

THE RISE OF ASIA-PACIFIC REGIONALISM IN TRADE
AGREEMENTS FOLLOWING THE U.S. WITHDRAWAL
FROM THE TRANS-PACIFIC PARTNERSHIP

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I. INTRODUCTION

The rising number of mega-preferential trade agreements (mega-PTAs) has signaled a trend of major economies looking to build on existing World Trade Organization (WTO) agreements to address new tariffs and nontariff barriers to trade.¹ Mega-PTAs are multi-party agreements that promote economic integration and trade liberalization by formulating rules regarding competition policy, investment, trade facilitation, government procurement, and social issues.² Among the PTAs, the Trans-Pacific Partnership (TPP) was celebrated as the most novel trade agreement to advance the multilateral trading system in areas previously not covered by the

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1. Christopher F. Corr et al., *The CPTPP Enters into Force: What Does It Mean for Global Trade?*, WHITE & CASE (Jan. 21, 2019), <https://www.whitecase.com/publications/alert/cptpp-enters-force-what-does-it-mean-global-trade> [<https://perma.cc/6UE8-TYFQ>] (discussing how the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) builds on “the core structure” of WTO agreements and includes “broad tariff cuts.”).

2. Jean-Pierre Chauffour & Jean-Christophe Maur, *Overview*, in *PREFERENTIAL TRADE AGREEMENT POLICIES FOR DEVELOPMENT: A HANDBOOK* 26, 27 (Jean-Pierre Chauffour & Jean-Christophe Maur eds., 2011).

WTO.³ The TPP created new rules for e-commerce, state-owned enterprises, labor and the environment, and international investment.⁴ In 2017, however, one of the TPP's powerhouse members, the United States, withdrew from the agreement, causing doubts about the ability of multilateral trade agreements to circumvent the challenges of the WTO.⁵ Yet despite its "early demise," the TPP "remains a de facto reference point,"⁶ and multiple recent PTAs have relied on the TPP to formulate new standards and rules.

The TPP has had a substantial impact on recent trade agreements and global economic relationships. This annotation explores how the TPP paved the way for growing Asia-Pacific economic integration in recent agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP), examining the effects of the U.S. withdrawal from the TPP on the development of Asia-Pacific regionalism and discussing notable aspects of these agreements.

II. GROWING ASIA-PACIFIC REGIONALISM AFTER THE DEMISE OF THE TPP

Recent mega-PTAs demonstrate the growth of inward-looking Asia-Pacific regionalism in forming trading blocs. This new landscape of Asia-centralized trade agreements likely stems from the development and collapse of TPP negotiations. Prior to the TPP, trade agreements were generally formed within the WTO framework or as bilateral free trade agreements (FTAs).⁷ But with the rise of the

3. See BENEDICT KINGSBURY ET AL., MEGAREGULATION CONTESTED: GLOBAL ECONOMIC ORDERING AFTER TPP 27 (2019) ("The Trans-Pacific Partnership (TPP) was the first completed instantiation of a new form of inter-governmental economic ordering and regulatory governance on an extended 'megaregional' scale.").

4. See Corr et al., *supra* note 1 ("[T]he CPTPP preserves all of the original and substantive TPP commitments").

5. See Pasha L. Hsieh, *The RCEP, New Asian Regionalism and the Global South* 4 (Inst. for Int'l L. & Just., Working Paper No. 4, 2017), https://www.iilj.org/wp-content/uploads/2017/12/Hsieh-IIIJ_2017_4_MegaReg.pdf [<https://perma.cc/H48L-N8GG>] (arguing that the U.S. withdrawal from the TPP and other "globalization backlash" has encouraged developing countries to "pursue a new normative foundation for economic integration.").

6. MARTÍN MOLINUEVO & ANNE-KATRIN PFISTER, WORLD BANK GRP., LOOK BACK TO SEE WHAT'S AHEAD: A REVIEW OF MEGA-PTAs ON SERVICES AND INVESTMENT THAT WILL SHAPE FUTURE TRADE AGREEMENTS 6 (2020).

