

# Why Is Trump Risking a Trade War With Canada?

<https://www.theatlantic.com/international/archive/2017/04/why-is-trump-starting-a-trade-war-with-canada/524265/>

The president has softened some of his tough talk toward China and Mexico, transferring it to Canada and disputes over softwood lumber and dairy products.

- **DAVID A. GRAHAM**
- **APR 26, 2017**

Donald Trump is not the first U.S. president to tangle with Canada over lumber. In fact, the first U.S. president to do so was the first U.S. president. George Washington's administration saw a dispute over ownership of valuable forests on the border between New Brunswick and present-day Maine.

So despite Trump's recent tough talk about the trade relationship with America's neighbor to the north, his announcement Tuesday morning of new tariffs on Canadian lumber is actually consistent with what U.S. policy has been for decades. Where Trump differs from previous presidents, though, is in very publicly sounding off about a longstanding disagreement. In so doing he has also, apparently, found a new target for his trade-related ire, even as he softens his stances toward previous targets like China and Mexico.

"We're going to be putting a 20 percent tax on softwood lumber coming in—tariff on softwood coming into the United States from Canada," Trump said Tuesday morning. Actually, the Commerce Department is levying tariffs on a range of Canadian lumber companies, with the average coming to around 20 percent.

It's not just wood that's at issue. Tuesday morning, Trump tweeted:



**Donald J. Trump**

Canada has made business for our dairy farmers in Wisconsin and other border states very difficult. We will not stand for this. Watch!

7:30 AM - Apr 25, 2017

He'd previously complained about the dairy issue during an appearance in Wisconsin. Also Tuesday, Commerce Secretary Wilbur Ross issued a statement attacking Canada:

It has been a bad week for U.S.-Canada trade relations. Last Monday, it became apparent that Canada intends to effectively cut off the last dairy products being exported from the United States. Today, in a different matter, the Department of Commerce determined a need to impose countervailing duties of roughly one billion dollars on Canadian softwood lumber exports to us. This is not our idea of a properly functioning Free Trade Agreement.

Both the lumber and dairy issues are enduring matters of dispute between the U.S. and Canada, though for slightly different reasons.

The Canadian lumber industry functions differently from that of the United States. In the U.S., most logging is done by private companies on privately owned land. The Canadian timber industry operates largely on public lands, with companies paying a fee to harvest. U.S. logging companies charge that this constitutes an unfair government subsidy, allowing Canadian producers to flood the American market with cheaply produced softwood (from fir, spruce, pine, and other coniferous trees).

Every few years this dispute flares up, and then the Canadian and U.S. governments reach an agreement—often under pressure from American builders, who are upset about paying higher costs for wood—that sets some sort of quota on imports to the U.S. to appease all parties. The latest agreement, signed in 2006, expired in 2015, leading inexorably to Tuesday's declaration. Bloomberg reported that some Canadian lumber officials, while disputing the U.S. charges, actually viewed the tariffs as less onerous than might have been expected.

"This is so predictable," says Laura Dawson, director of the Canada Institute at the Wilson Center. "It's like the Mayan calendar: 100 years of good harvest and then 10 years of chaos and darkness."

The dairy dispute, meanwhile, centers on Canada's staunchly protectionist approach to the industry. The Canadian dairy industry is largely quarantined—neither exporting nor importing milk products. In recent years, American producers found a loophole allowing them to export to Canada new products not covered by existing rules, but Canada has now moved to close that off. Canada's reason is simple enough: It's politically popular to support Canadian dairy farmers. The reason Trump is complaining is that it's also

politically popular to support American dairy farmers. (This is true across party lines: Democratic Senate Leader Chuck Schumer is praising Trump on the milk issue; then-President Obama privately pressed Prime Minister Justin Trudeau on the same matter when he was in office.)

These long-running irritants in the U.S.-Canadian trade relationship have not typically gotten in the way of broader trade between the two countries: Canada is the largest importer of American goods, and it's the fourth-largest source of imports to the United States. But because of the disagreements over dairy and lumber, they are excluded from NAFTA, which eliminates trade barriers between the U.S., Canada, and Mexico on most products.

Historically, the U.S. and Canada have worked their way through disputes over the two products. But the question is whether Trump, having followed past administrations' lead on adding tariffs, will also follow them on breaking the impasse. If the Canadians hoped that Donald Trump, with his past as a builder, would be more likely to offer a good deal on softwood lumber than the Obama administration, they may be sorely disappointed now.

Trump has sent mixed messages about U.S. trade over its northern border in general. "People don't realize Canada's been very rough on the United States," he said Tuesday. "Everyone thinks of Canada being wonderful and civil. I love Canada. But they've outsmarted our politicians for many years, and you people understand that." But Trump seemed to get along well with Trudeau when the two met in February, and he was very eager to restart construction on the Keystone XL pipeline, a major Canadian priority Obama had tried to kill. (Trump and Trudeau spoke on Tuesday, though a White House readout shed little light on the call, except that they discussed wood and dairy and that "it was a very amicable call.")

"You're trying to find a pattern, and it's really difficult to say whether we should expect that there would be a pattern in the way that this White House behaves in its foreign relations," Dawson said. "I think it's going to go more or less the way it has gone in previous negotiations. The things that are more worrying here are the leakage between the issues that are known to be systemic irritants and the broader trading relationship. We all know that we're not going to get along on softwood, but that's not a reason to blow up the NAFTA."

Whether the Trump administration will feel the same way remains to be seen. It has been slow to begin formal renegotiation of NAFTA—a process about which Canada has been outwardly supportive—but says it remains

committed to the process. The U.S. is effectively asking Canada to hobble its dairy and timber industries, but it's unlikely Trump would make any concessions on Canadian priorities, like dropping "buy American" provisions and opening up labor markets to Canadian workers. A drawn-out trade war between Canada and the U.S. would harm U.S. exporters and increase some prices for American consumers, but it would likely hurt Canada more, since trade with the U.S. represents a larger percentage of Canadian GDP than trade with Canada represents for the U.S.

But Canada is aware of this and has begun trying to diversify, as a government Twitter account pointedly noted Tuesday:

Canada is now pursuing closer trade relationships with China and other Asian markets. Ironically, the Trans-Pacific Partnership negotiated under Obama would have opened up the Canadian dairy market to American exports, but Trump withdrew the U.S. from that agreement.

Although the lumber and dairy disputes are not new, Trump's very public excoriation of Ottawa is unusual. It's especially remarkable because his attacks on the closest American trade partner come as he has softened his line on two of the countries he has most aggressively criticized in the past. During the presidential campaign, he accused Mexican and Chinese leaders of outsmarting the U.S. in negotiation, and vowed to take a tougher line with them. Instead, he has blinked on demanding funding for his border wall and softened his language toward China, recognizing both that Beijing has not devalued its currency for years and that he needs Chinese assistance to contain North Korea.

Meanwhile he has transferred his complaints about those countries over to Canada, right down to the "outsmarted" terminology. The current approach is a nearly perfect embodiment of the old maxim that one should keep one's friends close and one's enemies closer—give or take the closeness with friends.

# ***Nafta Talks' Extension May Make for Slow, Painful Demise***

<https://www.nytimes.com/2017/10/17/us/politics/nafta-negotiators-extend-talks-delaying-its-expected-demise.html>

**By ANA SWANSON**OCT. 17, 2017

WASHINGTON — Until Tuesday, the North American Free Trade Agreement looked like it might be headed for a quick demise. Now, it could be headed for a slow, painful one.

The United States, Canada and Mexico said on Tuesday that they would extend Nafta negotiations into next year, with the parties citing “significant conceptual gaps” in how to rewrite the 1994 trade pact.

Negotiators, struggling to find agreement on some of the thorniest provisions of the trade deal, will take an extended break to consult with politicians and interest groups before convening again in Mexico City for the fifth round of talks in mid-November. The trade talks, which were supposed to wrap up by year-end, have now been extended into the first quarter of 2018, the parties said.

The extension signals the potential demise of a trade pact that, while critical to North American commerce, has come under withering criticism from the Trump administration as a bad deal for American workers. The three countries, which will meet again on Nov. 17, have been unable to reach agreement on a range of issues, including what percentage of a product should be made in the United States and whether the trade pact should expire every five years.

Finding agreement on the outstanding provisions will get even trickier in the coming months, as negotiations collide with political events in all three countries that will only harden each nation’s stance.

The Mexican presidential race will begin in earnest leading up to a July 1 election, raising the risk that President Trump’s proposals for revising Nafta will become a sensitive topic that Mexican candidates will shy away from supporting.

In the United States, legislation will expire in July that gives the Trump administration more extensive authority to negotiate trade deals and then submit them to Congress for a simple up or down vote, without amendments. Campaigning for midterm elections will also begin in the United States, while Canada will hold provincial elections.

Given its current gridlock, Congress is unlikely to renew the legislation, called Trade Promotion Authority, Wilbur L. Ross Jr., the secretary of commerce, told a conference last Wednesday.

“If we lose T.P.A., I don’t think you’ll ever see a deal done here,” Mr. Ross said. “In general terms, once you get much into next year, nobody is going to be able to get as big and complicated of a deal as this done.”

Speaking to reporters on Tuesday after the fourth round of talks, Robert E. Lighthizer, the United States chief trade negotiator, said the “end of the year was never a hard target” and that the previous timeline was putting too much pressure on the process, which requires consultation with Congress, labor unions and industry associations.

Mr. Lighthizer described the hard process of renegotiating a substantially altered trade agreement that, he hoped, would capture support from businesses, labor groups, the president and both political parties in Congress.

“It is important for the trading system that we end up establishing a solid majority for the kind of things we’re doing, and we not keep operating right on the fringe,” he said. “If we can do that, then this will truly be a historic agreement.”

Negotiators for Mexico and Canada expressed frustration after the talks concluded.

Chrystia Freeland, Canada’s minister of foreign affairs, said her country had seen “a series of unconventional proposals in critical areas of the negotiations that make our work much more challenging.”

“We have seen proposals that would turn back the clock on 23 years of predictability, openness and collaboration under Nafta,” Ms. Freeland said. “This is troubling.”

Ildefonso Guajardo, the Mexican secretary of the economy, said his country was still striving to bring constructive solutions and not end up “in a lose-lose-lose situation.”

The demise of Nafta, a deal that has knit together the North American economy over the last quarter century, would be a heavy blow to all three economies. A new study by Impactecon, an American consulting firm, found that the United States would lose 256,000 net jobs if it withdrew from Nafta, with the most severe impact on low-wage employment. Mexico would lose 951,000 net jobs, and Canada 125,000, the report projected.

The outcome could also damage the North American security relationship, straining cooperation to combat money-laundering, terrorism, the drug trade and undocumented migrants coming through Central America, the report said.

The Trump administration came into office promising to scrap or overhaul trade deals like Nafta and the Trans-Pacific Partnership and forge new bilateral deals in

their stead. But the Nafta talks illustrate that the Trump administration has found it easier to criticize trade deals than forge politically popular ways to amend them.

The delay in talks into next year will give the United States government time to try to resuscitate the 1994 trade pact. But it is still unclear how the United States will move forward with provisions that foreign partners and the business community in the United States consider to be non-starters.

Those provisions include a five-year sunset clause that would cause Nafta to automatically expire unless the three countries voted to continue it — a proposal that businesses say would inject so much uncertainty into the deal as to effectively nullify it.

The Trump administration is also pushing for drastic revisions to the mechanisms that help to resolve disputes under Nafta. Its proposals would allow countries to reject the ruling of independent panels on state-to-state disputes, as well as change the investor-state dispute settlement provision to an opt-in basis, and substantially curtail the ability of investors to bring such cases.

In his remarks, Mr. Lighthizer said he considered these provisions to be a kind of “political risk insurance” and a market distortion that encouraged businesses to invest abroad.

The Trump administration is pushing for higher thresholds for the amount of products that must be manufactured in North America to qualify for Nafta’s zero tariffs — for instance, 85 percent for automobiles, up from 62.5 percent previously. The United States has also proposed that cars manufactured in Canada and Mexico be made with 50 percent American content, effective immediately.

Other sticking points center on agriculture, which makes up a large part of commerce between the three nations. The United States is pushing to eliminate a program that lowers prices for certain Canadian dairy products, and also create a faster channel for American produce growers to bring trade cases against low-price imports of Mexican produce like tomatoes and avocados.

Many businesses in Mexico appear to be planning ahead for life without Nafta. Jorge Guajardo, Mexico’s ambassador to China (no relation to the economy minister), said he no longer got the sense while speaking with Mexican chief executives “that there was any hesitation that Nafta is dead.”

The clash over Nafta, including the tough talk and threats by Mr. Trump, are making countries more hesitant to jump into talks with the United States.

Speaking Tuesday morning, Jyrki Katainen, a vice president at the European Commission, said that the United States trade posture had benefited Europe. About eight or nine months ago, other countries started to call European leaders, asking to move more quickly in their trade negotiations.

“You cannot get bilateral agreements if it’s only useful for your country, but not benefiting the other party,” Mr. Katainen said.

# Hopes of EU-US trade agreement put on ice, say Brussels sources

Uncertainty grows about trade deal with the EU that some in the US felt would be more important to its interests than a post-Brexit deal with Theresa May

<https://www.theguardian.com/business/2017/jun/05/hopes-of-eu-us-trade-agreement-put-on-ice-say-brussels-sources>

**Daniel Boffey** in Brussels

Monday 5 June 2017 18.46 EDT Last modified on Wednesday 20 September 2017 12.35 EDT

The prospect of a revived EU-US trade deal is in “deep freeze”, according to Brussels sources, undermining reports that the EU has been inching ahead of the UK in the race for an arrangement with Washington.

Neither Donald Trump nor European officials raised the possible resumption of talks during the US president’s visit to Brussels last month, EU sources said. Documents relating to the transatlantic trade and investment partnership, known as TTIP, had now been locked in a filing cabinet and the code to open it had been lost, one diplomat joked.

It was reported in April that the UK had fallen behind in the queue to strike a trade deal with Trump’s administration. According to the Times, Angela Merkel, the German chancellor, had convinced Trump that talks on a US-EU agreement would be simpler than he thought.

This had led to a “realisation” that a trade deal with the EU – allowing the tariff-free exchange of services and goods – would be more important to US interests than a post-Brexit deal with Theresa May, it was reported.

Talks over TTIP stalled last year amid opposition from within the EU, including sceptical comments from France’s then trade minister and the German vice-chancellor, Sigmar Gabriel.

However, a meeting between Trump the European commission president, Jean-Claude Juncker, and the European council president, Donald Tusk, two weeks ago offered the EU scant evidence of any such willingness, according to EU sources.

“It didn’t come up,” one EU diplomat said. “It’s maybe not entirely dead but it is in deep freeze”. The source said that the completion of an EU-Japan trade deal was nevertheless imminent, and would provide significant economic gains.

The development may offer Downing Street some fresh hope that the UK stands a better chance of engaging with Washington than Brussels does.

May has appeared less inclined to criticise the White House for its recent policy tacks – including leaving the Paris climate agreement – suggesting that the prime minister believes the UK stands a chance of forging an accord with the US administration if it avoids upsetting the president.

In Brussels, though, there is a high degree of scepticism about the UK’s chances of getting a deal. “Trump would have to be taught what trade means first,” one EU diplomat said.

The source added that it was questionable whether the UK had the expertise to engage with the US administration on a trade deal. “A UK-US trade deal would probably take 10 to 15 years anyway”, the diplomat said.

The UK’s attitude to the coming Brexit negotiations had given EU diplomats little evidence of such a capacity, the source added. “Theresa May keeps saying she the chief negotiator. Is she really going to spend six days a week in Brussels negotiating?

“If it is David Davis, fine. If it is Olly Robins [permanent secretary of the Department for Exiting the European Union] then fine, he knows the files, although maybe less the economic ones. We need to know who we are negotiating with ... I don’t think they have a plan.”

The warnings of a freeze in trade talks come despite upbeat comments in April from the US commerce secretary, Wilbur Ross. He said before Trump’s first foreign tour that the US was “open” to resuming negotiations with Brussels.

“Clearly at some point we need to do something with Europe,” Ross said in an interview with the Financial Times. “It seems a little weird that a car being shipped from Mexico to Europe pays no tariff as they have a bilateral [agreement with the EU] and a car being shipped from the US pays the full tariff.”

## Politico Magazine

<https://www.nytimes.com/2017/10/17/us/politics/nafta-negotiators-extend-talks-delaying-its-expected-demise.html>

# Countries agree on Pacific trade pact that excludes U.S.

Move comes after President Donald Trump sharply criticized large multilateral trade deals during his APEC speech in Vietnam.

By MICHAEL TATARSKI

11/10/2017 10:05 PM EST

Updated 11/11/2017 07:28 PM EST

DA NANG, Vietnam — Top trade officials from the 11 remaining members of the Trans-Pacific Partnership have agreed on a bare-bones plan to bring the pact into force without the United States, according to a joint statement provided to POLITICO by the Chilean government.

The move came one day after President Donald Trump sharply criticized large multilateral trade deals during his keynote speech at the annual APEC leaders summit here.

"Ministers are pleased to announce that they have agreed on the core elements of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)," the statement said.

About 20 provisions that were once part of the Trans-Pacific Partnership have been "suspended." Notably, no agricultural commitment appears on the list of suspended provisions.

Provisions that won't go into effect include certain commitments related to express delivery, biologics, investment, telecommunications and medical devices. .

In addition, "This text also incorporates a list of four specific items for which substantial progress was made but consensus must be achieved prior to signing," the statement added.

The four issues that still need to be resolved before the CPTPP can be signed each involve a different country: an issue on state-owned enterprises related to Malaysia; a commitment on coal affecting Brunei; a dispute settlement provision involving trade sanctions connected with Vietnam; and a cultural exception issue related to Canada.

During a press conference on Saturday morning in Vietnam, Toshimitsu Motegi, Japan's minister for economy, trade and industry, and Tran Tuan Anh, Vietnam's minister of industry and trade, took questions on the deal, even though details on its terms remain scarce.

Motegi, however, confirmed previous reports that Canada was the reason that the deal was held up after an agreement was thought to have been reached on Friday.

"As for the reason why Canada changed their attitude, I'm not certain, that's something you'd have to ask Canada," he said. "But I can state the fact that in the meeting the minister had raised his hand to show support for the agreement. Perhaps there are some domestic procedures in Canada and there was some mistake in communication."

As late as Friday afternoon, Canadian officials said they would "not be rushed into an agreement that is not in the interest of Canada."

Anh, meanwhile, stressed the importance of maintaining a high-standard deal even without U.S. involvement. "That is why the quality of the agreement has been reaffirmed in two new words: comprehensive and progressive. We consider this an overarching goal of TPP."

He added that more negotiations would be needed before the new CPTPP would become a reality. "I don't think we can discuss everything here, but we have fulfilled our mission to reach a consensus between the TPP ministers concerning the most fundamental portion of TPP, and for the remaining part, we have a roadmap, a direction for it," Anh said.

The countries also have to work out various technicalities and prepare the text, in English and other languages, for verification before it can be signed.

The 11 countries agreeing to the new CPTPP pact are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

# A lesson in the basic physics of NAFTA negotiations

<http://thehill.com/opinion/international/359968-a-lesson-in-the-basic-physics-of-nafta-negotiations>

BY SUSAN ARIEL AARONSON AND HANNA NORBERG, OPINION CONTRIBUTORS — 11/12/17 01:00 PM EST 17

THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

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Newton taught us that for every action, there is an equal and opposite reaction. What is true for physics is also true for trade policy. President Donald Trump's efforts to undermine NAFTA negotiations may instead inspire more people to support and defend the agreement.

During the presidential campaign, Trump called NAFTA the worst trade agreement ever. He promised that if elected, the U.S. would withdraw from the agreement. Many observers were shocked; Canada and Mexico are not only neighbors and close allies, but also America's most important trade partners. While the agreement is outdated, since 1994, NAFTA has helped the three nations stimulate growth and collaborate to address continent wide problems.

After significant public pressure, Trump agreed to renegotiate NAFTA rather than immediately withdraw. Nonetheless, the president's approach to NAFTA marks a huge change in strategy for the U.S. Since 1934, the U.S. has used trade agreements to delineate how and when nations can put in place trade distorting policies. Trump, however, is determined to reverse more than 80 years of America's global leadership establishing the rule of law in trade.

The Trump administration does not seem to understand how to negotiate such agreements. Senior officials see the negotiations as a zero-sum game where the U.S. benefits only when Canada and Mexico loses and vice versa. They don't seem to understand that to get a concession in an area important to the U.S., one must grant a concession. During the fourth round of talks in October, U.S. Trade Representative Robert Lighthizer demanded that NAFTA 2.0 must reduce the U.S.

trade deficit in goods and the parties should agree to review the pact after five years (a sunset clause). However, Lighthizer's tactic backfired. Both Canada and Mexico urged caution; neither nation wants to give Trump an opportunity to sabotage the talks.

Trump administration officials argue that Americans support such disruption, but there is little evidence that they do.

First, polling data from Pew and the University of Maryland Program for Public Consultation shows that many Americans don't want to abandon NAFTA: Instead, they want trade agreements like NAFTA strengthened with stronger labor and environmental provisions. Moreover, during the 23 years of NAFTA, trade agreement critics in the labor, human rights and environmental communities have created continent-wide partnerships that give these groups leverage to influence NAFTA's future. They don't want to lose that leverage.

Finally, many executives are determined to maintain NAFTA and they are organizing their stakeholders to defend it. Alphabet Chairman Eric Schmidt recently stated that the U.S. economy is "critically dependent" on supply chains with Canada. The Global Leadership Coalition, a business group organized to defend trade agreements, surveyed investors in October 2017 and found that 72 percent of investors believe NAFTA withdrawal would harm U.S. economic growth over the next few years.

Congress is also getting antsy. After both Democratic and Republican members of Congress demanded that the Trump administration rethink its NAFTA 2.0 strategy, USTR Lighthizer responded that he only has "an audience of one, the president," to please. Lighthizer's response was a major faux pas, given that Congress and the executive branch share authority for trade.

But that was not the Trump administration's only flub. Members of Congress wondered how the Trump administration's plans for NAFTA can create jobs and raise living standards. They also demanded to see if the administration had a backup plan in place if in case negotiations fail or the U.S. withdraws. Lighthizer admitted that the administration had no contingency plan and hadn't examined the direct or long-term effects of withdrawal. In short, the administration had not actually examined the direct and indirect effects of its disruptive strategy upon the nation.

Newton also theorized that a body will continue in its state of rest or motion unless it is compelled to change by outside forces. Trump's empty vision of trade cannot solve America's problems of slow rural economic growth or few jobs for low-skilled

workers. Americans understand that if Trump pulls out of NAFTA, citizens and policymakers in other countries will not trust the U.S. to keep its commitments or to negotiate new ones. Trump's trade threats are inspiring an equal and opposite reaction — growing numbers of Americans are rising to defend NAFTA.

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# American lawyers gather to ponder Trump's NAFTA options: Can he cancel it alone?

<http://www.cbc.ca/news/politics/can-trump-cancel-nafta-alone-1.4399938>

Nearly two dozen scholars attended Duke University conference, from Yale, Harvard, UCLA and elsewhere

By Alexander Panetta, The Canadian Press Posted: Nov 13, 2017 10:38 AM ET Last Updated: Nov 13, 2017 10:39 AM ET

Legal experts huddled together at a recent conference to ponder a question that could go from being a distant hypothetical to one that dominates Canada-U.S.-Mexico relations: can an American president unilaterally cancel a trade deal?

The reason it's suddenly relevant, of course, is President Donald Trump's repeated threats to scrap NAFTA, and it came up at a Duke University conference on exiting international agreements, where one session was dedicated specifically to trade.

Curtis Bradley told colleagues he's convinced the president could do it alone. Bradley's view carries weight: he co-edits the prestigious international-law journal of the American Law Institute. And he has little sympathy for the argument the president can't act.

That argument stems from an apparent contradiction in the cornerstone of American law: in the U.S. Constitution, Article One gives Congress power over commerce, while Article Two gives the president power over international affairs.

People are now being prompted to discuss this by a rare political phenomenon: Presidents don't usually threaten to cancel trade deals.

"I know those arguments (that he can't do it). I happen to think (they're) not right," Bradley said in an interview, after the Oct. 27-28 conference.

"The bottom line is that for at least the last 100 years presidents have acted on behalf of the United States to decide whether to withdraw the United States from treaties... We don't do it often, I should emphasize. It's a rare event... (But) Congress has (almost) never objected."

## Congress's steps unknown

Trade deals are fundamentally the same, in his view, as other international treaties, like the Paris climate accord.

"There's just nothing special about commerce," Bradley said. "(Congress) could never make NAFTA... It could never make the Korea-U.S. agreement... I hate to be so critical, because I tried to listen hard (to the opposing argument)... But many people in the room ... were puzzled by (it)."

Yet he admits to important unknowns.

One source of uncertainty is what would happen to the law Congress passed to implement NAFTA in 1994. Even if Trump pulls out, Bradley notes, no president can snap his fingers and make a law vanish.

Another unknown is whether Congress might take steps to stymie the president. It's a remote possibility for now. But one idea floating around Washington's pro-NAFTA ranks would involve Congress passing a bill to require a thorough study before any pullout.

One member of Congress is making NAFTA an issue: Jeff Flake, who has announced he's not seeking re-election, is confronting Trump on trade, and has announced he will use procedural blocks to delay an administration appointment amid concerns over NAFTA.

And there would likely be lawsuits. Bradley assumes that parties facing financial damage could claim legal standing to fight in court against a NAFTA withdrawal, and try forcing the U.S. justice system to make a decision.

Enter the opposing view.

### **Powers limited?**

Joel Trachtman of the Fletcher School presented a paper at the conference arguing the president can't do it alone. It said a unilateral Trump pullout would be virtually unprecedented; Trachtman identified 112 treaties the U.S. had terminated, and he found almost no examples of a president acting alone.

"Only a very small number — one to four," he wrote.

It's especially tough for the president in this case, he says.

First, it involves trade where Congress has a constitutionally recognized role. Furthermore, the 1994 NAFTA law remains on the books. Finally, he argues that the 1994 law makes a telling distinction: it stipulates that the original Canada-U.S. trade legislation would end in the event of a withdrawal, but does not make the same guarantee on NAFTA.

Trachtman also cites the seminal 1952 Youngstown Steel case, which curbed a president's power to contradict a law passed by Congress.

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Nearly two dozen scholars attended the conference, from Yale, Harvard, UCLA and elsewhere.

Some are dead-set against Trachtman's view. Others agree with him that presidential powers are limited.

The latter group includes one of the co-authors of a paper presented there, Tim Meyer of Vanderbilt University, who said in a recent interview: "If the president were to rip up NAFTA and then sort of jack tariffs way up, I think somebody would be able to say ... 'You're actually violating U.S. domestic law.'"

Believers in presidential power include one of Washington's most respected trade-watchers, Gary Hufbauer of the Peterson Institute. In his view, the president could invoke NAFTA's termination clause, Article 2205, which allows a country to withdraw on six months' notice. After six months, Hufbauer says, Trump could decide whether to follow through and reimpose tariffs.

Some trade lawyers confess that it's confusing.

At another conference last month, Scott Lincicome of the pro-trade Cato Institute described a variety of befuddling possibilities. One is a zombie-like scenario: Trump announces a pullout, then doesn't follow up with actions, there are no new tariffs, and NAFTA stumbles along, half-dead.

"So you're all getting a nice window into the fun we trade lawyers have had for the last year, trying to figure all of this out," he told conference-goers at Cato.

"It's a paradise for trade lawyers — as long as your clients are willing to accept 'I don't know.'"

# Nafta Negotiators Set to Look for Small Wins After U.S. Threats

<https://www.bloomberg.com/news/articles/2017-11-13/nafta-negotiators-set-to-look-for-small-wins-after-u-s-threats>

By  
Greg Quinn

,  
Josh Wingrove

, and  
Eric Martin

November 13, 2017, 4:00 AM EST

- Talks on trade pact set to resume Wednesday in Mexico City
- Mexico warns Nafta death will impact U.S, security cooperation
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As Donald Trump pushes to overhaul U.S. trade ties abroad, negotiations with his two biggest export markets are resuming in hopes of finding new common ground on easier subjects -- leaving the most contentious U.S. demands for later.

The fifth round of North American Free Trade Agreement talks starts Wednesday in Mexico City, two days earlier than initially scheduled. It's the first meeting since U.S., Mexican and Canadian negotiators extended talks to March and added more time between sessions, abandoning Trump's previous deadline.

U.S. Trade Representative Robert Lighthizer capped the last session by chastising Mexico and Canada for balking at certain demands -- it was the U.S. that sought the extension, according to two government officials familiar with the proceedings who spoke on condition of anonymity. The most contentious U.S. demands are

on dairy, automotive content, dispute panels, government procurement and a sunset clause.

Mexico is warning talks could impact immigration cooperation with the U.S., while Canada is effectively holding up the Trans Pacific partnership -- a deal Trump quit, that was also effectively a Nafta update -- as it pushes for improvements. Lighthizer has complained that Mexico and Canada aren't agreeing to what was already in TPP.

