

The Trans-Pacific Partnership and the Future of
International Trade

Keynote: Ambassador Demetrios Marantis, Deputy U.S. Trade
Representative

Kent Hughes:

Let me welcome you all to the Woodrow Wilson Center, and I'd also like to welcome our President and CEO Jane Harman is -- Jane wave to everybody if you would. Just delighted to have her with us this morning. I also want to of course welcome the people watching on the web and we have quite a number of cameras here, so welcome to all of you.

Let me introduce myself, I'm Kent Hughes. I run a program here at the Wilson Center on America and the Global Economy. And I want to stress that this today is a pan-Wilson Center effort. We are working with a whole series of programs here, the Asia program, the Latin American program, which is very interested in Latin America and Asian ties, the Canada Institute, the Kissinger Institute, and the Mexico Institute. And then a special thanks to our senior scholar Bill Krist, who's been such an effective advisor. Actually I see another notable in the back of the room there, Mike Van Dusen who's our executive vice president and is -- really makes things run on time here.

Let me just give you a quick word about the Wilson Center for those of you who are new to it. President Wilson, as you may know, is the only president to have earned a Ph.D. So when Congress wanted to honor him, in the end they decided against a marble statue, or another monument on the Mall, and created this living memorial. And the mission they gave the Center was to bring together both sides of Wilson's life. That academic life that studied public policy, and then the action life that really made public policy first as Governor of New Jersey, and then of course as a two term president.

We have here over the course of a year maybe 150 people that come to do research with a focus on public policy. We have a range of programs that cover the whole world. You heard some of them that are sponsoring this event. And then we have some cross cutting programs that focus on key

issues: national security, innovation systems, the American and global economies, and global sustainability and resilience. So we work to bring together the people doing the best thinking on public policy together with people like yourselves, many of who are doing that good thinking and many who are influencing and making public policy.

Well that brings me to my pleasure to introduce Ambassador Demetrios Marantis. He is the deputy U.S. Trade Representative. He plays a key role in trade negotiations with a focus on Asia, Africa, as well as global initiatives on economic development and the environment. He is a lead person in terms of working from our point of view, from America's point of view, in negotiating the TPP.

He came to his current position with a wealth of experience. He was the chief international trade counsel on the Senate Finance Committee, served as associate general counsel at U.S. TR, private practice in Washington and Brussels for Akin, Gump. Not surprisingly he brought with him a distinguished academic background with a degree from Princeton. As you know Woodrow Wilson was president of Princeton at one point, and a J.D. from Harvard Law School. The ambassador will make some remarks and then he has graciously agreed to take a few questions. Mr. Ambassador, the floor is yours.

[applause]

Demetrios Marantis:

Hi everybody. Thank you Kent, thank you to the Wilson Center for putting this on and it's an honor to be here with Congresswoman Jane Harman as well who has done so much to further public policy here in Washington and the U.S. You know, many of you who know me know that I go on and on and on and on and on and on and then some talking about TPP and why it's, you know, the greatest thing in the world. I will try to contain my enthusiasm in these remarks. Maybe I'll save that for Q-and-A.

You've all heard President Obama, you've all heard Ambassador Kirk talk about why TPP is such a central component of this administration's trade policy. And why focusing on the Asia-Pacific Region, which as you all know is a key destination for U.S. exports. 60 percent of U.S. goods exports go to the Asia-Pacific. Three-quarters of

U.S. agricultural exports go to the Asia-Pacific. Asia-Pacific is home to 40 percent of the world's trade, so focusing on Asia-Pacific, as the president and Ambassador Kirk have said repeatedly, is critical to America's economic competitiveness as well as to creating and supporting the good-paying jobs that result from international trade. But I've been feeling, you know, sort of reflective lately, and, you know, flashing back to 2009 when President Obama announced that the U.S. would participate in the TPP. You know, he, Ambassador Kirk and others had announced that there were a number of key goals that, you know, we wanted to achieve through the TPP.

One was to conclude a 21st century agreement that addresses new problems, integrates the region, and enhances U.S. competitiveness in the Asia-Pacific. Another was to build a regionally diverse agreement that includes developed economies and developing economies. Another goal that was articulated was to integrate into one agreement, countries that already have FTAs between and amongst themselves with oftentimes different rules and different standards on similar issues. Another goal that was articulated was to negotiate a living agreement that remains open to new members and helps to further the vision of achieving a free trade agreement in the Asia-Pacific. Another goal was to include in the TPP new issues, things that have never been done before in a trade agreement, or new approaches to old issues that also were, you know, new and innovative ways of approaching trade issues, borrowing from work that was done in other fora like APEC. And, oh, the last goal was to get this, all of these done and accomplish all these goals as quickly as possible.

And let me say it's been quite a tall order since 2009, but we have made a remarkable amount of progress since the U.S. joined TPP in November 2009. And the credit, you know, goes to the fact that we're negotiating this agreement with likeminded trading partners who all share the goals that I just articulated and all share the same vision of the TPP as really being, you know, the platform for regional integration through a high-standard, high-quality trade agreement.

So, over the past two-plus years, TPP partners have really coalesced around a number of key themes and I wanted to go through these themes and explain how we're trying to

accomplish them in the context of the TPP. You know, the first theme is we all want to negotiate a high standard comprehensive agreement. And all TPP countries recognize that if the TPP is going to be the premier regional trade agreement and the model for how to conduct and negotiate trade agreements in the future, it has to be ambitious. So what does that mean?

I mean obviously that means that the agreement has to be comprehensive and not cover just goods, but also cover services. And not just cover traditional services, but also the services of the future. And I think this is something that we take for granted. In the TPP, as in some past trade agreements, we're negotiating on services on a negative list basis; meaning that everything's covered unless a country takes a specific exception. And if you think back to when the NAFTA was done, and, you know, the early '90s there are services that exist today that no one was even thinking about, you know, back then. Or even five years ago, who knew what social networking services were?

For example, who knew what cloud computing was or cloud-based services were. If we don't have an agreement that allows -- that automatically incorporates things that we're not even thinking about today, the agreement is essentially -- becomes out of date as soon as it's negotiated. And that's why in the context of the TPP, we're negotiating, you know, for example, service commitments on, quote unquote, "a negative list basis." To ensure that the Internet-based services, the services of some other, you know, platform that we're not even thinking about today are covered today and going forward.

The second sort of theme is that TPP is a regional agreement. That sounds obvious, but why does that matter? Obviously, all the TPP countries care a lot about global trade liberalization and are committed to continuing efforts at global trade liberalization and the WTO. What the TPP allows us to do is to incubate new ideas that have never been covered before in a trade agreement, you know, figure out how to address those in context of the TPP and then possibly carry those new negotiations or those new obligations on into another fora. What's great about doing a regional agreement is you can do this kind of experimentation, but you do it in a way that makes it as

valuable as possible for exporters in the region. So we're negotiating on a regional basis.

What does that mean? So what we're trying to do, for example, in the area of rules of origin is to have a common -- a common TPP set of rules of origin that include accumulation. Why is that important? Because that allows businesses and exporters to be able to create regional supply chains and take advantage of the efficiencies that regional supply chains, you know, establish. And why is that important to the United States? Because it will allow U.S. businesses to stay here and participate in regional supply chains rather than feeling like they have to move offshore in order to take advantage of the, you know, Asia-Pacific supply chains. If we're a part of it, through regional rules of origin, through a trade agreement that includes accumulation, that will allow our businesses to participate in regional supply chains from here in the U.S.

The third theme, and again, it's something that sounds very obvious, but, you know, once you start peeling the onion it becomes more and more interesting is, one of the key things that TPP countries are trying to do is to tackle non-tariff barriers. You know, we've been told repeatedly by exporters that the key challenges they face around the world are behind-the-border barriers that countries put in place. So what we're trying to do in a whole variety of ways through the TPP is to try to make the regulatory processes work more seamlessly so that regulations don't inadvertently become non-tariff barriers. So how are we doing this?

For example, in the chapter that we're negotiating on, sanitary and phytosanitary measures. We are doing, you know, stuff that's unprecedented. We are negotiating state-of-the-art WTO-plus commitments to make sure that that SPS measures are grounded in science, are subject to a transparent regulatory process, so that, you know, trade flows in a more predictable fashion. Likewise, in the area of technical barriers to trade, we are focusing on developing new common approaches to -- you know, in specific sectors. So that we have again, a common approach on how we're going to address particular technical barriers to trade as they emerge.

Another really interesting area which I guess sounds very wonky, but is actually very significant, is another thing that we're trying to do is promote regulatory coherence. What does that mean? That means we're trying to ensure that TPP partners follow good regulatory practices like we do in the U.S. Why is that important? A good regulatory process will help ensure a couple things. One, that a regulatory doesn't put in place an arbitrary regulation that's designed to benefit that particular sector that it's regulating. Second, one of the big problems that we face is sometimes regulators in other countries, the left hand doesn't talk to the right hand, and so you'll have a regulation being put in place by one agency that ends up undermining something that another agency is doing. And hence creating, you know, a trade barrier in an inadvertent way. And so what we're trying to do by helping to promote good regulatory practices is to ensure that, you know, advertent and inadvertent trade barriers aren't put into place, again, to allow trade to flow more seamlessly throughout the Asia-Pacific region.

A fourth sort of theme that we're trying to focus are how do you deal with cross-cutting issues? Issues that are common, you know, throughout the agreement that will be of benefit in a new way. And one area I'd like to point to that we are still working very hard on, is how do you better integrate small and medium enterprises into global trade? We have done a ton of outreach and the one thing we hear time and time again from SMEs, from small and medium enterprises, is these trade agreements are great, however, it's really hard for us to take advantage of them because we face, you know, difficult regulatory hurdles in certain countries, we face the lack of transparency, it's hard for us to be able to even access the tariff schedules of another country to know what the actual tariff rates are. And so what we're trying to do through the TPP is to make it easier for small and medium size enterprises to access the information that they will need in order to take advantage of the commitments that we are negotiating as part of the agreement.

Remember how important SMEs are. They are really the backbone of our economy and they are the primary source of jobs here in the United States. SMEs are the largest groups of U.S. exporters, and they are also major users of imported parts that end up going into products that they --

that they then export. So better integrating SMEs into regional trade flows through the TPP will, you know, bring actual significant value to what really are the number one exporters, at least in our country.

A fifth theme, and this is one that I've talked to about before and which a theme that really excites me quite a bit, is we're trying to tackle issues in TPP that we've never done before in a trade agreement. We're trying to deal with newly emerging issues that, you know, we've heard are problems from, you know, exporters in all the consultations that we're doing. So for example, for the first time ever in a TPP we're negotiating disciplines that will help to level the playing field between state-owned enterprises and from their private sector counterparts. This is obviously very important and this is an important thing we hear time and again from exporters is that in some markets they face competition from SOEs who may benefit from privileges and immunities that, that, you know, private sector companies don't benefit from.

So this is a new opportunity the TPP provides us to try and address this issue. Similarly, in the area of digital trade, it's a new frontier in terms of what we're trying to do in the TPP. For example, we are trying to guarantee the free flow of information. So if you're an exporter of a service and you need to make sure that you can transfer data in order to offer that service, we're trying to negotiate an obligation that would ensure that you can do that. And that a country doesn't, for example, put into place -- you know, or block a website that prevents you as a service provider from offering your business.

Recognizing that it's very hard, particularly if you're an Internet-based, you know, service provider to be able to offer your service without being able to offer the data. Likewise, one of the things that we heard repeatedly from cloud based service providers, and other services, are -- is the importance of an obligation that would allow you to offer your service without having to locate, for example, a data center in a particular territory.

There are obligations that are sort of creeping up in different markets where, you know, a regulation will say, "You can only offer this service if you locate a specific data center in this territory." That makes it much harder

for the company, the exporter, to be able to offer that service. So as part of our efforts in the TPP to promote digital trade, we're trying to address that issue.

We're also doing really neat new things in the area of intellectual property. For the first time ever the U.S., just last month in our most recent round of negotiations in San Diego, put forward a proposal that enshrines the ability of -- or would obligate countries to strike the right balance between on the one hand providing high strong copyright protections, and on the other hand, ensuring that exceptions and limitations exist. For example, so that, you know, companies and providers can offer services, for example, over the internet. In other words, enshrine that the fair use for comments, for criticism, for reporting, for research, for scholarship, is enshrined in a trade agreement. Something we've never done before.

We're also trying to address for the first time ever the common problem of indigenous innovation: where countries may force investors to adopt a certain local technology in order to invest in that market. It's a new thing that we've never done before in a trade agreement. And another really interesting thing which I actually had the pleasure of being able to talk about here at the Wilson Center in December, is we're doing really neat things in the area of trade and environment. We've put forward, the U.S. has put forward, a really interesting conservation proposal that addresses -- that seeks to address illegal trade in wildlife, illegal trade in logging, and illegal trade in fisheries. Again, something that we've never done before in a trade agreement.

The sixth theme that I want to highlight, and again this is obviously critical to TPP, is making sure that TPP is a living agreement. And that it is able to integrate new countries as they become ready to meet the high standards of the TPP. This is really important. Remember that when we started these negotiations back in 2009, the TPP was a group of seven countries with an eighth, Vietnam, in a -- in an associate member status. Since that time, Malaysia, you know, a huge vibrant economy has joined the TPP and Vietnam has become a full member, making it the TPP Nine.

In June at the Los Cabos G20 Summit in Mexico, the TPP Nine became the TPP 11 with the addition of Canada and Mexico,

pending completion of our and other TPP countries domestic consultation procedures. And just a little sort of commercial side-bar. We have -- as part of the entry and integration of Canada and Mexico into the TPP, we have put out federal register notice. A notice for public comment for anybody that's interested in commenting on what our negotiating objectives should be, with respect to Canada and Mexico when they join the TPP.

Comments are due to USTR on September 4th-ish, I forgot the exact date. And we'll be having a public hearing on that very issue, I believe on September 21-22nd-ish. So for those of you, who are interested in submitting comments, please do so. We very much actively seek those and would welcome that.

So anyway, back to, you know, TPP being a living agreement. Japan has also expressed interest in joining the TPP. And, you know, as we did with Canada and Mexico we are currently continuing our talks with Japan on Japan's interest to join the TPP. We've done a lot of work over the past two-and-a-half years and there's a lot more work that needs to be done. The TPP trade ministers will meet in about a month in Vladivostok on the margins of the APEC leaders meeting which will be held there. The next round of TPP negotiations, the 14th round, will take place in Leesburg, Virginia in early September. And, you know, though we have made an enormous amount of progress in the 13 rounds of negotiations to date, we still have a lot of work to do.

The leaders of the TPP countries have instructed us to make as much progress as we can, which we are very much on track to do so, but there are also, you know, as you get later and later in the negotiations, that's when you have to really address the more difficult and sensitive issues. And that's, that's the stage that that we are in now in these negotiations. So, we've got a lot more work to do, but with the momentum that we've had and with the single-minded purpose that the nine TPP countries have approached the negotiations so far. I'm very confident that, you know, we are on track to, you know, realizing the dream of the TPP, which is concluding a high standard 21st century agreement that serves as a platform for regional integration in the Asia-Pacific, and it's been a real thrill for me to be part of this process. And, you know, there's just a lot in here and I should probably stop there

because I'm sure there's a lot on your minds in terms of questions on, you know, what we're doing, and how it affects particular sectors, which I would be very happy to answer.

So with that, you know, why don't we start questions, and I appreciate your patience. Thanks.

[applause]

Kent Hughes:

Thank you very much, Mr. Ambassador. I really appreciate your remarks and taking the time to be with us. Why don't we take two or three questions and then we'll turn -- the gentleman in the far back and there's a gentleman here, and a gentleman right up front, then we'll ask the ambassador to comment. If you could please identify yourself.

Don Kay Yu:

Thank you. Don Kay Yu[spelled phonetically] China Review News Agency. You didn't mentioned China, what's the U.S. position for China's participation in TPP? Thank you.

Kent Hughes:

Okay. And the gentleman there I think had a question. And then the gentleman up here in the front.

Jamie Strawbridge:

Hi ambassador, Jamie Strawbridge from Inside U.S. Trade. One very broad question and one specific question. On the broad, you mentioned the ministers meeting in September; Ambassador Kirk's also going to the ASEAN summit right before that. So, there's a lot of political opportunity here coming up, can you comment on what specifically you hope this kind of political discussion can yield in terms of TPP and if any specific issues will be addressed?

And then the second specific one, on intellectual property rights, it's been one of the toughest issues in the talks. A lot of resistance, especially on access to medicines. How committed is the U.S. to sticking with its access window proposal, or is it time to start reconsidering?

Kent Hughes:

And the distinguished gentleman here in the front row -- the second row.

Eric McVadon

I don't see the distinguished gentleman, but I'll - I have the mic in my hand.

[laughter]

Eric McVadon, The Institute for Foreign Policy Analysis. Mine's also on China. Is it a success without China? Does China want to TPP? Do we want China in the TPP?

