



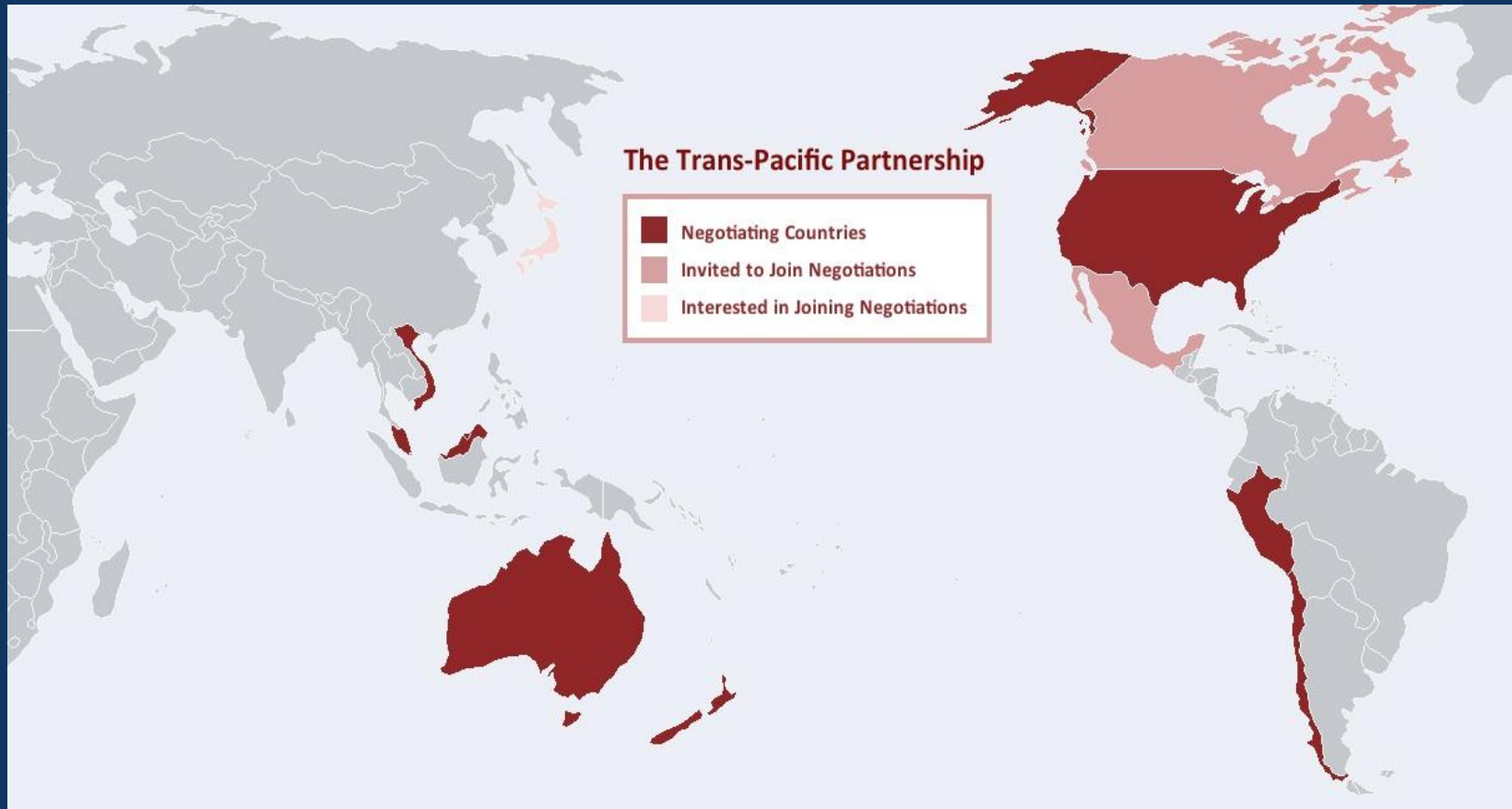
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# TPP Presentation

## Washington Joint Legislative Oversight Committee on Trade Policy

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# TPP: 11 Countries now Involved