One government official said Nafta negotiations this week are expected to focus on smaller issues related to modernizing the deal, and the thorniest discussions will be put off until later rounds. Many observers expect the same.

"Instructions are 'let's keep the ball moving, let's not have fireworks,'" said Welles Orr, a former assistant U.S. Trade Representative under George H. W. Bush who is now a senior international trade adviser in law firm Miller & Chevalier's international trade practice in Washington. U.S. lawmakers are fully focused on tax reform and that's left little bandwidth to push quickly for a Nafta deal, Orr said.

He expects a handful of deals "on noncontroversial items to at least keep the pace of negotiations going and so that they can at least claim they're making progress."

### **'Litmus Test'**

Nafta covers more than \$1 trillion a year in trade and government officials have described essentially two sets of negotiations -- one focused on modernizing a 23-year-old agreement for an Internet era, and another where Mexico and Canada essentially rejected high-profile U.S. demands on subjects that bear Trump's fingerprints, like dairy and autos.

The negotiations, which started in August, cover 28 areas of trade. The countries have so far reached substantially or fully completed deals on chapters covering competition rules and small- and medium-sized enterprises. Chief negotiators are expected to arrive Friday and the ministers -- Lighthizer, Chrystia Freeland and Ildefonso Guajardo -- will join next week. A spokeswoman for Lighthizer declined to discuss the upcoming round.

Canada and Mexico are the first- and second-largest buyers of U.S. goods, but the U.S. still has a \$53.1 billion merchandise trade deficit with Mexico through September of this year, and a shortfall of \$12.4 billion with Canada. Trump has regularly criticized trade deficits and wants to reduce them; Canada and Mexico have said they're not the best way to measure the success of a trade agreement.

"Nafta has become kind of a litmus test of U.S. trade intentions" for other U.S. trading partners in Asia and Europe, said Colin Robertson, senior adviser at the Dentons LLP law firm and a former Canadian diplomat. The U.S. demands signal they're seeking "a substantial redo" of a pact, and those kinds of negotiations typically take years, he said.

## **Remove Exports**

The willingness to fight in public was obvious at the last round. Lighthizer said he was "surprised and disappointed by the resistance to change," while Guajardo said Mexico has limits to what it can accept. Canada's Freeland criticized a "winner-take-all mindset." While Canada and Mexico may be able to compromise, the real question is whether the U.S. can too.

"What they're asking of the Canadians and Mexicans is to take away their exports," said Chad Bown, senior fellow at the Peterson Institute for International Economics.

“It’s really back to the Trump administration to decide for itself how serious they are about those proposals. If they are serious about them, I don’t see a serious outcome.”

Mexican Foreign Minister Luis Videgaray warned over the weekend that Mexico will be less likely to cooperate with the U.S. on security and immigration if Nafta talks collapse. “It’s a fact of life and there is a political reality that a bad outcome on Nafta will have some impact on that,” he said in an interview Saturday at the Asia-Pacific Economic Cooperation summit in Vietnam. “We don’t want that to happen and we’re working hard to get to a good outcome.”

When asked on Nov. 2 about a deal, National Economic Council Director Gary Cohn offered conciliatory words. “We’re trying,” he said in Washington. “Negotiators are continuously meeting, and we’re continuously trying to get to a point where we think that American- based companies and American-based manufacturers are treated fairly in the agreement.”

Trump may have wiggle room after U.S. automakers urged him to keep Nafta, a pact he has said has led to one-sided trade and cost jobs.

## **Nafta Impact**

Linda Hasenfratz, chief executive officer of auto parts maker Linamar Corp., said in an earnings call last week she sees four key areas of dispute -- auto rules, the sunset clause, the dispute panels and government procurement. “There’s an opportunity to come to resolution on each of these issues if all parties want that to happen,”

Hasenfratz, who sits on Canada’s Nafta advisory council, said on a Nov. 7 earnings call.

An American proposal for 50 percent U.S. content in vehicles has “no chance” of being agreed to, she said, but the overall content requirement could be raised from the

current threshold, which requires 62.5 percent of a vehicle be sourced from the three Nafta countries.

If that happens, “there’s a chance we could win some new work,” Hasenfratz said. If Nafta dies, she said it’s likely they’d revert to World Trade Organization tariffs of between 2 and 2.5 percent. “The bottom line is, one way or another, we would deal with the 2 percent,” she said. “No one is going to spend billions of dollars shifting work to different countries for 2 percent.”

Reverting to WTO tariffs would cut Canadian GDP growth by a total of about 1 percent over five to 10 years, Royal Bank of Canada said in a report Friday. “The odds that NAFTA will be torn up, not simply amended, appear to be increasing,” Senior Economist Nathan Janzen wrote. “The end of NAFTA would be a negative outcome for the Canadian economy, but a manageable one.”

— With assistance by Kristine Owram, and Randy Woods

# The next big worry for markets—NAFTA fails and trade wars erupt

<https://www.cnbc.com/2017/11/13/the-next-big-worry-for-markets-nafta-fails-and-trade-wars-erupt.html>

- As the fifth round of NAFTA negotiations are set to begin, analysts say the chances have increased that the 23-year-old accord could fall apart.
- Analysts say tough trade talk from President Donald Trump in Vietnam last week put fresh focus on his opposition to deals like the North American Free Trade Agreement.
- Jens Nordvig, Exante Data CEO, sent out a warning note Monday that he now sees a 30 to 40 percent chance of NAFTA "blowing up."
- Strategists say if NAFTA collapses, that would spark fears of other trade wars.

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As trade negotiators prepare to meet in Mexico this week, Wall Street is increasingly worried the 23-year-old NAFTA trade deal could fall apart, creating the potential for new trade clashes in North America and around the globe.

Analysts say tough "America first" trade talk from President Donald Trump in Vietnam last week raised new concerns about his opposition to deals like the North American Free Trade Agreement with Mexico and Canada. Trump has pushed for the renegotiation of NAFTA, and he has also threatened to withdraw from it, something analysts say appears to be increasingly possible.

The talks enter a fifth round Wednesday, and the U.S. has been attempting to narrow a \$60 billion trade deficit with Mexico and modernize the agreement on such things as intellectual property, digital trade and financial services. After the last round, U.S. Trade Representative Robert Lighthizer said he was "surprised and disappointed by the resistance to change" by Mexico and Canada on these fronts but added there has been some movement on modernization.

"There are lots of scenarios where this thing just dies. You can't rule that out," said Greg Valliere, chief global strategist at Horizon Investments. "I think that [Trump] just sent a signal in that speech that he doesn't want any kind of multilateral deals. He just wants bilateral deals. To be fair, you could say we could cut a deal with [Canadian Prime Minister Justin] Trudeau, maybe with Mexico. And with [U.K. Prime Minister] Theresa May. There are options."

But there is also downside and the potential for increased U.S. protectionism. "There are already trade disputes between the U.S. and Canada on lumber and dairy products. We slapped tariffs on their aircraft. There are already issues. There could be a fight with China over aluminum and steel. I just worry these things become more numerous," Valliere said.

Sticking points in the negotiations have been over new rules of origin, with the U.S. seeking that 85 percent of any automobile to be sourced to NAFTA countries, with 50 percent of the total coming from the U.S., whereas current sourcing rules are for 62.5 percent to be made in NAFTA countries. The U.S. imports billions of dollars in car parts from Mexico annually, in addition to actual automobiles. Other points of disagreement have been the U.S. insistence on dropping a process to resolve disputes and also the addition of a five-year termination clause.

"They're making great progress in the Congress on the tax bill. Is this really where you want to go and offset some of those benefits? But polling is strong on this on NAFTA, and this may be something they want to do," said Daniel Clifton, head of policy research at Strategas Research. "I think the market will extrapolate a larger global trade war if that happens."

Jens Nordvig, Exante Data CEO, sent out a warning note Monday that he now sees a 30 to 40 percent chance of NAFTA "blowing up."

While Ian Bremmer, president of Eurasia Group said in a note Monday that he has long thought there was 50/50 chance NAFTA would fall apart, but he is also becoming increasingly concerned.

"The big risk is that trade tension in NAFTA spreads to a more global stage, for example if the EU sides with Mexico in WTO disputes. This is where the global risk grows very large," Nordvig said in an email.

The potential economic impact is unclear but there would be an immediate response in the currency markets. Nordvig points out that the peso fell to a low of 22 vs. the dollar in January. It was at about 19.15 Monday.

"If NAFTA blows up, it is very vulnerable," Nordvig notes, adding Mexico could turn politically to the left in its upcoming presidential election. "Hence, we are talking about potentially very significant [peso] weakness in a NAFTA blow-up scenario, especially if it drives political changes in Mexico also."

He said the Canadian dollar would also go against the U.S. dollar if NAFTA ended. "But that is not the case globally. In fact, I think over the medium-term, [euro] and [Chinese yuan] would benefit from the U.S. "America First" policy, as it has to make the [dollar] a less attractive reserve currency," Nordvig noted.

The economic consequences of the end of NAFTA are unclear but Valliere notes that American farmers could be among the groups that feel impact since they are big exporters. The U.S. had a \$12.5 billion surplus with Canada in 2016, and it traded \$628 billion in goods and services with the U.S. last year, compared with Mexico's \$580 billion.

Bremmer said Canada and Mexico also see the potential for the talks to fall apart. "Both now have plans well underway for how to respond to what a NAFTA-less North America looks like. The economic hit is equally clear for both, but the politics are another matter," he wrote. "Anti-Trump sentiment in Canada is so high that there's not likely to be much fallout for Trudeau and his liberal party if the relationship falls apart. Meanwhile, Mexican president Enrique Pena Nieto is ostensibly the pro-Trump guy; this has a huge impact on next year's elections."

The bigger impact would clearly be on Mexico's economy and businesses. There has been a significant decline in stocks of Mexican companies that have large exposure to the U.S., according to Strategas.



*Source: Strategas Research*

"The Mexican authorities are trying to downplay the affects so they're putting out numbers about how much trade already goes under WTO rules and non NAFTA rules. They're trying to talk about diversification of markets. They talk about the growth of imports from Argentina and Brazil," said Juan Carlos Hartasanchez, senior director at Albright Stonebridge Group. He said imports, largely grain, have grown 10 to 15 percent in the last year from Brazil and Argentina. "They logically have to boost confidence. However, the impact is still strong. I think GDP would suffer...It definitely would be an important hit to GDP just because of the sheer size of Mexican U.S. trade."

Hartasanchez said if the U.S. does withdraw from NAFTA, Mexico has said it would not remain at the table though the actual withdraw would be six months away. "The way [the U.S.] could justify getting out is saying the blame falls on Mexico and Canada and saying they weren't willing to renegotiate," he said.

In an editorial, the *Wall Street Journal* Sunday said the biggest threat to Trump's economy is his trade agenda. The newspaper pointed to its own poll that said 82 percent of economists surveyed

said the economy would grow more slowly for the next two years than it would have otherwise, but only 7 percent expected recession. "That underestimates the risks of recession in our view, given the political shock from such a reckless act by a U.S. President and the damage that would ensue to North American and even global supply chains," the editorial said.

Valliere said free trade has become a target of both the left and far right. "People don't like free trade anymore. It's unpopular," he said. "I think you could make a compelling case that it's helped the U.S. It's helped our export sector. It's brought in goods that are low priced and that's been good for consumers... But there is a focus on the people who have been hurt."

Patti Domini  
CNBC Markets Editor

# Some Trade Deals on Hold after Trump's Election, but Danger Lurks in the Lesser-Known Trade in Services Agreement (TiSA)

[http://www.huffingtonpost.com/deborah-james/some-trade-deals-on-hold\\_b\\_13282998.html](http://www.huffingtonpost.com/deborah-james/some-trade-deals-on-hold_b_13282998.html)

By Deborah James

Fair Traders who are celebrating the defeat of the Trans-Pacific Partnership (TPP) may see their hard work undone if the talks towards the proposed Trade in Services Agreement (TiSA) continue under a Trump administration.

Many Democrats who minimized the importance of the negative impacts of corporate trade deals on working class Americans have now paid the price in the recent elections. As my colleagues at the [Center for Economic and Policy Research](#) have pointed out, racists and xenophobes were always going to vote for Trump but the key [voters the Democrats were counting on that they lost were largely working class voters](#), many of them union members, in states hit hard by trade deals (supported by both parties) that put working class people in competition with lower-income manufacturing workers in other countries while [preserving protections for intellectual property-holders and high income professions](#).

While these working class voters may have voted against their economic interests in terms of workers' rights, social security, work/life balance, and other pro-worker provisions in the Democratic platform, they were right that both parties have become too aligned with corporate interests — and trade agreements is one of several instances where that is the case.

It is yet to be seen how or if President-elect Trump will make good on his pledges on trade to these voters, but in the initial preview of his first days in office, he has promised to withdraw from the TPP. Likewise the talks with the EU on a Transatlantic Trade and Investment Partnership (TTIP) are on hold. In the EU, the EU-Canada agreement, known as CETA, is in limbo while the European Court of Justice decides whether the dispute settlement mechanism in the agreement complies

with EU law.

Fair trade advocates are rightly celebrating important victories and noting that, thanks to [successful grassroots campaigning](#), President Obama did not ever have the votes to send the TPP to Congress for approval, and won't be able to do so in the lame duck session as he had originally intended.

Unfortunately there is still a corporate trade agreement under negotiation that has so far received scant attention: the proposed Trade in Services Agreement (TiSA). Trump has not commented about the TiSA, so we really don't know his views. But there are three reasons why we're not "out of the woods" with the TiSA, and why the TiSA isn't in the same category as the TPP and TTIP for now, despite media reports that the deal is on hold until US negotiators get new instructions:

1. Trump is not against corporate-driven trade agreements; he has said that he thinks US negotiators did a bad job negotiating and that they've gotten bad deals, and that he's going to renegotiate and get good deals. So he could very well take up the TiSA as an agreement that's still under negotiation, put his stamp on it, and then claim that "this is what happens when you negotiate a good agreement!" And you can bet that the corporations are doing their best to talk with him now about doing this, because they are not going to abandon the project when he has yet to state his position.
2. The TiSA is about locking in further deregulation and privatization, and Trump loves deregulation and privatization.
3. The TiSA is focused on services, so it may not speak to the working class in his base in the same way that agreements that result in the transfer of manufacturing jobs to low-wage, worker-unfriendly countries like Vietnam do.

Thus, there is an urgent need in the United States to not only ensure that Trump does not take up a re-packaged TPP or TTIP (and possibly negotiate an even worse deal for ordinary citizens), but also to use the short window of time before he announces his opinion on the deal to ensure that the TiSA is permanently sidelined as well.

However, it's important not to think of TiSA as "only about services." Now that nearly every chapter of the agreement has been [leaked](#), a more complete picture has

emerged: that the TiSA is fundamentally an offshoring and outsourcing charter.\* The TiSA is intended to lock in a system of rules to allow multinational companies to operate in a borderless digitized environment with minimal regulation and maximum rights regarding the treatment of labor, capital, inputs, and the new key element of data. As promoted by the multinational financial, logistics, and big data corporations through [Team TiSA](#), the agreement would set severe limits on the ways that governments can regulate domestic economies, removing key tools of economic management and the ability to shape the service economy while providing an extensive corporate bill of rights for multinational companies' operations across the globe. Given the shift in employment patterns from high-paying manufacturing jobs to low-wage services jobs, and given the potential offshorability of millions more services jobs, the danger posed by TiSA is daunting.

Here are ten ways that the TiSA could fundamentally affect jobs and the labor market, based on provisions in the leaked texts, some of which have been accepted by all parties and some of which are under negotiation.

**1. Companies are expanding the category of “services” in order to make it all-encompassing.** Corporations no longer consider setting up a plant and producing goods to be simply “manufacturing goods.” This activity is now broken down into research and development services, design services, legal services, real estate services, architecture services, engineering services, construction services, energy services, employment contracting services, consulting services, manufacturing services, adult education services, payroll services, maintenance services, refuse disposal services, warehousing services, data management services, telecommunications services, audiovisual services, banking services, accounting services, insurance services, transportation services, distribution services, marketing services, retail services, postal and expedited delivery services, and after-sales servicing, to name a few. Going further, a shoe or watch that measures steps or sleep could be a fitness monitoring service, not a good. A driverless car could be a transport service, not an automobile. Google and Facebook could be information services and communication services, respectively.

**2. Offshoring and outsourcing of jobs and downward pressure on wages could greatly accelerate as TiSA would lock in labor, tax, and regulatory arbitrage** through rules that would allow corporations to transfer capital, inputs,

workers, and data across borders without consumer, privacy, or labor protections so that they can enjoy the seamless global operations of all of the above services in whichever country provided the cheapest labor, least regulation, and lowest taxes. Note that the [services classification list](#) [DOC] being used in the TiSA includes 120 subsectors, many of which are professional categories like those listed above, that have heretofore been protected from past trade deals.

**3. Not only would TiSA promote offshoring of jobs, but it would also greatly expand domestic “inshoring.”** Foreign contractors (say from Japan) would be able to bring in workers (say from the Philippines) to conduct work inside a consumer country (say the United States) on terms and conditions well below minimum local pay and local standards. The workers would not even have to be from a TiSA country. The [Mode 4 Annex](#) in TISA would make many employees or workers mere “independent service contractors.” As they wouldn’t be considered formal employees, the migrant workers would not benefit from the protection of labor laws in the host country, their employment contracts being governed instead by default contract laws. The question then remains, which labor laws will apply? Labor lawyer Tony Salvador has noted: “If it is alleged that the labor laws of the [workers’] home country applies, it would be practically impossible to assert their rights since they are working and are based in the foreign country.”

**4. The TiSA does not include a labor chapter, and in fact the draft texts only mention labor rights once** — in one Annex supported only by one developing country. Workers’ rights provisions in past trade agreements have been weak and unenforced, but the TiSA doesn’t even meet this low bar, and does not even reference the basic standards set forth by the International Labor Organization (ILO). In addition, companies also would not be required to have local directors or managers, or even a local presence, compounding the inability to hold them accountable for misdeeds in labor (or other) disputes under national laws. TiSA’s standstill clause would constrain governments from implementing new regulations, including labor laws, that might negatively impact the conditions of competition of foreign firms vis-a-vis domestic companies.

**5. Preventing governments at the national, state, and even municipal levels from supporting local businesses and local employment** is a major focus of the TiSA. Foreign services corporations would also not be required to hire local staff, even

though that is typically viewed as a major benefit of allowing foreign services suppliers to operate in a country. Market access rules proscribing economic needs tests, provisions requiring that foreign companies operate under “at least as favorable” conditions of competition as domestic companies, and [government procurement](#) rules opening up services contracts down to the penny to foreign bidders would eviscerate any laws resembling “buy local” or “buy American.”

**6. The principle of “technological neutrality” which TiSA negotiators take as a given would have immeasurable job impacts particularly with regard to the “gig” economy.** This principle means that the rules being developed in TiSA (which are not regulations, but constraints on regulating) would apply to all new services regardless of the technological mechanism by which they are being delivered. So if a country opened its market to passenger transport services, it could not apply new and different rules to Uber than to traditional taxicabs. Driverless cars, drone delivery, and other steps towards automation would have to be regulated the same way as other mechanisms of delivering a service. Given the speed of technological change, locking out the possibility of developing different regulations for different technologies is a serious usurpation of the role of the public oversight over corporate practices and would massively impact millions of jobs in these emerging sectors.

**7. Job loss as a result of privatization would increase as [publicly owned utilities](#)** would have to compete under the same rules as private companies, reducing the benefits of public ownership, resulting in the elimination of jobs that inevitably follows privatization. The TiSA also includes a ratchet clause, which would lock in existing and future liberalization of services, making failed experiments in privatization of education, health, water or electricity distribution, transportation, postal delivery, garbage collection, or wastewater treatment irreversible.

**8. The financial services text of the TiSA is the closest thing imaginable to a guarantee of another job-killing financial crisis.** If the draft texts were accepted, the TiSA would constrain governments from implementing most of the regulations that are recognized, both domestically and internationally, as [essential to prevent another global financial crisis](#). This includes, for example, rules against banning toxic financial products and rules against establishing limits on the size of banks; governments would forego any possibility of breaking up “too big to fail” systemically risky financial institutions.

**9. Workers would have to shoulder even more of the tax burden as corporate tax evasion would accelerate.** Companies that supply a service [would not be required to have any physical local presence](#), making value addition even more difficult to pinpoint, facilitating tax avoidance. The trend of companies moving headquarters to tax havens would speed up, shifting the tax burden of maintaining schools, healthcare, and infrastructure even more to workers.

**10. The TiSA could potentially be used as the basis of a foreign company's claim against the United States.** The TiSA does not include the infamous Investor to State Dispute Settlement (ISDS) mechanism by which private foreign corporations can sue sovereign governments in private courts (because the aim is to bring it back into the WTO). However, under the TiSA an “investor could also refer to the breach of TiSA rules as part of its case that its ‘legitimate expectations’ of fair and equitable treatment had been violated — an extremely open ended and unpredictable concept that investors rely on most often to challenge government regulations and decisions, even when they are made in the public interest,” according to the analysis of the EU’s [dispute settlement proposal](#) in July of this year.

There are many other negative consequences of the proposed TiSA — for our [democracy](#), the [climate](#), our [public services](#), global [financial stability](#), and our [privacy and internet governance](#), just to name a few.

But the labor implications have heretofore not been highlighted. At this point they seem to be an open door through which to reach the president-elect and his constituents, and to ensure that the increasing servicification of the economy does not result in a disastrous future for jobs, wages, and inequality in the United States.

### **Background Information on the TiSA**

The TISA is currently being negotiated among 50 countries (or 23 parties, counting the 28-member European Union as one) with the aim of extending the coverage of scope of the existing General Agreement on Trade in Services (GATS) in the World Trade Organization (WTO).

In addition to the [core text](#), it includes annexes setting forth specific disciplines with

regard to either government functions ([domestic regulation](#), [transparency](#), [government procurement](#), [state owned enterprises](#), [localization](#)) or strategic sectors. The strategic sectors can best be understood as giving corporations the right to move labor (through the [Mode 4](#) and [Professional Services](#) annexes), capital (through the [financial services annex](#)), inputs (annexes covering [air](#), [maritime](#), and [road transportation](#), [energy](#), [telecommunications](#), and other services that all services companies rely on), and data (the [e-commerce annex](#)). [All of these annexes and the core text have been leaked](#), sometimes in multiple iterations which show the evolution of various countries' positions over time, along with analysis of the implications of each of the texts conducted by members of the global Our World Is Not for Sale (OWINFS) network.

In addition, the TiSA includes the Schedule of Commitments for each member country, in which parties set forth which sectors they are willing to commit to the six market access disciplines and which sectors they are excluding from the National Treatment disciplines.

I have written summaries of the implications of the leaked documents, on [domestic regulation](#), [financial services](#), [air and maritime transportation](#), [electronic commerce](#), [transparency](#), [telecommunications](#), [professional services](#), and [the natural movement of persons \(called "Mode 4"\)](#) in June 2016; on financial services, telecommunications services, electronic commerce, and maritime transport, as well as domestic regulation, Mode 4, transparency, government procurement, and [the Core Text](#) in July 2015; on [energy services and environmental services](#), in December 2015; on [state owned enterprises \(SOEs\)](#), [professional services](#), and [anti-localization provisions](#), in May 2016; and on the [market access demands of the EU on developing countries](#) in October 2016.

\* I would like to thank University of Auckland law professor Jane Kelsey for several of these insights.

*Deborah James is the Director of International Programs of the Center for Economic and Policy Research in Washington, DC, [www.cepr.net](http://www.cepr.net). She coordinates OWINFS, a global network of civil society groups working for a sustainable, socially just, and democratic multilateral trading system. For more information on the TiSA, please see [www.tisauncovered.org](http://www.tisauncovered.org).*

# President Trump's Executive Orders Formally Bury TPP's Corpse, but What About TTIP, TISA, China BIT?

<http://www.commondreams.org/newswire/2017/01/23/president-trumps-executive-orders-formally-bury-tpps-corpse-what-about-ttip-tisa>

Statement of Lori Wallach, Director, Public Citizen's Global Trade Watch

Formally withdrawing from the Trans-Pacific Partnership (TPP) will bury the moldering corpse of a deal that couldn't gain majority support in Congress, but the question is going forward will President Trump's new trade policies create American jobs and reduce our damaging trade deficit while raising wages and protecting the environment and public health not just here but also in trade partner nations?

If President Trump intends to replace our failed trade policy, a first step must be to end negotiations now underway for more deals based on the damaging NAFTA/TPP model so its notable that today's announcement did not end talks to establish the Transatlantic Trade and Investment Partnership, the Trade in Services Agreement and the U.S.-China Bilateral Investment Treaty – all of which would replicate and expand the TPP/NAFTA model Trump says he is ending.

President Trump also repeatedly has said he would launch NAFTA renegotiations immediately and withdraw from NAFTA if he cannot make it “a lot better” for working people. NAFTA renegotiation could be an opportunity to create a new trade model that benefits more people, but if done wrong, it could increase job offshoring, push down wages and expand the protections NAFTA provides to the corporate interests that shaped the original deal.

Even with the Fast Track authority Trump inherits, to pass a NAFTA replacement he must ensure its terms enjoy support from most congressional Democrats and

a subset of Republicans. Most congressional Republicans and many people Trump has named to senior positions passionately support the very agreements Trump opposes. Most congressional Democrats have opposed deals like TPP and NAFTA and for decades promoted alternatives that expand trade without undermining American jobs and wages, access to affordable medicine, food safety or environmental protections.

NAFTA is packed with incentives for job offshoring and protections for the corporate interests that helped to shape it, so to make NAFTA better for people and the planet will require it to be replaced, not tweaked. To remedy – not worsen – NAFTA’s damage, both the old negotiating process and the contents must be replaced. To put the needs of working people, their communities, the environment and public health over the demands of the special interests that have dominated U.S. trade policymaking, the 500 official U.S. trade advisers representing corporate interests who called the shots on past agreements must be benched.

If corporate elites are allowed to dictate how NAFTA is renegotiated, the deal could become even more damaging to working people and the environment in the three countries. Absent high labor and environmental standards, requirements for more North American content in products could increase U.S. job offshoring. The corporate interests that have rigged past trade deals say NAFTA renegotiation is how they will revive the special protections they achieved in the TPP, for instance limits on competition from generic drugs so pharmaceutical firms can keep medicine prices high. (See Citizens Trade Campaign’s Jan. 13 [letter to Trump](#) and U.S. Rep. Rosa DeLauro’s Jan. 3 [letter to Trump](#) on what must be in a NAFTA replacement for it to provide broad benefits.)

# What Is TPP? Behind the Trade Deal That Died

<https://www.nytimes.com/interactive/2016/business/tpp-explained-what-is-trans-pacific-partnership.html>

By KEVIN GRANVILLE UPDATED January 23, 2017

The Trans-Pacific Partnership, the largest regional trade accord in history, would have set new terms for trade and business investment among the United States and 11 other Pacific Rim nations — a far-flung group with an annual [gross domestic product](#) of nearly \$28 trillion that represents roughly 40 percent of global G.D.P. and one-third of world trade.

But the agreement, a hallmark of the Obama administration, became a flashpoint in the United States presidential campaign, where it was opposed by the nominees of both major parties as a symbol of failed globalism and the loss of United States jobs overseas.

The election of Donald J. Trump all but ensured that the deal would not go through. On Monday, his first full workday in office, Mr. Trump delivered on a campaign promise and signed a statement [formally abandoning the Pacific trade deal](#).

Mr. Trump's press secretary, Sean Spicer, later said the administration would push for bilateral trade agreements in the future. Aides have suggested that Mr. Trump may move quickly to reopen the [North American Free Trade Agreement](#) with Mexico and Canada.

The Trans-Pacific Partnership was the product of years of negotiations that culminated in late 2015 with the endorsement of the 12 nations' trade chiefs. It was a hallmark achievement for [President Obama](#), who had pushed for a United States foreign policy “pivot” to the Pacific rim. The goal was to bind Pacific nations closer through lower tariffs while also serving as a buttress against China's growing regional influence. [An independent study said](#) that it would raise incomes and exports in the United States, but not jobs over all.

But the proposal, which was never put to a vote in Congress, ran into an election year when the benefits of international trade agreements were roundly questioned. United States lawmakers predicted the deal would lead to a loss of jobs and competitive wages. Opposition to the pact became a popular rallying cry in stump speeches by Mr. Trump.

## 1. Why Was TPP So Divisive?

Supporters said that it would have been [a boon for all the nations involved](#) — it would “unlock opportunities” and “address vital 21st-century issues within the global economy” — and argued that it was written in a way to encourage more countries, possibly even China, to sign on.

Opponents in the United States saw the pact as [mostly a giveaway to business](#), encouraging further export of manufacturing jobs to low-wage nations while limiting competition and encouraging higher prices for pharmaceuticals and other high-value products by spreading American standards for patent protections to other countries.

## 2. Trans-Pacific Partnership Countries

### Why This? Why Now?

The pact had been seen as a means of addressing a number of festering issues that have become stumbling blocks as global trade has soared, including e-commerce, financial services and cross-border internet communications.

