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CPTPP: Overview and Issues for Congress

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a free trade agreement (FTA) formed by the 11 remaining members of the proposed Trans-Pacific Partnership (TPP) after the Trump Administration withdrew the U.S. signature from TPP in 2017. CPTPP, which retains most of TPP's provisions, reduces and eliminates tariff and non-tariff barriers, and establishes enforceable trade rules. CPTPP is currently in effect for nine members, entering into force for Australia, Canada, Japan, Mexico, New Zealand, and Singapore in late 2018; Vietnam in 2019; Peru in 2021; and Malaysia in 2022. Brunei and Chile have signed, but have not yet fully ratified the deal. The United Kingdom (UK), China, Taiwan, and Ecuador applied to join CPTPP in 2021, while others such as South Korea are considering applying.

Members of Congress may have interest in monitoring and shaping the Administration's views on CPTPP, including with respect to

- **U.S. leadership in regional trade rules.** U.S. leadership, including through negotiating objectives mandated by Congress, was largely reflected in CPTPP commitments. TPP was signed under 2015 Trade Promotion Authority (TPA) legislation (P.L. 114-26, now expired) that set negotiating objectives and congressional consultation and notification requirements for U.S. trade agreements. The Obama Administration viewed TPP as a tool to shape or update regional, and potentially global, trade rules to reflect U.S. priorities, especially on issues that existing multilateral agreements at the World Trade Organization (WTO) do not address substantively. Such issues include digital trade, state-owned enterprises (SOEs), labor, and the environment.
- **U.S. commercial competitiveness.** CPTPP involves three of the top four U.S. trade partners and may expand to other major economies, potentially leading to greater economic integration and trade liberalization among the parties. CPTPP and other regional trade agreements not involving the United States, such as the Regional Comprehensive Economic Partnership (RCEP, see below), may disadvantage U.S. trade with members, as the participants lower their trade barriers to other members but not the United States, and possibly set rules that may not align with U.S. interests.
- **China's potential accession.** China's economic heft and contrasting approach to some U.S. priority trade issues (e.g., SOE and digital trade disciplines) suggest its potential membership would have implications for U.S. interests in the region.

The Biden Administration has stated it is not currently interested in joining CPTPP, but recognizes the region's economic importance, and in May 2022, launched the Indo-Pacific Economic Framework for Prosperity (IPEF, see below). Some Members of Congress, industry, and other

stakeholders have urged the Administration to consider participation in CPTPP or other initiatives that seek to open markets further in the region. Previously, the Trump Administration cited a preference for bilateral trade talks and concerns over TPP provisions, such as on rules of origin, in its decision to withdraw from the agreement.

U.S. Trade with CPTPP Members

The United States has significant trade and investment with the 11 CPTPP members, which, combined, accounted for 41% of U.S. goods trade (2021) and 23% of both U.S. services trade and foreign direct investment (FDI) stock (2020). Including all 15 CPTPP signatories and current applicants, these shares rise to 61%, 39%, and 37%, respectively, with China accounting for 14% of U.S. goods trade and the UK accounting for 10% of services trade and 13% of FDI. As noted, CPTPP may disadvantage competition of U.S. firms in the region, especially in markets without existing U.S. FTAs, such as Japan and Vietnam (**Figure 1**); a limited U.S.-Japan agreement, in effect since 2020, has reduced some bilateral tariffs, including on some top U.S. exports, such as beef.

Figure 1. Current and Potential CPTPP Members without an Existing U.S. FTA

		Exports (\$bn)	Imports (\$bn)	Avg. MFN Tariff
CPTPP Members	Japan	75.0	135.1	4.4%
	Vietnam	10.9	101.9	9.5%
	Malaysia	15.2	56.2	5.7%
	New Zealand	3.7	5.0	1.9%
Signed*	Brunei	0.1	0.0	0.2%
Accession Requested	China	151.1	506.4	7.5%
	Taiwan	36.9	77.1	6.5%
	UK	61.5	56.4	5.7%
	Ecuador	5.0	8.2	12.3%

*Signed, not ratified.

Source: CRS with trade data from U.S. Census Bureau and tariff data from the WTO and the UK trade ministry.

Notes: MFN = most-favored nation tariff rates applicable on imports from WTO members (i.e., tariffs generally faced by U.S. exporters).

CPTPP Commitments

CPTPP incorporates by reference the 30 original chapters of the TPP text, including its dispute settlement (DS) mechanism. However, it suspends indefinitely 22 specific TPP commitments (see below), which had been U.S. priorities and which CPTPP parties may reinstate through consensus. CPTPP also establishes administrative procedures (e.g., accession) that replace those in TPP. Side letters to CPTPP clarify how specific commitments apply to certain parties (e.g., a five-year exemption from DS regarding data flow commitments and a three-year exemption related to labor obligations apply to Vietnam). Key provisions (*with suspensions from TPP noted*) include

Goods Tariffs. Immediate elimination of most tariffs among current members and eventual elimination of tariffs on roughly 99% of tariff lines. Tariff commitments for new members are subject to accession negotiations.