7. Meredith Kolsky Lewis, *Mega-FTAs and Plurilateral Trade Agreements: Implication for the Asia-Pacific*, in PARADIGM SHIFT IN INTERNATIONAL ECONOMIC LAW

TPP, trade negotiations expanded to link major non-neighboring economies with countries in Asia.⁸ Indeed, Asian plurilateral trade agreements have increased over the past decade, demonstrating the shift towards Asian regional trade integration.⁹

The United States originally spearheaded the TPP to focus on Asia-Pacific trade.¹⁰ The Obama Administration touted the TPP as a strategy to assert U.S. influence over China and to write the “trade rules in the fastest-growing region of the world, the Asia-Pacific[.]”¹¹ The agreement represented a shift from the focus on western-centric trade negotiations to regional economic integration with Asian economies.¹² However, the Trump administration abruptly withdrew the United States from the TPP in 2017,¹³ leaving a vacuum of leading economic power in the Asia-Pacific. The U.S. withdrawal and the creation of the TPP’s successor agreement, the CPTPP, provided

RULE-MAKING: TPP AS A NEW MODEL FOR TRADE AGREEMENTS? 419, 420 (Julien Chaisse et al. eds., 2017). The only multi-party FTA before the TPP was the North American Free Trade Agreement (NAFTA) between Canada, Mexico, and the United States.

8. *See id.* at 421 (noting that TPP negotiations involved the United States, Brunei, Chile, New Zealand, Singapore, Australia, Peru, Malaysia, Vietnam, Canada, Mexico, and Japan).

9. *See* Massimiliano Cali, *The Significance of the Regional Economic Partnership Agreement*, BROOKINGS INSTITUTION (Nov. 20, 2020), <https://www.brookings.edu/blog/future-development/2020/11/20/the-significance-of-the-regional-economic-partnership-agreement/> [<https://perma.cc/974H-F7HR>] (“RCEP and other bilateral and plurilateral agreements have proliferated given the lack of progress of the multilateral trading system in furthering global trade integration over the past two decades.”); Hsieh, *supra* note 5, at 4 (noting that Asian regionalism is “witnessing a nearly four-fold growth of [FTAs from 2010 to 2017] that represent half of global trade pacts.”).

10. *See* Editorial Board, *A Retreat from TPP Would Empower China*, N.Y. TIMES (Nov. 21, 2016), <https://www.nytimes.com/2016/11/21/opinion/a-retreat-from-tpp-would-empower-china.html> [<https://perma.cc/XM95-WBHG>] (arguing that the TPP was intended to play a strategic role in U.S. diplomacy by reaffirming the nation’s role as a Pacific power).

11. *Interview with Gerald Seib of the Wall Street Journal*, AM. PRESIDENCY PROJECT (Apr. 27, 2015), <https://www.presidency.ucsb.edu/documents/interview-with-gerald-seib-the-wall-street-journal> [<https://perma.cc/8DRK-ZWUT>].

12. Richard Pomfret, *Is Regionalism an Increasing Feature of the World Economy?*, 30 WORLD ECON. 923, 924 (2007) (asserting that there have been three waves of regionalism since the creation of the General Agreement on Tariffs and Trade in 1947: Europe, America, and now East Asia).

13. Memorandum from President Donald J. Trump on Withdrawal of the United States from the Trans-Pacific Partnership Negotiations and Agreement, (Jan. 23, 2017), <https://www.govinfo.gov/content/pkg/DCPD-201700064/pdf/DCPD-201700064.pdf> [<https://perma.cc/QF3Z-53M6>].

an opportunity for Asia-Pacific countries to seek regional frameworks for global trade.¹⁴ Furthermore, the development of the RCEP provided Asian economic powerhouses with the opportunity to fill the void left by the United States in the Asia-Pacific trade negotiations and lead regional economic and legal integration.¹⁵ The media emphasized the emergence of the RCEP as a means for China to take control of the Asian economic agenda,¹⁶ as “the formation of regional integration and cooperation frameworks can be best understood as a dominant state’s attempt to create its own regional framework where it can exercise some exclusive influence.”¹⁷

The demise of the TPP has led to regional integration that may prove to be “a powerful new tool in Asia’s policy arsenal,”¹⁸ as these new Asian trading blocs address regional challenges and develop strong economic law foundations. As the Asian-Pacific countries create innovative regulations covering topics that extend beyond WTO agreements and other FTAs, the members of the CPTPP and RCEP will gain more opportunities to serve as rule-makers in future international trade and investment negotiations.

