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The missing anchor: Why the EU should join the CPTPP

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THE MISSING ANCHOR: WHY THE EU SHOULD JOIN THE CPTPP

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KEY FINDINGS

- The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a twenty-first century trade accord that aims to secure a level playing field and rules-based trade environment in the Indo-Pacific. Yet in the absence of the United States, it risks underachieving on this goal.
- The European Union (EU) is the only global actor with the trade preferences and requisite economic heft to provide a similar anchoring function for market-orientated trade as was envisioned for the United States in the CPTPP. An EU accession bid to the CPTPP would require overcoming major hurdles and reservations, not least in Brussels. The gains in surmounting them, however, would be considerable.
- Any EU accession process should avoid jeopardising the possibility of a return of the United States to the multilateral trade agreement. An equivalence regime for regulations where CPTPP members are not in alignment with EU standards could in principle open the possibility of the EU and the United States eventually co-habiting within the CPTPP, however remote or delayed the prospect.
- Australia should use its status as a founding CPTPP member to advocate for EU accession to the trade agreement. Engaging Europe on the future of the multilateral trade architecture in Asia presents a key area of potential convergence between Brussels and Canberra, following a setback in strategic ties caused by the Australian cancellation of a French-led submarine contract.

EXECUTIVE SUMMARY

What is the problem?

For its members, including Australia, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is an important pillar for ensuring a rules-based, market-orientated trade environment in East Asia and the broader Indo-Pacific region. However, without the United States anchoring the agreement, the CPTPP risks underachieving on the original Trans-Pacific Partnership (TPP) goal of strengthening and deepening the “rules of the road”¹ for the regional trading system. US domestic politics militate against Washington’s return to the agreement, leaving the question of the CPTPP’s ability to secure regional trade rules and norms in doubt.

China’s formal request to accede to the CPTPP, made in September 2021, poses difficult questions for the future of the club, with the potential to sow divisions in the existing membership on the way forward. The fact that China’s nominal GDP is significantly greater than the combined GDP of the 11 CPTPP members, alongside its trade centrality in the region, would provide Beijing with strong leverage for negotiating exemptions favourable to its state-capitalist model of trade as part of accession talks, or for watering down existing commitments once a member of the club.

By contrast, the European Union (EU), with a combined nominal GDP equal to that of China, has been notably absent in the debate on the rules needed for regional economic integration. Australia and other CPTPP members have tended to view the EU as a market, rather than a strategic partner in the Indo-Pacific.² Yet the world’s largest trading bloc is also the primary source of foreign direct investment and development assistance into the Indo-Pacific region, and the second largest trading partner for countries in Southeast Asia behind only China.³

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What should be done?

The EU would enhance the CPTPP's liberal and global character, strengthen its members' ability to maintain the agreement's high standards, and improve their negotiating position with China.

This paper argues that the EU could feasibly provide a potential replacement anchor to secure and drive a CPTPP regional trade agenda, with benefits for existing members as well as for the EU's recently announced Indo-Pacific strategy. The EU would enhance the CPTPP's liberal and global character, strengthen its members' ability to maintain the agreement's high standards, and improve their negotiating position with China.

Australia, as a CPTPP founding member, should advocate for a potential European CPTPP accession bid as it aligns with the goal of securing a liberal rules-based trade order in the Indo-Pacific region. Such a move would be well justified on the basis of the EU's comparative strengths in the international system, and also stands to contribute to the diversification of Australian export markets.

Nevertheless, any move towards EU accession to the CPTPP would pose unique challenges for a union of 27 member states. Brussels prefers to avoid perceptions of (geo-)politicising its trade policy, which in this case means opening itself up to potential Chinese allegations that the EU is seeking to contain China. It is also reticent to involve itself in multilateral trade agreements that it has not had a role in shaping. From Australia's standpoint, an EU accession bid to the CPTPP would also need to be balanced against the risk that it may jeopardise the chances of the United States re-joining the initiative at some later date, however delayed or remote the prospect.

