

# Los Angeles Times

## 'Free trade' isn't what Trans-Pacific Partnership would deliver

By Michael Hiltzik

February 7, 2015

In principle, almost everyone's in favor of free trade. It promotes international harmony, raises wages, helps economies grow. It's an article of historical faith that the enactment of harsh protective U.S. tariffs in 1930 contributed to the Great Depression. And who wants that?

But “free trade” has little to do with the trade deal that President Obama hopes will be a high-water mark for his administration's foreign policy: the Trans-Pacific Partnership talks, which now involve the U.S. and 11 Pacific Rim countries — Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

The pact — which has been under negotiation virtually since the turn of the century — is in trouble on Capitol Hill, where its enemies include conservatives and liberals. The overall problem may be that the TPP, as it's known in shorthand, has become a symbol of everything that's wrong with free trade agreements today.

The pact is being negotiated in secret, although U.S. trade negotiators have given big industries nice long looks behind the curtain. The White House is demanding “fast-track” approval from Congress, which limits the say lawmakers will have and requires them to ratify in haste. And public interest advocates say it could undermine rules and regulations governing the environment, health, intellectual property and financial markets (to name only a few topics).

“Most of these provisions have nothing to do with trade or jobs,” says liberal economist Joseph Stiglitz, a leading critic of the deal and the secrecy of the talks.

On the other side of the argument is the trade pact's potential to foster economic growth and job creation — “650,000 jobs in the U.S. alone,” as Secretary of State John F. Kerry asserted last month. But that widely challenged figure is extrapolated from a 2012 report by the Peterson Institute of International Economics, which didn't offer a jobs estimate. In fact, the report said the TPP might dislocate workers and drive older people out of the workforce — and that any benefits might be canceled out by the resulting costs to workers and society. Evidence from

earlier trade pacts, including the North American Free Trade Agreement, suggests that the benefits for developing countries among the treaty signatories are similarly oversold.

“Trade liberalization on average has not brought economic growth for emerging economies,” Stiglitz said. “The idea that it's necessarily mutually beneficial is just wrong.”

Doubts about the TPP fall into three main categories.

- Overreach.** Domestic policies and regulations shouldn't be treated as trade barriers subject to international negotiation, such as patent and copyright terms, wage and working conditions, even environmental regulations. But provisions in the TPP would protect brand-name pharmaceuticals from competition from generics in developing countries, forcing up the cost of healthcare, and would impose the overly strict copyright terms of the U.S., where copyright lasts 70 years after the death of a copyright holder, on signatory countries. Critics fear that bringing such issues into a trade pact will encourage a race to the bottom, favoring the most business-friendly regulations. “Some of these provisions roll back important public interest policies on issues like food safety, product safety and access to drugs,” says Lori Wallach, the global trade watchdog at the public interest organization Public Citizen. “This is diplomatic legislating on things that affect our day-to-day lives that have nothing to do with trade.”

Especially worrisome is a procedure allowing corporations to file claims in arbitration courts against sovereign countries over changes in their laws and regulations. As is the case in some previous trade agreements, commercial interests will be able to seek compensation for “injuries” from anything from minimum-wage increases to environmental and health regulations. Mexican truckers filed a \$30-billion case objecting to safety and environmental rules on U.S. roads; Eli Lilly & Co. is seeking \$481 million from Canada for its invalidation of Lilly patents on several drugs; and Philip Morris has sued Australia because its rule requiring plain packaging for cigarettes deprives the company of its property rights in trademarks and logos.

Even conservatives who otherwise favor the TPP detest this provision. The Cato Institute has urged that it be “purged” from the pact. By giving special privileges to corporations operating abroad, Cato said, the provision allows them to undermine domestic sovereignty and “effectively encourages outsourcing.”

- Secrecy.** U.S. Trade Representative Michael Froman, who is conducting the talks, has been stingy with the text, critics say, out of fear of public nitpicking. Most of what the public knows of the TPP's drafts and the U.S. negotiating position has come via Wikileaks. Froman told the House Ways and Means Committee last month that he has taken “unprecedented steps to increase transparency” by keeping Congress and the public in the loop, but most observers say disclosure has been nowhere near adequate. In 2012, Sen. Ron Wyden (D-Ore.) was so frustrated at being stonewalled by the USTR that he introduced a bill requiring that all lawmakers with oversight on trade policy be given access to key documents.

- "Fast-tracking." Fast-tracking allows the administration to present Congress with a completed trade pact, which lawmakers must vote up or down within 90 days, without amendments and with limited debate and no filibustering in the Senate.

The White House argues that fast-tracking allows negotiators to reassure trade partners that "the administration and Congress are on the same page," as Froman told the House Ways and Means Committee. The system "puts Congress in the driver's seat," he said, because the lawmakers can "define U.S. negotiating objectives and priorities." But the opposite is true: The congressional directives aren't binding, and the result can be jammed through the House and Senate.

GOP leaders such as Senate Majority Leader Mitch McConnell (R-Ky.) and House Ways and Means Committee Chairman Paul D. Ryan (R-Wis.) favor fast-tracking, but opposition is growing from conservative Republicans and progressive Democrats alike. Combined with secrecy, fast-tracking encourages the overreach that makes the TPP so much more than a trade pact, and so dangerous.

If fast-tracking is turned down, the TPP will have to be widely published and openly debated, says Public Citizen's Wallach.

"That will bring out all the skunks that have been invited to the secret picnic," she says. "Some of these things that should never have been in that agreement in the first place aren't going to fare very well when they're exposed to sunshine. And that's good."