

# Trans-Pacific Partnership

## Overview and Assessment

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# TPP – Parties and Background



**Australia, New Zealand, Singapore,  
United States, Peru, Chile, Vietnam,  
Brunei, Canada, Malaysia and Mexico.  
Latest: Japan (#12).  
Next: ?**

# Background

- GDP of TPP-11 is \$21 trillion, 30% of global output, \$4.4 trillion in exports, 20% of global exports
- 18<sup>th</sup> Round in Malaysia July 15 – 24<sup>th</sup>
- Stakeholder events Saturday, July 20th
- USTR Froman still targeting 2013 signing
- Items “in brackets” down to fewer, toughest issues.
- What happens to those who can’t reach agreement?
- Ratification process – can lead to delay.

# Background on ASEAN FTAs

- ASEAN FTAs traditionally focused on trade in goods
- Focus has since expanded to areas such as trade in services, investment protection, capital, skilled labour, intellectual property rights, competition and Priority Investment Sector



# WTO Requirements

*The purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.*

- ❑ An FTA must result in the duties and other restrictive regulations of commerce (with certain permitted exceptions) being eliminated on **substantially all the trade** between the constituent territories in products originating in such territories.
- ❑ Trade Creation vs. “Trade Diversion”

# Interest in TPP

- Primacy of the WTO, but...

Regional and multilateral integration makes sense, especially since

- Doha is mired
- USTR lacks capacity for BITs, FTAs
  - TPP is strategic, progress notwithstanding holdouts (India, China)
  - Creates a Trade Block of substance
  - All roads may lead back to Geneva

# RCEP and TPP: Complement or Compete?

- ASEAN + 6 (Australia, China, India, Japan, Korea, New Zealand) pursuing **Regional Comprehensive Economic Partnership** (RCEP).
- RCEP aims to broaden and deepen ASEAN + 1 pacts with the other 6 by end of 2015; like AEC.
- Why are ASEAN countries also interested in TPP?  
Bigger payoff from TPP reforms and concern about cost of non-participation in terms of trade and investment diversion.
- RCEP less ambitious, gives China the option to continue incremental reforms that would improve readiness to join more comprehensive regional pacts in the future.



— What's the TPP likely to cover?

