

# Negotiating 'Mega-PTAs': a New Game

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# The world trade policy (mid-2013)

- “Comatose Doha” => bilateral ‘mega-PTAs’ are emerging (never before).
- Initial asymmetry among the four mammoths: Japan, US and EU, China.
- Political problems push to enlarge these PTAs in Asia: bilateral => trilateral (CJK) => plurilateral (RCEP).

G20 Members [a]	Share (%) of world GDP	EU27	USA	China	Japan	PTAs of Emerging/developing countries with other G20 Members
<b>Mammoth economies</b>						
EU27	26.6	---	<i>Transatlantic</i>		<i>JEU</i>	
USA	23.9	<i>Transatlantic</i>	---		<i>TPP</i>	
China	9.6			---	<i>CKJ</i>	
Japan	9.0	<i>JEU</i>	<i>TPP</i>	<i>CKJ</i>	---	
<b>Emerging and developing G20 members</b>						
Brazil	3.4	ongoing				Argentina, India
India	2.8	ongoing		concluded	concluded	Argentina, Brazil, Indonesia, Korea
Russia	2.4					
Mexico	1.7	concluded	concluded		concluded	Argentina, Brazil, Canada, Korea
Turkey	1.2	concluded				
Indonesia	1.2	[c]		concluded	concluded	India, Korea
Saudi Arabia	0.7	[d]			ongoing	
Taiwan [b]	0.7			concluded	[e]	
Argentina	0.6	ongoing				Brazil
South Africa	0.6	concluded				India
<b>Industrial G20 members</b>						
Canada	2.6	ongoing	concluded		ongoing	Mexico, EU, Korea
Korea	1.7	concluded	concluded	<i>initial step</i>	<i>CKJ</i>	Indonesia, EU, US, India, Japan, Canada, Mexico, China, Turkey
Australia	1.5		concluded	ongoing	ongoing	Indonesia, US, China

# Trade policy and domestic politics: basics

- **Why PTAs? Motives (most of PTAs just after the Uruguay Round):**
  - Different motives mobilize different political actors (table at right).
  - Only one motive (growth & domestic reforms) mobilizes Heads of State or Prime Ministers.
  - This is perfectly in line with economic analysis: trade opening boosts growth and welfare to the extent that it boosts and buttresses difficult but necessary domestic reforms .
- **Impact of asymmetry among small vs. large negotiating countries (table at left):**
  - So far large countries have concluded only “political” PTAs, with little economic impact.
  - Korea as a key game changer: Korea has based its PTA policy on economic motives (role of the President eager to promote domestic reforms). Different for Turkey.
  - The risk of preferences erosion for the game changers and their partners.

	Nber PTAs	Nber Partners	Expansion capacity (% dom.GDP)	WTO proxy (%world GDP)	Possible motives	Public actors
EU27	32	58	0.4	14.2	Faster than WTO Unfinished tariff cuts agenda 21st Century agenda:	Min: Trade Min: Trade, Industry, Agri. ?
USA	16	29	0.4	10.7	Global value chains, SMEs	
Korea	12	29	50.2	67.2	Foreign policy	Min: Foreign affairs
Turkey	19	30	31.8	31.3	Domestic reforms agenda	Head of State, PM

# The growth motive: J-EU symmetry

- The growth 'traction' of a PTA = (market size) \* (regulatory quality) \* (hub quality).
- Key—too much ignored—point: since 2008, important **erosion** of competition in markets.