14. See Peter A. Petri & Michael G. Plummer, *East Asia Decouples from the United States: Trade War, COVID-19, and East Asia’s New Trade Blocs* 3 (Peterson Inst. for Int’l Econ., Working Paper No. 20–9, 2020) (underscoring that most East Asian countries have sought to extend their global reach through regional frameworks).

15. China, for example, has increasingly sought to use its economic strategy, such as the Belt and Road initiative, to become a rule-making entity in Asia. Andrew Chatzky & James McBride, *China’s Massive Belt and Road Initiative*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/backgrounder/chinas-massive-belt-and-road-initiative> [<https://perma.cc/W2PL-HN2K>] (last updated Jan. 28, 2020).

16. See Emiko Jozuka, *TPP vs RCEP? Trade Deals Explained*, CNN (Jan. 26, 2017), <https://edition.cnn.com/2017/01/24/asia/tpp-rcep-nafta-explained/index.html> [<https://perma.cc/FEN2-YX9Y>] (calling the RCEP “China’s rival deal”).

17. Jiangyu Wang, *Between Power Politics and International Economic Law: Asian Regionalism, the Trans-Pacific Partnership and U.S.-China Trade Relations*, 30 PACE INT’L L. REV. 383, 421 (2018) (citing Shintaro Hamanaka, *Trans-Pacific Partnership Versus Comprehensive Economic Partnership: Control of Membership and Agenda Setting* (Asian Dev. Bank Inst., Working Paper No. 146, 2014), <https://www.adb.org/sites/default/files/publication/152753/reiwp-146.pdf> [<https://perma.cc/4DYT-WRTB>]).

18. ASIAN DEV. BANK, EMERGING ASIAN REGIONALISM: A PARTNERSHIP FOR SHARED PROSPERITY 13 (2008).

III. REGIONAL TRADE PARTNERSHIPS AFTER THE TPP

A. *The Trans-Pacific Partnership*

The TPP, once deemed the “world’s largest free trade deal,”¹⁹ was a trade agreement signed in 2016 by twelve countries to promote comprehensive market access, a regional approach to value chains, collective resolution of new trade challenges, and regional integration.²⁰ Due to the increasingly populist and anti-free trade political climate, the United States withdrew from the TPP in 2017, which led the remaining eleven signatories to abandon the agreement in favor of developing the CPTPP.²¹ However, the TPP was acclaimed for its thirty chapters covering emerging, cross-cutting trade and investment issues in areas such as state-owned enterprises (SOEs), digital economy, intellectual property, labor, and environment.²² The TPP was expected to make “99 percent of the tariff lines for trade in goods” duty-free and liberalize trade in services.²³ Notable provisions of the TPP included: strengthening intellectual property (IP) and patent protection beyond the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);²⁴ creation of an Investor-State Dispute Settlement (ISDS) mechanism for private investors to seek arbitration against host countries;²⁵ and development of new trade disciplines on digital trade barriers, state-owned enterprises, and regulatory coherence.²⁶ Ultimately, the TPP is the most comprehensive and innovative trade

19. Andrew Chatzky & James McBride, *What is the Trans-Pacific Partnership (TPP)?*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/background/what-trans-pacific-partnership-tpp> [<https://perma.cc/9HQQ-77VY>] (last updated Feb. 1, 2021).

20. Press Release, Off. U.S. Trade Representative, Summary of the Trans-Pacific Partnership (Oct. 4, 2015), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/october/summary-trans-pacific-partnership> [<https://perma.cc/EG5F-GEJV>].

21. Chatzky & McBride, *supra* note 19.

22. Press Release, Off. U.S. Trade Representative, *supra* note 20.

23. Wang, *supra* note 17, at 405.

24. *TPP Full Text, Chapter 18: Intellectual Property*, OFF. U.S. TRADE REPRESENTATIVE, <https://ustr.gov/sites/default/files/TPP-Final-Text-Intellectual-Property.pdf> [<https://perma.cc/L4DM-HPB3>] (last visited Nov. 29, 2020).

25. *TPP Full Text, Chapter 9: Investment*, OFF. U.S. TRADE REPRESENTATIVE, <https://ustr.gov/sites/default/files/TPP-Final-Text-Investment.pdf> [<https://perma.cc/F2PH-9KKA>] (last visited Nov. 29, 2020).