Kent Hughes:

Let me add one more question then, Mr. Ambassador. We've - the ambassador has really set a record here at the Wilson Center, I should say, we've had more RSVPs than for any other speaker in-house event here.

Demetrios Marantis:

It's because it's August.

[laughter]

Kent Hughes:

No, I think that when we have an outstanding speaker on a key issue that's the answer. We have a question from the overflow room, and it has to do with the TPP including provisions for financial services.

Demetrios Marantis:

Sure.

Kent Hughes:

Let me -- take them in whatever order you would like.

Demetrios Marantis:

Okay. Let -- I'll start with China since there were two questions on China. It's very important to remember that the whole vision of TPP is to serve as a platform for integration in the Asia-Pacific. And we have said, we and the other TPP partners have said repeatedly that the TPP is open to whichever country is willing to meet the high standards of the TPP agreement. And, you know, as I think it's been shown over the past year and a half by integrating Malaysia, fully integrating Vietnam, and now integrating Canada and Mexico, that that vision is becoming more and more of a reality.

You know, as it has been said also, TPP's not -- you're not invited. It's not a party that, you know, people are invited to join. It's a -- it's a serious trade agreement that if a country is interested in being part of it, they have to, you know, demonstrate, not just to the U.S., but to all the TPP countries since new members, or new entrances into the TPP must be decided by a consensus of TPP members. They have to demonstrate, you know, that their readiness and ability to meet, you know, the high standards that we're negotiating.

So, whether it's China, whether it's Japan, whether it's whichever Asia-Pacific economy, you know, it's open. But the country has to be able to demonstrate before the TPP members will form a consensus that it's willing and able to meet the high standard that we're negotiating on, you know, on trade, if it's on IP, on services, on investment, on labor, on the environment. And it's a question for, I think, each economy has to make that judgment for itself as to whether or not TPP makes sense for it. Whether or not TPP makes sense for where that country is in terms of its level of economic development, or, you know, the way it sort of sees its economy going in the future.

So that's sort of the China question.

Kent Hughes:

Financial services and then we can go to Inside U.S. Trade.

Demetrios Marantis:

Okay. On financial - Jamie, we won't forget you. On financial services, yes, that is a part of the agreement. It's an important part of the services commitments that we negotiate in the TPP or on financial services. Financial services is always, you know, a difficult issue because countries have, you know, specific ways that they regulate their own financial services sector. But as we have been very clear, we include in the TPP, you know, what's called the prudential carve out to ensure that economies are able to take, you know, whatever prudential measure they need to take to regulate their financial system. And that's very important for economies including the U.S.

On Jamie's questions with respect to the minister's meeting and Ambassador Kirk traveling to the region. So, we have a

-- the TPP ministers as I had mentioned in my remarks will meet in Vladivostok and it's a great opportunity for the ministers to sit down together and to be able to assess where things are, you know, address any particular issues that may come up, and help actually task the negotiators, us, with, you know, lighting a fire under us to make sure that we're doing what we're supposed to be doing, which is, you know, getting as much done as quickly as possible then, and meeting the goal of achieving a high standard TPP agreement.

Ambassador Kirk's travel in the region, you know, gives him an opportunity to talk bilaterally to his counterparts, and again, to assess, you know, progress, you know, troubleshoot on issues as they arise, so, you know, it's an opportunity to make progress and to continue to infuse momentum into TPP.

On IP, you know, as Jamie mentioned, it's a tough issue. IP, the disciplines, the obligations in the intellectual properties chapter are vast and cover areas ranging from patents, trademarks, copyright, geographic indications, trade secrets. You know, the length of the IP chapter, as you've seen in previous FTA is that the U.S. has concluded, is rather large because there is just a lot in the area of IP to cover. And there are issues like access to medicines, which has been very controversial, you know. The U.S. put forward a proposal that we, you know, felt very strongly would drive access to medicines in the developing world in a way that helps to promote innovation. We've gotten a lot of, you know, comments and criticism about our proposal that we are reflecting upon very carefully.

Kent Hughes:

Could you take another round of questions, Mr. Ambassador?

Demetrios Marantis:

Sure.

Kent Hughes:

The gentleman with the sunglasses there.

Male Speaker:

Sorry about that.

[laughter]

Kent Hughes:

And then there's a gentleman against the wall there, and a gentleman over here. Thank you.

Steve Winters:

Steve Winters [spelled phonetically], local researcher. If I could just, one more thing on the China angle, I believe President Ma in Taiwan has said that he is very enthusiastic about Taiwan joining, but that would probably take a while, but he's thinking in maybe an eight-year time period. Also, I recently heard Steven Hadley speak, he had been over in - just back from China, and he said he spoke to the leaders in China, they told him bluntly TPP is something that is directly against China, it's some kind of -- against us. And he, Mr. Hadley of course didn't agree with that viewpoint, but are we getting to some kind of sticky wicket here if Taiwan becomes a member of TPP? And, you know, so far there's only one China really recognized by anybody. Has some thought been given to this?

Kent Hughes:

There was a there gentleman against the wall and there's the gentleman over here as well.

John Zang:

John Zang with CPI TV of Taiwan. A follow up on the China discussion.

[laughter]

President Ma has actually said that Taiwan wants to join the TPP within eight years. Do you think that time frame is realistic? One other thing, Taiwan has agreed to allow U.S. beef to go into Taiwan, you know, given that, would the resumption of TIFA on your minds now, or on the minds who work as USTR. Thank you very much.

Kent Hughes:

And then the gentleman over here against the wall.

Jim Berger:

Oh, thank you. Jim Berger from Washington Trade Daily. You mentioned, well, some people say the negotiations are

going very well over the last few years because of a lack of ministerial involvement.

[laughter]

Is there -- will there come -- I assume there will come a time when ministerial decisions would have to be made, will they be made in Russia a month from now? And also, is the elections in the United States going to hold things up a little bit as they usually do?

Kent Hughes:

Let me add one more from our overflow room. Given the concerns of members of Congress about the secrecy of the process, will USTR push TPP partners to release the text at this point in the process?

Demetrios Marantis:

Well, why don't I work backwards this time instead of working forwards, and I'll start with that question. USTR -- this has been the most transparent trade negotiation that has ever been negotiated. We have done outreach to stakeholders across the U.S. in ways that are really unprecedented. Our negotiators are -- provide opportunities repeatedly for as much engagement from stakeholders, from members of Congress as possible.

At the TPP rounds of negotiations, we've done some really neat things with respect to stakeholder involvement to increase stakeholder involvement, and to increase transparency in the process. For example, in each rounds of TPP negotiations there's a day where stakeholders come and are able to either make presentations to negotiators or to be able to engage with negotiators on a one-on-one basis. There's a lot of misperception out there with respect to transparency, and I'm actually very proud of the work that this administration has done to infuse as much public participation into this process as possible.

One of the, you know, the issues that comes up is, why don't you release the negotiating text. There is a reason for that. When you're negotiating an agreement, if you're going to end up negotiating an agreement in public, it limits the ability of negotiators to be -- to have the flexibility to achieve the positions that are in the best interest of their country. And so that's why we're trying

to strike a balance between ensuring the integrity of the negotiations that we're not negotiating the TPP in the press, versus making sure that our stakeholders, whoever they are, whether they're from the business community, whether they're from NGOs, whether they're from labor unions, whether they're academics, have as much access to us, to the negotiators as possible so that we can incorporate their feedback into what we're doing. And quite frankly, the negotiating -- the negotiations and our positions in the TPP are better for it.

All of the input that we have gotten, whether they're through public comments, whether they're through one-on-one meetings, whether they're from, you know, through our advisory committee process has allowed us to hone our negotiating position and accomplish, you know, what is in the best interest of U.S. exporters and in the TPP. So, that's that question.

The question on ministerial involvement. You know, Ambassador Kirk, I, and then the ministers, and vice ministers of the TPP countries have been directly involved in the TPP from the start and will continue to do so. And as I said, Jim, the ministerial meeting in Vladivostok gives the opportunity for ministers all collectively to meet together, assess progress, and, you know, help guide the negotiators in terms of what the next step should be.

On China, this is absolutely not a negotiation that's directed at China. As I said before, the whole purpose of TPP is to be a platform for regional integration. And the vision is that this serves as the pathway for a free trade agreement in the Asia-Pacific. Again, if China, if Thailand, if the Philippines, whoever, as long as countries are able to meet the high standards that we're negotiating, that's the litmus test. And that's a question for the various countries as to whether or not they're prepared to do so. And the same applies to Taiwan. I understand that President Ma has made that statement. Again it's for Taiwan to be able to convince both the U.S. and the other TPP partners that Taiwan is a reliable trading partner and is able to meet the high standards that the TPP is negotiating. On beef, we welcome, you know, the news out of Taiwan on U.S. beef, and we'll have to see how that is implemented over the course of the next few months.

Male Speaker:
TIFA.

Demetrios Marantis:
We have a TIFA with Taiwan which has been on hold for a while and the news out of Taiwan on beef I think is very positive. And again, I think we'll have to sort of see how things play out in the next few months before making any decisions on the TIFA.

Kent Hughes:
Can you take a few more? Just a --

Demetrios Marantis:
Probably one or two more and then I really need --

Kent Hughes:
Just take this gentleman and then I have one more from the overflow room --

Demetrios Marantis:
Okay.

Kent Hughes:
--and then -- you have been very generous and we appreciate that.

Mike Mesenic:
Mike Mesenic [spelled phonetically] with the PBS Online NewsHour. And it's not just China, there's this discussion of a potential FTA with China, Korea, and Japan. Where -- and, although Japan may be trying to put chips on two tables -- where does that fit into this overall development?

Kent Hughes:
And from the overflow room, and we thank the patience of the overflow room people. As for small and medium size businesses, how are you concretely insuring an effort to lower their procedural and unit conversion burdens?

Demetrios Marantis:
I'm not sure what procedural and unit conversions means, but what we're trying to do in a contexts of SMEs is to make sure that difficulties that they've had in terms of trading and being integrated into regional trading flows

are minimized. So how do you do that concretely? You help SMEs insure that they have access to the kinds of information that they need in order to be able to trade. Like tariffs schedules, like regulations, and we are working very closely with our colleagues in , you know, the export promotion agencies like the Commerce Department to make sure that that is done.

We're also trying to make sure that obstacles that SMEs have had in trading are addressed. Like transparency. One of the biggest complaints we hear from SMEs is that is that they have a problem navigating the regulatory structures of different countries and that's just a disincentive for them to, you know, want to export to that market. That's one of the -- another thing that we're trying to do concretely in the TPP is to minimize the lack of transparency burden and to insure the SMEs have access to the -- not just the information that they need, but also are able to understand the regulatory procedures in different countries to enable them to better trade there.

In terms of the trilateral that Japan, Korea, and China are, you know, working to negotiate. I mean again, it's up to the various economies in the region to determine what's the best pathway forward for them, you know, we have been working on the TPP as a -- as a pathway for achieving the vision of a free trade agreement in the Asia-Pacific. There're other things that are happening in Asia, you know, ASEAN Plus Three, ASEAN Plus Six where, you know, all countries in the region are trying to achieve the vision of more liberalized trade in the Asia-Pacific and there are a variety of ways to do so. You know, we have gone down the pathway of TPP with, you know, 10 other partners right now, and again our goal is to, you know, incorporate as many Asia-Pacific members into this that are willing to, you know, to meet the high standards of the agreement.

So with that, I think that I need to skedaddle. But I appreciate the opportunity to be here today.

[applause]

Kent Hughes:

Thank you, Mr. Ambassador.

[end of transcript]

The Trans-Pacific Partnership and the Future of
International Trade

Panel 1: New and Future Participants

Kent Hughes:

Well, as you heard the Ambassador mention, that we have some new members. It's now the TPP 11 and perhaps 12; and as he mentioned -- and there are a number of questions about China joining perhaps at some point; and so we're really going to look at all those new nations and new partners and new potential partners dimension of the discussion. I just wanted to make two other announcements: I should have mentioned that we are live tweeting during the conference here, and you can follow us on hashtag #TPPWilson. I make that announcement assuring my team that I'm slowly moving into the 21st century.

[laughter]

And I wanted just also to thank Liz White -- Liz, sort of wave, if you would, to everybody -- who's done a wonderful job, really, in helping organize today's event. Well, it's now my pleasure to welcome back some former public policy scholars at the Wilson Center and a -- very distinguished old friends here to my left. As I mentioned that Canada and Mexico are just about to become formal negotiators. They were invited to join in June and were quick to accept; and they're now just going through the notification process here and in other countries. And I think it's a 90-day period; so very soon we expect you will be actively at the table. And we have, as I mentioned, distinguished -- pulled together a very distinguished set of experts here. To my far right and your far left, we have Luz Maria de la Mora Sanchez, a former public policy scholar here. She's the founder of LMM -- you can see where that came from -- Consulting, and she provides advice to key businesses and leaders on trade negotiating strategy and business opportunities. She -- like Woodrow Wilson, before jumping into this world, she was a very active participant in the Mexican government, undersecretary of International Economic Affairs. She also was active overseas in representing Mexico. She also is a guest lecturer, I believe, at CIDE in Mexico City; and, as I mentioned, has been a distinguished public policy scholar here. And to my

immediate right, and your more or less left, we have Laura Dawson, who is a real authority on U.S.-Canada economic relations. She has also served in the Canadian government. She served in the Embassy of the United States, rather, as an adviser on U.S.-Canada economic relations. She also has an academic side to her: a Ph.D. from Carleton University. And she, as I mentioned, was a Public Policy Scholar here at the Wilson Center here not too long ago.

Laura Dawson:
Not too long ago.

Kent Hughes:
To my left, an old friend -- good to have him back in town -- Ed Lincoln. Ed is currently an associate professor.

Edward Lincoln:
Professorial lecturer.

Kent Hughes:
Ah, well.

[laughter]

An even more distinguished position: A professorial lecturer at George Washington University.

[laughter]

He's been a fellow Council of Foreign Relations fellow over at the Brookings Institution. Until recently, he was running a center at the Stern School at NYU in New York, with a focus on U.S.-Japan economic relations. He really is an authority on East Asia and Japan. He -- again with a distinguished academic background. Amherst, Ph.D. in economics from Yale, and some public policy experience as a senior adviser to former ambassador of Japan Walter Mondale. And to his left, and my further left, another old friend, Jeff Schott, who's a long-time senior fellow at the Peterson Institute for International Economics. He focuses on international trade policy. He has written a host of books, as has Ed. Jeff's work is really often focused on free trade agreements, international trade; done some work on sanctions. He has been a guest lecturer for a number of institutions, including Princeton. And I was interesting -- I did not realize you had gone to Washington University

until I read that. And then has a master's degree from John Hopkins SAIS here in town. As he also combines his academic life with a background before that at the -- I think the U.S. Treasury, where he was actively involved in international trade negotiations, and continues to serve on senior advisory committees. Well, two of our distinguished panel -- and we are going to start with the new members, the members that made it the TPP 11. We're going to start with Canada, and maybe even pull our chairs back because you both are going to do a PowerPoint presentation.

Laura Dawson:

Good afternoon and thank you so much to the Program On America and the Global Economy, and the Canada Institute for the invitation. I'm very pleased to be here. As you heard from the introduction, I'm from Canada; and some of you, many of you might have visited Canada, you know; but despite our geographic land mass, we're a small country. Population-wise, economy-wise, we're about the same size as the state of California; but we aspire to greatness.

[laughter]

So you can imagine my delight last night when I turned on the Olympics and I was watching the U.S. Olympic women's basketball team; and what I heard was that the Yukon team -- the Yukon girls were tearing up the court. I thought, Yukon? Isn't that delightful: Women from the Canadian North are on the American team.

[laughter]

Well, many of you know my mistake, UConn, not Canadian territory, but University of Connecticut.

[laughter]

Go UConn.

[laughter]

Our admission to the Trans-Pacific Partnership was a lot like junior high school. When the Trans-Pacific Partnership liked us back in 2005, we didn't like it very much. You guys weren't involved. It was that Brunei Trade Agreement. I'm like, really, Brunei? So we let that one go past, to our great sadness later on. We liked it better

once we realized that the Doha was dead and much better after the United States went in. But then, like junior high school, we went running after your attention; and your attention had moved on to other, more attractive dance partners, I guess.

[laughter]

So we didn't expect that the US would wave the flag on behalf of Canada until we met some conditions, and I think we met those conditions. We provided a minimally acceptable copyright bill. And I think, maybe we did, maybe we didn't, put other dairy supply management on the negotiating table. That remains to be seen. But now that we're in -- or I should say just barely in, because we have to wait another, oh, 60 days or so before we actually get into the negotiations; so we won't be at the next round. We'll be waiting in the parking lot, gunning the engines.

So the reason why Canada finds the Trans-Pacific Partnership such a compelling trade agreement is pretty much the same reasons why the U.S. does: It gives us a foothold in Asia-Pacific markets. We don't currently have any Asia-Pacific agreements, and it also helps us negotiate a next-generation trade agreement in areas that businesses find important. What Ambassador Marantis says, "The neat and interesting stuff." So we're excited about that neat and interesting stuff as well.