	Market expansion (% EU GDP)		Regulatory quality		"Hub" quality	EU Members States by cohort		EU Partners	
	2010	2030	[a]	[b]		EUMS	Rank	Partner	Rank
	1	2	3	4		5			
<b>A. PTA implemented in 2013</b>						EC-1973	7	Singapore	1
EU	100.0	100.0	5 to 100	2 to 83	Korea			Korea	8
Korea	6.3	6.7	8	22	EU, US, ASEAN, China			Canada	13
<b>B. The PTAs listed by the 2006 "Global Europe" Communication</b>						EC-1995	19	Malaysia	18
Canada	9.7	10.3	13	10	USA			Japan	20
Indonesia	4.4	20.3	129	44	ASEAN	EC-2004b	24	Taiwan	25
India	10.7	49.7	132	51		EC-1958	41		
Brazil	12.9	23.5	126	58	Argentina	EC-2004a	50		
Russia	9.1	20.2	120	63		EC-1980s	58		
<b>C. The best PTA partners for boosting EU growth</b>						EC-2007	66		
Japan	33.9	36.1	20	6	ASEAN			China	91
Taiwan	2.7	7.6	25	13	China, NZ, Singapore			Argentina	113
Chiwan	5.1	14.6	(na)	(na)	--			Russia	120
China	36.2	168.6	91	27	Taiwan, ASEAN			Brazil	126
<b>D. The TTIP</b>								India	132
United States	94.7	110.9	4	4	Canada, Korea, Mexico				

# The insurance motive: J-EU symmetry

- **Japan: the key country in TPP. If deep, TPP will be very discriminatory (costly) against EU firms.**
- **Key insurance for the EU against TPP: conclude J-EU as fast as possible.**
- **Key insurance for Japan against (a deep) TTIP: conclude J-EU as fast as possible.**
- **Japan and EU: much closer in terms of challenges/approaches than J-US or EU-US.**
- **Including on how to treat China (see below).**

Types of barriers 1	Magnitude of the risks [a] 2	Criteria used to classify a TPP country as "highly protected" [b] 3
<b>Border barriers</b>		
Tariffs		
agriculture		
applied	73.4	TPP11 countries with average tariff higher than 10 percent
bound	75.7	TPP11 countries with average tariff higher than 10 percent
manufacturing		
applied	0.0	TPP11 countries with average tariff higher than 10 percent
bound	13.9	TPP11 countries with average tariff higher than 10 percent
"high"	29.5	TPP11 countries with high bound tariffs lines > 25% all tariff lines
Trans-border trade	43.3	TPP11 countries not included in the 18 top countries [c]
	30.5	TPP11 countries not included in the 36 top countries [d]
<b>Behind the borders barriers</b>		
Norms in agriculture and industry		no systematic information available
Services	89.9	TPP11 countries with an index > 30 [e]
	28.5	TPP11 countries with an index > 40 [e]
International investment		
transport	100.0	TPP11 countries with an index > 20 [f]
telecoms	96.2	TPP11 countries with an index > 20 [f]
media	40.9	TPP11 countries with an index > 20 [f]
financial services	12.3	TPP11 countries with an index > 20 [f]
real estate	11.3	TPP11 countries with an index > 20 [f]
all others	0.0	TPP11 countries with an index > 20 [f]

# Negotiating 'Mega-PTAs' (1/5)

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- **Q1. A 'complete' PTA or a sequence of 'mini-PTAs'?**
  - **Asian countries work already implicitly on the basis of a sequence of 'mini-PTAs'.**
    - **Best illustrations: the China-Taiwan 'Economic Cooperation Framework Agreement', China-Korea PTA.**
  - **The EU has such a tradition, but it has forgotten it: the Treaty of Rome is the most ambitious trade treaty ever signed, but its implementation has been wisely fragmented in many steps ('deepening'):**
    - **industrial tariffs (first half of the 1960s),**
    - **common agricultural policy (second half of the 1960s),**
    - **norms and NTBs (early 1970s),**
    - **services (mid-1980s),**
    - **'Services Directive' (2006).**

# Negotiating 'Mega-PTAs' (2/5)

- **Q2. Which sequence? First, distinguish the Core and the Periphery: no “framework agreement” for the TTIP.**