**Australia, Brunei, Canada, Chile, Malaysia,  
Mexico, New Zealand, Peru, Singapore, U.S.,  
Vietnam**

# Brief History of TPP's Origins

- Shortly after passage of NAFTA (1993), Clinton administration initiates talks for NAFTA-style “free trade” blocs in Western Hemis. & Asian-Pacific.
  - - Negotiations for an Asian Pacific Economic Cooperation (APEC) FTA launched in Bogor Indonesia in 1994.
  - - Negotiations for a Free Trade Area of the Americas (FTAA) launched in Miami in 1994.
- FTAA and APEC FTA unravel as major countries in each region came to loggerheads over the pacts' scope, model (NAFTA's results reveal problems, U.S. insists on expanding NAFTA model)
- “Coalitions of the willing” in each region ink NAFTA-style pacts.
  - Late 2000, three of the APEC countries (Singapore, New Zealand and Chile) launch talks for the “Trans-Pacific Strategic Economic Partnership Agreement” - also called Pacific-3 (P-3). Brunei joins = **P4**. Goes into effect 2006 without chapters on investment and services
  - January 2003 Central America Free Trade Agreement (CAFTA) negotiations launched – passed 2005

# How U.S. Became Engaged in TPP

- P-4 investment-services negotiations start in 2008.
- 9/2008 Bush notifies Congress U.S. will join P-4 talks. Vietnam, Peru, Australia join. Despite no delegation of congressional trade authority or negotiating objectives, U.S. participates in 3 rounds of talks. Initial services, investment, and financial services texts established
- Days after Obama inauguration, USTR publishes “Notice of intent to initiate negotiations on a Trans-Pacific Partnership (TPP) free trade agreement with Singapore, Chile, New Zealand, Brunei, Australia, Peru and Vietnam...” as if the election had not occurred
- Congressional & private sector uproar leads to February 2009 notice that U.S. cannot participate in talks scheduled for March so administration can appoint trade officials, review its policy, launch stakeholder consultations
- TPP talks stop altogether, **highlighting how U.S. market access is THE goal for the other countries**
- As “consultations” start, May 2009 new USTR Ron Kirk tells reporters U.S. will join TPP. More uproar. USTR clarifies no decision made. Before Obama Asia trip fall 2009, Congress, stakeholders told no TPP announcement expected

# How U.S. Became Engaged in TPP

- Nov. 13, 2009 in Japan Obama announces U.S. would “engage” in TPP
- December 14, 2009: official notice to Congress “...President intends to enter into negotiation of a regional, Asia-Pacific trade agreement, known as the Trans-Pacific Partnership (TPP) Agreement, with the objective of shaping a high-standard, broad-based regional agreement.” Includes Australia, Brunei, Chile, New Zealand, Peru, Singapore, Vietnam.
- 14 round of TPP negotiations are held with the U.S. and 9 other countries Still no congressional negotiating objectives. Negotiations resume using old texts established during Bush administration, 26 new chapters added. U.S. insists investor-state dispute resolution be included despite NCSL reiterating opposition to U.S. trade pacts containing such a regime.
- TPP misses December 2011 and end-of-2012 negotiating deadlines
- July 2012: Congress notified that Mexico and Canada will join TPP
- October 2012: In debate, Obama describes TPP as part of strategy to counter China, exert U.S. influence in Asia. ( But, China can join TPP and most major Pacific Rim nations are not part of it...?)

# Most Secretive Trade Negotiation, Ever...

- 600-plus official trade advisors, have access/influence the draft text
- Congressional offices, state legislators & Governors, press and public are locked out. No access to draft TPP texts or to U.S. positions
- Other countries know U.S. government positions, just not us
- Negotiating texts won't be released **until 4 years after** TPP takes effect or talks collapse
- Growing congressional, private sector anger about extreme secrecy. GOP House Oversight Chair Issa denied observer status to San Diego round, posts leaked IP text. Democratic Chair of Senate Finance Committee denied access to draft texts.



