

# TRANS-PACIFIC PARTNERSHIP VERSUS REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP: CONTROL OF MEMBERSHIP AND AGENDA SETTING

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# Trans-Pacific Partnership versus Comprehensive Economic Partnership: Control of Membership and Agenda Setting

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## **Abstract**

This paper argues that the formation of regional integration frameworks can be best understood as a dominant state's attempt to create a preferred regional framework in which it can exercise exclusive influence. In this context, it is important to observe not only which countries are included in a regional framework, but also which countries are excluded from it. For example, the distinct feature of the Trans-Pacific Partnership (TPP) is its exclusion of the People's Republic of China (PRC), and that of the Regional Comprehensive Economic Partnership (RCEP) is its exclusion of the United States. An exclusion of a particular country does not mean that the excluded country will perpetually remain outside the framework. In fact, TPP may someday include , resulting from a policy of the United States "engaging" or "socializing" the PRC rather than "balancing" against it. However, the first step of such a policy is to establish a regional framework from which the target country of engagement is excluded.

*Keywords:* free trade agreements (FTAs), Trans-Pacific Partnership (TPP), Regional Comprehensive Economic Partnership (RCEP), membership, exclusion, agenda setting

*JEL Code:* F13, F15, F53

## 1. Introduction

Traditional theorists explain regional integration efforts as a “balancing” phenomenon. For them, the United States leadership in the Trans-Pacific Partnership (TPP) negotiations is related to its attempt to balance against a rising the People’s Republic of China (PRC). Likewise, they would argue that PRC’s policy to establish the Regional Comprehensive Economic Partnership (RCEP) can be best understood as a counter-proposal for a regional economic coalition vis-à-vis the United States-led TPP. However, direct application of security-centric theory, which implicitly assumes wars as the ultimate tool of external policy, to the economic field is problematic, given the low probability of wars.

This paper argues that the formation of regional integration and cooperation frameworks can be best understood as a dominant state’s attempt to create its own regional framework where it can exercise some exclusive influence. In this context, it is important to observe not only which economies are included in a regional framework, but also which economies are excluded from it. The distinct feature of TPP is that the PRC is excluded, and that of RCEP is that the United States is excluded (Azis 2013, p. 31; Petri 2013, p. 340). While economists tend to emphasize membership, namely who is in the group, what is politically more important in understanding group formation is exclusion. This is because the exclusion of rival states is necessary for countries seeking to assume leadership. This paper puts special emphasis on exclusion, rather than inclusion, in analyzing trade regionalism, which is an approach adopted by some political science literature.<sup>1</sup>

This paper is structured as follows. First, the paper explains the analytical framework: the control of membership and agenda of regional economic integration groupings. It then reviews the development of TPP and RCEP from the standpoint of membership (especially exclusion) and agenda setting. The rivalry between the United States and the PRC that manifests itself in the competing TPP and RCEP proposals is at the heart of the discussion. In addition, the rivalry between the PRC and Japan in East Asia will also be discussed. The final section concludes.

## 2. Pitfall of Balance-of-Power Theory

Some may consider that the logic behind the formation of regional security groupings is similar to that in the formation of regional economic groupings. The so-called balance-of-power usually takes the form of competition between one alliance and another or one nation, rather than the equilibrium of two isolated nations. “Alliance vs. counter-alliance” (Morgenthau 1973,

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<sup>1</sup> Political scientists have long acknowledged the significance of exclusion in understanding institution building. Neo-liberal institutionalists such as Robert Keohane argue that institutions produce benefit for insiders at the expense of outsiders (Keohane 1984, p. 79). Some political science research on regionalism also analyzes regionalism from the angle of exclusion. Wesley (1997) argues that a region is sometimes determined by the logic of “politics of exclusion,” based on the case study of the East Asian Economic Caucus (EAEC). Hamanaka (2009) provides a theoretical framework about the boundary of a region, which distinguishes insiders and outsiders. There is also a study that analyzes the evolution of membership in regional institutions using game theories (Hamanaka 2011).

p. 196) is the most spectacular of the configurations of balance-of-power. For such theorists, the creation of regional cooperation frameworks can be explained by the logic of alliance formation. For example, the formation of the Soviet Union-led Council for Mutual Economic Assistance (COMECON) should be interpreted as a counter-alliance against the United States-led North Atlantic Treaty Organization (NATO). The formation of the Gulf Cooperation Council (GCC) can be interpreted as a collusion against Iran (Hurrell 1995). In this context, United States leadership in the TPP negotiations is related to its attempt to balance against a rising PRC. Likewise, balance-of-power theorists would argue that the PRC's policy to establish RCEP can be best understood as a counter-proposal to the United States-led TPP.

However, the traditional balance-of-power framework entails several inherent weaknesses in explaining economic cooperation frameworks. First, an importation of security-centric theory, which implicitly assumes wars as the ultimate tool of external policy, into the economic field is problematic, given the low probability of wars. Unlike in a security alliance where the coalition automatically gives security to member economies, it is not easy to foresee the impact of economic cooperation among partner economies. Moreover, overlapped membership in economic groupings implies that economic cooperation and security alliances are two different things (It would be unusual for an economy to sign a security alliance with two economies competing with each other).

Nonetheless, balance is an important concept in understanding economic cooperation. But what economies attempt to balance (or more precisely, supersede) is not their power, but rather their influence. Then, the question is how to increase influence on other states, especially regional states.

### **3. Analytical Framework: Quest for Exclusive Leadership**

#### **3.1 Power-agenda paradox**

For an economy that wants to increase its influence, establishing a regional group where it can be the most powerful state—dominating other members in terms of material capacity—is convenient. The most powerful state is likely to be influential in the group because it can easily assume so-called “structural leadership,” which is based on material resources (Young 1991, p. 288). While other factors such as knowledge can also be a source of power, the exercise of power based on non-material resources is uncertain. Thus, having the largest resources in a regional grouping is important to increase the likelihood of attaining leadership. By assuming leadership, an economy can set a favorable agenda and establish convenient rules. In addition, the most powerful state can increase influence through prestige<sup>2</sup> and asymmetric economic interdependence with others.<sup>3</sup>

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<sup>2</sup> Showing a presence in a region is useful to show “who has power,” which is usually called policy of prestige (Morgenthau 1973, p. 85). Establishing a regional framework is a typical way to show presence.