There were also traditional trade issues involved. Under President Obama, the United States had been eager to establish formal trade agreements with five of the nations involved — Japan, Malaysia, Brunei, New Zealand and Vietnam — and to strengthen Nafta, its current agreement with Canada and Mexico.

Moreover, as efforts at global trade deals have faltered (such as the World Trade Organization's Doha round), the Trans-Pacific Partnership was billed as an "open architecture" document written to ease adoption by additional Asian nations, and to provide a potential template to other initiatives underway, like the Transatlantic Trade and Investment Partnership.

### What Was at Stake?

Tariffs and Quotas Long used to protect domestic industries from cheaper goods from overseas, tariffs on imports were once a standard, robust feature of trade policy, and generated much of the revenue for the United States Treasury in the 19th century. After the Depression and World War II, the United States led a movement toward freer trade.

Today, the United States and most developed countries have few tariffs, but some remain. The United States, for example, protects the domestic sugar market from lower-priced global suppliers and imposes tariffs on imported shoes, while Japan has steep surcharges on agricultural products including rice, beef and dairy. The pact was an effort to create a Pacific Rim free-trade zone.

Environmental, Labor and Intellectual Property Standards United States negotiators stressed that the Pacific agreement sought to level the playing field by imposing rigorous labor and environmental standards on trading partners, and supervision of intellectual property rights.

Data TRANSFERS The Pacific trade pact aimed to address a number of issues that had arisen since previous agreements were negotiated. One was for countries to agree not to

block transfers of data online across borders, and not require that servers be located in the countries where internet business is being conducted. This proposal drew concern from some countries — Australia among them — that it could conflict with privacy laws and regulations against personal data stored offshore.

Services A big aim of the Pacific pact was to enhance opportunities for service industries, which account for most of the private jobs in the American economy. The United States has a competitive advantage in a range of services, including finance, engineering, software, education, legal and information technology. Although services are not subject to tariffs, nationality requirements and restrictions on investing are used by many developing countries to protect local businesses.

State-Operated Businesses United States negotiators discussed the need to address favoritism often granted to state-owned business — those directly or indirectly owned by the government. Although Vietnam and Malaysia have many such corporations, the United States has some too. Think of the Postal Service or Fannie Mae.

China viewed the pact with concern, seeing a potential threat as the United States tried to tighten its relationship with Asian trading partners. At the same time, the deal provided China some cover as it pursues its own trade agreements in the region, such as the Silk Road initiative in Central Asia.

#### The Shadow of Nafta, and the Debate in Washington

Nafta, signed by President Bill Clinton in 1993, helped lead to a boom in trade among the United States, Mexico and Canada. All three countries exported more goods and services to the other two, cross-border investments grew, and the United States economy has added millions of jobs since then.

But of course not all those trends were attributable to Nafta, and the benefits were not equal: The United States had a small trade surplus with Mexico when the pact was signed, but that quickly became a trade deficit that has widened to more than \$50 billion a year.

Critics of Nafta also point out that job growth in the United States does not account for the loss of jobs to Mexico or Canada; the A.F.L.-C.I.O. contends about 700,000 United States jobs have been lost or displaced because of Nafta.

Nafta was a [significant victory for President Clinton](#) after a difficult congressional battle, where he won support from just enough fellow Democrats to ensure passage. The votes were 234 to 200 in the House, and 61 to 38 in the Senate.

In the case of the Trans-Pacific Partnership, President Obama worked with Republican leadership in the House and Senate to [gain final approval for trade promotion authority](#), a critical step that allowed the White House to present the trade package to Congress for a straight up-or-down vote, without amendments.

But the tortuous legislative process [further soured relations](#) with many fellow Democrats, as well as unions and progressive groups, who vehemently opposed the Trans-Pacific Partnership.

# Advancing TiSA Negotiations

<http://trade.djaghe.com/?p=2437>

Djaghe International Trade

Posted on [January 26, 2016](#)

Following the recent WTO Ministerial in Nairobi, U.S. Trade Representative Michael Froman observed that WTO members are [free to consider new approaches](#) to trade issues. They are no longer bound to the Doha Development Agenda, a 14-year effort that has yielded few results. Instead of trying to negotiate agreements that require acceptance by all WTO members, groups of countries can negotiate new trade liberalizing commitments that apply only to those prepared to meet them. One such group is the 23 WTO members that began negotiating a Trade in Services Agreement (TiSA) in 2013. Those talks have accelerated over the past several months and the participants are now aiming to conclude an agreement this year.

[TiSA is being negotiated](#) outside of the WTO, as a plurilateral agreement, among countries that are interested in liberalizing trade across the spectrum of service sectors — from telecommunications and technology to distribution and delivery services. In addition to expanding access to services, TiSA will improve the rules that govern trade in services, building on the 1994 General Agreement on Trade in Services.

On January 23, in an informal meeting in Davos, Switzerland, the United States and other participants in the TiSA negotiations [reaffirmed their commitment](#) to conclude an ambitious agreement this year. In a statement on the Davos meeting, the U.S. Trade Representative's Office reinforced the importance of those negotiations by pointing to the vital role that services play in the U.S. economy, accounting for three-quarters of U.S. GDP, 4 out of 5 jobs and about 30% of U.S. exports. The U.S. considers TiSA as providing an opportunity to ensure that U.S. service suppliers have the same access abroad that foreign suppliers enjoy in the U.S.

In the TiSA talks, the U.S. is seeking new disciplines that would address restrictions on cross-border data flows and server localization requirements, forced transfers of technology, restrictions on the ability to make payments electronically and unfair advantages that governments provide to state-owned enterprises. While pursuing these objectives, it wants to ensure that TiSA does not impede its ability to adopt regulations to pursue public interest objectives, such as the protection of health, safety and the environment.

On the other side of the Atlantic, on January 18, the [European Parliament](#), in its International Trade Committee, set guidelines for the TiSA negotiations. In providing direction to the European Commission, the EU negotiator, the Parliament emphasized the importance of an “ambitious opening” of public procurement, telecommunications, transport, financial and professional services markets. It also wants a curb on restrictive practices such as forced data localization and foreign equity caps. The parliamentary members also requested specific

safeguards for EU consumers with respect to roaming fees that apply to use of mobile phone while traveling and fees for use of credit cards abroad.

The Parliament drew “red lines” around EU public services, labor rights, citizens’ data and the right to regulate. They are seeking explicit exclusions for sensitive EU sectors, including all public services (such as education, health, social services, social security systems) and audio-visual services.

The 23 TiSA participants, which represent nearly 70 percent of the world’s services market, are Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, European Union (28 Member States), Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Turkey, and the United States.

Other countries may join the negotiations with the approval of the current participants. New entrants must share the ambition of creating a high-standard agreement and a commitment to its liberalization objectives.

One of the issues for the negotiators is how to respond to China’s application to join the negotiations. The EU, including its parliamentary committee, supports its participation. But, the U.S. and others have [reservations](#) regarding China’s commitment to liberalization of its services market, and as a consequence are reluctant to open the door to it.

The 16th round of TiSA negotiations is set for the first week in February, chaired by the U.S.

Jean Heilman Grier

January 26, 2016

# How Trump's wall could beckon a global trade war

Trump's embrace of the tax proposal comes as he moves forward with plans to shake up decades of carefully negotiated agreements that bind the global economy together.

<http://www.politico.com/story/2017/01/trump-mexico-wall-trade-war-234255>

By [Megan Cassella](#)

01/27/17 06:00 AM EST

Updated 01/27/17 07:16 AM EST

President Donald Trump's plans to pay for a Mexican border wall could trigger the global trade war he has long threatened.

A House Republican plan he embraced Thursday as a means of paying for the barrier would slap imported goods with a 20 percent tax — a levy aimed at boosting consumption of domestic products that could backfire by angering allies and upending the entire global trading system.

Longtime trading partners — not just Mexico — could retaliate, making American consumers pay more for everything from food to electronics and putting U.S. companies out of business. The so-called border adjustment tax could trigger cases before the World Trade Organization, spur other countries to slap levies on American products and put some U.S. companies at a disadvantage with international competitors.

Trump's embrace of the tax proposal comes as he moves forward with plans to shake up decades of carefully negotiated agreements that bind the global economy together. On Monday, he pulled out of the Trans-Pacific Partnership — a sweeping trade deal among Pacific Rim nations — and reaffirmed his intention to reopen the North American Free Trade Agreement. Then, on Thursday, a spat with Mexican president Enrique Peña Nieto over Trump's claim he would force Mexico to pay for the border wall escalated to the point that Peña Nieto canceled a trip to the U.S. to meet with Trump next week.

“Would they retaliate immediately?” asked Dan Ikenson, director of the trade policy center at the free-market Cato Institute, referring to the response of trading partners to the border tax plan. “In the age of Trump, governments may not have the manners that they once had and may just unilaterally go after U.S. products. That's quite possible.”

By raising the cost of imported goods, the tax would push Americans away from buying products that come from outside the United States — from avocados, which are heavily sourced from Mexico, to cheap household appliances shipped in from China and sold at Wal-Mart. The

resulting hit to the economies of foreign nations that depend on the massive American marketplace to gobble up their goods could prompt those governments to retaliate.

And their methods could take myriad forms.

They could launch trade enforcement cases at the World Trade Organization — an option that could take years and still not be successful, given the likelihood that lawmakers would try to write the tax in such a way as to fall within the global trading body's regulations.

Or foreign countries, especially larger U.S. trading partners that would bear the brunt of the lost sales, could move to retaliate against the United States outside the WTO system. That includes China, which accounted for about 22 percent of the \$2.25 trillion in U.S. imports in 2015, and Canada and Mexico, which represented slightly more than 13 percent apiece.

Mexico, as the United States' third-largest trading partner, could disrupt the trading system by levying a reciprocal tax on imports of American goods, an idea that some mainstream Republicans are already warning against.

“Any tariff we can levy they can levy,” Sen. Lindsey Graham (R-S.C.) posted on Twitter on Thursday evening. “Huge barrier to econ[omic] growth.”

But Mexico — or other trading partners — could try to punish Trump and other supporters of the tax by targeting goods in politically sensitive areas, said Gary Hufbauer, a senior fellow at the Peterson Institute for International Economics.

“The Mexican minds will be thinking about what they could do that would give President Trump the most pain in his political base,” he said, adding that that might mean “stopping imports of certain products made in Indiana or Michigan or wherever.”

And they could go after areas not directly associated with legal trade.

“They can do all sorts of things we don't like,” Hufbauer said. “They can legalize marijuana. They can legalize cocaine. They can stop cooperating with the U.S. with respect to refugees from Guatemala, Honduras and so forth.”

The plan, which would target imports while allowing tax-free exports, would boost the value of the dollar, giving customers more purchasing power to manage the higher costs, supporters say.

But some say the costs of the tax would hit wallets immediately, well before the value of the dollar rises: The levy on imported agricultural products, for example, would mean that a \$100 grocery bill for a shopping cart full of bananas, mangoes and other produce not grown within the United States would rise to \$120.

But Americans could mitigate the rise in costs simply by changing what they buy, Ikenson said. “If we import oranges but we produce our apples domestically, apple prices are going to go down and orange prices are going to go up.”

And proponents maintain the costs would even out eventually, even with what Ikenson called a likely “adjustment period” at the start.

Ways and Means Committee Chairman Kevin Brady, the top tax writer in the House and a supporter of the plan, told Fox News in an interview Thursday night that he was “convinced this world economy recognizes changes.

“We will strengthen our made-in-America exports,” Brady said. “Our dollar will appreciate. Imports — you will be buying more of them at a lower price. I think it balances out in a major way.”

Businesses could protect consumers from the higher prices by swallowing the costs themselves — but those that are heavily dependent on imports, particularly small businesses and retailers, say they won’t be able to handle the adjustment.

“We’re sort of a poster child for victims of this,” said Rick Woldenberg, chief executive of Learning Resources, a small Illinois company that manufactures educational toys in China and sells them in 80 countries around the world. “We’re in a cutthroat business.”

“I’m in favor of tax reform. Come on, this is obvious,” Woldenberg said during a discussion Thursday on the Republican plan hosted by the Washington International Trade Association. “But 97 percent of American importers are small businesses, [companies] with under 500 employees. ... Small businesses are in the center of the bulls eye in this law.”

*Doug Palmer contributed to this report.*

# The Trump Import Trade Agenda Takes Shape

<http://www.industryweek.com/trade/trump-import-trade-agenda-takes-shape>

Jan 27, 2017 Jeffery S. Neeley, Partner, Husch Blackwell LLP

With the nomination of Robert Lighthizer as the United States Trade Representative (USTR), the main players in the Trump Administration for international trade matters seem to be in place. Along with Wilbur Ross at the Commerce Department and Peter Navarro in the White House (along with the new President of course), we now know the people who will be driving trade policy in the new Administration.

The nomination of Mr. Lighthizer is a particularly important development because his career as an experienced trade lawyer and advisor, representing domestic industries for several decades, will provide the new Administration with practical knowledge as to the implementation of policies and familiarity with those on Capitol Hill who deal with international trade issues.

Mr. Lighthizer's advocacy for the U.S. steel industry, his skepticism about Mexican trade relations and NAFTA, and his hostility toward China's trade practices all make him well suited for policies that Mr. Trump has indicated that he will pursue. As USTR he will be interacting with the newly formed White House National Trade Council as well as with the Commerce Department and other agencies and how the various tasks in the trade agenda are delegated is a work in progress.

## **Laws New and Old**

The provisions that a Trump Administration may use to affect trade on imports fall within two broad categories: those that require legislation and those that can be pursued based on current law. An example of the type of policy that likely would require legislation is the so-called Border Adjustment Tax. Of course, a broad new law, such as one involving Border Adjustment Taxes, would be subject to intense lobbying by affected interests, likely splitting members of Congress.

Current law, however, provides ample room for the Trump Administration to pursue radically new policies without the risk and uncertainty of going through the legislature. Mr. Lighthizer is very familiar with the provisions of section 301 of the Trade Act of 1974 (19 USC §2411), which authorizes "all appropriate action to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce." This is broad authority but has not been used extensively in the past in part due to concerns about retaliation on the part of our trading partners. However, the provision provides potentially sweeping changes in tariffs and other restrictions.

### **Trade Policy and the Chinese**

On a China-specific basis, Section 421 of the Trade Act of 1974 (19 USC §2451) could be used by the Administration to request an investigation by the U.S. International Trade Commission (ITC) as to whether there is market disruption or threat thereof as a result of rapidly increasing imports from China causing or threatening material injury. If such disruption is found, the President can impose additional duties on Chinese imports being investigated. In 2009, the Obama Administration used this provision to impose duties on tires from China for a three year period--35% in the first year, 30% in the second year, and 25% in the third year.

### **Antidumping and Countervailing Duties**

Increased use of antidumping and countervailing duties also can be expected. Today, most cases are initiated after Petitions have been filed by a U.S. domestic industry complaining of unfairly low prices or unfair subsidies that injure the U.S. industry. But such cases also can be initiated upon the request of the Administration, and we may see more efforts in this regard.

There also may be self-initiation of cases filed by the Administration at the ITC under Section 201 of the Trade Act of 1974 (19 USC §2251), which is filed against all imports of a product from everywhere in the world. The ITC determines whether an article is being imported in such increased quantities that it is a substantial cause of serious injury, or threat of such injury, to the U.S. industry producing an article like or directly competitive with the imported article. If the ITC makes an affirmative determination, it recommends relief to the President, which may be in the form of increased tariffs, quotas, or tariff rate quotas. This provision was used by the U.S. steel industry in 2002.

There are additional provisions on the books that also could be used, but in our view trade actions under Sections 201, 301 and 421 are likely to be the most likely vehicles, at least initially, for achieving the Trump Administration's goals.

### **Conclusion**

Converting the new administration's promised changes in import trade policy into concrete actions would entail a major effort, but the tools are there to disrupt imports; however, these same policy tools also risk counter-actions by our trading partners. The first six months of the new Administration should provide greater clarity as to how these policies will play out--and how much risk the Trump Administration decides to take on to achieve some of the policy objectives articulated thus far.

# Trump's administration has a new target on trade — and it's not China or Mexico

[https://www.washingtonpost.com/news/wonk/wp/2017/01/31/trumps-administration-has-a-new-target-on-trade-and-its-not-china-or-mexico/?utm\\_term=.79fcc02229c7](https://www.washingtonpost.com/news/wonk/wp/2017/01/31/trumps-administration-has-a-new-target-on-trade-and-its-not-china-or-mexico/?utm_term=.79fcc02229c7)

By [Ana Swanson](#) January 31

President Trump's top trade adviser said Germany was using a "grossly undervalued" euro to "exploit" its trading partners in Europe and the United States, comments that triggered a spike in the euro's value to a one-week high.

In comments to [the Financial Times](#), Peter Navarro, the head of Trump's National Trade Council and an architect of many of the administration's trade policies, also declared a proposed trade agreement between the United States and Europe to be dead, citing Germany's currency as an impediment.

Trump's tough campaign rhetoric regarding trade has long fueled speculation of tensions with China and Mexico, countries that export large volumes of cheap goods to the United States. But Navarro's aggressive statements against Germany and the European Union appear to have taken markets and European leaders by surprise.

Navarro's comments appear to reflect a deep antipathy on the part of the Trump administration to multilateral trade deals and institutions, an attitude that has unsettled U.S. allies in Europe and around the globe in recent weeks.

On Jan. 23, his first full working day in office, Trump declared his intention to withdraw from the Trans-Pacific Partnership, an Obama-era trade deal that Trump claimed would kill American manufacturing jobs. During the campaign, Trump also announced his intention to renegotiate the U.S. free trade deal with Canada and Mexico, and called the primary military alliance between Europe and the U.S. "obsolete."

In his comments, Navarro cited Germany as a main obstacle to a proposed U.S.-E.U. trade deal called the Transatlantic Trade and Investment Partnership, or TTIP. "A big obstacle to viewing TTIP as a bilateral deal is Germany, which continues to exploit other countries in the E.U. as well as the U.S. with an 'implicit Deutsche Mark' that is grossly undervalued," he said.

Angela Merkel [responded Tuesday](#) by saying that Germany does not influence the value of the euro and supports an independent European Central Bank.

Navarro's comments about TTIP appeared to stem from his preference for bilateral trade deals, which he, Trump and other advisers believe give the U.S. more leverage in trade negotiations.

"I personally view TTIP as a multilateral deal with many countries under one 'roof'," said Navarro. "The German structural imbalance in trade with the rest of the E.U. and the U.S. underscores the economic heterogeneity within the E.U. — ergo, this is a multilateral deal in bilateral dress."

The United States and other European countries have long criticized Germany for its trade deficit, though typically in subtler and more diplomatic tones.

Economists say that Germany's position as a strong exporter in a currency union made up of weaker economies has boosted Germany's exports and exacerbated its trade deficit. The shared euro effectively results in Germany having a weaker currency than it otherwise would, making its exports relatively cheap on the world market. Meanwhile, net importers like France, Greece and Portugal end up with a stronger currency.

That dynamic has fueled exports by German firms like BMW and Siemens and resulted in a German current account surplus that is larger even than China's in absolute terms.

"I think [Navarro] has a point, in that Germany has basically set up the rules in the euro area to suit itself, and if they hadn't been a euro area, the German currency, the Deutsche Mark, would be much stronger now, and that would hurt their exports," said Joseph Gagnon, a senior fellow at the Peterson Institute for International Economics. "They have basically tied themselves down by the weak partners in the euro area. And they've forced Italy, Spain and Portugal to do massive fiscal austerity, and that caused big recessions which killed their imports."

In addition, some economists say diverging monetary policy between the European Union and the United States is strengthening the dollar and weighing on American exports. In January, the euro fell to its lowest value against the dollar in 14 years.

In recent years, gathering economic strength and falling unemployment in the United States has allowed the Federal Reserve to start tapering off purchases made under its massive bond buying program known as quantitative easing and begin gradually lifting U.S. interest rates. In the European Union, in contrast, the European Central Bank has continued quantitative easing and held interest rates low, as many economies around the periphery are still mired in recession.

The difference in interest rates and inflation expectations between the U.S. and the E.U. has coaxed international investment to the U.S., strengthening the value of the dollar against the euro.

Indeed, some economists argue that monetary and fiscal policy in the European Union has still been too tight to put struggling countries like Greece back on track. But Germany, a traditional advocate of austerity and low inflation, has generally disagreed.

"I'm on the record being critical of Germany's euro policy, but Merkel is not wrong. Germany does not control the exchange rate. Neither does the ECB," said Matthias Matthijs, a professor of

international political economy at Johns Hopkins School of Advanced International Studies. "In many ways, the weaker euro is a consequence of the ECB's quantitative easing policies, and these are policies that both the Fed and Japan's central bank have implemented."

Though growth overall remains sluggish in the euro zone, there are signs that the economy is changing, with [inflation picking up](#) in Germany in recent months. However, Britain's exit from the European Union, as well as upcoming elections in France and the Netherlands that could affect the E.U.'s course, could potentially destabilize the European economy in the future.

In emailed comments to the Financial Times, Navarro also blamed the failure of the proposed trade deal between the United States and Europe on Britain's decision to leave the European Union. "Brexit killed TTIP on both sides of the Atlantic even before the election of Donald Trump," Navarro wrote.

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Trump has generally been favorable of Brexit, telling British press ahead of his inauguration that the move is "a great thing" and that other states will likely follow Britain out the door. "I do think keeping it together is not gonna be as easy as a lot of people think," [Trump said](#).

Last week, Ted Malloch, a businessman who some expect to be Trump's pick for E.U. ambassador, said he would "short the euro" and that Brexit could cause the currency to "collapse" in the next year and a half.

Matthijs said he believes Navarro and the administration see a weaker Europe as "in their interest because they can do bilateral deals."

"If you do a trade deal with Europe, you're dealing with an equal. Which is not the case in foreign policy or defense, but it is the case in trade," he said. "If that's your view, that that's bad, you need to divide and rule."

# Revoking trade deals will not help American middle classes

<http://newsonahand.com/revoking-trade-deals-will-not-help-american-middle-classes/>

February 5, 2017

By Lawrence Summers

Trade agreements have been central to American politics for some years. The concept that renegotiating trade agreements will “make America great again” by considerably growing job creation and financial development swept Donald Trump into workplace.

More broadly, the concept previous trade agreements have broken the American middle class and that the possible Trans-Pacific Partnership would do additional injury is now broadly accepted in each main US political events.

As Senator Daniel Patrick Moynihan as soon as noticed, members in political debate are entitled to their very own opinions however not their very own information. The actuality is that the affect of trade and globalisation on wages is debatable and could possibly be substantial. But the concept the US trade agreements of the previous technology have impoverished to any important extent is absurd.

There is a debate available concerning the affect of globalisation on middle class wages and inequality. Increased imports have displaced jobs. Companies have been capable of drive tougher bargains with staff, significantly in unionised sectors, due to the menace they'll outsource. The creation of world provide chains has modified manufacturing patterns within the US.

My judgment is that these results are significantly smaller than the impacts of technological progress. This is predicated on quite a lot of financial research, expertise in hypercompetitive Germany and the statement that the proportion of American staff in manufacturing has been steadily declining for 75 years. That mentioned I acknowledge that world tendencies and new research present that the affect of trade on wages is rather more pronounced than a decade in the past.

But an evaluation of the affect of trade on wages could be very completely different than an evaluation of trade agreements. It is inconceivable that multilateral trade agreements, such because the North American Free Trade Agreement, have had a significant affect on US wages and jobs for the straightforward cause that the US market was nearly utterly open 40 years in the past earlier than getting into into any of the controversial agreements.

American tariffs on Mexican items, for instance, averaged about four per cent earlier than Nafta got here into . China had what was then referred to as “most favoured nation” buying and selling standing with the US earlier than its accession to the World Trade Organization and acquired the

identical entry as different international locations. Before the Korea Free Trade Agreement, US tariffs on Korea averaged a paltry 2.8 per cent.

The irrelevance of trade agreements to import competitors turns into apparent when one listens to the primary arguments towards trade agreements. They hardly ever, if ever, take the type of saying we're inappropriately taking down US trade boundaries.

Rather the naysayers argue that completely different calls for ought to be made on different international locations throughout negotiations — on points together with mental property, labour requirements, dispute decision or trade charge manipulation. I'm sympathetic to the criticisms of TPP, however even when they had been all appropriate they do not justify the conclusion that signing the deal would improve the challenges going through the American middle class.

The cause for the rise in US imports is not diminished trade boundaries. Rather it's that rising markets are certainly rising. They are rising of their financial potential due to profitable financial reforms and higher world integration.

These developments would have occurred with or with out US trade pacts, although the agreements have often been an impetus to reform. Indeed, for the reason that US does little or no to cut back trade boundaries in our agreements, the impetus to reform is most of what overseas policymakers worth in them together with political connection to the US.

The fact too typically denied by each side on this debate is that incremental agreements like TPP have been largely irrelevant to the destiny of middle class staff. The actual strategic selection Americans face is whether or not the target of their insurance policies is to see the economies of the remainder of the world develop and prosper. Or, does the US need to preserve the remainder of the world from threatening it by slowing world development and walling off merchandise and other people?

Framed this manner the answer seems apparent. A method of returning to the protectionism of the previous and searching for to thwart the expansion of different nations is untenable and would probably result in a downward spiral within the world financial system. The proper method is to keep up openness whereas discovering methods to help staff at home who're displaced by technical progress, trade or different challenges.

*The author is Charles W Eliot college professor at Harvard and a former US Treasury secretary*

# U.S., Japan to start special trade dialogue

<http://www.politico.com/story/2017/02/trump-us-japan-trade-234911>

By [Adam Behsudi](#)

02/10/17 02:43 PM EST

President Donald Trump and Japanese Prime Minister Shinzo Abe have pledged to pursue free and fair trade in the Asia-Pacific, including the start of a special dialogue to examine trade issues between the two countries.

The United States and Japan will seek a trading relationship that is “free, fair and reciprocal, benefiting both of our countries,” Trump said in a joint press conference Friday.

Abe’s visit comes only weeks after Trump signed a Jan. 23 executive order announcing the United States would not support the 12-nation TPP. Japan is still a big proponent of the trade deal and the only country to ratify the agreement.

Trump’s trade advisers have instead championed a bilateral trade deal with Japan, although it looks like trade discussions, as described by Abe, will be limited for now to a formal dialogue between Vice President Mike Pence and Deputy Prime Minister Taro Aso.

“On TPP, of course we are fully aware of President Trump’s decision,” Abe said, adding that he was optimistic that the new dialogue would produce positive results. He didn’t mention specific issues the dialogue would cover, but Trump has long complained of the lopsided automobile trade between the countries.

Abe said the purpose of the TPP was to create free and fair trade in the region, and the need for that has not changed. He pointed to the need to set rules on state-owned enterprises and strengthen intellectual property protections — two key areas the Obama administration used to promote the deal.

Trump avoided hitting Japan directly over allegations from some U.S. companies that it devalues its currency to make automobiles and other exports more competitive on the world market. As recently as last week, Trump lumped Japan in with China as a currency manipulator.

“The currency devaluations, I’ve been complaining about that for a long time,” he said Friday. “And I believe that we all, eventually, and probably very much sooner than a lot of people understand or think, we will be all at a level playing field.”

Abe said Aso, who is also Japan’s finance minister, and the U.S. Treasury secretary will continue to have close communication on the matter.

Repeatedly referring to Trump by his first name, Abe promised to contribute Japanese investment and know-how to the administration's infrastructure development goals. He said that could include investments in high-speed rail and maglev technology, quipping that the president could depart Washington and reach Trump Tower in New York City within an hour.

"We will be able to contribute to President Trump's growth strategy," he said. "There will be even more jobs in the United States."

# Trump: Canada not as big of a trade problem as Mexico

<http://www.politico.com/story/2017/02/trump-canada-mexico-nafta-trade-234966>

By [Doug Palmer](#)

02/13/17 04:04 PM EST

President Donald Trump praised Canada on Monday as one of the United States' strongest allies and said only minor changes are needed in NAFTA to improve trade relations — unlike the situation with Mexico.

“We have a very outstanding trade relationship with Canada,” Trump said at a joint news conference with Canadian Prime Minister Justin Trudeau after the two leaders met for the first time.

During last year's campaign, Trump repeatedly branded NAFTA as one of the worst trade deals in history and has threatened to withdraw from the 23-year-old pact unless Canada and Mexico agree to new terms.

Neither leader mentioned NAFTA specifically until Trump was asked by a reporter what plans the United States has for changing the agreement. As far as Canada is concerned, Trump responded, his administration would be taking a gentle approach that builds on existing trade relationships rather than tearing them apart.

“We'll be tweaking it, we'll be doing certain things that are going to benefit both of our countries,” Trump said. “It's a much less severe situation than what's taken place on the southern border. On the southern border, for many, many years, the transaction was not fair to the United States. It was an extremely unfair transaction.”

But even there, Trump insisted, both Mexico and the United States would be happy with the results of any renegotiation. “We're going to work with Mexico. We're going to make it a fair deal for both parties. We're going to get along very well with Mexico,” Trump said.

Part of the U.S.-Canadian efforts will be aimed at smoothing the flow of goods across the border.

“We're also doing some cross-border things that will make it a lot easier for trade and a lot better and a lot faster for trade,” Trump said. “Through technology we have some really great ideas and they'll be implemented fairly quickly.”