The potential gains in surmounting these hurdles and reservations would be considerable. Joining the CPTPP would offer Brussels a tangible link between its Indo-Pacific strategy and its trade diplomacy — the domain where EU institutional agency is strongest. In the absence of US leadership on regional trade policy, existing CPTPP member states would stand to benefit economically and geopolitically from Europe playing a more proactive role in the region's multilateral trade architecture.

In the long term, and if managed correctly, the EU's inclusion in the CPTPP may even work to incentivise the return of the United States to the multilateral agreement. Despite their trade policy differences, Washington and Brussels share a clear interest in ensuring a rules-based market-orientated trade environment in a highly strategic region.

INTRODUCTION

Since its inception in 1995, the World Trade Organisation (WTO) has largely failed to make substantial progress on twenty-first-century trade issues. In the context of stalled multilateralism,⁴ multi-country regional Free Trade Agreements (FTAs) are viewed as increasingly important vehicles for driving trade integration between willing partners.⁵ As geopolitical tensions in the Indo-Pacific have escalated since 2016, these mega-regional trade agreements have also taken on increased geoeconomic significance.

The Trans-Pacific Partnership (TPP), signed between 12 Pacific countries in 2016, was the centrepiece of the Obama administration's strategic pivot to Asia. It was designed to counter the growing influence of China's state-capitalist trade model in the region and its associated preferences concerning the role of the state in the economy.⁶ When President Donald Trump withdrew the US signature from the agreement in January 2017, one senior China analyst observed: "The TPP was the way to get China to address a lot of what we're now trying to get them to address with tariffs...It may be the biggest strategic mistake the United States has ever made."⁷ While this may sound hyperbolic, it reflects the importance of high-quality, twenty-first-century trade agreements in an era of increased competition between economic systems and models of governance.

Modern trade relations offer countries greater prosperity by providing economies of scale and comparative advantage. They also foster greater economic interdependence through the convergence of rules and norms that regulate production and trade of goods and services, as well as a host of behind-the-border activities. Consequently, modern FTAs shape international standards of economic governance in a way that post-war agreements focused on cutting tariffs and quotas did not.

Following US withdrawal from the TPP, it was Japan's leadership and status as the next largest economy in the grouping, alongside Australian support, that ensured the trade initiative was revived.⁸ Despite the change in acronym to the CPTPP, the new agreement signed in March 2018 is nearly identical to the TPP, save for a small number of suspended provisions relating to intellectual property that the United States had sought, but of which other parties were not particularly supportive.⁹

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Through harmonising and deepening trade ties between CPTPP member states, the agreement aims to provide a corrective to China's ability to skew regional trade in favour of state capitalism by virtue of its growing market dominance. The CPTPP also provides a more meaningful model of regional trade integration than the Regional Comprehensive Economic Partnership (RCEP). The latter is a shallow, ASEAN-centric¹⁰ trade agreement, which amongst other things lowers tariffs and reduces rules-of-origin barriers for members, but unlike the CPTPP has low or no commitments on labour, the environment, intellectual property and state-owned enterprises (SOEs). Thus, RCEP requires far less domestic reform commitment from China than entry to CPTPP accession would demand.



The request by China to accede to the CPTPP, while not unexpected, says much about Beijing's desire to influence regional trade architecture in the absence of US leadership. (Image: Ian Taylor/Unsplash)

US domestic politics currently militate against the possibility of Washington's return to the CPTPP. President Joe Biden's razor-thin Democratic Party majorities in the US House and Senate, combined with Republican and Rust Belt opposition to the agreement and mid-term elections scheduled for November 2022, mean that re-joining the CPTPP is possible, but highly unlikely any time soon for the United States. In contrast, China has formally applied to join the CPTPP. The request, while not unexpected, says much about China's desire to influence the regional trade architecture in the absence of US leadership, and raises fraught questions for the existing CPTPP membership on the best way forward, including in relation to China's objection to Taiwan joining the trade pact.¹¹

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This creates an opportunity for Brussels to step up, and step into the CPTPP. The EU has the potential to become a regional trade policy counterweight to China, which the European Commission has designated as a “systemic rival” since 2019.¹² An EU accession to the CPTPP would not necessarily rule out China from joining the grouping, nor need to be presented as a geopolitically confrontational decision. To the contrary, it may make it easier for existing members to contemplate allowing Beijing to join the CPTPP on more exacting terms. Adding a trading bloc the size of the EU would significantly increase the coverage of the CPTPP, solidify its liberal and global character, and strengthen CPTPP members’ ability to maintain the agreement’s high standards and inclusive nature in possible accession talks with China.

