

# The U.S.-China Economic Relationship: The TPP is Not the Answer



### *The AFL-CIO*

The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) works every day to improve the lives of people who work.

We are a democratic, voluntary federation of 56 national and international labor unions that represent 12.2 million working people. We help people who want to join together in unions so they can bargain collectively with their employers for better working conditions and the best way to get a good job done. We work to ensure that all people who work are treated fairly, with decent paychecks and benefits, safe jobs, respect and equal opportunities. To help working people acquire valuable skills and job readiness for 21st century work, we operate the largest training network outside the U.S. military. We also provide an independent voice in politics and legislation for working women and men and make their voices heard in corporate boardrooms and the financial system.

Our roots are deep in communities and extend to countries around the world as we partner locally, nationally and worldwide with allies who share the values of working families.

# Executive Summary

**Bottom line:** Based on the information publicly available, it appears that rather than set high standards for trade in Asia, the Trans-Pacific Partnership (TPP) will advance the interests of global corporations over the U.S. national interest. As it stands, the TPP is likely to harm the American economy and its workers.

IMPORTANT TRADE POLICY reforms needed to achieve shared prosperity and sustainable growth and development in the TPP are unfortunately nonexistent (climate change and currency), inadequate to the challenge (labor) or counterproductive (investor-to-state dispute settlement, or ISDS). The deal is unlikely to help workers organize, bargain and raise wages in Vietnam, Mexico or the United States, and it won't prevent any trading partners from disadvantaging American manufacturing by manipulating their currency.

The TPP will allow China to reap benefits without even joining. Its rules of origin, lack of rules on currency manipulation and benefits that would apply to Chinese companies operating in any of the TPP countries mean that China has very little incentive to change the mercantilist model that has been undercutting U.S. manufacturers and displacing millions of U.S. jobs for more than a decade. For example, if Chinese intermediate parts are exported to Malaysia for final assembly and export to the United States, those parts

Executive Summary	3
I. Introduction	5
Map: Trans-Pacific Partnership	5
II. The TPP will not change China because China can benefit from it without joining	6
Chart: Imports from TPP countries, 2013	6
Chart: Exports to TPP countries, 2013	6
III. The TPP and the China bilateral investment treaty are framed around a mistaken understanding of U.S. economic interests in China—one focused on the interests of global corporations rather than on the interests and policy objectives of the United States	8
IV. The TPP is not a high-standards agreement in fundamental areas such as currency, rule of law and labor rights, and it will undermine U.S. policy objectives such as supporting a U.S. manufacturing revival and mitigating climate change	9
V. The TPP <i>will</i> undermine a U.S. manufacturing revival and <i>will not</i> meaningfully affect whether China can obtain control of global supply chains	11
VI. Conclusion: Trade Promotion Authority in its current form will ensure the adoption of a low-standards TPP that will harm U.S. interests	13

can be made far out of compliance with any TPP standards but still receive TPP benefits.

China is already deeply integrated into trade and supply chains with all TPP countries—far more deeply than the United States is in many cases. A number of forces are responsible for drawing China closer together with other Pacific economies, including geography and several hundred billion dollars in Chinese foreign investment and development funding. It is difficult to believe that these deep relationships will be undone simply through the conclusion of the TPP, particularly given its porous rules.

There is no reason to believe that drawing the Pacific Rim countries away from China is a realistic goal, so long as China continues to offer mutually beneficial trade, investment and supply chain opportunities to those countries. It seems reckless to ask Congress to enter into a deal that has a high probability of undermining U.S. wages, jobs and labor rights—as previous trade agreements have done—especially given that the deal has no real chance of diminishing China’s existing economic influence.

What the TPP *will* affect is the relative attractiveness of Vietnam, which has no free labor unions and wages one-third of China’s, as an alternative manufacturing location for global corporations. In recent years, rising wages in China and concerns about supply chain and intellectual property risks have helped drive some manufacturing operations in U.S. firms’ supply chains back to the United States.

As it stands, the TPP will do little but make it easier for firms tired of rising wages in China to move jobs to Vietnam and enshrine corporate power over regulatory policy through ISDS. This is a model for increasing corporate profits, but not for helping U.S. workers and small firms or for creating wage-led growth in the Pacific Rim.

The TPP may well result in downward pressure on wages in China, undermining the U.S. manufacturing and job growth revival as well as delaying the emergence of a larger, more affluent Chinese middle class that could provide a larger market for U.S. exports.