# E.U. Parliament Votes to Ratify Canada Trade Deal and Send Trump a Message

By [JAMES KANTER](#) FEB. 15, 2017

[https://www.nytimes.com/2017/02/15/business/canada-eu-trade-ceta.html?rref=collection%2Fbyline%2Fjames-kanter&action=click&contentCollection=undefined&region=stream&module=stream\\_unit&version=latest&contentPlacement=4&pgtype=collection](https://www.nytimes.com/2017/02/15/business/canada-eu-trade-ceta.html?rref=collection%2Fbyline%2Fjames-kanter&action=click&contentCollection=undefined&region=stream&module=stream_unit&version=latest&contentPlacement=4&pgtype=collection)

STRASBOURG, France — A landmark trade deal between the [European Union](#) and Canada cleared a crucial hurdle on Wednesday, a move that proponents said served as a counterweight to [protectionist](#) policies advocated by President Trump.

The ratification of the Comprehensive Economic and Trade Agreement by the European Parliament comes after seven years of tortuous negotiations, aiming to cut many tariffs on industrial goods as well as on farm and food items, and open up the services sector in areas like cargo shipping, telecommunications and financial services.

But beyond the economics of the deal, the vote also carried, for its backers, an implicit message to the Trump administration.

“We want to make clear in this vote that we don’t want to build walls, we want to build bridges,” said Manfred Weber, a prominent member of the European Parliament from Germany. Mr. Weber had urged completion of the deal, arguing that Europe needed to forge ahead as a commercial power in the face of headwinds from its longtime ally, the United States.

Trade policy has pitted mainstream politicians who say modern deals do much to bolster prosperity while checking unbridled globalization against those — many from parties on the extreme right and left — who warn that such deals relinquish national sovereignty and hand multinational companies too much power.

Lawmakers at the European Parliament comfortably approved the deal in an occasionally rowdy session by 408 votes to 254, but environmental campaigners and hard-left groups were among those holding noisy rallies outside the legislature’s glass and steel building.

The relative success in ratifying the deal, after some prominent delays — including one instance in which a Belgian regional parliament appeared to have [torpedoed the entire agreement](#) — nevertheless contrasts sharply with the failure to agree on a mooted trans-Atlantic trade deal between the European Union and the United States.

The vote on Wednesday was not, however, the final stage approval. The deal must be ratified by national and some regional parliaments across the European Union, which could create further hurdles before it goes into force.

Still, senior officials from the European Union and Canada expressed relief that the vote passed.

“The world was waiting for a strong voice from Europe and Canada, and today, Europe has spoken with a strong voice for open and progressive trade,” François-Philippe Champagne, the Canadian minister for international trade, told a news conference in Strasbourg.

For their part, Canadians were making “steady progress” toward ratification of the deal, said Mr. Champagne, who spoke in a combination of English, French and Italian to underline his country’s close ties with Europe. Those ties should be further reinforced on Thursday, when Justin Trudeau, the Canadian prime minister, is scheduled to address the Parliament.

Cecilia Malmstrom, the European trade commissioner, told the same news conference that Europe was preparing deals with more than a dozen other countries including Mexico, which is embroiled in battles over trade with the Trump administration. Mexico is an “important friend and ally,” she said.

The Canada deal was nearly derailed last year by Wallonia, a French-speaking region of Belgium, which used its veto to temporarily withhold the Belgian government’s approval of the deal.

That Walloon protest reflected how globalization has fallen out of favor with many citizens in the West, but it also raised questions about whether the European Union had become hobbled by such wide differences between, and within, its 28 member states that it would no longer be able to make international trade deals.

Ahead of the vote, protesters lay down in front of the entrance to the Parliament in subzero temperatures, obliging visitors and staff members to clamber over their bodies. Greenpeace, an environmental group, partially submerged a statue of Lady Justice in a river running around the European Parliament, displaying banners reading “Sink CETA, not justice.”

# TPP withdrawal: sound move from Trump

[http://napavalleyregister.com/news/opinion/columnists/thomas\\_d\\_elias/tpp-withdrawal-sound-move-from-trump/article\\_f556e690-15e1-549c-ad3e-cd4fe95424e9.html](http://napavalleyregister.com/news/opinion/columnists/thomas_d_elias/tpp-withdrawal-sound-move-from-trump/article_f556e690-15e1-549c-ad3e-cd4fe95424e9.html)

- Thomas D. Elias
- Feb 20, 2017 Updated Feb 20, 2017

From his first day in office, when President Trump kept a campaign promise and dumped the Trans Pacific Partnership (TPP) trade agreement painstakingly and secretly negotiated by ex-President Barack Obama, he's been accused of giving China unprecedented license to move into other Asian and South Pacific markets.

Not so.

The first thing to understand here is that the TPP contained some of the worst aspects of the long-controversial North American Free Trade Agreement, better known as NAFTA, with very few improvements. The second is that for China to usurp U.S. – and especially California's – trade in the 12 countries involved, those countries would have to be willing partners.

The pact was to include Australia, Vietnam, New Zealand, Japan, Malaysia, Mexico, Singapore, Chile, Peru, Canada and the oil-rich sultanate of Brunei. None of these countries and states wants to be dominated by China and since Trump pulled the U.S. out of TPP, China has made no aggressive trade moves on any of them.

Which means all or almost all will likely be back at the bargaining table within a year or so aiming to work out a new free trade deal with Trump.

That's political reality, even if some Trump critics don't like to admit it, choosing instead to blast every move he makes just because it's he making the move.

Rather than bemoan the trade agreement that isn't, how about using that failed, putative deal as a starting point for drafting a new one?

The rejected agreement had some huge flaws, just as NAFTA does. Labor leaders who applauded Trump as he signed the order killing the proposed TPP said some of its provisions figured to send many thousands of jobs out of America – particularly from California. Environmental groups said it bore the potential to contribute to global climate change by placing factories in countries with flimsy air and water quality regulation.

But its worst feature was an international tribunal of lawyers from various countries with the power to override some laws of member countries and even to overrule the U.S. Supreme Court.

This was an outright assault not just on tough state environmental restrictions like California's, but also on national sovereignty. Supporters of the TPP denied this, claiming such usurpation of powers would never happen.

But just that threat was realized early in NAFTA's history with the overturning of some U.S. dolphin-safe regulations for canned tuna because they impeded free trade. In short, because some Mexican fishermen were not careful to avoid catching dolphins in their nets in waters off Southern California, federal rules designed to spare an intelligent species died at the hands of foreign lawyers more interested in money than mercy.

Something similar almost happened to California quite directly, also under NAFTA. This case involved a Canadian company called Methanex, based in Vancouver, British Columbia, which made and marketed a gasoline additive called MTBE that could cut smog while boosting octane ratings. But MTBE (methyl tertiary butyl ether) turned out to have noxious odors and taste when it inevitably leached from gasoline station storage tanks into ground water. The additive also sparked cancer fears, although that alleged threat was never proven.

California, under former Gov. Gray Davis, banned MTBE in the late 1990s. Methanex sued in NAFTA's tribunal and the case was heard in Washington, D.C., far from affected Californians. The case took several years, and eventually Methanex lost because of MTBE's health effects. Validating the California ban, the additive has not been used widely in this country since 2005.

The entire Methanex effort at using NAFTA to override California's health concerns was a travesty. Yet, the TPP was written to allow similar cases.

So the TPP was a bad deal on several scores. Which doesn't mean a better deal can't be negotiated. Trump touted his supposed deal-making skills incessantly during his campaign last year. Now he has a chance to negotiate a better, safer, cleaner, fairer trade deal with Pacific nations than Obama ever could.

# Government still cautious about Trump's trade policies

<http://the-japan-news.com/news/article/0003532747>

The Yomiuri Shimbun

7:21 pm, February 20, 2017

A sense of alarm regarding the administration of U.S. President Donald Trump has eased within the Japanese government one month after his inauguration, as Prime Minister Shinzo Abe and Trump confirmed they would strengthen the Japan-U.S. alliance and the two nations' economic partnership at a recent meeting.

However, Japanese government officials still intend to closely monitor what Trump says and does, particularly regarding trade issues and policies involving Russia and China.

Trade issues linger, as they have largely been left to future ministerial-level talks. This situation significantly differs from security, in which the government obtained assurance from the United States about its commitment to defend Japan.

Government officials are also concerned that Trump's policies toward Russia and China remain uncertain.

Masahiko Komura, vice president of the Liberal Democratic Party, emphasized during an NHK program on Sunday that the Abe-Trump meeting was fruitful.

"Japan was able to convey a message to the rest of the world that the Japan-U.S. alliance is solid," Komura said.

Kenji Eda, a deputy president of the Democratic Party, also positively evaluated the meeting, saying, "It was good in that the basic framework of the Japan-U.S. alliance was reconfirmed."

A joint statement issued after the meeting included such stipulations as the United States' commitment to defend Japan through its nuclear capabilities, and the Senkaku Islands in Okinawa Prefecture being covered under Article 5 of the Japan-U.S. Security Treaty, which lays out the United States' obligation to defend Japan.

Trump said during his election campaign that he would demand Japan shoulder more of the costs for stationing U.S. forces in Japan, and even hinted that U.S. forces would be withdrawn from Japan. Therefore, government officials now share a sense of relief, with one saying, "We got a complete answer."

However, the future prospects of trade and economic policies are still unpredictable, even though Abe and Trump agreed on the establishment of a framework for Japan-U.S. economic dialogue to be led by Deputy Prime Minister Taro Aso, who is also the finance minister, and U.S. Vice President Mike Pence.

Discussions under the framework will likely start as early as April.

Regarding the Trans-Pacific Partnership free trade agreement, from which the U.S. administration declared it would withdraw, the Japanese government has emphasized the strategic importance of the TPP in that Japan and the United States could play leading roles in the rule-making process in multilateral trade negotiations.

At the same time, the government has not ruled out the possibility of holding bilateral talks between Japan and the United States.

However, Trump has stuck to his stance of protecting U.S. domestic industries, including the automobile industry. A government source expressed a sense of caution, saying, "There is a possibility that the U.S. will take a hard-line stance."

On the diplomatic front, Michael Flynn, formerly an adviser to the U.S. president on national security affairs, resigned over questionable contact with the Russian ambassador to the United States.

Government officials had expected that if improvement is seen in U.S.-Russia relations, in such forms as the lifting of sanctions against Russia over the Ukraine issue, it would be easier to negotiate with Russia for a bilateral peace treaty. The officials are closely watching how U.S.-Russia relations develop.

Trump also indicated at one stage that his administration would review the so-called "one-China" policy in which Taiwan is regarded as part of China. But when Trump had a telephone conversation with Chinese President Xi Jinping on Feb. 9, he said he would respect the "one-China" policy.

Japanese officials believe the Trump administration's policy toward China might be still undecided, as the administration's key posts have yet to be filled. Thus the government intends to carefully examine what stance the Trump administration takes. [Speech](#)

# TPP countries: Time to move on without U.S.

<http://www.politico.com/agenda/story/2017/02/tpp-countries-time-to-move-on-without-us-000318>

By [Adam Behsudi](#)

02/21/17 11:26 AM EST

From Japan to New Zealand, the governments of the 11 other countries that negotiated TPP are considering their next move in the era of President Donald Trump, and most scenarios don't envision a future with the United States.

Foreign leaders and officials made clear last week they are still clinging to the dream of TPP and may seem less inclined to Trump's proposed alternative to the massive Asia-Pacific deal — a raft of bilateral trade deals.

The big question is whether countries now under the spell of regional trade cooperation in the age of global supply chains would be willing to deal with a U.S. administration that seems intent on negotiating one-sided trade agreements steeped in economic nationalism.

Even “when you’re the biggest player in town you gotta sort of recognize you have to leave something on the table for the other party,” Australian Ambassador to the U.S. Joe Hockey said last week. “American exceptionalism is based on a certain amount of humility.”

During the five-plus years it was being negotiated, the Obama administration promoted the 12-country trade deal as a market opening agreement that would set a high bar on trade rules and directly counter China's economic and strategic hegemony in the region. But angst over globalism and the spread of populist rhetoric during the presidential campaign killed any chances Congress might ratify the deal.

Trump blasted the deal as “horrible” and signed an executive order his first full day in office, announcing that the TPP no longer had U.S. support.

Now the 11 other countries in the pact are searching for a new direction for the beleaguered agreement, which they could find as soon as next month in the Chilean beach resort town of Vina del Mar. Chile has invited the entire TPP group there to talk about the future of trade in the Asia-Pacific with the fate of the agreement high on the agenda.

“It’s the moment they look around the room and ask: Are we serious about moving forward with TPP or are we going to stuff it in a drawer?” said Deborah Elms, the director of the Singapore-based Asian Trade Center, which consults governments and businesses on trade matters.

The gathering started as a meeting of the Pacific Alliance, a trade bloc consisting of Chile, Peru, Mexico and Colombia, and its many observer countries. But after Trump pulled the U.S. out of

TPP, it was expanded into a more important opportunity to consider the next steps for the region. Chile has also invited South Korea and China to the meeting.

The prospect of China showing up at the meeting — which has yet to be confirmed — could complicate things.

Chinese President Xi Jinping has stepped into the breach left by the U.S.' departure from TPP, claiming to assume the mantle of globalism. And with the U.S. now out as the shepherd of rules-based trade in the Asia Pacific, countries may view China as an important option for expanded trade. Beyond any benefits a revived TPP might provide, countries in the region are surely viewing China's 1.3 billion population and rising middle class as a key destination for exports of more milk powder from New Zealand, palm oil from Malaysia and beef from Australia.

The White House also hasn't replied to queries on whether it will send a representative.

Regardless of China's role, experts say that the other countries involved in the TPP could find a way to move forward with the deal without the U.S. in a way that provides some economic gains and delivers on a promise to establish a new template for trade rules in the region.

"We are certainly proceeding after discussions with the other countries to have a 12-minus-1 TPP and go ahead without the United States and we still certainly encourage others to join," Hockey said last Wednesday at the Chicago Council on Global Affairs.

He added that trade in the Asia-Pacific should be about American and Australian standards "being the benchmark for commerce in the fastest growing region not only in the world but in the history of humanity."

Australian Prime Minister Malcolm Turnbull and New Zealand Prime Minister Bill English reinforced that message during a summit hosted by New Zealand last Friday in which both leaders agreed to move the TPP forward without the U.S.

"We've agreed it's important to reach out to our TPP partners to continue to work to secure the significant economic and strategic benefits that TPP would deliver," English [said](#).

Mexico, which will soon be caught up in a contentious renegotiation of NAFTA demanded by Trump, also wants to see TPP survive in some form.

"In the Asia-Pacific, we're looking to work with the other members of the TPP to look how we can take forward, either as a group of countries or bilaterally," Kenneth Smith Ramos, head of the Mexican embassy's trade office, said last Thursday at an event hosted by the Washington International Trade Association.

Mexico is also looking beyond TPP toward a "strategy of diversification" that would expand trade with Brazil, Argentina and the European Union, Ramos said.

Malaysia also is looking at TPP without the U.S. as an option, but Mustapa Mohamed, the country's trade minister, [acknowledged](#) that keeping the deal alive in its current form "will be tough."

"It will be time consuming, and we would have to renegotiate," he said last Thursday on the sidelines of a conference in Kuala Lumpur. "We struck a balance during the TPP negotiations and without the United States, which is so big, that is one major motivation removed."

Mohamed said Malaysia, like Mexico, is also considering a strategy of diversification and eyeing potential trade deals with Canada, Mexico and Peru. He said there were no plans yet to engage with the U.S. on a trade deal.

The comments make clear that countries still view the TPP as a platform for trade expansion. With its high standards and strict rules, it may be seen by some nations as the best option for challenging the behavior of China and other countries in the region on everything from intellectual property theft to the unfair advantages of state-owned enterprises

There is no reason why the deal shouldn't move ahead without the U.S., the Asian Trade Center's Elms argued. The countries still in the TPP will gain market access advantages with each other for exports of goods and services as well as greater access to government procurement contracts.

The loss of any extra access to the U.S. market won't be too significant. American tariffs are already low and for goods that TPP countries saw value in exporting to the U.S., such as cars from Japan and dairy products from New Zealand, Washington guarded against those imports with quotas, safeguards and tariffs that would only go away after periods of up to 30 years, Elms said.

Still, a new TPP deal may be more complicated to pursue. Many countries agreed to rules they might not have otherwise signed up to if they weren't being pressured by the U.S.

Peru, for example, may demand that it not be required to adopt the TPP's strict patent standards for pharmaceuticals. Malaysia could demand that TPP's rules prohibiting preferential treatment of ethnic Malays in government contracts be eliminated.

Those changes and others could threaten to unravel the agreement, and it's uncertain whether they could be made through "side letters" that wouldn't change the underlying text of the deal.

Meanwhile, the Trump administration's plan to pursue bilateral deals and abandon TPP altogether is facing skepticism.

Proponents of the TPP deny Trump's view that it was horrible deal and maintain that the carefully calibrated negotiating strategy would've resulted in Washington giving away very few concessions and reaching a final deal requiring almost no changes to domestic U.S. laws or regulations.

“Both the TPP critique is flawed and the bilateral strategy to replace is doomed to failure,” said Jeffrey Schott, a senior fellow at the Peterson Institute for International Economics. “The strategy is just not a position to bear fruit.”

“Why would other countries want to offer more concessions for less when they already have good access to the U.S. market?” he said during a presentation last Thursday. “The answer is the Trump administration is making threats to withdraw that access or rescind U.S. commitments.”

U.S. exporters, particularly farmers and ranchers, are nervously waiting to see how Trump’s bilateral strategy pans out, too.

A number of TPP countries that are major agriculture exporters are already in position to displace U.S. products in lucrative markets like Japan. Australian beef producers currently have access to Japan’s market at a lower tariff rate through a 2015 trade deal. The TPP would have recaptured that market for U.S. beef producers with Japan agreeing to lower its beef tariff even lower for American producers.

The U.S. and Japan agreed to undertake a broader economic dialogue when Japanese Prime Minister Shinzo Abe visited Washington earlier this month. The administration has targeted Japan as an early opportunity to strike a bilateral deal, even though Tokyo has little to gain economically from an agreement.

Many observers viewed the establishment of the dialogue as an attempt to slow walk Trump’s drive to start bilateral trade negotiations with Tokyo.

“I don’t think it’s going to happen anytime soon,” said a Japanese official.

As a result, anxiety is high on Capitol Hill, where farm-state lawmakers eagerly await the president to move forward with his bilateral promise.

“I think the message a lot of us conveyed is the sense of urgency,” said Sen. [John Thune](#) (R-S.D.) after a Tuesday meeting with Peter Navarro, the chairman of Trump’s new National Trade Council. “If we’re not going to do a multilateral trade deal with Asia then we’ve got to start getting bilaterals right away.”

GOP lawmakers may not disagree with the bilateral approach, but confidence is low in the administration actually carrying out its promise.

“How long is it going to take?” Senate Agriculture Chairman [Pat Roberts](#) asked reporters last week. “Every trade agreement I’ve been involved is oversold and overcriticized, but it takes time and we don’t have much time out in farm country before we get in trouble and we’re the people that brought him [Trump] to the dance.”

# Abe, U.S. lawmakers agree to work on economic ties, trade after summit

<http://www.japantimes.co.jp/news/2017/02/21/national/politics-diplomacy/abe-u-s-lawmakers-agree-work-economic-ties-trade-summit/#.WK23UBB7mgR>

Kyodo

Feb 21, 2017

Prime Minister Shinzo Abe and a group of lawmakers from the U.S. House of Representatives agreed in Tokyo on Monday to further strengthen bilateral ties, including in economic areas, according to the Foreign Ministry.

The visit by the bipartisan delegation from the Congressional Study Group on Japan follows Abe's summit earlier this month with U.S. President Donald Trump.

Billy Long, a Republican representative from Missouri, told reporters after the meeting at the Prime Minister's Office that he had discussed trade with Abe and felt confident the countries will hammer out a bilateral trade deal.

Negotiating a bilateral deal could be politically risky for Abe, who has continued to extol the benefits of the multilateral Trans-Pacific Partnership free trade agreement even after Trump pulled the United States out of the pact shortly after taking office last month.

In their summit in Washington on Feb. 10, followed by a golfing trip to Trump's vacation estate in Florida, the leaders agreed to pursue a bilateral trade framework in a dialogue led by Deputy Prime Minister Taro Aso and U.S. Vice President Mike Pence.

"President Trump and Prime Minister Abe really built a good relationship on the golf course, so I think you'll see a trade deal coming," Long said, adding that he gave Abe a set of golf balls to replace any that might have been lost in Florida.

According to the White House, Trump asked Long in a meeting with lawmakers on Thursday last week to give his regards to Abe, praising the prime minister's golf game and calling him "a fabulous guy."

# NY's "Groundbreaking" Buy American Legislation

<http://trade.djaghe.com/>

Djaghe International Trade

Posted on [February 21, 2017](#)

New York [Governor Andrew Cuomo](#) is proposing a Buy American bill that would be “groundbreaking”, the strongest state mandate for the purchase of American-made products. The NY legislation would require all state agencies to give preferences to domestic products in purchases above \$100,000. In 2016, the New York legislature [rejected](#) similar – but less onerous legislation – following opposition from the business community and foreign trading partners, including the European Union. But, this year may be different since the Governor is vigorously supporting the measure. If enacted, it could set a precedent for other states.

The proposed “[New York Buy American Act](#)” would require all state agencies to give preferences to products that are “manufactured in America”, that is products that are mined, grown or produced in whole or substantial part within the United States. Two requirements would be imposed on products that incorporate components: their manufacture or final assembly would have to take place in the U.S. and more than 60% of their components (by cost) would have to be of U.S. origin. These requirements also apply to sub-components.

As in 2016, the business community strongly opposes the latest forced localization legislation. On February 16, in a [letter](#) to the NY Governor and state legislators, 30 business organizations, including state and local groups as well as national organizations, such as the National Foreign Trade Council and the Organization for International Investment, called for the Buy American provisions to be stripped from NY's 2018 budget. They emphasized that the domestic content requirements would undermine companies that rely on cross-border supply chains, imposing the greatest burden on small businesses that “are less capable of reinventing their supply chain and manufacturing networks” to meet a new localization mandate.

The proposed measure allows for several exemptions, including where a U.S.-made product cannot be produced in sufficient quantities or of satisfactory quality or at a reasonable cost. In addition, and particularly important from the trade perspective, the proposed legislation would allow a state official to exempt procurement where a reciprocal trade agreement or treaty has been negotiated by the U.S. government, on behalf of or including New York, with a foreign nation or government that requires nondiscriminatory governmental procurement practices or policies. The legislation further provides that the Buy American provision is not “intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States”.

These provisions appear to provide authority for New York officials to comply with the State's obligations under the WTO Government Procurement Agreement (GPA) and eight free

trade agreements (FTAs). Under those agreements, New York is not allowed to favor domestic suppliers in procurement by its state agencies, state university system, public authorities and public benefit corporations. This obligation applies to state purchases with a value at or above \$522,000 for goods and services and \$7.36 million for construction projects.

Notwithstanding an apparent savings provision for international agreements, the latest NY measure would represent an unprecedented extension of Buy American requirements at the state level. The industry letter pointed out that: “No other U.S. state has ever sought to cast such a wide web affecting billions of dollars in annual purchases and thousands of contracts”. Since the trade agreements are only triggered when purchases reach \$522,000, extensive state procurement could be subject to the domestic content mandate under the low NY threshold.

With a new Administration in Washington making “Buy America” one of the cornerstones of its trade policy, adoption of extensive domestic content legislation by a major state like New York could encourage other states to pursue similar legislation.

Jean Heilman Grier

February 21, 2017

In Trade

## House Ag Chairman: TPP outcomes should be ‘yardstick’ for bilateral deals

<https://insidetrade.com/trade/house-ag-chairman-tpp-outcomes-should-be-%E2%80%98yardstick%E2%80%99-bilateral-deals>

February 23, 2017

House Agriculture Committee Chairman Mike Conaway (R-TX) at the U.S. Department of Agriculture Outlook Forum today said the Trans-Pacific Partnership was, with two exceptions, a good deal for U.S. agriculture producers and agriculture market access outcomes in new bilateral trade deals should be measured against TPP results.

Conaway also revealed that he had recently met with “one of President Trump’s top economic guys” who did not offer a lot of “specifics” on the administration’s path forward on trade policy. Conaway said he asked “where we are” since abandoning TPP and inquired when bilateral negotiations would start and with which countries.

“He didn’t have any answers there yet,” Conaway said.

One encouraging takeaway from the meeting was the apparent understanding on the part of the administration official that boosting exports is an essential part of leveling negative trade deficits.

TPP was largely supported by the agriculture sector except for the rice and tobacco industries, Conaway recalled, adding “if that was a good deal and we start renegotiating the bilaterals that President Trump wants to do and he wants to get us better deals than that, then we’ll have a yardstick to be able to measure better.”

The tobacco industry opposed TPP due to provisions that exempted certain tobacco regulations from the purview of the deal’s investor-state dispute settlement mechanism. The rice industry, subsets of which were either neutral toward TPP or against it, worried that the trade pact would result in the U.S. losing its share of Mexico’s rice market due to tariff reductions granted to Vietnam. The industry also was dissatisfied with the level of market access provided by Japan.

Broadly, Conaway said that it is “important that we maintain our trade relationships and make them better.”

“I’m also going to make sure that our committee is fully engaged on every single issue that touches farm country, whether it’s within our jurisdiction or not. We’re going to talk out,” he added. “We’re going to speak out, whether it’s trade or tax reform or whatever that’s going on

that affects farmers and ranchers who do the best job that they're doing. Our committee is going to be working to speak out and defend and protect and advocate on behalf of our farmers and ranchers.”

On the House GOP plan for a border adjustable tax, he urged industry groups to “keep their powder dry” until final legislative language is released and proper analysis can be done.

# Sen. Collins thinks she can work with Trump on trade, wants to hear more once USTR confirmed

<https://insidetrade.com/trade/sen-collins-thinks-she-can-work-trump-trade-wants-hear-more-once-ustr-confirmed>

February 23, 2017

Sen. Susan Collins (R-ME) believes she can work with the Trump administration on trade and is eager to learn more about its approach to negotiating deals once a U.S. Trade Representative is confirmed.

Collins said in Bangor this week that she agrees with Trump “that there were many poorly negotiated trade agreements that have cost us manufacturing jobs in our state and throughout our country.”

But, she added, “his approach to renegotiation I believe will be better refined once he’s brought on a special trade representative.”

The *Bangor Daily News* notes that [Collins knew Robert Lighthizer](#), Trump's pick for USTR, in the late 1970s and early 1980s when both worked as Senate staffers.

“I believe he will be good,” she said. “If we can have a trade policy that helps preserve our manufacturing base, that would be great progress.”

Collins, however, has grave concerns about what she called the “border tax that is being proposed” and is worried that a border adjustment tax approach pushed by House GOP leaders would hurt U.S.-Canadian relations and Maine companies.

“If you look at the amount of trade we have with Canada every single day, that could cause retaliation by the Canadian government that might hurt some of our small businesses and small employers in our state,” she said. “I’m also not sure what would be the impact on the mill in Madawaska, the Twin Rivers mill, where the pulp is produced on one side of the border and the paper on the other side of the border. So, would there be a tax? That doesn’t make sense. There are a lot of issues to work out.”

# Bannon: Administration and Congress working on ‘innovative’ bilaterals

<https://insidetrade.com/trade/bannon-administration-and-congress-working-%E2%80%98innovative%E2%80%99-bilaterals>

February 23, 2017

The White House and members of Congress are in consultations over a slew of new bilateral trade deals, chief White House strategist Steve Bannon said today, adding that President Trump’s withdrawal of the United States from the Trans-Pacific Partnership was a monumental historic event.

“The mainstream media don’t get this but we’re already working in consultation with the Hill, people are starting to think through a whole raft of amazing and innovative bilateral trading relationships with people that will reposition America in the world as a fair trading nation and start to bring jobs, high value-added manufacturing jobs back to the United States of America,” Bannon said at the Conservative Policy Action Conference, sitting next to White House Chief of Staff Reince Priebus.

Bannon also listed the withdrawal from TPP as one of the most important actions Trump has taken in his roughly first month in office.

“I think one of the most pivotal moments in modern American history was his immediate withdrawal from TPP. That got us out of a trade deal and got our sovereignty back to ourselves,” he said.

Generally, Bannon divided the administration’s work into three so-called buckets: national security and sovereignty, economic nationalism, and the deconstruction of the administrative state.

He said that work on the economic nationalism front is led by Trump’s Commerce Secretary pick Wilbur Ross, Treasury Secretary Steve Mnuchin, Trump’s U.S. Trade Representative pick Robert Lighthizer, director of the National Trade Council Peter Navarro, and senior adviser to the president Stephen Miller.

That group is “thinking how we’re going to reconstruct our trade arrangements around the world,” Bannon said.

# Canada's Trudeau, Trump discuss border cooperation, softwood lumber

<https://bangordailynews.com/2017/02/23/business/canadas-trudeau-trump-discuss-border-cooperation-softwood-lumber/>

By [Reuters](#)

Posted Feb. 23, 2017, at 3:10 p.m.