<sup>3</sup> Deeper economic interdependence among members of a regional framework will lead to increased influence, especially when interdependence is asymmetrical.



Which economy is more powerful than others? While we have some rough idea about who has power (e.g., the United States is the most powerful economy in North America), it is not easy to precisely assess the size of power. For example, which is more powerful: Japan or the PRC? It depends on the specific issue area. When the issue is trade in goods, the PRC seems to be more powerful, given that its domestic market is larger than Japan's. In contrast, when the issue is intellectual property protection, it is likely that Japan leads the discussions or negotiations. In short, power depends on the issue area to a certain degree. Power also depends on rules. If the set of rules established is convenient to some countries but not to others, it is likely that countries which find the rules convenient can assume leadership. For example, the military capabilities of France and Germany may be comparable, but their influence at the United Nations (UN) is far different. France, by holding a permanent Security Council seat, is much more powerful than Germany because of rules. (This paper will use the term “agenda setting” to cover the concepts of rule setting.)

The two issues discussed above seem to be contradictory with each other, however. The question is how the cyclical problem, or the chicken-and-egg problem, can be settled.

- Powerful states set the agenda
- Power depends on the agenda

### **3.2 The two games: Control of membership and agenda**

In the “old” world, the cyclical problem was solved easily because power essentially meant military power. In other words, power did not depend on the agenda since the agenda ultimately was always determined by military issues. Moreover, countries formed alliances to survive in a dangerous world, rather than by playing a diplomatic game of membership and agenda-setting politics, which will be discussed below.

However, the formation of economic groupings in the contemporary world is different. The cyclical problem cannot be solved easily. A typical example is the case of World Trade Organization (WTO) negotiations. If the issue is economic liberalization, the United States is likely to be the leader. If economic development is the issue, developing economies like India or the PRC are likely to be the leader. The two sides cannot agree upon the agenda. Since the agenda is uncertain, it is unclear who the leader is. At the same time, the agenda cannot be decided by the leader because it is unclear who the leader is.

At the regional level, the story is even more complicated. What is important to note is that there is no definitive definition of region. Each economy, especially those that want to assume leadership in a region, can define it freely. Thus, the question is not, for example, which country, the PRC or the US—becomes the leader in the region. The two economies may insist upon regional cooperation in different geographical areas so that each one can assume leadership and increase influence in a region they define. This means that, at the regional level, the cyclical problem can be solved to a degree by limiting membership. As discussed above, the case of

WTO negotiations is difficult because both leader and agenda are unclear, but this is because the WTO is a global institution in which membership control is difficult. In contrast with the WTO, at the regional setting and from the United States perspective, for example, if its rivals such as India and the PRC are excluded it can easily be the leader and agenda setter.

While the determination of membership (or exclusion of rivals) is critical, the significance of agenda setting also should not be overlooked. It is wrong to assume that membership comes first and a leader decides everything related to the agenda even at the regional level. Agenda setting is important because power still depends on the agenda to a degree. This is especially true for heterogeneous economies, as illustrated by the examples of Japan and the PRC above. Accordingly, economies are playing two games simultaneously: control of membership and control of the agenda. The core of the first game is the exclusion of rivals. The essence of the second game is to set the agenda that is convenient to the leader. Neither comes before the other; both are determined at the stage of forming the institution or group.

### 3.3 Accession conditionality

However, the above argument that the exclusion of rivals is important does not necessarily mean that the excluded parties perpetually remain outsiders. There is a possibility that very powerful rivals are kept outside, especially if the incumbent leader is not confident and fears that its leadership role would be ruined by a powerful newcomer. However, the more likely scenario is that incumbent leaders try to invite rivals as latecomers and put them in a relatively disadvantageous position vis-à-vis incumbents. Latecomers can be put in a disadvantageous position in two ways. While both types of policies outlined below are usually implemented in the form of accession conditionality, the two are different in nature. The first one is *de facto* discrimination while the second is *de jure* discrimination:

Latecomers should accept the agenda and rules set by incumbents. Even if the agenda and rules are equally applied to all parties, they are not always neutral. Incumbents can set agenda and rules convenient to them, but not necessarily to others.

Latecomers should satisfy additional requirements that were not required from incumbents. They should endure disadvantageous conditions in order to be accepted.<sup>4</sup> Incumbents use additional requirements to tame newcomers and reduce the rival's capability to assume leadership. Additional requirements may include items outside the scope of the agreement.<sup>5</sup>

The openness of accession rules determines whether accession procedures can be used as a tool to socialize or tame new applicants. Merely having an accession clause does not make an agreement truly open. Agreements can be classified into four types in terms of accession rules

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<sup>4</sup> For example, latecomers are usually required to offer more liberal market access than incumbents. It is widely known that new WTO Members' concessions are very ambitious.

<sup>5</sup> It is said that in the case of Mexico signing the Anti-Counterfeiting Trade Agreement (ACTA) was a precondition for participating in the TPP. See Section V for more detail.

(Hamanaka 2012a). The first possibility is that an agreement does not have any accession clause (closed agreement).<sup>6</sup> Second, there is a semi-closed type of agreement in which acceptance of a new member requires the unanimous approval of the current signatory states. Third, in a semi-open agreement, acceptance of a new member depends on the approval by the majority of the existing signatory states. Finally, there is a (truly) open agreement in which all states that are willing to agree to the terms of the treaty can join.<sup>7</sup> The more discretion the incumbents have in deciding whether or not to accept newcomers, the higher the likelihood that they use the accession process as a chance of taming newcomers (Hamanaka 2012b).

