



“The Politics of TPP Ratification”

By Ira Shapiro

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It is a privilege to be the closing speaker in this superb symposium. I am particularly grateful to have been invited by Ota-san, a wonderful reporter, editor and analyst. Our friendship began when he covered the memorable 1995 auto talks between the U.S. and Japan, and we have stayed friends since that time.

By inviting Ambassador Alan Wolff and me, Ota-san wanted to show that two trade negotiators from the contentious period were fully on board with TPP. He also found a way to demonstrate that the U.S., like Japan, is an aging society.

I feel honored to follow Minister Amari, and to hear his excellent speech. I want to pay tribute to his extraordinary role in negotiating the TPP agreement. Only a former trade negotiator can understand just how hard it was, and what an accomplishment it is.

The completion of the TPP agreement in Atlanta represents a new era in U.S.-Japan economic and trade relations. Before the TPP negotiation, those relations between our countries were calm and stable---far different than the contentious times of the 1980s' and 1990's. But the absence of trade tension did not mean that the economic and trade relationship was coming close to attaining its potential.

Japan continued to have the lowest foreign direct investment of any of the OECD countries. U.S. trade with Japan from 1990 to 2013 grew at about 2% a year---compared to 6% with the UK, 8% with France and 10% with Germany. The relationship was calm, but that calm reflected Japan's long battle against deflation and low growth, the intense focus by U.S. companies on China, the consequences of the Great Recession, and the ground shifting in the Asia-Pacific in a way that was not favorable to either the United States or Japan.

Our leaders---Prime Minister Abe and President Obama---changed that. They each chose a bold course, reaching for something very ambitious---even historic---overcoming resistance in their own parties, from some of their strongest supporters. As the Prime Minister and the president each charted the right course for his nation, they found a striking convergence in their interests.

The text of the TPP is not yet available, but the summaries and press reports indicate that the United States, Japan, and the ten other TPP nations have reached an extraordinarily ambitious trade agreement. It will include unprecedented breakthroughs in market access for manufactured

goods, agricultural products and services, as well as high-standard rules to govern the 21st century economy. And it includes what is essentially a free trade agreement between the United States and Japan--which only a few years ago would have seemed completely inconceivable.

And so now, the question is: having come this far, will the American political process derail the TPP? The TPP nations look toward Washington with very understandable concern. From abroad, it seems that Capitol Hill is completely dysfunctional, a unique combination of paralysis and chaos, which can only be exacerbated by the pressures of a presidential and congressional election year.

On the Republican side, the rise of Donald Trump and Ben Carson, combined with the resignation of House Speaker John Boehner, and disproportionate impact of the Tea Party and the so- called Freedom Caucus has left even Republican stalwarts dispirited and baffled. Six respected former and current Republican governors vying for the nomination have completely failed to connect with the angry Republican voters who seem to want nothing to do with anyone who has any governing experience.

On the Democratic side, former Secretary of State Hillary Clinton faces a spirited and effective challenge from Senator Bernie Sanders, fueled by an anger about rising inequality in our country. Secretary Clinton's campaign has been strengthened by the Republican disarray chaos and overreach by the House Benghazi committee. But of course, she did decide against supporting TPP, reflecting the intense opposition of Democratic constituencies led by labor unions.

It was a sobering reminder of just how controversial TPP is within the Democratic Party. When Congress narrowly voted this summer to give President Obama the negotiating authority-- -Trade Promotion Authority---needed to finish the TPP negotiation, 80% of the Congressional Democrats opposed it. The 28 House Democrats who supported TPP have faced demonstrations and sit-ins in their offices, and the threatened withdrawal of support from long-time allies.

Let me assure this audience, if you find the current state of American politics worrisome and confusing, you are certainly not alone. I've been in government and politics in Washington for 40 years. I've worked in our Senate, in the Executive office of the President during the Clinton administration, run for the House, and written about the Senate when it was great. I have never seen anything quite like this; indeed, no one has. After Abe-san became Prime Minister in 2013, I would tell friends: "it's great to be in Japan, a country with a functioning government." In America, we haven't had one for quite a while.

Nevertheless, I have *absolute confidence* that Congress will approve the TPP in 2016. There will be troubling press reports and days when the agreement looks to be in jeopardy, but the United States will not fail Japan, Australia and our other TPP partners.

