



The Trans-Pacific Partnership (TPP) Negotiations: Issues and Challenges

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Trans-Pacific Partnership (TPP): Issues and Challenges

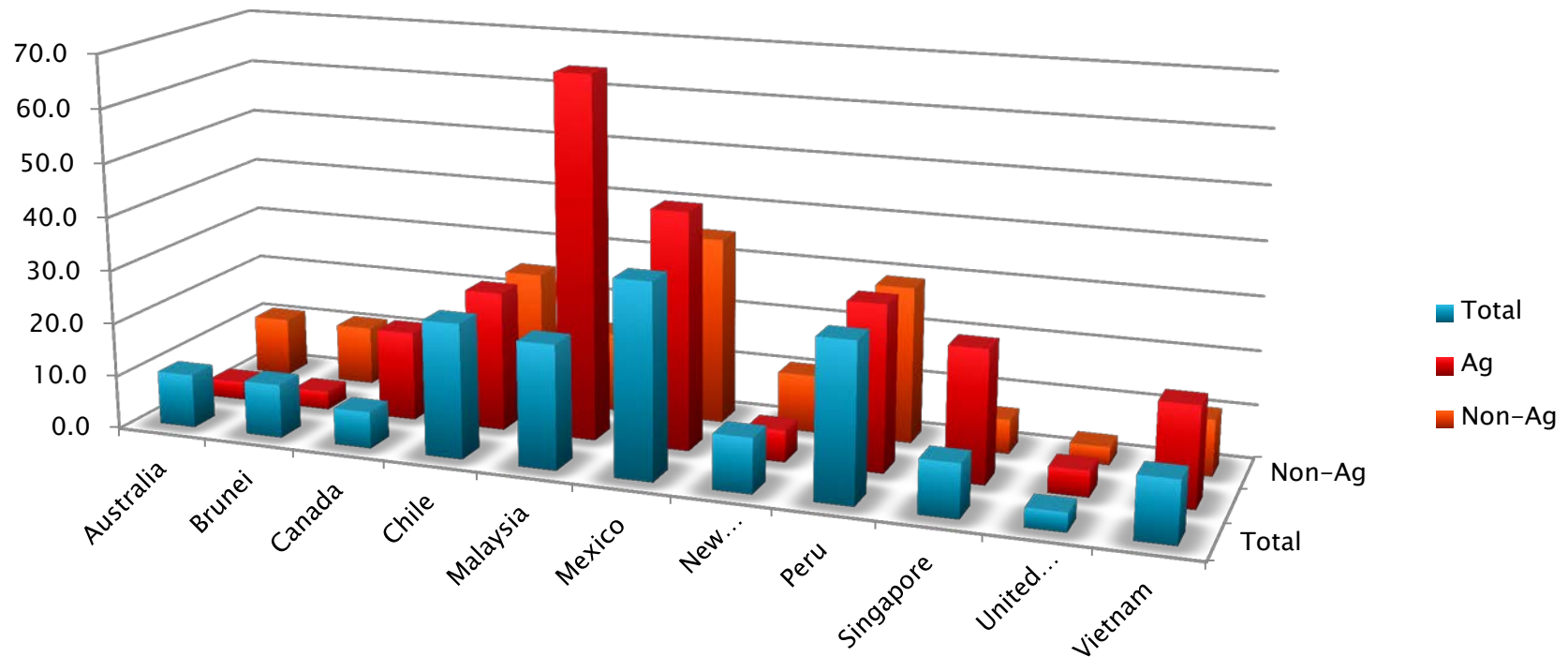
- ▶ “21st century, high quality” agreement
- ▶ Complex web of existing commitments
- ▶ Shifting number of players
- ▶ Single undertaking
- ▶ Issues remain in many areas including:
 - Market access in goods
 - Rules of origin
 - Competition policy and SOEs
 - Intellectual property rights (IPR)
 - Labor and environment
 - Dispute settlement

Structural Challenges

- ▶ Existing, overlapping, FTAs pose major problems
- ▶ Most serious in market access in goods
- ▶ U.S. and Peru offers
 - Canada vs. Mexico
 - New market access in future?
- ▶ “Plurilateral” offers
- ▶ Still unclear how/when will be resolved
- ▶ /f all in alignment at end of 10 years, may be only short term problem

