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A scorecard for the P4: Full or fail?

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Since its inception in 2005, the Trans-Pacific Strategic Economic Partnership Agreement (the 'P4 Agreement') has been hailed as a 'high standard' free trade agreement (FTA). However, there has never been any official explanation as to how the assessment of the Agreement is conducted. Now it's exam time again, let's see how the Agreement performs in 'Free Trade 101'.

To be deemed as 'high-standard', an agreement must satisfy two requirements.

Firstly , it must fulfil the requirements under he General Agreement on Tariffs and Trade (GATT) Art. XXIV and the General Agreement on Trade in Services (GATS) Art. V on trade coverage and elimination of trade barriers;

Secondly, it must provide higher levels of market access and less restrictive non-tariff rules than other Agreements.

Regarding market access in goods, whilst the Agreement provides very high trade coverage, it lags behind other agreements, such as the Chile-Australian FTA, in terms of both the depth of initial tariff reduction and length of the phase-in period.

In terms of the rules of origin (ROO), the Agreement provides for 40-50% Regional Value Content, and this is much higher than most other FTAs and more restrictive. Furthermore, the Agreement only allows bilateral accumulation but not extended accumulation. Both of these features, coupled with the use of different types of ROO

schemes in the Agreement, would put the Agreement squarely into the group of more restrictive FTAs.

With regards to the rules on trade remedies, again the Agreement proves to be rather disappointing. While many of the more liberal FTAs choose to eliminate or at least restrict the use of trade remedy measures, the P4 Agreement explicitly allows the use of trade remedy measures so long as the measure is permitted under either the respective WTO agreements or the P4 Agreement itself.

In addition to goods, the Agreement also covers services. On its face, the services commitments in the Agreement appear to be quite liberal as the Agreement adopts a 'negative list' approach in scheduling the commitments, meaning that obligations on national treatment, most favoured nation (MFN) and market access apply to all covered sectors in all four modes unless otherwise noted. Closer examination reveals, however, that this is not quite the case. First, the Agreement has carved out entire sectors, such as the financial services sector. Second, under Annexes III & IV, the parties can not only maintain existing reservations to their scheduled commitments, but also introduce new measures that do not conform to the basic obligations.

In summary, contrary to the popular claim that the Agreement is a 'high-standard' FTA, the P4 Agreement really provides nothing remarkable. In the ever-expanding galaxy of FTAs, it is at best a white dwarf, rather than a supernova as its creators would want others to believe. With a mark of 'C-' for market access for goods, rules of origin, and trade remedy rules, and a 'B-' mark for services commitments, the Agreement runs the risk of being kicked out of the 'school of free trade' very soon, unless it gets its act together fast enough to turn this missed opportunity into something real.

This post is part of a series of articles on the Trans-Pacific Partnership.

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