## So what's in the TPP?

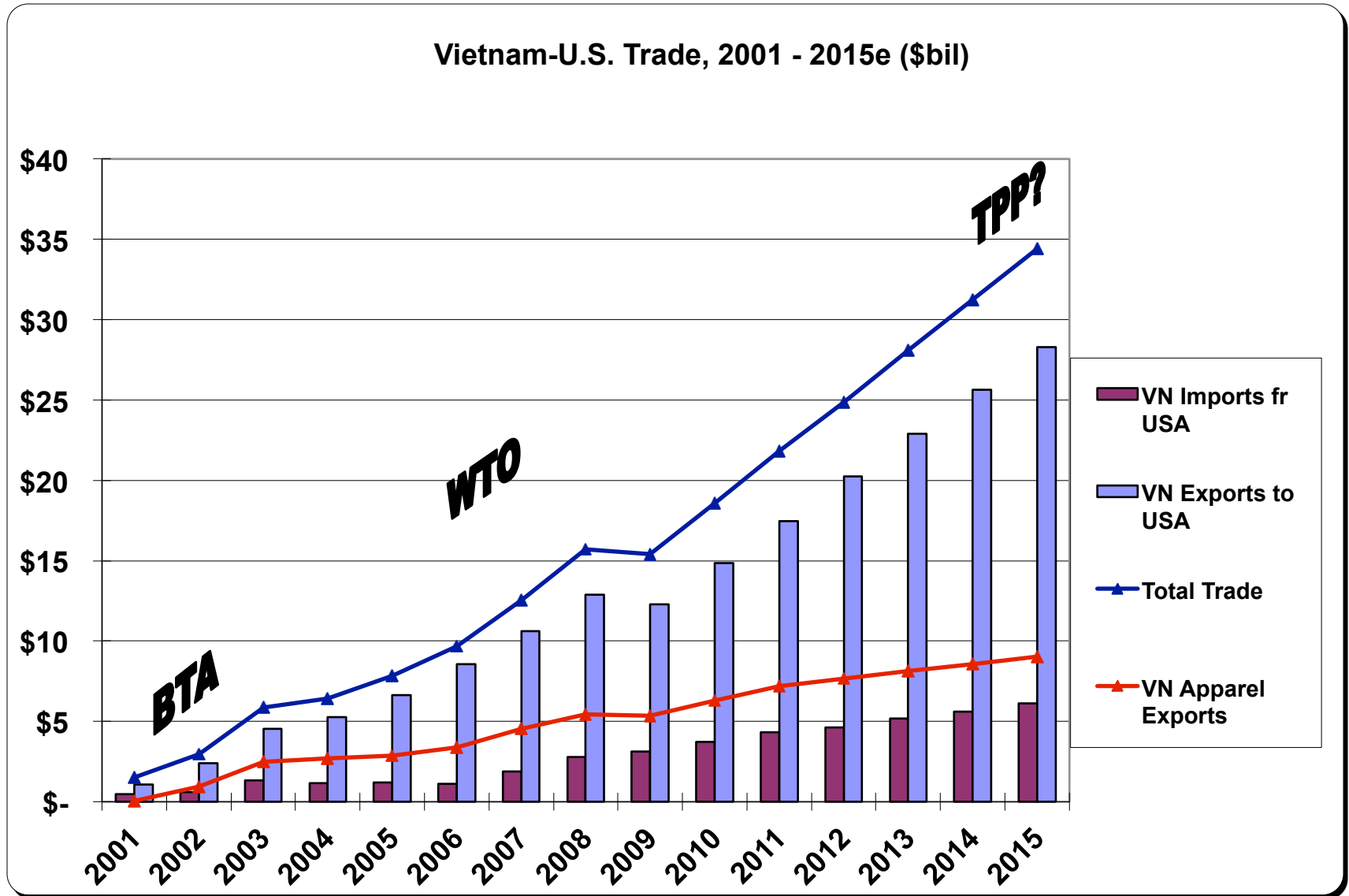
- Reference point: the parties' existing trade and investment agreements (e.g., KORUS, but “it's not an FTA”)
- Stakeholders' input vital, but **texts not public** until agreement is final
- US was not among four TPP founders, any member can propose text, consolidated with brackets
- Mutuality of benefit among participants is necessary – trade offs needed for success

# KORUS FTA Coverage

1. Initial Provisions and Definitions
2. National Treatment and Market Access for Goods
3. Agriculture
4. Textiles and Apparel
5. Pharmaceuticals and Medical Devices
6. Rules of Origin and Origin Procedures
7. Customs/Regulatory Coherence
8. Sanitary and Phytosanitary Measures
9. Technical Barriers to Trade
10. Trade Remedies
11. Investment
12. Cross Border Trade in Services
13. Financial Services
14. Telecommunications
15. Electronic Commerce
16. Competition-Related Matters
17. Government Procurement
18. Intellectual Property Rights
19. Labor
20. Environment
21. Transparency
22. Institutional Provisions and Dispute Settlement
23. Exceptions
24. Final Provisions

# Quantitative Assessment

# VN-US Trade after BTA, WTO



# Global effects of the TPP

- **Large global benefits**
  - Income up \$223 billion (0.7 percent)
  - Exports up \$305 billion (4.6 percent)
  - Imports up \$315 billion (4.2 percent)
  - FDI stocks up \$255 billion (2.5 percent)
- **Moderate trade diversion effects**
  - \$67 billion of \$290 billion gains (23 percent)
- **Comparisons with other agreements**
  - Benefits bigger with RCEP (roughly 3x)
  - Benefits much bigger with FTAAP (roughly 9x)

Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)

# Scenario assumptions

Agreement	Preference utilization rate	Reduction Factors			
		Final tariffs	Goods NTBs	Service NTBs	FDI Barriers
KORUS	0.50	0.94	0.54	0.53	0.52
TPP	0.58	0.96	0.53	0.52	0.52
RCEP	0.60	0.90	0.36	0.28	0.28

Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)

