



Delhi Policy Group

Advancing India's Rise as a Leading Power



DPG POLICY BRIEF

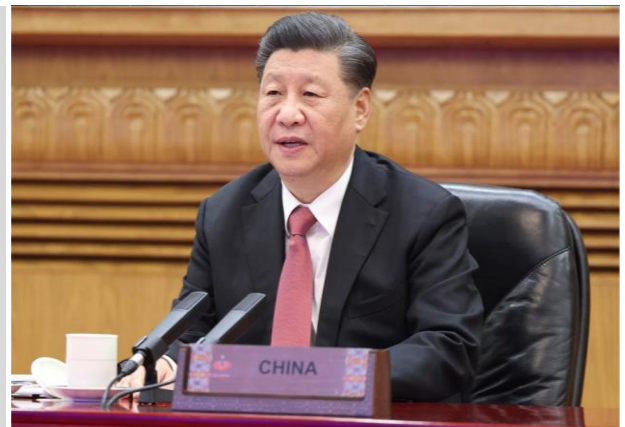
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Cover Photographs:

Chinese President Xi Jinping delivering a speech at the 27th Asia-Pacific Economic Cooperation Economic Leaders' Meeting in 2020 in which he indicated that China will favorably consider joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Source: Xinhua

CPTPP: 11 countries sign Pacific Trade Deal in Chile on March 8, 2018. Source: The Santiago Times

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China's CPTPP Gambit

by
V.S. Seshadri

The irony is striking. Five years ago, US President Obama told his domestic audience that the Trans Pacific Partnership (TPP) agreement which his administration had worked hard to conclude would enable America, not China, lead the way on global trade. His successor President Trump pulled the US out of TPP in January 2017. China has now formally applied to join the truncated 11-member CPTPP on September 16, 2021.

The TPP was a free trade agreement comprising twelve nations of the Asia Pacific region, with the US showing leadership in negotiating the deal and also terming it, at one stage, as the flagship of its pivot to Asia. Negotiations lasted over six years, yielding what was regarded as a high standard agreement substantially freeing not only tariff and other market access barriers but also seeking to ensure practice of market oriented policies in the participant economies. TPP's thirty chapters included disciplines on a whole range of behind the border issues covering competition, state owned enterprises, environment, labour standards, enhanced intellectual property protection, regulatory coherence and transparency, and anti-corruption.

As US exited, Japan and Australia took the lead to salvage the agreement, which was signed in early 2018 among the other eleven members. The agreement was renamed the Comprehensive and Progressive Trans Pacific Partnership (CPTPP), with the parties also suspending twenty two provisions of the TPP, eleven of which involved commitments to higher IPR standards. CPTPP came into force, after their respective ratifications, for six of the parties (Australia, Canada, Japan, Mexico, New Zealand and Singapore) on December 30, 2018, for Vietnam on January 14, 2019 and for Peru on September 19, 2021 while three more parties (Brunei, Chile and Malaysia) have yet to complete their ratification process. Provisions requiring labour and environment standards, SOEs to be commercially operated and free movement of data flows, among the other behind the border disciplines, remained part of CPTPP, making it still a fairly high standard FTA, far more than the Regional Comprehensive Economic Partnership(RCEP) concluded in 2019.

China's formal submission of its application was, however, not altogether a surprise. In his address to the APEC summit last year, President Xi Jinping had

indicated¹ that China will favourably consider joining the CPTPP, but no one had perhaps anticipated it to happen so soon. It is also not evident what domestic preparations have been undertaken by China for this step. There is some speculation that the speed may have been necessitated as a response to the announcement of the AUKUS security alliance a day before on 15 September involving Australia, UK and the US inter alia to “help sustain peace and stability in the Indo-Pacific region”². When asked, China’s foreign affairs spokesman termed the two as totally unrelated but added “China is promoting economic cooperation and regional economic integration, while the US is pushing for war and destruction”³.