From an Australian perspective, the EU is a mostly like-minded and trusted partner, notwithstanding some evident trade policy divergences. The EU is already Australia’s second largest trading partner and second largest source of foreign investment,¹³ but the relationship is underdone. Furthermore, bilateral relations were strained in September 2021 by Australia’s cancellation of its Attack Class Future Submarine Program led by the majority-state-owned French firm, Naval Group, in favour of a trilateral security pact between Australia, the United Kingdom and the United States. As a result, negotiations over an Australia–EU FTA, first launched in June 2018, appear to have stalled in October 2021 ahead of a twelfth round of discussions.¹⁴

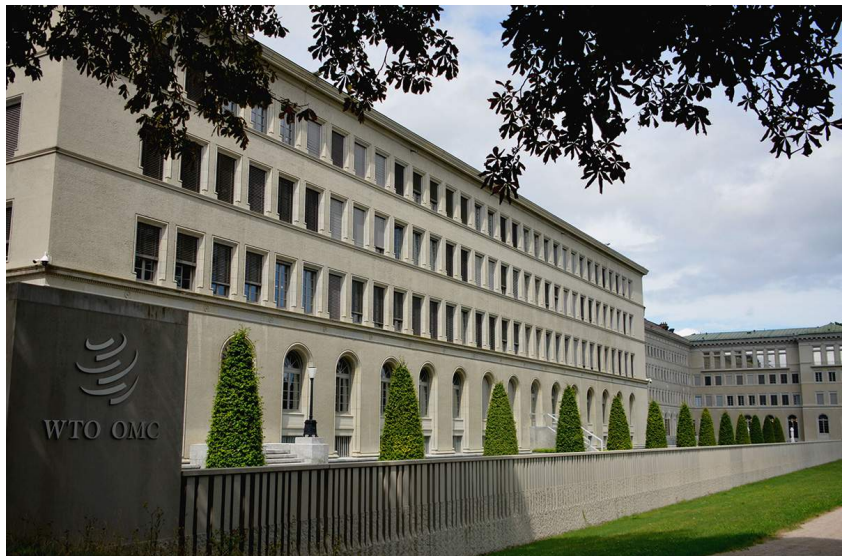
An EU accession bid to the CPTPP should not only be welcomed, but actively supported in Australia’s capacity as a CPTPP founding member. This would help restore much needed confidence and momentum in Canberra’s relations with Brussels. As Canberra pushes to conclude a comprehensive FTA with Brussels, much of this work could also be ported into a European CPTPP accession bid.

This policy brief is based on two intersecting arguments. First, the paper outlines the geoeconomic goals of the original TPP and current CPTPP. We argue that the CPTPP’s strategic value aligns with both the EU’s Indo-Pacific strategy, and Australia’s interest in securing a liberal rules-based trade order. Second, we address the complementarities and hurdles to a potential EU accession. We conclude that the former outweighs the latter, and on that basis recommend that Australia supports an EU accession to the CPTPP.

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WHY GEOECONOMICS MATTER IN THE CPTPP

The term “geoeconomics” refers to states utilising economic means to secure geopolitical strategic goals.¹⁵ In the decades following the Cold War, trade agreements were primarily about economic outcomes. Economic gains are still a crucial part of trade agreements, yet in today’s more interdependent but geopolitically contested international system, the geoeconomic aspect of such agreements is arguably of equal importance. FTAs set the rules and norms of commercial conduct, and thereby shape the competition between different models of global economic governance. Rules that favour state-led capitalism, for example, would disadvantage economies dominated by private enterprise, and vice versa. Hence, the strategic value of devising regional trade rules is readily apparent.



Chinese policymakers reject the concept of competitive neutrality, viewing it as discriminatory to state-owned enterprises and have called for World Trade Organisation rules to be adapted to reflect this view.