Given that the TPP is extremely unlikely to create the strategic advantage over China that its supporters claim, Congress must reject the “TPP at any cost” argument. A low-standards TPP, which is what the deal is shaping up to be given its inadequate rules on labor, environment, rules of origin and state-owned enterprises; its dangerous privileges for investors; and its total lack of currency and carbon provisions, is demonstrably worse than the status quo, and won’t force China to become a nation that trades fairly. The only kind of TPP worth doing is a truly high-standards TPP that prioritizes workers’ rights, democratic governance, a growing middle class and protections for the planet over corporate profits. The TPP as currently conceived is not that deal, which is why Congress must reject Fast Track and maintain its leverage to get the TPP right for America’s working families.

# I. Introduction

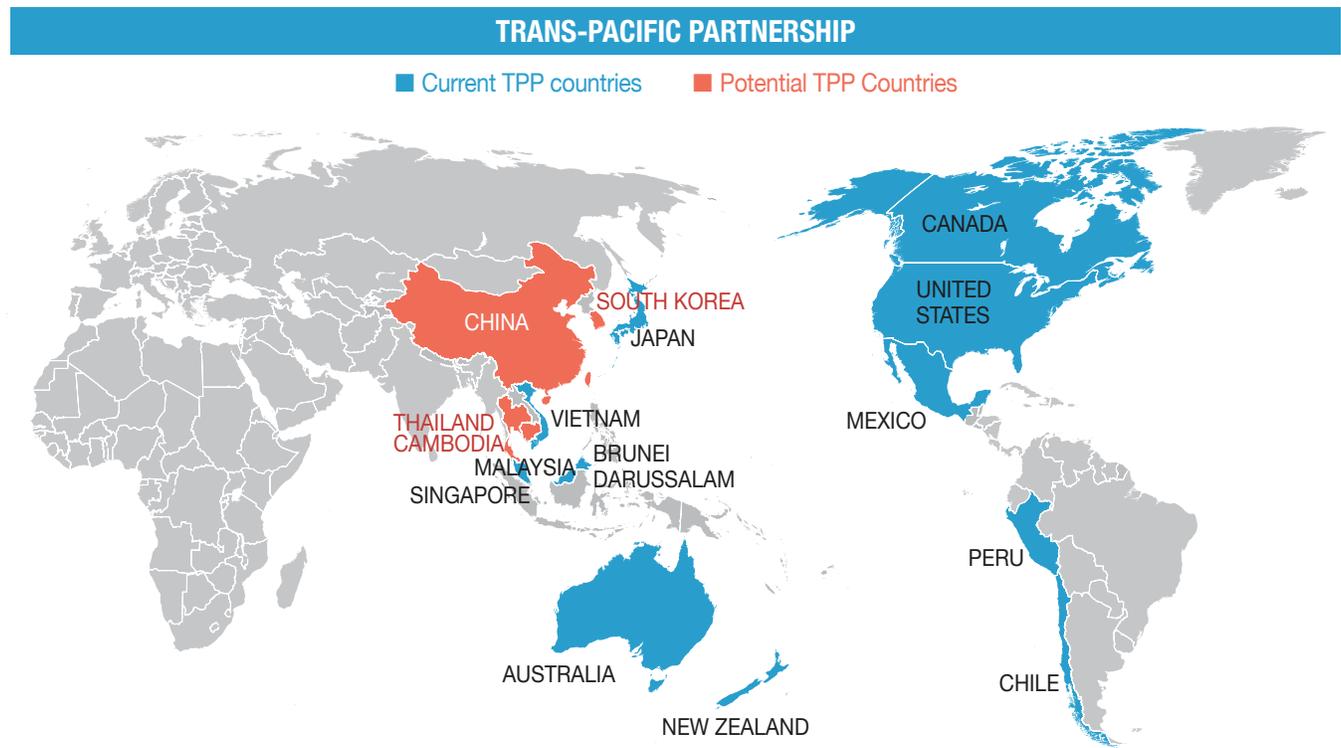
The administration has indicated that the challenge of how U.S. policy should respond to the rise of China is at the heart of the debate over the Trans-Pacific Partnership (TPP) and the use of the Fast Track mechanism to facilitate a vote on the TPP. Advocates of the TPP argue that it is the best chance for creating a global economic order based on “American values.” In the absence of the TPP, goes the argument, China will be able to craft trading rules for all of Asia and beyond that lock in both Chinese dominance and the dominance of the Chinese variant of state capitalism.