But here's some of the practicalities of the Trans-Pacific Partnership. Some of you have seen this slide before. I stole it from the Internet. Every circle represents a separate trade agreement. That means that every one of these circles requires different administrative mechanisms for moving goods across borders. Each time you have to deal with these administrative mechanisms, that costs money. Some estimate that it adds about 5 percent to the cost of a finished good. So by consolidating some of these little noodles into a bigger TPP noodle, we expect that this is going to reduce the cost for business people. So that's one reason.

Another reason, of course, is the future -- is future growth. Now, if you look at this, this is U.S. exports to TPP members; and right now, it's clear that Canada and Mexico are your biggest markets; and all of the other TPP kind of, sort of -- right now it's not very impressive, is

it? If you had to make a decision based on this slide, you would be like, eh, I don't know; but what we're really looking at is future growth.

First of all, we're looking for countries that are big. If you look at the TPP countries, we have a number of strong, large-population countries, in particular: Vietnam, Mexico. If we're able to get, say, India, Philippines into the agreement, those would be a hundred million apiece. If we were to add China, that would be ten times the population of Mexico. So that's a very substantial emerging market. And that's really important because Canada and the United States right now, 75 percent of our trade is with shrinking economies. The so-called mature economies that everybody wanted to do a Doha Round deal with are now yesterday's news. We want to get in with that 25 percent that are growing. And not only the population's growing -- or I should mention, that those emerging market economies, the median age is under 30. We, in the mature economies, also have mature populations. We're heading to the rest homes.

[laughter]

So look now at the growth rates of TPP members. U.S. growth rate is somewhere less than 2 percent annually. Peru's growth rate is approaching 7 percent. Those are the folks that we want to be doing trade agreements with. So we want to be positioned there for the future. Where do Canada's interests lie for the negotiations? Well, our interests are pretty much what your interests are. We, Canada, Mexico, and the U.S., are pretty much integrated because of the NAFTA. Unfortunately, we've used up the benefits of the NAFTA and have to negotiate the next generation of issues; and so you -- the TPP for us is a beachhead for North American competitiveness. And so we're going to be a really strong ally for you on things like investment services, product and food standards, intellectual property. It's in our interest to align ourselves with you because that's where our trade regime already is.

The only problem is some of the neat and interesting stuff that we heard about might actually go off the rails. Now, I don't know for sure, because we're not in those negotiations yet; but I read Inside U.S. Trade. I read Jamie just like the rest of you do, and it looks like there's a temptation for the U.S. to fragment these

negotiations, to play its trading partners against each other. One of the things that I find most concerning is market access and the proposal that the U.S. should negotiate separate market access agreements with all of the different partners.

Well, what does that do? That makes the other, smaller partners suspicious, worried somebody else is getting a better deal. We feel like we're being picked off, playing one end against the middle; and I don't think this is really good for the U.S. either, because it means that we're not giving our best efforts to have a shared pool of benefits from all partners. So that's one example of something I'm worried about. And also, separate administration of trade agreements tariff and border measures adds more noodles to the bowl and makes it more expensive.

The TPP is a proxy for what we couldn't achieve in the WTO. It's an opportunity for us to work together to find new ways of doing things. But another example of ways that fragmentation could throw this agreement off the rails: In San Diego last month, assistant USTR Weisel said that as a condition of their admission, Mexico and Canada had to accept that parts of the agreement that were already negotiated wouldn't be reopened. Okay. Fine. That will slow down the process. We're okay with that. But then, she also said that if Japan were to come into the negotiations, that they would consider reopening the negotiations because -- or reopening the negotiating text because they will have to go back to Congress for each new member. Well, how is that fair? If that's the case, then we're going to be going from WTO to WTF.

[laughter]

As my daughter would say.

[laughter]

And I don't think that's any way to treat your closest trading partners and your neighbors. Thank you for the opportunity to speak to you today.

[applause]

Kent Hughes:

Well, Luz is getting ready to make her presentation. You can see that Laura was clearly using her noodle when she put together those slides. And people my age, of course, grew up knowing that you couldn't trust anyone over 30. Now, apparently, you can't export anyone over 30 so...

[laughter]

Luz Sanchez:

Well, thank you very much. I first of all want to thank the Woodrow Wilson Center for your kind invitation to participate in this event today. It's really a privilege. I feel very happy to be able to be back here after being a policy scholar a few years ago. And, well, before I start, I would like to say that I'm talking from a perspective of somebody who's an interested observer, as all of you here are, in terms of the TPP and in terms of trade. And I'm talking also based on my own personal, professional experience, having participated in Mexico's trade negotiation for around 15 years.

And as many of you may think, the question is why Mexico right now six -- seven months ago decided to participate in TPP? No. Why Mexico is a latecomer to these negotiations that -- as Laura was saying, it seems pretty obvious that we need to be part of it. And in this presentation, I'm going to try to explain a little bit, or to share with you my analysis on what I think Mexico's opportunities, challenges, and work will have to be for a hopefully successful participation in TPP.

Well, let me try -- let me start by saying that, as Laura already said and in the same fashion as Canada, Mexico also initially refused to participate in TPP when the four P4 countries offered to be part of the party. And why was this the case? Well, in my opinion, this responded to domestic political environment that covered Mexico's trade policy -- has covered Mexico's trade policy for the last 12 years; and I have to say that the two PAN Administrations, the Calderon Administration and the Fox Administration.

Why did this happen? The PAN governments that came into power in 2000 found it very difficult to define a new trade agenda, a new trade strategy; and the private sector, who suffered a lot from China's accession to WTO, not only in the U.S. market, but also in Mexico, really tried to build a shield to imports and to trade. So Mexico's private

sector basically built a protectionist agenda that did not want to know anything else about trade negotiations. In fact, in 2003, Secretary Canales, at that time Secretary of Economy, he said Mexico will not negotiate any more new free trade agreements; and that took everybody by surprise, including some government officers at that time.

So, basically, Mexico was getting mixed signals on trade from its private sector, but also from its government officers; and as I will explain a little bit later, Mexico only requested to become part in the -- in TPP in the APEC Honolulu Summit in November 2011, after -- in 2010, after having said that we were not interested in participating in the TPP negotiations because, basically, the private sector Mexico was not interested in getting in.

So Mexico becomes a latecomer to TPP. Mexico is admitted to participate in TPP in the Los Cabos Summit in the G20, seven months after it requests admission. And on July 9, the White House formally notified the U.S. Congress its intentions to include Mexico in the negotiations, which implies a 90-day period consultation period before Mexico can join negotiations. What does this really mean? This means for Mexico, that Mexico will not be able to participate in the TPP negotiations until 14 rounds of negotiations have been completed. And this is something completely unprecedented in Mexico's trade negotiations.

This is -- why is Mexico doing this? Well, Mexico thinks right now that it needs to participate in TPP for reasons that I will explain later. However, as Laura was already saying, one of the main concerns right now for Mexico and for the private sector and for all who are following the process is what will be those requirements that will result after the 90 period consultation? Will there be new requirements? Will there -- what is it that we have to expect from this negotiation process? We don't know, and we will only know probably by early October and after the 14th round of negotiations have been completed. And as Laura was already saying, the same that applied to Canada will apply to Mexico, meaning that Mexico accepted to take the texts that have already been completed or the drafts that have already been completed. Once Mexico takes part of it, because if the nine TPP partners have already agreed to a text, then Mexico will not be able to come up with new ideas -- no, with innovations. Is this a good idea for Mexico? Is it not a good idea for Mexico? Well, that's

something that we don't know; and that's something that we will have to figure out once the negotiation is in place and Mexico is able to participate in the actual negotiations.

Now, why is it that Mexico is willing to pay this high price? Well, I want to say -- I want to put forward three main reasons, which I think give us a little bit of perspective. First of all, Mexico needs to guarantee its U.S. market share. Mexico is the third largest trading partner to the U.S., but it's our most important export market. We export 80 percent of exports to the U.S. It's our most important trading partner. So, we need to guarantee that any preferences that are granted to other trading partners are also granted to Mexico or that Mexico doesn't lose its competitive edge in the U.S. market. Second, Mexico needs to build stronger bridges with key markets in Asia to make it a two-way street. Today Mexico's trade with Asia is very unbalanced. It's a one to nine ratio. And countries, for example Malaysia, is becoming a very important import source for Mexico. And third, and not least, the definition of new trade rules to strengthen Mexico's export platform. In Mexico, trade accounts for 60 percent of GDP. So really, Mexico needs to be at the discussion of new trade rules because Mexico is very dependent on international trade and exports for its own growth.

Now, which are the challenges that Mexico faces? Well, Mexico in the last 12 years has been -- has had very difficult -- has had it very difficult with the private sector to be able to define a trade agenda with the Asia-Pacific. Mexico is part of APEC, since 1991; and Mexico has a free trade agreement with Japan, and that's all our institutional framework with the Asia-Pacific. Mexico has refused to negotiate in the past bilateral free trade agreements with Australia and New Zealand, basically because they are agricultural powerhouses; and Mexico feels that the agricultural sector is going to be very effective; so Mexico decided to reject those offerings. And in the case of Malaysia or Vietnam, Mexico has also been very defensive in terms of traditional manufacturing, like textiles and apparel or footwear.

However, Mexico has established a tariff elimination scheme that will establish its MFN import tariff -- its MFN average import tariff at 4.2 percent basically for

manufacturing; but Mexico maintains some tariff peaks. In 2012, for example, their tariff peaks are basically in agriculture and in sectors like textiles, apparel, footwear, and automobiles. Now, where is the gain in terms of trade? As in the case of Canada, Mexico's trade with these six trading partners in the TPP represents only 1.3 percent of total trade; and as it's shown in this table, Mexico's exports to these six countries only account for .5 percent of its total exports to the world. Mexico's exports last year were almost 300 billion; and to these six countries, trade -- exports -- Mexican exports only accounted to \$1.7 billion. So in terms of exports, I'm not -- I don't want to say there is no gain there, but the gain is minor in terms of the export opportunities for Mexico.

Mexico also faces very serious challenges in terms of rules of origin, rules of origin that can actually contribute to strengthening Mexico's production capacity and also strengthening Mexico's integration in the North American market. The rule of origin was one of the reasons why Mexico rejected negotiating a Mexico-Singapore FTA, and negotiations with Singapore were derailed after seven rounds of negotiations because the private sector in Mexico was very concerned about transshipment issues. Disciplines on state-owned enterprises may require constitutional changes, for example, in the energy sector, where private participation, domestic or foreign, is prohibited; and if this is going to be at the table of negotiations, it will be something that the future -- the next administration of Mexico will have to deal with.

Public procurement has been an area of free trade agreements where the Mexican private sector has been completely incapable of taken advantage of. The Mexican private sector has not seen any benefit of negotiating public procurement. And the question here is what else in terms of opening in this sector. In terms of IP, the rule of law, as everybody knows, ACTA is one of the most sensitive issues in Mexico politically speaking, because the president decided to sign ACTA as a good faith -- or a building confidence measure for participation in TPP, while the Senate in Mexico has been completely adamant about making this domestic law. We don't know exactly how much ACTA really is going to tie the hands of the Mexican government; but it -- what we do know is that it has become a very, very politically sensitive issue between the executive and Congress.

And in terms of regulatory coherence, we also don't know exactly what this will mean for Mexico. In the past when Mexico decided to adopt the same standards and recognize the technical standards for electronics in Mexico from the U.S., that private sector took the executive to the Supreme Court because they were completely opposed to that.

So what are the opportunities for Mexico? Well, Mexico already has free trade agreements with the U.S., with Chile, and with Peru; and also, in case Japan comes in, with Japan and Canada, of course. And Mexico's trade with these type countries already represents almost 75 percent of our total trade. The TPP will hopefully help diversify Mexico's export markets in, for example, electronics, electric products, and agriculture, to name a few. And also will help diversify import sources from these countries where Mexico already is importing a lot. And basically Mexico's new export opportunities will be in the manufacturing sector: automobiles and auto parts, steel, electronics, and cosmetics. Not only for Mexico to become an export platform to TPP countries, but also to try to build some integration with NAFTA in terms of the U.S. and Canada to export to TPP countries.

Now, in terms of investment, TPP membership will also allow Mexico to remain an attractive location for FDI. Mexico today is the sixth FDI recipient among emerging markets, and it is very important for Mexico to have this kind of institutional frameworks to offer to new investors in Mexico. Also, the TPP could be a good push for domestic reforms in Mexico. It would be a good opportunity for Mexico to push its second rounds of reforms. That will allow Mexico to grow at higher rates. For example, in the energy sector, where there's basically a state monopoly, what we have today, and that we know that something needs to be done in order to boost Mexico's economy growth in telecommunications, transportation, banking, and even the fiscal law -- fiscal reform that's been pending for the last almost 40 years in Mexico. Institutional strengthening may also be something positive for Mexico in terms of improving its trade policy framework, given that Mexico's dependence on exports is key to economic growth, and also given that Mexico is the 10th largest exporter in the world; and also building trading blocs with NAFTA, with Asia, and with Latin America.

Why Mexico needs to be part of TPP negotiation; it's not really the question. It's how much it will cost Mexico. I think that it's very clear that TPP is one of the few initiatives where things are taking place and where things are happening. TPP opens the possibilities for Mexico to maintain its competition in the U.S. market, in the NAFTA, and also to maintain its market share in the U.S. market. Mexico needs to avoid being displaced by not only current TPP competitors, but also future TPP competitors. Mexico has to consider TPP as a way to increase its exports to Asia, and consider Mexico as an export platform to Asia, where right now we have been -- we have very low grades. And we really need to build new trade institutions to increase our relationship with the Asian markets, where today it remains basically a one-way street. Thank you very much.

[applause]

Kent Hughes:

Listening to Luz, we might want to update Porfirio Diaz by saying, "Lucky Mexico. It may be far from God, but so close to its major export market."

[laughter]

Why don't we move our chairs up. And then I'd like to hear from Japan, and then we'll -- we're going to have China bat cleanup as the --

Jeff Schott:

Okay.

Kent Hughes:

-- the major, major economy there.

Edward Lincoln:

All right. So we move on from the two countries that are coming into TPP to countries that might come into TPP. My message on Japan is don't hold your breath.

[laughter]

Now, let me start with a bit of history, partly because I see a lot of faces in this audience who appear to be too young to know much of the history of trade policy and Japan.

Kent Hughes:
Or lived through it anyway.

Edward Lincoln:
What did you say?

Kent Hughes:
Who have lived through it. They may be smart enough to know about it.

[laughter]

Still showing scars.

Edward Lincoln:
In the earlier post-World War II period, Japan was quite closed to almost everything except raw materials. You know, raw materials, since they didn't have them, they needed them, yeah, that was easy to get in. Everything else faced high tariffs, strict quotas. Foreign direct investment into Japan was also strictly controlled in the 1950s and '60s. The United States -- or the U.S. government eventually got tired of this. We tolerated it in the 1950s as a poor, devastated country was recovering from the war; but starting in the 1960's, we went through roughly 30 years of protracted, difficult trade negotiations. Some of that, unfortunately, was all about restricting Japanese access to the U.S. market, which, as an economist, I didn't think was a good idea. But a lot of it was about trying to bludgeon open Japan, saying, "Look, you're a big affluent country now, you need to open up your markets."

I can tell you with some confidence that, you know, the Japan of today is a lot more open than it was even 15, 20 years ago. If you walk into Japanese supermarkets now, you will find vegetables from around Asia, including a lot from China. You will see reasonably-priced imported wine, things like that; but, arguably, Japan is still considerably less open to imports and inward investment than it ought to be, given its status as a large, affluent, very advanced industrial, post-industrial if you wish, economy. We still see, for example, fairly sizeable pockets of restrictions in agriculture, particularly in rice, but also in the form of high tariffs on citrus fruits and things like that. In pharmaceuticals and medical

devices, yes, American companies do quite well in Japanese market; but if you talk to them for more than three minutes, they'll start kicking off a whole host of restrictions that continue to hinder their ability to operate in Japan. Financial services, again, much more open than it was in the 1980s, but also with a series of regulations and restrictions that tend to hurt foreign firms, the most visible of which at the moment is the continuation of Japan Post Bank and Japan Post Insurance company, owned by the government, with a variety of unfair advantages as a state-owned enterprise. Other kinds of services, legal services and whatnot, also continue to have various restrictions.

Therefore, Japan -- for Japan to join TPP would require some fairly substantial concessions on their part in order to be able to come through those negotiations successfully. If you think in terms of the easier things to negotiate have already been done, then maybe what remains is more difficult for them.