(Courtesy World Trade Organisation, Geneva, Switzerland)

The original TPP was designed as a hedge against China’s preference for entrenching a state-dominated economy. Beijing’s initial market reforms paved the way for its entry into the WTO in 2001, but subsequently slowed down, and in some areas have reversed.¹⁶ State-owned entities dominate the commanding heights of China’s domestic economy, recently estimated at between 23 and 28 per cent of GDP.¹⁷ China’s trade partners are increasingly concerned that SOEs receive

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unfair advantages through state support. Alongside the issue of subsidies, China's development model — which Beijing promulgates internationally — comprises a fundamentally different set of governance norms to the liberal trade standards underpinned in the General Agreement on Tariffs and Trade (GATT) and by the WTO. The latter, in particular, clearly seeks to distinguish the public from the private sector, and enshrines principles of competitive neutrality to ensure a level playing field between them.

For example, competitive neutrality requires special rules to ensure the state, including SOEs, competes fairly against private firms in the market, in acknowledgement that the state otherwise has a special advantage as both the executive (rule maker) and regulator (rule enforcer) of market governance. Chinese policymakers reject the concept of competitive neutrality, viewing it as discriminatory to SOEs and have called for WTO rules to be adapted to reflect this view.¹⁸ Competitive neutrality is not a marginal regulatory issue. Rather, it is a foundational principle of the liberal trade order. China's challenge to competitive neutrality is therefore indicative of its desire to reshape both regional and global trade rules in the image of its domestic political economy.

The Obama administration viewed the TPP not only as a way to better compete with China's burgeoning trade influence in the region, but as a way to incentivise Beijing to engage in liberal market reforms, particularly concerning SOEs.¹⁹ The TPP was not designed to contain China, as some have claimed.²⁰ It was about setting high-quality modern trade rules. Accession to the original TPP, and today's CPTPP, is thus open to any economy willing to meet its standards.

Even in today's contested Indo-Pacific, it is hardly realistic for CPTPP members, particularly those in the region with deep, growing, and interdependent trade relations with China, to try to isolate or decouple their trade relations from Beijing. Many CPTPP members are also members of RCEP, and expressly state they do not wish to choose sides in the geopolitical rivalry between the United States and China.²¹ Rather, and from a strategic perspective, the original goal was not to keep China out, but instead to keep certain aspects of China's model of state capitalism out, and welcome members willing to commit to CPTPP rules, including state-dominant economies, such as Vietnam.

Today's CPTPP should follow that logic and offer a positive affirmation of liberal trade — a club open to any participant willing to play by the agreement's rules. The key will be to ensure the bar remains high and

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is enforced in practice. The watering down of rules during accession by a regionally dominant trade and geopolitical power, such as China, poses a real risk in light of the US' departure from the agreement.²² Remaining members may hold the course during any accession negotiations with China. However, the fact that China's nominal GDP is significantly greater than the combined GDP of the remaining 11 CPTPP members, alongside its trade centrality in the region, would provide Beijing with strong leverage for negotiating exemptions on accession, or outright rule changes favourable to its preferences once a member of the club.



The EU is the world's largest trading bloc, and its nominal GDP in 2021 is equal to that of China. However, when counting both trade in goods and trade in services, the EU is a substantially larger global trading power than China. (Kurt Cotoaga/Unsplash)

This fact offers a window of opportunity for the EU to join the CPTPP and thereby anchor the agreement to its rules-based, high-quality trade agenda in lieu of the departed United States. The EU is the world's largest trading bloc, and its nominal GDP in 2021 is equal to that of China. However, when counting both trade in goods *and* trade in services, the EU is a substantially larger global trading power than China.²³ As well as serving the EU's material interests, joining the CPTPP would serve the EU's Indo-Pacific strategy adopted in April 2021 by the EU Council.²⁴ From a trade standpoint, the EU Strategy for Cooperation in the Indo-Pacific seeks "to foster a rules-based international order, a level playing field, as well as an open and fair environment for trade and investment",²⁵ all of which are congruent with the trade goals of the CPTPP.

