

CSAI – Escalating Inequality

Session #10 – Trade Impacts on Inequality: TPP (part 2)

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And Terry Steichen

What is a CSAI?

- “Congregational Study/Action Issue”
- Bi-annual selection by UU General Assembly
- Usually leads to “Statement of Conscience”
- Four year duration (3 plus SOC)
- Recent CSAIs:
 - Escalating Inequality (2014; est 2017 SOC)
 - Reproductive Justice (2012; 2015 SOC)
 - Immigration as a Moral Issue (2010; 2013 SOC)
 - Ethical Eating (2008; 2011 SOC)
 - Creating Peace (2006; 2010 SOC)

UUA CSAI Charge

“Study root causes of inequality, such as “

- corporate globalization,
- “free trade,”
- outsourcing,
- privatization,
- tax shifting and evasion,
- subsidies and bailouts,
- monopoly,
- suppression of labor,
- money in politics,
- “externalizing” social and environmental costs,
- “free market”/libertarian ideologies,
- deregulation,
- unlimited income/wealth.

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The Broad Impact
Of Trade Agreements

Review of our progress so far

What is the escalating inequality problem? (Seminar 1)

How serious is it? What are its consequences? (Seminar 2)

What's (really) causing it? (Seminars 3, 4, 5)

What's been tried and what came of it? (Seminars 6, 7)

What role does government policy play? (Seminar 8)

What is the impact of globalization/trade – TPP (Seminar 9)

Key Issues with TPP

(from last seminar)

Serving the U.S. public interest

- Increase jobs, wages?
- Impact on inequality?
- Produce economic growth
- Right to exit

Investor-State Dispute Settlement (ISDS)

- Fairly run with clear rules?
- Threat to established/future public policies?
- Reverse regulatory policies?
- Mainly focused on expropriation, discrimination?
- Impact limited to foreign firms?
- Corporate access only?

Labor and Environmental Standards

- Important?
- Well-enough defined?
- Enforceable?

