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Toward CPTPP 2.0

Steps for Current and New Members, the United States, Other Onlookers, and the World Trade Organization

By Kati Suominen

This series has sought to provide early insight into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) members' trade and investment flows after the agreement was signed. It has also sought to explore through business surveys and econometric work how the CPTPP may have impacted those flows. This series has been particularly interested in the impacts of the CPTPP's perhaps most groundbreaking aspect—its e-commerce chapter—and sought to shed light on an unexplored question: Do e-commerce provisions add value in international trade? The main findings are as follows:

- Trade in the CPTPP region has largely paralleled the members' trade flows with the rest of the world. The main beneficiary appears to be Vietnam—at least in the sense that after it ratified the CPTPP, Vietnam has notably expanded its trade in goods, and its inbound investment has been solid, despite the Covid-19 pandemic. This can be a positive signal to other Southeast Asian countries that are considering CPTPP membership, such as the Philippines, Indonesia, and Thailand. Japan and Singapore have led the region's trade in digitally deliverable services, also a key sector for potential CPTPP members and services export superstars such as the Philippines, South Korea, and the United Kingdom.

- The CPTPP matters for its users: member country firms that export to the CPTPP region find the CPTPP's market access, services liberalization, and e-commerce provisions beneficial to their businesses. E-commerce provisions are facilitating online sellers: of micro and small online seller-exporters, 73 percent find the provisions of the CPTPP that ensure free data transfer across borders as somewhat or very beneficial, some 66 percent find the CPTPP's ban on server localization to be beneficial, and 61 percent find the agreement's liberalizing trade in services to be important. The benefits are even greater for midsize and large firms. Firms also highlight as beneficial the CPTPP's provisions that commit members to protecting the consumer against unwanted spam and shielding consumers' privacy.

- The CPTPP has garnered interest and formal applications from several non-members seeking to join an agreement that includes high-quality e-commerce provisions with some of their main trading partners. Especially for some of the Southeast Asian countries, accession to the CPTPP could also help kick-start and lock in domestic digital regulatory reforms. As a major development, both China and Taiwan formally applied to the CPTPP in September.

- Preliminary econometric evidence shows that trade agreements, such as the CPTPP, that have robust and binding e-commerce chapters in addition to goods and services chapters indeed have value in promoting trade in goods and services, as well as digitally deliverable services, among the member countries. Of course, as the number of comprehensive agreements with e-commerce chapters is still small and these agreements are nascent, further research will be needed in the next two to three years to further dissect the value added of digital trade provisions in trade agreements.

- The CPTPP is nascent, and much of its life has been marred by the Covid-19 crisis. At the same time, the agreement could not be timelier, precisely because high-quality ecommerce provisions help promote small business recovery through e-commerce; surveys time and again show that over the course of the Covid-19 pandemic, firms that sell online have outperformed firms that do not sell online.

CPTPP members certainly appear to agree that the agreement's e-commerce provisions create new value in their trade relations. In its August 2021 meeting, the CPTPP Commission decided to form a Committee on Electronic Commerce to facilitate continued discussion on the implementation and operation of the e-commerce chapter. The new committee is tasked to "position the CPTPP to play a central role in global rulemaking in this field." The members agreed to assess the CPTPP's impacts on themselves.

Next Steps for Members, Applicants, and Onlookers

The year 2022 will be pivotal for the CPTPP: members are taking stock of the agreement and new members look to join it. The current CPTPP members should do three things in the new year to make the most of the deal for their economies and firms that engage in e-commerce:

- **Enforce the agreement.** One desire is clear from firm surveys explored in this series: member country firms want governments to enforce their CPTPP commitments. Rigorous enforcement, monitoring, and accountability mechanisms—especially for members that have appeared to lag in enforcing the agreement, such as Vietnam—are essential for the CPTPP to continue to be seen as a credible and groundbreaking agreement among members and to make a difference to businesses'—and ultimately members'—trade and investment flows. Bluntly, members that fail to enforce the deal will greenlight incompliance, risk watering down the agreement's rigorous provisions, and even trigger disputes under the agreement's dispute settlement mechanism.