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The trade component of the EU's strategy aligns with Australia's interests of ensuring that international engagement, in the words of Prime Minister Scott Morrison, is "framed by agreed rules and norms, not crude economic or political coercion".²⁶ The CPTPP offers a suitable trade vehicle for the EU to drive its Indo-Pacific strategy, while the EU's membership offers Australia another like-minded partner to help maintain existing standards for a high-quality mega-regional trade agreement.

In the context of managing China's rise, Australia and Japan are forging ever-closer strategic and economic ties. Japan, the largest existing CPTPP economy, already has a comprehensive bilateral FTA with the EU that entered into force in February 2019. Australia is currently negotiating its own bilateral FTA with the EU. European accession to the CPTPP has the potential to cement a strategic triangle to balance China's influence on trade rules and norms in the region.

PROSPECTS FOR AN EU ACCESSION TO THE CPTPP

The EU currently has a large number of bilateral trade agreements already in force with seven out of eleven existing CPTPP signatories (Figure 1), and is in trade negotiations with two more, including Australia. Positive trade relations with all eight ratified CPTPP members makes the prospect of an EU accession to the agreement favourable.²⁷ The EU’s progressive trade and rule-making agenda on key issues such as subsidies and digital trade governance has the potential to add considerable value to the CPTPP’s proposition as a modern, open, and high-quality mega-regional trade agreement. EU membership could therefore solidify the liberal rules-based orientation of the CPTPP and increase its appeal to other states.



Furthermore, EU accession would raise the stakes for the United States to re-join the CPTPP, or risk losing an opportunity to continue shaping standards in the Indo-Pacific region. The theoretical possibility of a mega-regional trade agreement that included both the United States and the EU would be hugely beneficial to Australia and the other CPTPP members, particularly those that currently have no preferential access to those markets and would struggle with a large size imbalance during bilateral negotiations. However, it would require not only that the United States overcome its current free trade scepticism, but that a number of divergences between US–EU regulatory preferences be resolved. The challenges of cementing a powerful regulatory bloc that includes both the United States and the EU would be significant, but surmountable. While China is powerful, and set to grow stronger, for it to be outside such a combined regulatory group would be challenging. Although the prospect is clearly some way off, it is one nevertheless worth considering in greater detail by focusing on two examples, of complementarity and complication, in a prospective EU–CPTPP accession negotiation.

The EU is deeply concerned with the distorting effects of dumped imports by Chinese SOEs on the EU internal market.

Convergence: EU rules on foreign subsidies would strengthen the CPTPP

The CPTPP’s Chapter 17 lays out regulations on SOEs, which analysts have noted is “aimed at laying down twenty-first century rules for China”.²⁸ Some of the CPTPP’s key innovations for disciplining SOEs include extending and adapting existing WTO trade rules that require SOEs to act commercially and without discrimination towards the services sector. This makes the CPTPP more reflective of the significant role of services in modern economies. The agreement also elaborates on forms of non-commercial assistance with the goal of ensuring a level playing field. Given that the EU has a well-developed competition policy²⁹ covering antitrust, cartels, mergers, and state aid, CPTPP rules that advance disciplines on SOE activity in services beyond EU shores should be welcome by Brussels.

Furthermore, the EU is deeply concerned with the distorting effects of dumped imports by Chinese SOEs on the EU internal market.³⁰ In response to that issue, Brussels published an innovative white paper in 2019 seeking to address problems with foreign subsidies.³¹ The paper refers to subsidies paid by non-EU states to entities operating in the EU that undermine fair competition in the internal European market. Like the CPTPP, the EU white paper argues for expanding a focus beyond subsidies in goods production to include “trade in services, investment or other financial flows in relation to the establishment and operation

The EU does not need to change CPTPP rules per se; rather some kind of equivalence regime could, theoretically, be worked out.

of undertakings in the EU”.³² This is a cross-sector approach aimed at ensuring and protecting market competition in the face of challenges arising specifically from SOEs and state capitalism, hence highly complementary to the progressive competition policy outlined in the CPTPP.

Divergence: EU rules on data privacy may impinge on future US accession

The United States was the driving force behind the original TPP, and as its largest economy secured many of its rules and regulatory preferences. The CPTPP carried these over mostly without change, including digital trade governance rules. There are long-running differences between the United States and the EU concerning data privacy protection,³³ which would pose perhaps the most significant hurdle for EU accession talks.