Second point I'd like to make is that certainly in principle, Japan has embraced the notion of bilateral and regional free trade agreements, starting around the year 2000. It has now more than a dozen of these agreements. However, the consensus among economists and other analysts who have looked at these is that these are not very high quality FTAs. The Japanese government, for example, is actually very proud of saying, oh, we have what they call new-age agreements, because they include services -- I've actually read all the way through the agreement with Singapore; and on services, it tends -- the agreements tend to be in the area of legal services: We will establish a bilateral committee that will report back in four years on what, if anything, can be done to expand access. That's not a very strong agreement.

[laughter]

Therefore, you could argue that Japan might not be quite ready for TPP, because people like Ambassador Marantis have been emphasizing that this will be a -- the standard-setting, high-quality trade agreement. I think that scares the Japanese because theirs have not been.

In a more positive tone, in the past decade or last 15 years or so, there has been a rising voice in Japan of both

academic economists, some politicians, some other commentators on public affairs, in favor of making Japan more open. In fact, even that Singapore agreement, which was not such a great agreement, there were people in both the foreign ministry and the ministry of economy trade and industry who said, oh, yes, we really need this because the problem in Japan is that we have become inefficient and we need to reallocate resources away from inefficient industries, toward efficient ones; and we need to become more open internationally to help drive that process.

As an economist, this really made me happy. Right? Economists have been preaching this ever since the time of Adam Smith, that, yes, indeed, being open to trade pushes your economy out of those industries in which you are relatively less efficient and expands your opportunities in those in which you were relatively more efficient. So it was nice to hear this coming from some Japanese. Those are the kinds of people in Japan who've actually been in favor of Japan joining the TPP negotiations.

All of that said, I really think it is unlikely that Japan is going to join the TPP negotiations in the near future, for several reasons. One, opposition remains quite strong. I was actually rather startled in the -- let's say, I guess in the spring of 2011, then Prime Minister Kan made some comments about how Japan ought to join TPP. His successor in September of that year, Prime Minister Noda, was even more enthusiastic; mentioned to President Obama that, yes, we are thinking about this. We haven't made a decision yet; but we're thinking about this -- led to a real outburst of visible opposition in Japan. I happened to be in Japan in October last year and walked into my favorite bookstore; and on the floor of the bookstore where they sell economics and business books, they have a table where they always have a collection of the books on the latest really hot topic in Japan. When I was there, the topic happened to be TPP. This was only about a month after Prime Minister Noda had said that Japan really ought to join TPP. There were 16 books on TPP.

[laughter]

Fourteen of those books were negative, with titles like "TPP Will Destroy Japan," "Japan: The Running Dog of American Capitalism."

[laughter]

I'm exaggerating a little bit, but not much. You know, provocative, negative titles. Meanwhile, your well-known pundits, Kent, you may remember Mr. Sakakibara.

Kent Hughes:
Oh, yes.

Edward Lincoln:
Who started writing op-ed pieces in opposition to TPP. So there is still strong opposition in general. Second, Prime Minister Noda faces this opposition within his own political party, the Democratic Party of Japan. He, himself, is a part of a faction; and within that party says, yep, we got to do this for all those reasons that the pro-TPP people were saying; but a lot of his party is opposed to it. His party, in general, is slipping in popularity. All right. This party is the first non-Liberal Democratic Party government of Japan since the 1950s elected in 2009; and they were elected because people had gotten tired for a whole variety of reasons of the Liberal Democratic Party. And now his own party is slipping rather dramatically in part because people perceive that the policies of this party are drifting more and more back in the direction of what the Liberal Democratic Party was doing when they were in power. We would say wait a minute, these guys were supposed to be the reformers, how come they don't sound so reformist anymore?

So he's got opposition within his party, he's got this problem with the party as a whole is slipping in popularity. That will hinder the process of tackling this controversial issue. He has actually tackled three controversial issues. This is -- surprises me somewhat. Japanese prime ministers typically only get one big controversial issue that they can handle, and once they've successfully dealt with it, either they fall on their own sword, or someone sticks a sword through them, and out they go, right?

[laughter]

He's taken on three. Raising the nationwide consumption tax from five percent to 10 percent, restarting nuclear reactors in Japan, and TPP. I gave those to you in the order of priority. The highest priority for this

government is getting this tax increase through. He will probably do it. Just a few hours ago he worked out an agreement with the Liberal Democratic Party that they -- not his own party -- but the Liberal Democratic Party at least will support the tax increase so long as the prime minister promises that there will be an election for the lower house of the parliament soon. I have no idea what soon means, but apparently this is the deal he has just worked out. So he will do that; that means relatively soon there will be an election. His party is going to get thrown out of office, and that, if nothing else is going to delay any decision on TPP.

His second order of priority is restarting nuclear power. This is certainly one where there is huge public opposition in Japan. He and his party have been kind of captured by this dilemma that on the one hand, yeah, maybe it was a good idea to move away from nuclear energy, but since just before the earthquake, Japan had been getting 30 percent of its electric power from nuclear energy having all of the nuclear power plants in Japan shut down, puts a big hole in nuclear -- in electrical power supply. So he's doing something very unpopular having started up two of the nuclear reactors.

That leaves TPP. As far as I'm concerned, TPP is nowhere. The people who were opposed to the tax increase, opposed to restarting nuclear reactors also happen to be opposed to TPP. He may be willing to fight them on the tax issue. May be willing to fight them on the nuclear power issue, but TPP I think is going to fall by the wayside.

So personally I think this is unfortunate, as Canada and Mexico have decided joining TPP is good for themselves. I happen to belong to the camp as an economist that said joining TPP would be good for Japan. It needs more structural reform in the economy to do well in the future, and this would help that process. But for the reasons that I have just gone through, I don't think this is going to happen right now. Will it happen later on? Could. You know five years from now the political situation in Japan might possibly have moved to some new equilibrium in which those in favor of TPP are winning out, and Japan comes in after the agreement is negotiated, but I do think it is unlikely that they will join in time for the current rounds of negotiations. Thank you.

Kent Hughes:
Mr. Schott.

Jeff Schott:

Thank you, Kent. I appreciate the invitation at the Wilson Center to invite me to participate in this very distinguished panel; and I also want to thank Ambassador Marantis for answering all the questions on China.

[laughter]

So -- actually he did a good job on that didn't he? And that's all that needs to be said. Actually not. Let me give you a little bit of context so that you have a deeper appreciation of what he said and what it possibly means for the TPP process.

Now among all the countries who we've discussed today, China's the only one who isn't participating, isn't interested in participating right now; is not participating, but it is at the table. It is in the minds of every negotiator at the negotiating table that are crafting the pact, or those who are seeking to join the TPP. It's hard to conceive of a comprehensive Asia-Pacific trade agreement that does not eventually include China, but right now every one of the TPP countries is competing furiously with China, is trading, is investing with China. China is a critical partner for them, and so how the TPP affects their competitiveness really will affect their ability, and their trading and investment relationship with China. China is on the mindset everyone at the table in the TPP negotiations.

Now the TPP participants already have extensive trade and investment ties with China and expect those flows to increase markedly in the future. They also expect China to become involved in new trade talks with TPP countries and they proceed forward toward that long term APEC goal of free trade and investment in the Asia-Pacific region. China in turn, has invested interest in maintaining good access to TPP markets that when countries that could well join the talks in the coming, let's say, 12 to 18 months, which is a period by the way when the negotiations will still be under way. Don't be -- you know -- don't be disabused of the fact that the talks have made a lot of progress, but they're nowhere close to being included, and

probably won't be until the end of 2013 at the earliest, maybe 2014.

In any event, if you add those countries, which includes Canada, and Mexico, and probably also includes Japan -- and I'll rebut or give you a different view from Ed in a minute on that -- but also includes Korea. I think you take those 13 countries; they account for about 40 percent of Chinese merchandise trade. So China is involved in this TPP process, one way or another, and that's why I think it's important that -- and I -- Kent made the call and including China in this discussion.

Now in the short run, China is likely to pursue and deepen its ties with its Asian neighbors before engaging with the TPP countries. Such restraint is basically due to political priorities as well as a lack of readiness and willingness to pursue a comprehensive trade accord. Now as Ambassador Marantis said, what the negotiators are working on is something more comprehensive and legally binding than the trade arrangements that have been a forge in the past by the United States or by -- certainly by the Asian countries whose agreements are generally much more shallow integration arrangements than we have seen concluded by the United States or Korea in recent years.

And because of that, some observers have concluded that TPP participants actually intend to exclude China from their integration arrangement, because it's just that the bar is set too high in terms of transparency of domestic policies and the rigor of disciplines on government interventions in the marketplace though similar types of arguments could be made about Vietnam, and Vietnam has made a political commitment at least to try to achieve that type of level of obligation and commitment. Whether they'll succeed or not is something that will be pursued during the negotiations.

Others take the argument even further and claim that United States is trying to keep China out of the TPP despite what the ambassador said, and is trying to contain China in order to re-chart its economic and political influence in the region. Well I was very pleased that Ambassador Marantis did not mention that theme. It is still very prevalent if you travel around Asia. Observers, officials, businessmen pick up very closely on the commentary that has been heard in the Congress and elsewhere about the containment strategy. And so I think it's worth a few

comments about this because those types of statements can be very damaging for United States interests and need to be rebutted.

Let me make a few points about the containment thesis, and it falls flat on several -- for several reasons. First, and most obviously, a trade agreement cannot contain a large country, either economically or politically. I mean the fact that you would think of that negotiating a trade agreement is part of a great geo-strategic containment strategy is laughable, and yet some serious people talk about it, and they need to be laughed at.

[laughter]

Second, more seriously, U.S. officials need a cooperative China to confront the myriad problems facing the world economy and the security challenges posed by new and aspiring nuclear nations in Asia. Both countries need to work together, and therefore must manage the inevitable frictions that arise as the breadth and scope of their commercial relations expand. We've seen that with the recent sanctions with Iran. It's prevalent every day in dealing with North Korea. This is a very, very real and important consideration. Third, no one else in Asia wants to contain China either. The trade and investment integration in the Asia Pacific region achieved over the past two decades benefits all that TPP participants even as it poses competitiveness challenges for their manufacturing industries, and that's, I think, an important point. We should be using the TPP to strengthen our competitiveness, and if it has some impact on China, it's going to mean that we're going to become more competitive in dealing with China and in our home market and in export markets. That's I think one of the major advantages of TPP, certainly for Canada and Mexico, but for the United States as well.

Now, time is running short, and I know you want to get a few questions in. So I'll skip over a few points, but to say that one should not discount the possibility that China can -- will be able to join the TPP in the medium term. It already has accepted obligations far greater than most developing countries in its accession to the WTO. So its market is much more open in terms of its border barriers to imports and to investments than most other developing countries. Now the rub is that its internal -- its domestic policies are the ones that have the real

restrictive affects, and those are the policies that the TPP is trying to discipline, and that's where China runs afoul. And that's why I said before it has problems with both the transparency and the rules on government interventions in the marketplace.

Now, it's dealing with that incrementally. It's engaged with a lot of free trade agreements in the region, most of which are not worthy of the name of free trade. But the more recent ones, particularly the agreement with New Zealand has achieved much more -- much higher levels of obligation in goods and services than has been achieved in the past. And the upcoming negotiations with Korea; actually the talks that have just started in May of this year promised to push China to much higher level of obligation even though much less obviously than Korea has negotiated with either the United States or the European union. But we can see this incremental progress where China is incrementally committing to higher levels of international trade commitments. It's almost like a learning curve. It's starting with the easier task, maybe going through an exhibition series season of free trade negotiations getting ready for the major league openers with the major markets where we'd have a substantial agreement.

That will take some time, and the political objectives of China in its own neighborhood will dominate over the next few years, but I don't discount the possibility that China could be trying to partner and work with its other APEC countries in the next three to five years. Maybe not signing on to TPP, but negotiating a deal that bridges the Asia integration arrangements with the Asia-Pacific TPP-style integration arrangements.

Now what could drive that bridging process? And this will be my last point, and a link to Ed's point. It's likely to be what China, Korea and Japan do among themselves, because if my thesis is right, and Korea and Japan end up joining the TPP sooner rather than later, they will be in both the Asia integration schemes that 10 plus three, 10 plus six, and in the TPP. And China will be moving closer towards a TPP-style norm over the years because of its interactions with Japan and Korea. Now Ed made a strong case on why politics is likely to lead to a lot of foot dragging and delay in Japan. But I think Japan can't afford to be

isolated, and if you look into next year in Japanese politics which is maybe a couple of prime ministers away.

[laughter]

Japan politicians will realize that they are being isolated, that the rest of the world is moving forward in trade agreements, in integration arrangements in the neighborhood. And then when -- that there are aspiring talks with Korea and China are really not getting anywhere because the level of ambition in those talks is of the type of shallow integration that China has done with ASEAN. Then they'll see that with Korea in the TPP, that that will be the driver. And so that's my reason for being a little more optimistic than Ed that this process may accelerate next year, but I share his concern and skepticism about forward progress throughout the rest of this year. That's my appraisal, and hopefully it's useful. Thank you very much.

[applause]

Kent Hughes:

Thank you Jeff. Let's open it up for questions, and again I invite the overflow rooms to submit questions to us. Gentleman in the back, and another gentleman here on the side. Another gentleman in the back, and then we'll go to the other side of the room.

Jim Berger:

Yeah, thank you. Jim Berger from Washington Trade Daily. Mr. Marantis. Mr. Marantis, Ambassador Marantis didn't answer my question about elections. I just wanted to ask you. Is it a whole new ballgame next year if we have a new president, or even if we have a second term of the current president?

Kent Hughes:

Do you want me to -- I'm the person who loves politics all the time. I think actually that there is a very good chance that the TPP is in the long-run interests of the United States, and that tends to drive I think long term trade negotiations. So in this particular case, I wouldn't necessarily keep my eye on the near-term elections. Would the panel agree to this since I'm being Mr. Optimism here.

Edward Lincoln:

Well I would just add though, that apparently Mitt Romney is on the record as saying he doesn't want Japan to join the negotiations at the present time. So as opposed to -- if the administration said if Japan can get around to it, we'd be glad to have them, but Romney apparently has chosen to disagree with that.

Laura Dawson:

I would just add that Canada is on the sidelines concerned about the absence of trade promotion authority, and what's going to happen with that, and currently USTR is dotting the Is and crossing the Ts as though trade promotion authority existed in following all the proper procedures, but it's not there. So we're hoping that this doesn't create problems in the future.

Kent Hughes:

Just urge a little patience.

[laughter]

Laura Dawson:

We are the soul of patience.

Kent Hughes:

There's a gentleman in the back. Please identify yourself.

Don Kui Yu:

Okay. Thank you. Don Kui Yu with China Review News Agency [spelled phonetically]. My question is for Mr. Jeff. And you mentioned that the TPP is not meant to contain China, but I think most of the people in China believe that this is the U.S. effort to try to play a leading role in Asia-Pacific economically, and also want to at least offset the China influence in the Asia-Pacific trade system. So are you concerned that TPP standard is too high for all the members to get a consensus, and then they turn to kinds of bilateral trade, free trade agreement with China?

Jeff Schott:

Well first of all, both the United States and China gain from deeper integration in the region, and that's why they're both been working together for a long time in APEC on the long-term strategy and objective of achieving closer integration in the region. So that's not the issue. The objective of the exercise is not to have a trade agreement; it's to promote economic growth, increased imports,

increased exports, increased employment in all of our economies. So the trade agreement is not the magic bullet that will achieve all of that, but it can complement policies of each government in pursuit of those goals.

Secondly, the United States wants to continue to play a strong role in the Asia-Pacific economy. It has been in the forefront of APEC since its founding, and this has a long term horizon. So I think that it is -- as I said, it's not a containment issue. There's -- and I don't believe most people in China feel that way. I know that there have been commentators; biased commentators as we have here in Washington who take both sides for political reasons and otherwise, and so that's part of the national debate, and part of the international negotiating posture. But I'm not concerned, and I think the United States and China; it's in both our country's interests to be working closely together and eventually to achieve what we have both committed to in APEC.

Kent Hughes:

Let's take the gentleman there, and then the gentleman -- the distinguished gentleman here in the front row.

Steve Winters:

I -- Steve [unintelligible]

Kent Hughes:

Please let me say one thing. I just want to thank Chris Wilson [spelled phonetically] who's a program associate with our Mexico Institute who's volunteered to bring the questions here from overflow -- and thank you Chris. Please --

Steve Winters:

Steve Winters [spelled phonetically], local researcher. Quick question for Mr. Schott. You've sort of been disparaging the quality, as you put it, of the trade agreements that China has with the various neighboring countries, and of course one of the buzz words in favor of TPP is that this is the high-quality, the high-level agreement. However, the fact of the matter seems to be that the amount of trade between China and these regional neighbors is just increasing exponentially. I mean it just -- out of sight, and they all recognize that. So if the purpose of the trade agreements is to lead to increased trade, they're certainly successful. So by what standard

do you judge them as low quality when they're working so well?

Kent Hughes:

Let's take another question. Mr. Mulloy. Wait for the microphone please.