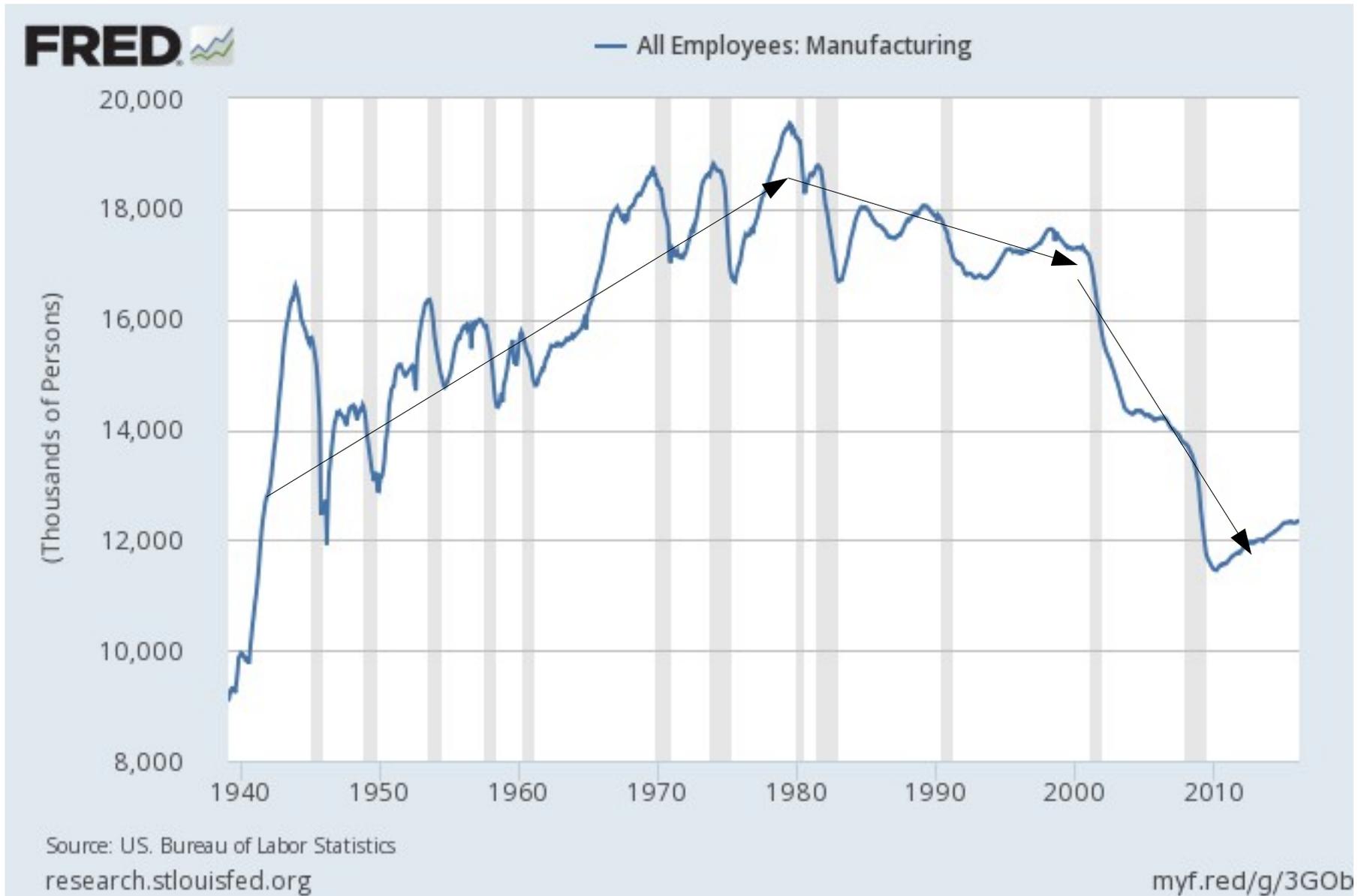
Intellectual property

- Expand SOFA domestically?
- Impose tight U.S. laws globally?
- Criminalization of ordinary acts?

Today's Seminar Outline

- 1) General issues
- 2) Status
- 3) Benefits
- 4) ISDS
- 5) Legal/Constitutional issues
- 6) Labor/environmental issues
- 7) Intellectual property issues
- 8) Public policy issues
- 9) Action options
- 10) Q&A, Discussion