To accept this argument, one first has to be convinced that China views global trading rules as meaningful constraints on its behavior. Given its lack of compliance with its WTO commitments,<sup>1</sup> this initial threshold may be a bridge too far for many China observers. Putting that issue aside for the moment, let’s address the “TPP as setting American standards for the Asia-Pacific” argument on its merits. This argument’s credibility requires an affirmative answer to three crucial questions:

1. Will there be meaningful boundaries between the economic zone made up of TPP countries and China such that it will change China’s behavior as promised?
2. Is the TPP focused on the correct issues in relation to U.S. objectives in its relationship with China?
3. Are the standards embodied in the TPP actually high standards in relation to China on those issues that matter for the well-being of the United States and the people who live here?

***Insofar as the content of the TPP is known, the answer to all three of these questions is “no.”***

The problem here is not the idea of a regional trade agreement. Nor is there any doubt as to the importance of the United States having a comprehensive response to the rise of China—a response that ensures the United States will prosper in a future in which China’s GDP is larger than ours. The question is: Do the actual terms of the TPP achieve these ends, and if they do not, what options, if any, does Fast Track leave Congress and the public for improving the agreement?



## II. The TPP will not change China because China can benefit from it without joining.

The first issue is whether the TPP will constitute a meaningful economic zone, such that there will be reasons for China and other countries to comply with the TPP's supposedly higher standards. If the zone is porous, then Chinese content may gain legitimate preferential access to U.S. markets through intermediate goods exported to TPP countries. Note that China may also gain enhanced access through existing illegitimate means, such as illegal transshipment and duty evasion schemes.<sup>2</sup> Even if the TPP zone sets high standards, those standards could be rendered ineffective if nonmember countries, including China, are able to access TPP benefits by selling goods and services through TPP member countries without complying with TPP standards.

This issue is governed in the TPP by its "rules of origin," which define how much of the content of a finished product must originate within the TPP to be given preferential treatment under the TPP. While the rules of origin are neither public nor entirely resolved at this stage

in the negotiations, in most cases the standard for content is a "transformation" of a product from one tariff line to another. When the transformation required is minimal, the rule of origin is weak, because it will allow a large portion of "non-originating" content and value to be present in many products that will qualify for preferential TPP tariffs. For example, under a minimal transformation standard, a fully assembled LCD screen could be shipped from China to a TPP country, have a single chip inserted, rendering it a TV, and then be exported from the TPP country to the United States under preferential TPP tariff rates, even though the majority of the value was added in China.

Other rules of origin are based on a percentage of content originating in TPP countries, rather than a transformation standard. The most critical of these "regional value content" (RVC) type rules applies to automobiles, a critical U.S. export and import. Given the strength of the auto and auto parts sectors in Japan and Malaysia, it seems certain that, even discounting China, the TPP will have a negative effect on American auto



*International Trade Statistics*, International Trade Centre (ITC), United Nations Conference on Trade and Development (UNCTAD) (Jan. 28, 2014), [www.trademap.org/tradestat/ProductSelProductCountry.aspx](http://www.trademap.org/tradestat/ProductSelProductCountry.aspx). See *International Trade Statistics Frequently Asked Questions*, [www.trademap.org/tradestat/stFAQ.aspx](http://www.trademap.org/tradestat/stFAQ.aspx) for further information on data sources.

sector jobs no matter what the final rule of origin is for autos and auto parts. To compound that problem, given the strength of automobile and parts production within the 12 TPP countries, a final RVC rule for automobiles that fails to *substantially* exceed the existing NAFTA standard of 62.5% will allow leakage of important auto sector jobs to China, without obligating it to the rules of the TPP. In sum, weak rules of origin and lack of effective means to prevent transshipment and duty evasion schemes would mean that the TPP is largely porous, and that China and other nonsignatories can gain access to the benefits of the TPP without complying with TPP standards.

This is particularly consequential because of the depth and forward momentum of existing economic ties between China and key TPP countries such as Australia, Malaysia and Vietnam. Most of this momentum toward integration is dictated by the economic gravity of China's size, its proximity to other regional economies and the financial benefits it is doling out to neighbors, in addition to the spillover benefits of China's own massive infrastructure development.<sup>3</sup>

There is considerable overlap between the member countries in the TPP and those in the ASEAN-based Regional Comprehensive Economic Partnership (RCEP). China is also seeking or has already achieved preferential access to a number of these same TPP countries. In addition, other forces are responsible for drawing China closer together with other regional Association of Southeast Asian Nations (ASEAN) economies—namely geography and the several hundred billion dollars China is committing to infrastructure development in the region.<sup>4</sup>

The data on the integration of TPP countries with China is striking. On both the export and the import

side, TPP countries outside of North America trade close to twice as much with China as with the United States. In 2013, China exported more to TPP countries outside of North America than it did to the United States, and it imported almost four times as much from TPP countries outside of North America as from the United States. Barring a political crisis, the difference in long-term growth rates between the United States and China predicted by the OECD almost certainly will mean this gap will grow. This long-term trend in the future will not be primarily driven by supply chain management considerations, but rather by the growth of the Chinese consumer economy and the Chinese government's focus on leveraging that growth to ensure continued high levels of both domestic and foreign investment in the Chinese economy.

