

The Trans-Pacific Partnership: A viable alternative to EU Membership?

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Speculation has emerged in the British press that Britain would seek to join the nascent Trans-Pacific Partnership (TPP) post-Brexit. The Department for International Trade has, perhaps inadvertently, fuelled this by pointing out that “we would be foolish to rule anything out.”¹ On one level, this is self-evident: there is no point in excluding certain possibilities *a priori*. Equally, it is not possible at present for the UK to even seek to join the TPP, not least because the reconstituted TPP does not formally exist yet.

Whilst the initial agreement included the USA and would have covered a large proportion of total world trade, the United States withdrew from the deal under the aegis of President Trump. The agreement is thus presently being reconstituted and, as the Secretary for International Trade Dr Liam Fox pointed out, the TPP “is not fully negotiated yet so we will want to see what emerges”. Additionally, until the UK formally leaves the EU (presently scheduled for 29th March 2019) it is unable to begin any formal negotiations on trade deals with third parties.

Leaving aside these technicalities, questions remain over the impact (and even desirability) of joining from a British perspective. One argument that has been put forward in favour of joining the TPP is that the UK should seek to trade more (and specifically to export more) to fast growing economies in the Asia-Pacific region. Joining the TPP would not serve this purpose. A majority of members are not in Asia: only Japan, Brunei, Singapore, Malaysia and Vietnam count as Asian members of the group. Of these, Japan is a relatively slow-growing developed economy. Whilst it has traditionally been relatively closed to international trade, this is rapidly changing.

As a member of the EU, the UK already has free trade agreements (FTAs) with Mexico and Chile, whilst FTAs have been signed and are provisionally applied with Canada and Peru. In other words, for four of the members of the TPP, the UK already has FTAs by dint of its membership of the EU. It is likely that these would be grandfathered post-Brexit. EU agreements with Vietnam and Singapore have been concluded but are not yet signed.

The EU is currently in the process of negotiating FTAs with Japan, Malaysia and New Zealand. It is unclear whether the UK would be able to join a reconstituted TPP before EU deals with these countries are concluded. In any event, Singapore and Brunei are both extremely small in economic terms, in addition to their distance from the UK. Moreover, Singapore is already extremely open to international trade and joining the TPP would be unlikely to dramatically improve the UK’s position in this regard. Whilst better access to the Malaysian and Vietnamese markets would no doubt be

¹ <http://www.bbc.co.uk/news/uk-politics-42552877>

helpful, it is unlikely to be transformative in the way that, for example, an FTA with China would be. British trade with Vietnam would be increasing from a very low base.

These countries constitute a relatively small proportion of the UK's total export market (around 8%) meaning that any growth would have to be extremely large (and rapid) relative to the existing base to offset even a modest fall in EU exports. CBS research suggests that geography is an overwhelming driver of trade flows, which implies that such a reorientation is unlikely and would be extremely challenging. It is difficult to see how the UK could substitute its position in the European global value chain for a place in the East Asian one (notwithstanding the fact that TPP membership would not ease trade with China, Taiwan, Thailand and others).

It is by no means clear that the UK would be happy with the arbitration procedures and industrial standards envisaged in the TPP. The investor-state arbitration mechanisms envisaged in the draft of the original TPP would grant substantial rights to investors and would, inevitably, involve trade-offs of UK sovereignty. In particular, a number of economists, lawyers and others have noted that the investment protections embedded in the draft might curtail the ability of governments to enact laws to prevent public harm or environment degradation. The example of *Ethylcorp* in 1998 suggests that the threat of investor-state arbitration can indeed have a deleterious effect on state policy, resulting in the "chilling" of regulations even when backed by scientific evidence². In any event, the procedure is likely to be considerably more opaque than the Court of Justice of the EU.

Finally, the TPP involves considerably less deep economic integration than the EU. As such, far fewer non-tariff barriers to trade will be removed (which would require a substantial degree of regulatory harmonisation, as seen in the EU). Whether this is desirable or undesirable depends on one's perspective. Clearly, less integration reduces the extent to which sovereignty must be pooled (the "take back control" argument) but also reduces the extent of any economic benefits as trade is considerably less free. Leaving the EU cannot alter this trade-off, but the UK can choose a different place on the spectrum: freer trade implies pooling sovereignty.

² Davies, H. (2016). Investor-State Dispute Settlement and the Future of the Precautionary Principle. *British Journal of American Legal Studies*, 5(2), pp. 449-486. Retrieved 12 Jan. 2018, from doi:10.1515/bjals-2016-0016