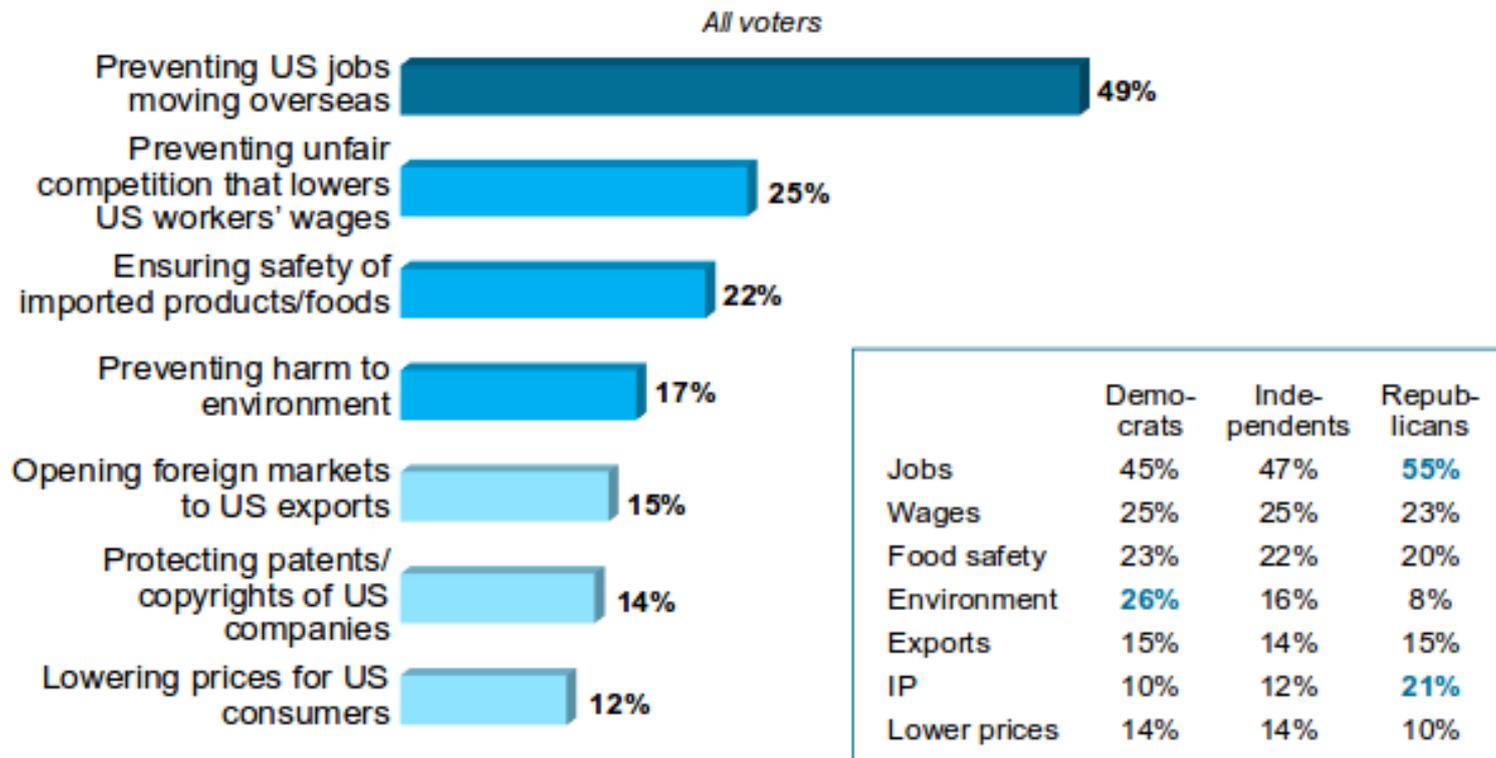
The Manufacturing Jobs Issue



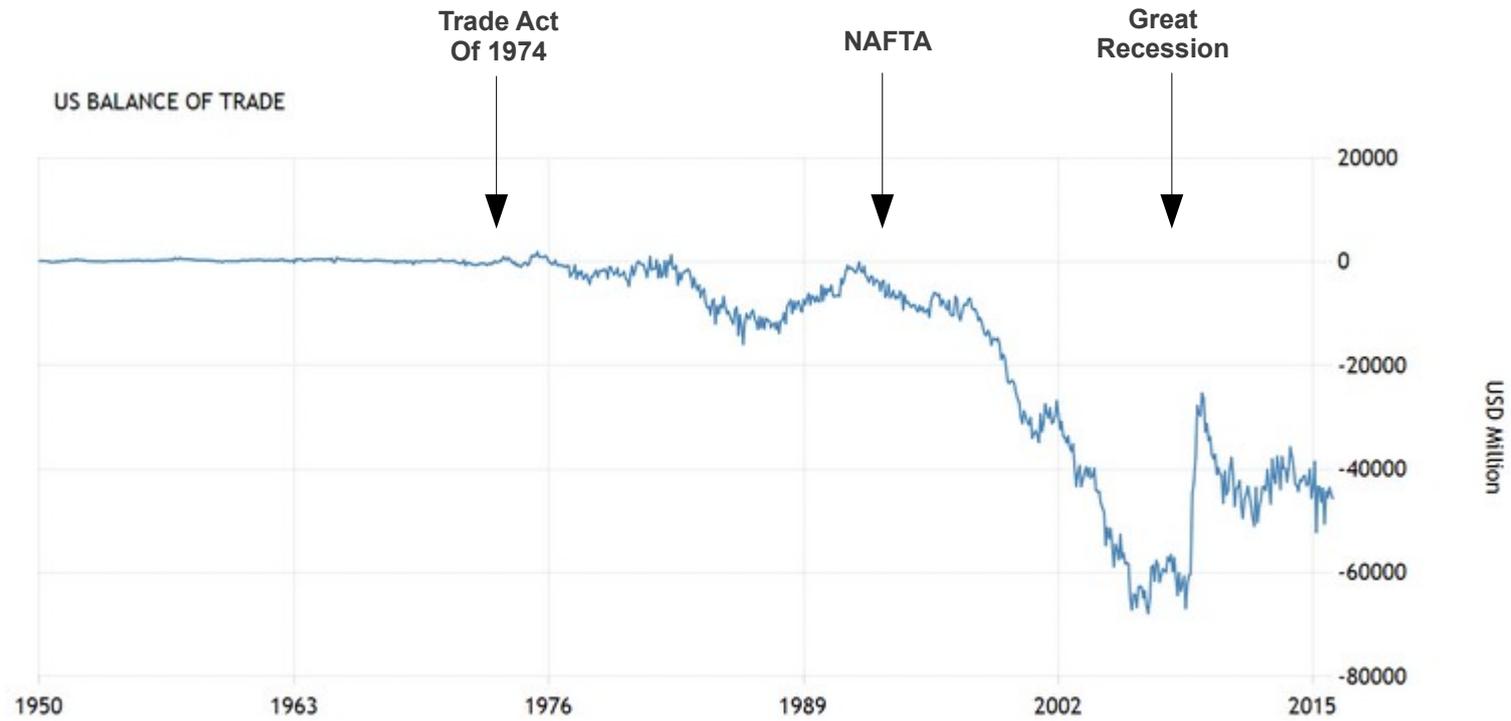
Public Skepticism

Voters' Priorities for Trade Deals Align with TPP Opponents, Not Supporters

Two Most Important Goals for US Trade Agreements with other Countries



Trade Deficit Issue



SOURCE: WWW.TRADINGECONOMICS.COM | U.S. CENSUS BUREAU

Basic Questions to Ponder

Do significant trade tariffs still exist?

- 80% imports are tariff free
- Average tariff is 1.5%

Does trade exist without trade agreements?

Should foreign trade risks be treated as a cost of business?

Are tariffs on imports inherently bad?

- Slow speed of capital
- Promote industrialization
- Promote food stability and local supply chains
- Taxes are ecologically sound
- Stabilize employment and communities

Trans-Pacific Partnership (TPP) Status

Origins

- In secret development for over 6 years
- “NAFTA on steroids” - 5500 pages, 29 chapters, 5 trade
- 'Sister' agreement (TTIP) nearing completion

Timeline

- Congress ratification w/in 90 days of submission
- At least 6 countries must ratify within 2 years
- Obama submission of legislation pending
- Estimate: no vote till after November elections
 - Public opposition growing
 - Strong pressure by Obama to approve
 - Lame duck “solution”
 - Voters will forget
 - Some will retire
 - Complicating factor: Clinton on auto rules of origin
 - Complicating factor: More countries challenging, rejecting ISDS (Brazil, Australia, EU, South Africa)

TPP Support/Opposition

Political candidates, parties:

Supporting:

Kasich, Democrats, Republicans

Opposing:

Sanders, Clinton, Trump, Cruz

Non-Government Groups:

Supporting:

Large exporters, large importers,
mainstream economists**

Opposing:

Unions, environmental (350, Sierra, NDRC, LCV, Friends Of the Earth), public interest (Common Cause, Public Citizen, US PIRG), healthcare, faith groups (Catholic, UUA, Jewish, Quaker, Presbyterian), liberal (People for the American Way, IPS, RootsAction, MTA, NOW)

But, Krugman: “defense of globalization is basically dishonest,” “case for ever-freer trade is largely a scam,” “the case for more trade agreements — including TPP, which hasn’t happened yet — is very, very weak.”

Overall Benefit Assessment of TPP

Many “moving parts”

- Net change in number of jobs
- Net change in average wage level
- Net change in national GDP
- Net change in trade balance
- Change in living standards (here and abroad)
- Exploitation of foreign workers, environment
- Impacts on food, drug safety
- Impacts on medicine cost, availability

Basic off-shoring (political) issues:

- More pay for displaced workers?
- Tax to discourage practice?
- Special import tax on re-entry?

Overall Benefit Assessment of TPP – cont.

Need for computer models

Competing models – especially assumptions

Advocates: Peterson International Institute (CGE)

Critics: UN Global Policy model

Other: World Bank study

Peterson Model

Universally cited by trade advocates

Long term (through 2030) estimates

Total export/import flows

Impacts on jobs, wages

Assumes benefits distribution

ISDS (Investor-State Dispute Settlement) Process

Rules

- Designed to protect profits
- Broad, vague and ambiguous

Tribunal

- Ad hoc arbitration panels (corporate lawyers)
- No conflict of interest restrictions
- No obligation to follow precedent
- No appeal, no oversight

Claims

- Unlimited amounts
- Claimants exclusively corporations
- Defendants exclusively governments
- Based on current and expected business losses