Given this context, it is not credible to argue that the TPP will have a meaningful influence on China's international economic practices unless the TPP truly can offer China economic benefits that it does not already have from its current position outside the TPP. However, given the weak rules of origin likely to be in the TPP and the ease with which China skirts existing rules, the end result of the TPP is likely to be a further opening of the U.S. economy to China—without gaining any reciprocal market access or imposing higher standards.

This point is critical because it shows the weakness of the argument that we must conclude the TPP—no matter what its terms are—in order to draw the larger Pacific Basin away from China and into a U.S.-centered orbit. There is no reason to believe that drawing the Pacific Basin countries away from China is a realistic goal, so long as China continues to offer mutually beneficial trade, investment and supply chain opportunities to Pacific Rim countries.<sup>5</sup>

### **III. The TPP and the China bilateral investment treaty are framed around a mistaken understanding of U.S. economic interests in China—one focused on the interests of global corporations rather than on the interests and policy objectives of the United States.**

The second issue is: What is our objective as a nation in relation to our economic relationship with China? Some have argued that our most important objective should be to facilitate investment by U.S.-based global corporations abroad under the most favorable terms possible to those global corporations. This approach confuses the interests of the United States with the interests of global corporations based in the United States.

It is in the interest of the United States for the United States and the people who live in it to have a fair chance to compete for investment and jobs in the world economy on the basis of high labor and environmental standards. In this light, what is most important in the TPP is that it should effectively address unfair trade practices such as currency manipulation, state-orchestrated subsidies to exports, systematic and egregious violations of internationally recognized labor rights, and environmental degradation. Repression of independent unions and collective bargaining, a lack of meaningful social protection floors and environmental degradation are policy choices, not necessitated by economics or a growth imperative. The TPP will only succeed at creating a level global playing field with rising standards if it recognizes these as policy options and not comparative economic advantages.

In contrast, global corporations seek to make investments under the most favorable terms possible for

themselves. Such corporations can easily benefit from the same unfair trade practices that harm the United States, undermine U.S. jobs and wages, and feed global economic imbalances.

This confusion will lead to the United States embracing a trade regime and an approach to China that is not in the U.S. national interest—for example, allowing China and other TPP countries to keep wages low, providing more loopholes to shelter profits from taxation, or allowing firms operating in those countries to emit carbon at a level higher than that permitted in the United States. Rather, the TPP should be assessed based on the U.S. interest in restoring balanced trade between the United States and China; encouraging demand-led growth in China on the basis of rising wages, fundamental labor rights and expanded social protection floors; enforcing environmental protections; promoting job creation in the United States by both domestic and foreign firms; and establishing a sustainable global trading system founded on the rule of law (especially labor laws) and a common commitment to shared prosperity.

In that light, the real question is: Does the TPP point toward an international economic order that would promote the shared values of democracy and prosperity that the United States stands for? Those who are fighting for public goals such as shared prosperity and sustainable development do not believe so.

## IV. The TPP is not a high-standards agreement in fundamental areas such as currency, rule of law and labor rights, and it will undermine U.S. policy objectives such as supporting a U.S. manufacturing revival and mitigating climate change.

The heart of the problem with the TPP is that it does not really embody high standards in relation to China—at least in key areas that will have strategic importance to the United States in a multipolar 21st century. China’s political economy poses several interlinked threats to a rules-based global economy, and to the particular interests of the United States. China pursues mercantilist policies—policies designed to ensure that its exports and foreign exchange reserves grow. Among the most important of these policies is currency manipulation—active intervention by the Chinese authorities to keep the value of the renminbi lower than it would be if it were freely traded.<sup>6</sup> Other policies include the subsidization of state-owned enterprises and “national champions,” the suppression of labor costs through violations of International Labor Organization (ILO) core conventions, an ineffective labor inspectorate, a porous set of social protection floors such as adequate minimum wages and universal health and retirement benefits, the use of high levels of cheap carbon-emitting inputs to make China competitive industrially, repeated instances of dumping exports at below fair market value and a variety of policies designed to limit competition by both foreign investors and imports to China.

Part of China’s mercantilist strategy appears to be strategic noncompliance with trade agreements, as illustrated by repeated serious noncompliance issues in relation to China’s existing commitments under the World Trade Organization (WTO). This should be a reminder that the measure of the strength of a trade agreement is not simply the substantive standards; it is the means and resources the parties have to enforce them as well as the political will to do so.