Chapters	WTO: C or X	The Core						Chapters	WTO: C or X	The Periphery						
		All PTAs	All - EEA	NEU	MM	ACP	Others			All PTAs	All - EEA	NEU	MM	ACP	Others	
<b>Income and size independent</b>							20	Agriculture	X	0,4	0,4	0,4	0,5	0,3		
							21	Anti-corruption	X							
1	C	1,0	1,0	1,0	1,0	1,0	22	Approximation of legislation	X	0,4	0,3	0,5	0,5			
2	C	1,0	1,0	1,0	1,0	1,0	23	Audiovisual	X	0,4	0,3	0,4	0,2		0,3	
3	C						24	Civil protection	X	0,1						
4	C	1,0	1,0	1,0	1,0	0,8	25	Consumer protection	X	0,3	0,2	0,4	0,1		0,2	
5	C	1,0	1,0	1,0	1,0	0,8	26	Cultural cooperation	X	0,5	0,4	0,4	0,5		0,3	
6	C	1,0	1,0	1,0	1,0	0,8	27	Data protection	X	0,3	0,3	0,3		1,0	0,7	
7	C	0,3	0,2			1,0	28	Economic policy dialogue	X	0,3	0,2	0,4			0,2	
8	C						29	Education and training	X	0,4	0,3	0,4	0,4		0,2	
9	X	0,7	0,7	0,8	0,5	1,0	30	Energy	X	0,5	0,5	0,4	0,5	0,5	0,5	
10	X	0,9	0,9	0,8	1,0	1,0	31	Financial assistance	X	0,5	0,5	0,4	0,5	0,5	0,5	
							32	Health	X	0,1	0,1				0,3	
							33	Human rights	X	0,4	0,5	0,4	0,5	0,5	0,5	
							34	Illegal immigration	X	0,3	0,3	0,8	0,2			
							35	Illicit drugs	X	0,4	0,4	0,4	0,5		0,2	
							36	Industrial cooperation	X	0,4	0,4	0,4	0,5		0,3	
							37	Information society	X	0,3	0,3	0,4	0,1		0,3	
							38	Innovation policies	X					0,5	0,2	
							39	Labour market regulations	X	0,1	0,1			1,0	0,3	
							40	Mining	X	0,1	0,1				0,3	
							41	Money laundering	X	0,4	0,4	0,4	0,5		0,3	
							42	Nuclear safety	X	0,1	0,1	0,3				
							43	Political dialogue	X	0,4	0,4	0,4	0,5		0,3	
16	C	0,9	0,9	1,0	1,0	1,0	44	Public administration	X	0,2	0,2	0,1			0,3	
17	C	0,9	0,9	1,0	1,0	1,0	45	Regional cooperation	X	0,4	0,4	0,4	0,5	0,5	0,3	
18	X	1,0	1,0	1,0	1,0	1,0	46	Research and technology	X	0,5	0,4	0,4	0,4	0,5	0,5	
19	C	0,7	0,7	0,9	0,4	1,0	47	Small and medium enterprise	X	0,3	0,2	0,4			0,3	
							48	Social matters	X	0,7	0,7	0,8	0,8	0,5	0,5	
							49	Statistics	X	0,4	0,4	0,4	0,4		0,3	
							50	Taxation	X	0,1	0,1	0,4				
							51	Terrorism	X	0,2	0,2	0,3	0,1			
							52	Visa and asylum	X	0,1	0,2	0,4	0,1			

# Negotiating 'Mega-PTAs' (3/5)

- Then, keep in mind the inescapable China-EU PTA (CJK).
- Income sensitive chapters:
  - major problems when partners have very different incomes per capita: C, not J and T.
  - J-EU/T-EU do not preempt too much C-EU.
- Size sensitive chapters:
  - Major problems when partners have similar size: C and J, not T.
  - key for J-EU and C-EU, secondary for T-EU.
- Other chapters: key in J-EU, T-EU and C-EU; so they should be negotiated with a good understanding of the inter-actions between these three PTAs:
  - Illustration: Health services.