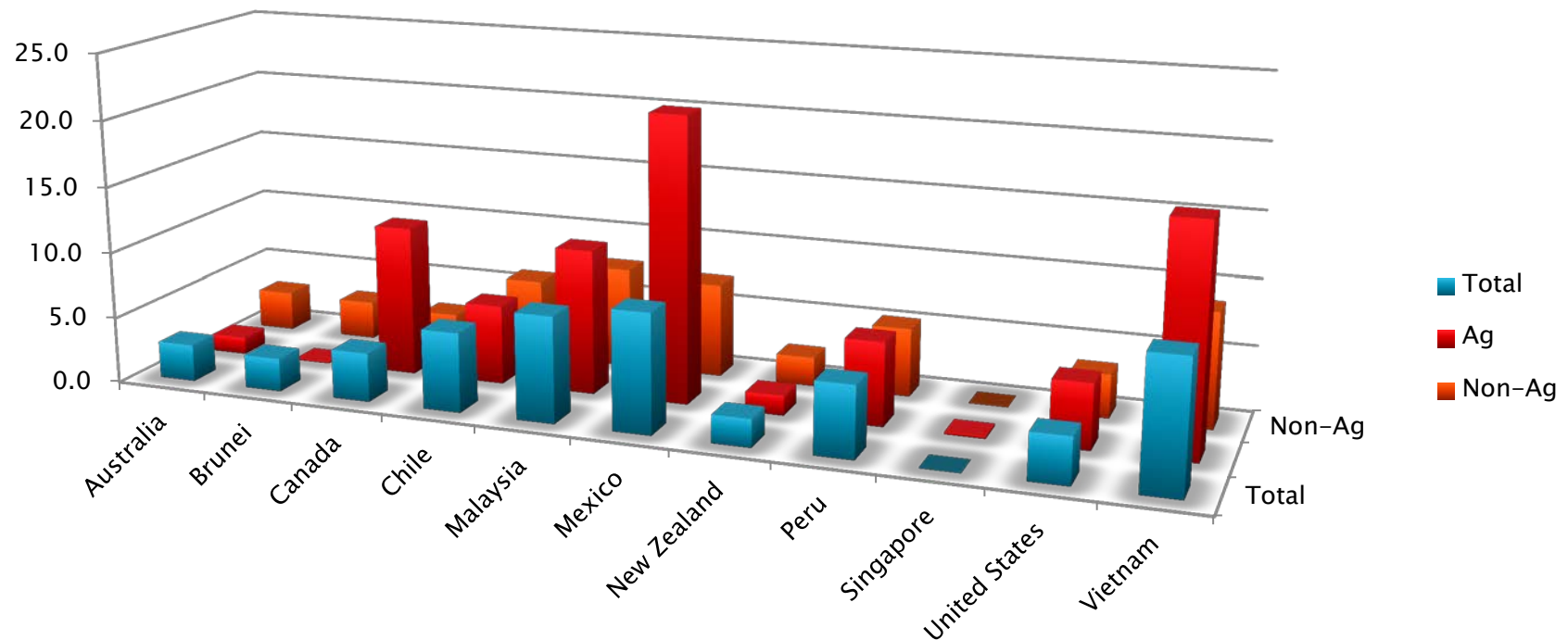
Examples of Tariffs from TPP

Simple Average Final WTO Bound Tariff (2010)