We will not delay this decision until the next president comes to office. We will not press to renegotiate the agreement. We will recognize the fundamental importance of TPP to the world economy, U.S.-Japan relations, our position in the Asia-Pacific, and the credibility of our country. We will approve TPP because the alternative --killing the agreement---would be a disastrous and inconceivable course.

Every country has its own challenging politics of trade. All around the world, trade barriers exist and endure because of economic reasons, political reasons, cultural reasons---or all three. Trade liberalization is never easy; success requires every negotiating nation to summon the requisite political will to make hard compromises, disappointing to some sectors, because the overall result is beneficial.

American trade politics include and reflect two distinctive elements.

The first is the uneasy accommodation between our legislative and executive branches. Under Article I of our Constitution, Congress has the responsibility for “interstate and foreign commerce”---trade. But under Article II, the President, the Executive, is the Commander in Chief and has the delegated power to negotiate treaties as well as the inherent power to negotiate other types of international agreements. 535 members of Congress can’t negotiate on behalf of the United States; only the president, acting through his trade representative, can.

In our system, as you know, we resolve this tension through a grant of negotiating authority by Congress to the President. We now refer to it as “Trade Promotion Authority”; the traditional name was “fast track.” Under “trade promotion authority,” or “fast track,” the fundamental bargain is that Congress sets the objectives of trade agreements, the President, through the trade representative negotiates agreements, and Congress votes up or down on the agreement---without amendment---within a specified period of time.

There has always been substantial resistance on Capitol Hill to this fundamental compromise. Some members of Congress dislike giving up the opportunity to offer amendments, which they can do on ordinary legislation. Others feel that once a trade agreement has been negotiated, there will be enormous pressure on them to approve the agreement. Consequently, we have had a series of intense fights over whether to grant negotiating authority, the most recent of which occurred, as you know, this past summer, when Congress gave President Obama TPA needed to finish the TPP negotiations.

But, of course, unhappiness about the process represents only one distinctive element of the U.S. trade picture. The other element is substantive. The political consensus in favor of negotiating trade agreements shattered during the battle over the North American Free Trade Agreement---NAFTA---in 1993. For the first time, trade was no longer the province of government officials, business leaders and other experts. It became a public issue, involving a full range of

environmental, labor, public health and other issues, and stakeholders passionately committed to those issues.

President Bill Clinton had negotiating authority to finish NAFTA and the Uruguay Round, but he never got it again for the remaining six years of his presidency---despite a period of strong prosperity in America. The proposed Free Trade Area of the Americas (FTAA) never got off the launching pad. The new multilateral round, envisioned to start in Seattle in 1999, went down in flames, with chaos in the convention hall and violence in the streets. George W. Bush succeeded in getting Trade Promotion Authority, by two votes after a bitter fight in the House. When he sent several free trade agreements to Congress in 2007, the Democratic Congress simply refused to act on them, violating the basic understanding of trade promotion authority.

By 2008, a Pew Research Center survey reported that Americans were the less supportive of trade agreements than any other advanced nation. And what I call the “anti-trade movement”---a combination of labor unions and non-governmental organizations (NGOs)---had become a constant, and highly effective part of our political landscape, with close ties to, and great influence on, the Congressional Democrats. The anti-trade movement began at a time of general prosperity in America, but it intensified in the last 15 years, starting with the rise of China after its WTO accession, and continuing with anger about rising inequality and what is perceived to be the slow and incomplete recovery from the Great Recession. During this presidential campaign season, Democrat Bernie Sanders and Republican Donald Trump, who agree on almost nothing, have expressed the same opposition to TPP, and the trade agreements that they claim have decimated the middle class.

Given this background, and the undeniable strength and effectiveness of the anti-trade movement, why am I so confident that Congress will approve TPP? Some of you are familiar with the famous late night comedian, David Letterman, who became known for his “top 10” lists---on every conceivable subject. Let me give you the “top ten” reasons why TPP will be approved.

Number 1: The completion of the negotiation changes everything. In our process, the president can sign the agreement only after giving 90 days’ notice of his intention to do so. The process ensures that the full text will be available to the public for 60 days before the President signs the agreement. Our International Trade Commission (ITC) will do a detailed report on the economic impacts of the agreement. The agreement will be widely debated at the end of this year, but even more so in the early months of next year.