Federally, the United States takes a sectoral approach that regulates privacy for certain types of data, and focuses on ensuring ease of commercial use. The EU views data privacy and protection as a fundamental human right, and developed its General Data Protection Regulation (GDPR) to ensure high privacy protection and transparency standards, harmonisation of standards across the EU internal market, and extra-territorial application to non-EU entities’ trading into the EU. The CPTPP’s standards are far from the EU’s on personal data protection and harmonisation.³⁴ In line with US preferences, the CPTPP prioritises “use” over “protection”, does not address data protection in terms of a human right, and the degree of harmonisation across parties concerning data protection “is set at a level to barely justify digital trade”.³⁵

While these divergences with the EU on digital trade would be a significant hurdle if the United States were still a party to the CPTPP, without the United States it may in fact be easier for CPTPP parties to agree to meet the EU’s requirements for GDPR-standard data protection. There may also be scope to use accession talks to further enhance the level of harmonisation on data protection in the CPTPP, given that it is currently minimal and the agreement seeks to be a modern twenty-first-century trade agreement. As previously noted, the EU already has FTAs with seven CPTPP members, including Japan and Canada. The latter two economies are tightly linked with the United States; both have FTAs with the United States, and their regulatory approaches in the field of digital trade governance are arguably more

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reflective of US approaches, yet they have been able to agree digital rules with the EU, indicating that convergence is manageable.

Still, the concern that by admitting the EU into the CPTPP the rules on digital trade, for example, could be rewritten according to EU preferences, thus resulting in a diminished incentive for the United States to re-join, is real. For the foreseeable future, it is unlikely that the United States and the EU will be able to bridge their divergent regulatory approaches to enable smooth digital data flows between themselves.³⁶ Nonetheless, at least two counterpoints are relevant. First, the ground is shifting in the United States, particularly in relation to anti-trust investigations targeting the big technology companies, but also in relation to privacy concerns. Geopolitical contestation with China sharpens the latter, so current US preferences, as favoured by “big tech” and inscribed in CPTPP rules, cannot be taken as a given. Second, the EU does not need to change CPTPP rules per se; rather some kind of equivalence regime could, theoretically, be worked out. After all, as noted above, Japan and Canada, inter alia, have bilateral FTAs including digital chapters with both the EU and the United States.

TOWARDS AN OPEN, RULES-BASED REGIONAL TRADE ORDER

If trade is currently the theatre of inter-state tensions, it can also be the vehicle for constructive engagement.

The global trade environment has taken a decided turn for the worse in recent years, as geopolitical tensions have risen steadily in the face of a new great power rivalry between the United States and China. Renewed state-to-state competition has in large part played out in trade relations. This reflects the reality of different economic systems struggling to find common ground on the shared rules needed for trade partners to feel confident they are playing a fair "game" on a level playing field. The CPTPP is designed to create an open, transparent, rules-based regional trade order. If trade is currently the theatre of inter-state tensions, it can also be the vehicle for constructive engagement that is so desperately needed between like-minded Indo-Pacific stakeholders. For this reason, the CPTPP must be kept open. It was neither designed as, nor should become, a tool to contain China. Rather, it must remain a foil against Chinese state capitalism, while holding open the door for all countries willing to meet the bar for entry.

An EU accession would offer a suitable alternative anchor for the CPTPP to the United States, given the unlikely event of the latter re-joining the agreement in the medium term. In the long term, and if managed correctly, it may even work to incentivise the return of the United States to the CPTPP. EU membership would significantly enlarge the bloc's size, as well as maintain and enhance the standards already existing in the CPTPP. While the EU's regional trade diplomacy to date has concentrated on bilateral agreements, there is a clear case for why focusing on the CPTPP mega-regional trade agreement would be a geopolitically astute move by Brussels. EU accession to the trade agreement aligns with the EU's desire to become a more active and effective strategic player in the Indo-Pacific, particularly in the domain where EU institutional agency and international power is strongest. In supporting EU membership, Canberra can enhance ties with a like-minded partner, strengthen its regional trade leadership and, if successful, further secure trade rules and norms in the region that align with Australian national interests.