## 4. Trans-Pacific Partnership (TPP)

### 4.1 Is the United States a latecomer?

The genesis of TPP dates back to the 1990s. In the early 1990s, Chile and New Zealand held two rounds of negotiations to conclude a free trade agreement (FTA), though they ultimately decided not to pursue it (Salazar 2005). Meanwhile, New Zealand and Singapore signed an FTA in 2000, leading to the idea of a “P3” grouping—comprising New Zealand, Singapore, and Chile—which was formally raised at the Asia-Pacific Economic Cooperation (APEC) Leaders Meeting in 2000 in Brunei Darussalam. While the New Zealand–Singapore FTA has an accession clause, the three parties decided to negotiate a new agreement. The negotiations among the P3 were formally launched at the APEC Leaders’ Meeting in 2002 in Los Cabos, partly because concerned parties considered that the competing idea of a “P5” grouping—comprising the P3 plus Australia and the United States—would not materialize in the near future. Brunei Darussalam joined the P3 negotiations during the second round, and an agreement among the P4, the Trans-Pacific Strategic Economic Partnership (TPSEP), was signed in 2005 and entered into force in 2006.

TPSEP does not have chapters on investment and financial services, but Articles 20.1 and 20.2 stipulate that negotiations on those outstanding issues should start within 2 years of the agreement coming into force. Accordingly, the negotiations on investment and financial services were planned to start in March 2008 (Lewis 2009, p. 407). A month before this start date, on 8 February 2008, the United States expressed interest in joining the negotiations, participating with the expectation that it would eventually join TPP (Lewis 2011, p. 34). In September 2008, President George W. Bush notified Congress of his administration’s intention to start negotiations with the P4, and the negotiation process including United States participation was launched thereafter.

<sup>6</sup> Note, however, that this scenario does not exclude the possibility of accession, which may be achieved by amending the original agreement.

<sup>7</sup> An Open Trade Agreement (OTA) as proposed by Garnaut (2004) has a real open accession clause. The three conditions for becoming a member of OTA are: (i) members should offer, at least, the same preferences as the preferences in their (most favorable) existing FTAs; (ii) members should accept any new members on the same terms as they treat other incumbents, provided new applicants also satisfy these three conditions; and (iii) members should accept common rules of origin (ROOs) of the OTA. Thus, the accession of new members will not be subject to case-by-case negotiations.

It is unclear whether the current negotiations are about the accession of non-P4 countries into TPSEP, or about a new agreement among the 12 concerned parties, as TPSEP has an accession clause, Article 20.6, which states:

This Agreement is open to accession on terms to be agreed among the Parties, by any APEC Economy or other State. The terms of such accession shall take into account the circumstances of that APEC Economy or other State, in particular with respect to timetables for liberalisation.

The position of the United States on this issue is clear; it wants the current negotiations to lead to a new agreement, rather than TPSEP accepting the United States as a latecomer. In fact, a United States Trade Representative (USTR) official made it clear in remarks at the American Society of International Laws Annual Meeting that the United States was not acceding to the P4 agreement, but rather a new agreement was being negotiated (Lewis 2011, p. 34). Ron Kirk, the USTR official, also pointed out that Congress would be more receptive to creating a new agreement from scratch (James 2010, pp. 2–3). For the United States to assume leadership, negotiations should lead to a new agreement instead of US accession to TPSEP.

The United States is also attempting to lower the level of ambition of the agreement so that it can assume leadership. For example, while the original vision of P4 was high-standard, whether the TPP will eventually become high-standard is uncertain (Lewis 2013, p. 367; Lewis 2011). The United States does not seem to be a strong supporter of the “no exclusion” policy and in fact it has been attempting to exclude sugar from the agreement’s coverage on the ground that this is an issue already solved in the bilateral context, such as the Australia–United States FTA. Thus, United States policy has two aspects. On the one hand, it is participating in TPP negotiations as a latecomer and uses the high standards set by P4 members whenever convenient; on the other hand, when necessary, it is lowering the level of ambition to a comfortable level using its bargaining position as the most powerful party.

## **4.2 Treatment of latecomers**

Shortly after the United States began its participation in TPP negotiations in late 2008, Australia and Peru announced their respective interest in joining the negotiations. They were soon followed by Viet Nam. The Bush administration notified Congress in December 2008 of its negotiations with these three economies. The original plan was that the first formal negotiations were to be held in March 2009 with Australia and Peru, and Viet Nam as observers, though this meeting was postponed because the new administration of Barack Obama needed time to review the United States FTA policy before engaging in actual negotiations. At an address in Japan on 14 November 2009, President Obama announced that the United States would join TPP. The negotiations among eight parties (P4 plus the United States, Australia, Peru, and Viet Nam) started at the Melbourne meeting in March 2010.

Since then, several other economies have expressed interest in TPP membership. However, there are some distinctions between incumbents and newcomers. While it is not written, it is said that economies who want to participate in TPP negotiations should be “approved” by existing members. Thus, it is wrong to suggest that all concerned economies are negotiating on perfectly equal footing. In this sense, Viet Nam was strategic because it expressed interest in joining TPP immediately after the United States did and successfully avoided being treated as a latecomer. In contrast, Malaysia decided to join TPP negotiations in July 2010—mainly because there was no hope to finalize the United States–Malaysia FTA whose negotiations were launched in 2006—but its participation was subject to approval by the other eight members. However, Malaysia joined the second round of negotiations in October 2010 without prolonged pre-approval procedures. It can be said that Malaysia jumped on the bus just before the door was closed.<sup>8</sup> TPP parties up to and including Malaysia are called the TPP9. At the APEC Leaders’ Meeting on 11–12 November 2011, Canada, Mexico, and Japan each expressed interest in TPP participation.

