October; to date there has been some progress but no apparent breakthroughs on key issues. With the absence of TPA at least through the end of the summer and the entry of Japan, which will not be able to participate meaningfully in the negotiations scheduled for July 15-24 because the 90-day notice period expires only on July 23, a more realistic time frame for conclusion of the negotiations would be the second or third quarter of 2014. The only alternative would be for the Obama Administration to accelerate the negotiations by scheduling additional sessions during the next 6-8 months, a step which it was apparently not contemplating even before the plethora of recent domestic crises erupted.

With the inclusion of Japan both the rewards of success and the risks of failure for the United States have escalated. The potential trade and other economic benefits of a free trade agreement encompassing 12 nations with an aggregate GDP of in excess of $26 trillion are staggering. It might also convince some of the more recalcitrant WTO Members (e.g., Brazil, China, India and South Africa) to become more serious about salvaging some elements of the defunct Doha Development Round in Geneva and in any event is likely to encourage additional TPP participation in the Pacific Rim, likely including Costa Rica, Korea and Thailand.

Conversely, a failure to close the deal would do severe damage to United States' economic, political and security interests in Asia, at a level far beyond the failure of the Free Trade Area of the Americas in the Western Hemisphere a decade ago. Among consequences would almost certainly be an acceleration of the RCEP negotiations and other regional trade initiatives in Asia that include China but exclude the United States, and the reluctant conclusion on the part of many Asian nations, possibly including Japan, that the United States is not really serious about reinforcing its economic presence in the region. This suggests that serious efforts to reach a successful conclusion to the negotiations must continue, even if the United States is required to make more compromises than it has in earlier FTAs, even if another year or more is required for conclusion of the negotiations and even if President Obama is required to expend significant political capital to assure the negotiations reach a successful conclusion and the agreement is approved by Congress. Whether the United States has both the negotiating skills and the political will, and whether the other Parties are willing to cooperate to bring the negotiations to a successful end, remains to be determined.

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