Pat Mulloy:

Yeah, Pat Mulloy. I teach trade law at Catholic University Law School, but I was general counsel the Senate Banking Committee in '88 when we wrote the provision of law requiring Treasury to identify countries that manipulate their currency to gain trade advantage. In the past, the Treasury has identified Korea and China; Japan has always been in that group that may be doing that. And you want to bring China -- or the thought is maybe China and Korea would both come in to this TPP. Do you think this agreement then should cover exchange rates as an important part of dealing with these kinds of trade problems?

Kent Hughes:

Let me add a third question if I may for the panel from the overflow room. What is your comment on the possibility of Taiwan's joining TPP? A question that was also posed to the Ambassador. Jeff why don't you be head of --

Jeff Schott:

Why don't you take the overflow --

Kent Hughes:

This is -- that -- what is -- you both are almost at the table. What are your thoughts, Mexico and Canada, about inviting Taiwan to join at some point TPP negotiations?

Luz Sanchez:

Well Taiwan is part of APEC right? So if TPP is going to be the basis for free trade area the Pacific, then probably there needs to be ways to think how to accommodate Taiwan.

Laura Dawson:

It's hard to comment on that without getting into a discussion of political relations with China, the greater China region. So I am going to opt out and say Canada is to be -- I could speak on behalf of Canada -- is open to as many members as possible within the TPP. We are, as I said, a small economy and we do better when we move in groups. There's been some discussions of Canada doing a

bilateral with China, and great. More power to us and you know, maybe we can get an agreement like New Zealand did; but that's still a very small agreement because we don't have the market power. So we're in it with TPP with whoever wants to play, and we're also looking at the Pacific alliance as well.

Kent Hughes:

What about the currency question? I mean that's something that really has affected many countries if a country is in fact keeping its currency consciously undervalued, it reflects on virtually all the competitive countries. You -- does Japan now which suddenly is worried about an overvalued yen; do they take a view on other countries that may be manipulating their currency?

Edward Lincoln:

You know it's interesting that unlike the -- the big debate we've had in the United States about China's currency; Japanese don't seem to care very much. It's just never currency manipulation by China undervalued Chinese yuan just doesn't come up in Japan. Now that may be in part because if you look at the trade data for Japan, and if you -- instead of looking just at Japan PRC trade, you throw in Hong Kong because a lot of things that are labeled exports to Hong Kong are just passing through Hong Kong. Japan does not have a trade deficit with China. It's probably one of the only countries in the world that does not have a trade deficit with China. And so that probably explains why the currency issue just doesn't seem to get any traction there.

Kent Hughes:

What about Mexico and Canada? Do you feel the impact from other countries using their currencies as a strategic tool in trade?

Laura Dawson:

We feel the impact because your currency's devalued.

[laughter]

But I got a great price on an iPad. I will defer that question to a real economist.

Luz Sanchez:

It's -- for Mexico it's one of the most serious issues with China. Not only the manipulation of the currency, but also the huge deficit that we have with China, and in addition to that you have to add trade remedy laws that have to somehow consider the currency in terms of how to estimate normal value and all that. So for Mexico I don't know if on the trade side we have the finest specific decision in terms of having that issue on TPP, but Mexico certainly a part of WTO debate in this area with China.

Jeff Schott:

Okay, you want --

Kent Hughes:

-- kind of seems to be hovering around this question Jeff.

Jeff Schott:

Yeah, well let me --

Kent Hughes:

Of course Jeff used to work at the Treasury, and if you've ever been in the U.S. government you know that only the Treasury can mention the word --

Jeff Schott:

That's right. You don't want trade negotiators mucking up with something important.

[laughter]

But actually -- and I'll return to the first question last. But actually trade agreements have long covered this issue. Article 15 of the GATT deals with the issue of manipulating -- essentially manipulating currencies to undermine the value of trade concessions. Now the process and the procedures of Article 15 don't work. They don't work for a very simple reason, because any case brought against under the WTO citing this GATT provision, requires certification by the International Monetary Fund that a country is manipulating, and that certification has to come from the executive board, and the executive board is -- will not make that determination because members of the executive board are scared of China. I'm never going to be a diplomat.

[laughter]

But that's the way it is.

Kent Hughes:

-- [unintelligible] that quote.

Jeff Schott:

Now the efforts of the Congress and the efforts of groups pressuring for currency legislation and countervailing measures has essentially been directed at the IMF to do its work; to do its job. Then the Congress wouldn't have had to spend and your commission wouldn't have had to spend all these hours debating on what can be done, or passing laws, tinkering with the contingent protection statutes that deal with the small part -- a very small part of the problem.

I think much more needs to be done in terms of getting better coordination and cooperation on the trade and the financial objectives. This has been a problem that we tried to deal with back in the late '70s at the end of the Tokyo round with obviously not much success. But it's something where the IMF needs to work more closely with the WTO, and if push comes to shove and the administration wants to file a case under Article 15, that's its right to do so. That would certainly shine a spotlight on the issue, though unless the IMF came forward with the certification, we would probably lose that case.

But in the interim, this pressure whether it's from the Congress or from other countries, Brazil, Mexico, and others that have been starting to talk about trade and exchange rates in the WTO, I think there has been an evolution in Chinese policy and it's at least moving in the right direction. Is it sustainable? That's a good question, and -- but at least the quiet diplomacy and pressure that Secretary Geithner and others are putting on the Chinese for some time seems to have had some modicum of success.

A word on Taiwan. I think it would be very difficult for Taiwan to join the TPP in the near future. I think Taiwan is doing itself a favor by strengthening across-straits relations because that is probably the avenue for Taiwan to get into the -- to get in sooner rather than later in an Asia-Pacific deal as part of a bridging operation that involves China, Korea, Japan. And if Taiwan can work with those countries, it could perhaps build part of that bridge. But that's -- this is sort of blue sky thinking a

couple years down the road. That's what it makes sense because the political constraints for Taiwan's entry into the ongoing negotiation of the initial deal I think are just too high.

Final point on shallow integration or low quality. Low quality in terms of the extent of exceptions and omissions. No question about that, it's low quality. Shallow integration, focusing on just the sort of border measures, not behind the border measures, and again numerous loopholes, soft commitments as Ed was talking about. Why has trade grown? Because these are high growth countries and the trade agreement has been totally irrelevant to the growth and the trade. In fact if you look at the utilization of those trade preferences and the Asia Development Bank has done some recent work on that; utilization rates of those trade preferences is very low. It has been increasing in the last few years, but it is still at a very low level; maybe 20 or 30 percent. And so from that I conclude that the trade agreements actually are more important for political relations than economic relations between those countries at this stage.

Kent Hughes:

Let me just pose a question that came in from the -- one of the overflow rooms. It seems USTR hopes to wrap up the IP chapter prior to Mexico's entry. What is Mexico's stance on the current high standard IP provisions being discussed?

Luz Sanchez:

Well it's hard for me to give you a definite answer because I'm not part of the negotiations, and I'm not part of government. However, what I can tell you is that having the ACTA conditionality in terms of -- let's say how we put it in a nice way; like a confidence-building measure that Mexico will sign, act, and will commit to IP created a lot of concern in Mexico. The problem is that we really don't know exactly what we're talking about. We have no real information about what it really means for Mexico to be part of TPP and what are the IP commitments, and how different they are from what we already have in NAFTA, or what we have in WTO. We really don't know, and probably it's more of a political question than a substantial question.

Kent Hughes:

Let's take just a couple more questions, then we'll have to move on to the next panel. We don't want to neglect Inside U.S. Trade certainly. The gentleman here in the front and the gentleman and the lady in the back there.

Eric McVadon:

Eric McVadon Institute for Foreign Policy Analysis. Did you want me to go first? Is that --

Kent Hughes:

That's one of you've got the microphone and then we'll say we'll not neglect Inside U.S. Trade which we're all faithful readers of Inside U.S. Trade, so...

Eric McVadon:

For the sake of both U.S.-China relations and for the effectiveness of the TPP, should we be maybe not courting China, but encouraging China in vehicles like the security and economic dialogue or some other means to urge them along, increase the chances that they become interested in TPP?

Kent Hughes:

Jeff I think that probably starts with you, and then we'll all --

Jeff Schott:

I'd give it a very short answer, yes; and I think we're doing that. So that they increase the readiness -- their preparation and readiness for participating in the future.

Kent Hughes:

The --

Jamie Strawbridge:

Thanks again. This is Jamie from Inside U.S. Trade. Just two quick questions. One for Ms. Sanchez on Mexico. Do you sense -- I know Mexico has been very enthusiastic about joining TPP, and says it can live up to the high standard; but do you sense a shift in policy in Mexico? I mean I'm wondering about things like the U.S. is insisting that all TPP countries should have to sign up to the Information Technology Agreement, you know. Mexico has steadfastly refused to sign up to that for years, you know. Is there -- do you see a shift, or with the incoming administration where Mexico might be willing to accommodate that, and similarly building on your point of government procurement,

you know, that's another difficult issue. Again, we kind of all know Mexico's position, but I mean, do you sense that they might be willing to really push that and agree to something new in the context of TPP?

And then for Mr. Schott, just a quick question on your counterbalancing views on Japan coming in. I just wanted to clarify one thing. On Korea coming in, I kind of thought Korea would be, you know, interested in joining TPP too, but then we haven't heard much from them. Like are you still convinced that they really want to come in in the near term to TPP? And kind of, if so, why haven't they been more aggressive on that so far? Thanks.

Kent Hughes:
Mexico first, and then East Asia next.

Luz Sanchez:
Okay. I don't want to be cynical, but I think that there's -- there's really no substantive explanation of why Mexico shifted its position from no TPP to full TPP. Basically the Calderon administration has very little to show in terms of trade legacy. The only free trade agreement that we were able to negotiate was Peru-Mexico Free Trade Agreement and that took six years. It was a very, very difficult process to pass it through the Senate. Second, the Calderon administration will be over on November 30th. There is a new government coming in, the PRI. And I think that the bet right now is let's be part of this deal. We cannot afford to not be part of it because our integration to the NAFTA market and let's see what happens. I think that if Mexico is going to sign up to ITA or not -- I mean, basically Mexico has been adamant with because Mexico doesn't want to give duty free access to the sector. But we'll see, and if at the end of the day Mexico doesn't want to -- thinks that it's not to its advantage; well Mexico will decide if it wants to pass it through the Senate or not. And with democracy it's been proof that passing free trade agreements in the Senate can become very difficult.

Kent Hughes:
Weren't you saying something about Korea, and then --

Edward Lincoln:
Let me say something about Korea. My sense is that the Koreans went through a tough time with the KORUS Agreement. It was a difficult negotiation; very controversial at home.

They got it passed through their parliament, but again, difficult. So my sense is that maybe there's a "Well, okay we did that, let's wait a little bit." And in waiting, there seems to be an attitude of "Well, we can probably take on one more new negotiation. Should it be TPP or should it be China, Japan, Korea?" Kind of waving those two things, and frankly from the Korean standpoint, they've got this agreement now with the United States. The other participants in TPP are relatively small trade partners for Korea relative to the United States. So from that standpoint, why not go do one with Japan and China, who are the other two giant trading partners for Korea.

Kent Hughes:

Jeff, maybe a...

Jeff Schott:

Slightly different perspective. The Koreans did the same deal with Europe that they did with us essentially, and it was much less controversial. So that wasn't the issue, but they had to digest a lot and they went through a lot of ups and downs before the deal was finally implemented this spring. Now there wasn't a -- the initial delay in considering TPP because the opposition party to the ruling party used the KORUS FTA as a rallying cry in opposition to the current government even though the opposition party were the ones that actually started and negotiated the deal. Politics, politics.

[laughter]

And they thought that would be to their advantage in the national assembly elections in April, and that would then kick start their drive to win the presidency at -- in the election at the end of the year. Well that strategy didn't work. The voters -- didn't resonate with the voters and so the TPP -- opposition to TPP fell off -- not totally off the table but became much more muted. As a result of that, when the current Korean trade minister came to Washington in May and gave a talk at the Peterson Institute, he responded to questions about this and said that it was probably something that would be favorably considered going forward.

Now Ed is right. The first priority for Korea is Korea-China. It's not Korea, China, Japan. That's a different level. That's -- but Korea-China talks got under way in

the beginning of May, and they're not going to be easy. They're not going to be as comprehensive as the KORUS or TPP. But it is going to be important; both economically and politically for Korea. I think what they see now is moving forward they're not going to make any big economic decisions before the presidential election in December and the new Korean president enters office in late February. So I suspect that it will be left to the next president to decide.

One other factor, and Ed may want to comment on this. I think one of the reasons why the decision will be in favor of moving forward with TPP is because not only -- because of its implications for Korea-Japan relations, and I think it could unblock a decision by Korea to join TPP could at the same time unblock long suspended bilateral FTA negotiations between Korea and Japan, and so that dynamic is something that hasn't been mentioned so far today, but I think could be important going forward.

Kent Hughes:

Make this the last question and we'll move to the next panel after --

Nadia Tsao:

Hi, Nadia Tsao with the Liberty Times Taiwan. I think Ambassador Marantis just mentioned you don't need an invitation to become a TPP member, but obviously you know, Professor Dawson and Sanchez just mentioned Mexico and Canada were invited. So is there actually an invitation for girls waiting outside to get into the ballroom?

[laughter]

And you have to make a decision for the pro and con in such a short time. I mean, domestically how could you -- you know; how did you make the process smooth? Thank you.

Kent Hughes:

Laura is our two step specialist.

Laura Dawson:

I'll talk about the accession process, or the membership process; no it isn't an official invitation, and if you read the TPP text it's very vague. But it seems to me to be a consensus process with a right of objection so if anyone objects, then that effectively blocks the membership

of the aspiring party. So Canada embarked -- and Mexico -- we embarked on a charm offensive, and with some of the TPP members we had to be more charming than others, and there were some soft conditions that were put out at least between the U.S. and Canada of things that they would like to see Canada do before we were considered to be ambitious enough, fast-moving enough, et cetera, et cetera. And so we worked on these conditions, but it wasn't just the U.S. In fact, New Zealand was quite an opponent to Canada's membership because of our policies on supply managed dairy.

Kent Hughes:

With Luz and Laura, how could a charm offensive fail?

[laughter]

Luz Sanchez:

If I may add, in 2010 for example when Malaysia requested accession to TPP, Malaysia got the invitation and accession to the table without any problem. In the case of Mexico for example, not only the U.S. has this consultation process, but also Peru was putting a lot of questions and concerns because Peru was not happy with the kind of agreement that we ended up with. So that's not part of the debate, but yeah, I mean there are ways in which the process can be stopped.

Kent Hughes:

We're going to make the last question from the overflow room. It's a question about what's happening in Europe, and the turmoil in Europe. What if in part, the Eurozone collapsed? What would that mean for the TPP? Would that so overwhelm the economic situation? I'm trying to find some question that makes Jeff a little less optimistic.

[laughter]

Jeff Schott:

My optimism depends -- it's a temporal process so it's a question of the timeframe. If you're talking about events in the next three or four months, or six months, then there's reason for some skepticism. If you take the government's time table for the negotiations, well yeah, I'm not optimistic. In terms of an impact of problems in the Eurozone, everyone's got their doomsday scenario, so I won't assume you know, the world is coming to an end and an asteroid is going to hit us, and what does that mean for

the TPP? Rather, what happens if the Eurozone continues to kick the can down the road, they don't do the adjustments needed to restore growth, and they perhaps slide into a slightly deeper recession; maybe lose Greece in the process? Well that will have an impact on global growth, and in a period of slow growth that's going to make it difficult to manage the political economy decisions in many countries that are needed in determining whether countries will support changes in current policies that will open up new trade and investment opportunities, but require adjustment of their own firms. And so the weaker the growth, the more political resistance there is to changing existing policies, the more demand for new protection, or at least temporary protection. And therefore, that will be an impediment to do concluding the talks.

Laura Dawson:

I think that just emphasizes the point that right now 75 percent of our trade is with shrinking moribund economies, so we need to negotiate harder, faster with the emerging markets.

Edward Lincoln:

Could I add one other angle to this? Over the past 15 years there's been a lot of talk in Asia, principally in Japan but a little bit elsewhere, about the possibility of a common currency in East Asia, and I'm guessing and kind of hoping that this is the end of it because now they can see even in Europe with you know, countries that were close together geographically, common land borders, a much more common history than is the case in East Asia, how difficult it is to make this thing work, and how much harder it would be in East Asia.

Kent Hughes:

Well thank you all. Wonderful panel. Please join me in a round of applause.