China’s policies and the failure of the United States to respond effectively to them have led to the United States running a large structural trade deficit with China—a

record-breaking \$343 billion in 2014, the highest single bilateral trade deficit in the history of the world. Among the consequences of this trade deficit have been the loss of several million manufacturing jobs in the United States and the development of a set of global financial imbalances that contributed to the global financial crisis that began in 2007.<sup>7</sup> An effective TPP would involve terms requiring China to cease this strategy as a condition of joining the TPP.

But from what is publicly known about the TPP, it includes neither meaningful language addressing currency manipulation nor language addressing the level of carbon emissions in member countries. Nor is there reason to believe its labor rights provisions will be a meaningful improvement upon the Bush-era agreements (Colombia, Peru, Korea and Panama).<sup>8</sup> While the Bush-era agreements made a step forward on enforceability, they did nothing to ensure *actual enforcement*. The labor framework of prior trade agreements has been ineffective



Photo: istockphoto.com

at dealing with labor rights violations in countries such as Guatemala, Honduras and Colombia, even in the context of a U.S. administration committed to labor rights enforcement. The November 2014 GAO report “Free Trade Agreements: U.S. Partners Are Addressing Labor Commitments, but More Monitoring and Enforcement Are Needed”<sup>9</sup> made clear that even the lauded “May 10” language has proved insufficient to ensure effective monitoring and enforcement. Certainly, this problem, left unaddressed in the TPP, will only be compounded by a future administration hostile to labor rights.

What the TPP does appear to include, according to press accounts and U.S. Trade Representative (USTR) statements, is investor-to-state dispute settlement (ISDS). This mechanism undermines the rule of law by granting foreign investors unique abilities to challenge efforts by TPP member governments to protect the public interest. Foreign investors, who are not party to the agreement and take no responsibilities under it, can access private arbitration tribunals directly, without first seeking the approval or consent of their own governments.

The grounds the TPP gives foreign investors to challenge government measures at the federal, state and local levels go far beyond actual expropriations or discriminatory measures. Even when measures apply equally to domestic and foreign companies, they can be challenged as violations of broad and ill-defined rights, such as the right to “fair and equitable treatment,” a standard that does not exist under U.S. law.<sup>10</sup> Even the libertarian Cato Institute has judged that “investment agreements [that include ISDS] go beyond non-discrimination in ways that no one seems to be able to define clearly, opening up the floodgates for litigation as creative lawyers look for new ways to characterize government actions as inconsistent with international law.”<sup>11</sup>

By contrast, for example, all provisions for the enforcement of labor rights require action by member governments; neither workers nor unions can enforce the labor rights provisions on their own. The TPP’s ISDS provisions too easily can be used by multinational firms to challenge efforts by TPP member countries, and perhaps eventually by the Chinese government, to develop modern regulatory states in areas such

as financial, environmental, public health and labor regulations. ISDS is a provision that tilts the playing field away from workers and consumers and toward business. If applied to China, it could undermine the central U.S. policy goal of encouraging rising incomes and consumption in China.

A final argument made by TPP proponents has been that the TPP would reorient global supply chains in a way that would benefit the U.S. economy and U.S. workers and reduce China’s power. We heard similar assertions in the early 1990s about NAFTA. The labor movement has engaged in a multiyear dialogue with USTR in which we have asked for data supporting this assertion on supply chains and have received none. There is no evidence that the TPP as negotiated would strategically help the United States become a technology hub or maximize opportunities for new jobs. USTR has refused for five years to provide any estimates of how (by industry or geography) the TPP will help job growth or reduce the trade deficit. It is difficult to avoid the conclusion that the TPP is an example of bait and switch: Policy makers are told it will enhance the global economic position of the United States, but what it is really designed to do is to give global firms power over workers and governments in the United States, China and TPP member countries, while allowing mercantilist strategies by China and the countries economically integrated with it to continue.

To review the initial questions posed:

1. Will there be meaningful boundaries between the economic zone made up of TPP countries and China such that it will change China’s behavior as promised? No.
2. Is the TPP focused on the correct issues in relation to U.S. objectives in its relationship with China? No.
3. Are the standards embodied in the TPP actually high standards in relation to China on those issues that matter for the well-being of the United States and the people who live here? No.

These answers undermine the notion that the TPP will serve as an effective tool to drive global development on the basis of American values.

## V. The TPP will undermine a U.S. manufacturing revival and will not meaningfully affect whether China can obtain control of global supply chains.

