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978-1-107-02866-1 - The Trans-Pacific Partnership: A Quest for a Twenty-first Century Trade Agreement

Edited by C.L. Lim, Deborah K. Elms and Patrick Low

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## THE TRANS-PACIFIC PARTNERSHIP

The Trans-Pacific Partnership (TPP) talks represent an attempt to link together at least nine countries in three continents to create a “high-quality, twenty-first century agreement.” Such an agreement is intended to open markets to more competition than ever before between the partners in sectors ranging from goods and services to investment, and includes rigorous rules in the fields of intellectual property, labour protection and environmental conservation. The TPP also aims to improve regulatory coherence, enhance production supply chains and help boost small and medium-sized enterprises. It could transform relations with regions such as Latin America, paving the way to an eventual Free Trade Area of the Asia-Pacific, or see innovations translated into the global trade regulatory system operating under the WTO. However, given the tensions between strategic and economic concerns, the final deal could still collapse into something closer to a standard, “twentieth century” trade agreement.

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A Quest for a Twenty-first Century Trade Agreement

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CAMBRIDGE UNIVERSITY PRESS  
 Cambridge, New York, Melbourne, Madrid, Cape Town,  
 Singapore, São Paulo, Delhi, Mexico City

Cambridge University Press  
 The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

[www.cambridge.org](http://www.cambridge.org)  
 Information on this title: [www.cambridge.org/9781107028661](http://www.cambridge.org/9781107028661)

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First published 2012

Printed in the United Kingdom at the University Press, Cambridge

*A catalogue record for this publication is available from the British Library*

*Library of Congress Cataloguing in Publication data*  
 The Trans-Pacific Partnership /  
 edited by C.L. Lim, Deborah K. Elms, Patrick Low.  
 p. cm.

Includes bibliographical references and index.

ISBN 978-1-107-02866-1 (hardback) – ISBN 978-1-107-61242-6 (pbk.)

1. Trans-Pacific Strategic Economic Partnership Agreement (2005) 2. Foreign trade regulation–Pacific Area. 3. Tariff–Law and legislation–Pacific Area. 4. Free trade–Pacific Area. 5. Pacific Area–Commercial treaties. I. Lim, C. L. (Chin L.) II. Elms, Deborah K. III. Low, Patrick, 1949–  
 KVC947.A42005T73 2012  
 382'.911823–dc23 2012019848

ISBN 978-1-107-02866-1 Hardback

ISBN 978-1-107-61242-6 Paperback

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## P R E F A C E

Preparations began for setting up a workshop on the Trans-Pacific Partnership (TPP) in late 2010. Invitations were sent to active scholars and experts who had been following the negotiations. This group met in February 2011 in Hong Kong, China. When we made a decision to produce a book, our aim was to capture the state of the negotiations, highlighting in particular several actual and emerging roadblocks on various issues, such as the difficulties concerning the TPP's design and architecture and the sorts of issues which had already become negotiating issues. Gaps in the research of the Hong Kong group were identified at a post-mortem meeting, and further invitations were sent out to a number of other colleagues. In December 2011, the editors met again to review the drafts and to complete the task of making a whole of the individual parts of the project.

In terms of the book's organization, we have set out the papers according to a temporal framework. Part II deals with precursors and past events, which are an inevitable part of a proper understanding about where we are. Part III is a snapshot of the current negotiating issues: both actual issues and what we consider to be the sorts of things which must matter towards achieving the aim of laying down a twenty-first century template for future high-quality trade deals. Part IV looks to the future and, in particular, carries on the theme of what it means to speak of a high-quality deal.

The Hong Kong Workshop was led by C.L. Lim and Deborah Elms, who were soon joined by Patrick Low. One of the key aspects of this book – the interrogation of what it means to have a high-quality deal – really took shape at the Hong Kong discussions and with Patrick's entry into the editorial team. We were forced to think of the advantages of the TPP in keeping trade liberalization going in light of the languishing Doha Round talks. We knew then that multilateral talks were not moving forward – this was one of the main lessons of 2011, as new challenges to the global economic system arose in Europe.

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What we have tried to produce is a volume containing the best analyses of the TPP at this juncture. We had held off until APEC Honolulu in November 2011, in deference to the proclaimed deadline for substantially completing the deal. As we know, the deal is not done and the new deadline is currently mid-2012. We are not optimistic about this new deadline, and anticipate that at least some work will be required into 2013. We shall see.

Nonetheless, we have no doubt that it would remain important for future scholars, in addition to readers today, to be able to trace the history of the TPP, including the identification and origin of the kinds of pressures we see that are shaping the content of a final deal. As for the present-day reader's more pressing needs, this book contains our assessment of the TPP, the state of its health, the range of its ambitions and a list of some likely trajectories it could take before completion, as well as the challenge at the time this book goes to press of accommodating new members in addition to the current, nine negotiating nations. Foremost amongst these perhaps are Japan and also Canada, Mexico and the Republic of Korea, but not limited to these.