# Largest income gains in TPP

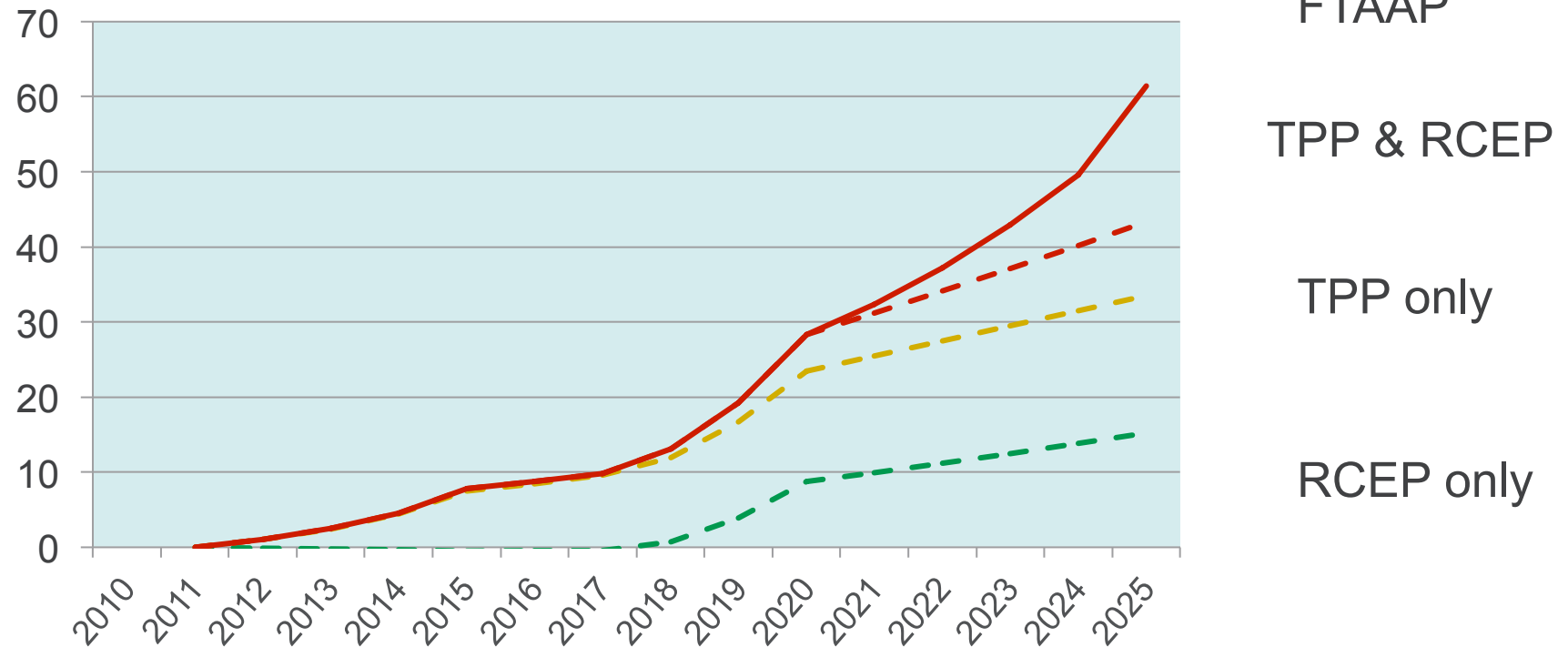
	GDP 2025	Income gains (\$bill)		% of baseline	
		TPP11	TPP11 + Japan	TPP11	TPP11 + Japan
United States	20,273	23.9	76.6	0.1	0.4
Japan	5,338	-1.2	104.6	0.0	2.0
<b>Vietnam</b>	<b>340</b>	<b>26.2</b>	<b>35.7</b>	<b>7.7</b>	<b>10.5</b>
WORLD	103,223	74.5	223.4	0.1	0.2

Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)



# Vietnam: income gains

(US\$ bill.)



Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)

# Why such large gains?

- **More exports** of manufactures (34%)\*
- **More imports** of consumer and production goods (27%)\*
- **More inward FDI** due to investor optimism
- **Stronger links** to international supply chains
- **Productivity gains** from competition
- **Momentum for reforms** boosting growth and opportunity

\* Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)

RCEP v TPP

<b>RECP</b>	<b>TPP</b>
<p>ASEAN + 6 and open accession</p>	<p>United States, Brunei, Chile, Singapore, New Zealand,, Australia, Peru, Vietnam, Malaysia, Mexico and Canada</p>
<p>Negotiations expected to commence in 2013 and conclude in 2015</p>	<p>The 16<sup>th</sup> round of negotiations will be conducted in March 2013</p>
<ul style="list-style-type: none"> <li>• Trade in goods</li> <li>• Trade in services</li> <li>• Investment</li> <li>• Economic and technical cooperation</li> <li>• Intellectual property</li> <li>• Competition</li> <li>• Dispute Settlement</li> </ul>	<ul style="list-style-type: none"> <li>• Competition</li> <li>• Cross-border services</li> <li>• Customs</li> <li>• E-commerce</li> <li>• Environment</li> <li>• Financial services</li> <li>• Government procurement</li> <li>• Intellectual property</li> <li>• Investment</li> <li>• Labour</li> <li>• Market access for goods</li> <li>• Rules of origin</li> <li>• Sanitary and Phytosanitary standards</li> <li>• Technical barriers to trade</li> <li>• Telecommunications</li> <li>• Temporary entry</li> <li>• Textiles and apparel</li> <li>• Trade remedies</li> </ul>

# TPP or RCEP?

(in 2025, \$2007 bill)

	Baseline 2025	Change from baseline	
		TPP16	RCEP
Japan	5,338	129	96
Korea	2,117	50	82
Viet Nam	340	49	17
ASEAN	3,635	218	78
World	103,223	451	644

Source: Petri, Plummer, Zhai,  
[www.asiapacifictrade.org](http://www.asiapacifictrade.org)

.. but why not both?

What Matters to You?



# Bedrock FTA Rule

## National treatment

Provide foreign companies selling or buying goods and services with the treatment no less favorable than that accorded to any domestic company.

# Selected Provisions of Interest

- Goods—limits on remaining protection
  - Duties generally eliminated or phased out
  - Subject to safeguards, trade remedies (AD, CVD)
  - Textiles and apparel
  - Rules of origin
- Services – from “Positive List” to “Negative List”
- Agriculture – tariff reductions
- Government procurement
- Protection of intellectual property rights



# Textiles and Apparel

- Bilateral emergency actions
  - Where increased imports cause serious damage, or threaten it
  - Duration of measure – 2 years, + 2 years
- Special Rules of Origin
  - Enforcement – deny preferential treatment
  - “Yarn forward” rule of origin, but “**Short Supply**” compromise.

# Investment



- National treatment
- Most-favored-nation treatment (cf. with non-Parties)
- Minimum standard of treatment
  - In accordance with customary international law
  - Including fair and equitable treatment, and
  - Full protection and security
- Freedom of transfers of capital
- Performance requirements not allowed
- Limits on expropriation, required compensation
- Investor-State dispute settlement

# Protection of Intellectual Property (IP)

- Baseline: adherence to all relevant international IP agreements
- National treatment
- Transparency - publish laws and rulings
- Update IP protection and enforcement to prevent unauthorized use of works through Internet and other global communication media
- Secure deterrent enforcement against piracy, counterfeiting, cyber squatting and other infringements through significant improvements in civil and criminal remedies and penalties
- Prohibit industrial policies that discriminate against foreign IP rights holders, including through use of local content requirements
- Protect unregistered well-known trademarks in use with dissimilar goods and services; allow owners to oppose the registration or seek cancellation of marks that are identical or similar.

# Government Procurement

- Supplements WTO Government Procurement Agreement (GPA)
- Applies to procurement for governmental services
  - Of goods, services, including leases
  - By a covered entity for non-excluded goods
  - Above thresholds: contract for procurement of goods and services >US\$[58,550]; construction services >[US \$6,725,000] (Australia/U.S.FTA)
- Limits on conditions that can be imposed
  - With respect to capacity, history, terms for bids
- But procuring entity may take into account
  - conservation of natural resources
  - rights at work, and
  - conditions of work

What's New about TPP?