***"This is the least transparent trade negotiation I have ever seen."  
-Former U.S. trade official Gary Horlick, a TPP supporter***

# TPP Called a “21<sup>st</sup> Century High Standard Trade Agreement” by Its Proponents

*TPP is being promoted as the **new** 21<sup>st</sup> Century model for **trade** pacts... But, in reality:*

- **It is not mainly about trade.** Most TPP chapters do not cover traditional trade matters. And, despite sales pitch about TPP expanding U.S. exports, the U.S. has FTAs with the six TPP nations that comprise 90% of the bloc's GDP.
- **It is not a new model,** but rather expansion of the NAFTA model, with many provisions replicating NAFTA, CAFTA, past U.S. FTAs

# Expanding U.S. Exports? US already has FTAs with the 6 nations comprising 90% of combined TPP bloc GDP

<b>GDP of TPP Negotiating Parties</b> (Billions of Dollars)	
<b>Canada</b>	<b>1,737</b>
<b>Australia</b>	<b>1,488</b>
<b>Mexico</b>	<b>1,155</b>
<b>Singapore</b>	<b>260</b>
<b>Chile</b>	<b>248</b>
<b>Peru</b>	<b>174</b>
Malaysia	279
New Zealand	162
Vietnam	123
Brunei	16
<b>All TPP Parties</b>	<b>5,640</b>
<b>Parties w/o existing U.S. FTAs</b>	<b>579</b>

- Existing U.S. FTAs zero out tariffs on U.S. goods for trade with the 6 countries that comprise most of the TPP bloc's combined GDP.
- Do the remaining 4 TPP countries provide major U.S. export, job creation opportunities? Not so much.
  - - Vietnam, the lower-cost manufacturing alternative to China, where annual income per person is \$1,374
  - - Brunei, which has 425,000 people (smaller than Huntsville, Alabama)
  - - New Zealand with 4.4 million people (fewer than DC metro area)
  - - Malaysia, where annual income per person is \$9,700

**The 4 TPP countries without existing U.S. trade pacts have combined economy the size of Pennsylvania.**



# Most of TPP is not about “Trade” but Covers Many Matters Under State Authority

## Non-Trade Chapters

- Government Procurement
- Investment
- Services
- Financial Services
- Telecommunications
- E-commerce
- Intellectual Property
- Visas/Temporary Movement of Natural Persons
- Regulatory Coherence
- Sanitary and Phytosanitary Standards (food standards, animal disease, invasive species)
- Technical Barriers (product safety standards, toxics, labeling)
- Competition Policy
- State Owned Enterprises
- Supply Chains
- Labor
- Environment
- “Transparency” (drug formularies)

## Trade Chapters

- Market Access for Goods
- Customs
- Trade Facilitation and Capacity Building
- Trade Remedies (Anti-dumping/CVD)
- Subsidies

## Administrative Chapters

- Initial Provisions
- Exceptions
- Dispute Settlement
- Final Provisions

## Three Mystery Chapters...

Officials say there are 29 TPP chapters, but the secrecy is so intense that they will not even release the names of the chapters...

# *TPP as a delivery mechanisms for package of non-trade policies, many contested in state legislatures, Congress*

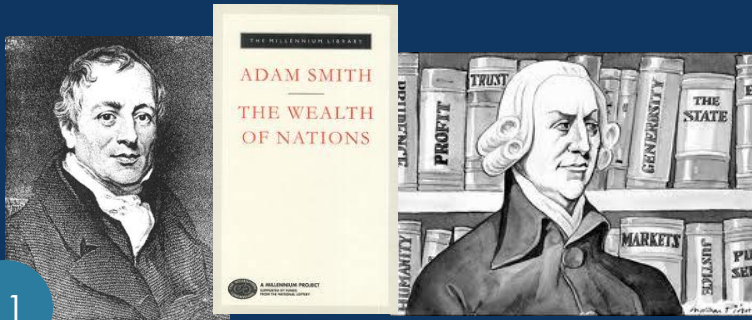
‘Each Member shall ensure conformity of its laws, regulations and administrative procedures with its obligations in the annexed Agreements.’ Federal trade negotiators bind states, requiring them to conform service sector, investment policies without states’ consent.

