



Written by [Joe Wolverton, II, J.D.](#) on November 14, 2012

## Trans-Pacific Partnership: Secret Surrender of Sovereignty

At an address to the Council on Foreign Relations (CFR) on September 24, Mexican President Felipe Calderón praised his government's willingness to manipulate trade rules in order to increase Mexico's international posture, power, and influence. A big step toward that end was Mexico's entry into the Trans-Pacific Partnership (TPP) negotiations.



"A few months ago, Mexico joined the Trans-Pacific Partnership, TPP, negotiations. This will give Mexican trade the biggest boost since NAFTA came into effect," Calderón explained.

In June, President Barack Obama and U.S. Trade Representative (USTR) Ron Kirk announced that both of America's NAFTA partners, Canada and Mexico, have been invited to join the secret negotiations aimed at establishing the TPP.

In an announcement published June 18 on the USTR website, Kirk wrote:

We are delighted to invite Mexico, our neighbor and second largest export market, to join the TPP negotiations. Mexico's interest in the TPP reflects its recognition that the TPP presents the most promising pathway to boosting trade across the Asia Pacific and to encouraging regional trade integration. We look forward to continuing consultations with the Congress and domestic stakeholders as we move forward.

Kirk made a similar announcement a day later, publicizing Canada's invitation to join the super-secret TPP club, and Canadian officials were just as giddy as Calderón.

After undergoing the requisite review of its domestic trade policies, Canada eagerly joined the negotiations on the trade pact. With Canada, there are now 11 nations participating in the TPP negotiations: Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. This group of nations is working to establish "a comprehensive free trade agreement across the region." Of course, as was the case with the North American Free Trade Agreement (NAFTA), the trade conducted under these multinational agreements is never free of government control. Globalist bureaucrats who are unaccountable to and unelected by the American people would establish domestic trade policies in all member nations, including the United States.

In his statement formally welcoming Canada to the TPP negotiations, Kirk said

Inviting Canada to join the TPP negotiations presents a unique opportunity for the United States to build upon this already dynamic trading relationship. Through TPP, we are bringing the relationship with our largest trading partner into the 21st century. We look forward to continuing consultations with the Congress and domestic stakeholders regarding Canada's entry into the TPP as we move closer to a broad-based, high-standard trade agreement in the Asia-Pacific region.

In an address to the heads of state gathered at the G-20 conference held in June in Los Cabos, Mexico,



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Calderón praised the TPP as “one of the free trade initiatives that’s most ambitious in the world” and one that would “foster integration of the Asia Pacific region, one of the regions with the greatest dynamism in the world.”

“Integration” is a word that is painful to the ears of constitutionalists and those unwilling to surrender U.S. sovereignty to a committee of globalists who are unelected by the American people and unaccountable to them.

All “partners” to the pact, including foreign corporations, would be exempted from abiding by American laws governing trade disputes. Moreover, the sovereignty of the United States and the Constitution’s enumeration of powers would once again be sacrificed on the altar of global government by subordinating U.S. laws passed by duly elected representatives of the people to a code of regulations created by a team of trans-national bureaucrats.

If you’re as fond of NAFTA and what it did for our economy and our sovereignty as Mexico and Canada are, then you’ll love what the TPP has in store.

In June, portions of the TPP draft agreement that were leaked to the Internet contained sketches of President Obama’s plans to surrender American sovereignty to international tribunals. This is just one of many frightening provisions of the TPP that are being negotiated in secret by American and international trade representatives.

### **Cui Bono? Multinational Corporations**

Notably, in both statements announcing the hemispheric enlargement of the trade bloc, USTR Kirk places the approval of “domestic stakeholders” (read: large corporations) on a level with that of Congress. It is precisely this exalting of big business, as well as the as-yet-impenetrable wall of secrecy surrounding the drafting of the TPP treaty, that has troubled many of the people’s representatives in Congress.

Although the treaty negotiations are being kept under a thick veil of secrecy, a draft document leaked to the Internet discloses that as part of its membership in the TPP, the United States would agree to exempt foreign corporations from our laws and regulations, placing the resolution of any disputes as to the applicability of those matters to foreign business in the hands of an international arbitration tribunal overseen by the secretary-general of the United Nations.

The leaked information also confirms the fears of many who from the beginning have opposed the entry of the United States into this trade agreement. The alarms sounded by several groups on the Left and the Right warning of the wholesale damage that the TPP could cause to commerce, copyrights, and the Constitution now seem vindicated.