26. IAN F. FERGUSSON ET AL., CONG. RES. SERV., THE TRANS-PACIFIC PARTNERSHIP (TPP): IN BRIEF 1 (2016).

agreement negotiated to date.

B. *The Comprehensive and Progressive Agreement for Trans-Pacific Partnership*

The CPTPP, a “next-generation” trade agreement like its predecessor, the TPP, entered into force on December 30, 2018.²⁷ A notable feature of the CPTPP is its rigorous chapters on WTO-extra and WTO-plus provisions²⁸ in key trade areas, which incorporate the high-standard chapters of the TPP.²⁹ The CPTPP binds all the original TPP countries in the Asia-Pacific region with the exception of the United States,³⁰ together accounting for 13.5% of global merchandise trade³¹ and comprising a market of 495 million people.³²

Like the TPP, the CPTPP strives to facilitate supply chains and regional value chains in the Asia-Pacific.³³ However, twenty-two provisions from the original TPP have been suspended under the CPTPP until members unanimously agree to reinstate them, slightly narrowing the scope and reach of the CPTPP.³⁴ The most substantive suspension is the intellectual property provision,³⁵ which the United States once heavily promoted. The CPTPP also removed provisions

27. Corr et al., *supra* note 1.

28. WTO-plus provisions of PTAs come under the current WTO mandate and include areas such as customs regulations and technical barriers to trade. WTO-extra provisions fall outside the current WTO mandate and include a more wide-ranging set of policy areas. Claudia Hofmann et al., *Horizontal Depth: A New Database on the Content of Preferential Trade Agreements 2* (World Bank Grp., Working Paper No. 7981, 2017).

29. These areas include digital trade, electronic commerce, intellectual property, and state-owned enterprises (SOEs). Corr et al., *supra* note 1.

30. The CPTPP includes Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, and Vietnam. *Id.*

31. Jack Caporal, *The CPTPP: (Almost) One Year Later*, CTR. FOR STRATEGIC & INT'L STUD. (Nov. 5, 2019), <https://www.csis.org/analysis/cptpp-almost-one-year-later> [<https://perma.cc/LC5L-SSP8>].

32. *What is the CPTPP?*, GOV. OF CAN., <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpp/index.aspx?lang=eng> [<https://perma.cc/D376-S8DX>] (last modified Dec. 31, 2020).

33. DEBORAH ELMS, GLOB. ECON. DYNAMICS, *THE COMPREHENSIVE AND PROGRESSIVE TRANS-PACIFIC PARTNERSHIP: POLICY INNOVATIONS AND IMPACTS* 10 (2018).

34. Matthew P. Goodman, *From TPP to CPTPP*, CTR. FOR STRATEGIC & INT'L STUD. (Mar. 8, 2018), <https://www.csis.org/analysis/tpp-cptpp> [<https://perma.cc/2GRE-KYPT>].

35. *Id.*

on longer copyright terms, automatic patent extensions, safe harbors for internet service providers, and special protections for new technologies, including biologics.³⁶ Furthermore, the CPTPP has narrowed the scope of the ISDS mechanism by disallowing private companies from utilizing ISDS clauses to sue the host government for investment contract breaches.³⁷

Despite these suspensions, the CPTPP remains a comprehensive trade agreement retaining key developments from the TPP. First, the e-commerce chapter, touted as one of the agreement's most innovative, develops a regulatory framework to facilitate economic opportunities provided by electronic commerce while promoting consumer confidence and lowering barriers to the use of e-commerce.³⁸ Second, the chapter on SOEs contains originative rules on decreasing state intervention in the market³⁹ by calling for cooperation between state-owned and privately-owned enterprises to ensure a level playing field.⁴⁰ Third, the CPTPP includes WTO-extra labor and environment provisions that legally bind countries with different levels of economic development to "equally high-quality pledges for environmental protections or worker rights[.]"⁴¹ Lastly,

36. Chatzky & McBride, *supra* note 19.

37. See *CPTPP vs TPP*, N.Z. FOREIGN AFFS. & TRADE, <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/cptpp/understanding-cptpp/tpp-and-cptpp-the-differences-explained#what> [<https://perma.cc/45PQ-NUGE>] (last visited Nov. 29, 2020) (noting that suspensions in the investment chapter do not permit claims arising from investment contracts and approvals, including claims by private companies entering into an investment contract with a foreign government).