Rules enforced by binding dispute resolution via foreign tribunals. No role for states or outside appeals. Congress, state legislatures must alter laws ruled against or trade sanctions imposed. U.S. taxpayers must compensate foreign corporations.

- Copyright terms include aspects of SOPA derailed in Congress in 2011
- Greater property rights for foreign investors than domestic firms.
- State laws subject to direct challenge in foreign tribunals by foreign investors.
- Limits on financial, LNG, other service sector regulation
- U.S. must import food that does not meet U.S. standards, undermining U.S. producers
- Buy American, Buy Local procurement preferences forbidden
- “Transparency” chapter would allow pharmaceutical firms to challenge drug-price decisions by formularies

# TPP not a “Free Trade” Agreement, but a Binding International Governance System

- Unlike domestic legislation, TPP would have no expiration date.
- If TPP goes into force, the rules can only be changed if all parties agree, even though each signatory government must conform its *domestic* policies to TPP’s terms. Thus, TPP would impose permanent boundaries on domestic federal & state policymaking.
- TPP is to be a “docking” agreement, with more countries joining later. Thus, TPP could be the last trade agreement that the U.S. negotiates. New countries would opt in if they agree to meet the existing rules rather than Congress deciding or new terms being negotiated appropriate to different countries.



Adam Smith and David Ricardo rolling in their graves? Free trade is an appealing brand to sell TPP. But at issue are hundreds of pages of binding non-tariff policies extending far beyond “trade” with major implications for federalism, states rights and governments’ basic regulatory authority.

# Major Expansion of Investor-State Dispute Resolution Regime

**Individual foreign corporations elevated to equal status with sovereign nations to privately enforce a public treaty.**

**TPP would empower foreign corporations established in TPP countries (so Chinese state-owned firms in Vietnam are included) to:**

- **Attack U.S. federal and state policies before foreign tribunals demanding our tax dollars to compensate “loss of expected future profits” from land use, environmental, health, zoning, other policies laws.**
- **Cases heard by World Bank and UN tribunals of three private-sector attorneys who rotate between suing government and acting as “judges.” Rulings not bound by precedent. No outside appeals.**
- **Foreign corporations get special privileges not available in domestic law, courts.**

# NAFTA, CAFTA Investor-State Cases

Over \$365 million in public funds paid to investors w/o recent Mobil win against Canada

Metalclad v. Mexico - toxic waste & land use

Ethyl v. Canada – chemical ban/public health

Pope & Talbot v. Canada – timber policy

Loewen v. U.S. - U.S. civil court judgment

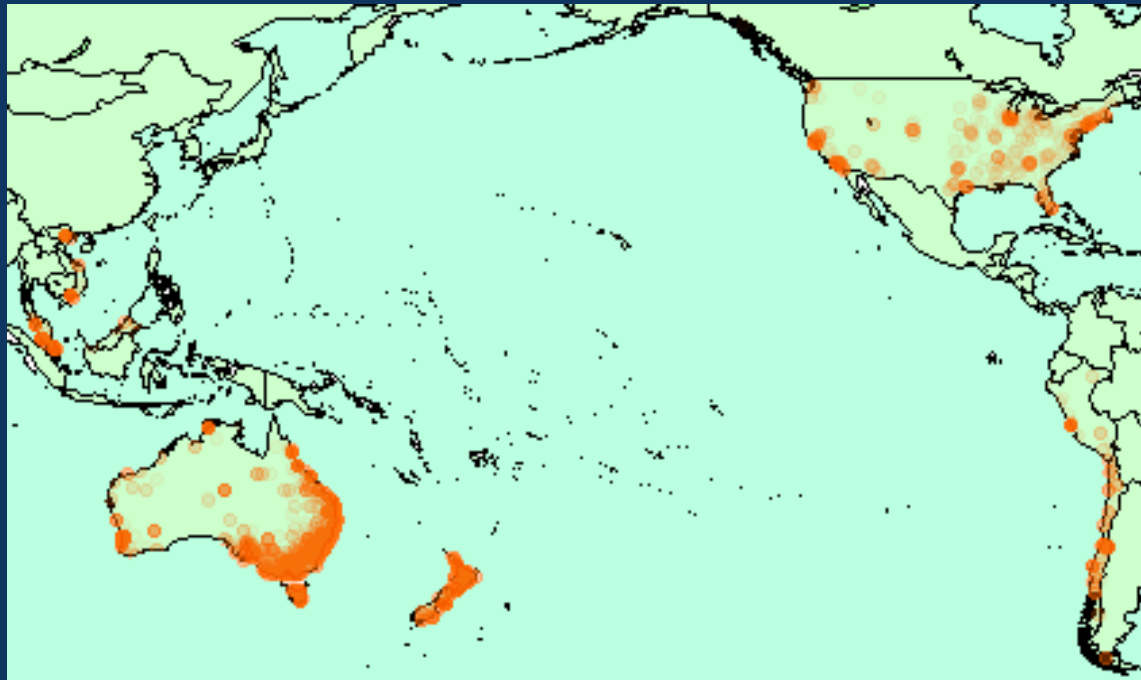
Exxon-Mobil v. Canada - Canadian offshore oil/gas exploration