There is one respect in which the TPP is likely to affect the structure of global supply chains, and that is to slow the return of manufacturing to the United States. Supply chains are designed and controlled by the firms that have the intellectual property—patents, trademarks, brands and the like. Apple controls the iPhone supply chain, not Foxconn; Sony controls the supply chain for Sony televisions, not the Korean firms that make the key components or the Chinese firms that do the final assembly. In this respect, China's power today remains greater at a macro level than at a micro level. While China has a large share of production and Chinese firms are increasingly important in serving the Chinese market, Chinese firms do not yet control supply chains serving global markets. Whether or not China gets control of global supply chains is a function of whether Chinese firms are able to innovate and develop competitive global brands, a function the TPP is unlikely to affect.

Of course, the issue of supply chains in the TPP is closely linked to the debate over the TPP's intellectual property provisions. Intellectual property protections in trade agreements are critical to the incomes of inventors, actors, writers, musicians and other intellectual property creators. On the other hand, IP provisions must be balanced: When extreme IP protections for pharmaceuticals restrict access to life-saving medicines, people die. This is not just a moral concern; the global economy does not benefit from rent-seeking behavior that reduces public health and worker productivity. From what is publicly known about the intellectual property language in the TPP, it appears designed to protect pharmaceutical monopolies, not to set a global standard for effective and balanced pharmaceutical IP protections that would promote innovation and health everywhere.

No matter their strength, the intellectual property protections of the TPP will not determine what countries' firms will control global supply chains. This is a delusion similar to the 19th century British belief that imprisoning millwrights in the British Isles could prevent the development of a U.S. textile industry.

Chinese intellectual property violations have hurt the United States, but they have not given China control over supply chains, nor will merely imposing new intellectual property rules prevent Chinese firms from becoming leading global innovators as their capacity develops. It is simply not good national economic strategy in relation to China to establish a trade regime that locks in deeply disadvantageous practices such as currency manipulation and carbon dumping in exchange for intellectual property rules primarily designed to maintain pharmaceutical monopolies.

Conversely, what the TPP likely will affect is the relative attractiveness of Vietnam, the second-largest Asian participant in the TPP, as an alternative manufacturing location to both China and the United States. In the last five years, rising wages in China and concerns about supply chain risk have helped drive some manufacturing operations in U.S. firms' supply chains back to the United States. Wage levels in Vietnam are less than a third of wage levels in China, according to the ILO.<sup>12</sup> Against this background, the TPP seems aimed at making it easier for U.S. and perhaps Japanese firms to move assembly from China to Vietnam under terms that protect their intellectual property. The result will be downward pressure on wages in China, which are well above wages in Vietnam, undermining a key driver of the revival of U.S. manufacturing—rising Chinese wages.

Of course, if the TPP had labor rights provisions that were likely to be effective, this would be less of an issue. But it is not clear how the dispute settlement provisions in the TPP will remedy the failures that have become so apparent in the Guatemala and Honduras cases, namely the ability to delay action indefinitely, preventing workers from benefiting from even apparently "high-standards" labor provisions. Moreover, the so-called "May 10" labor provisions, which USTR says have provided the base for the TPP provisions, seem particularly ill-suited to dealing with the core problems in Vietnam: the total absence of independent worker organizations, the continued repression of independent labor activists, the absence

of any real opportunities for even the official labor federation (the Vietnam General Confederation of Labour) to engage in meaningful collective bargaining, and the continued practice of child labor, forced labor, human trafficking, and arbitrary political arrests and detentions.<sup>13</sup>

In summary, the key provisions of the TPP are not “high standards” in relation to key U.S. policy goals or in relation to the U.S. broader policy objective of ensuring shared prosperity in our nation and in the world economy. Moreover, even *if* China were subject to them, they would not push China in the direction that the United States has stated it wishes China to go. In the area of climate change and carbon emissions, the TPP’s silence is a step backward from the U.S.-China bilateral agreement.<sup>14</sup> In the area of currency, China could join the TPP and continue its current policy of currency manipulation. And the ISDS provisions of the TPP likely would be used by global firms to slow efforts to regulate China’s economy in the public interest.

It is not too late to address these profound problems with the TPP. For example, ISDS is a provision the United States has insisted on—often over the objections of other member countries, including Australia. Many of the other TPP countries would be happy for it to be removed from the text.<sup>15</sup> So happy that doing so might well open up the possibility for the insertion of stronger labor provisions or currency language (a provision unpopular among fellow TPP participants because their currency policies are closely tied to and affected by the renminbi). Border adjustments on carbon, so long as they were tied to the

terms of the U.S.-China agreement, would simply bring the TPP up to the international standards the United States and China already have set, which is necessary to ensure we are not undermining ourselves by setting up the TPP member countries as a high-emissions hinterland of the U.S. and Chinese economies.