[applause]

[end of transcript]

The Trans-Pacific Partnership and the Future of
International Trade

Panel 2: Key U.S. Interests

Kent Hughes:

Let me introduce this distinguished panel. I'm just going to introduce them alphabetically, and then we will speak in a slightly different order. Let me start with Stephanie Burgos, who's to my immediate right. She is a senior policy advisor at Oxfam America. She focuses on food security and agriculture, as well as a host of trade issues. She has brought an extensive background with her to Oxfam for such a young person. She worked for UNDP, for the IDB, and again on these kinds of questions. I believe you were active with an NGO initiative that involved the World Bank, and has done a lot of work on human rights in Central America. She has a bachelor's and master's degree. A Master's degree in International Development, in fact, from American University. And to her -- to my left is Celeste Drake from the AFL-CIO. She's the trade policy specialist there; and she covers a host of issues: manufacturing, trade, global development and so forth. She came with a distinguished career in Capitol Hill. She was the legislative counsel -- or legislative director for Congresswoman Linda T. Sanchez, and before that legislative counsel for Congressman Lloyd Doggett. She has a JD and an MPP from UCLA; won a whole host of number -- of honors. Was honored for your oral argument skills; so we'll put them to work shortly.

[laughter]

And one of the interesting things that certainly caught my eye, that before doing all these distinguished things, she taught world history and economics at Granite Hills High School. Then to her left is Jim Grueff. Have I said that correctly?

James Grueff:

Gu-raf [spelled phonetically].

Kent Hughes:

Grueff, who is the -- he's the proprietor of Decision Leaders, but he really in his heart is a long-time trade negotiator. His career in the Foreign Service was very

distinguished and very much focused on agricultural trade negotiations, really going well back to developing, I think, the early phytosanitary and sanitary standards with the WTO. He also served as head of the Food and Agriculture Service offices in both Tokyo and Germany in Berlin. Since leaving the Foreign Agricultural Service, he really has, I would say, traveled the world in sharing his knowledge of agricultural trade issues with a host of governments and a host of audience. He has a BA in International Studies and MA in Agricultural Economics from Ohio State. I was saying my father went to Ohio State, and it was the first fight song I ever learned.

[laughter]

To my further right is Linda Menghetti. She's the vice president of the Emergency Committee for American Trade, which, as you know, is a major trade organization of some standing here in the city. The emergency to which the title refers actually started in 1969 so --

[laughter]

We're still in an emergency situation. She has a very broad portfolio that encompasses trade and investment issues and certainly includes the TPP and, of course, trade with China. Prior to joining ECAT, Ms. Menghetti was the chief minority trade counsel for the Senate Finance Committee and was -- served there, among other things, under the late Senator Patrick Moynihan, who was, in many ways, one of founding fathers of the Woodrow Wilson Center. And you also, I believe, served as a legislative assistant to Bill Bradley.

Linda Menghetti:
[affirmative]

Kent Hughes:
She has a BA from Penn State, a law degree from Boalt Hall University of California Berkeley. Well, this is really a terrific panel; and one our number, Ms. Menghetti, has a PowerPoint, so I thought we'd pull our chairs back and start with the PowerPoint; and then we'll pull our chairs back forward again.

Linda Menghetti:

Thank you, Kent. Is this on? Thank you, Kent. Thank you to the Wilson Center for putting on such a magnificent program, starting with Ambassador Marantis, and going through all the distinguished panelists, I feel quite honored to be here today. I would also point out that my organization, ECAT as we're fondly known, is also secretariat to a much bigger group of companies and associations, the U.S. Business Coalition for TPP, that brings together all the major business associations, everybody from the National Association of Manufacturers and the Coalition of Service Industries, to the U.S. Chamber, as well as many other companies and industries in all sectors of the U.S. economy who are looking for a high standard, ambitious, and comprehensive agreement. There is about a list of 15 principles that the TPP coalition has put together. I think it's about three or four pages. TPPcoalition.org if you want to take a look.

When I think about the TPP, I always start after Hawaii, after last year's APEC Leaders Summit, with the TPP leaders' vision statement. Because I think for many of us in the business community, this is exactly what we're talking about, what we want to see out of these negotiations, comprehensive, next generation, regional, model for ambition. We all heard Ambassador Marantis talk about these same things. And the objectives that the leaders of each of these countries are trying to attain, and now happily joined with Canada and Mexico formally in October, are really important things to all Americans, to businesses, to our workers, our consumers and everyone. And you look at the benefits that they put together at part of the leaders' statement, and I think that there's all things that I would hope that we all would agree on as being important common objectives.

You heard Ambassador Marantis actually go through these five features, and he added one more about addressing nontariff barriers. We agree absolutely in the American business community about the need to be comprehensive, regional, crosscutting trade issues, new -- addressing new trade challenges, and being a living agreement. What I thought would be most useful today was to go into a little bit more depth on some of the top, top priorities that we're looking at in these negotiations and give a little bit of a sense of where we see things at the moment. And these are the ones I'll be talking about.

Comprehensiveness, you saw it in the earlier slides, if you read the statement from the TPP leaders. What I'd add here is that the Asia-Pacific business leaders put out a statement in Honolulu last year, at the time of the leaders' summit in APEC, and we talked about the same thing, that the Asia-Pacific business organizations all want to see a comprehensive high standard and ambitious TPP. What are we talking about in comprehensiveness? We're talking about all products, all products, all sectors, no complete exclusions; and when we mean all products, we mean rules of origin that are commercially meaningful so you don't have it -- a product covered, but yet there is no trade in that product because of the rules of origin make it so difficult for any industry to compete.

We look at market access for goods, for services, and for investment. Ambassador Marantis talked about negotiating on a negative list. Absolutely; stronger rules on SPS, although I think my colleague might be talking a lot more about that; stronger rules on technical barriers to trade; nondiscriminatory access and that this access should go to government procurement as well. We heard our Mexican speaker talk a little bit about some challenges or issues maybe in Mexico on that; but for, I think, the American business community -- but I think business communities more broadly having open, transparent rules space and reciprocal government procurement markets helps everybody. It helps governments obtain goods and services in a much more cost-efficient way at a time of tight budgets; and it really opens up access to major markets around the world. So that's comprehensiveness.

Investment is an area where I spend a lot of time; and hopefully, maybe there'll be a program on bilateral investment treaties, Kent, and the negotiations we have with China and India and some of the other things out there, because I think that might address some of the other issues that were raised in earlier panels. What are we talking about, investment? This is an issue where there's a lot of high profile, certainly on the Internet and elsewhere. Nondiscriminatory access. You can't discriminate against a foreign investor, go get equity caps other things. Basic protections. Foreign investors in the United States have a whole slew of protections from our constitution to state constitutions and everything else, basic due process, fair treatment with government regulatory activities. Those are the same sorts of things

that U.S. companies want overseas, and then we want enforcement. We want neutral, objective, time-limited enforcement; and for investors, that means investor-state.

Investor-state is unique to the investment world, but it's not something new or different or some special welfare program for companies. It's in nearly 3,000 agreements worldwide, because investors really put themselves out. They're very different from those who just export or import. Our companies, our capital, our intellect property, our employees, are wholly subject in these foreign countries; and so we just want to make sure that they're treated fairly and that we have the right to raise issues with that government if the commitments are not met.

There's a lot of issues, for those of you following investments, with Australia, who is now -- has stated that it doesn't want to do investor-state, even though it has it with every other TPP partner, except New Zealand, where it has a closer economic relationship. It has it with Mexico, who's coming in. It doesn't have it with Canada; so hopefully, Laura's right and we'll have a new ally in Canada when they formally join. And we want basic rules, but there's a lot of debate about that; and we might have that this afternoon as well.

Intellectual property. I don't know if any of you have seen the Department of Commerce report that came out in about March, April of this year. IP-intensive industries are critical to the success and competitiveness of the United States. Look at those numbers. It's jobs. It's exports. It's growth. It's higher wages. This should be something that we all care about getting right; protecting our intellectual property rights overseas, protecting our inventors, our artists, our scientists; and it is also something that's not just important to the United States. It's important to all. It breeds innovation and competitiveness in countries around the world. It breeds GDP growth. It breeds jobs, and it helps ensure safety and a better quality of life. Yet, as you know, there's a lot of challenges in the IP section, a lot of critiques; should we be protecting intellectual property rights online? What do we do about pharmaceuticals; should we let other countries take our patented medicines and advantage their local generic industries and leave our industries and our workers without those protections? We, in the American

business community, feel very strongly about intellectual property.

Ambassador Marantis beat me to the punch. He talked about cloud computing and all these new issues out there, cross-border data flows. These are definitely the issues of the future, and it is so important that the TPP countries keep their eye on the ball on these difficult, new issues out there. We don't know -- we didn't expect all the advances that we've seen in the last 10 years, and who knows what the next 10 years are going to bring. The -- this is a list of issues that are critical in this area. The first two. I would highlight cross-border data flows. I think we can do that with privacy and the needs that countries have; but companies when they invest abroad, when they sell abroad, they need to be able to move their data. This is closely linked with concerns we've seen around the world where countries are starting to say, well, if you're going to have an IT, an information technology infrastructure, we want your server in our country. That is something that will so disadvantage any small- and medium-size enterprise. That is something that will stifle the type of e-commerce that we're seeing, as well as the cross-border investment that is so important, not just to sell goods, but for infrastructure and for other forms of development as well.

Another key issue is competition policy and a level playing field. Here there are -- you know, having all other countries agree to ensure that they have a competition authority, that it's independent, that they enforce the law, promoting more open markets, a competitive landscape for consumers, and address systematic competitiveness issues. And one of the top issues there is the issue of state-owned enterprises and related issues. Supply and production chains is another big area of focus in the negotiations, something that the U.S. business community cares deeply about. And this is an issue that is really important to small- and medium-size enterprises too that participate in these global supply chains. We want to see a lot more work done to simplify trade, to make it easier and more cost-effective. When I was listening to Ambassador Marantis, I was thinking about one of the key issues on -- again on small- and medium-size enterprises, raising the de minimis level in the United States and all the countries so that when goods go overseas, they don't have to go through the hordes of paperwork for very little

tariff payment, but things that really limit the ability of our SMEs to participate.

Enforcement, obviously critical. Obviously, a state-to-state enforcement needs to be there for all commitments, investor-state for the investment commitments. One of the things folks are really looking at now is a rapid response mechanism, particularly in the food and agricultural area. You have shipments, grain shipments, whatever type of shipments going to the border, another country stops it, you can't wait months or years for the -- a state-to-state dispute settlement process to work. Your product is, you know, lost in the process. What can we do to advance that type of mechanism and really bring the TPP to a new level?

A living agreement; it's both living in terms of bringing on new members. The American business community is very interested in seeing new members agree to the same basic high level comprehensive-type of commitments. But also to develop mechanisms to keep the work going. There's work you've heard about on regulatory coherence work, on supply chain. This work is not going to be completed overnight. There's a lot that we can bring in from what we've been doing with Canada and Mexico bilaterally on it -- for instance on these issues; but this is work that we will need to continue, and we want to see concrete mechanisms so that this work does continue and we continue to make progress. Those are the priorities, and this is why we care about it: It's sustaining and creating American jobs. It's raising living standards, and it's improving competitiveness. Thank you.

[applause]

Kent Hughes:

We pull our chairs back up. Celeste, I'm going to ask you to go next if you would.

Celeste Drake:

Sure. Absolutely.

Kent Hughes:

I'll go ahead and pull mine up. You want to do it here?

Celeste Drake:

Sure. Unless --

Kent Hughes:

No. Whatever you like.

[laughter]

Celeste Drake:

For folks who are not familiar with the AFL-CIO, we are the trade union confederation for the United States of America, representing over 12-and-a-half million working families, over 50 affiliates, basically, trying to cover -- although, I only do trade, manufacturing, globalization, all of that.

[laughter]

All of that stuff, we cover all issues. And for us the key questions about the TPP and all trade agreements are what rules should govern trade and who benefits? That's really what we're looking at; and when -- Linda and I could probably do a road show at this point on the number of panels that we've been on. But when she talks about high standard, ambitious, next-generation trade agreements, we would agree with all that. Where we disagree is when we start talking about what those terms mean specifically.

When AFL-CIO is talking about high standards, ambitious, next generation, we're talking about going away from current model, which has largely substituted corporate interest for our national interests, and taking a different approach: high standards for labor, for the environment. Ambitious in terms of job creation, good job creation, protective of domestic policy space, all of those things, things that have not really been the priority of past trade agreements. In addition to advancing domestic economic development for all of the countries involved, and not just the United States, and respecting domestic policy interests in terms of environmental conservation, food safety, financial stability, we believe that trade agreements should promote fundamental labor rights and increase employment for American workers and our prospects for sustainable, economic development in the future.

Unfortunately, things like what impact a trade agreement, like the TPP, is going to have on the American job market, those aren't figured out until the trade agreement is finished. And when we ask USTR what kind of effects do you expect this to have for jobs, for labor, for wages, all of those things, what they say is, basically, all trade is

good, all trade creates jobs, we don't need to do that study until we hand over the completed text to the ITUC when it's finished. In our experience representing workers of the United States, that hasn't worked out so well. NAFTA we were promised that we would have a trade surplus with Mexico, that we would have, you know, potentially over a million new jobs. What we've seen is 700,000 jobs displaced. What we've seen is trade deficits growing. We'd like to see a new direction that really prioritizes the workers of a country and not just the share of income that's going back to capital.

A trade agreement properly constructed can be a force for progress, but that requires this new and updated approach; and despite addressing new issues, like state-owned enterprises, small and medium enterprises, even looking at the role of women in economies in the TPP, so far we haven't seen a whole lot else that's really a reset of past trade policy. Instead, we're seeing more of the same; and in fact, in some cases possible doubling down on policies that we think are not good for workers. This is in terms of investment services, financial services, patent rules, government procurement -- although there may be some improvements there -- and the like. And what the current policy has brought us is a trade deficit of last year of about \$560 billion; so we really think that it is time for a change. I'll only have time to talk about a couple of our specific issues that we're concerned about; so I will try to do that briefly. First, we are always asked about do you care about the labor chapter?

[laughter]

Of course, along with all of the other chapters. And in the labor chapter, what we're looking for the -- AFL-CIO in conjunction with the ITUC and the trade confederations of the vast majority of the TPP countries, developed a labor chapter, kind of -- largely based on the past but going further in the directions that we've been asking for from administration after administration, incorporating the fundamental ILO conventions for labor, making sure that the enforcement mechanism really was equivalent to the state-to-state enforcement mechanism that business gets; making sure that the penalties are tied to the kinds of infractions that you're looking at; making sure that applies to the whole economy and not just when there's a

sustained or recurring infraction in a trade-affected sector.

As Linda was talking about, sometimes you have a food product that is perishable, where you've got a problem with an SPS and it's being kept out of the country. Likewise, when you have workers who are fired for trying to organize, that's an immediate problem. They immediately have no income, no way to buy food, no way to pay their rent; and when you have a situation like the Guatemala Labor Complaint under CAFTA, where that's been going -- ongoing since 2008, there's no way -- nothing that can be done at this point that's going to really remedy the problem those workers had and the problem that they were discriminated against in trying to exercise their fundamental labor rights under the laws of Guatemala, which is a very low standard under that agreement. So that's the kind of thing that we're looking for when we talk about high labor standards. Because if those aren't enshrined in the trade agreement, there's every incentive for large businesses to pressure developing countries not to enforce labor rights; and then, in addition to having lower wages or less restrictive environmental -- or whatever the regulations are in that country, they can make sure that whatever is there really isn't being enforced.

Another really important provision in the labor agreements, Linda talked about it, is in the investment rules. The investment rules, there's been some really good work done recently on the increasing use of investment provisions; and the WTO, in fact, did a really interesting study, came out in late 2010, that talked about what businesses are really looking for based on the evidence is national treatment, making sure that they are treated the same as domestic industries. They're not looking for that investor-state dispute settlement.

So they'll ask for it, but they are investing in places where that's not a guarantee; and if you look at foreign direct investment, the countries that are the biggest recipients, Brazil, India, China, they're not countries that have BITs or FTAs with the U.S; so their recourse there isn't to investor-state dispute settlement. And these are particularly being used by extractive industries, which is mining, gas, oil. At the end of last year, 43 of the 137 cases pending at ICSID, where it was investor-state, were extractive industries. And these are the ones

that are hardest on indigenous populations, you have displacement. They are hardest on the environment, you have threats to the air, threats to the water, threats to the soil. These are things where domestic governments really do have an interest in heavily regulating and making sure that its people and its precious natural resources are protected. So whether it's a good idea to try to incentivize overseas investment, taking jobs out of the U.S., by encouraging companies to have an extra challenge to these kind of laws is pretty questionable.

Like I said, we're also interested in state-owned enterprises, government procurement, financial services, rules of origin, appropriate trading partners. We think all these choices can be made in ways that promote jobs here, promote good jobs overseas, raise up standards of living, which is what we think should be the goal of trade; and I'm happy to answer questions about that, but I'll stop there.

Kent Hughes:
That's great. Thank you, Celeste.

[applause]

Jim, we have a bit of agriculture view here.

[laughter]

Kent Hughes:
I'm saving you for last.

James Grueff:
Good afternoon. Thank you, Kent, for inviting me to be part of this very interesting program. I can see from looking around the audience that it looks like probably most of you have not had the great pleasure of working on agricultural policy.