Incumbents have attempted to put latecomers in a disadvantageous position in two ways. First, they try to limit the latecomers’ ability to influence the agenda. Latecomers are required to agree upon two negotiation modalities: (i) they must accept terms already agreed upon among incumbents, and (ii) they do not have veto power on any chapter if the current negotiating partners (incumbents) reach an agreement on a chapter.<sup>9</sup> Thus, latecomers should accept not only what has been agreed upon by TPP9 but also what will be agreed upon by TPP9. It seems that TPP9 parties will try to decide as much as possible before more economies come in. In fact, the Outline of TPP Negotiations was released on 12 November 2011 at the TPP summit among the nine parties, which was held back-to-back with the APEC Leaders Meeting wherein Japan, Canada, and Mexico formally expressed interest in TPP membership. The Outline implies that the room for negotiations for newcomers is very limited.<sup>10</sup> Of particular importance was a limit on Japan’s negotiating power because it would have had the ability to affect the agenda if it had been included at an early stage. Kelsey (2013) argues that “the New Zealand government won’t actually want Japan at the table until all the critical issues are solved.” Such considerations are common to others to a degree. In fact, while the three economies expressed their interest in TPP membership at the same time, Japan’s participation negotiations were the most prolonged.<sup>11</sup> The involvement of Canada was also controversial (but not as much as that of Japan) because the economy is also capable of complicating the TPP negotiation agenda (Stephens 2013).<sup>12</sup>

<sup>8</sup> The United States administration should notify Congress of the intention of negotiating a trade agreement 90 days before the actual launch of negotiations. Because the US followed this procedure when it started negotiations for the United States–Malaysia FTA in 2006 (negotiations were suspended in 2008), 90-day prior notice was not required for Malaysia’s participation in TPP negotiations.

<sup>9</sup> In addition, latecomers are not allowed to view the negotiation text until they are accepted (*Inside US Trade*. 2012. 18 June).

<sup>10</sup> See the section on Legal Texts, which says “the negotiating groups have developed consolidated legal text in virtually all negotiating groups. In some areas, text is almost complete; in others, further work is needed to finalize text on specific issues. The texts contain brackets to indicate where differences remain.”

<sup>11</sup> Mexico and Canada’s application was approved by incumbents in June 2012 and they participated in the 15th meeting in Auckland in December 2012. Japan’s application was approved only in March 2013 and it participated in the 18th meeting in Kota Kinabalu in July 2013.

<sup>12</sup> It has been reported that Canada’s first application for TPP membership was rejected in October 2009 (Elms 2013, p. 379). Note that this incident would have occurred before the first round of TPP negotiations in March 2010.

The second way to put latecomers in a disadvantageous position is by imposing additional requirements. While there have been no formal accession procedures to TPP (because it has not been signed yet), it seems that incumbents are attempting to tame latecomers by introducing a similar mechanism to accession conditionality: bilateral negotiations. For example, in the case of Mexico, signing of the Anti-Counterfeiting Trade Agreement (ACTA) was the precondition for its TPP participation set by the United States as its participation in negotiations was secured the day after its signing of ACTA.<sup>13</sup> For Canada, it seems that the phase-out of supply management control of dairy and agricultural products was a precondition for its TPP membership. In the case of Japan, lifting (bovine spongiform encephalopathy (BSE)-related restrictions on the United States beef is one of the preconditions.<sup>14</sup> In addition, it is reported that the United States has a long list of preconditions, which may restrict Japan's bargaining power in the actual negotiations: agriculture, insurance, drugs and medical devices, and automobiles, among others (Kelsey 2011).

If the United States sets the agenda and attempts to control membership, does this mean that other participants should be obedient followers? Fundamentally, TPP is a United States-led mechanism and others are expected to follow it as far as staying within the framework. One exception would be a country that can set up an alternative to TPP. This means that an economy posing a threat to the United States by indicating a possible withdrawal from TPP negotiations and participation in another group that is not led by the United States could have some bargaining power. (See Section VI for further discussion of this topic.)

### 4.3 Treatment of future participants and accession modality

While TPSEP has an accession clause, it is unclear what type of accession clause will be included in the final TPP text. It is likely that participation will be subject to the approval of all TPP member economies, which would thus be a semi-closed agreement rather than an open one. While the current negotiating parties seem to have the option of not undertaking any part of the agreement (e.g., it seems that Australia will not undertake the investor-state dispute section), it is likely that future applicants (after the conclusion of TPP negotiations) will be required to accept everything in the agreement. Otherwise, an incumbent may block their application. Of particular importance is that TPP will have little development considerations. While capacity building is included in TPP, all parties, including both developed and developing economies, are expected to offer more or less similar levels of commitment. In other words, it is wrong to consider that the terms of accession for developing economies are differentiated from those for developed economies.<sup>15</sup>

The distinctive institutional feature of TPP that has huge implications for the terms of accession for future applicants is that TPP is not a real regional agreement. TPP is likely to become a bundle of bilateral deals, not a true region-wide FTA. The bundle of bilateral deals means that

<sup>13</sup> <http://www.maquilaportal.com/index.php/blog/show/Mexico-pressed-to-sign-ACTA.html>

<sup>14</sup> <http://japandailynews.com/japan-to-ease-regulations-on-us-beef-imports-2221968/>

<sup>15</sup> Unlike the Guiding Principles and Objectives of RCEP (see Section V for details), the Outlines of TPP do not include the term "flexibility" for developing members.



tariff concessions and schedules will be determined on a bilateral basis and without having a common single tariff schedule. The Association of Southeast Asian Nations (ASEAN)–India FTA is an example of an agreement that includes non-unified tariff schedules (Fukunaga and Isono 2013).<sup>16</sup> While the bundle of bilateral agreements may be slightly better than perfectly unrelated bilaterals if regional cumulation is allowed, this is essentially a bilateral agreement, rather than a regional one. The position of the United States, on this point is obvious; it does not want to re-open issues already settled in existing FTAs and it wants to have different tariff schedules for different TPP partners.