OTTAWA — Canadian Prime Minister Justin Trudeau and President Donald Trump on Thursday discussed cooperation along the countries' shared border, Trudeau's office said in a statement that did not give details.

Dozens of asylum seekers, worried about Trump's plans for cracking down on immigration, have been crossing into Canada in recent weeks, putting a strain on border communities.

Canadian officials say they are monitoring people crossing the border but are not worried at this stage, given the number of asylum seekers is relatively small.

Trudeau and Trump, who met for the first time last week in Washington, also discussed a long-running dispute over Canadian exports of softwood lumber, the statement said.

U.S. firms launched legal action last December, alleging that Canada is subsidizing lumber exports.

# USTR Nomination Highlights Contradictions in Trump's Trade Policy

<http://www.commondreams.org/views/2017/02/25/ustr-nomination-highlights-contradictions-trumps-trade-policy>

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by

[Think Forward Blog / IATP](#)

by

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Trump's trade policy is a series of contradictions wrapped in a mystery. While advancing a boldfaced pro-business agenda, promising to gut regulations and reduce public spending on healthcare and other social programs, he has also claimed to care about American workers and jobs losses caused by trade [agreements like NAFTA](#) that were specifically designed to reduce regulations. While his own businesses have included [licensing deals](#) for goods produced in developing countries known for poor labor standards, publicly he attacked U.S. companies that offshored jobs to lower costs and promised to rewrite the rules to somehow bring those vanished jobs back. He promises to negotiate better trade deals but is poisoning the political atmosphere for negotiations with xenophobic proposals such as building a wall and ordering to ban migrants. Exactly how his administration will reconcile all of those contradictions is a mystery, and there are real reasons for alarm over his lack of commitment to international human rights standards.

Exactly who is really in charge of his trade policy is another mystery. While he has nominated Robert Lighthizer as United States Trade Representative (USTR), he has also established a [National Trade Council](#) within his administration, led by Peter Navarro, and has indicated that Wilbur Ross, his pick for Commerce Secretary, would lead the negotiations to revamp NAFTA. U.S. trade negotiations have always involved representatives from various government agencies (as well as the corporations represented on the Trade Advisory Committees), but those collaborations were always led by the USTR. This time, it's not so clear.

The Trump administration appears to be creating an even more byzantine path to trade policy. This obfuscation, while important in itself, is also a signal that the Trump administration and his party will continue to ignore a key popular demand on trade: a transparent and democratic negotiating process where ultimately, accountability resides with Congress. Opponents of NAFTA, the Trans-Pacific Partnership (TPP), and the Transatlantic Trade and Investment Partnership (TTIP), including labor, have consistently opposed existing processes

that essentially limit Congressional oversight and approval to a thumbs-up or thumbs down vote. Rather than opening up the negotiations to input, the Trump administration appears to be creating an even more byzantine path to trade policy that will prevent members of Congress from weighing in, much less allowing for any real public participation by those sectors most affected by trade.

Robert Lighthizer's nomination as head of USTR is not so much an issue of his qualifications; rather it is his intentions and his authority to make any real changes in our failed trade policy. Lighthizer is a lawyer who once served as deputy trade representative and brings significant experience in Congress and the office of the USTR. He has valuable experience from the other side of the table too, having represented [Brazil and China](#) in previous trade talks. (Because of this experience, provisions in the 1995 Lobbying Disclosure Act that would disqualify him from serving as USTR will actually have to be waived by Congress). His firm, Skadden, Arps, Slate, Meagher and Flom LLP, has focused on traditional trade litigation representing corporate interests.

How he will bring his relevant experience to the role (as confused as that role is) is important to know, and the senators reviewing his nomination should ask tough questions. First and foremost, he should be asked how he will reconcile the contradictions evident in the current administration's trade approach, and how he would develop a cohesive trade agenda.

These questions could include:

1. Farmers in the U.S., and round the world, are suffering from unpredictable and mostly low commodity prices. Agribusiness-export dumping under NAFTA resulted in millions of Mexican farmers being driven from their land. U.S. farmers are also facing the dire consequences of low prices coupled with rising input costs. As part of a commitment to supporting rural America, would you set the sustainable livelihoods of U.S. farmers as an explicit objective in a renegotiated NAFTA? How could trade rules better protect local foods and farms in all countries?
2. Prior to renegotiating NAFTA or entering into other trade talks, would you support reforming the U.S. internal trade negotiation process to encourage congressional responsibility for establishing trade objectives as well as supporting the democratic process of legislative debate prior to trade agreement approval?
3. How do you propose information be gathered on Americans' priorities on trade? Would you conduct field hearings in rural and urban areas to determine the impact of trade and investment agreements on job creation and wages? Would you support greater transparency in NAFTA and other trade negotiation processes, such as publishing draft negotiating texts before and after each round of talks?
4. What would be the consequences for binational cooperation with Mexico on issues such as drug enforcement, military cooperation, and immigration, if the NAFTA renegotiation talks were to fail and the U.S. were to withdraw from the agreement?
5. As a result of Mexico and Canada's challenge of Country of Origin Labeling (COOL) for meat at the World Trade Organization (WTO), the U.S. has eliminated this popular program. Would you support efforts to reinstate COOL or other changes in trade rules to

support consumers' rights to know about their food? How would you address the issue in the NAFTA talks and other trade forums?

6. President Trump has indicated a strong preference for bilateral over multilateral trade agreements. How do you propose to balance the need for consistency among international standards on such issues as food safety with the administration's imperative for one-off deals?
7. Investor-State Dispute Settlement, which empowers foreign companies to sue governments in private tribunals over public interest laws, is one of the most controversial provisions in international trade agreements. Would you support removing that mechanism from NAFTA and other U.S. trade and investment agreements?
8. Past agreements have expanded trade in sectors that are major greenhouse gas emitters and could restrict policies on climate change in the future. How will you address climate change in the development of future trade agreements?
9. The WTO is a flawed, but important institution in setting common trade rules around the world. The U.S. is currently involved in multiple WTO disputes over agriculture and energy. What reforms do you think are necessary at the WTO to improve global cooperation and ensure that trade rules don't override other international concerns like human rights and environmental sustainability?

It is imperative to revamp trade policy so that it supports sustainable economies and livelihoods rather than corporate profits. Of course, the big underlying problem is that U.S. trade policy is held hostage both by the corporate advisors who actively participate in trade talks, and by the undemocratic Fast Track rules that prevent meaningful public participation or real accountability to Congress.

It is imperative to revamp trade policy so that it supports sustainable economies and livelihoods rather than corporate profits. Civil society groups around the world have been pushing for a radically different framework for trade regulation for decades. Their vision of trade is one that supports sustainable economies and livelihoods, not just simplifying profit-making for a few economically powerful corporations and their financiers. Trump and his advisors are critical of the trade strategy that has been in place in the U.S. since the Reagan years. Yet, with no clear agenda or interest in diplomacy, the idea of tweaking NAFTA or entering into new bilateral deals with better outcomes for working people, farmers and the environment is simply not credible.

It's hard to see how all of the contradictions in the new trade policy can be reconciled or how to make progress in the face of unprecedented conflicts of interest within this administration, but it won't be for lack of pressure by farmers, unions, environmentalists and others committed to a very different vision for trade and global governance.

# Merkel ally calls for Europe to retaliate if Trump imposes trade tariffs

<http://www.telegraph.co.uk/news/2017/02/25/merkel-ally-calls-europe-retaliate-trump-imposes-trade-tariffs/>

[Reuters](#)

25 February 2017 • 5:15am

Europe should impose punitive tariffs on imports from the United States [if President Donald Trump acts to shield U.S. industries from foreign competitors](#), a senior ally of German Chancellor Angela Merkel said in a newspaper interview.

Trump has already formally withdrawn the United States from the Trans-Pacific Partnership trade deal, distancing America from its Asian allies, and vowed to renegotiate the U.S. free-trade deal with Canada and Mexico.

The tycoon-turned-president has also threatened German carmakers with a border tax of 35 percent on vehicles imported into the U.S. market, saying such a levy would help create more jobs on American soil.

"If Donald Trump imposes punitive tariffs on German and European products, then Europe should also impose punitive tariffs on U.S. products," [Volker Kauder, parliamentary floor leader of Merkel's conservatives](#), told the Funke media group in an interview published on Saturday.

"We cannot accept everything," Mr Kauder added.

He said German officials would have to remind "our friends in Washington" that trade wars in the past had already shown that both sides only lost from such measures.

"We just have to say calmly and with self-confidence: If Trump carries out what he said, then Europe must react," Mr Kauder said.

The German government has vowed to protect global free trade after Trump threatened protectionist measures and his top adviser on trade accused Germany of exploiting a weak euro to boost exports.

German Vice Chancellor Sigmar Gabriel has suggested that the European Union should refocus its economic policy toward Asia, should the Trump administration pursue protectionism.

In a sign of already shifting trade flows, China became Germany's most important trading partner for the first time in 2016, overtaking the United States, which fell back to third place behind France, data showed on Friday.

# Art of the Trade Deal: China-Championed Pact Faces Tricky Talks

<https://www.bloomberg.com/politics/articles/2017-02-26/art-of-the-trade-deal-china-championed-pact-faces-tricky-talks>

*by*

*Karlis Salna*

*and*

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February 26, 2017, 4:00 PM EST February 26, 2017, 8:48 PM EST

- Japan RCEP talks to highlight differences on tariffs, services
- RCEP in focus after Trump withdraw from separate Pacific deal

Trade negotiators are under pressure this week to make progress on a blockbuster Asia pact, after Donald Trump pulled the U.S. out of a rival Pacific agreement. But officials meeting in Japan face some significant sticking points.

China is championing the 16-nation Regional Comprehensive Economic Partnership, which does not include the U.S. or Canada. It's a chance for it to seize the moment amid the U.S. president's protectionism -- evidenced by his withdrawal from the 12-country Trans-Pacific Partnership -- keeping free trade on track and boosting its global clout.

Still, some nations are uneasy about rushing to get the RCEP done, even with the failure of the TPP. And while the talks should be simpler -- the RCEP is more of a traditional trade deal -- there are disputes over tariff cuts and the service sector.

“The stumbling blocks are multiple,” according to Iman Pambagyo, the RCEP trade negotiating committee chief. Pambagyo, who is director-general of international negotiations with Indonesia's Trade Ministry, said negotiators had only agreed on about 700 of more than 5,000 tariff lines covered in the deal.

## **‘Speed Over Quality’**

The RCEP could help develop supply chains in Asia, according to Japan's State Minister for Foreign Affairs Kentaro Sonoura.

“This is the first meeting of the year,” he said. “I have strong expectations of progress towards the early conclusion of a high-quality agreement.”

Still, the Japan meeting may only take officials about 30 percent of the way to a deal, said an official involved in the talks. Some countries want to offer different degrees of market access to

member nations, but that is not an approach with universal support, said the official, who asked not to be identified because the discussions are private.

For the RCEP, “it depends whether they prioritize speed over quality,” said Yorizumi Watanabe, a former trade negotiator with Japan’s foreign ministry, now a professor at Keio University. “It’s possible RCEP could take over from TPP as the model for future agreements. But if they try to rush, it might be thin.”

The shadow of the TPP will hang over the Kobe meetings. While China pushes the RCEP, some TPP members are calling for that pact to be revived: By proceeding without the U.S., or waiting for Trump to change his mind.

Australia insists the TPP can continue without the U.S. and will seek support for that view in ministerial talks next month in Chile. A spokesperson for Trade Minister Steven Ciobo said negotiations on the RCEP are challenging and significant work remains on market access.

“The seven countries in both the TPP and RCEP are busy scrambling to figure out what to do about TPP with the U.S. withdrawal,” said [Deborah Elms](#), executive director of the Asian Trade Centre, a Singapore-based consultancy. “If TPP does not move forward, it is possible that many TPP provisions will be moved across into RCEP by some members.”

[Read more: Asia Trade Pact Skids Onto Tricky Ground on Free Migration Issue](#)

The RCEP was conceived as an expansion of Southeast Asian trade ties with China, India, Australia and Japan. It includes New Zealand and South Korea, which already have free trade pacts with the Association of Southeast Asian Nations. It would cover almost half the world’s population and 30 percent of the global economy.

Asean members “now see RCEP coming into play,” according to Rebecca Fatima Sta Maria, senior policy fellow at the Economic Research Institute for Asean and East Asia and a former secretary-general of Malaysia’s trade ministry.

Sta Maria said there must be a clear timetable and agreement reached in the Kobe meeting on “what aspects must be in for it to be substantially concluded,” if the RCEP has any hope of being ratified this year. “There has to be political will. I think from a political will perspective, I think there is that will.”

## **Service Sector**

The RCEP covers investment, intellectual property and economic and technical cooperation. It would introduce dispute-resolution mechanisms. Unlike the TPP it would not require members to protect labor rights or improve environmental standards. Like the TPP there are big stumbling blocks.

[India](#) is arguing for greater liberalization of services, a sector that contributes over 50 percent to its gross domestic product and affects the movement of labor across borders. A particular sticking point is loosening rules to make it easier for its IT workers to move abroad.

Indonesian Trade Minister Enggartiasto Lukita said there's a stand-off between "India and several other countries" on the issue of a special business travel card.

### **‘Hard to Do’**

“The problem for RCEP is that you are trying to get an agreement with 16 countries in more than a dozen chapters,” Elms said. “That is just hard to do. In particular, you are creating an agreement that will connect the major markets in Asia together for the first time.”

Meanwhile Australia will keep pushing the TPP. Ciobo discussed the idea of China joining a rebooted version of the TPP during a trip to the country last week, and said Monday it would likely be revisited in Chile.

“I’m sure they’ll have a representative there for the discussions,” Ciobo said by phone. “Ultimately it’s a decision for the Chinese authorities what they might choose to do and understandably they would hold off from any decisions until the future of the TPP is more clear.”

Under the terms of the TPP at least 85 percent of the combined gross domestic product of the 12 original signatories must be represented for it to be ratified. Kim Jong-hoon, a former Korean trade minister, said that with the U.S. accounting for about 60 percent of that total, the TPP was “a dead deal”.

According to Indonesia’s Pambagyo, “everyone’s eyes are now looking at RCEP.”

“It’s the only game in town and we have to make sure we work together toward a quality agreement.”

# Mexico says it will walk away from NAFTA talks if tariffs are proposed

<https://insidetrade.com/trade/mexico-says-it-will-walk-away-nafta-talks-if-tariffs-are-proposed?s=em>

February 27, 2017

Mexico will “get up from the table” if the U.S. threatens tariffs on imports from the country once NAFTA renegotiations begin, according to Economy Minister Ildefonso Guajardo.

“The moment that they say, ‘We’re going to put a 20 percent tariff on cars,’ I get up from the table,” he said in [an interview with Bloomberg](#). “Bye-bye.”

Guajardo added that if NAFTA talks fall apart, “it wouldn’t be an absolute crisis,” with World Trade Organization rules on tariffs taking over. He added, however, that he believes the U.S., Mexico and Canada can come to an agreement.

More from Bloomberg:

Guajardo said part of the reason his country is unwilling to consider any new Nafta duties is because of a possible domino effect. “Opening the door to tariffs is very dangerous, because it’s like opening Pandora’s box -- the lines of people asking for protectionism in Washington would reach to Maryland, and in Mexico City they’d reach to Puebla.”

The border-adjustment tax, he said, is something that’s squarely a domestic fiscal matter for the U.S. He also said it would be complicated to implement, and would no doubt result in mirror changes from other nations that would aim to level the playing field. Washington’s going that route “would require a crazy amount of control on the origin of merchandise and inputs.”

Guajardo also said he sees “very, very high potential” for expanded trade with Brazil, especially in autos. “I’m not going to negotiate with Brazil for its pretty face. I’m going to negotiate with Brazil because they’re going to open their car-manufacturing market,” he said.

# Report: Navarro ordered USTR to draft list of ways to circumvent WTO dispute system

<https://insidetrade.com/trade/report-navarro-ordered-ustr-draft-list-ways-circumvent-wto-dispute-system?s=em>

February 27, 2017

The Office of the U.S. Trade Representative has been directed by National Trade Council Director Peter Navarro to draft a list of ways the administration could hit countries with trade sanctions outside of the World Trade Organization process, the *Financial Times* [reports](#).

Our Jenny Leonard [reported last week](#) that trade attorney Stephen Vaughn -- expected to be named USTR general counsel if nominee Robert Lighthizer is confirmed -- has been working in an unofficial capacity out of the chief of staff's office at USTR, and sources said he has asked USTR staff to prepare material that would lay out ways to move away from using the WTO dispute settlement system.

The *Financial Times* says Navarro is behind the request, and notes that the White House declined to comment on trade policy until a USTR is in office.

## POLITICO

By Megan Cassella | 02/27/2017 10:06 AM EDT

*With help from Doug Palmer and Adam Behsudi*

**ROSS' SIDE PROJECT: MAKE AMERICA FIRST ON SEAFOOD:** Wilbur Ross is expected to emerge as the Trump administration's leading voice on trade after the Senate votes tonight to confirm him as Commerce Department secretary. He's already singled out a surprising pet project: Reducing America's reliance on seafood imports.

"Given the enormity of our coastlines, given the enormity of our freshwater, I would like to try to figure out how we can become much more self-sufficient in fishing and perhaps even a net exporter," the 79-year-old billionaire businessman said at his confirmation hearing in January.

**That would be a big job for anyone**, since 85 percent, or some \$20 billion, of seafood consumed in the U.S. comes from abroad. America is the second-largest seafood market after the 28-nation European Union, and the U.S. seafood industry runs an \$11 billion trade deficit.

One action Ross could take to curb the amount of seafood the U.S. imports each year is to follow through on the [Seafood Import Monitoring Program](#), which the Commerce Department's National Oceanic and Atmospheric Administration established during the waning days of the Obama administration. That regulation, supported by environmental groups like Oceana, is aimed at reducing billions of dollars in illegal, unreported and unregulated fishing each year by creating a traceability program to track imported seafood from point of harvest to point of entry in the U.S. Pros, Doug Palmer dives into Ross' fishing expedition here.

# Automakers want NAFTA's auto rule of origin left intact, currency rules added

<https://insidetrade.com/daily-news/automakers-want-naftas-auto-rule-origin-left-intact-currency-rules-added>

February 28, 2017

The "Big Three" U.S. automakers do not want a renegotiation of the North American Free Trade Agreement to change the deal's automotive rule of origin, but they would like to see enforceable currency manipulation rules included in a modernized deal, according to the American Automotive Policy Council.

Matt Blunt, the president of the AAPC – representing Fiat Chrysler, Ford and General Motors – told *Inside U.S. Trade* the North American auto value chain integration spurred by NAFTA has made the U.S. more competitive in the global marketplace. Increasing the regional content requirement for autos could hurt U.S. sales and employment, he said.

Adding currency manipulation rules to NAFTA, however -- even though Mexico and Canada do not manipulate their currency – would set a precedent for future trade agreements, he added.

NAFTA's rule of origin requires that 62.5 percent of autos and light vehicles be sourced from the U.S., Canada or Mexico to benefit from the deal's zero percent tariff, but there is no country-specific content requirement. Blunt said AAPC would be concerned if NAFTA's regional content requirement was increased above that 62.5 percent threshold because it would make vehicles more expensive, which would negatively impact sales and, by extension, employment.

One idea being floated as part of the NAFTA renegotiation is the creation of a U.S.-only content requirement, according to Kristin Dzikczek, the director of the industry, labor and economics group at the Center for Automotive Research. Typically, trade agreements contain regional content requirements rather than country-specific requirements, Blunt said.

A country-specific requirement could prove problematic for automakers because there is no framework today for sourcing every part from specific countries, Dzikczek said. Automakers generally trace the origin of the parts to the extent that they can verify they are meeting the NAFTA requirement, she said.

This also makes it difficult to project the potential effect of changing the rule of origin, as it is possible that autos already meet an increased threshold. For instance, most autos entering the U.S. from Mexico already contain roughly 40 percent U.S. content. Accordingly, implementing a U.S.-specific rule of origin would not necessarily drive a production change, Dzikczek said. Similarly, autos that meet the 62.5 percent rule of origin in NAFTA could actually well exceed that, she said.

Increasing NAFTA's regional content requirement for autos may also not benefit U.S. manufacturing because the U.S. manufacturing sector already has a high utilization rate in the auto industry, meaning that it may not have the capacity to substantially expand, Dziczek said.

Automakers may be hesitant to immediately invest in new factories because it is possible that changes made by the Trump administration could be undone by the next president, Dziczek said.

Similarly, GM CEO Mary Barra told reporters on Feb. 28 that while she does not have a specific list of priorities for NAFTA negotiations, she believes it is important for the administration to understand her business is capital-intensive and “long-leaded.”

“I think if there's opportunities to improve it you know, certainly, we'll support the administration and provide that input, but also just understanding the nature of our business and being long-leaded and capital-intensive,” she said. She added that NAFTA was a large part of GM's recent success and that its supply chain is integrated with supply bases in both the U.S. and Mexico. -- *Brett Fortnam* ([bfortnam@iwpnews.com](mailto:bfortnam@iwpnews.com))

# Big Pharma's big question: Is Trump friend or foe?

<https://www.statnews.com/2016/11/09/trump-drug-prices/>

By DYLAN SCOTT [@dylanlscott](#)

NOVEMBER 9, 2016

**W**ASHINGTON — Should President Donald Trump make drug makers relieved? Or anxious? They're not sure.

On the one hand, it was Clinton who pledged repeatedly to crack down on prescription drug prices during the campaign. It was a Democratic takeover of Washington that was considered the drug industry's "worst-case scenario." Republicans now fully control the federal government.

And yet.

Trump broke with conservative orthodoxy when he said he wants Medicare to [directly negotiate](#) the prices it pays for prescription drugs. He endorses price transparency for the entire health care system. He supports allowing drugs to be imported from other countries. All of those policies are vigorously opposed by drug makers.

And he's vowed to take on the powerful pharma lobby.

Drug costs weren't a priority for Trump on the campaign trail, and his populist tendencies may be tempered by House Speaker Paul Ryan and Senate Majority Leader Mitch McConnell.

But that's the thing. It's impossible to be sure.

Say what you will about Donald Trump. He's right about drug companies

“Tell me truly where Trump would head on any particular health care position,” one lobbyist with pharmaceutical clients, who requested anonymity to speak candidly about the outlook for these clients, told STAT before the election.

Despite that uncertainty, others expect Trump to govern more or less as a traditional Republican. He and conservative leaders have promised to repeal and replace the Affordable Care Act. The current GOP-controlled Congress has been working on legislation this past year to speed up approvals of drugs and devices at the Food and Drug Administration (a bill that has plenty of Democratic support as well).

More likely than not, Trump and Republicans on Capitol Hill will focus on “injecting more free market principles into the health system as we know it,” said Ben Isgur, who analyzed the election’s health care implications for PricewaterhouseCoopers.

But Trump still has to deal with the widespread anxiety about drug costs that led Clinton to make them a campaign priority. An overwhelming number of Americans believe [drug costs are unreasonable](#) and the government should do something to address them, polling has repeatedly found.

“How are you going to respond to these consumers and make health care more affordable?” Isgur said. “This is front and center for the new president and the new administration.”

Several drug lobbyists said they worried that they could lose support on their right flank after Trump endorsed allowing Medicare to negotiate drug prices, a position that is usually anathema to traditional conservatives. The most populist members of the GOP, such as the House Freedom Caucus, may now feel empowered by Trump’s unexpected victory.

This is President-elect Donald Trump’s party now.

**Fearing Democratic tidal wave, the drug industry is pouring money into GOP coffers**

“I actually think the Republican Party is a far less certain bet for the pharmaceutical industry,” another industry official told STAT, citing “the rise of populism in both parties.”

The official, who also asked not to be named in order to speak candidly, spoke wistfully of ousted House Speaker John Boehner and House Majority Leader Eric Cantor.

“They were productive allies for the industry,” the official said. “But I’m not sure what the future of the Republican Party looks like.”

Republicans have also been yearning to slow the growth of Medicare and Medicaid spending. They want to turn the latter into a block-grant program, but that won’t solve the former’s fiscal situation. GOP leaders could see curbing drug costs as one way to reduce government spending.

But this is all speculative. Most of Washington and the industry has spent the last few months expecting a President Hillary Clinton.

Contemplating a Clinton presidency prior to the election, the drug lobbyist said: “It’s not like you’d have something coming out of totally left field.”

The lobbyist then added, almost as an afterthought: “Like you could have with Trump.”

# Trump taps China critic for trade representative post

<https://www.bostonglobe.com/news/politics/2017/01/03/trump-taps-china-critic-robert-lighthizer-for-trade-representative-post/RXcPUwTA5h38WJOo5PO47H/story.html>

**By Jennifer Jacobs** BLOOMBERG NEWS JANUARY 03, 2017

WASHINGTON — President-elect Donald Trump has picked lawyer Robert Lighthizer to head the US Trade Representative office, his transition team said Tuesday, a further sign the incoming administration will take a tougher line on China.

“He has extensive experience striking agreements that protect some of the most important sectors of our economy, and has repeatedly fought in the private sector to prevent bad deals from hurting Americans,” Trump said in an e-mailed statement. “He will do an amazing job helping turn around the failed trade policies which have robbed so many Americans of prosperity.”

Lighthizer, who was deputy trade representative during the Reagan administration, would replace Michael Froman, the Obama administration’s representative who led negotiations on a Pacific trade pact that would have covered nearly 40 percent of the global economy and was seen as a counterpoint to China’s rising clout.

Trump, however, argues that deals such as the North American Free Trade Agreement and the Trans-Pacific Partnership kill American jobs. He has vowed to make smarter deals and slap punitive tariffs on countries that violate trade rules, particularly China — a frequent target of his attacks.

As a partner at the Washington offices of law firm Skadden, Arps, Slate, Meagher & Flom, Lighthizer has focused on traditional trade litigation, policy

advice, and legislative initiatives for a roster of large US corporations and coalitions, according to the firm's website.

Lighthizer has previously accused China of unfair trade practices, in line with views held by Peter Navarro, a China critic who Trump last month named to head a newly formed White House National Trade Council. In a 2011 article published in the Washington Times, Lighthizer said that using tariffs to promote American industry was a Republican tenet harking back to pro-business politicians who established the party.

“The icon of modern conservatism, Ronald Reagan, imposed quotas on imported steel, protected Harley-Davidson from Japanese competition, restrained import of semiconductors and automobiles, and took myriad similar steps to keep American industry strong,” Lighthizer wrote. “How does allowing China to constantly rig trade in its favor advance the core conservative goal of making markets more efficient? Markets do not run better when manufacturing shifts to China largely because of the actions of its government.”

The choice of Lighthizer would make sense because Trump's economic plan is “Reagan-esque,” said He Weiwen, deputy director of the Beijing-based Center for China and Globalization and a former business attaché in Chinese consulates in New York and San Francisco.

“In the second term of Reagan's administration, his trade team put a lot of pressure on Japan in bilateral negotiations,” He said. “If Lighthizer is picked, a hardline approach towards China can be expected.”

Trump has also linked geopolitical matters to America's trade ties, suggesting his administration will consider the behavior of countries on defense and security in the framework of its economic relationships.

The office of the US Trade Representative is part of the Executive Office of the President, responsible for developing international trade and investment policy, overseeing trade negotiations and representing American interests at the World Trade Organization.

Trump chose Lighthizer after considering several others, including Jovita Carranza, a former executive with United Parcel Service Inc. who served as deputy administrator for the US Small Business Administration under President George W. Bush. Dan DiMicco, former head of steel-maker Nucor Corp., was also considered.

Lighthizer met Trump at his Mar-a-Lago club in Florida on Dec. 19. The president-elect is closing in on a full selection of Cabinet nominees. Now that he has settled on his trade representative, top posts yet to be filled are agriculture secretary, veterans affairs secretary, and chairman of the Council of Economic Advisers.

Former Georgia governor Sonny Perdue is the front-runner for agriculture secretary, though the search continues, transition officials said Monday. Trump's top choice for veterans affairs, Cleveland Clinic chief Toby Cosgrove, has withdrawn from consideration.

# Canada must brace for 'hardline' approach from Trump's new trade representative, experts warn

**President-elect names protectionist-leaning Robert Lighthizer as U.S. trade representative**

<http://www.cbc.ca/news/politics/trump-trade-canada-lighthizer-1.3919811>

By Kathleen Harris, [CBC News](#) Posted: Jan 03, 2017 5:11 PM ET Last Updated: Jan 03, 2017 10:16 PM ET

Canada should brace for a tougher, hardline approach to trade negotiations with the U.S. under Donald Trump's new pick to front the trade file, experts warn.

Saul Klein, dean of the Gustavson School of Business at the University of Victoria, said he wasn't surprised by today's appointment of "trade hawk" Robert Lighthizer as U.S. trade representative because he is aligned with the president-elect's protectionist views.

Lighthizer served as deputy trade representative under former president Ronald Reagan, and has worked as a leading corporate trade lawyer representing companies in various sectors seeking access to foreign markets.

Klein expects Lighthizer won't be very willing to make concessions to resolve disputes such as dairy and softwood lumber.