Finally, it is important to note that the special-interest provisions USTR is pushing for the TPP, including ISDS, pharmaceutical patent protections, drug-pricing policy provisions and limitations on service-sector regulations, come with a high price. Not only do they limit what may be achievable in more development-friendly issues such as labor, the environment and currency, but they also build resentment instead of goodwill from the other TPP parties. The contentious issues within the TPP have already caused great heartburn in foreign capitals as governments have been forced to defend charges that the TPP will increase the price of medicines,<sup>16</sup> force the repeal of Bumiputra or other procurement preferences,<sup>17</sup> or subject their economies to excessive influence and intervention by global corporations.<sup>18</sup> As the *Financial Times*’ Alan Beattie recently wrote:

*At the moment, the US is essentially using its huge domestic market as a tool to remake other economies in its image. It is likely to work for some time to come, given the prize on offer. But Washington should not delude itself that trade deals which inflict political pain on the US’s negotiating partners will necessarily function as durable and positive elements of a wider diplomatic relationship.<sup>19</sup>*

## **VI. Conclusion: Trade Promotion Authority in its current form will ensure the adoption of a low-standards TPP that will harm U.S. interests.**

Should Congress pass Fast Track Trade Promotion Authority now, the result would be to effectively lock in the TPP as currently negotiated. As all sides to the debate note, the purpose of Fast Track is to empower USTR to negotiate a final agreement. Those fighting for a more progressive trade agenda have concluded after five years of engagement with USTR that the TPP is not focused on negotiating a high-standards agreement in the critical areas of currency, climate, democratic

governance and labor rights. If given free rein by Fast Track, USTR will rush to conclude an agreement that is focused on giving global companies greater leverage to reduce manufacturing costs within the mercantilist paradigm established by China, but little else. In many respects, from the perspective of U.S. jobs and wages, the perspective of the development of civil society in China and in TPP countries, and the perspective of the climate crisis, this is, if not the worst outcome, a fairly bad one—and certainly not superior to status quo.