## Income and size independent

Industrial tariffs & equivalents  
Agricultural tariffs & equivalents  
Export taxes & equivalents  
Customs administration  
Antidumping, Safeguard  
Countervailing measures  
Trade in services agreement  
Trade-related investment measures  
Investment  
Movement of capital

## Income sensitive

Sanitary & phytosanitary measures  
Technical barriers to trade  
Environmental laws  
Trade-related intellectual property  
Intellectual Property Rights

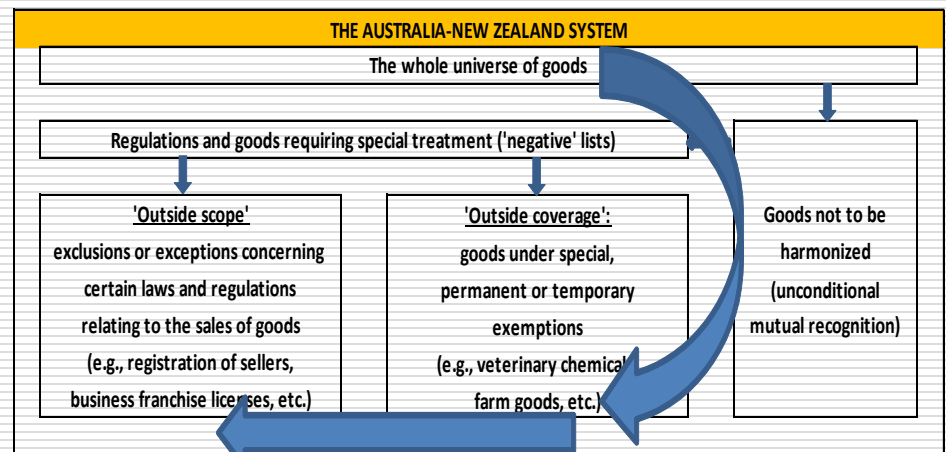
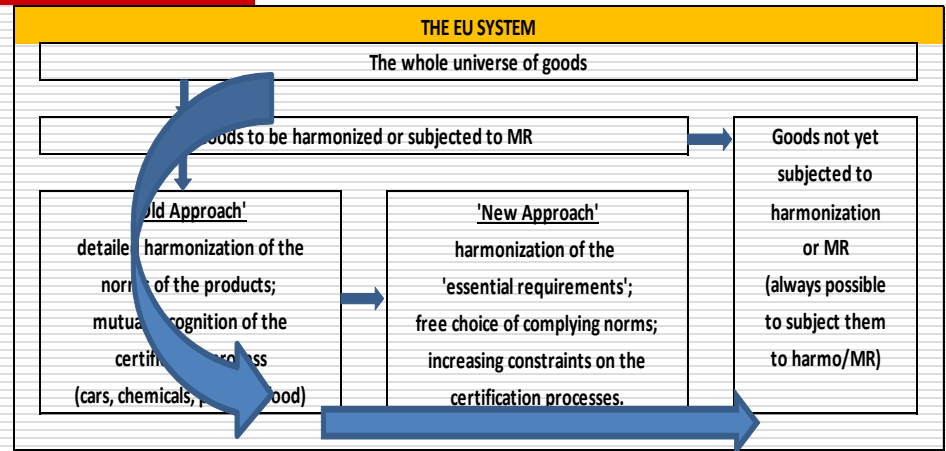
## Size sensitive

State trading enterprises  
State aid  
Competition policy  
Public procurement



# Negotiating 'Mega-PTAs' (4/5)

- **Q3. Which techniques of negotiations?**  
Here is the key role of Japan-EU EPA.  
 The problem concerns mostly negotiations on regulations (norms, services, IPRs) (question: what is exactly going on in TPP?).
- **Harmonization:** does not make sense, except in very special cases.
- **Mutual recognition:**
  - **Conditional:** bad EU experience since it is *de facto* too close from harmonization (what is exactly going on in TPP???).
  - **Unconditional:** requires mutual evaluation: 2006 EU Services Directive (Art. 15) and Australia-New Zealand approach.
- **Negative lists.**
- **Reviews and exceptions.**



# Negotiating 'Mega-PTAs' (5/5)

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## □ Guidelines for mutual evaluation in services (2006 EU Services Directive)

### □ Article 14. Prohibited requirements:

- discriminatory requirements based directly or indirectly on nationality or location of the registered office;
- prohibition on having an establishment in more than one Member State, or equivalent;
- restrictions on the freedom of a provider to choose between a principal or a secondary establishment;
- conditions of reciprocity with the Member State in which the provider already has an establishment;
- authorization conditional to a case-by-case application of an economic test;
- direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations, or equivalent;
- obligation to provide or participate in a financial guarantee or to take out insurance from a provider or body established in their territory;
- obligation to have been pre-registered for a given period.