"I think his mindset is to support U.S. firms' benefit by taking a hard line on trade," Klein said. "So I don't think you're going to see a lot of compromise. I think you're going to see a strong view that this is the U.S. interest, and if you don't like it, too bad."

During the presidential campaign, Trump promised to renegotiate the North American Free Trade Agreement (NAFTA) and spike the Trans-Pacific Partnership (TPP). Klein does not see a massive immediate impact on Canada as the new U.S. administration trains its focus first on Mexico and China.

"Where we run the risk of getting hurt is in the slipstream on the Mexico front," he said.

But he doesn't expect NAFTA will be the first target, and because China is such a "big, messy problem" it could push NAFTA even further to the back burner. Trump would also risk a backlash from Republicans, especially those in bordering states to Canada, who support the free trade deal.

Lighthizer has accused China of unfair trade practices in the past, a critical view in line with that of Peter Navarro, who Trump tapped last month to head the White House National Trade Council.

Meantime, Ottawa is moving to deepen trade ties with Beijing. During a September 2016 visit to Ottawa, Chinese Premier Li Keqiang and Prime Minister Justin Trudeau announced "exploratory talks" on free trade between the two countries, with the goal of doubling trade between the two countries by 2025.

Klein said escalating trade friction between the U.S. and China could actually work to Canada's advantage.

"To the extent that the U.S. is seen as a much more difficult trade partner, Canada in contrast seems much more attractive," he said.

"There may be some markets where we will benefit; things like tourism where people might prefer to go to Canada than to the U.S. If the U.S. is less welcoming to foreign students, Canada could get a benefit from that. More generally, to the extent Canada is seen as a more stable player and more interest in free trade, we could benefit as the U.S. becomes harder."

## 'We have to up our game'

Mark Warner, a Toronto-based trade lawyer, expects the biggest shift in the Canada-U.S. trade relationship under Lighthizer will be a more aggressive enforcement of trade laws.

Warner said he's "reassured" by Trump's choice in the sense that Lighthizer is a smart, knowledgeable lawyer with deep expertise in the file.

Canada and the U.S. have a long-running dispute over softwood lumber. In a release issued by the transition team, Trump said Lighthizer will fight for trade deals that 'put the American worker first.' (Jonathan Hayward/Canadian Press)

"He will make arguments that are protectionist, but they will be strong, well-made arguments," he said. "He's a very sophisticated lawyer who understands legal nuance. And to my mind, that's at least something that's knowable and something you can negotiate with. It just means we have to up our game on this side of the border."

But Warner warned that because Lighthizer has developed a keen understanding of the Canadian market and steel and softwood lumber issues through his corporate work, he won't be easily swayed by some of Canada's bargaining points.

That could mean more protracted legal battles rather than negotiated resolutions, he said.

"You're going to have to make an argument not just on technical legal ins and outs but on fundamental fairness with someone like him. So that doesn't augur well for some of those traditional trade irritants that prevail on technical legal grounds," Warner said, pointing to the ongoing softwood lumber dispute.

In a release issued by the transition team, Trump said Lighthizer will fight for trade deals that "put the American worker first."

"He has extensive experience striking agreements that protect some of the most important sectors of our economy, and has repeatedly fought in the private sector to prevent bad deals from hurting Americans. He will do an amazing job helping them turn around the failed trade policies which have robbed so many Americans of prosperity," reads the Trump statement.

## **Canada-U.S. trade ties**

International Trade Minister Chrystia Freeland is scheduled to hold a media availability in Halifax Wednesday.

Her press secretary Alex Lawrence said the minister looks forward to working with the new U.S. administration and Congress on issues related to trade and investment.

"As the minister has said, Canada has no closer friend, partner, and ally than the United States," he said in an email. "Thirty-five states count Canada as their No. 1 customer. We do over \$2.4 billion in trade every day. The relationship between our two countries serves as a model for the world."

# Secret negotiations at the World Trade Organization create a big problem

[https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/06/secretcy-in-international-trade-negotiations-is-a-good-thing-true-or-false/?utm\\_term=.f52ba27128b7](https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/06/secretcy-in-international-trade-negotiations-is-a-good-thing-true-or-false/?utm_term=.f52ba27128b7)

By Jeffrey Kucik and Krzysztof J. Pelc January 6

After decades of steadily increasing globalization, trade liberalization has slowed to a standstill. Congress has [delayed](#) ratification of the Trans-Pacific Partnership (TPP) indefinitely. And negotiations around the Transatlantic Trade and Investment Partnership (TTIP) have [ground to a halt](#).

In both the United States and abroad, these agreements are dogged by widespread concerns over the [nontransparent manner](#) in which trade deals are negotiated. Critics argue that bargaining behind closed doors unfairly shuts out the voices of organized labor, advocacy groups and nonmember countries. But defenders argue that private negotiations are the only way to reach a deal. In a [recent study](#) in the British Journal of Political Science, we looked at the consequences of private bargaining during World Trade Organization (WTO) disputes. The WTO encourages states to consult with one another privately before initiating formal litigation.

*[The U.S. filed a WTO dispute to save jobs — by increasing imports from China]*

## **We investigated who gains the most from private bargaining**

We use [new data](#) on trade in disputed products and on third-party participation. Our analysis contains two parts. First, we investigate whether complainant countries enjoy greater trade gains after early (private) settlements. The WTO requires that any individual state's market concessions are extended to all members. So if complainant countries enjoy greater market access than nonparticipants, we regard this as evidence of trade discrimination.

*[Why the U.S. needs the World Trade Organization]*

Second, we test whether third parties — countries that participate as observers in disputes — prevent this discrimination. Having more observers in the room should reduce litigants' opportunities to strike deals that disadvantage other members.

Our evidence suggests privacy is a mixed blessing. Shielding negotiators from public view does significantly increase the likelihood that the parties can reach an early settlement, precluding the need for costly litigation.

But these settlements come at a price. Private bargaining creates opportunities for states to strike deals that exclude other members. We show that, conditional on a settlement being reached, complainant countries gain relatively more than others do when negotiations are conducted in private. Specifically, complainants conducted 60 percent more trade with respondents than do other members. This disparity cannot be attributed merely to complainants having a larger stake in the dispute ahead of time.

## **This is a problem for the WTO**

This finding is worrying since the WTO specifically states that any concession made to one country is extended to all others. But, under private settlement, countries appear able to tailor deals that exclude those who are not in the room.

The good news is that the participation of third parties appears to prevent discrimination. Having more eyes in the room reduces the odds that countries strike deals that disadvantage other members. In practice, the trade gains from disputes are more even in the presence of third parties. But third parties also reduce the odds of an agreement being reached.

The results highlight a difficult trade-off. It's true that privacy during trade negotiations promotes agreement. However, private settlement also generates uneven trade gains.

Our findings suggest that a review mechanism is required to scrutinize the outcome of trade negotiations. This is why ratification of trade treaties is such a harried process. Widespread opposition to TTIP, TPP and the Canada-E.U. Trade Agreement in the past year illustrates that countries wishing to retain the benefits of private negotiations must be prepared for the eventual pushback once deals are made public.

Being aware of potential pushback should encourage negotiators to reach deals that will satisfy a majority of their domestic constituents. In this light, the current controversy around trade agreements is thus not entirely a sign of failure. Rather, it's a necessary counterpart to the privacy required to reach an agreement in the first place.

*Jeffrey Kucik is an assistant professor in the Colin Powell School at the City College of New York. Krzysztof J. Pelc is a William Dawson Scholar and*

*associate professor in the Department of Political Science at McGill University.*

# **U.S. International Trade Commission says Canadian softwood lumber caused harm**

**Canadian softwood producers say duties would result in job losses and plant closures**

<http://www.cbc.ca/news/business/canada-us-softwood-1.3925105>

The Canadian Press Posted: Jan 06, 2017 4:11 PM ET Last Updated: Jan 06, 2017 4:30 PM ET

A section of forest is harvested by loggers near Youbou, B.C., in this Jan. 2015 photo. The U.S. International Trade Commission says it has made a preliminary determination of harm from Canadian lumber that is "allegedly subsidized and sold in the United States at less than fair value." (Jonathan Hayward/Canadian Press)

The U.S. International Trade Commission says it has found there was a reasonable indication that softwood lumber products from Canada materially injured American producers, setting the stage for the imposition of preliminary duties that softwood producers fear could impact Canadian jobs.

The trade commission announced Friday that it made an initial determination of harm from Canadian lumber that is "allegedly subsidized and sold in the United States at less than fair value."

It said the U.S. Commerce Department will continue anti-dumping and countervailing duty investigations launched Dec. 16 into the imported products.

"In the final phase, which is a much longer and much more in-depth investigation, the commission will make a determination whether the U.S. industry is injured by reason of the imports," said spokeswoman Peg O'Laughlin.

The preliminary finding could force U.S. importers of Canadian lumber to pay cash deposits to cover preliminary countervailing duties in early March, followed in mid-May with deposits for any anti-dumping duties, unless the deadlines are extended.

Canadian softwood producers say the duties would result in job losses and plant closures north of the border.

International Trade Minister Chrystia Freeland said Canada is prepared for any situation and the government will vigorously defend the interests of Canadian workers and producers.

"Our softwood lumber producers and workers have never been found in the wrong; international bodies have always sided with our industry in the past," she said in a statement.

The decision to investigate is in response to petitions filed in November from the U.S. Lumber Coalition, which alleges that provincial governments, which own most of Canada's vast timberlands, provide trees to Canadian producers at rates far below market value, along with other subsidies.

- [Why Trump's new trade representative could take a 'hard line' with Canada](#)

B.C. Forests, Lands and Natural Resource Operations Minister Steve Thomson said the allegations of unfair trade practices are unfounded.

"These are allegations that, time after time, have been proven to be false before NAFTA and World Trade Organization tribunals," Thomson said in a release.

"B.C.'s forest policies are trade compliant. This issue can be resolved only with a fair, negotiated trade agreement with the United States, not more litigation," he said.

"It is in the best interest of both sides to quickly come to terms on a deal and get back to focusing on growing our respective economies rather than wasting time, energy and resources in costly litigation," he added.

However, B.C. is prepared to fight, along with the federal government, against the U.S. action, he added.

Canada exported about \$4.7 billion US worth of lumber to the U.S. last year, according to the U.S. Commerce Department.

*with files from CBC News*

# Top U.S. trade official sounds alarm over protectionist policies

[https://www.washingtonpost.com/news/wonk/wp/2017/01/10/top-u-s-trade-official-sounds-alarm-over-protectionist-policies/?utm\\_term=.05277aa0b41c](https://www.washingtonpost.com/news/wonk/wp/2017/01/10/top-u-s-trade-official-sounds-alarm-over-protectionist-policies/?utm_term=.05277aa0b41c)

By Ylan Q. Mui January 10

Outgoing U.S. trade ambassador Michael Froman warned Tuesday that America risks ceding its dominance of the global economy if President-elect Donald Trump follows through on promises to slap punitive tariffs on imports and abandon a sweeping trade deal with Asia.

In prepared remarks for his final speech as the nation's top trade negotiator, Froman did not mention Trump by name. But he cautioned that the type of protectionist policies the president-elect has pledged could endanger the ongoing U.S. recovery and embolden Chinese ambitions. Several of the 11 other nations signed on to the Trans-Pacific Partnership have begun adopting portions of the free trade agreement that was supposed to be one of President Obama's signature diplomatic achievements, [effectively leaving the United States out of the process](#).

Meanwhile, he said, China is striking regional trade agreements of its own in hopes of establishing itself as the economic power center of Asia — and eventually, the world.

“How can you be tough on China and withdraw from TPP at the same time?” Froman said in an interview in his office the day before his speech at the Ronald Reagan Building in Washington. “TPP is how you show U.S. leadership in the region.”

The Obama administration had hoped that deepening economic ties with China’s neighbors could help constrain the country’s rapidly growing influence in the region. The trade deal was a central component of a broader White House pivot to diplomacy in Asia after years navigating through the grinding wars in the Iraq and Afghanistan.

But the lackluster recovery from the 2008 financial crisis fueled frustration with the global economic order — not just at home but around the world. That populist anger boiled over last year with Britain’s stunning decision to end its four-decade membership in the European Union and peaked with Trump’s upset victory in the U.S. presidential election.

The heated rhetoric over globalization during the campaign extinguished Obama’s hopes of getting the TPP passed by Congress before leaving office. Trump has vowed to withdraw from the deal on his first day in the White House, as well as renegotiate or withdraw from America’s long-standing free trade agreements with Mexico and Canada and label China a currency manipulator.

Beyond that, Trump has threatened to punish companies that that offshore jobs with a hefty border tax — a power that trade experts say he may not even have. Imports from Mexico and China could also face double-digit tariffs under Trump’s administration.

“China is robbing us blind in trade deficits and stealing our jobs, yet our leaders are claiming ‘progress,’ ” Trump tweeted in late December. “SAD!”

In his prepared remarks, Froman argued that most Americans support free trade but the minority that oppose it do so passionately. A September survey by the Chicago Council on Global Affairs found that 65 percent of those polled viewed globalization favorably. However, a March poll by the Pew Research Center found the public was nearly evenly divided on the merits of free trade agreements.

Now, with the Trump administration set to reverse course on trade policy, Froman acknowledged the economic anxiety that has shifted public sentiment. Proponents of globalization have not made persuasive arguments in the face of painful job losses in the manufacturing sector and inconsistent support for training and education, he said.

“It's very easy to have a bumper sticker critique of trade policy which takes three paragraphs to refute,” Froman said in the interview.

Nominated as Froman's replacement is Robert Lighthizer, a prominent trade attorney who served as deputy U.S. trade representative under President Reagan. In a 2008 op-ed in the New York Times, he called Reagan's “pragmatism” on free trade and criticized modern supporters.

“They embrace unbridled free trade, even as it helps China become a superpower,” he wrote. “They see nothing but dogma — no matter how many jobs are lost, how high the trade deficit rises or how low the dollar falls.”

# What will Trump change about trade relations with China? Here's what you need to know.

[https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/10/what-will-trump-change-about-trade-relations-with-china-heres-what-you-need-to-know/?utm\\_term=.395537304cfa](https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/10/what-will-trump-change-about-trade-relations-with-china-heres-what-you-need-to-know/?utm_term=.395537304cfa)

By Roselyn Hsueh January 10

As a candidate and as president-elect, Donald Trump tapped into the backlash against globalization and [free trade](#), feeding the perception that U.S. companies are no longer competitive in the world.

China's growing economic capabilities have been a frequent target, with Trump labeling China a currency manipulator and threatening to impose tariffs on Chinese imports. Trump even suggested in a [Fox News interview](#) that if China wants the United States to be bound by the [one-China policy](#), then China would need to budge on trade.

There are reasons to be skeptical that any of these moves would work. First and foremost, [holding the one-China policy hostage](#) to trade concessions is a weak position. China knows that the United States won't easily abandon the one-China policy, which is tied to U.S. security commitments. The [Taiwan](#)

[Relations Act](#), passed by Congress in 1979 after the U.S. normalized relations with China, commits to the peaceful resolution of Taiwan's future status, through informal diplomatic relations and the sales of defense arms to Taiwan.

Second, to understand what levers the United States really has in dealing with China requires a closer look at China's political economic behavior.

In the four decades since President Richard Nixon first went there in 1972, China has become the world's [second-largest economy](#), leading destination for [foreign direct investment \(FDI\)](#), [top exporter](#), and fastest-growing consumer market.

Trump has claimed China keeps its [currency artificially cheap](#), resulting in the U.S. trade deficit with China — and part of the reason for China's global economic success.

In the past, China devalued its currency to keep exports attractive to foreign buyers — and discourage imports. More recently, after years of high-speed growth, manufacturing in China has declined. The Chinese government now focuses primarily on developing [consumer and high-tech](#), capital-intensive sectors

### **China is now building up its currency, not devaluing it**

Beijing also wants to make the renminbi a global currency. In late 2015, the Chinese yuan joined the International Monetary Fund's [basket of reserve currencies](#), a move many economists saw as a first step toward global acceptance of China's currency. Thus, to encourage domestic consumption amid a slowing economy, [stem capital flight](#), and maintain the renminbi's value, China is now [shoring up](#) its currency.

So the Chinese government is regulating to enhance, not restrict, the value of its currency, much in line with the findings of my [first book](#). I argue that China has employed liberal economic and state interventionist tools to deliberately

regulate the economy in sector-specific ways in different reform rounds since the 1980s. This “liberalization two-step” aims to achieve state goals of national security and national technological development.

My [research](#) also shows that across different industries, from automobiles and telecommunications to renewable energy, the Chinese government restricts the business scope and market entry of foreign companies. [Non-tariff barriers](#), skirting commitments to World Trade Organization (WTO) principles, favor domestic Chinese companies and boost their global competitiveness. By intervening to manage competition, reorganize state-owned enterprises and restructure industries, China has developed a strong indigenous technology base, and actively promotes these exports around the world.

### **Is there a way for U.S. companies to compete better?**

[Chinese-style capitalism](#), with this extensive government support, is a concern for U.S. companies, both at home and abroad. But what’s the best way to communicate that the United States would like to do more business with China — under the fair and competitive conditions both countries committed to uphold? How does the U.S. government assure U.S. companies have a market foothold in China, and can compete with Chinese imports to the United States?

Trump promised to impose [45 percent tariffs](#) on Chinese imports, a move likely to provoke retaliatory measures from Beijing. The imposition of U.S. tariffs also would violate the U.S.’s own WTO commitments. Trump has also declared that he will invoke [Section 301 of the Trade Act of 1974](#) to respond to unfair trade practices. But the WTO has ruled that doing so against other member countries will first [require WTO approval](#).

### **There are better tools to help U.S. companies.**

The U.S. government will have more success promoting the global competitiveness of U.S. companies by supporting worker training,

encouraging industrial upgrading, and investing in research and development. Importantly, the United States has leverage as a WTO member to encourage the global trading body to enforce and arbitrate China's [violations of WTO commitments](#). These tools promote firm competitiveness and encourage markets for U.S. products within global rules.

The Obama administration brought [14 trade enforcement challenges](#) against China out of a total of [38 complaints filed by WTO member countries](#). These include a complaint against tariffs imposed on critical raw materials, which favor Chinese manufacturers at artificially low prices. The U.S. government has also filed anti-dumping or countervailing duty actions against China for unfairly subsidizing exports, including steel.

### **And what about the TPP?**

Trump also threatened to abandon the [Trans-Pacific Partnership \(TPP\)](#), a 12-nation trade pact initiated by President Obama's "pivot to Asia" strategy. China is not included in the pact, a deliberate move to boost the competitiveness of these 12 countries.

But a [TPP retreat](#) would mean walking away from lower tariffs for U.S. products in 40 percent of the world's economy. Moreover, abandoning the TPP could embolden China in the [Regional Comprehensive Economic Partnership](#), a trade agreement of 16 Asia Pacific countries headed by China, and an agreement that excludes the United States.

### **The Trump trade lineup is tough**

By appointing U.C. Irvine professor Peter Navarro, author of "[The Coming China Wars](#)" and "[Death by China](#)," as head of the new National Trade Council in the White House, Trump sent a get-tough signal. The other chief architect of Trump's [America First](#) trade strategy is Wilbur Ross, a billionaire investor and the [presumptive commerce secretary](#).

In early January, Trump named Washington insider and lawyer [Robert Lighthizer](#) as U.S. trade representative. Lighthizer, who previously served under President Ronald Reagan, has [argued for more aggressive U.S. positions in the WTO's dispute settlement process](#) in enforcing China's WTO commitments and favors one-on-one bilateral trade negotiations between countries.

What's more, appointing Iowa Gov. Terry Branstad as ambassador to China signaled to some analysts that Trump will "[focus on negotiations and not ultimatums](#)" with China. Branstad successfully parlayed his 1985 acquaintance with Chinese President Xi Jinping into trade and foreign investment between China and his state.

It remains to be seen how Branstad and Exxon executive [Rex Tillerson](#), Trump's choice for secretary of state, will juggle U.S. security and business priorities. It's possible that the two business leaders will balance the anti-trade faction.

But two things seem quite clear. First, Chinese-style capitalism [will continue](#) with or without U.S. tariffs on Chinese products. Second, it's hard to see a scenario where the United States walks away from the one-China policy without a comprehensive assessment of political changes on both sides of the Taiwan Strait. This would include recent [meaningful democratic developments in Taiwan](#), and of whether China has renounced the use of force to [take over Taiwan](#) (which China has not).

*[Roselyn Hsueh](#) is associate professor of political science at Temple University and author of "[China's Regulatory State: A New Strategy for Globalization](#)."*

# Trump's vow to crack down on outsourcing rattles drug makers with factories in Asia

<https://www.statnews.com/2017/01/11/trump-drug-makers-asia-fears/>

By EJ LANE

JANUARY 11, 2017

**S**INGAPORE — President-elect Donald Trump on Wednesday slammed the

pharmaceutical industry for producing drugs overseas.

“We have to get our drug industry coming back,” he said at his first press conference since the election. “They supply our drugs, but they don’t make them here, to a large extent.”

Pharma execs have been afraid Trump would seize on this issue.

Many pharmaceutical ingredients sold in the US are indeed made abroad, in complex supply chains dominated by China and India for generics and by Singapore and South Korea for higher-end biologic drugs. Trump has made it abundantly clear that he’s no fan of outsourcing production in this fashion.

“Our drug industry has been disastrous,” he said Wednesday. “They’re leaving left and right.”

## Donald Trump: 'Our drug industry has been disastrous'

AP

It’s unclear exactly what levers Trump might pull to pressure the drug industry, but pharmaceutical factories in India and China, in particular, may be tempting targets, given that they’ve repeatedly been called out for safety and quality violations, from [lying to inspectors](#) to leaving bird droppings and [black mold](#) on the factory floor.

Even before the news conference, biopharma executives and government officials across Asia were worried that Trump could impose heavy taxes on ingredients coming into the US or crack down on overseas manufacturing.

## Trump promises reforms on drug prices, saying companies 'getting away with murder'

Singapore, South Korea, and Australia all have free-trade agreements with the US that insulate them somewhat from import taxes. But Trump has promised to tear up the Trans-Pacific Partnership trade pact that Japan and 10 other nations painstakingly negotiated in recent years with the Obama administration. That would leave those countries more vulnerable to protectionist policies, such as new tariffs.

Adding to the unease in Asia: Trump's pick of attorney Robert Lighthizer, a piercing critic of China's trade practices, as US trade representative.

"Pharma firms will have to decide how to handle what is going to be a rocky few years," said Deborah K. Elms, executive director of the Singapore-based Asian Trade Center.

Elms predicted that some companies might shift manufacturing to nations like Singapore and South Korea, where existing free-trade agreements with the US provide "more certainty" about stable trade policy. Others may bring manufacturing back to the US, "although I think firms may wait to see what happens before making this decision, as costs are higher," she said.

Ending outsourcing won't be easy: "The cost of manufacturing in Asian countries like India or China is far less, five times less in some cases, than in developed markets," said Singapore-based supply chain consultant Per Karsten Stolle, who has worked for emerging market access firm Zuellig Pharma.

What's more, several Asian countries require drug companies to do at least some local manufacturing — or risk losing access to massive markets, like Indonesia's 258 million people.

Despite those obstacles, manufacturing advocates in the US are already gearing up to start wooing jobs to the States.

Take the Drew Quality Group, a nonprofit based in Massachusetts. It aims to boost production of generic drugs in the United States. It's pushing to secure tax incentives to set up factories in economically depressed areas, hoping for support from insurers, who might welcome lower-cost medicines.

"Our target is to manufacture critical drugs listed as in shortage" by the Food and Drug Administration, said Deborah Drew, the president and CEO.

The key, Drew said, is to develop efficiencies that make manufacturing in the US cost-effective.

“We can’t go back to the old style,” she said. “Our aim is to reduce costs, use new technologies, and enforce quality controls.”

The Obama White House has already started to support such initiatives.

Last month, the Commerce Department announced [\\$70 million in grants](#) to support a new National Institute for Innovation in Manufacturing Biopharmaceuticals. The goal: to scale up the production of complex biologic drugs in the US.

Many of those drugs are now being made in Asia, in factories approved and regularly inspected by the FDA.

Singapore stands out as a top-end manufacturer, with hundreds of millions of dollars of investment in the past five years from AbbVie, Amgen, and Novartis among others to set up plants to produce biologic drugs. US-based Sigma-Aldrich and Thermo Fisher Scientific provide manufacturing support products and services from a hub in Singapore as well.

India has gone all out to attract the sector, too, with Prime Minister Narendra Modi’s “Make in India” campaign.

And South Korea has also seen an explosion in biologic manufacturing with Seoul-based biotech contract manufacturing firm Samsung BioLogics now home to a state-of-the-art manufacturing operation that serves firms from Bristol-Myers Squibb to Roche. The company is also pushing for European and American approvals of biosimilars — unbranded versions of lucrative biologic drugs, from autoimmune therapy Enbrel to breast cancer therapy Herceptin.

Just this week, South Korea’s finance minister Yoo Il-ho said the country will vigorously defend its manufacturing industries against any “irrational demands from the US” on trade.

Elms said pharma companies that have built overseas supply chains should be especially wary of Trump’s threat to impose an import tax on items manufactured abroad. That, she said, is a “looming problem” for much of the industry.

“This will tax imports and this is likely to hit pharmaceutical products manufactured abroad and imported back into the United States rather more significantly than tariffs,” she said.

To be sure, import taxes aren't their only woes: Pharma companies also worry that Trump could seize on news of a drug price hike and respond with a tweet storm that would send stocks plummeting. But in the end, a trade war would likely have a much bigger effect on their bottom line.

“The irony, for me, of course is that pharma may really come to regret their opposition to the TPP,” Elms said. “Had they not been so hostile to the agreement earlier, we would have had the deal in place and their manufacturing options would have been improved now.”

## **U.S., EU complete insurance covered agreement negotiations; deal may be filed with Congress this week**

INSIDE US TRADE

January 11, 2017

The United States and European Union have completed negotiations on a covered agreement on insurance and re-insurance, and the deal could be filed with the Congress by Friday, the last possible day for the Obama administration to notify Congress during its term, according to multiple sources.

The agreement must be filed with the Senate Finance and Banking committees and the House Ways & Means and Financial Services committees on a day when both chambers are in session, under provisions of the Dodd-Frank Act. Friday, Jan. 13 is the last day the House and Senate are both in session before inauguration day. The agreement would go into effect 90 days after Congress is notified, under Dodd-Frank requirements, which would be April 13.

The Federal Insurance Office within the Treasury Department and Office of the U.S. Trade Representative negotiated the agreement with the EU and are in the process of preparing to file the agreement with Congress, sources said.

Negotiators along with the insurance and reinsurance industry had hoped to complete a deal before the end of the Obama administration because there would be a natural pause in the talks -- to the detriment of the U.S. insurance and reinsurance industry activities in Europe -- while President-elect Trump's team gets up to speed. -- Brett Fortnam ([bfortnam@iwpnews.com](mailto:bfortnam@iwpnews.com))

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# Kerry defends trade pact on last trip as top US diplomat

[https://www.washingtonpost.com/world/asia\\_pacific/kerry-defends-trade-pact-on-last-trip-as-top-us-diplomat/2017/01/13/d080f6e0-d9f6-11e6-a0e6-d502d6751bc8\\_story.html?utm\\_term=.5d5d480d1f15](https://www.washingtonpost.com/world/asia_pacific/kerry-defends-trade-pact-on-last-trip-as-top-us-diplomat/2017/01/13/d080f6e0-d9f6-11e6-a0e6-d502d6751bc8_story.html?utm_term=.5d5d480d1f15)

By Yves Dam-VanIAP January 13

HO CHI MINH CITY, Vietnam — Secretary of State John Kerry, making his last trip as the top U.S. diplomat, defended the 12-nation trade pact that the incoming administration said it would scrap and urged countries to refrain from provocative acts in the South China Sea.

“I can’t predict what the new administration is absolutely going to do with the trade, but I can absolutely tell you that the fundamental reasons for the TPP haven’t changed,” Kerry told students of University of Technology and Education in southern Ho Chi Minh City on Friday, referring to the Trans Pacific Partnership agreement.

He said the U.S cannot grow unless it’s able to sell goods to the rest of the world.

Kerry admitted that the future of the TPP, the centerpiece of the Obama administration’s pivot to Asia, is in doubt when Donald Trump is sworn in as president next week. He, however, believed that U.S commitments to the region will not change.

“Shift in our administrations in Washington is not going to alter or fundamentally undermine the commitments of the United States to prosperity and stability and security of the Asia-Pacific,” he said, adding that “our friendship doesn’t depend on individuals or personalities.”

White House Press Secretary Josh Earnest said President Barack Obama had dedicated a significant portion of his last term to TPP, which he said would allow the U.S. to impose higher labor, environmental and human rights standards and protection for intellectual property as well as give U.S. businesses access to some of the fastest growing economies.

The deal would have slashed 18,000 taxes that other countries impose on American goods and services, he said.

“But unfortunately, Congress did not take action on the agreement that the Obama administration negotiated, and that’s unfortunate because early indications are that other countries are prepared to move forward without the United States,” Earnest told reporters in Washington. “It means that other country’s products are going to be cheaper for some countries to import, and that’s going to put U.S. businesses at even greater disadvantage.”