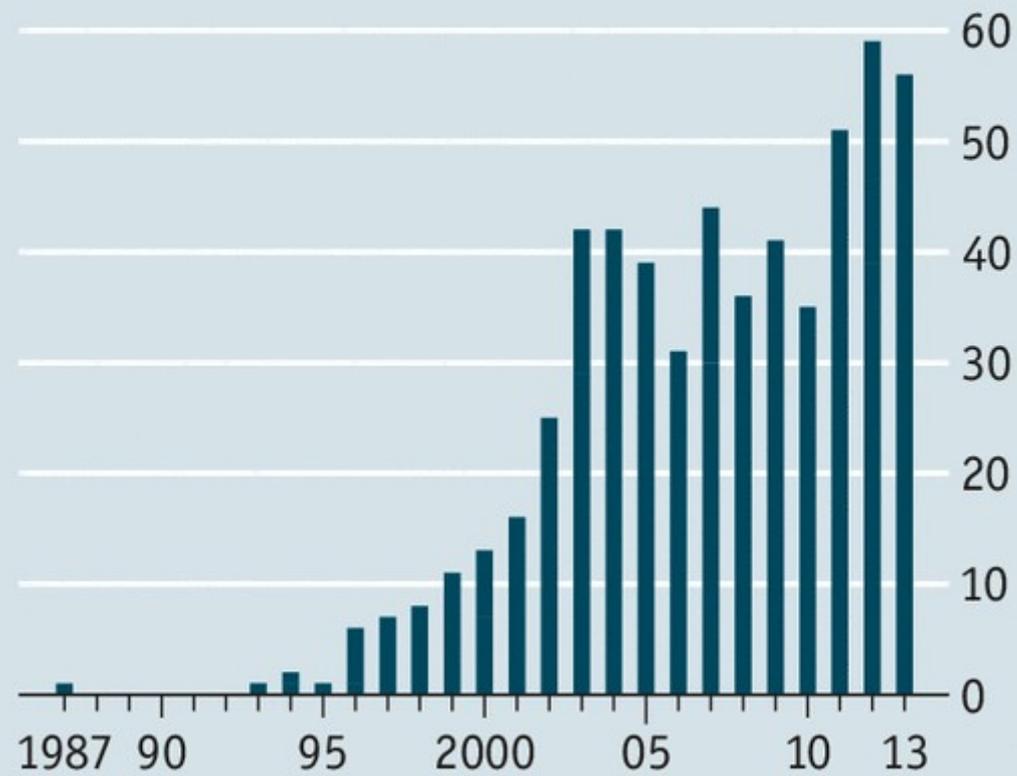
Results (large corporations)

- Average award: \$140 million
- Proportion of all awards: 95%
- Cost to process: \$8 million/case, \$1.7 billion total

ISDS (continued)

Unsettling

Investor-state dispute settlement cases



Source: UNCTAD

ISDS (continued)

New 'de facto' corporate right to profits

Significant Changes

- Rolls back May 2007 reforms on IP, Labor, Environment
- Expands range of challengeable policies
- Expands basis for challenges
- Adds enforcement to WTO challenges
- No requirement to try courts first, able to relitigate courts
- Doubles exposure to ISDS challenges

Illusory limitation to only 'foreign' corporations

Domestic corps. “inversion,” foreign subsidiaries
Rule changes apply to foreign and domestic

“U.S. Never Loses” Fallacy

Relatively small exposure so far (TPP will double)
US multinationals dominant in world (no longer)
Recent loses WTO and other venues
Country of origin labeling
Dolphin-safe Tuna fishing
Transcanada Keystone XL pipeline

ISDS (continued):

Examples of Types Of Possibly Impacted Regulations

- Food safety regulations (tightening, inspecting)
- Drug safety regulations (tightening, inspecting)
- Medical records and other data privacy (increasing)
- Greenhouse emission regulations
- Pollution regulations (adding, tightening)
- Zoning and Land Use regulations
- Tax increases (raising)
- Financial regulations (eg. Glass-Steagall)
- Minimum wage laws (raising)
- Expanded workers' rights (addiing)
- National and local stimulus programs
- Local/national preference laws
- Public health laws and regulations

ISDS (continued)

Example 1 — Post-TPP regulation of e-cigarettes:

Concerned about the loss of customers who no longer smoke conventional cigarettes, the tobacco companies have created e-cigarettes, which are currently unregulated. If Congress decided to regulate them after enactment of the TPP, a non-U.S. investor from a TPP country that makes e-cigarettes here could ask an ISDS panel to rule that its investment-based expectations were improperly violated and thus that it is entitled to damages under the minimum standard of treatment provisions.

Example 2 — Post-TPP water rationing in California:

A similar challenge could be made by a TPP investor who owned farm land in California and objected to an intensification of mandatory water rationing for farms enacted after the TPP goes into effect, even if such rules also applied to U.S. owners of land that would be adversely affected by them.