If TPP will be a bundle of bilateral agreements, rather than a true region-wide agreement, the important implication for accession is that new applicants need to negotiate not only their concession but also existing members' concession on a bilateral basis. If there were a unified single concession among members, then the negotiations of a new participant would be able to focus on its concession to be exchanged with existing members' concession stipulated in the unified schedule. Without unified concessions, it is unclear what type of concession a new member can obtain from existing members. Thus, while TPP has an accession clause, it is reasonable to assume that accession will not be easy. Rather, the United States intention is to tame future participants through bilateral accession negotiations.

## 5. Regional Comprehensive Economic Partnership (RCEP)

### 5.1 Disagreement between the People's Republic of China and Japan: Control of membership and agenda

The PRC and Japan have different ideas on the most appropriate regional economic architecture in terms of both membership and agenda. The competition between the two over regional dominance dates back to soon after the 1997/98 Asian financial crisis. It is widely known that Japan attempted to establish the Asian Monetary Fund (AMF) but the United States successfully blocked it (Rapkin 2001). The PRC was wary of the Japanese proposal because it feared that Japan's dominant position in the region would be locked-in by the establishment of AMF (Hamanaka 2008).

In the area of trade, in November 2000, the PRC proposed conducting a joint study on an ASEAN–PRC FTA, which was accepted by ASEAN. At the ASEAN–PRC Summit in November 2001, the two parties agreed to establish an ASEAN–PRC FTA by 2010. After this, the reaction of the Government of Japan was swift. Prime Minister Koizumi visited Southeast Asia in January 2002 and proposed a Japan–ASEAN Comprehensive Economic Partnership. It is important to note that the Chinese proposal emphasized an FTA, namely covering trade in goods, while the Japanese proposal was more comprehensive. However, at this stage, the rivalry took the form of direct competition between the PRC and Japan over ASEAN.

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<sup>16</sup> Unlike other “ASEAN plus” FTAs, India's offer to the Philippines and other ASEAN economies were different under the ASEAN–India FTA.

Around the mid-2000s, the rivalry between the two economies moved into membership and agenda politics. In November 2004, the PRC proposed conducting a study on an East Asia Free Trade Agreement (EAFTA) and the study was started in April 2005. The study's Phase I results were reported to the ASEAN+3 Economic Ministers Meeting (EMM) in August 2006, and the members subsequently agreed to conduct a Phase II study.<sup>17</sup> Meanwhile, Japan proposed a study on the Comprehensive Economic Partnership in East Asia (CEPEA) at the ASEAN+6 EMM, which was held back-to-back with the ASEAN+3 EMM.<sup>18</sup> After this, Japan sped up the study on CEPEA so that its proposal would not fall behind EAFTA. Both Phase I and Phase II of the CEPEA study were finalized by July 2009 (Phase I: June 2007–June 2008; Phase II: November 2008–July 2009), which is only 1 month after the completion of Phase II of the EAFTA study. The results of the CEPEA study were reported to the ASEAN+6 EMM and those of the EAFTA study to the ASEAN+3 EMM in August 2009.

The two proposals are very different from each other. First, EAFTA is a project among ASEAN+3 members while CEPEA comprises ASEAN+6. The PRC thought a narrower membership that excludes Australia (a United States ally) and India would make it more convenient for the PRC to assume leadership. Japan considered adding Australia and India as being necessary to dilute the PRC's influence, which is a necessary condition for its leadership of the group. Second, the PRC proposal emphasizes liberalization of trade in goods, while the Japanese proposal emphasizes non-goods issues such as investment and intellectual property. While the membership politics have attracted attention, the agenda setting politics are equally important. If the agreement is limited to trade in goods, the PRC would be the dominant player in negotiations, given the size of its domestic market. If investment and intellectual property are included, Japan would be the dominant player and the PRC would only have defensive interests.

ASEAN was unable to decide which proposal to support so it attempted to bridge the two. The disagreement between the PRC and Japan regarding the appropriate membership and agenda was a serious one as evidenced by the two different studies on EAFTA and CEPEA that were reported to different forums. ASEAN proposed to establish the so-called "ASEAN Plus Working Groups", where both ASEAN+3 and ASEAN+6 frameworks could be discussed, and several such meetings were held in 2010 and 2011. Four Working Groups were established covering (i) rules of origin (ROOs); (ii) tariff nomenclature; (iii) customs procedures; and (iv) economic cooperation. However, the ASEAN proposal was not successful because, from the Chinese perspective, it seemed to support the Japanese preference for membership to include all of ASEAN+6, though it would theoretically not be impossible for the Working Groups to discuss ASEAN+3 cooperation. From the Japanese perspective, the four topics selected seemed to support Chinese preferences by excluding investment and intellectual property.

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<sup>17</sup> ASEAN+3 refers to the 10 members of ASEAN plus the PRC, Japan, and the Republic of Korea.

<sup>18</sup> ASEAN+6 refers to the 10 members of ASEAN plus Australia, the PRC, India, Japan, the Republic of Korea, and New Zealand.



## 5.2 Temporary agreement?

The PRC and Japan made a joint proposal on East Asian economic cooperation in August 2011. They suggested the establishment of Working Groups, where both EAFTA and CEPEA could be discussed, before the end of 2011 to cover the following topics: (i) trade in goods, (ii) trade in services, and (iii) investment. They also proposed submitting the study results to ministers and leaders in 2012. The proposal clearly stated that the participants would be limited to ASEAN and ASEAN's FTA partners, and that ASEAN would chair this initiative. At the 19th ASEAN Summit in Bali on 17 November 2011, ASEAN decided to endorse RCEP. The East Asia Summit (EAS), which was held 2 days later, simply "noted" the ASEAN decision since EAS includes the United States, which might seek to block the progress of RCEP.