## Endnotes

- 1 See, e.g., Testimony of Elizabeth J. Drake, Congressional-Executive Commission on China, Jan. 15, 2014. Available at: <http://www.stewartlaw.com/Content/Documents/CECC%20Jan%2015%20Testimony.pdf>. Timothy Webster, "Paper Compliance: How China Implements WTO Decisions," Aug. 19, 2013, *Michigan Journal of International Law*, Forthcoming. Available at: <http://ssrn.com/abstract=2312877> or <http://dx.doi.org/10.2139/ssrn.2312877>. Susan Ariel Aaronson, "Is China Killing the WTO?," *International Economy*, Winter 2012. Available at: [http://www.wti.org/fileadmin/user\\_upload/nccr-trade.ch/downloads/TIE\\_W10\\_Aaronson.pdf](http://www.wti.org/fileadmin/user_upload/nccr-trade.ch/downloads/TIE_W10_Aaronson.pdf).
- 2 See, e.g., "Duty Evasion: Harming U.S. Industry and American Workers," Staff Report Prepared for Senator Ron Wyden (Public Version), Nov. 8, 2010. Available at: <http://www.wyden.senate.gov/download/?id=ab312b37-d16b-495c-a103-c1887afb37af&download=1>. Michael J. Coursey, "Eleven Years of Duty Evasion under the Antidumping Order on Honey Imports from China," American Honey Producers Association. Available at: <http://www.ahpanet.com/?page=AntiDumpingInfo1>. Jung Seung-hyun, "'Made in Korea' label being misused: Amount of fake Korea-origin goods worries EU, U.S. ahead of FTA deals," *Korea JoongAng Daily*, June 6, 2011. Available at: <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=2937625>.
- 3 This includes the recently announced Asian Infrastructure Investment Bank (see <http://www.dw.de/world-bank-chief-welcomes-chinas-new-infrastructure-investment-bank-aiib/a-18366324>) and the existing "New Silk Road" initiative (see <http://thediplomat.com/2014/05/chinas-new-silk-road-vision-revealed/>). See also Endnote 4.
- 4 In 2014, China committed nearly \$300 billion to development financing in the Asia-Pacific region and beyond, including \$50 billion to the BRICS bank, \$100 billion to China's new Asian Infrastructure Investment Bank, and separate additional multibillion-dollar infrastructure funds for the "New Silk Road" (exporting consumer and industrial goods and importing energy and other resources from Central Asia and Russia) and for a "Maritime Silk Road" (trade with developing Asia and the Middle East).
- 5 China's orbit includes Latin American countries. See, e.g., <http://www.reuters.com/article/2015/01/08/us-china-latam-idUSKBN0KH06Q20150108>.
- 6 For a discussion of why currency intervention should be addressed in the TPP, as well as a thorough analysis of why the Federal Reserve's monetary policy does not qualify as currency manipulation, see U.S. Rep. Sander Levin, "TPP in Focus: The need to address currency manipulation in TPP, and why U.S. monetary policy is not at risk," *The Huffington Post*, Feb. 6, 2015. Available at: [http://www.huffingtonpost.com/rep-sander/the-need-to-address-curre\\_b\\_6631514.html](http://www.huffingtonpost.com/rep-sander/the-need-to-address-curre_b_6631514.html).
- 7 See, e.g., Krishna Guha, "Paulson says excess led to crisis," *Financial Times*, Jan. 2, 2009. Available at: <http://www.ft.com/intl/cms/s/0/c56df5aa-d86f-11dd-bcc0-000077b07658.html#axzz3Y4QFK242>.
- 8 Nor does the TPP appear to address any human rights other than labor rights. There is a clear need for such provisions, especially given the notorious denial of rights by several of the TPP partner countries, including the rights to free speech, free assembly and free religion. These rights are linked to labor rights, whether by exposing workers to discrimination or by inhibiting workers' right to organize by limiting their rights to speak and gather. If the United States fails to address these issues through the TPP, it will lose leverage to address these issues in the future, because the TPP will have locked in full market access. For more information, see AFL-CIO, "The Trans-Pacific Partnership: Four Countries That Don't Comply With U.S. Trade Law," 2015. Available at: <http://www.afcio.org/content/download/150491/3811471/file/TPPreport-NO+BUG.pdf>.
- 9 Available at: <http://gao.gov/assets/670/666787.pdf>.
- 10 For a good introduction to the dangers of ISDS and its difference from U.S. takings jurisprudence, see William Greider, "The Right and US Trade Law: Invalidating the 20th Century," *The Nation*, Nov. 17, 2001. Available at: <http://www.thenation.com/article/right-and-us-trade-law-invalidating-20th-century#>.
- 11 Simon Lester, "The Sad State of the Investor-State Debate," *The Huffington Post*, Oct. 22, 2014. Available at: [http://www.huffingtonpost.com/simon-lester/the-sad-state-of-the-inve\\_b\\_6023444.html](http://www.huffingtonpost.com/simon-lester/the-sad-state-of-the-inve_b_6023444.html).
- 12 See ILO Regional Office for Asia and the Pacific, "Wages in Asia and the Pacific: Dynamic but uneven progress," Global Wage Report 2014/15 | Asia and the Pacific Supplement, International Labor Organization, December 2014, at Figure 2. Available at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_325219.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_325219.pdf).
- 13 U.S. Department of State, Bureau of Democracy, Human Rights and Labor Country Reports on Human Rights Practices for 2013, Vietnam, available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&did=220244>.
- 14 See FACT SHEET: U.S.-China Joint Announcement on Climate Change and Clean Energy Cooperation. Available at: <http://www.whitehouse.gov/the-press-office/2014/11/11/fact-sheet-us-china-joint-announcement-climate-change-and-clean-energy-c>.
- 15 See, e.g., Kyla Tienhaara, "These TPP safeguards won't protect us from ISDS," Australian Broadcasting Corp., March 26, 2015. Available at: <http://www.abc.net.au/news/2015-03-26/tianhaara-these-tpp-safeguards-wont-protect-us-from-isds/6350358>.
- 16 See Conan Young, "Medicines 'won't cost more under TPP,'" Radio New Zealand News, Oct. 22, 2014. Available at: <http://www.radionz.co.nz/news/national/257457/medicines-%27won%27t-cost-more-under-tpp%27>.
- 17 See Banyan, "No End in Sight," *The Economist*, Feb. 25, 2014. Available at: <http://www.economist.com/blogs/banyan/2014/02/trans-pacific-partnership-0>.
- 18 See "What will the TPP mean for Australia?" (Video), Australian Broadcasting Corp., March 31, 2015. Available at: <http://www.abc.net.au/news/2015-03-31/what-will-the-tpp-mean-for-australia/6363354>.
- 19 Alan Beattie, "The flaws in the geopolitical case for the TPP," *Financial Times*, March 25, 2015. Available at: <http://blogs.ft.com/the-world/2015/03/the-flaws-in-the-geopolitical-case-for-the-tpp/>.