38. Comprehensive and Progressive Agreement for Trans-Pacific Partnership [2018] NZTS 10 (signed 8 March 2018, entered into force 30 December 2018), art 14.2. [hereinafter CPTPP]. Chapter 14 requires each member state to develop laws preventing discriminatory treatment of digital products, protecting consumers and their information from fraudulent commercial activities, authorizing cross-border transfer of information, and prohibiting data localization measures. *Id.* arts. 14.4, 14.7, 14.8, 14.13.

39. *Id.* art. 17.4.

40. *Id.* art. 17.11(b).

41. ELMS, *supra* note 33, at 15. The labor chapter requires its members to adopt rights detailed in the International Labor Organization's basic provisions into domestic law, including freedom of association and the right to collective bargaining, elimination of forced labor, abolition of child labor, and elimination of discrimination in employment. CPTPP, *supra* note 38, art. 19.3. Moreover, the environment chapter binds its members to commit to three multilateral environmental agreements: the Montreal Protocol on the Ozone Layer, the International Convention on the Prevention of Pollution by Ships (MARPOL), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. *Id.* arts. 20.5, 20.6, 20.17.

although the suspensions have limited the scope of IP protection, the CPTPP still requires members to ratify and implement IP-related international agreements to protect trade in information and technology.⁴² In fact, the IP chapter has already caused several member states to pass new IP laws to implement the CPTPP in 2019.⁴³ Therefore, despite its changes from the original TPP, the CPTPP includes state-of-the-art trade regulations that will enable further development of economic law guidance in member countries and the Trans-Pacific region.

C. *The Regional Comprehensive Economic Partnership*

The RCEP contains fifteen Asia-Pacific countries, ten of which are Association of Southeast Asian Nations (ASEAN) countries and the other five of which are ASEAN's FTA partners (Australia, China, Japan, New Zealand, and South Korea).⁴⁴ RCEP negotiations began in 2012⁴⁵ with the goal of lowering trade barriers in Asia.⁴⁶ Projected to be signed in 2020,⁴⁷ the RCEP will create the largest trading bloc in the Asia-Pacific region, accounting for around thirty percent of global gross domestic product.⁴⁸

Although the text of the RCEP is not yet available, the topics of its chapters have been released, analyzed, and compared to the

42. *Id.* art. 18.7.

43. See GLOB. INNOVATION POL'Y CTR., U.S. CHAMBER INTERNATIONAL IP INDEX 31 (8th ed. 2020) (finding that Australia, Canada, and New Zealand have all passed new IP laws to conform to, implement, and ratify the CPTPP).

44. Mihir P. Torsekar, *Regional Comprehensive Economic Partnership*, U.S. INT'L TRADE COMM'N, https://www.usitc.gov/research_and_analysis/trade_shifts_2015/rcep.htm [<https://perma.cc/9R53-MFGH>] (last visited Nov. 29, 2020).

45. *Next Steps and Timeline*, N.Z. FOREIGN AFFS. & TRADE, <https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/regional-comprehensive-economic-partnership-rcep/next-steps-and-timeline/> [<https://perma.cc/2DQ5-KZFS>] (last visited Nov. 29, 2020).

46. Meaghan Tobin, *Explained: The Difference Between the RCEP and the CPTPP*, S. CHINA MORNING POST (July 6, 2019), <https://www.scmp.com/week-asia/geopolitics/article/3017487/explained-difference-between-rcep-and-cptpp> [<https://perma.cc/KMU3-3A7Q>].

47. Joint Statement of the 29th Regional Comprehensive Economic Partnership Trade Negotiating Committee (RCEP TNC) Meeting (Apr. 30, 2020), https://asean.org/storage/2017/11/RCEP-TNC-29-Joint-Statement_Final_ForUploading.pdf [<https://perma.cc/564T-FUUY>].

48. Xianbai Ji, *RCEP's Economic Impact in Asia*, DIPLOMAT (Nov. 13, 2019), <https://thediplomat.com/2019/11/rceps-economic-impact-in-asia/> [<https://perma.cc/D2MQ-PPPP>].