As it did with NAFTA, The John Birch Society is mounting a bold defense to the TPP initiative’s attack on the Constitution. JBS CEO Art Thompson said:

For several decades, The John Birch Society has been warning Americans about the loss of our national sovereignty brought about by so-called free trade agreements, such as the North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada. We point out that political integration follows economic integration. We also point out how the European Union has followed this pattern by progressing from a free trade area of independent European nations in the 1950s all the way to a new political entity, the European Union, that is now absorbing the last vestiges of sovereignty from its member states.



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We are now warning Americans about the Trans-Pacific Partnership (TPP), a new free trade agreement that is currently being negotiated by a dozen or so Pacific Rim nations, including the United States, Australia, New Zealand, Singapore, Malaysia, Vietnam, Mexico, and Canada. Since the United States Trade Representative's website describes the TPP as "a vehicle for Asia-Pacific-wide economic integration," we believe that eventual congressional approval of the TPP would lead to Asia-Pacific-wide political integration with the attendant loss of American sovereignty.

Another valiant organization actively protecting the sovereignty of the United States is Americans for Limited Government (ALG). In June, ALG released a statement drawing attention to critical provisions of the leaked TPP agreement, as well as ably pointing out some of the most noxious aspects of the proposed agreement:

These new trade agreements will place domestic U.S. firms that do not do business overseas at a competitive disadvantage. Based on these leaked documents, foreign firms under this trade pact could conceivably appeal federal regulatory and court rulings against them to an international tribunal with the apparent authority to overrule our sovereignty. If foreign companies want to do business in America, they should have to follow the same rules as everyone else. No special favors.

It is telling that the only apparent way these Pacific nations will enter a free trade agreement with the U.S. is if they are exempt from our onerous environmental and financial regulations that make it cost-ineffective to do business here. Instead of making these foreign firms exempt from these burdensome rules, they should just repeal the regulations and make it cheaper to do business here.

This poses an even wider problem, though. Obama is negotiating a trade pact that would constitute a judicial authority higher than even the U.S. Supreme Court that could overrule federal court rulings applying U.S. law to foreign companies. That is unconstitutional....

This tribunal needs to be removed from this agreement, and no foreign company doing business on our soil should have a competitive advantage, created by some dumb agreement, over American companies. What is Obama thinking? He is placing international organizations above the interests of our own country.

Just days after the proposed provisions of the TPP appeared online, The New American interviewed ALG President Bill Wilson. Wilson was asked what he believes Americans have to fear should the United States enter the TPP and why he thinks the negotiations have been conducted in secret.

"These trade pacts, starting with NAFTA and before [GATT], strike at the heart of national sovereignty, ours and that of the other member nations," Wilson warned. "At their core they diminish the prerogatives and powers of a specific country and surrender them to international bodies or corporations."

"As for the secrecy, if folks on the ground find out what's going on ahead of time, they might get upset. We tend to think of populations of the Asian nations as being more compliant, but they are not. If they thought for a minute that American corporations could ignore their local laws and customs, they'd be angry, so the multinational corporations that are pushing this thing have to do so in secret," he continued.

Wilson also recognizes another problem for the internationalists in the provenance of the leaked document. The information revealed in the portion of the proposed agreement leaked on June 13 was posted by Public Citizen, a Texas-based consumer rights advocacy group founded by Ralph Nader — hardly a member of a "right-wing conspiracy." Wilson sees this as instructive.



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“There is a great coming together of the minds here,” Wilson said. “The Left doesn’t want an international tribunal coming in and doing away with their environmental regulations, and we conservatives don’t want anything destroying our sovereignty and independence. That is a powerful confluence of interests and that’s why they [the international corporations] want to keep it secret.”

### **Corporations Given Keys to the Kingdom While Congress is Locked Out**

Wilson’s identification of large corporate interests as the engine that is driving American sovereignty over the globalist cliff is borne out by the experience of some of our own elected officials who have tried in vain to pierce the veil of secrecy preventing Americans from learning about the frightening compromises being made by our trade representatives at the TPP negotiations.

Zach Carter of the online Huffington Post reports that Senator Ron Wyden (D-Ore.), the chairman of the Senate Finance Committee’s Subcommittee on International Trade, Customs and Global Competitiveness, was stonewalled by the Office of the U.S. Trade Representative when he attempted to see any of the draft documents related to the governance of the TPP.

In response to this rebuff, Wyden proposed a measure in the Senate that would force transparency on the process, and that was enough to convince the USTR to grant the senator a peek at the documents, though his staff was not permitted to peruse them.