In August 2012, the first ASEAN Economic Ministers Plus FTA Partners consultations were held. This was a symbolic event because it was the first ministerial meeting that included only ASEAN and its FTA partners, hence the United States was not included. Before this, a substantial discussion on RCEP was conducted at ASEAN forums. EAS, which includes the United States, simply took note of the progress being made. The newly created forum among ASEAN and its FTA partners was thereafter used to discuss RCEP.

In November 2012, ASEAN and its FTA partners formally agreed to launch RCEP negotiations. At the same time, ASEAN and its FTA partners decided upon the *Guiding Principles and Objectives for Negotiating* the RCEP. It is important to note that economies without an FTA with ASEAN (such as the United States) cannot participate in RCEP negotiations.<sup>19</sup> In other words, having signed an FTA with ASEAN is the precondition for participation in RCEP negotiations. Thus, participation in RCEP negotiations is not open. The Guiding Principle and Objectives state:

Any ASEAN FTA Partner that did not participate in the RCEP negotiations at the outset would be allowed to join the negotiations, subject to terms and conditions that would be agreed with all other participating countries (Principle 6).

The progress made in 2011 regarding the trilateral PRC–Japan–Republic of Korea FTA, known as the CJK FTA, also deserves attention. At the trilateral summit in October 2009, the three economies agreed to launch a study on the CJK FTA with an original completion date before the end of 2012. However, at the trilateral summit in May 2011, the leaders of the three economies agreed to speed up the study so that it could be finished before the end of 2011. (The final study group was held in December 2011.) Then, at the trilateral summit meeting in Bali on 19 November 2011, which was held before the completion of the accelerated study, the three leaders agreed to start CJK FTA negotiations as soon as possible.<sup>20</sup>

<sup>19</sup> Any other ASEAN economic partner can participate in RCEP only after the completion of RCEP negotiations, using the accession clause to be included in the RCEP agreement (Principle 6).

<sup>20</sup> The launch of negotiations for the CJK FTA was formally announced at the trilateral summit in November 2012.

The question is why the PRC and Japan suddenly pursued this cooperative effort, especially in 2011. It is plausible that the PRC wanted to speed up the processes of CJK FTA and RCEP negotiations to compete with TPP. For the PRC, control of membership (the establishment of an East Asian framework without the United States) is a higher priority than control of the agenda. In fact, it agreed to include investment in the RCEP negotiations. It seems that the PRC has become more confident about its economic power compared to when it proposed EAFTA in 2004, no longer believing that the inclusion of investment and services would ruin its leadership status vis-à-vis Japan. At the same time, Japan's principal goal in supporting RCEP was to effectively use the "PRC card" with the United States when its participation in TPP was at stake.

It is unclear if these joint efforts between the PRC and Japan are a temporary phenomenon. Both parties wanted the launch of RCEP negotiations at a critical stage of TPP negotiations. It is likely that the PRC will continue to make efforts to establish RCEP as soon as possible in order to compete with TPP. However, for Japan, it was necessary to use the "PRC card" to get informal the United States approval for its participation in TPP. But now, Japan is already participating in TPP negotiations (For further analysis of Japan's strategy regarding RCEP, see Section VI).

### **5.3 Future participation in RCEP**

What type of accession rule will be employed in the final RCEP text remains to be seen. While the guiding principles and objectives for RCEP state that it will have an accession clause, it is naive to expect that RCEP will follow open accession rules. As mentioned above, even participation in ongoing RCEP negotiations is fairly exclusive; unless economies have an FTA with ASEAN, they are not allowed to participate in the negotiations.

One important feature of RCEP is its emphasis on developmental issues. The Guiding Principles state:

"Taking into consideration the different levels of development of the participating countries, the RCEP will include appropriate forms of flexibility including provision for special and differential treatment, plus additional flexibility to the least-developed ASEAN Member States." This implies that developing, but not developed, country latecomers will receive some favorable treatment upon accession.

## **6. Analysis of Strategies of Key Players**

### **6.1 The United States and the People's Republic of China**

The United States strategy in the Asia-Pacific is to establish an ambitious regional framework that reflects its interests and includes an accession clause. TPP is likely to become such a device. It is reasonable to conclude that the United States is attempting to tame latecomers, especially the PRC, through the accession process. As a Financial Times editorial suggests, from the United

States perspective, “TPP is a club for anyone but [the People’s Republic of] China” and “[the People’s Republic of] China will feel obliged to mend its errant (behavior)” if it wants to become a member. However, whether the PRC decides to join TPP is a separate issue.

The PRC’s strategy is to establish a regional framework that does not include the United States so it can hold a dominant position. While it also preferred to exclude India from the ASEAN+6 framework (Panda 2014), India’s involvement is not as problematic as the involvement of the United States in terms of competition for leadership. Japan is another rival within RCEP; it seems that the PRC attempted to supersede Japan by controlling the (goods-centric) agenda. RCEP is an attempt to establish an alternative trade forum to TPP, one that emphasizes flexibility for developing economies and that is less ambitious than TPP. For developing economies, participation in RCEP may be easier than in TPP. Since the PRC wants RCEP to materialize as soon as possible in order to compete with the United States-led TPP, and Japanese participation is key to the success of RCEP, the PRC agreed to include issues for negotiation that Japan has a strong interest in such as investment and intellectual property. It is not known if the PRC will invite the United States to join RCEP, but it is likely that it will insist that RCEP is open to any economy, including the United States, only after the details of RCEP are determined. Regarding TPP, while participation in it may accelerate domestic economic reforms, it is unlikely that big developing economies like the PRC will decide to be “socialized” through the TPP accession process.