China could have also expedited its application sensing that Taiwan was preparing to submit its own. A leading Taiwanese economic think tank, based on a government commissioned study, had recommended only on September 8 that Taiwan should join the CPTPP before China does, otherwise it will find it difficult to join⁴.

China may have also tried to pre-empt a favourable consideration of rejoining TPP by the Biden administration, even as it is unclear if that will in reality be the effect of China’s application, or if it may eventually persuade the US to prioritise such a reconsideration.

Lastly, it may also have been a simple calculation by China that with the Trump tariffs still substantially in place in its largest export market, it may be better for China to ensure certainty of access and closer integration with the other markets in the region. While China has FTA arrangements in one form or another with most of the CPTPP members, it still lacks one with Canada and Mexico (and with the UK, a potential entrant). China’s existing FTAs are also not as deep as CPTPP. Furthermore, a regional FTA carries its own advantages in terms of cumulation and other benefits and it also raises less political sensitivities than a bilateral FTA. A TPP tag will also help burnish China’s “market economy” credentials.

Prior to these developments, only the UK had submitted an application to join CPTPP early this year, even as certain other countries like Thailand, South Korea and the Philippines have shown interest. Close on the heels of the

¹ See http://www.xinhuanet.com/english/2020-11/20/c_139531308.htm

² <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/15/joint-leaders-statement-on-aukus/>

³ <https://www.globaltimes.cn/page/202109/1234584.shtml>

⁴ <https://www.taiwannews.com.tw/en/news/4283122>

Chinese application, Taiwan too has formally applied for CPTPP membership on September 22.

Both Malaysia⁵ and Singapore⁶ have already given positive indications about China's application. Very likely, an argument will also be made by several others that requiring China to abide by CPTPP disciplines will be preferable to China remaining outside (Arguments by Professor Yorizumi Watanabe of Kansai University and Stephen Jacobi, a former New Zealand negotiator, for example, reflect such views). But doubts in this regard have also been expressed. Japanese finance minister Taro Aso⁷ has wondered whether the way China was (behaving) now, if it could really be in a position to be a new member. His colleague, economy minister Yasutoshi Nishimura, has also stated⁸ that it was necessary to determine if China was ready to meet the extremely high standards of TPP. Australian Trade Minister Dan Tehan was more forthright, stating⁹ that Australia will oppose China's bid to join CPTPP until it halted coercive trade measures against Australian exports and resumed minister-to-minister contacts with the Australian government. He further added that China could not join until it convinced members of its track record of compliance with existing trade agreements and World Trade Organisation commitments.

As per Article 5 of the CPTPP text relating to accession, any State or separate customs territory may accede to it, subject to such terms and conditions as may be agreed between the parties and the applicant economy. This is slightly at variance with the corresponding TPP procedures (Article 30.4 of TPP text) that allowed APEC members open access with the automatic establishment of a working group to process the terms and conditions of access, while non-APEC applicants had to first get an agreement among the parties before a working group could be set up. There is no such distinction made out in the CPTPP. In respect of the first accession application, lodged by the UK on February 2, 2021, the CPTPP parties agreed on June 2, 2021 to commence the accession process and to establish an accession working group to manage the negotiations. A

⁵ <https://www.thestar.com.my/business/business-news/2021/09/19/malaysia-looking-forward-to-welcoming-china-in-cptpp-as-early-as-next-year>

⁶ <https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2021/09/20210913-Wang-Yi-Meetings-with-DPM-and-FM>

⁷ <https://www.wsj.com/articles/chinas-bid-to-join-tpp-trade-group-puts-members-in-an-awkward-spot-11631872687>

⁸ <https://www.reuters.com/world/china/china-officially-applies-join-cptpp-trade-pact-2021-09-16/>

⁹ <https://www.theguardian.com/australia-news/2021/sep/18/australia-to-oppose-chinas-bid-to-join-trade-pact-until-it-halts-strikes-against-exports>

joint ministerial statement¹⁰ issued by the CPTPP on that occasion also stated that the CPTPP was open to accession by economies committed to promoting free trade, open and competitive markets, and economic integration in the Asia Pacific region and beyond.