The opponents will have to deal with the reality of the agreement. They can no longer get by offering a combination of fact, fiction, and fear. They can no longer score points by railing about the alleged secrecy of the negotiation. Congressional complaints about insufficient consultation, which never had any basis, will dissolve because the process requires and ensures intensive consultation. Despite the term “fast track,” the U.S. process for approving trade agreements is very searching, extremely collaborative, and not at all fast. We will have a serious and intensive debate over TPP because that’s how we handle trade agreements.

Number 2: The agreement offers large market access benefits to virtually every sector of the U.S. economy. The United States is only 5% of the world’s population. We will prosper only by selling our products and services, and doing business with, the other 95% of the world. The Asia-Pacific is the most dynamic economic region of the world. Over the past two decades, the region’s middle-class grew by two billion people. That number is estimated to increase by another 1.2 billion in 2020. But in most of the region, our manufacturers, farmers and service providers still encounter very high trade barriers. The TPP agreement brings down those barriers dramatically.

As the details become known, strong support for what has been negotiated will build. Already it is clear that TPP has very large benefits for U.S. agricultural interests---beef, pork, wheat, dairy--and many other sectors. The agreement includes enormous reductions in tariffs in Japan, but also in other countries which are the future markets for U.S. farmers and the food industry. U.S. agricultural export interests have enormous, and disproportionate, political influence on Capitol Hill. No trade agreement can be approved on the Hill without strong support from the American agricultural sector, and this agreement will have that support.

Although the U.S. political debate often makes it sound like we no longer manufacture anything, the truth is that the United States remains one of the world’s leading manufacturing and exporting nations. The slashing of tariffs and the disciplines on non-tariff barriers in some of the world’s most rapidly growing economies are of great importance to

Caterpillar, Boeing, GE and a remarkably rapid increase in those small and medium sized businesses that export. It is also important to the U.S. auto industry, which, strengthened by the investment and manufacturing of Japanese and German auto companies, exported more than 2 million cars and SUVs around the world last year. Moreover, the U.S. energy revolution, thanks to an abundance of shale gas and oil, will continue to lower manufacturing costs across the board.

Number 3: TPP has delivered on the promise of high-standard rules for the 21st century economy. A key aspect of the TPP agreement is the chapter of e-commerce and the digital economy. The agreement provides strong assurances of an open Internet, unburdened by localization requirements which could prevent cross-border data flows. These provisions are extraordinarily important for Google, Apple, Microsoft and our other technology leaders. The agreement also has strong intellectual property provisions of great importance to the motion picture, recording and publishing industries.

The U.S. economy is today principally based on our service sectors---banking, insurance, architectural, engineering and law, telecommunications, media and entertainment, express delivery. This agreement contains commitments to reduce barriers to our service sectors which go far beyond the agreements to date.

The agreement also includes the first meaningful restrictions on state-owned enterprises (SOEs), which will be obligated to function in accordance with market principles. This is a major breakthrough and a tribute to the creativity and tenacity of the TPP negotiators. It represents a vital discipline for the future, particularly as other nations, including China, consider their readiness to join the TPP.

Number 4: The negotiators have delivered on the President’s promise that TPP would be a trade agreement that reflects “U.S. values” on labor rights and environmental protection. TPP, as reported, meets those objectives. The 12 TPP nations have put fundamental labor rights in the basic agreement---not in a side agreement. Those rights include freedom of association, the right to collective bargaining, prohibition and effective elimination of child and forced labor and protection against employment discrimination. For the first time in a trade agreement, TPP requires countries to adopt laws on minimum wages, hours of work and occupational health and safety. There are separate comprehensive commitments by Vietnam, Malaysia and Brunei.

On the environment, TPP includes unprecedented commitments to combat illegal fishing, wildlife trafficking and illegal logging, as well as first-ever commitments to prohibit some of the most harmful fishing subsidies. The agreement strengthens adherence to multilateral environmental agreements (MEAs). It also eliminates tariffs on certain environmentally-sensitive products and technologies. And these labor and environmental provisions will be enforceable through dispute settlement. Some of the TPP opponents will continue to oppose, but these labor and environmental provisions will be meaningful to many Democrats.