RDC v. Guatemala – railroad operating contract

\$13 billion in corporations' pending claims under NAFTA, CAFTA and Peru FTA relating to environmental, public health, climate and energy policies. Even when defense is successful, it's expensive - California spent millions defending attacks on mining policy, gasoline additive ban and was not reimbursed.

TPP would expand the NAFTA version of investor-state dispute resolution to allow foreign corporations to sue governments in investor-state tribunals over natural resource concessions on federal lands and construction, other procurement and public-private partnership contracts relating to management of utilities

# TPP Expansion of Investor-State: Cross-Registered Corporations in TPP Countries



**Number of Corporate Affiliates Cross-Established**

Australia	Brunei	Chile	Malaysia	New Zealand	Peru	Singapore	U.S.	Vietnam
6,829	29	690	207	1,220	328	1,926	704	330

Source: Uniworld . The table indicates, for example, that 6,829 U.S. corporate affiliates are established in Australia, while 704 corporate affiliates from the other TPP countries are established in the U.S.

# Incentives to Offshore American Jobs



- TPP would provide special rights and protections for firms that offshore investment and jobs: a guaranteed “minimum standard of treatment” and government compensation for regulatory costs.
- TPP would remove the risks associated with offshoring to low-wage countries, such as reliance on domestic courts.
- TPP includes Vietnam, the low wage alternative to China

The U.S. has lost 5 million manufacturing jobs (1 of every 4) since NAFTA & WTO. Real wages have declined, costing the average household \$2,135 / year.



# Bye Buy American & Jobs

The TPP would:

- Ban Buy American policies. Firms in TPP countries get same access to U.S. government contracts (e.g. construction projects) as U.S. firms. Sends our tax dollars offshore.
- Deprive U.S. businesses preferential access to the U.S. procurement market, which is 24 times the size of the total combined procurement market gained under TPP.
- Constrain environmental / labor conditions on gov't contracts (e.g. renewable, "sweat-free" standards).