# New Areas – the 21<sup>st</sup> Century FTA

- Environment
- Labor
- Regulatory coherence
- Cross border data flows
- State-owned enterprises engaged in commercial competition

# Environment

- Parties free to establish own level of environmental protection, while striving for higher standards
- Each shall maintain and enforce its laws to fulfill multilateral environmental treaties
- But with justifiable prosecutorial and administrative discretion
- No Party can enforce another Party's laws
- Special provisions for wildlife, marine fisheries, and illegal logging.

# Environment

- Interested persons can request authorities to investigate alleged violations
  - Judicial and administration proceedings will be available with sanctions and remedies for violations
  - Proceedings must be fair, equitable, and generally open
- Rights of private action shall exist against persons violating laws
- The public should be encouraged to support environmental goals
- Parties will cooperate on environmental matters



# Labor

- Parties reaffirm obligations in ILO Declarations
- Parties' laws must provide rights for
  - Freedom of association
  - Collective bargaining
  - Elimination of forced labor
  - Abolition of child labor
  - Elimination of discrimination
- Derogations must not affect trade or investment
- Countries should take measures to reduce trade in products made through forced or child labor

# Labor

- Parties must effectively enforce their labor laws
  - With adequate resources
  - No other Party can intervene to do so
- Must assure adequacy of access to domestic independent tribunals to enforce laws
- With due process, public hearings, right to appear, with decisions with justification based on the evidence, appeals
- Must create a national labor advisory committee;
- Parties participate in Labor Cooperation Mechanism

# Labor

- Countries must apply their national labor laws in export processing zones and free trade zones
- Failure to enforce labor laws is subject to dispute settlement under the Agreement. Possibility of “Snap Back” sanctions to revert duty rates.

## Regulatory Coherence - Concept

- **Trade and investment can be impeded not just because a measure is intentionally a nontariff barrier but simply because the systems that generate measures differ.**
- **Businesses seek improvement of regulation within borders, greater procedural fairness and transparency**

# Regulatory Coherence - Guidelines

- **Have a process or mechanism to facilitate central coordination and review of new regulatory measures at the central level of government**
- Consider establishing and maintaining a national coordinating body for this purpose, and collect information centrally, and disseminate it

# Cross Border Data Flows - Concept

- The digital economy creates vast new opportunities for small and medium enterprises (SMEs) to trade, innovate and create jobs even with limited access to capital.
- TPP can help secure access to online distribution and marketing platforms throughout the region – for entrepreneurs and small businesses to access and serve international customers via e-commerce platforms, or to manage sales via online customer relations management services, from anywhere in the region.

# Cross Border Data Flows -- Rules

- Permit cross-border information and data flows, while ensuring that privacy and intellectual property rights are protected
- Allow business enterprises from the TPP parties to transact business through e-commerce platforms without establishing a commercial presence in each country
- Prohibit requirements to use local computing infrastructure, such as servers, as a condition for doing business or investment in a TPP country or engaging in e-commerce or cross-border trade.

# State-Owned Enterprises (SOEs) - Concept

- Limitation: trade agreements cannot dictate the organization of an economy – whether commercial activities are to be wholly private or a mixture of private and SOE activity.
- Objective: To create and maintain a level playing field as between SOEs and private companies when engaged in commercial competition
- Obligations: To govern only conduct where there is competition with private companies.



# State-Owned Enterprises (SOEs) - Rules

- Require FTA signatories to ensure that their SOEs
  - Comply with the signatories' nondiscriminatory treatment obligation
  - Act “in accordance with commercial considerations” when buying or selling goods and services
  - Respect intellectual property laws, and anti-bribery rules
  - Are regulated as rigorously as the private firms with which they compete
  - Do not receive preferential financing.

# Conclusions

## The TPP will:

- provide an immediate «bump» to Vietnam's GDP
- sustain long-term growth
- set standards for future trade and investment
- strengthen regional supply chains
- converge with AEC, RCEP, EU-FTA, etc.

## Viet Nam has tough decisions to make:

- on rules of origin (yarn forward vs. short supply)
- on social issues (labor, environment) in trade
- New focus on Japan reduces bandwidth for Vietnam.
- but has the most to gain, and a lot to lose.

# THANK YOU

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