



LEGAL UPDATE

COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP (CPTPP)

On 8 March 2018, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (**CPTPP**).¹ This agreement is largely the same as the Trans-Pacific Partnership (**TPP**), with some exceptions - particularly in relation to intellectual property rights (**IPR**) and investor-state dispute settlement (**ISDS**).

It is expected that the CPTPP will enter into force early 2019, once 6 countries have ratified the agreement. The agreement is open to other countries and Thailand, Indonesia, South Korea, Philippines, Taiwan and United Kingdom have indicated interest in joining.

The gross domestic product (**GDP**) of the CPTPP countries combined accounts for approximately 13% of the global GDP and about 15% of total global trade turnover in such countries where approximately 500 million consumers live.

1. What is covered by the CPTPP

The CPTPP, which has 30 chapters and multiple annexes, intends to liberalise trade in goods, services (except where specific exceptions were negotiated), and trade-related investment. Most tariffs will be reduced to zero and non-tariff barriers are addressed to reduce customs and regulatory impediments to trade.

It covers topics such as competition, services (including financial services, telecommunications, and temporary entry of service providers), customs, e-commerce, environment, government procurement, rules of origin, intellectual property, investment, labour standards, legal issues, market access for goods, non-tariff measures, and trade remedies.²

2. Impact of CPTPP

2.1 Economy

The CPTPP is expected to boost the economy of its members. For Vietnam it is estimated that that GDP will increase between 1.1-3.5%. Exports are expected to grow on average by 6%, and Malaysia, Peru, and Vietnam might see an even higher growth being more than 8.5% from the baseline.³

2.2 Trade and investment

According to the World Bank the CPTPP will liberalise trade, improve market access, further boost Vietnam's export- and investment-driven growth model by opening markets for companies established in countries that do not have free trade agreements (**FTAs**) with each other such as Vietnam and Canada, Vietnam and Peru and Vietnam and Mexico.⁴

2.3 Other

It is expected that the CPTPP will increase transparency and modernise institutions in Vietnam, as well as to stimulate and accelerate domestic reforms in areas covered by the CPTPP as listed under 1.

3. Who will benefit?

According to the World Bank, all income groups are expected to benefit, with more benefits for higher-skilled workers in the top 60% of the income distribution. However, the gender gap will increase as male employees will benefit more than female employees. Companies can benefit as the CPTPP facilitates investment into Vietnam which could further expand the services sector and boost productivity growth. Companies can also invest in CPTPP countries and integrate into global value chains. Further, the CPTPP is

¹ Text of the CPTPP can be found here: <http://wtocenter.vn/tpp/full-text-comprehensive-and-progressive-agreement-trans-pacific-partnership-cptpp>

² "Economic and Distributional Impacts of Comprehensive and Progressive Agreement for Trans-Pacific Partnership: The case of Vietnam", World Bank, 9 March 2018, available at:

<http://documents.worldbank.org/curated/en/530071520516750941/pdf/124022-WP-8-3-2018-9-59-18-CPTPPreportMarch.pdf>

³ World Bank op.cit.

⁴ Vietnam already has FTAs with several of the CPTPP countries, either bilateral or via ASEAN.



likely to increase competitiveness and develop the SME sector.⁵

4. Which sectors will benefit?

The largest growth in output is likely to be in the following sectors: food (seafood), beverages, tobacco, clothing, leather, logistics, real estate and textiles. A modest growth is expected in some manufacturing sub-sectors and services. Export growth is expected to be strongest in food, beverages, tobacco, clothing, chemical, leather and plastic products, transport equipment, machinery and other equipment. A negative impact is to be expected in the agriculture sector (feed, dairy and sugar), other manufacturing, pharmaceuticals, finances, electrical equipment and metals. Imports are expected to grow in all sectors.⁶

5. Where does Vietnam need to improve?

5.1 General

If Vietnam wants to maximise the benefits of the CPTPP, both the government and businesses need to reform and develop initiatives, increase added-value to its products and become part of the global value chain. The latter requires good physical and institutional infrastructure. Currently compliance costs in terms of time and money for goods clearance before and at the border are still high in Vietnam; and mainly related to non-tariff barriers. The costs are still high despite the progress that was made in Customs reform and the implementation of the national and ASEAN Single Window.

5.2 IPR

Even though requirements related to IPR under the CPTPP are not the same as under the TPP, Vietnam likely still needs to amend and supplement the Intellectual Property Law to comply with the provisions of the agreement. Further, companies need to be more careful in registering their IPR rights for inventions, trademarks, trade names, and industrial designs that they have developed. Localities and their businesses need to register geographical indications to be protected.

5.3 Competitiveness

Some sectors, such as food and agriculture, will face greater foreign competition in the domestic Vietnamese market. This means that Vietnamese companies need to step up to become more competitive by investing in technology and production processes.

5.4 Increase export

Companies should also improve and increase export of their products and foodstuffs to CPTPP countries, as Vietnam currently exports more to other countries than the CPTPP-countries. For example, the US is one of the main export trade partners of Vietnam but it is not a party to the CPTPP.

5.5 Rules of origin

Currently, Vietnam imports large quantities of products and raw material used for production in Vietnam which are subsequently exported. If Vietnam wants to take full advantage of the CPTPP, it is important to meet the requirements of rules of origin. Vietnam should therefore start producing materials domestically and develop the domestic supporting industries.

6. Investor-state dispute settlement

Another point that is different from the original TPP is the scope of the ISDS. It is narrower as private companies that enter into an investment contract with the government will not be able to use ISDS if there is a dispute in relation to the contract.

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⁵ World Bank op.cit.

⁶ World Bank op.cit.