Number 5: There will be a concerted and effective national campaign to sell the agreement to Congress. I worked with USTR Michael Froman during the Clinton administration. When he was appointed, I said that he had the intellect, temperament, negotiating experience, and the trust of the president needed to be a great U.S. Trade Representative. When he worked in the White

House, he helped design the Obama trade policy, the centerpiece of which was TPP. Then he went to USTR, and negotiated it. He has an experienced and able team, all of whom understand the politics of trade very, very well. Secretary of Commerce Penny Pritzker, who will play a key role in the effort to convince Capitol Hill, is both talented and universally respected. The pro-trade business community has long experience in fighting, and winning, these legislative fights. This will be a sophisticated lobbying effort, in which the benefits of this agreement will be made known to every senator and congressman. And pro-trade allies around the country will reinforce the message about the importance of TPP. Trade may be unpopular among House Democrats, but the nation's governors and mayors, who have day to day responsibility for creating jobs and attracting investment, have been strong advocates in every trade battle on the Hill.

Number 6: Congress will be strongly influenced by the bilateral market access agreement with Japan, and what this agreement means for Japan. Several years ago, no one could have anticipated the degree to which Japan would embrace the TPP as a lever to reform its economy and open its markets. Great credit goes to Prime Minister Abe for his early support of Japan's entry into TPP, even before the 2013 Upper House elections. Abe-san had the vision to understand the importance of TPP to Japan's economic future and position in Asia, and the courage to endorse it and fight for it, despite political opposition. Before Japan entered, TPP was an interesting and meaningful trade negotiation. But Japan's entry made it the most important trade negotiation since the Uruguay Round---a negotiation spearheaded by the largest and third largest economies in the world, and 12 nations representing 40% of the world's GDP. And it was Japan's entry that prompted other nations, starting with South Korea, but now including Thailand, Colombia, the Philippines, Taiwan, and, this week, Indonesia, to express their interest in joining.

Number 7: TPP is a fundamental part of President Obama's legacy, and this legislative fight will be the last major battle of the Obama presidency. Presidents win this type of fight, and President Obama will win this one.

Barack Obama sought the Democratic nomination in 2008 as a trade skeptic---at least partly because of the political imperatives of what it took to win Democratic primary votes. When he became president, trade understandably became an after-thought as he worked to avoid a second Great Depression. But after the economic crisis eased, Obama focused on what the U.S. economy needed to ensure its long-term strength. He realized that America was in danger of being excluded from the economic integration of the Asia-Pacific. He saw the TPP negotiation, which was still relatively modest, as the way for the U.S. to ensure its place in the Asia-Pacific, and to prevent a situation where our manufacturers, service providers and farmers were disadvantaged by other nations' preferential arrangements. He made TPP the economic

centerpiece of America's rebalance toward Asia. He committed the United States to its most ambitious trade agenda in 20 years, without any assurance that Congress would support it.

And then, he provided the personal political leadership to produce that support. He certainly didn't want to spend his last two years in office fighting with 80% of the Congressional Democrats. He took on an issue that was intensely unpopular in his party for the best of all reasons: it was in the national interest.

I remember the closing days of the fierce Congressional fight over NAFTA. I was USTR General Counsel, and was spending almost full-time on the Hill, as we worked for every vote. At one point, a senior House Democrat, and old friend, pulled me aside, and angrily criticized NAFTA and what it was doing to the Democratic Party. And then, suddenly, his face and his voice changed. He said: "Of course, if I was the President, I would see it differently. He has to look at the national interest."

I spent 12 years working in the Senate, I love Capitol Hill (at least the way it used to be), and appreciate the role of Congress in our process. But, sometimes, the President looks to, and speaks for, the national interest.

Number 8: President Obama will have the Congressional allies that he needs. Those of us who have been involved in trade legislative fights have seen this play before. On NAFTA, permanent normal trade relations for China, CAFTA, and the fight earlier this summer over trade promotion authority, the opposition was very formidable, and sometimes appeared destined to prevail. Yet key members of Congress---usually from the leadership of the House and Senate, and the trade committees---stepped forward, worked with the White House and delivered hard-fought, narrow victories. The Congressional heroes of the TPA fight included Republicans Orrin Hatch, Paul Ryan, Mitch McConnell and John Boehner, as well as Democrats Ron Wyden, Ben Cardin, Ron Kind and Gregory Meeks. Where the politics of trade are concerned, our system works---barely, but regularly---because presidential leadership finds support from Congressional leadership. I have every confidence that other key leaders--- Democratic House leaders Nancy Pelosi and Steny Hoyer, and the next Senate Majority Leader, Chuck Schumer, will play important roles. Together, they'll find a way to get this done successfully.