Kerry said that the U.S. and Vietnam have shared support for security and freedom of navigation and overflight in the South China Sea, which Vietnam along with China and four other government claims in whole or in part.

“We believe all countries in the region, whether big or small, that they all refrain from provocative acts that add to tensions or might lead to greater militarization of the area,” he said.

He also repeated the U.S. opposition to coercion or threat of force “by any state to assert its claim over another... and I’m confident that the next administration will continue to adhere with the same good faith to that policy.”

China claims virtually the entire South China Sea. The U.S. has challenged Beijing’s assertiveness and the construction of islands in the disputed waters by sending warships close to the man-made features.

Kerry, a Vietnam War veteran, also praised relations with his former foes, saying two-way trade had jumped from just \$451 million 20 years ago, when U.S.-Vietnamese ties were normalized, to more than \$45 billion.

The number of Vietnamese students studying in the U.S. also has increased from 800 to 21,000, while American visitors to the communist country rose from 60,000 to half a million.

Kerry, however, urged greater respect for human rights in Vietnam.

The U.S and some European governments often criticize Vietnam for arresting or jailing people who peacefully express their views. Hanoi has said it only jails law breakers.

Kerry and Sen. John McCain, who was held prisoner of war when his Navy jet was shot down over Hanoi during the war, were key participants in the efforts to normalize relations in 1995.

Earlier Friday, Kerry held separate meetings with Prime Minister Nguyen Xuan Phuc and acting Foreign Minister Bui Thanh Son.

He is scheduled Saturday to tour the Mekong delta province of Ca Mau, where he fought almost 50 years ago.

Kerry then travels to Paris to attend a conference on Middle East peace and to London, where he will meet Foreign Secretary Boris Johnson to discuss Syria.

The most traveled top diplomat in U.S history ends his trip by attending the World Economic Forum annual meeting in Davos on Jan. 18, just two days before Trump is sworn in with former oilman Rex Tillerson nominated as Kerry's replacement.

# New Balance founder gave nearly \$400,000 to Trump

<https://www.bostonglobe.com/metro/2017/01/13/new-balance-founder-gave-nearly-trump/HEoVw5ig6OHhLKOc3dDorO/story.html>

## New Balance athletic shoes.

**By Jim O'Sullivan** GLOBE STAFF JANUARY 13, 2017

L.L. Bean found itself in hot water recently when a board member voiced support for President-elect Donald Trump, and the Associated Press reported she had donated to support his campaign.

But another footwear magnate, whose company had already drawn unwanted Trump-related attention, quietly gave much more than vocal support – and a much larger donation.

Jim Davis, chairman of New Balance, sent a \$396,500 check to Trump Victory in September, according to federal campaign finance records. The political action committee is a joint fundraising group for the Trump campaign and the Republican National Committee.

The company issued a statement on the donation Friday: “New Balance did not endorse a candidate in this presidential election or any other. An employee’s personal support of a candidate does not equate to a company endorsement.”

Political donations are nothing new for Davis, who has given to Democrats and Republicans alike. But his recent giving has been heavily weighted to the GOP side, including at least \$400,000 last year to groups dedicated

specifically to protecting and expanding the party's majority in the US House and Senate.

New Balance, the Brighton-based sneaker behemoth, wandered into controversy shortly after the election when an official's comment agreeing with Trump's opposition to the Trans-Pacific Partnership triggered Internet mayhem. Davis attended a Trump fundraiser in Boston last June.

Politico Pro

## **Froman promises revealing TTIP 'snapshot'**

By Doug Palmer

01/13/17 02:52 PM EST

The Obama administration and the European Union are putting the finishing touches on a "snapshot" of where things stand in talks on the TTIP to give to President-elect Donald Trump's administration, outgoing U.S. Trade Representative Michael Froman said Friday. The comments raised expectations that the document will be released next week.

"I had a video conference with [European Union Trade Commissioner] Cecelia Malmström this morning," Froman said during a discussion on the future of U.S. trade policy at the Center for Strategic and International Studies. "We're in the process of trying to make sure we take a good snapshot of where we are in the negotiations — not just where the text is, but where the bid-ask in the negotiations were, what the possible compromises were that were on the table, so if that the next administration ... wants to pick it up, they'll be able to pick it up with momentum."

The top U.S. trade official said the two sides failed to close the negotiations last year because the EU was unable to make difficult decisions in areas such as agricultural tariffs, services and digital trade. But a lot of progress has been made on regulatory issues, he said.

Froman said he thought the European Union would need to get past upcoming elections in France and Germany before it is able to politically reengage in the TTIP talks. The EU also needs to decide whether trade deals can be approved by just the European Council and the European Parliament or have to go through 38 different national and regional parliaments, as has been the case with the EU-Canada free trade agreement.

If the latter is the case, "it's going to be very difficult to negotiate something with the EU," because of the potential for any one of those parliaments to block the pact, Froman said.

On a related issue, Froman downplayed the idea of the Trump administration being able to negotiate a quick bilateral trade deal with the U.K., even though there is strong interest on both sides of the Atlantic.

As a practical matter, the U.K. needs to figure out its new relationship with the EU first, he said.

For example, if the U.K. remains in a customs union with the EU, "that means the EU controls [the U.K.'s] tariffs," Froman said. "You can't really negotiate a free trade agreement with a partner that doesn't have sovereignty over their tariffs."

There are similar questions about how much sovereignty the U.K. will have over its regulations in whatever new relationship it strikes with the EU, he added.

Over the longer term, the United States obviously wants deep trade ties with the U.K., but the U.K. needs to redefine its relationship with the EU before "we can really have any intelligent conversations about a bilateral agreement," Froman said.

From Politico Pro

By Zachary Warmbrodt  
01/13/2017 01:59 PM EDT

The U.S. Treasury Department has published a [fact sheet](#) outlining the terms of an insurance regulatory agreement between the United States and the European Union.

The major focus of the deal is on the application of EU rules under its "Solvency II" regulations and the oversight of reinsurers.

Under the agreement, the EU will not apply Solvency II capital requirements and supervision to the worldwide operations of U.S. insurers. The EU will have authority to apply its rules to the European operations of U.S. firms, but those regulations will not flow upstream to the U.S.-based parent company.

The agreement would also attempt to clear hurdles for U.S. and EU reinsurers operating across the Atlantic.

Under the terms of the deal, which on the U.S. side was negotiated by Treasury and the United States Trade Representative, U.S. states that serve as the primary regulators of the domestic insurance industry will need to update rules that apply to EU reinsurers.

The agreement requires that the U.S. states remove collateral requirements in five years for EU reinsurers that meet certain consumer protection conditions. After three and a half years, if any states have failed to go along with the plan, Treasury's Federal Insurance Office will consider whether to preempt state laws that are inconsistent with the deal.

# Trump Nominees Give Vietnam's Premier Hope for Trade Pact

<https://www.bloomberg.com/politics/articles/2017-01-16/trump-meets-king-s-son-with-goal-of-repairing-broken-voting>

*by*

*Nguyen Dieu Tu Uyen*

*and*

*John Boudreau*

January 15, 2017, 4:00 PM EST January 15, 2017, 11:21 PM EST

- Many Trump officials favor TPP, Vietnam's prime minister says
- Vietnam seen as one of biggest winners from trade pact

Vietnamese Prime Minister Nguyen Xuan Phuc is holding out hope that incoming U.S. President Donald Trump will reconsider the Trans-Pacific Partnership, a trade deal that would be a major boost to the export-driven Southeast Asian nation.

Recent comments made by officials who are set to take senior roles in Trump's cabinet give him reason to be optimistic of a possible agreement that can satisfy the U.S., Phuc said. Rex Tillerson, Trump's pick for secretary of state, said in his Senate confirmation hearings last week he wasn't opposed to the TPP, though he shared some of Trump's concerns about the pact. The U.S. president-elect had vowed on the campaign trail to withdraw from the TPP on his first day in office, saying such trade deals kill American jobs.

“I still believe the new administration of the United States will reconsider its perspective on the TPP and will also try to achieve a new generation agreement that will benefit all parties concerned,” Phuc said in an interview with Bloomberg Television’s Haslinda Amin at the Government Office in Hanoi on Friday.

“Many of the newly-appointed members of the new cabinet are in favor of the TPP, so I think that Washington might reconsider its decision because it will also benefit the U.S.,” he said.

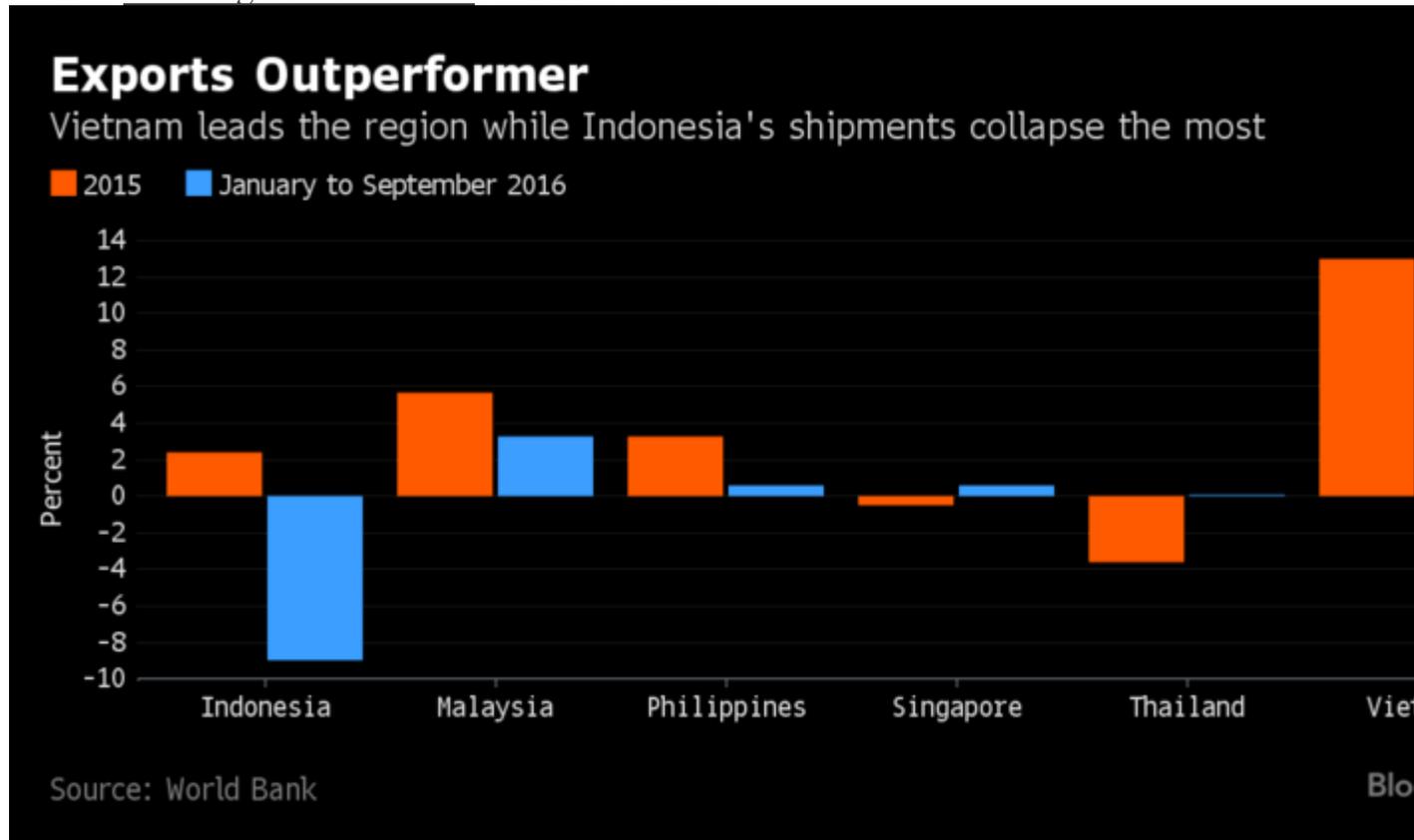
Phuc, 62, is working with other Asia-Pacific leaders to keep momentum going on the 12-nation trade treaty that’s been signed -- but not yet ratified -- by countries including the U.S., Australia, Japan and Canada, and was a cornerstone of President Barack Obama’s strategic pivot to Asia. TPP would represent nearly 40 percent of global economic output worth \$30 trillion if it came into force.

Australian Prime Minister Malcolm Turnbull reaffirmed his commitment to the TPP on Saturday and urged resistance to protectionism ahead of a meeting with Japanese Prime Minister Shinzo Abe in Sydney. A key advocate of the agreement, Abe said over the weekend he’s working on an “early entry into force of the TPP.” Turnbull told reporters on Monday TPP members are weighing how the deal would work without the U.S.

Phuc will host the Japanese leader in Hanoi on Monday.

Vietnam -- an economy that’s been transformed in the past decade from a mainly farming one to a manufacturing hub -- is seen by the World Bank and others as one of the biggest winners from the TPP, providing an estimated 8 percent boost to gross domestic product by 2030. As a low-cost producer, Vietnam is one of the few

economies in Asia still posting export growth as foreign investment from companies such as Samsung Electronics Co. continue to rise.



The economy expanded more than 6 percent last year and is set to be among the world's best performers over the next two years with growth rates exceeding 6 percent, according to the World Bank. The government is targeting expansion of 6.7 percent in 2017.

The TPP is more ambitious than other agreements in not only reducing tariffs on a range of products, but also offering protection on intellectual property rights. That provided impetus for countries like Vietnam to implement business-friendly reforms to take advantage of the benefits from the trade pact.

## China Relations

“Modernizers in Vietnam hoped that TPP would exert an external push for reform that they were unable to make internally given the domestic structural constraints,” said Alexander Vuving, a security analyst at the Asia-Pacific Center for Security Studies in Hawaii. It would also create a “strong force to draw Vietnam away from the Chinese orbit,” he said.

Even without U.S. support for the TPP, Phuc said Vietnam will work with the other member countries to find a solution that benefits everyone, while also seeking free-trade deals elsewhere, such as the Regional Comprehensive Economic Partnership, or RCEP, which is being pushed by China.

“Vietnam will continue to move forward because we have 12 other FTAs in place and three FTAs that are currently under negotiation, including the RCEP,” he said. “These will help our economy to continue to be propelled forward.”

Vietnam is seeking to steer a more independent course from China -- its biggest trading partner with bilateral trade amounting to \$71.6 billion last year -- as territorial disputes with its fellow communist neighbor repeatedly mar relations.

## **‘Potential Market’**

The Southeast Asian nation looks to China to “facilitate business” and “a potential market for goods and services of regional countries,” Phuc said.

The two countries have a complex relationship. They engaged in a 1974 clash near the disputed Paracel Islands and a bloody border war in 1979 over Cambodia. Relations were further tested in 2014 when China placed a deep-sea exploration rig off the Vietnamese coast in an area of the South China Sea

claimed by both countries. That action prompted several clashes at sea and sparked widespread protests in Vietnam.

“We are boosting economic growth, but we will not compromise the environment, national security and independence,” Phuc said. “And as long as we are able to uphold such principals, we should all work together for mutual development.”

China and Vietnam issued a joint statement on Saturday pledging to better manage maritime differences and avoid actions that complicate the situation in the South China Sea.

## **Trump's UK trade pledge: hurdles to a quick deal**

### **Brexit terms, competing interests and sheer complexity could all delay agreement**

<https://www.ft.com/content/378c2678-db9d-11e6-9d7c-be108f1c1dce>

#### **Financial Times**

January 15, 2017

by: Shawn Donnan, World Trade Editor

Donald Trump is promising the rapid launch and conclusion of a trade agreement with the UK to help the government of Theresa May make Brexit a “great success”.

“We’re going to work very hard to get it done quickly and done properly. Good for both sides,” Mr Trump told The Times and Germany’s Bild in an interview published on Sunday.

But that promise faces at least four potential hurdles.  
The EU and the terms of Brexit

Still a member of the EU, the UK is technically not allowed to negotiate a trade agreement with another country. But the bigger question is just what the nitty-gritty details of the UK’s future economic links with Europe will be.

While the UK is a sizeable economy in its own right, American and other companies have for decades chosen to invest in Britain because it served as a gateway into the EU.

Read more

Trump takes swipe at EU as ‘vehicle for Germany’

President-elect stokes European fears for the future of transatlantic alliance

Even a so-called hard Brexit — a clean break from the EU’s single market for goods, people and services as well as from the customs union for goods — would have to be followed by a trade deal with the EU that could take years to negotiate.

Mr Trump is making clear that he wants to do things differently and may decide to prioritise politics and a transatlantic alliance with Brexiters over US commercial policy. But that may not be in the best interests of the US.

Officials and business representatives in Washington argue that the US would have to know the terms of a UK deal with the EU before it sat down to negotiate its own pact with Britain. The US is also almost four years into its own negotiation with the EU over a Transatlantic Trade and Investment Partnership on which Mr Trump has yet to take a position.

Time

Trade negotiations are complex and take years to hash out. So while Mr Trump says he wants to do one quickly he — and Mrs May's government — could be in for a rude awakening.

When the US and EU launched their talks in 2013, the pledge from politicians was to try to secure a deal quickly. Officials in Washington even promised to get them done on “a single tank of gas [petrol]”.

But after 15 rounds of negotiations a deal is far from complete and the joke in trade circles is that they ran out of gas long ago — unless, of course, negotiators switched to an electric car.  
Duelling interests

The curse of all trade agreements is competing interests and how governments balance them — and a US-UK deal would face immense questions.

The American and British financial services sectors are already largely transatlantic and would probably support a trade agreement. But what would a trade deal mean for financial regulation?  
Instant Insight

Hammond's EU threat does not match May's vision

The chancellor's suggestion of a new economic model will be a hard sell, writes Sebastian Payne

Would the UK's farmers be as keen on a trade deal that would open them up to competition from huge US agricultural groups at the very time they are losing generous EU subsidies? And what of the politically sensitive British health sector? Would a trade deal with the US mean more American companies pressing for privatisation of parts of the UK's National Health Service, one of the main fears expressed by opponents of the stalled EU trade talks with the US?

On the flip side, would Mr Trump allow the tariff-free export of British-built cars to the US at a time when he is threatening to impose a 35 per cent “border tax” on cars made in Mexico?  
Missing rules and regulations

One of the biggest arguments for Brexit is that it would liberate the UK from the EU's onerous regulations. But what would the UK replace them with? And how would the issue be treated in any trade negotiations with the US?

The US-EU negotiations that have been under way since 2013 have focused mainly on the difficult issue of removing regulatory barriers to trade, which represent the main obstacle to smooth commerce across the seas.

The problem is that regulations are politically sensitive things, particularly in areas such as agriculture and food safety. A Trump administration could require the UK to take a different stance on genetically modified grains, for example, or to allow the import of hormone-fed US beef, something the EU has long resisted.

# A look at how Trump might shake things up in Asia

[https://www.washingtonpost.com/business/a-look-at-how-trump-might-shake-things-up-in-asia/2017/01/16/7c04bab2-dbb2-11e6-8902-610fe486791c\\_story.html?utm\\_term=.6f3b84efd080](https://www.washingtonpost.com/business/a-look-at-how-trump-might-shake-things-up-in-asia/2017/01/16/7c04bab2-dbb2-11e6-8902-610fe486791c_story.html?utm_term=.6f3b84efd080)

By Christopher Bodeen | AP January 16

BEIJING — Donald Trump has offered views on U.S. relations with Asia that could indicate radical shifts in long-standing policy toward the region. From opposing free trade agreements to confronting China and questioning Japan-South Korea alliances, he appears set to be charting a course far different from previous administrations.

Yet, in other areas, including North Korea, India and Pakistan, Trump appears ready to carry forward well-established U.S. policy. As Trump prepares to be sworn-in as president on Friday, here is a look at some of the stand-out issues and how developments might play out:

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TRADE — Trump says he plans to scrap the 12-nation trade pact known as the Trans Pacific Partnership agreement, or TPP. The pact was the centerpiece of the Obama administration's outreach policy to America's Asian partners known as "the pivot," which also involves a greater military commitment to the region.

Obama said the TPP would allow the U.S. to impose higher labor, environmental and human-rights standards, as well as give U.S. businesses

access to some of the fastest-growing economies. The deal would have slashed 18,000 taxes that other countries impose on American goods and services, but Congress failed to act amid skepticism from both Republicans and Democrats.

Trump's opposition to free-trade agreements has fueled fears of protectionism and puts him at odds not only with U.S. trading partners but also with many in the Republican Party. Killing the TPP may open the way for other regional free-trade initiatives, including those pushed by rival China.

“With the U.S. withdrawing from TPP, Japan will have to redesign its external economic policy,” said Harukata Takenaka, politics professor at National Graduate Institute for Policy Studies. Other options “may not be easy,” Takenaka said.

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CHINA — Trump raised China in speech after speech during his campaign, at times accusing the country of ripping America off in trade and threatening a 45 percent tariff on all Chinese imports.

Things turned far more serious after his election win when he took a phone call from the president of self-governing Taiwan, upending four decades of diplomatic protocol barring such direct contacts. Critics accused him of ignoring the “one-China policy,” long considered unassailable in China-U.S. relations, to which Trump responded by questioning why the U.S. should be bound by such an arrangement without economic incentives.

He again touched on the issue in an interview with The Wall Street Journal published Friday, saying “everything is under negotiation, including ‘one China.’” While the Chinese government's response was muted, the official China Daily newspaper said he was “playing with fire.”

Trump has also criticized the Chinese military's island-building program in the South China Sea, and accused it of blocking U.S. imports through high taxes and manipulating its currency to the detriment of American exports.

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**ALLIANCES WITH JAPAN AND SOUTH KOREA** — Trump raised eyebrows during the campaign when he appeared to question the inviolability of long-standing U.S. military alliances with Japan and South Korea, seen as bulwarks against North Korea's military threats and China's push for regional dominance. The two were included in a list of countries that Trump said he would be "respectfully asking ... to pay more for the tremendous security we provide them."

During the campaign, Trump suggested Japan and South Korea should obtain nuclear weapons so the U.S. would no longer be burdened with the costs of defending them, a disquieting notion in many Asian capitals. But after Trump's election win, Japan's Shinzo Abe became the first foreign leader to meet with him, sitting down in Trump Tower with the business mogul and his daughter, Ivanka.

Japan is concerned about how spill-over from China-U.S. conflicts might affect its economy and foreign relations, possibly compelling it to play a larger role in regional security, said Harukata Takenaka, politics professor at National Graduate Institute for Policy Studies. "Trump measures would be the top priority for Prime Minister Abe this year. The biggest question is that Trump is unpredictable," he said.

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**NORTH KOREA'S NUCLEAR THREAT** — Trump's approach to North Korea probably offers the least divergence from previous administrations, but he

faces stark choices on countering North Korean leader Kim Jong Un's missile threat. After Kim, announced in his annual New Year's address that the country had reached the "final stages" of developing an intercontinental ballistic missile, Trump responded by Twitter: "North Korea just stated that it is in the final stages of developing a nuclear weapon capable of reaching parts of the U.S. It won't happen!"

Trump has not said how his approach to the North might differ from Barack Obama's, although his campaign's position paper talked of more "modern destroyers to counter the ballistic missile threat from Iran and North Korea." That would appear to indicate continued support for deploying the advanced Terminal High-Altitude Area Defense, or THAAD, anti-missile system in South Korea, despite Chinese and Russian objections. Trump appears to be a firm believer that North Korea could be reined-in if only its sole significant ally China would tighten the screws.

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INDIA AND PAKISTAN — During the campaign, Trump was largely positive toward both India and Pakistan, even while he piled negative rhetoric on China and other nations. However, his threat to ban Muslims from entering the U.S. has raised accusations of Islamophobia.

In the days after his win, Trump appeared to follow in the well-trodden path of seeking a balance between the nuclear rivals — albeit in his unorthodox style. A phone call between Trump and Pakistan's prime minister was remarkable mainly for the effusive praise he reportedly lavished on the struggling state. Pakistan is a U.S. ally in the battle against Islamic extremism but is also close to U.S. rival in Asia, China. In its readout of that call, Pakistan said Trump described the country as "amazing" and expressed a desire to visit — something President Barack Obama did not do.

India's national security adviser followed the Pakistan exchange with a low-key visit to Washington to meet with a senior Trump aide in a sign of New Delhi's desire to forge close ties with the incoming U.S. administration.

# Labor says TPP is dead because Trump killed it

<http://www.theaustralian.com.au/national-affairs/labor-says-tpp-is-dead-because-trump-killed-it/news-story/964063e38e0b5cf1dbf5142398eb1bec>

- The Australian
- 10:21AM January 17, 2017
- 

Labor trade spokesman Jason Clare says the Trans-Pacific Partnership is dead and the Turnbull government should focus on establishing other free trade agreements.

The opposition has stopped short of saying they will oppose legislation for the TPP, which the government still intends to introduce to parliament.

“If the government introduces legislation, then that’ll go to shadow cabinet, and we’ll make a decision then, but ... the important point here is the TPP is dead, and it’s dead because the Trump administration killed it,” Mr Clare told ABC radio.

“The way this agreement works is, unless the United States ratifies the TPP, there is no TPP.”

Mr Clare said the Prime Minister was wasting time attempting to ratify the TPP.

“The real question here is why is Malcolm Turnbull distracting the parliament by introducing legislation to implement a dead agreement,” he said.

“This is the silliest thing that I’ve heard of since the knighting of Prince Philip.”

Mr Clare said he believed the TPP had merit.

“It has modest economic benefit for Australia, it’s strategically important because it brings together the countries of the Pacific Rim,” he said.

“There are concerns with elements of it, in particular the fact that it removes labour market testing for about six countries, which means that businesses can bring into Australia workers from six countries without first checking if there’s an Australian that can do the job, but the most important point here is that this agreement is dead.”

Mr Clare described Mr Turnbull's claim that Labor's stance on the TPP represents a shift away from support for free trade as "nonsense".

"We support good trade agreements that create jobs, not dead ones that don't," he said.

"The fact is the Labor Party has a very strong and proud record on trade.

"The big tariff cuts that not only Paul Keating and Bob Hawke but also Gough Whitlam put in place are responsible for helping create the open economy that's created more jobs and businesses in Australia, and frankly the trade agreements of the Liberal Party has signed up to pale in comparison to them.

"We've got the runs on the board, and Malcolm Turnbull, instead of trying to get us to debate legislation which won't have any impact at all, should actually be signing Australia up to agreements with countries like Indonesia and India and the UK and Europe."

The union movement has welcomed Bill Shorten's position on the TPP, with ACTU President Ged Kearney calling for Labor to vote against the agreement.

"All the research shows that we are likely to lose jobs in Australia, that there's very little benefit for Australia overall with the TPP," Ms Kearney told ABC radio.

"We are very concerned about ISDS (Investor-state dispute settlement).

"Recently Labor has actually come out and said that they have concerns about ISDS as well, that it's trading away our sovereignty to multinational corporations.

"We would certainly hope to hear in definitive terms from the Labor Party that they would vote against legislation that would enable the TPP."

Former diplomat and trade ambassador Alan Oxley said he was disappointed in Labor's stance and saw it as a betrayal of the party's free trade legacy.

"It's very disappointing. I mean the TPP was an initiative of Julia Gillard," he told ABC radio.

"There is still, there's always been a classical support for free trade inside the ALP.

"(Mr Shorten) could if he wanted to, to finesse it a bit, to say 'oh there's certain features of the agreement that we would look to, to look after people's interests,' but instead he's taken I think a very political position by simply saying he'll oppose it.

"This is a very disappointing shift in an ALP policy which has been operating ever since the Hawke government."

Mr Oxley said he did not agree that the TPP was "dead".

"It's not quite dead, in fact I think it's a fair way off dead," he said.

"There's actually significant support for it inside the US Congress, and I think it would be very wise for us to wait until the Trump administration is sworn in. I think it'd be wise to wait."

Greens trade spokeswoman Sarah Hanson-Young said Labor had to stop playing “cat and mouse” games over the TPP and clarify how it would vote on the government’s legislation.

“Hiding behind Donald Trump is simply not good enough,” Senator Hanson-Young said.

“Instead of playing cat and mouse games, the Australian community needs clear and confident opposition to the big business trade deal, that if realised will leave ordinary Australians worse off.

“The real risk with the TTP is the dangerous precedent it sets for giving multinationals the power to override the will of the people by allowing them to sue governments, even when a government is acting in the interest of the community.

“Could it be that Labor is holding out hope Turnbull will pull off the impossible and revive the TPP?

“The public deserves to know whether the Labor Party opposes this deal in principle or stands with big corporations.”

# *U.S. Ambassadors in Asia Make Final Plea for Dead Trans-Pacific Trade Pact*

<https://www.nytimes.com/2017/01/17/world/asia/china-tpp-ambassadors.html>

## Sinosphere

By EDWARD WONG JAN. 17, 2017

When hope of enacting the ambitious [Trans-Pacific Partnership](#) trade pact ended in November, [Max Baucus](#), the United States ambassador to [China](#), was among the officials who had to grapple with disappointment.