CPTPP. In general, RCEP is expected to be less trade liberalizing than the CPTPP because the agreement covers fewer topic areas and has a “larger and more diverse membership.”⁴⁹ Nonetheless, the RCEP “represents a significant achievement for free trade in the Asia-Pacific”⁵⁰ by increasing Asian integration with the East Asian economic powerhouses: China, Japan, and South Korea. Given its greater scale, the RCEP may “increase global real incomes by an estimated \$286 billion per year” by 2030, with absolute gains amounting to twice those of the CPTPP.⁵¹

Although the RCEP holds vast regional trade integration and economic opportunities, it lacks certain trade liberalization provisions that are included in the CPTPP. First, while the CPTPP seeks to eliminate ninety-six percent of tariffs on trade products, the RCEP is expected to have a less ambitious tariff schedule, reducing about eighty percent of tariffs in the region.⁵² Second, the RCEP lacks regulations on behind-the-border nontariff barriers, including labor, environment, and SOEs, which are included in the CPTPP.⁵³ Third, the IP chapter is not expected to include WTO-plus or WTO-extra provisions, as it does not advance IP provisions beyond those already accepted by the WTO and other FTAs. Fourth, despite the importance of e-commerce in Asia, the RCEP does not reach the depth of protection and promotion of the digital economy sought by the CPTPP.⁵⁴ However, the RCEP will enable common rules of origin for its members,⁵⁵ fashioning a streamlined supply chain in Asia. By requiring only a single certificate of origin from RCEP countries, this common rule of origin will enable member state companies to ship products within the RCEP bloc without

49. See Petri & Plummer, *supra* note 14, at 6.

50. William Alan Reinsch et al., *At Last, An RCEP Deal*, CTR. FOR STRATEGIC & INT'L STUD. (Dec. 3, 2019), <https://www.csis.org/analysis/last-rcep-deal> [https://perma.cc/6TG7-Z35J].

51. Peter A. Petri & Michael Plummer, *Order from Chaos: The Case for RCEP as Asia's Next Trade Agreement*, BROOKINGS INSTITUTION (Nov. 6, 2018), <https://www.brookings.edu/blog/order-from-chaos/2018/11/06/the-case-for-rcep-as-asias-next-trade-agreement/> [https://perma.cc/Z9T2-YSRK].

52. Reinsch et al., *supra* note 50.

53. See *supra* Part III(B).

54. See Reinsch et al., *supra* note 50 (noting that the RCEP is expected to lack prohibitions on data localization or barriers to cross-border data flow).

55. Deborah Elms, *RCEP: Creating Rules for Trade in Goods*, ASIA TRADE CTR. (July 4, 2019), <http://asiantradecentre.org/talkingtrade/rcep-creating-rules-for-trade-in-goods> [https://perma.cc/W3CP-AXLV].

conforming to additional rules of origin criteria in each country,⁵⁶ indicating RCEP's objectives of keeping the Asian market open and facilitating economic integration. Although the RCEP will not reach the high standards of the CPTPP, the agreement is ambitious in its architecture of Asian-dominated trade grouping,⁵⁷ consolidating the "existing plethora of [Asian] trade agreements."⁵⁸

IV. CONCLUSION

Following the demise of the TPP, the Asia-Pacific region has developed an integrated system of economic law. The absence of the United States from trade talks has enabled Asia-Pacific countries to fill this void by championing regional trade and economic cooperation. With Asia-Pacific countries now leading trade negotiations, the CPTPP and the RCEP have emerged as innovative and comprehensive mega-PTAs to recast and advance the WTO rules while promoting the Asia-Pacific economy. Thus, both the CPTPP and the RCEP represent a shift towards Asian regionalism⁵⁹ and market liberalization, which entails opportunities to further advance trade and investment law within the region.

56. Reinsch et al., *supra* note 50.

57. Keith Johnson, *While Trump Builds Tariff Walls, Asia Bets on Free Trade*, FOREIGN POL'Y (Nov. 1, 2019), <https://foreignpolicy.com/2019/11/01/trump-tariffs-free-trade-rcep-asean-india-china-bangkok/> [<https://perma.cc/B3VD-KPFH>].

58. Vinod K. Aggarwal, *Introduction: The Rise of Mega-FTAs in the Asia-Pacific*, 56 ASIAN SURV. 1005, 1009 (2016).

59. Wang, *supra* note 17, at 383.