It will be interesting to see how the application by a country that declares itself to be a "socialist market economy with Chinese characteristics" will be handled by the CPTPP and what could be the assurances from China's side. This is particularly relevant at a time when the role of state owned enterprises in the Chinese economy seems to be rising in importance, not the other way around¹¹.

There would be resistance from Australia and Japan, both of which have contentious bilateral issues with China that have also spilled over to their commercial relations. Mexico and Canada are also bound by the 'poison pill' in the USMCA agreement (the revised NAFTA deal) that requires prior notification if any party entered into a free trade agreement with a non-market country¹². Concurrence of these two parties to China's entry can be expected only with a tacit approval from the US¹³. CPTPP parties also have the option of kicking the can down the road by simply establishing an accession working group for now that can go into the details of China's offer and also enable discussions to proceed for China to arrive at bilateral agreements with each of the eleven CPTPP members. Such negotiations will take at least a couple of years before an evaluation and an outcome can emerge. Much can happen between now and then. As of now however, with the hurdles posed, this option looks unlikely to be followed.

Is it also possible that the US may itself decide to resurrect and rejoin TPP? This is uncertain at present. The Biden administration has yet to reveal its trade agenda. But even if it decides in favour, it will very likely require the other eleven members to agree to revoke the suspension of the 22 TPP provisions in

¹⁰ https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/cptpp_meeting_four-ptpgp_declaration_quatre.aspx?lang=eng

¹¹ See for example <https://www.lowyinstitute.org/the-interpreter/has-china-given-state-owned-enterprise-reform>

¹² Article 32.10.5 of USMCA stipulates "Entry by a Party into a free trade agreement with a non-market country will allow the other Parties to terminate this Agreement on six months' notice and replace this Agreement with an agreement as between them (bilateral agreement)". Additionally at least 3 months prior to commencing negotiations, the Party has to inform the other Parties of its intention to commence free trade agreement negotiations with a non-market country.

¹³ A spokesperson for the U.S. State Department reportedly said it deferred to CPTPP, given that the United States was not a member, but added: "That said, we would expect that China's non-market trade practices and China's use of economic coercion against other countries would factor into CPTPP parties' evaluation of China as a potential candidate for accession."

CPTPP. Furthermore, the US may also seek stronger labour and environmental standards, as in fact President Biden had indicated in his campaign trail. Some of the bipartisan compromises that were struck on these issues in respect of the USMCA to enable its Congressional passage in 2019 could also make a comeback. Whether all the eleven CPTPP members will go along is by no means certain.

In short, the Chinese application has thrown up a lot of issues that have few answers at present. One analyst has noted that the accession bid is a masterful stroke for Chinese diplomacy, even if the intended outcome of membership is far from assured¹⁴. Doubtless, however, it has given added salience to CPTPP itself that may now invite greater interest among other regional economies for accession. "Not to get left behind" is a key consideration when it comes to FTAs. It may also help in speeding up pending ratification by the remaining three CPTPP parties.

What do all these developments mean for India? There can be little doubt that despite the protectionist tendencies witnessed post the Covid-19 pandemic, FTAs are still seen as important vehicles for promoting trade, investment and supply chains. Depending on the level of liberalisation in an FTA, it can ensure trade and investment facilitation and greater certainty about market access. While India withdrew from the RCEP negotiations, it is now seeking bilateral FTAs with the UK, Australia, the UAE and other willing partners. This strategy needs serious pursuit, even as getting India's existing FTAs to work better through reviews and other mechanisms will remain no less important. India will need to closely monitor evolving developments in the region, including in respect of CPTPP, and updating its own trade rules will be essential.

¹⁴ <https://www.brookings.edu/blog/order-from-chaos/2021/09/23/china-moves-to-join-the-cptpp-but-dont-expect-a-fast-pass/>



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