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NOTES

Cover image: European Union flags fly outside EU Headquarters in Brussels.
(Image: Thijs ter Haar/Flickr)

¹ Office of the United States Trade Representative, “The Trans-Pacific Partnership”, <https://ustr.gov/sites/default/files/TPP-Strategic-Importance-of-TPP-Fact-Sheet.pdf>.

² This critique has been made by Australia’s former ambassador to the European Union, Justin Brown, among others: see Justin Brown, Twitter, 24 September 2021, <https://twitter.com/jhbrown16/status/1441257390024790030?s=20>.

³ European Union, “EU Strategy for Cooperation in the Indo-Pacific Factsheet”, https://eeas.europa.eu/sites/default/files/eu-indo-pacific_factsheet_2021-09_final.pdf.

⁴ While the WTO is making progress in certain joint statement initiatives, its key multilateral negotiating function has long stalled, it has failed to finalise an agreement on fishing subsidies, and the US freezing of appointments to the Appellate Body defenestrates the Dispute Settlement mechanism.

⁵ See Richard Pomfret, “‘Regionalism’ and the Global Trade System”, *The World Economy*, 44 (9) 2496–2514 (2021).

⁶ See, for example, J. S. Fleury and J.-M. Marcoux, “The US Shaping of State-Owned Enterprise Disciplines in the Trans-Pacific Partnership”, *Journal of International Economic Law*, 19 (2) 445-465 (2016).

⁷ Olivia Gazis, “Top China Expert: US ‘Biggest Strategic Mistake’ was Exiting TPP”, CBS News, 3 October 2018, <https://www.cbsnews.com/news/top-china-expert-u-s-biggest-strategic-mistake-was-exiting-tpp/>.

⁸ Takashi Terada, “How and Why Japan Has Saved the TPP: From Trump Tower to Davos”, *The ASAN Forum*, 9 (2) April-June 2021, <https://theasanforum.org/how-and-why-japan-has-saved-the-tpp-from-trump-tower-to-davos/>.

⁹ Matthew Goodman, “From TPP to CPTPP”, Centre for Strategic and International Studies, 8 March 2018, <https://www.csis.org/analysis/tpp-cptpp>.

¹⁰ Association of Southeast Asian Nations, comprising ten Southeast Asian states — Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

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- ¹¹ Natasha Kassam and Jeffrey Wilson, “China v Taiwan dilemma for trade pact”, *Financial Review*, 1 October 2021, <https://www.afr.com/policy/foreign-affairs/china-v-taiwan-dilemma-for-trade-pact-20210930-p58vzh>.
- ¹² See European Commission, *EU–China – A Strategic Outlook*, 12 March 2019, 1, <https://ec.europa.eu/info/sites/default/files/communication-eu-china-a-strategic-outlook.pdf>.
- ¹³ Australian Government, Department of Foreign Affairs and Trade, “Australia–European Union Free Trade Agreement”, <https://www.dfat.gov.au/trade/agreements/negotiations/aeufta/default#footnote-1>.
- ¹⁴ Phillip Coorey and Hans van Leeuwen, “Europe Postpones FTA Negotiations with Australia”, *Financial Review*, 1 October 2021, <https://www.afr.com/politics/federal/europe-postpones-fta-negotiations-with-australia-20211001-p58wbh>.
- ¹⁵ See Sören Scholvin and Mikael Wigell, “Power Politics by Economic Means: Geoeconomics as an Analytical Approach and Foreign Policy Practice”, *Comparative Strategy*, 37 (1) 73–84 (2018).
- ¹⁶ Nicholas R. Lardy, *The State Strikes Back: The End of Economic Reform in China?* (Peterson Institute for International Economics: 2019).
- ¹⁷ Chunlin Zhang, “How Much Do State-Owned Enterprises Contribute to China’s GDP and Employment?”, World Bank, Washington, DC, 2019, <https://openknowledge.worldbank.org/handle/10986/32306>.
- ¹⁸ See Clara Weinhardt and Tobias ten Brink, “Varieties of Contestation: China’s Rise and the Liberal Trade Order”, *Review of International Political Economy*, 27 (2), 258–280, 266 (2019).
- ¹⁹ Gary C. Hufbauer, Jeffrey J. Schott, and Zhiyao Lu, “China and the Trans-Pacific Partnership: In or Out?”, Peterson Institute for International Economics, 23 June 2020, <https://www.piie.com/blogs/trade-and-investment-policy-watch/china-and-trans-pacific-partnership-or-out>.
- ²⁰ For example: Jagdish Bhagwati, “America’s Threat to Trans-Pacific Trade”, Project Syndicate, 30 December 2011, <https://www.project-syndicate.org/commentary/america-s-threat-to-trans-pacific-trade?barrier=accesspaylog>.
- ²¹ Jonathan Stromseth, “Don’t Make Us Choose: Southeast Asia in the Throes of US-China Rivalry”, Brookings Institute Report, October 2019, <https://www.brookings.edu/research/dont-make-us-choose-southeast-asia-in-the-throes-of-us-china-rivalry/>.