Wyden spokeswoman Jennifer Hoelzer told the Huffington Post that such accommodations were “better than nothing” but not ideal in light of the well-known fact that on Capitol Hill the real work of drafting and evaluating legislation is performed by the representatives’ staff members who are often experts in particular areas of domestic and foreign policy.

“I would point out how insulting it is for them to argue that members of Congress are to personally go over to USTR to view the trade documents,” Hoelzer said. “An advisor at Halliburton or the MPAA is given a password that allows him or her to go on the USTR website and view the TPP agreement anytime he or she wants.”

It is instructive that a duly elected senator of the United States has to beg and plead and threaten legislation in order to see the TPP trade agreement negotiations, but corporate interests are given a password by the USTR that grants them a priori access to those same documents.

U.S. Senator Sherrod Brown (D-Ohio) issued a statement criticizing the Obama administration for the lack of oversight into an agreement with devastating potential:

After more than a decade of broken promises from NAFTA, CAFTA, and normalized trade relations with China, we can now add a credibility deficit to the trade deficits we’ve seen. The leaked documents surfacing today only underscore the secrecy surrounding TPP negotiations and confirm worst suspicions about the direction trade negotiations are heading. It’s telling that it is easier for the CEO of a major corporation to access information about the negotiations than the American people’s elected representatives.

The negotiations must involve more transparency and bring more voices to the table.

ALG’s Bill Wilson perceives real harm in the USTR’s grant of such a powerful corporate prerogative.

“We are elevating private businesses up to the level of sovereign governments,” Wilson said. “Under NAFTA we gave companies the power to sue governments and the TPP does this as well. In this trade pact, we agree that our government can be sued by these foreign corporations who will be treated as sovereign nations. This is submerging the idea of sovereignty into a sea of regulatory bodies and



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international agencies and our freedom is drowning in it.”

“It is self-evident that the erosion of the right of citizens to control their own lives is progressing at a rate that we are little more than wage slaves to an oppressive government and its cadre of corporate backers that consider our lives and our liberties of little or no consequence,” he stated.

When it comes to TPP and its surreptitious assault on freedom, Bill Wilson hit the nail squarely on the head. Unfortunately, if the American people do not rise up in firm opposition to TPP and other globalist ventures, it may be the final nail in the coffin containing the remains of our sovereignty.

### **U.S. Copyright and Intellectual Property Laws Repealed by TPP**

Just as it is easier to break a broom by breaking one straw at a time than by trying to snap the whole head at once, the TPP would destroy American sovereignty by subordinating domestic laws one after another to obligations accepted as part of this international trade agreement.

Despite assurances that he would not diminish the right of fair use in American copyright law, USTR Kirk seems to have done just that during one of the latest rounds of TPP negotiations held in September in Leesburg, Virginia.

According to leaked draft versions of various provisions, the legal definition of “fair use” is now fair game for the international cabal of corporate shills serving as TPP negotiators.

Perhaps recognizing the growing opposition from civil libertarians to this otherwise secret pact, after the round of negotiations in July wrapped up, USTR Kirk e-mailed a statement to the media declaring that he would propose language on fair use and limitations to copyright for inclusion in the final version of the treaty that would be presented to Congress.

Such language was not found, however, in the text that was leaked and made public by Knowledge Ecology International (KEI). In the portion of the language posted by KEI, the exceptions to the laws protecting intellectual property seem to remain as stringent as ever, much to the chagrin of fair use advocates who had hoped for a reduction of the restrictions.

Before these revelations were made public by the KEI post, it was assumed that the USTR would stick to its commitment to work to include rules “that will obligate Parties to seek to achieve an appropriate balance in their copyright systems in providing copyright exceptions and limitations for purposes such as criticism, comment, news reporting, teaching, scholarship, and research.”

While there is indeed text purporting to accomplish that end, a closer reading reveals that several loopholes remain through which significant restrictions (and punishments for violations of them) can pass into American law.

For example, negotiators representing the United States and Australia have proposed a test to determine whether an exception to copyright will be permitted under the terms of the TPP.

Specifically, the leaked text mandates that TPP member nations should confine these limitations “to certain special cases that do not conflict with a normal exploitation of the work, performance, or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder.”

Such language is not final, however, as other participating nations — New Zealand, Chile, Malaysia, Brunei, and Vietnam — are pushing for less restrictive language that would permit “a party to carry forward and appropriately extend into the digital environment limitations and exceptions in its domestic laws.”





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As one would expect, negotiators for the United States and Australia prefer to reduce those fair use rights to the degree “that each party may, consistent with the foregoing, adopt or maintain ... exceptions and limitations for the digital environment.”