[laughter]

So I'm going to, in the course of this, go over a few basic points before I get into the actual TPP part. First of all, in terms of the U.S. agriculture's perspective, the first point is U.S. agriculture is not monolithic in its views about trade policy or trade or domestic policy or anything; and that certainly applies to TPP as well. But

having said that, U.S. agriculture is very dependent on exports. This year it will be exporting in the range of \$135 billion worth of agricultural products around the world. U.S. agriculture knows that it is very dependent on upon exports for it to thrive, for the agricultural economy to prosper. Indeed, that's what's been happening.

However, on the other hand, I think it's accurate to say that over about the last decade the enthusiasm of U.S. agriculture for the U.S. trade policy agenda has clearly been on the decline. There have been a number of factors for that. One is watching the slow and painful demise of the Doha Round. It certainly has had its impact on U.S. agriculture and its views. Many in U.S. agriculture would say, frankly, that over at least the last four years there has really hardly been a U.S. trade policy agenda worth supporting and it hasn't attracted much attention from U.S. agriculture.

Basically, trade, trade policy has slipped far down the list in terms of the priorities of U.S. agriculture, as far as where U.S. farm groups want to expend their political capital and their political attention. The priorities clearly are issues such as budgets for domestic production subsidy programs and also now more and more federal energy policy, which includes now the crucial area of the federal mandate for corn-based ethanol in the production of gasoline. Now that's been a key issue for the agricultural economy. So all of this has by far overtaken the concerns and the interests for -- in trade policy, although there certainly still is interest.

Another basic point is the way it has evolved, farm groups are organized basically on a sector-by-sector basis. The approach is sectoral advocacy work on behalf of the U.S. agriculture interest in Washington is certainly sector by sector. Almost all agricultural policy issues are addressed on a sector-by-sector basis; and this certainly applies to trade policy as well. Another point is traditionally U.S. agricultural groups evaluate trade agreements or potential trade agreements by one clear parameter and that is what will be the specific improvements in export market access into that market? Not only specifically into that market, but for their particular sector, whether it's the pork producers or the corn growers or the fruit and vegetable producers. What will be the market access into these new markets? What

will be the improvements in market access for our particular sector? And that's been the measure by which they evaluate these trade agreements.

So now coming to the TPP, I would describe the agriculture's perspective in this way: It has been generally supportive. Indeed, it would be politically incorrect to not be at least generally supportive; but there has not been very much enthusiasm in the support that U.S. agriculture has shown for the TPP. Remember what I just said a minute ago about looking at all of this through the lens of improvements in specific market access opportunities. Let's put the new invitees, Canada and Mexico, aside for a minute. What U.S. agriculture has been looking at has been eight other markets, eight other countries among the nine that have been there. Remember, that among the eight, for four of those, the U.S. already has free trade agreements in place. So looking at the other four, U.S. agriculture has been looking at the prospects of better access into the markets of Vietnam, Malaysia, New Zealand, and Brunei; and this has not generated a lot of excitement among U.S. agriculture exporters. Okay.

Saying that, now we have bigger markets, one might argue more important markets, Mexico and Canada, coming into the TPP. This has also not created much of a buzz in the U.S. agricultural community. I think the reason is obvious: We do have a NAFTA. The access into the Mexican market is virtually complete for U.S. agriculture exporters, with the exception of -- basically, of the dairy and poultry supply management and the protection that the Canadians give to that. The Canadian market has been for the most part open to U.S. agriculture exports. So that hasn't created a lot of enthusiasm or interest as well.

There is one aspect to the TPP negotiations so far that is of quite a bit of interest to the U.S. farm groups; and that is in the area of health-related measures for agricultural imports -- health-related import measures. This is referred to -- you've heard the term now "sanitary and phytosanitary" measures. It means the ability of a government to inhibit the importation of agricultural products for the purpose of protecting the food safety or the animal health or the plant health of its people or its agriculture inside its borders. The key here is that when governments do that, it is to be based on science. There

is to be a scientific rationale. Unfortunately, the history of agricultural trade is often there is not a real scientific rationale for that.

The WTO has an agreement. The Agreement on Sanitary and Phytosanitary Measures, I think, generally it's thought to have worked quite effectively so far. But what's happening in the TPP is there is an effort to do a so-called WTO-plus in the sanitary and phytosanitary area to enhance the existing WTO disciplines. I think this is a very worthwhile effort. I think it's going to be a real challenge to make this effective on a practical basis for trade among the TPP countries, especially without having the WTO dispute settlement process to rely on. But it's certainly worth a try, and it certainly receives strong, enthusiastic support from the U.S. farm groups in terms of the effort to do that.

Now, having said that, this is not just as U.S. agriculture looks at the TPP, a matter of win-win and let's total up what the wins are and see if there is enough. There clearly are concerns. There clearly are what one might call defensive interests. For example, the U.S. sugar sector, which has a good bit of political clout, was able to pressure the administration when the U.S.-Australia free trade agreement was negotiated to completely exclude sugar from that agreement, meaning no additional access for Australian sugar into the U.S. market. The sugar -- our sugar sector, as you would imagine, is adamant that that agreement cannot be reopened and Australia should not receive any additional access for its sugar through the TPP process.

This is a very challenging agreement for the U.S. dairy sector. The U.S. dairy sector asserts that New Zealand uses monopolistic practices to capture a large share of the world dairy market, and the U.S. dairy groups say that they want that addressed as part of the TPP process. Laura mentioned the dairy supply management issue. This is, inevitably, going to be complicated and politically difficult on both sides, Canada and the U.S., in terms of Canada's approach to dairy supply management and the border measures that go with that. Clearly, the U.S. dairy interests have expectations. I would say not necessarily that it all go away immediately, but that the TPP does move in the direction of at least significantly greater market access for U.S. dairy products into Canada.

As one more example: U.S. beef exporters are not pleased with the prospect that eventually the TPP may mean, for example, that Australia will have duty-free access into the Mexican market for beef. This has been a very important market for U.S. beef exporters. If eventually Australia is also zero duty into Mexico, as is the United States currently, there is a concern that the U.S. may lose a very large share of the imported beef market in Mexico, and of course, it is not attracted to that prospect at all. Well, with those various complications in defensive interests, is there anything -- and a relative lack of enthusiasm -- is there anything that could be done to make U.S. agriculture more enthusiastic about the TPP. I would say there is one measure that immediately would make U.S. agriculture much more enthusiastic and that would be to bring Japan into the TPP.

[laughter]

That would have its own implications; but as Ed and others have noted, Japan is such an affluent and relatively large market, and is such an important market for agricultural exporters around the world that the prospect of having better access into the Japanese market would make -- I think, immediately would make the TPP much more attractive for U.S. agriculture.

I want to end with just one broader consideration. I think that the TPP offers some really -- a unique challenge in terms of how to communicate about the TPP with the U.S. agricultural community. My own view is that the U.S. interest in joining the TPP, in driving the TPP, is inspired by very legitimate geopolitical considerations and concerns regarding the evolution of economic integration in Asia. However, I described to you how U.S. agriculture, understandably, approaches trade negotiations. It thinks very specifically in terms of what's the market access, generally sector-by-sector, that will be gained. So I think the challenge for USTR for this administration, whoever will be managing trade policy in the next administration, is how do you communicate with this very important sector, that is U.S. agriculture. Should USTR put together the pluses and minuses in terms of agricultural market access, hope it comes out on the plus side and sell it to U.S. agriculture purely on the basis of improvements and market access? Or should it try to bring

a broader view, which is clearly there as we've heard today, in terms of the essential national interests to go with the whole agreement that is hoped to be the TPP agreement. But there's never been such a dialogue with U.S. agriculture on -- in that context. So I think this will be a real challenge for whoever is contemplating that. So I think I will stop there and wait for the rest of the panels. Thank you.

[applause]

Kent Hughes:
Thank you, Jim.

[applause]

Kent Hughes:
Stephanie, please give us a look at the NGO world.

Stephanie Burgos:
Well, thank you very much to the Wilson Center for organizing this event and inviting Oxfam to join the panel; and thanks to all of you for sticking it out to the very end. I actually have worked with both Celeste and Linda in the past on trade issues; and actually, Linda and I worked closely together for a while on trade preference issues; but today on TPP, our views are going to diverge.

Oxfam, as you may know, is an international development and humanitarian relief agency. We have programs in over 90 countries around the world, and we work for lasting solutions to poverty, hunger, and social injustice. We believe trade can be an engine for poverty reduction as long as the rules generate benefits for people living in poverty. To this end, broad-based development should be a core objective of U.S. trade policy. But we think TPP fails this test from what we know of negotiations to date, thanks to leaked text, since the talks are conducted in secret and lack transparency.

And I just wanted to dispute Ambassador Marantis' claim on transparency from our perspective. For one, the full negotiating text of the Free Trade Area of The Americas was actually made public after each negotiating round. And while this administration may have set a record for holding meetings with state holders, we haven't really seen any real evidence that our -- we're being heard and the advice

from anything but the standard trusted advisers is being taken into account, and we also really haven't seen the sharing of anything more than general information.

Our biggest concerns from Oxfam's perspective on TPP involve intellectual property and pharmaceutical pricing provisions that will affect access to affordable medicines and also investment provisions that will compound the problem caused by excessive intellectual property protections and limit governments' ability to regulate in the public interest. While these are other issues seemed as problematic, I'm going to hone in on those two this afternoon.

So let me first talk about medicine's issues. Why should this matter? Affordable medicines play a critical role in improving access to health care. Yet, two billion people worldwide lack access to medicines, in part, because they're unaffordable. Low-cost, quality generics play a key role in improving access to medicines, especially in developing countries where resources are limited and most people pay for medicines out of pocket. There are different forms of IP, and for medicines we are talking about patents. Patents are really a public policy instrument aimed at stimulating innovation. By providing a monopoly through a patent, governments provide an incentive for research and development in exchange for technological advancement that benefits the public. This is a balancing act that underpins patent systems everywhere.

So the billion dollar question is when it comes to public health, which can mean saving lives, what is the right balance that governments need to strike as guardian of the public interests? For example, most people agree that taxes are necessary; but no one really claims that increasingly higher taxes are best. The same could be said about intellectual property protection. Policies that strengthen or extend monopolies on patents and related clinical trial data delay the onset of generic competition. Generic competition is really the only proven method of sustainably reducing medicines -- medicine prices. So delays lead to damaging public health outcomes, namely, medicines are priced out of reach without stimulating any additional innovation.

There is no acceptable balance in that scenario from a public health development or innovation perspective. USTR

asserts it wants to get the balance right. Ambassador Marantis said so, and I was reading a blog by Ambassador Kirk on the eve of the AIDS conference saying just that as well. But they start with a flawed premise, that is, that stricter intellectual property rules via trade agreements promotes pharmaceutical innovation. In fact, excessive patent protection here and in Europe can prevent public and private sector researchers from developing new therapies; and in developing countries, excessive patent protection may generate greater profits for drug companies, but it won't lead to additional innovation that meets public health needs. We know developing countries in total represent only about 15 percent of the global pharmaceutical demand. For TPP countries, it's about 1 percent. So greater intellectual property protection in developing countries doesn't alter the calculus that multinational pharmaceutical companies employ when investing their limited research and development resources.

The reality is that pharmaceutical industry needs -- the pharmaceutical industry itself needs to change its own business model in order to generate greater innovation. That's not something that a trade agreement can achieve. Access to affordable medicines cannot be resolved through trade agreements, but it can be made worse; and that would be the outcome if TPP includes far-reaching intellectual property rules that upset the balance between access and innovation. All TPP negotiating partners already comply with the TRIPS Agreement, which includes a range of public health safeguards that were reaffirmed by the Doha declaration on TRIPS and public health. Intellectual property provisions tabled by the USTR and TPP are much stricter than those in TRIPS and in any previous free trade agreement. We don't consider this higher standard to be better, as it really enables greater monopoly rights and curbs government's ability to use public health safeguards. I'll mention four problematic provisions, and spare you a longer list.

First, expanded scope of patentability allows for patenting of new forms, uses, or methods of existing products, even if there's no increase in efficacy. This technique, known as "evergreening" can be used repeatedly, delaying generic competition for a long time. Second, data exclusivity creates a monopoly that's separate from patents and prohibits a country's drug regulatory authority from approving a generic medicine based on the originator

company's clinical trial data. Third, patent linkage requires regulatory officials to police patents, in addition to their core work of evaluating the safety and efficacy of medicines, in order to prohibit marketing of a medicine if there's any patents, even a frivolous one, in effect. And fourth, patent term extensions enable patent terms beyond 20 years to compensate for administrative delays by patent offices and drug regulatory authorities.

So Oxfam is particularly disturbed by the USTR's approach to the TPP, because we really expected that intellectual property provisions would improve upon the so-called May 10th Agreement, which was applied to the Peru, Panama, and Colombia Free Trade Agreements. Under May 10th, patent linkage and patent term extensions were made voluntary and important flexibilities were included in the data exclusivity provisions in order to speed up generic competition. Although May 10th did not eliminate all TRIPS-plus rules, Oxfam considered it to be a positive step in the right direction, after a long time going the wrong way. It reflected a meaningful effort to ensure that U.S. trade policy more appropriately balances intellectual property protection and public health considerations.

But USTR abandoned that approach, instead creating what they call an access window, which was referred to, through which the parties could opt not to apply these data-exclusivity patent linkage and patent term extension provisions, but only under specific conditions. Those conditions are so limited though, that the access window would not make any real positive difference for access to medicines. The access is really only in name. It's -- the window is just smoke and mirrors, and it's really just a bad deal for public health. From Oxfam's perspective, USTR is really engaged in a sort of doublespeak and kind of Orwellian attempt to sell greater monopoly protection as a path to improved access to medicines.

Oxfam's also concerned about proposed provisions on transparency and pharmaceutical reimbursement which would hinder government efforts to control the cost of medicines provided through public health care programs, creating a costly process where pharmaceutical companies can challenge how government set prices. U.S. state officials warned this will be -- this will negatively impact domestic efforts to manage medicine costs and could allow our trading partners to challenge cost controls used by our

veterans' health program, Medicare, and Medicaid. That's important, actually, when taking into account that generic drugs saved U.S. consumers more than \$1 trillion over the last 10 years, including nearly 200 billion last year alone, and that more savings could be achieved by increased use of generics.

Intellectual property provisions also undermine U.S. efforts to improve access to healthcare worldwide. Thanks to cost savings from the use of generics, PEPFAR has successfully initiated treatment for over 3 million people worldwide and saved \$380 million in 2010 alone. In Vietnam, where over half the population lives in poverty, 97 percent of antiretroviral medicines purchased under PEPFAR are generics. If Vietnam were to adopt USTR proposals, it would undermine the sustainability of HIV and AIDS treatment, as well as broader efforts by the Vietnamese government to ensure access to medicines.

One thing we can agree with Ambassador Kirk and USTR is that the Obama administration has undertaken important efforts to promote health and access to medicines globally, including through PEPFAR, the Medicines Patent Pool, and the Global Health Initiative. So it's really inconceivable to us why USTR insists on TPP provisions that are incoherent with such efforts. That's just not in the public interest. It's not surprising then, that USTR intellectual property proposals have generated stiff resistance from negotiating partners. It's hard to sell greater monopoly rights and less competition as facilitating access to medicines or as being compatible with free trade. If TPP is to appropriately represent America's diplomatic development commercial end-trade interests, Oxfam believes USTR must return to the May 10th Agreement and build upon its underlying principles and objectives for access to medicines in lieu of the current negotiating text.

And I just want to say a few words also about investment issues, which have already been talked about; but from a development perspective, if rules regulating investments are to be consistent with the objective of promoting development, then commercial interests in expanding U.S. exports and investment opportunities need to be balanced with the broader public interests of reducing poverty and equality, as well as promoting environmental sustainability. Developing countries need tools to

effectively regulate foreign investment to support their economic development. Oxfam believes that expansion of investment can and must be made compatible with protecting the public interest. The USTR proposal for the TPP we think fails this test.

Provisions raise concern with regard to a range of public interests and development issues, including access to medicines. Since intellectual property is included in the definition of investment, the investment chapter provides an additional basis for challenging pro-health government measures. In particular, as Celeste talked a bit about, investor-state dispute settlement undermines government's ability to regulate in the public's interest and to promote -- for governments to promote their own national development. The mechanism enables investors, including patent holders, to directly challenge government measures before secret international tribunals, thereby circumventing the domestic judicial system, which would balance commercial interest with constitutional and human rights.

Making matters worse, the vague and imprecise definitions of minimum standard of treatment and indirect expropriation enable these three-member arbitral tribunals to use broad interpretations in rulings, creating their own jurisprudence, and virtually ignoring two centuries of state legal practice. Once a tribunal recently ruled in favor of the investor in a suit brought under CAFTA, whose investment chapter is similar to what's proposed in the TPP, the Railroad Development Corporation versus Guatemala case is a fresh evidence of how the investor-state mechanism can undermine national law and government ability to take action in the public interest. It's notable that the U.S. government filed a brief before the tribunal, supporting Guatemala in that case. Still, the country lost to the U.S. corporate plaintiff, whose legal strategy was, incidentally, crafted by the former USTR lead negotiator for CAFTA.