Example 3 — Post-TPP minimum wage increases:

Or the non-U.S. TPP-owner of restaurants in Los Angeles could demand arbitration over a post TPP-enactment of an increase in the minimum wage to \$15 an hour, which, he claims, violates his investment-based expectations when he decided to purchase the restaurants.

Example 4 — Post-TPP tightening of regulation for abortion clinics:

Or suppose a non-U.S. investor from a TPP nation decided to open a chain of abortion clinics in Texas and received permits for all of them. If, shortly after the TPP went into effect, Texas passed a law imposing additional health and safety requirements that significantly increased the investor's cost of doing business, the law would be subject to challenge under the TPP.

Legal/Constitutional Issues

Treaty-related

Is relationship an “alliance” or a “treaty?”

Does treaty obligation of 2/3 Congress approval hold?

Does “Fast Track” legislation bypass Constitution?

Legislating role

Blocking/repealing legislation

Legislating an exclusive Congressional function?

Binding Future Congresses

Can “opt-out” requirement bind future Congresses

Judicial function

Conflict with Constitutional role in resolving treaty disputes?

Labor Standards

General questions

- What are they?
- How important are they?
- What is the ILO model?
- More than number of jobs and wage level?
- Well enough defined?
- Well enough monitored?
- Enforceable?
- Enforced?

TPP Labor standards

- Specifically included (unlike predecessors)
 - But Vietnam, Malaysia a new low
- Doesn't specify contents of standards
- Questionable enforcement - 3rd party monitoring

TPP labor standards examples

- Union concerns about Vietnam
 - Process – collect info, petition USTR, persuade, bring to panel
- 2010 dispute under CAFTA-DR with Guatemala
 - Won by US
 - 1st FTA labor case brought to dispute settlement

Issues re: Labor/Environmental Standards

Are exploitative relationships acceptable?

Is relationship with trading partner exploitative?

Are existing standards adequate (if enforced)?

Are existing standards enforceable?

Are existing standards enforced?

Should unions and labor organizations have direct ISDS-like access?

Should environmental groups have direct ISDS-like access?

Should public interest groups have direct ISDS-like access?

Intellectual Property Rights Provisions

Effect of raising (protectionism) vs. lowering trade barriers?

Copyright provisions bypass SOPA rejection?

Do data exclusivity measure reduce medicine availability?

Do copyright, patent extensions make products more costly?

General Public Policy Issues

Burden of proof

Should TPP (and any FTA) be required to benefit public?
Reasonable to place on advocates?

Enforcement balance

Labor/environment have no ISDS as IP does

Currency manipulation

Absence of any controls widely criticized

Further Actions

Potential Actions

- Join with and/or donate to anti-TPP organizations
- Share concerns with political representatives
- Discuss with others
- Join in Escalating Inequality project

Sources of information

Supportive

- Obama Administration (USTR)
- Peterson Institute (PIIE)
- Brookings Institution

Critical

- Center for Economic and Policy Research (CEPR)
- Economic Policy Institute (EPI)
- Public Citizen

Video Clips on TPP Controversy

President Obama Making Public Appeal for TPP 5:04
<https://www.youtube.com/watch?v=tXQnti9xtHo>

Elizabeth Warren Critiques TPP 7:34
<https://www.youtube.com/watch?v=xzfxv2XQoPg>

Ed Schultz Reacts to Obama Criticism of TPP 8:54
<https://www.youtube.com/watch?v=1P5W8OR8wfo>

Thom Hartmann on Obama Motivation (part 1) 3:44
<https://www.youtube.com/watch?v=ZA1dl36zV3k>

Thom Hartman on Obama Motivation (part 2) 6:31
<https://www.youtube.com/watch?v=DVPkYj3MIN0>

Bernie Sanders on TPP 27:30 – stop @ 5:30
<https://www.youtube.com/watch?v=LhD5OOVI8qQ>

Hillary Clinton on TPP 2:21 Earlier on TPP 6:10 stop 2:00
<https://www.youtube.com/watch?v=Jeh-14A8Rbc>
<https://www.youtube.com/watch?v=inrCiD0xQak>

Miscellaneous Video Clips

Naomi Klein on Sanders and Clinton

<https://www.youtube.com/watch?v=alRsf-Se82I>

Clinton, Sanders on Trade

<https://www.youtube.com/watch?v=YPHwifSa2R0>

TTIP Food Safety Concerns

<https://www.youtube.com/embed/AAp6cD5i8O0>