E-Commerce/Digital Trade. Requires free cross-border data flows and prohibits requirements to localize computing facilities, with certain public policy exceptions. Prohibits duties on digital products and requirements to share source code to gain market entry. Requires members to have privacy regimes in place nationally. *CPTPP did not suspend any digital trade commitments.*

Environment. Requires countries to enforce and not derogate from their environmental laws to attract trade and investment, implement specified multilateral environmental agreements they have joined, prohibit certain fishing subsidies, and combat illegal wildlife trade. *A provision broadening illegal wildlife trade to include determinations based on a trade partner's laws was suspended.*

Government Procurement. Requires nondiscriminatory treatment toward domestic and foreign firms in government purchasing decisions above certain thresholds. *Two suspended provisions relate to (1) procuring entities and efforts to promote compliance with labor laws, and (2) a mandate to reopen procurement negotiations in three years.*

Intellectual Property Rights (IPR). Protects patents, copyrights, trademarks, and includes disciplines on trade secrets to combat cyber-theft, with various phase-in periods, notably for Vietnam. *Protections were narrowed due to suspensions relating to: scope of patentability, patent term extensions, test data for marketing approvals, and requirements for criminal penalties for certain IP infringements. Also suspended are: biologics commitments, extended term for copyrights, and provisions on legal remedies and safe harbor for internet service providers.*

Investment. Removes barriers and provides protections for foreign investors in CPTPP countries, including nondiscriminatory and minimum standards of treatment, though each country has exempted some sectors or practices. Includes investor-state dispute settlement (ISDS), though countries may block investors' claims against tobacco control measures. *Due to suspensions, ISDS does not apply to certain disputes, such as investment agreements between investors and a central government authority (e.g., relating to natural resource rights or infrastructure projects).*

Rules of Origin (ROOs). Sets requirements to determine whether goods originate within the territory of CPTPP members and are eligible for CPTPP benefits (e.g., autos require 45%-55% regional value content (RVC) depending on calculation method to qualify for tariff elimination).

Services. Provides core obligations of nondiscrimination (national treatment and most-favored nation treatment), market access, and local presence on a "negative list" basis (i.e., covering all cross-border services sectors, except those specifically excluded). Includes separate obligations for financial services, with sector-specific exemptions.

State-Owned Enterprises (SOEs). Requires countries to direct SOEs to make purchase and sale decisions based on commercial considerations, enforce regulations with regard to SOEs impartially, and ensure subsidies and other noncommercial assistance to SOEs do not cause harm to other member countries, with exceptions, including for smaller (revenue) SOEs and provision of public services.

Worker Rights. Requires countries to adopt and not derogate from laws consistent with core International Labor Organization (ILO) principles and rights on freedom of association and collective bargaining, and elimination of forced labor, child labor and employment discrimination in matters related to trade and investment. *U.S.-proposed bilateral labor plans with Brunei, Malaysia, and Vietnam, which included additional commitments (e.g., allowing for independent unions in Vietnam), are excluded from CPTPP.*

Dispute Settlement (DS). Includes a DS mechanism to enforce commitments, though some exemptions apply.

Accession. Requires unanimous consent among members to begin market access negotiations (to date, the UK is the only applicant to reach this step). If negotiations proceed, parties are to determine whether an applicant is qualified to join based on market access offers (e.g., tariffs) and ability to adhere to CPTPP rules. Such approval for China may be difficult given global concerns about its trade practices and industrial policies.

Comparison to Other Trade Initiatives

IPEF. U.S. aims for the IPEF appear to vary from CPTPP and past U.S. FTAs, as the Administration does not seek coverage of market access issues. IPEF involves a limited set of trade issues, to be negotiated by USTR, including labor, the environment and climate change, the digital economy, agriculture, transparency, competition policy, and trade facilitation. The Commerce Secretary is to lead negotiations on supply chains, tax, infrastructure, and decarbonization issues. U.S. officials envision both cooperative and binding commitments, but it is unclear what type of enforcement mechanism IPEF may have.

USMCA. The most recent U.S. FTA, the U.S.-Mexico-Canada Agreement (USMCA), has much in common with CPTPP in its breadth and depth, but also key differences. Some USMCA commitments are more extensive (e.g., labor, SOEs, digital trade), and others are less extensive (e.g., procurement). USMCA also includes more restrictive ROOs on autos (i.e., 75% RVC and wage requirement). Notably, USMCA does not include specific IPR provisions for biologics, and limits the application of ISDS, issues that were also affected by suspended provisions in CPTPP.

RCEP. RCEP includes China, Australia, Japan, New Zealand, South Korea, and the ten ASEAN members and took effect in 2022 for most members. Like CPTPP, RCEP lowers trade barriers and sets rules among the participants, but has generally less extensive commitments (e.g., lower levels of tariff liberalization, and broad exceptions from DS, including the digital trade chapter) and omits issues covered in CPTPP such as labor, environment, and SOEs.

Issues for Congress

Key oversight and legislative issues, which Congress may consider, including through any renewal of TPA, include

- What are costs and benefits of different approaches to regional economic engagement (CPTPP, IPEF, RCEP)? Should other approaches be considered?
- What scope exists for changes to CPTPP if the United States were to consider joining, and what are the implications of China's potential membership?

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