Investor threats to file suit using these provisions can have a chilling effect too. For example, coercing governments to limit use of public health safeguards and avoid regulations that favor low-cost generics. In addition, performance requirement provisions limit legitimate measures by governments to support industrial development, including in the pharmaceuticals industry.

And governments would have to implement all of these provisions through their national laws, meaning the measures would apply to investors worldwide, not just those based in TPP countries.

So in conclusion, rules and trade agreements make the difference in determining whether trade will expand economic opportunity and reduce poverty in developing countries. Oxfam believes USTR proposals on intellectual property, pharmaceutical pricing, and investment would undermine development; and they are not even really necessary to expand cross-border trade. It's time for U.S. policy to stop catering to special interests and instead enable government protection of and service in the public interest. Thanks.

[applause]

Kent Hughes:

Thank you, Stephanie. Let's go quickly to questions. Again, we invite the overflow rooms. We'll start with Joe, the gentleman here near the front. And again, please identify yourself; and again, the distinguished gentleman here in the front row.

Joe Dukert:

My name is Joe Dukert. I happen to be a specialist in energy and environment policy, but this question has only a peripheral reference to that. Mr. Grueff -- is that the correct pronunciation? I was really fascinated by your offhand reference to the fact that there had never been an effort to have a serious dialogue with the agricultural sector about the importance of national interests, broad national interests. Now, I see by your bio that you are a specialist in communication, very effective. I wonder how one goes about initiating a dialogue with the agricultural sector or any of a number of sectors who might be opposed to our participation and leadership in the TPP, which may be in the national interest. It's the question presidential candidates are often asked and never answer. How?

Kent Hughes:

Let's take a second question before we have an answer. Gentleman here.

Pat Mulloy:

First, I salute you.

Kent Hughes:
Introduce yourself.

Pat Mulloy:
Oh, Pat Mulloy. I teach international trade law at Catholic University Law School. I salute you, Kent, for the balanced program you put on here today.

Kent Hughes:
Thank you.

Pat Mulloy:
Earlier I asked a question about why exchange rates are not addressed in this agreement, and I would be very interested in what does labor think about doing that. And then I would ask Linda Menghetti representing -- business interests what they think about addressing exchange rates in this TPP agreement, since currency manipulation has been a problem that has plagued and created trade deficits for the United States.

Kent Hughes:
Let me start with the agriculture-specific question, then we'll move to the broader question.

James Grueff:
Very interesting question. I was for many years a U.S. trade negotiator from the Department of Agriculture. when you are a -- I assume it's still true -- a trade negotiator for Agriculture, you know your constituency is U.S. agriculture, U.S. agricultural producers. Those are your constituents. Consumers in general are not your constituents. What would it take to have a dialogue? We were very specific in -- for example, I was part of developing the position that we had beginning of the Doha round, and it was very specifically focused on better market access and other issues like reducing domestic subsidies in Europe and so on. But all -- clearly, so that our constituency could see the very specific benefits to them.

Your question is a very important one, I think. What would it take? I'll just -- this is purely my own perspective. I'm not an advocate here. It would take political-level leadership, and not from the Department of Agriculture, but

from the White House or USTR, who had a broader view and would say this is something -- let's say for example, the TPP has a wider objective. There are essential national interests at stake here in terms of what we want to do in Asia. As you talk to your constituents, whether your constituents are Department of Agriculture, the ag community, or Commerce Department, the industry and business, they need to understand that there are other reasons for which we're doing this and we're going to do the best we can for them specifically; but all of these may not go the way they want them to go -- for U.S. sugar, for U.S. dairy -- they may not all go that way because there are broader interests at stake.

What that would take, I think, is the courage of good, strong political leadership. Whether we'll see that, I don't know. Your assessment would be as good as mine, but I think that's what it would take. At a higher level and outside the Department of Agriculture, outside of USTR's Agriculture Division, somebody is taking a broader view and making a decision to have that dialogue with the agriculture community and others.

Kent Hughes:

What about the broader currency question?

Celeste Drake:

Oh, absolutely. The AFL-CIO in conjunction with many, many domestic producers has deep concerns about currency manipulation. We think the issues with China and our almost \$300 billion trade deficit with China last year are, in large part, not solely, due to currency manipulation; and we've been involved in efforts to try to address that outside of specific trade agreements; so using existing countervailing duty law. That has not so far been successful. We've asked USTR multiple times in multiple ways, please include this as part of the TPP package, and particularly the geographic area that it's focused on, though not limited to, has countries that have a history of manipulating currency: China, Korea, Japan. And we know that even if a country is not manipulating currency purposefully, a sudden evaluation can undo all of the tariff reductions that you've just negotiated.

So it's very, very important; and to the extent that, you know, USTR discusses it with us, they say, well, this is not an issue for a free trade agreement. This is

Treasury's territory. You know, this is sort of somebody else, not us; and you know what, we say, well, to us it's very, very important. To many of your domestic producers, it's very, very important. We know there's a countervailing interest. There are American concerns that produce in China that are receiving great benefits from the currency manipulation, and that's part of it. But if you're going to say to workers, here's going to be a new trade agreement that we would love nothing more than to have China join, and you're going to try and build some confidence that this really is going to work, to have economic growth in a way that can benefit workers and their lives and their salaries, you've got to deal with the currency issue; and so far we don't see it in the TPP.

Kent Hughes:

Stephanie, Linda, do you have anything?

Linda Menghetti:

I do, indeed. First of all, I will absolutely agree that currency valuation, whether you want to call it undervaluation, I don't personally like the word "manipulation," because that raises the question that you know what another government is doing or not doing. Is it undervalued or not? It is a serious issue. It is particularly serious for import-sensitive industries in the United States; and so a part of the domestic industries, not everybody, as Stephanie sort of referenced, I think industries that are more export-oriented in general see that as less of a problem overall.

Two, I would say that what's missing in this debate today is how much China's currency has increased in the past 12 years since Senator Schumer first put in his legislation back in 2005. I know there's different ways of valuation, and that's another big issue out there. Right? Who determines what the value -- what the actual undervaluation is? And if we can, as Jeff Schott said in an earlier panel, have the IMF do it in some way, if the United States is doing it unilaterally, that raises question; but by some reports it's up 20, 25 percent or more. That doesn't mean, however, that there are not of domestic industries that continue to feel the pressure. Here, we heard in Mexico, obviously, Brazil has raised this, other countries.

This issue is not part of the 15 core principles of the TPP business coalition. It has not risen to an issue that

there is a general business view that this is something to tackle in a free trade agreement; and I think it is one of those issues that people need to think onward about and seriously about. But I think we sometimes run a problem that we think a trade agreement can solve every problem out there, and it cannot; and so is this -- is this really an issue that's susceptible of being in the trade area or not.

Final point: trade deficits. I've heard it several times today. I hear it every day. I should have followed Senator Moynihan's example. Every time he went to the U.S. Senate floor and talked about trade, we brought a chart. It showed that as the trade deficit goes up, U.S. unemployment goes down. Trade deficits are not a proxy for job loss in the United States or anywhere else. It is an important measure to look at. I'm not an economist. I'm a lawyer. There are lots of things that we can think about. But it is not a proxy for job loss. In fact, our trade deficit has traditionally gone up when the United States has had lower unemployment because we are doing better and we have greater growth.

Kent Hughes:
Stephanie, any thoughts on that?

Stephanie Burgos:
[laughs] No. Thoughts on the --

Kent Hughes:
I would just --

Stephanie Burgos:
Currency. No.

Kent Hughes:
Having sinned in the past by becoming an economist. As you know, this is one of the most reviled professions in Washington.

Linda Menghetti:
After lawyers. [laughs]

Kent Hughes:
That, and a standard Keynesian formula. You have exports and you have imports and then you have the net. And if have you a net deficit, that's viewed as a drain on consumption, drain on stimulus, drain on demand; and

therefore, that does contribute to a slower growth; and therefore, there would be a link to employment. So.

Linda Menghetti:

All those coffee imports that we're not producing in the United States.

Kent Hughes:

The other question, of course, the broader question, of course, is it bad to borrow money? And that kind of depends what you do with it. In the 19th century, the United States borrowed lots of money, particularly from Europe and particularly from Great Britain; and that helped open the West, build steel mills and so forth. On the other hand, if you borrow money, you mortgage the North 40, and you have 10 years of parties, then you're in trouble so.

[laughter]

Yes, we'll take the gentleman there, and there's a gentleman on the right there; is that right? And the distinguished lady, the former panelist here in the front.

Steve Winters:

It's Steve Winters [spelled phonetically] again. I'd like to direct this to the representative from Oxfam, Ms. Burgos. To follow up on what you were saying there, I actually went to talk by the lead representative from Malaysia on the TPP for that country. And basically, he said they twisted our arms on the IP, we had to give in on it; but we didn't really like it at all but -- okay, so we got some other benefits out of it; so we went along with it, but we didn't like to go along with it; but we didn't have a choice, says he.

And I spoke -- there was a professor from Japan, who ask very pro-TPP, who is speaking around Japan to groups of Japanese, presenting why this is a good idea for Japan to join TPP. And he said, yes, but what they're asking me when they come to the meeting is what is this about 70 years of copyright? They said, where is this coming from; why do we want 70 years? And he said that -- sorry, that's part of TPP. Well, the 70 years, of course, came because special interests in this country got our copyright extended to this 70-year period for their own particular reasons; and you argued that really these monopolies that

are granted to groups for the intellectual property is -- the monopoly is granted not as a right from -- you know, God-given right, but to the extent that it benefits the innovation and the economy; and a lot of people argue that 70 years is just out of sight.

So given that, basically, the attitude for the people in the TPP, if you believe this Malaysia guy, is basically the U.S. is saying our way or the highway on IP. What can we, as people in this country, do to, you know, remedy the situation that you're talking about is the question.

Kent Hughes:

So why don't we take Laura's question here.

Laura Dawson:

Thank you. Lawyer Dawson, visitor from Canada.

[laughter]

I wanted to delve into the issue of investor-state dispute settlement. I'm astonished that this is always spoken of as automatically curbing the right of states to regulate in the public interest. The U.S. has had investor-state protections since 1994. Are there any examples that you can give me of where this is has had a chilling effect on the U.S. right to regulate in health, social policy, environmental labor? And if I could impose on Linda to maybe give the counterfactual on how you can still regulate in the public interest, despite having investor-state protections.

Kent Hughes:

Let me just add and play on that one of the overflow room questions, which parallels that. In this case they're skeptical, I think, about investor-state dispute provisions. They're saying that doesn't this create a democratic deficit and a regulatory chill? So then what's the balance of benefits from the point of view of a developing country in terms of the -- their cost versus the arguable benefits to investors? So probably these fall to you two in particular, and I think Celeste may have a thought; and I don't know, Jim, if you jump in this at all. Why don't we start with -- since Linda's name was specifically mentioned.

Linda Menghetti:

Okay. I think it is a gross mischaracterization to suggest that the investment rules or investor-state creates any sort of regulatory chill. Over the past, I was just looking at the more recent on UNCTAD statistics. These are worldwide. These -- some 3,000 -- close to 3,000 treaties. Forty-six cases were filed in 2011. Four hundred and fifty cases worldwide ever on investor-state. In the United States we have claims on expropriation, the Administrative Procedure Act, due process, numbering in the thousands, hundreds, thousands every single year. What investor-state is, what the investment rules are, if you think back to that slide, nondiscrimination, basic rules of fairness. Not that governments can't regulate in the public interest; but just like in the United States, if you're going to regulate in the public interest, you're going to do so fairly and non-capriciously, or fair and equitably, as the language is. That if you expropriate, that you are going to compensate that company, individual for that expropriation. The U.S. text and investment actually has the core -- one of the leading U.S. Supreme Court cases on indirect expropriation language written in there. There are provisions in our investment agreements -- there are not provisions in our investment agreements that include all the black letter law that's favorable to property owners in the United States undertakings. It is the lowest common denominator right.

Why do we think this is important? And we do think it is important as businesses. I represent businesses; and so the suggestion that we don't think this is important, strikes me as odd. And I've just heard that the Australian business community has weighed in very loudly with their own government about how important this is. U.S. companies and -- in the extractive industries, absolutely, put in hundreds of millions of dollars in foreign countries. They can, to your point, Stephanie, those foreign governments can enact whatever laws that are appropriate in their system. They can subject those U.S. investors in those countries to those laws. If we don't have recourse to these basic due process rules of the road, we have no recourse at all. We've put in money. We've put in intellectual property. We've put in all of that. I've not seen -- I've seen claims, all the NAFTA cases, about the thing right to regulate. You know, one of the cases -- the Canadian provinces, they won a discrimination case. There's a case in Mexico where a U.S. company was going to build a water treatment facility that never got built and a

Canadian court upheld that investor-state case in that claim, finding that it was contrary to these basic rules.

This isn't about regulatory chill. This isn't about -- this is about corporations just protecting basic rights. And I would also say it's not just corporations. When I look at a group like the Nature Conservancy, when they negotiate debt -- nature swap deals with foreign governments, they include an international arbitration provision in there, just like these investor-state. Because they understand that if they want to make sure the agreement endures and is enforceable, they need that basic rule of law.

Kent Hughes:
Stephanie might have a thought on that.

Linda Menghetti:
I'm sure she does.

[laughter]

Stephanie Burgos:
So I'll just -- but I'll say a few words about investor-state; and then, Celeste, you might want to follow up. So, first, I think in terms of the -- making a comparison to the U.S. and developing countries is not the same. The pressures that developing countries feel like they are under when a country like the U.S. -- and, as many people said, interest in TPP is for political reasons -- So feeling that there is a threat of a suit from a U.S. investor means a big difference to a country like Malaysia, Vietnam, Peru, and CAFTA countries, than it does the U.S. We regularly ignore threats from retaliation from other countries. So I don't think it's a comparatively similar thing.

We have the case -- the investor case suit in El Salvador right now by the Canadian mining company, Pacific Rim, that took advantage of setting up an office in the U.S. So that case was actually dismissed on CAFTA, but it's continuing under El Salvador's own investment rules. So that's technically now not a case continuing under the investor-state, but it's a similar type of signing up to investor-state mechanism. In that case, El Salvador is in the -- has been in the process of wanting to institute a law against mining. They don't have any current mining going

on right now; and for environmental reasons, they're reluctant to do that. So that's a potential type of example.

We also have, in the case of access to medicines, for example, there's many not related directly to investor-state; but, for example, the TRIPS public health safeguards that could be used by governments, they are often reluctant to do so because of the pressure they receive from other countries and from the U.S. in particular; and this ability for investors to use this type of mechanism could be an additional incentive. It's hard to prove. I mean, we -- you know, it's hard to do an empirical study to show what -- to prove the negative, you know, what hasn't happened because of this. So there are not a lot of examples to cite certainly.

But the only other thing I would say on that is that, again, from a development perspective, we believe that strengthening national judicial systems is important and that many of these cases can and should be tried through national courts and through state-to-state mechanisms so there is no need for an investor-state mechanism; and the potential is there to do more harm than good.

Let me just respond to the question on intellectual property. Entirely agree with you, except that you said that the Malaysia negotiator said that their arm was twisted and they had to give in. Well, nobody's given in yet. [laughs] The negotiations are ongoing; but as far as we understand, the U.S. is pretty much alone, at least with regard to developing countries. I think Australia is unclear; but there has been pretty uniform opposition, on the patents and on the pharmaceuticals access to medicines issue. I'm not directly really following the copyright issue, I think there's a number of similar arguments there, but I think medicines issue kind of stands alone.

So what can we do? That's part of our frustration in hearing Ambassador Marantis talk about the openness of the negotiations -- or the transparency rather. We don't -- because there's been text leaked, we assume that that is the text and -- but we still can't engage when we don't actually have the text and -- and then when we do or when we think we do and we express and put forward, you know, we'll, you know, substantiate it, academic arguments that,

you know, World Health Organization, UNAIDS, and many others are arguing, then nothing changes.

So from our -- from Oxfam's perspective, we certainly hope that developing countries will stand up for their rights; and from the U.S. perspective on TPP, I would hope that -- Oxfam hasn't taken position on the broader TPP -- but, you know, there was many arguments about the importance of the TPP to the U.S. economy. Well, I would hope that the U.S. would see that this is not something that has to be our way or the highway. You know, that there may be another perspective and maybe developing countries actually should be heard and there should be a change in their approach on this particular issue.

Kent Hughes:

All right. I just looked at my watch. I've gotten so interested in this discussion, that we're way past the time that I promised. We have many more questions, both from the overflow room and I know from the audience. I just would ask you, please, to join me in a round of applause for a very stimulating panel.

[applause]

[end of transcript]