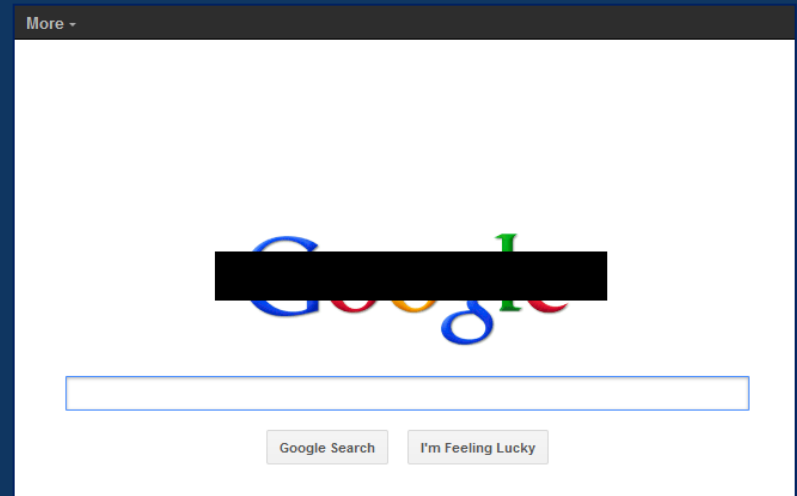


**90% of Democrats, Republicans and Independents support Buy American.**



# TPP = The Son of SOPA?

- Internet Service Providers required to “police” user-activity
- Mandatory fines for individuals’ non-commercial copies - treated the same as large-scale for-profit copyright violators
- Innovation stifled
- Even temporary “buffer” copies or breaking digital locks to use linux could subject users to fines



# Higher Drug Prices

TPP would decrease affordable access to medicines by...



- Extending patent monopolies, data exclusivity on lifesaving medications
- Empowering drug firms to challenge medicine pricing formularies (Medicaid/Medicare, National healthcare systems)
- Raising the costs of drugs for programs such as PEPFAR (President's Emergency Plan for AIDS Relief)

# Financial Deregulation



TPP would:

- Limit reregulation of Wall Street, limit state regulation of financial service sector
- Prohibit bans on risky financial products, services
- Undermine “too big to fail” regulations
- Ban use of speculation taxes and capital controls

# Unsafe Imported Food, Products



- We would be required to import meat that does not meet U.S. safety standards
- Less than 1% of seafood is inspected, but TPP nations have serious shrimp, fish safety issues
- Food labels considered “trade barriers”
- Foreign food corporations can directly challenge domestic standards, regulations

# TPP is Not New 21<sup>st</sup> Century Model, but Expansion of NAFTA – and How Did NAFTA Work Out...

- Increased *volumes* of trade flows BUT... imports grow at a much greater pace than exports, leading to massive new U.S. trade deficits with Mexico and Canada
- Over 5 millions net U.S. manufacturing jobs, 45K manufacturing facilities gone since NAFTA and WTO went into effect
- **Millions of service sector jobs offshored –computer programming, engineering jobs and “back office”** Blinder: 28 to 42 M service jobs (2-3 times current manufacturing job loss) could be off-shored in foreseeable future. Subsequent work by Blinder and Krueger confirm middle class & higher income jobs more susceptible to offshoring. McKinsey: 11% of U.S. jobs (14 million) could be off-shored in medium-term. PPI: 2 million U.S. information-based jobs (54% paying over median wage) are highly susceptible to offshoring in near future.
- **Real median wages at 1972 levels. Record income inequality. Samuelson (2004 Journal of Economic Perspectives) - as offshoring moves to higher wage sectors, no longer true that more liberalization always increases welfare gains. Gains from liberalization on import side. But what is net? Cheaper imports net loss in wages is key measure (\$2,000+ net loss 2007 – Economic Policy Institute)**
- **Floods of unsafe imported food, products**
- **Environmental, health, zoning laws attacked in trade tribunals & dumped. Millions paid to corporations in fines.**

# TPP in Sum

- TPP not mainly about trade. Sets policy on vast array of non-trade matters now under state & federal legislative authority. Popular policies banned – Buy American/Buy Local. Limits on financial, climate, energy, food safety regulation. Backdoor SOPA. Constraints on drug-cost savings.
- Congress & state legislatures must conform domestic policies to TPP terms, or face trade sanctions. No expiration date. No changes to rules without consent of all signatory countries. Public opinion, demands may change, but TPP would impose permanent constraints on policymaking space.
- Major expansion of investor-state regime empowering foreign firms to skirt U.S. courts, laws and demand taxpayer compensation.
- U.S. has FTAs with the six TPP nations that comprise 90% of the bloc's GDP, so limited prospects for expanding U.S. exports.
- Not a new model, but rather open-ended expansion of the NAFTA model with new countries docking on over time if they accept rules.

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