The partnership, called the TPP, was a hallmark of the Obama administration. It would have been one of the largest trade agreements in history, covering about 40 percent of the world's economy and setting new terms and standards for trade for the United States and 11 other Pacific Rim nations. China was not included but would have been able to join.

When [President Obama](#) plucked Mr. Baucus in 2013 from the United States Senate to be the ambassador to China, he chose a politician with a record of [promoting free trade](#). As ambassador, Mr. Baucus supported the Trans-Pacific Partnership and tried to dampen [alarm in China](#) over the American-led effort.

Last week Mr. Baucus took the unusual step, with five other American ambassadors in the Asia-Pacific region, of sending an open letter to Congress asking its members to support the pact in an effort to cement a leadership position for the United States in regional trade and not [yield that role to China](#), which has the second-biggest economy in the world.

In their letter, the ambassadors warn that “walking away from TPP may be seen by future generations as the moment America chose to cede leadership to others in this part of the world and accept a diminished role.”

“Such an outcome would be cause for celebration among those who favor ‘Asia for the Asians’ and state capitalism,” it added.

This passage critiques President [Xi Jinping](#) of China, who [has said that Asia should be run by Asians](#) and is a champion of a Chinese economic system that relies on industrial policy. (Mr. Xi was [scheduled to appear on Tuesday](#) at the

# ‘No one is a winner in a trade war’: Xi Jinping praises globalization

Share via e-m

President Xi Jinping of China praised globalization and cautioned against protectionism in his speech Tuesday at the World Economic Forum in Davos, Switzerland.

<https://www.bostonglobe.com/business/2017/01/17/one-winner-trade-war-jinping-praises-globalization/eMo7mTEcHMLg8TIUgIZ8CO/story.html>

**By Ting Shi** BLOOMBERG NEWS JANUARY 17, 2017

Chinese President Xi Jinping cautioned against protectionism as he pushed back against criticism of globalization by Donald Trump and other Western populists.

“Protectionism is like locking yourself in a dark room, which would seem to escape wind and rain, but also block out the sunshine,” Xi told the World Economic Forum on Tuesday, the first Chinese head of state to address the annual gathering in the Alpine resort town of Davos. “No one is a winner in a trade war.”

Xi used his speech to support a global economic order that has helped fuel China’s almost four-decade economic boom. While a surge in protectionist sentiment threatens to slow the engine of China’s growth, it also offers Xi a

## INSIDE US TRADE

### **EU-U.S. TTIP report says deal could be completed with enough political will**

January 17, 2017

A joint report by the European Commission and Office of the U.S. Trade Representative on the state of play in the Transatlantic Trade and Investment Partnership talks said the two sides believe a trade deal could be completed if the negotiations are prioritized and each side has the necessary political will to see the deal through.

The four-page document gave a brief summary of the talks and included a list of issues the two sides agreed upon as well as areas where common ground was difficult to find.

"TTIP has the potential to turn the already immensely successful U.S. and EU economic relationship into an even stronger driver of mutual prosperity for decades to come," the report said. "The progress we have achieved so far gives us confidence that, with continued engagement by both sides, and with the political will to prioritize long-term gains for our economies and our broader relationship, the United States and the EU could achieve what we set out to do in 2013: conclude an ambitious, balanced, comprehensive, and high-standard agreement that strengthens the transatlantic partnership and builds upon our economic relationship in ways that raise living standards and increase competitiveness on both sides of the Atlantic."

The report did not assess the difficult political dynamic of the talks, which led EU trade ministers to conclude in September 2016 that completing TTIP would not be possible with the Obama administration. Both sides have previously suggested the other did not have the necessary political will to finish the talks.

EU Trade Commissioner Cecilia Malmstrom hinted at the sometimes contentious dynamic in her Jan. 17 statement accompanying the report's release.

"The EU has left no stone unturned in trying to achieve a balanced, ambitious and high-standard TTIP agreement with clear benefits for citizens, local communities and companies," she said. "We have made considerable, tangible progress, as this summary demonstrates. I look forward to engaging with the incoming US administration on the future of transatlantic trade relations."

USTR Michael Froman focused on the rationale for continuing the TTIP talks in his Jan. 17 statement, but many have raised doubt that could happen under the incoming Trump administration.

"We launched the TTIP negotiations in 2013 because we were convinced that the transatlantic trade relationship, already the biggest in the world, could be an even stronger driver of job creation, growth, and competitiveness on both sides of the Atlantic," he said. "We also believed that a comprehensive trade and investment agreement would further strengthen the overall U.S.-EU partnership, which has been a cornerstone of global stability and prosperity for seven

decades. The economic and strategic rationale for T-TIP is even stronger today than it was when we started these negotiations.”

The report also took a somewhat conciliatory approach, saying that the EU and U.S. "made considerable progress" since launching the talks in July 2013, while touting the broader benefits of the deal, such as setting standards in the global economy and deepening transatlantic ties that have "been an indispensable pillar of global security and prosperity since the end of the Second World War."

U.S. and EU negotiators were able to agree on a number of broad areas, including the elimination of 97 percent of tariffs, the necessity of including strong environmental and labor rights, and a chapter dedicated to small and medium-sized enterprises, according to the report.

While the two sides agreed on the elimination of 97 percent of tariffs, there was still debate over some of the phaseout periods of those tariffs as well as whether, and how fast, the final 3 percent would be eliminated. The U.S. and EU also could not agree on how to enforce labor and environmental rights enshrined in TTIP. On SMEs, the two sides quibbled over the creation of a website that would detail import requirements, including tariff levels and regulatory requirements. The EU urged the U.S. to create such a site, but the U.S. resisted saying it would be too complex. The U.S. does maintain a website that details its tariff regime under various free trade agreements.

The report also gave an overview of talks between U.S. and EU regulators in TTIP whose objective was to agree on broad measures for future cooperation.

"In the key regulatory areas of the TTIP negotiations, our ambition has been to reduce differences that make transatlantic commerce more burdensome, while preserving or enhancing our strong protections," the report said. "Regulators from both sides were full members of our negotiating teams and took the lead in identifying opportunities where greater compatibility and cooperation could lead to cost savings for businesses and consumers, but also maintain or strengthen existing protections -- for example, by allowing them to deploy resources more efficiently and where they are most needed, including on enforcement activities."

Certain sector-specific regulator talks were also touted in the report, including an update on a mutual recognition agreement for pharmaceuticals, as well as outcomes on autos and medical devices. The report also listed the other six sectors regulators were focused on, despite the varied amount of progress made in those areas.

"We explored increased cooperation on textile fibre names and labelling, safety requirements, and conformity assessment procedures in the textiles sector," it said. "We also discussed possible approaches to help reduce unnecessary regulatory differences in other sectors including cosmetics, pesticides, chemicals, information and communications technology, and engineering."

The report also listed the litany of areas that negotiators struggled to advance in the talks, including services and procurement market access, investor protection, geographical indications, and several more. -- Brett Fortnam ([bfortnam@iwpnews.com](mailto:bfortnam@iwpnews.com))

chance to advance his goal of shaping global economic systems. In his speech he did not refer to Trump by name.

The Chinese president called on the world's business and political elite to address the problems of globalization, without turning away from economic trends that have fueled decades of growth. Leaders should address the excesses of growth, such as growing wealth gaps, while embracing new industries and innovation, he said.

### **'Solving problems'**

"There is no point in blaming economic globalization for the world's problems because that is simply not the case," Xi said "And that will not help to solve the problems."

"The history of mankind has shown us that problems are not to be feared," Xi said. "What should concern us is the refusal to face up to the problems."

The world's second-largest economy represents a bastion of consistency to Davos attendees facing a string of European elections -- in France, the Netherlands, Germany and possibly Italy -- after the twin shocks of Trump's victory and the U.K.'s Brexit vote. Such "extreme weather events" topped the list of most likely risks in the forum's annual survey this year.

The president pledged to continue to overhaul China's economic structure. He said he had no intention to devalue his country's currency to boost competitiveness.

### **Xi's profile**

Since taking power in 2012, Xi has shown a desire to raise his profile on the world stage, addressing the United Nations in 2015 and hosting the Group of 20 nations last year. He's touted China's cooperation with outgoing U.S. President Barack Obama on the Paris climate change deal -- one of the

multinational accords now questioned by Trump -- as evidence of China's support for sustainable global development.

Less than two weeks after Trump's November win, Xi delivered a speech in support of free trade and globalization at the Asia-Pacific Economic Cooperation summit in Lima, Peru. Trump, who is scheduled to be inaugurated in Washington on the final day of the Davos meeting, said he would withdraw from the 12-nation Trans-Pacific Partnership trade pact on his first day in office.

China remains the world's big driver of economic growth despite its own slowdown, and was estimated to have accounted for almost 39 percent of global growth last year, according to the World Economic Forum.

He's sought to leverage China's economic strength into diplomatic clout with multinational initiatives such as the Asian Infrastructure Investment Bank and his signature "One Belt, One Road" plan to expand infrastructure along ancient trading routes to Europe. In September, Xi called for changes to international governance and advocated a bigger rule-making role for China in areas ranging from the internet to outer space.

Read more: [Seven things Xi needs to get right this year](#)

Arthur Kroeber, Beijing-based founding partner and managing director at Gavekal Dragonomics, said it was important for Xi to be visible among the international business community at Davos, which is "the samba party for the globalization crowd." The event also provided the president a platform to demonstrate his overseas clout back home, where Xi is preparing for a mid-term reshuffle of the party's leadership ranks.

"It's in Xi's interests to take every opportunity he can and present himself as this leader who is powerful, strong and visionary, to give himself some international prestige," said Kroeber, author of "China's Economy: What

Everyone Needs to Know.” Xi’s appearance at Davos, which has previous been attended by China’s premiers, is “consistent with the notion that Xi is now the only major authorized spokesman for the whole country.”

### **Business leaders**

Xi’s entourage includes more than 80 business executives, such as Alibaba Group Holding Ltd. founder Jack Ma, Dalian Wanda Group Co. Chairman Wang Jianlin and Baidu Inc. President Zhang Yaquin. Huawei Technologies Co. Chairwoman Sun Yafang, China Telecom Corp. Chairman Yang Jie and China Poly Group Corp. Chairman Xu Niansha are also on the guest list.

China set high expectations for Xi’s speech, which one top diplomat said would provide a “blueprint for the future progress of human society.” The country’s foreign ministry said the Davos trip would identify the deeper causes of sluggish world growth, present solutions and reinforce confidence in global development.

“Ready or not, China has become the de facto world leader seeking to maintain an open global economy and battle climate change,” the official China Daily said in a commentary Friday that referred to the country “as the one major power with a global outlook.” “In effect, President Xi has become the general secretary of globalization.”

pro-free-trade World Economic Forum in Davos, Switzerland, the first Chinese leader to do so.)

The 2016 presidential race was shaped by anti-globalization trends. [Donald J. Trump](#) promised to destroy the pact if he became president. Hillary Clinton also denounced it, even though she supported a form of it as secretary of state.

Senator Mitch McConnell, Republican of Kentucky and the majority leader, said after the election in November that Congress would not take it up. That meant it was dead.

The letter by the six ambassadors, all of whom are political appointees who leave their jobs on Friday, was symbolic. It put them on record supporting Mr. Obama's plan more than a year after the trade chiefs of the nations involved endorsed the pact. Following is the text of the letter:

#### An Open Letter to Members of Congress:

Seventy-five years ago last month, an attack on the United States set us on the path to becoming the Asia-Pacific power we are today. As U.S. Ambassadors assigned to the region, we interact daily with governmental, business, and civil society leaders who appreciate profoundly the role the United States has played in underpinning the region's security and prosperity ever since. These same leaders are now asking an alarming question: Will we relinquish our mantle as the pre-eminent force for good in the planet's most dynamic region? The cause for their concern — possible U.S. withdrawal from the Trans-Pacific Partnership (TPP). We believe their fears are justified, that walking away from TPP may be seen by future generations as the moment America chose to cede leadership to others in this part of the world and accept a diminished role. Such an outcome would be cause for celebration among those who favor "Asia for the Asians" and state capitalism. It would be disastrous for supporters of inclusive politics, rule of law, and market economics — and for U.S. national interests.

Let's be clear. The alternative to a TPP world is not the status quo. Others are actively engaged in setting the rules of commerce in the Asia-Pacific region without the United States. In addition to its massive Eurasian infrastructure initiative, China is working on a trade pact called the Regional Comprehensive Economic Partnership (RCEP) with fifteen other countries, many of whom are TPP signatories. RCEP is a much lower-standard agreement that, in the absence of TPP, would likely serve as the template for economic integration in Asia and shift trade away from America, which would face higher tariffs. That would mean less U.S. exports and more jobs moving overseas.

TPP would not just cut tariffs for U.S. products. Unlike RCEP, it would compel stronger intellectual property rights, limits on subsidies to state-owned enterprises, and protection of worker rights, the environment, and a free and open internet. These enforceable commitments would give a leg up to U.S. companies already adhering to high standards — and the U.S. workers who make them the most productive in the world — and provide a powerful lever for change that we are unlikely to replicate in any

other form in the near future. Without them, our companies will face even more competitive disadvantages in Asia's booming markets.

The blow to our strategic position is even more worrisome. This is not speculation. To turn our back on our allies and friends at this critical juncture, when the tectonic plates of regional power are shifting faster than ever, would undermine our credibility not only as a reliable trade partner, but as a leader on both sides of the Pacific. It would also create a potentially destabilizing void that might even lead to conflict, an outcome which would hurt everyone in the region, including China.

The bottom line is this: TPP is good for American workers, American values, and American strategic interests. We urge the Congress to work with the new administration to find a way to realize its many benefits before the window for doing so closes. As we reflect on more than seven decades of U.S. sacrifice and stewardship in the region that will define our destiny in coming decades, we should understand that, if we fail to answer today's call, history will pose a stern question — why did America forsake its best chance to shape the Pacific Century?

*Signed by: Max Baucus, ambassador to China; Nina Hachigian, ambassador to the Association of Southeast Asian Nations; Caroline Kennedy, ambassador to Japan; Mark Lippert, ambassador to South Korea; Mark Gilbert, ambassador to New Zealand and Samoa; and Kirk Wagar, ambassador to Singapore.*

## INSIDE US TRADE

### **Ross pledges to design 'model trade agreement,' calls for systematic re-examination of deals**

January 18, 2017

President-elect Trump's pick for Commerce secretary, Wilbur Ross, said on Wednesday that he wants to overhaul how the U.S. negotiates free trade agreements, urging a "systematic re-examination" process that would assess where a deal falls short and listing reciprocity and simultaneity of concessions as two of the principles he wants to include in his model.

"I think there are a number of these conceptual issues that have not been present in prior trade agreements but I would hope that, if confirmed, I can contribute toward designing kind of a model trade agreement where we would introduce certain principles that would have to be in any agreement," Ross told the Senate Commerce Committee during his confirmation hearing on Jan. 18.

"I think that's a huge mistake to start out each time with kind of a blank page," Ross continued, adding that doing so "makes it take longer, makes it harder to negotiate."

"The best negotiating tool is to be able to tell someone 'I can't change this, this is official policy, you know it is -- we got it in 10 other deals, we're not going to give you anything different,'" he testified. "That's a much better position, in my opinion, than starting out with a blank slate."

Ross repeatedly stressed the need for a re-examination process "after a period of time" -- without elaborating on when -- in which trade agreements can be assessed based on whether the deal has met key goals.

The Commerce secretary-designate listed as important concepts both reciprocity and simultaneity of concessions -- charging that previous U.S. trade deals have not been able to ensure trading partners live up to their obligations as negotiated.

"We have tended in prior trade agreements to make our concessions upfront and the other party makes their concession later," Ross said. "But the problem is that later sometimes doesn't come, because when you have weak enforcement provisions and you've already made your concessions, it's a little bit hard to unscramble the egg."

Commerce Committee member Tammy Baldwin (D-WI) expressed hope during the hearing that Congress can work with the incoming administration on "creating a new trade agenda" and decried "bad trade deals" she said have directly impacted her state.

Addressing the new administration's priorities for changes to the North American Free Trade Agreement, Baldwin asked Ross whether he could commit to eliminating the deal's procurement chapter. Baldwin noted that she has concerns "most notably with its prohibition of the Buy America program."

Ross, in his response, would not commit to action on any one priority. "I think all aspects of NAFTA will be put on the table and that certainly is going to be a topic that would come up," he said.

"But you don't have a deal on anything until you have a deal on everything. So exactly what would come in the final treaty or not I think that's premature to say," Ross added. "But I'm certainly aware of the issue and certainly aware of the president-elect's view about Buy America."

According to news reports from the same day, Ross has put forward a list of U.S. priorities for NAFTA talks in conversation with Canadian officials, which includes automotive rules of origin and the deal's dispute settlement mechanism.

During the hearing, Ross echoed Trump's stance that reopening NAFTA will be a "very early topic" for Trump's trade team.

Ross also noted that while there is nothing "inherently wrong" with multilateral agreements, he thinks bilateral deals are "easier and quicker" to negotiate.

Multiple members of the panel asked for clarification on Trump's threats to impose hefty tariffs on Mexico and other countries, but Ross was non-committal on the idea. According to Ross, those threats are a wake-up call for U.S. trading partners that "change is coming."

"I think [Trump] has done a wonderful job pre-conditioning the other countries with whom we're renegotiating that change is coming," Ross told the panel. "The peso didn't go down 35 percent on accident; even the Canadian dollar has gotten somewhat weaker -- also not an accident."

"So I think he has done some of the work already that we need to do in order to get better trade deals. Because when you start out with the other party understanding that he or she is going to have to make concessions, that's a pretty good background for any negotiation to begin with. So I'm very grateful that he's made this task a little bit easier by alerting everybody that change is coming," Ross added.

Pressed by Sen. Dan Sullivan (R-AK) on whether he considers the imposition of tariffs the best avenue to grow the U.S. economy -- Sullivan said such a move "would seem to me about as anti-growth as possible" -- Ross instead deferred to his commitment to boost exports.

"I think that the pro-growth thing is stimulating exports much more than just not curtailing imports," he said. "But countervailing duties and punishment to people for dumping is essential, because there are inappropriate and illegal trade practices being performed, and if you don't really punish them, you're never going to modify their behavior. So there's certainly a role for it there."

Committee Chairman John Thune (R-SD), who told reporters after the hearing that Trump's campaign rhetoric on trade had initially worried him, touted Ross's knowledge on "a whole lot of issues" and his commitment to "robust enforcement of existing trade agreements."

“I think there are a lot of folks who are spooked when they hear the rhetoric surrounding 35 percent tariffs and that sort of thing and I think you’ve given good insights into how that might be interpreted today,” Thune told Ross during the hearing.

Thune told reporters after the hearing that he “didn’t take away from it at all that he wasn’t very pro export and pro trade. I mean he made that abundantly clear that he thinks that in order for the economy to grow we gotta export.”

“I don’t think there’s anything he said today that anybody would take much of an issue with. Because I think he wants to re-examine but I think he also said that he was very open to keeping his options open there,” Thune added.

Commerce Committee ranking member Sen. Bill Nelson (D-FL) said in his opening remarks that he would like a better understanding of the dynamics of who will be in charge of setting trade policy in the new administration, and how Ross would describe his role in a process that will also involve the U.S. trade representative, among others.

“As the president-elect has indicated, [Trump] is going to look to you to help lead the administration’s trade agenda,” Nelson said in his prepared remarks. “That’s a departure from past Commerce secretaries and the role that they played, which was much smaller in setting U.S. trade policy.”

Thune, when asked after the hearing whether that issue has been sufficiently addressed for him, said he had initially planned to ask Ross about it, but added that the confirmation hearing was not the appropriate setting for that level of detail -- and said the Trump administration itself is likely in the process of figuring out answers to such questions.

“It was in my questions to ask him that questions. I felt like that was sort of inside baseball, down in the weeds question on how the bureaucracy is going to function, and I was kind of more interested today in getting his perspective generally on some of the trade issues,” Thune said. “But I do think just based on what I heard today that he’s going to be a very strong voice in the cabinet and in the administration on trade issues. Now how they work that with USTR and who has the ear of the administration, that’s an issue that I think probably remains to be seen as the administration starts to take shape,” the chairman added.

He noted that “a lot of” members on his committee have industries in their states with jobs depending on or tied to trade, and said he thinks “there’s going to be a lot of oversight by this committee on trade issues.”

Jurisdiction over trade lies with the Senate Finance Committee, and some sources have wondered how the power triangle will play out in the new administration. The panel’s chairman, Orrin Hatch (R-UT), however, has repeatedly downplayed the implications for his committee and its relationship with the Office of the U.S. Trade Representative.

Thune said he wants to move Ross’s nomination “as quickly as possible,” and a committee aide added that the panel could put him on the agenda for Jan. 24. Thune also said he would be

“surprised if there were 'no' votes,” but added, “you never know; you've got some people who tend to vote 'no' on most things.” -- Jenny Leonard ([jleonard@iwppnews.com](mailto:jleonard@iwppnews.com))

## INSIDE US TRADE

### **U.S.-EU insurance agreement welcomed by industry groups, questioned by state regulators**

January 20, 2017

The covered insurance agreement between the United States and European Union is being strongly welcomed by U.S. industry groups, but facing skepticism from state-level regulators that will be charged with implementing provisions in the deal.

The American Insurance Association and Reinsurance Association of America both pointed to specific provisions in the covered agreement that was submitted to Congress on Jan. 13, which seeks to provide protections for U.S.-based insurers and reinsurers operating in the EU and EU insurers and reinsurers operating in the U.S.

According to the groups, the deal will benefit U.S. insurers and reinsurers by removing punitive actions and onerous group supervision requirements EU member governments have been able to take governments have threatened to enforce via the implementation of the EU's Solvency II program.

A source at the National Association of Insurance Commissioners, a regulatory support organization run by state regulators, cited concerns over a provision requiring U.S. state regulators to remove requirements for foreign reinsurers to post collateral when taking on risk, and the possibility that the federal government would issue pre-emption determinations if states are not in compliance with the deal.

The provision in the covered agreement that requires regulators to remove collateral requirements goes beyond the approach found in the NAIC model law, according to the source. The model law -- adopted by roughly two-thirds of U.S. states -- includes a tiered approach that most often results in collateral requirements ranging from 10 to 20 percent, the source said. That collateral acts as a consumer protection that is heavily relied upon by mid-tier and smaller insurance firms, according to the source.

Firms can still negotiate collateral terms in contractual negotiations, according to an industry source. The covered agreement simply prevents regulators from imposing requirements for reinsurers to post collateral, the source said.

The covered agreement also stipulates that the U.S. shall evaluate whether it needs to issue a pre-emption determination if a state is not in compliance with the agreement after 42 months. Some degree of pre-emption was always expected in the deal, the NAIC source said, but the agreement went beyond what the NAIC was "comfortable with." One option that could have been taken was the pre-emption determination only applying to those states that haven't adapted the NAIC model law, the source said. Instead, the pre-emption determination can be issued 60 months after the covered agreement enters into force if a state is not compliant with the deal, even if those provisions extend beyond the NAIC model law.

Industry sources who favored the covered agreement emphasized that the deal did not take away the authority of state regulators and that there is "no regulatory over-reach by the federal government" because states would still be tasked with implementing and enforcing the terms of deal.

Steve Simchak, the director of international affairs for AIA, and Tracey Laws, a senior vice president and general counsel of RAA, both pointed to market access benefits U.S. firms will be able to take advantage of while avoiding onerous group supervision requirements.

EU member states -- including Germany and Belgium -- had been able to implement local presence rules requiring U.S. companies to open a subsidiary in the respective member state in order to renew business or seek new business, but will be unable to do that under the terms of the covered agreement. Similarly, regulators from the United Kingdom will not be able to carry out the threat of requiring all U.S. companies with branches in the UK to meet EU global group capital, reporting, or governance requirements. -- Brett Fortnam

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Inside U.S. Trade

## **Trump memo directs USTR to carry out formal TPP withdrawal procedures**

January 23, 2017

A memorandum signed by President Trump on Jan. 23 instructs the U.S. Trade Representative to take steps to remove the United States from the Trans-Pacific Partnership agreement and any future negotiations under the framework of the deal as laid out in the final provisions of the TPP text.

Trump has instructed the USTR -- Deputy General Counsel Maria Pagan is acting in that role -- to “provide written notification to the Parties and to the Depository of the TPP, as appropriate, that the United States withdraws as a signatory of the TPP and withdraws from the TPP negotiating process.” New Zealand serves as the TPP Depository.

Article 30.6 of the TPP text lays out the formal procedures for withdrawing from the agreement. Article 30.6.1 states that a party may withdraw from the trade deal “by providing written notice of withdrawal to the Depository” and also states that “a withdrawing Party shall simultaneously notify the other Parties of its withdrawal through the contact points.”

Article 30.6.2, meanwhile, states that the withdrawal “shall take effect six months after a Party provides written notice to the Depository under paragraph 1, unless the Parties agree on a different period.”

That article also states that TPP will remain in force for the remaining party, but the deal never entered into force. The agreement requires ratification by at least a group of six TPP parties representing 85 percent of the gross domestic product of the original signatories in 2013. Ratification by the U.S. is required to meet the 85 percent threshold.

“This action ushers in a new era of U.S. trade policy in which the Trump Administration will pursue bilateral free trade opportunities with allies around the world,” the White House stated in a press release accompanying the memo.

Trump, in the memo, laid out his reasoning for discarding TPP while also making the case for negotiating bilateral agreements.

In all negotiations, the memo states, the Trump administration will seek to “create fair and economically beneficial trade deals” that benefit “the American people and their financial well-being.”

“Additionally, in order to ensure these outcomes, it is the intention of my Administration to deal directly with individual countries on a one-on-one (or bilateral) basis in negotiating future trade deals. Trade with other nations is, and always will be, of paramount importance to my Administration and to me, as President of the United States,” the memo continues.

“Based on these principles, and by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct you to withdraw the United States as a signatory to the Trans-Pacific Partnership (TPP), to permanently withdraw the United States from TPP negotiations, and to begin pursuing, wherever possible, bilateral trade negotiations to promote American industry, protect American workers, and raise American wages.”

White House Press Secretary Sean Spicer told reporters that the U.S. would look into bilateral deals with TPP members it did not already have agreements with.

The TPP announcement was seized upon by TPP critics as an opportunity to press Trump on other trade promises he made on the campaign trail, such as renegotiating NAFTA. Meanwhile, Trump was slammed by Sen. John McCain (R-AZ) for making a move that the senator argued would gut U.S. leadership in the Asia-Pacific and close off key markets.

Senate Finance Committee Chairman Orrin Hatch (R-UT), a TPP supporter, issued a measured statement in response to Trump's move.

“We all want effective ways to keep jobs here at home and increase American paychecks. I share the President’s commitment to negotiating the strongest trade agreements for the American people,” Hatch said. “I will carefully review this action in its entirety to have a full understanding of its impact. I look forward to working with my colleagues and the new administration to advance strong trade policies that will enhance America’s global competitiveness and increase access to new, international markets.”

Chairman of the House Ways & Means Trade Subcommittee Dave Reichert (R-WA) issued a statement similar to one made earlier in the day by Ways & Means Committee Chairman Kevin Brady.

“TPP contained a number of significant wins for American businesses, farmers, and workers -- but in the end, there were areas that needed to be improved to meet the high-standards Americans expect and deserve and to have the support necessary in Congress to get across the finish line,” Reichert said.

He went on to call for “high-standard” trade agreements that provide access to markets in the Asia-Pacific for U.S. companies. “I look forward to working with the president and his Administration on this top priority,” he said.

Ways & Means Committee member Adrian Smith noted that while there were some flaws with TPP it also “established a framework for U.S. exporters to pursue greater economic opportunity in the Asia-Pacific region,” warning that the U.S. should not cede influence and allow other countries to set global trade norms.

Smith also endorsed the administration's preference for bilateral deals. “Moving forward, I hope we can pursue bilateral agreements with these TPP countries to open more markets to U.S. agriculture producers and manufacturers,” he said in a statement.

New Democrat Coalition Chair Jim Himes (D-CT) and New Democrat Trade Taskforce Co-Chairs Rick Larsen (D-WA) and Gregory Meeks (D-NY) ganged up on Trump for the decision to leave TPP in the dust.

“Hastily withdrawing from agreements like TPP cedes American leadership not only economically, but also geopolitically,” the trio said in a statement.

“If the Trump administration wants to promote America First in trade, America must set the rules of the global economy, not withdraw from trade agreements.” they said.

Meanwhile, AFL-CIO president Richard Trumka aimed to downplay Trump's role in shutting the door on TPP, as did Rep. Rosa DeLauro (D-CT) in a separate statement.

“Last year, a powerful coalition of labor, environmental, consumer, public health and allied groups came together to stop the TPP,” Trumka said in a statement.

But Trump's direction to abandon TPP and his talk of renegotiating NAFTA were not enough to satisfy Trumka, who described them as “just the first in a series of necessary policy changes required to build a fair and just global economy.”

“We will continue our relentless campaign to create new trade and economic rules that end special privileges for foreign investors and Big Pharma, protect our planet’s precious natural resources and ensure fair pay, safe conditions and a voice in the workplace for all workers,” he said in a statement. -- Jack Caporal (jcaporal@iwpnews.com)