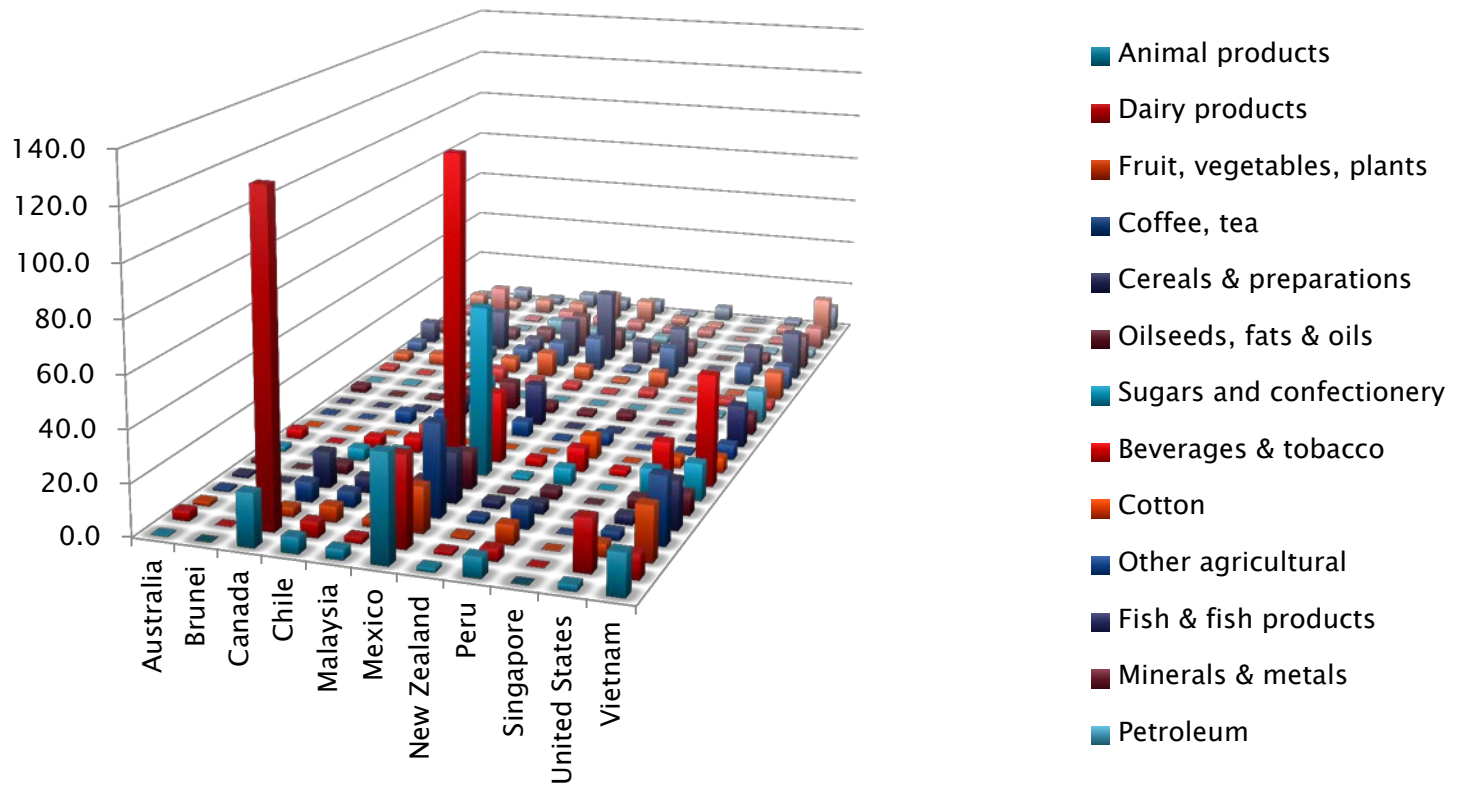
Examples of Tariffs from TPP

Simple Average WTO MFN Applied Tariff (2009)