## 6.2 Japan

Japan’s strategy regarding TPP and RCEP is interesting. It seems that Japan is using the “PRC card” to improve its TPP negotiation position vis-à-vis the United States. In August 2011, when Japan’s participation in TPP was in question, Japan and the PRC jointly proposed a modality for East Asian cooperation that paved the way for the proposal of RCEP. Japan formally expressed its interest in TPP at the APEC Leaders’ Meeting in Honolulu on 13 November 2011. Four days later, RCEP was proposed at the ASEAN Summit, and such progress was noted at the East Asia Summit (which includes the United States) on 19 November 2011. This implies that despite their past disagreements the PRC and Japan agreed on the value of launching RCEP at a critical stage of TPP negotiations. In addition, at the meeting in Bali on 19 November 2011, leaders from the PRC, Japan, and the Republic of Korea agreed to launch negotiations on the CJK FTA as soon as possible. What is interesting is that this agreement was made even before the scheduled completion of the study on CJK FTA in December 2011. (This scheduled completion date was already moved up from December 2012.) Moreover, on 20 November 2012, RCEP negotiations were formally launched. On the same day, Japanese Prime Minister Yoshihiko Noda met President Obama and asked the United States to support Japan’s TPP participation. These are examples of Japan’s effective use of the “PRC card” with the United States. The unspoken message is: “if you make Japan’s participation in TPP difficult, we will resort to partnering with the PRC.” Furthermore, in February 2014, the Japanese minister in charge of TPP negotiations expressed his view that Japan had the option of withdrawing from negotiations if the United States continued making demanding requests for tariff reductions on sensitive products.

After Japan secured a seat at the TPP negotiating table, it seems to have resumed playing the agenda-setting game vis-à-vis the PRC and RCEP negotiations. In fact, at the third RCEP meeting in January 2014, it was decided that new Working Groups on competition, intellectual property, economic and technical cooperation, and dispute settlement would be established. These are issues that Japan, not the PRC, had been insisting be included in RCEP negotiations. Japan wants strong discipline enforced in the areas of investment and intellectual property, with violations subject to dispute settlement rather than case-by-case political bargaining. In short, Japan is using the “TPP card” to strengthen its RCEP negotiating position vis-à-vis the PRC.

### 6.3 Other Important Players: ASEAN, the Republic of Korea, and India

TPP and RCEP are likely to have a variety of impacts on ASEAN. On the one hand, the rivalry between the PRC-led RCEP and the United States-led TPP makes ASEAN more important as a regional institution. In particular, RCEP recognizes “ASEAN centrality,”<sup>21</sup> though this is conveniently interpreted by the PRC to exclude the United States since it does not have an FTA with ASEAN. On the other hand, ASEAN’s centrality would not be assured inside RCEP, where it could possibly be sidelined by larger and more powerful economies such as the PRC and Japan (Kassim 2012, Cheong and Tongzong 2013). In the case of TPP, little attention is paid to ASEAN centrality and only some ASEAN members are involved in TPP negotiations at this stage. Second, ASEAN solidarity would be affected. The two competing proposals could divide ASEAN. Although it is unlikely that ASEAN will become divided into pro-RCEP and pro-TPP groups, some economies will have dual membership (e.g. Singapore and Malaysia), while others are only a member of one. In addition, some ASEAN members view the two projects from an economic perspective, while others see them from a security angle, given ongoing maritime disputes with the PRC (Panda 2014).

The Republic of Korea is in a unique position as it has FTAs with many RCEP and TPP members, including the United States, but not with Japan. Thus, the economic impacts of RCEP and TPP may not be very significant for the Republic of Korea, but it can play an important catalytic role in shaping the outcome of the two projects (Petri 2013). Regarding RCEP, its membership preference is similar to the PRC’s: the Republic of Korea wants an agreement among ASEAN+3 first with others joining only after institutions have been set up (Cheong 2013). It is reasonable to conclude that the Republic of Korea’s interests would be better served if the negotiating parties were limited. However, an RCEP among ASEAN+3, which is likely to be goods-centric, might not be that beneficial to the Republic of Korea. Regarding TPP, it seems that the economy’s position changed after Japan began participating in TPP negotiations. While it is unclear if an FTA with Japan in the form of TPP would be beneficial to the Republic of Korea, the government feels it is necessary to participate in TPP negotiations in order to maintain a level playing field for Korean industries vis-à-vis those of Japan. An ambitious TPP that is rules-based and offers little

<sup>21</sup> Despite casual usage, the exact meaning of “ASEAN centrality” is unclear. Petri and Plummer (2013) made an important contribution to identifying this concept.

flexibility to members would seem to be a beneficial outcome for the Republic of Korea, given the level of sophistication of its industries (Petri 2013). However, even if the Republic of Korea decides to join TPP, it is very unlikely that it could influence the agenda.<sup>22</sup>

India is a part of the RCEP negotiating process and it has supported the idea of RCEP from the beginning. It sees three major benefits of getting involved in RCEP: (i) an increased presence in Southeast and East Asian markets, (ii) closer relations with ASEAN as an institution, and (iii) increased connectivity with North Asia and Oceania (Panda 2014). India is unlikely to join TPP in its current form because it compels members to amend their rules and norms with regard to climate change, the environment, and human rights (*ibid*). Therefore, India would not be comfortable being “socialized” by TPP accession.

## 7. Free Trade Area of the Asia-Pacific (FTAAP)

The idea of a Free Trade Area of the Asia-Pacific (FTAAP) originally came from the APEC Business Advisory Council (ABAC), which submitted a proposal to the APEC Leaders’ Meeting in November 2004 in Santiago. The proposal failed to win support because some leaders expressed concerns over it.<sup>23</sup> However, the United States shifted its position to support FTAAP in 2006 and the APEC Leaders’ Meeting in November 2006 in Ha Noi supported the idea of FTAAP as a long-term project.<sup>24</sup> The tone of the statement was weakened because of concerns expressed by Asian economies, including the PRC, despite US enthusiasm for FTAAP (Sagawara 2007). This implies that the PRC was careful to avoid a situation in which the United States could tame Asian economies through FTAAP. The United States soon discovered that the realization of FTAAP would be difficult and instead decided in 2008 to pursue TPP (Aggarwal and Koo 2013, p. 12), suggesting that the exclude-and-invite strategy of TPP would be easier for the United States to manage than potential FTAAP negotiations that would include the PRC from the outset.