- ²² As one set of analysts argued: “without US officials screening new applicants, China could now seek to negotiate accession under revised and more flexible terms and enhance its regional economic influence”. See Hufbauer et. al, *op.cit.*
- ²³ In 2019, China was the leading global trading power in goods (exports plus imports) at €4093 billion versus €4071 billion for the second-placed EU, with the US in third place. Whereas for trade in services, 2020 OECD data (exports plus imports) shows the EU totalled US\$1907 billion, with China lagging far behind with a total of US\$616 billion, or about 30 per cent of the EU’s total. See OECD Data, “Trade in Services”, <https://data.oecd.org/trade/trade-in-services.htm#indicator-chart>.
- ²⁴ See European Council, “Indo-Pacific: Council Adopts Conclusions on EU Strategy for Cooperation”, 19 April 2021, <https://www.consilium.europa.eu/en/press/press-releases/2021/04/19/indo-pacific-council-adopts-conclusions-on-eu-strategy-for-cooperation/>.
- ²⁵ *Ibid.*
- ²⁶ Prime Minister of Australia, Address, Aspen Security Forum, “Tomorrow in the Indo-Pacific”, 5 August 2020, <https://www.pm.gov.au/media/address-aspen-security-forum-tomorrow-indo-pacific>.
- ²⁷ CPTPP accession applications are not judged by all 11 signatories, but only those members that have thus far ratified the trade agreement. Brunei, Chile, and Malaysia would be “consulted” but would not have a formal say on the matter until they ratify the agreement. See CPTPP Commission ruling on accession process: <https://www.mfat.govt.nz/assets/Trade-agreements/CPTPP/Accession-Process.pdf>.
- ²⁸ Mitsuo Matsushita and C. L. Lim, “Taming Leviathan as Merchant: Lingering Questions about the Practical Application of Trans-Pacific Partnership’s State-Owned Enterprises Rules”, *World Trade Review*, 19 (3) 403 (2019).
- ²⁹ See European Commission, “Competition Policy”, https://ec.europa.eu/competition-policy/index_en.
- ³⁰ See European Commission report, “On Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations”, SWD (2017) 483 final/2, https://trade.ec.europa.eu/doclib/docs/2017/december/tradoc_156474.pdf.
- ³¹ See European Commission, “White Paper on Levelling the Playing Field as Regards Foreign Subsidies”, COM (2020) 253 final,

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https://ec.europa.eu/competition/international/overview/foreign_subsidies_white_paper.pdf.

³² Ibid, 10.

³³ US Congressional Research Service report, "EU Data Protection Rules and US Implications", 2020,
<https://crsreports.congress.gov/product/pdf/IF/IF10896>.

³⁴ Nohyoung Park, "Data Protection in the TPP: More Emphasis on the 'Use' than the 'Protection'", in Julien Chaisse, Henry Gao, and Chang-fa Lo (eds), *Paradigm Shift in International Economic Law Rule-Making: TPP as a New Model for Trade Agreements?*, (Hong Kong: Springer, 2017), 363–370.

³⁵ Ibid, 365.

³⁶ See for example Vincent Manancourt and Mark Scott, "How Europe's Top Court Hobbled Global Data Flows", *Politico*, 15 July 2021,
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