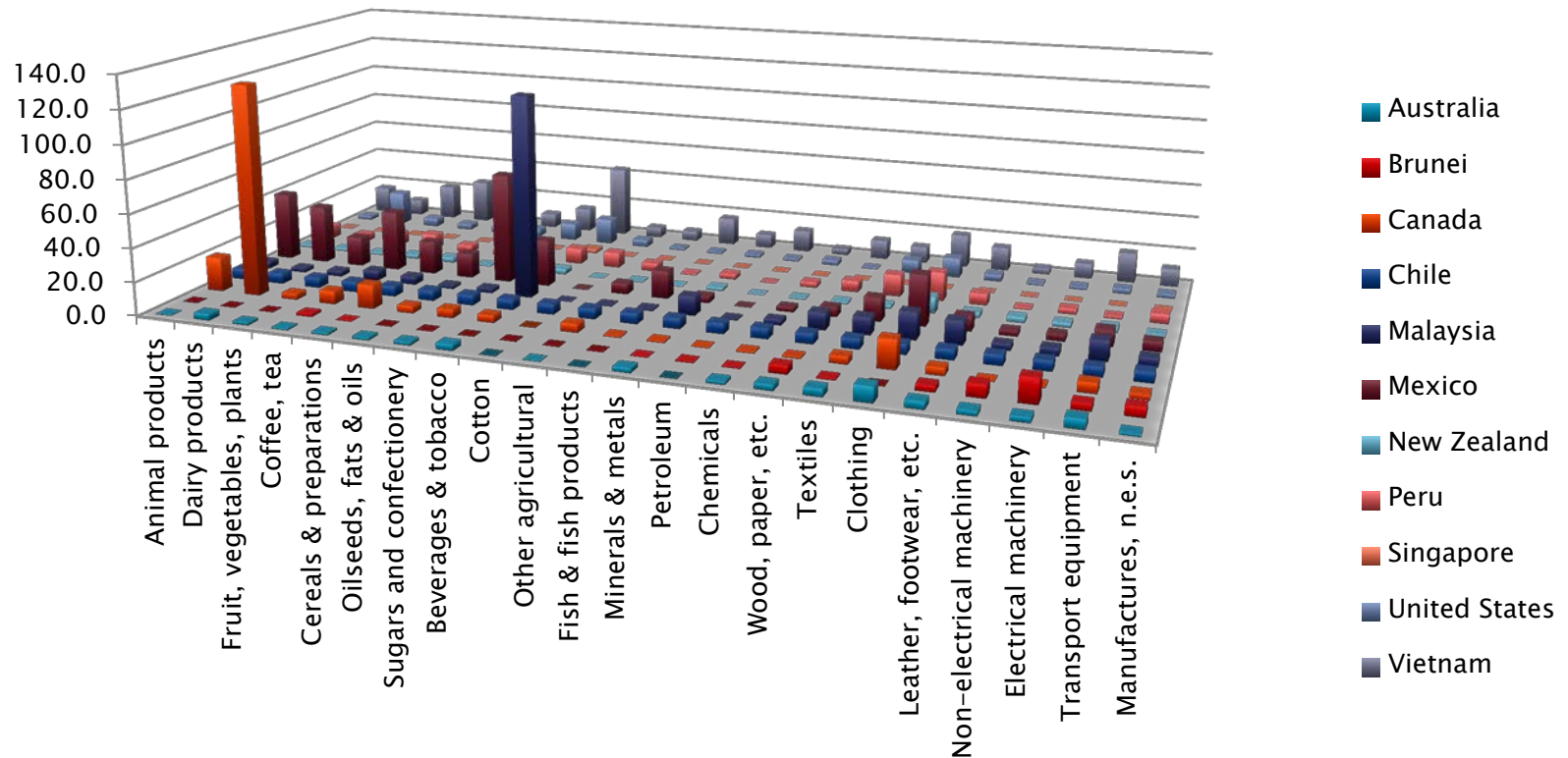
Examples of Tariffs from TPP

WTO Applied Tariff Rates 2009



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Market Access in Goods

- ▶ Specific areas of concern include:
 - Dairy
 - Sugar
 - Textiles
 - Footwear
 - Tobacco
 - Autos?
- ▶ Quantitative restrictions (TRQs)
- ▶ Rules of origin
 - Product-specific ROOs
 - Yarn-forward for textiles

Competition Policy

- ▶ Competition chapter included in TPP
- ▶ Rules on such things as anti-trust laws and measures
- ▶ Something to be included on state-owned enterprises (SOEs)
 - To ensure no unfair competitive advantage in access to credit, other forms of government assistance
- ▶ Focus on outcomes or ownership?
- ▶ Still in square brackets

Intellectual Property (IP) Problems

- ▶ TPP is farthest reaching IP FTA yet
 - Much more intrusive than TRIPS in WTO
- ▶ Access to medicines issues
 - Data exclusivity, patent linkage, patent term extensions (access window)
 - Biologics
 - Drug pricing and reimbursement programs
- ▶ Copyright
- ▶ Trade secrets
- ▶ Local content requirements (for broadcast)

Intellectual Property

- ▶ Geographical indications
 - Third-party FTA commitments
 - Compound names
- ▶ Enforcement
 - “Commercial scale”
 - “Willful” infringement
 - ACTA vs. TPP provisions
- ▶ Internet service providers
 - 3 step test
 - Fair use exceptions
 - Retransmission

Labor and Environment

- ▶ Maintain own labor laws: 1998 ILO Declaration
 - Not core ILO provisions
- ▶ Will apply to EPZs and free trade zones
- ▶ How to handle complaints?
- ▶ Connection between TPP and previous FTA commitments on labor
- ▶ Conservation at TPP or national level?
- ▶ Uphold commitments under signed MEAs?
- ▶ Conservation of natural resources and wildlife
 - Includes fish, logging, trade in wildlife, CITES
- ▶ Dispute settlement for both issues?

Dispute Settlement

- ▶ How much of overall deal legally binding?
 - Answer: Nearly whole thing
- ▶ TPP goes beyond WTO commitments in many areas
- ▶ Key areas of disagreement:
 - Investor–state dispute (ISDS)
 - Sanitary and phytosanitary (SPS) provisions beyond WTO rules?
 - Labor and environmental measures
- ▶ A key component of overall TPP is shared norms or level of commitment to deal