On the other hand, both TPP and RCEP (whether as ASEAN+3 or +6) are recognized as steps toward FTAAP. The APEC Leader’s Declaration in 2010 states:

We will take concrete steps toward realization of a Free Trade Area of the Asia-Pacific (FTAAP), which is a major instrument to further APEC’s regional economic integration agenda. An FTAAP should be pursued as a comprehensive free trade

<sup>22</sup> This may not be a serious problem because the Republic of Korea–United States FTA is the template for the TPP. However, the Republic of Korea’s non-involvement in substantial stages of negotiations and its acceptance of what has been agreed upon by TPPI2 could lead to political criticism of the government.

<sup>23</sup> The Santiago Declaration simply states that ABAC proposed FTAAP to APEC.

<sup>24</sup> The Ha Noi Declaration states “we shared the [ABAC’s] views that while there are practical difficulties in negotiating [FTAAP] at this time, it would nonetheless be timely for APEC to seriously consider more effective avenues towards trade and investment liberalization in the Asia-Pacific region. Therefore ... we instructed Officials to undertake further studies on ways and means to promote regional economic integration, including [FTAAP] as a long-term prospect, and report to the 2007 APEC Economic Leaders’ Meeting in Australia.”

agreement by developing and building on ongoing regional undertakings, such as ASEAN+3, ASEAN+6, and the Trans-Pacific Partnership, among others.

At this stage, the relationship between TPP and RCEP in the context of FTAAP is unclear. There are at least three possibilities to consider (Hamanaka 2012b, Petri 2013):

- (i) **Consolidation.** A new FTAAP is eventually created and existing agreements signed by subsets of FTAAP members (including TPP and RCEP) will eventually be suspended.
- (ii) **Expansion.** Either TPP or RCEP evolves into FTAAP that covers all APEC members through accession, which dominates the other integration project.
- (iii) **Co-existence.** Both TPP and RCEP continue to exist and each becomes a component of FTAAP.<sup>25</sup> Neither dominates the other.

Consolidation is simply not a realistic idea at this stage. In particular, the suspension of existing agreements, which is the final stage of the consolidation process, seems to be problematic (Hamanaka 2012b). Expansion through an accession clause is what both the United States and the PRC are attempting to achieve through TPP and RCEP. However, whether others want to join and apply for membership is beyond the control of the two economies. Since other economies have the chance to choose their “boss,” the two candidates are expected to behave benevolently so that their preferred mechanism is chosen. If there is no boss supported by the majority of countries in the region, then TPP and RCEP will continue to co-exist. In this case, both the United States and the PRC would become the boss in a smaller group, with neither as the leader of FTAAP.

## 8. Conclusion

The formation of regional economic groupings can be best understood as a competition for control of both membership and the agenda. The control of membership, especially the exclusion of rival states, is important for a potential leader seeking to assume leadership of a group. Control of the agenda is necessary for a potential leader to assume leadership in negotiations because power depends on the issue areas included to a certain degree.

It seems relevant to consider regionalism as a project led by an economy that seeks some exclusive influence. Neither TPP nor RCEP are exceptions. The United States and the PRC seek to exclude one another from TPP and RCEP, respectively, so that a convenient agenda can be set. Thus, it is wrong to overemphasize the openness of these proposed agreements. Even participation in ongoing TPP negotiations is not easy; it is subject to prior bilateral negotiations with incumbents and their approval. Latecomers also need to accept disadvantageous negotiation modalities and endure unfavorable requests set by incumbents. Since TPP is likely

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<sup>25</sup> There is also a possibility that another new integration project other than TPP and RCEP will become FTAAP.



to be a bundle of bilateral agreements rather than a real plurilateral agreement (there will be no common concession that is applicable to all TPP partners), future applicants will need to negotiate their terms of participation on a case-by-case basis, not only in terms of what to offer incumbents but also what is to be offered by incumbents. The high level of ambition of TPP and the lack of developmental considerations will make it difficult for developing economies to join. And while the future RCEP agreement is likely to have an accession clause, it seems it will be a relatively closed club as participation in ongoing RCEP negotiations is open only to countries that have an FTA with ASEAN.

The perspective of exclusion explains the actual development of TPP and RCEP to a degree. The United States and the PRC both attempt to exclude each other from their preferred regional framework so that asserting control of the regional agenda becomes easier. However, at the same time, their initiatives need the support of other countries: the United States and the PRC need to be chosen by others as the boss in order for their preferred regional initiative to prosper and dominate the other. In particular, Japan's support is critical for TPP and RCEP to be successful, which is exactly the source of Japan's bargaining power. Japan is using the "PRC card" in TPP negotiations vis-à-vis the US and the "TPP card" in RCEP negotiations vis-à-vis the PRC.

The most likely future scenario is one of co-existence between TPP and RCEP. Neither can dominate the other for two reasons. First, neither the United States nor the PRC seem willing to give up the chance to tame latecomers through accession, though RCEP is likely to treat latecomer developing countries better than TPP will. Developing countries that feel uncomfortable with the socialization process of either agreement are unlikely to apply for membership. This is especially true for TPP, which is a device of the US to tame latecomers. Second, the country whose initiative wins less support than the other is subsequently likely to behave more benevolently to win additional support.

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## **Trans-Pacific Partnership versus Regional Comprehensive Economic Partnership: Control of Membership and Agenda Setting**

The distinct feature of Trans-Pacific Partnership (TPP) is its exclusion of the People's Republic of China, and that of Regional Comprehensive Economic Partnership (RCEP) is its exclusion of the US. This paper analyzes TPP and RCEP from two angles: (i) control of membership and (ii) control of agenda.

### **About the Asian Development Bank**

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to approximately two-thirds of the world's poor: 1.6 billion people who live on less than \$2 a day, with 733 million struggling on less than \$1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