As the world knows, America has gone through seven years of hyper-partisanship and gridlock, which isn't over yet. We can't get agreement on legislation to repair our bridges and highways. In seven years, there was exactly one time that the Republican Congress joined the Democratic president in a major accomplishment which transcended partisanship. That was TPA. Senator Majority Leader McConnell showed a previously undetected sense of humor when he described working with the President "as an out of body experience." The politics of trade are very difficult

in the United States. But the importance of what's at stake actually bring out the best in our presidents and key members of Congress.

Number 9: The politics of an election year may affect the timing of Congressional action, but they won't change the outcome. Having guaranteed the result, I may disappoint you by not predicting the precise timing of the Congressional vote. It is too early to be sure, because our process requires an enormous amount of work and collaboration between the administration and the Congress. Several respected members of Congress have indicated their view that if the vote can't occur early in 2016, it should be delayed until a "lame duck" session, in which Congress returns to the Hill after the November elections.

That is certainly a possibility. President Clinton worked closely with the Republican and Democratic leaders in Congress to approve the Uruguay Round in a lame duck session in 1994, even though the Republicans had just won control of both the House and Senate for the first time in 40 years. Waiting until a lame duck session this year would be even trickier, because the discussion would involve not only the President and Congress, but also the President-elect. But in 2008, President Bush and President-elect Obama worked closely together in dealing with the economic crisis. If Congress has not considered TPP before the election, I have no doubt that it will do so afterward. The President's commitment to TPP is extraordinarily strong, and I have no doubt that the president-elect---Democrat or Republican----will not start their presidency by killing or delaying TPP.

Number 10, and last: The economic benefits of TPP are very important, but America's place in the Asia-Pacific, and the world, is at stake. President Obama surprised many listeners when he hit the issue straight on in his State of the Union address: "China wants to write the rules for the world's fastest growing region. That will put our workers and businesses at a disadvantage. Why should we let that happen? We should write those rules."

China's rise since 1979 is one of history's extraordinary stories. Hundreds of millions of people have been moved from poverty. Now facing a substantial economic slowdown, forces within China's government are debating whether this is the time to liberalize its economy, by going for consumer-led growth, rather than export-led growth. In the meantime, rampant violations of intellectual property continue, state-owned enterprises are advantages over private competitors, and U.S. companies invested in China have become increasingly disillusioned by China's unique standards and preference for "indigenous innovation---not to mention evidence of large-scale cybersecurity violations."

It remains the hope of all Americans, and our leaders, that China will become what Robert Zoellick once called "a responsible stakeholder" in the international system. Every recent

American President has worked hard to maximize the possibility that China will become a partner in the challenges facing the global economy and global security. As the old commercial for Michelob beer reminds us: “Some days are better than others.” But we keep working at it, engaging constantly with China in many fora, on a range of difficult issues.

TPP allows the U.S., Japan and our partners, to offer a high-standard, rules-based alternative to China’s state capitalism. It showcases a model to which some reformers in China will aspire. It provides assurance to the other countries that the United States is committed to their region and their future. China may decide to seek entry to the TPP in a few years, or it may intensify its effort to spearhead competing trade arrangements.

But we can be absolutely certain about one thing. If Congress rejects TPP, it would be seen, quite accurately, as a protectionist and isolationist measure by an America plainly in retreat. I don’t question the sincerity of those who opposed TPA and now oppose TPP. But it does amaze me that so many of the opponents absolutely understand that China is our number one trade challenge, but still advocate a course that would be a bonanza to China, and a devastating setback to the United States.

Fortunately, it will not happen that way.

This is what former Secretary of State James Baker once called “a defining moment.” When we look around the world, we see the Middle East in flames, Europe facing a series of cascading crises, and the global economy weakening as demand from China slows. The world desperately needs evidence that nations can transcend their differences, to reach common ground---higher ground---to accomplish great things for their people. Minister Amari, Ambassador Froman, their negotiating counterparts and their teams have left their families and their homes to negotiate, endlessly, in virtually every corner of the world, to reach this historic agreement. We owe them a great debt. I have no doubt that the U.S., Japan and our TPP partners will finish the job, and that the remarkable friendship between the United States and Japan will be cornerstone of that success.