- **Bring new members that are *verifiably committed* to taking on and enforcing CPTPP obligations and monitoring their enforcement.** Interest in joining the CPTPP indicates that governments are interested in promoting cross-border e-commerce and investing in digital services and ecosystems. Current CPTPP members should, however, ensure that any new applicants are ready to assume and enforce the CPTPP's binding and high-standard commitments and to transpose CPTPP rules to domestic laws. Members' rigor of enforcement should be scrutinized annually by the new e-commerce committee.

- **Start discussions on upgrading the CPTPP's digital trade rules.** Many CPTPP members, such as Australia, Canada, Chile, Japan, Mexico, New Zealand, and Singapore, have recently signed even more ambitious agreements to facilitate digital trade. Examples include the Digital Economy Partnership Agreement (DEPA) among Chile, New Zealand, and Singapore; the Singapore-Australia Digital Economy Agreement (SADEA); the U.S.-Japan Digital Trade Agreement; and the United States-Mexico-Canada Agreement (USMCA). The CPTPP too needs to be a living agreement fit for the fast-changing twenty-first century digital economy. Surveys in this series have shown that member country firms demand forward-looking digital rules—such as better rules on online liability (including, possibly, safe harbor laws promoted in the USMCA); protection of intellectual property; corporate digital identity solutions to promote trust in digital transactions; inter-operable payments; and digital standards—so that digital platforms in different member states could interoperate. These are all ideas promoted in the DEPA and the SADEA. As technologies and firms' demands in the global digital economy change, rules of the game must also evolve.

For non-members looking to join, the CPTPP has many timely value propositions: it helps promote small businesses' e-commerce and access to digital value chains, lowers barriers for trade in goods and services, and promotes domestic regulatory reforms. Joining the CPTPP today would also enable new insiders to shape CPTPP upgrades tomorrow.

The CPTPP is also a useful template for the World Trade Organization (WTO) Joint Statement Initiative (JSI) on E-commerce, among some 86 WTO members. This process is critical for reducing the "splinternet"—fragmentation of the global digital economy by national digital regulations. The JSI is as challenging as it is important, as it brings together three members with widely differing philosophies on how to govern the digital economy—the United States, China, and the European Union—and includes African countries, such as Nigeria, that have sought to gain blanket exemptions for developing nations from such key areas as cross-border data flows and data localization. India and South Africa have challenged the legality of the JSI process. The CPTPP is important in shaping the dynamics in Geneva—further accessions to the CPTPP, for example by the United Kingdom, will further globalize the free digital trade coalition, cementing CPTPP-style binding e-commerce rules as the center of gravity in global digital trade governance.

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The CPTPP also provides lessons for African and Latin American countries that are promoting digital trade integration in their regions to respond to demands by firms for good rules for cross-border e-commerce. In general, the CPTPP's e-commerce rules are a useful baseline favored by firms. For example, a new study of data use by African firms found that African online sellers especially would very much welcome CPTPP-style e-commerce provisions to Africa—especially rules that protect consumers, enable firms to store and analyze data where most convenient, and enable firms to transfer data across borders.

For the United States, the CPTPP presents a significant opportunity—one originally architected by the United States itself—to promote U.S. trade, technologies, small online sellers, and partnerships with allies and partners across the Asia-Pacific region. The Biden administration has to date not clearly articulated the United States' Asia trade strategy. Events in the region, however, are unfolding rapidly—China's quest to accede to the CPTPP is a watershed that should urgently accelerate U.S. leadership and engagement in the pivotal Asia-Pacific trade panorama. ■

Kati Suominen *is an adjunct fellow (non-resident) with the Europe, Russia, and Eurasia Program at the Center for Strategic and International Studies in Washington, D.C.*

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