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## ACKNOWLEDGEMENTS

We would like to acknowledge the following institutions and persons in particular. Hong Kong University's Strategic Research Themes Programme, and the Head of its Law, Policy and Development sub-theme, Professor Douglas Wayne Arner. The Dean of Hong Kong University's Faculty of Law, Professor Johannes M.M. Chan, and the Faculty also deserve special mention for top-up funding, and likewise the Temasek Foundation Centre for Trade & Negotiations, S. Rajaratnam School of International Studies of the Nanyang Technological University in Singapore. Further funding support from Hong Kong University's Small Project Funding Scheme was, likewise, critical. Ms Flora Leung at the Asian Institute of International Financial Law at Hong Kong University was indispensable in organizing every last detail of the Hong Kong workshop. Swee Seng Quak of the Temasek Foundation Centre for Trade & Negotiations has provided indispensable support to the project throughout. We are grateful to Paulette Planchette, Veronique Bernard and Anthony Martin for their valuable contributions on the production side. Finally, we would like to thank the team at Cambridge University Press for their guidance and support throughout the life of the project.

Our greatest debt is to our contributors, who were extraordinary colleagues, consummate professionals and remarkable experts in their fields.

Finally, we thank our families for their forbearance during lost evenings and weekends.

C. L. Lim, Deborah K. Elms and Patrick Low

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GLOSSARY

AANZFTA	ASEAN–Australia–New Zealand Free Trade Agreement
ABTC	APEC Business Travel Card
ACCSQ	ASEAN Consultative Committee on Standards and Quality
AFL–CO	American Federation of Labor–Congress of Industrial Organizations
AFTA	ASEAN Free Trade Area
AJCEP	ASEAN–Japan Comprehensive Economic Partnership
ANZCERTA	Australia–New Zealand Closer Economic Relations Trade Agreement
ANZSCEP	Agreement between New Zealand and Singapore on a Closer Economic Partnership
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
AUSFTA	Australia–United States Free Trade Agreement
BATNA	Best alternative to a negotiated agreement
BIT	Bilateral investment treaty
CAFTA	US–Central America FTA
CCFTA	Canada–Chile Free Trade Agreement
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COMESA	Common Market for Eastern and Southern Africa
CRTA	Committee on Regional Trade Agreements
CTC	Change in Tariff Classification
CTH	Change in tariff heading
CTI	Committee on Trade and Investment
EAC	East African Community
ECA	Environment Cooperation Agreement
EFTA	European Free Trade Association
EGS	Environmental goods and services
EPA	Economic Partnership Agreement
FDI	Foreign direct investment
FET	Fair and equitable treatment
FOB	Free on board

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FTAAP	Free Trade Area of the Asia-Pacific
FTAs	Free trade agreements
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GHG	Greenhouse gas
GPA	Government Procurement Agreement
GSP	Generalized system of preference
ICSID	International Centre for Settlement of Investment Disputes
IAs	International investment agreements
ILO	International Labour Organization
IMF	International Monetary Fund
IP	Intellectual property
IPRs	Intellectual property rights
ISD	Investor–state dispute
ISDS	Investor–state dispute settlement
ITA	Information Technology Agreement
ITUC	International Trade Union Confederation
LAC	Latin America and the Caribbean
MEAs	Multilateral environmental agreements
MERCOSUR	Southern Common Market
METI	Ministry of Economy, Trade and Industry
MFN	Most favoured nation
MOU	Memorandum of understanding
MP	Member of Parliament
MRA	Mutual recognition agreement
NAFTA	North American Free Trade Agreement
NT	National treatment
OECD	Organisation for Economic Co-operation and Development
OIRA	Office of Information and Regulatory Affairs
ORRC	Other restrictive regulations of commerce
PBS	Price Band System
PTA	Preferential trade agreement
RIA	Regulatory impact analysis
ROO	Rules of origin
RTA	Regional trade agreement
RVC	Regional value content
SAARC	South Asian Association for Regional Cooperation
SAT	Substantially all trade
SCSC	Sub-Committee on Standards and Conformance
SMEs	Small and medium enterprises
SOE	State-owned enterprise

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SWFs	Sovereign wealth funds
TBT	Technical barriers to trade
TFTA	Tripartite Free Trade Agreement
TM	Transparency Mechanism
TPA	Trade Promotion Agreement
TPMs	Technological protection mechanisms
TPP	Trans-Pacific Partnership
TPSEP	Trans-Pacific Strategic Economic Partnership Agreement
TRADE Act	Trade Reform, Accountability, Development, and Employment Act
TRIMs	Trade Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	Tariff rate quota
US	United States of America
USTR	Office of the United States Trade Representative
VA	Value-added
WEN	Wildlife Enforcement Network
WTO	World Trade Organization