As Megan Geuss of Ars Technica, an online site devoted mainly to technology, explained, “In other words, the US and Australia are saying a country can’t just decide on ‘limitations and fair use’ based on existing domestic [intellectual property] laws, some of which may be quite broad. Instead, limitations must conform to international agreements, including the TPP, which can be more restrictive.”

As with all such attempts to integrate the economies of the United States and other “partners,” the right of settling disputes and defining the scope of intellectual property rights and restrictions would be granted to an extra-constitutional international tribunal with members being nominated by the United Nations secretary-general.

In fact, all “partners” to the pact, including foreign corporations, would be exempted from abiding by American copyright laws (those passed by Congress and designed to protect the public and the rights holder), and the sovereignty of the United States and the Constitution’s enumeration of powers would once again be sacrificed on the altar of globalism.

The broom is close to breaking.

### **Internet Freedom Surrendered to TPP Surveillance Regulations**

Another attack on U.S. sovereignty discovered in the chapter on intellectual property in the leaked TPP draft agreement is found in the mandate that member nations enact regulations that require Internet service providers (ISPs) to privately enforce copyright protection laws.

These private companies — many of which are very small — would be forced to take upon themselves the responsibility of patrolling for and punishing any violation of the copyright laws by its subscribers.

Current U.S. law, specifically the Digital Millennium Copyright Act (DMCA), would be supplanted by TPP Article 16.3. This provision in the TPP draft document paves the way for a new copyright enforcement scheme that extends far beyond the limits currently imposed by DMCA. In fact, it contains mandates more expansive than even those proposed in the Anti-Counterfeiting Trade Agreement. Using as a rationale copyright protection, it would regulate the Internet and create a new governmental entity for that purpose. ACTA is widely regarded as a threat to Internet freedom, as well as to the legislative power of the Congress. If ACTA is a threat, then TPP is an all-out frontal assault.

Regardless of the merits of the DMCA, it is U.S. law and should not be subject to de facto appeal by the work of a body of internationalists who are not accountable to the citizens of the United States. Apart from the issues of sovereignty, putting such pressure on service providers is a threat not only to the owners of these small businesses, but also to Internet freedom. It is the good work of these ISPs that has created the Internet we know today. Were it not for the typically low-cost access these companies provide, the pool of readily accessible viewpoints, opinions, and news resources would be significantly shallower.

In a post-TPP world, ISPs would be forced to raise prices dramatically in order to cover the increase in their own overhead brought on by the requirement that they monitor and manage the websites they host. Alternatively, there would undoubtedly be a large number of ISPs who would not only want to avoid the administrative burden of being forced into the role of Internet cop, but who would also rightly regard the risks of providing Internet access as outweighing the benefits.



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A story published by the Electronic Frontier Foundation accurately describes the potential problems and predicts the future of the Internet should the United States agree to enter the TPP:

Private ISP enforcement of copyright poses a serious threat to free speech on the Internet, because it makes offering open platforms for user-generated content economically untenable. For example, on an ad-supported site, the costs of reviewing each post will generally exceed the pennies of revenue one might get from ads. Even obvious fair uses could become too risky to host, leading to an Internet with only cautious and conservative content.

As any news organization that maintains a Web presence knows, in the posting of news items time is of the essence. If the regulations of the TPP become the law, then ISPs would be forced to remove immediately any subscriber content posted online that is challenged by someone claiming a copyright infringement. This broad expansion of copyright protection could be devastating to a news organization (or blogger, for that matter) depending for its economic survival on the timeliness of its online stories and on the availability of those stories to the millions of Internet users.

Such procedures bypass the U.S. court system and the Constitution by abolishing the due process owed to those accused of crimes. Rather than require a person to present evidence of an alleged violation of a copyright to an impartial judge, the TPP would also demand that the outlet's ISP immediately remove the content in question. Any legal proceedings on the merits of the charges would occur after the damage has been done.

### **TPP Finishes the Integration Begun by NAFTA**

Americans who study the subject realize that the redrawing of national boundaries and domestic legal processes being carried out in secret by the globalists sitting around the TPP negotiating table is an attack on American laws, American courts, American freedom of expression, American sovereignty, and the American Constitution.

Nonetheless, the TPP cannot have these bad effects on America unless Congress approves a final TPP agreement. However, if the American people do not rise up in firm opposition to the TPP and convince Congress to tear down the wall of secrecy built by globalists seeking to shield their attack on our law and liberty from congressional oversight, and ultimately to reject any TPP agreement, then an approved TPP might finish the integration — economic and political — begun by NAFTA and it may be the last straw in the already weakened broom of American sovereignty.

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