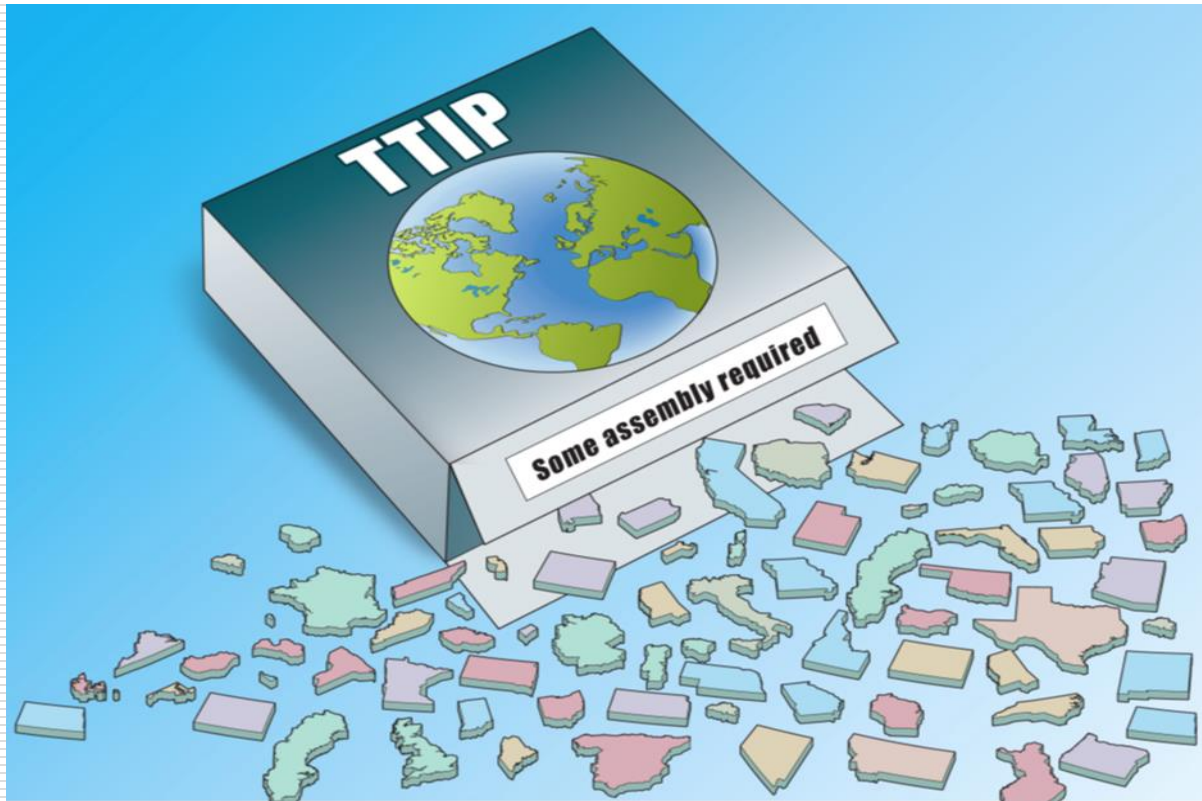
### □ Article 15. Mutual evaluation of requirements to be based on:

- conditions for access: quantitative or territorial restrictions (population, minimum distance); specific legal form; requirement on shareholding; limited to particular providers; a ban on having more than one establishment; minimum number of employees; fixed minimum/maximum tariffs to comply with; obligation to provide joint services.
- verification of the fact that these requirements satisfy the following conditions: non-discrimination; necessity, except overriding reason related to the public interest; proportionality.
- apply to services of general interest only insofar no obstruction to the particular tasks.

# Concluding remark

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- J-EU: a negotiation among 2 or 75? (TTIP: among 2 or at 78?)



- Source: Atlantic Council and Bertelsmann Foundation, 2013.

# Thank You for Your Attention

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