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**What does the U.S. Agribusiness Industry  
Demand of Japan in the TPP Negotiations?**

**Problems revealed in the congressional hearings  
and the USTR public comment procedures**

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**Abstract**

The main objective of this paper is to clarify how and in what way the U.S. agribusiness industry is asserting its influence in the process of policy making and negotiations on the Trans-Pacific Partnership Agreement (TPP), by taking into account the characteristics of the procedures in the U.S. trade negotiations and business networks of influence and lobbying. Then, the paper will go on to delve into the detail of what the U.S. industry and trade organisations and individual corporations have actually been demanding during the TPP negotiations, particularly in relation to Japan's commitment to the agreement. The subtle divergences of interests among agribusiness subsectors will be taken into consideration when analysing the details of submitted comments and relevant statements. Although it is non-agricultural issues such as the deregulation of the financial and service sectors, strengthening of intellectual property rights, enforcement of investor protection, and disciplining of government procurement rules that are the focus of many of documents and statements issued by cross-sector business associations, the discussion in the paper is restricted to agriculture and food related industries.

Keywords: TPP negotiations, agribusiness, industry and trade organisations, business lobbying, discursive power

## **What does the U.S. Agribusiness Industry Demand of Japan in the TPP Negotiations?**

**-- Problems revealed in the congressional hearings and the USTR public comment procedures --**

**Shuji Hisano (Kyoto University)**

### **1. Introduction**

On December 14, 2011, a hearing on the Trans-Pacific Partnership (TPP) Agreement was held in the Subcommittee on Trade of the U.S. House Ways and Means Committee. Following opening remarks by the trade subcommittee chairman Kevin Brady and testimony from Deputy U.S. Trade Representative (USTR) Demetrios Marantis, there were representations on behalf of the private sector, including from International Business Relations Director of Cargill, Inc., Devry S. Boughner, who also represented the U.S. Business Coalition for TPP, and from Vice President of Global Integrated Sourcing and Trade for Wal-Mart Stores, Angela Marshall Hofmann<sup>1</sup>. A week previously, the USTR's request for public comment on Japan's expression of interest in the TPP agreement was noticed in the Federal Register<sup>2</sup>. A total of 115 public comments, of which 113 were submitted by January 13, 2012 and an additional 2 by February 6, have clearly revealed the scope and extent of demands from the U.S. industry, including agribusiness industry among others.

In the process of international policy-making and policy-transfer, non-governmental actors have been increasing their presence and role vis-à-vis national governments. International politics is not just a process of interactions (e.g. conflicts, negotiations, and alliances) among national governments, but also a process of diverse stakeholders' commitments, such as business communities [Braithwaite & Drahos 2000; Levy & Newell 2002], NGO/CSOs [Keck & Sikkink 1998; Colás 2002], and epistemic communities [Haas 1992]. Although the latter two groups of stakeholders are engaged in influencing policies in general, and the TPP negotiations specifically, industry organisations and corporate actors with massive material, institutional and ideological power at their disposal are overwhelming the other parties [Beder 2006; Fuchs 2007]. Actors involved in the process of policy-making are normally equipped with very asymmetric potentials of power and influence that are not constructed in discursive areas but based on different and often exclusive resources, competencies and (political) links they can dispose of [Dolata 2002; André 2007]. In this respect, I do take a critical stance towards the poststructuralist view on narrative constellations that tends to underestimate the resource- and structure-based power relations that bring the actors into position.

The main objective of this paper is to clarify how and in what way the U.S. agribusiness industry is asserting its influence in the process of policy making and negotiations on the TPP, by taking into account the characteristics of the procedures in the U.S. trade negotiations (Section 2) and business networks of influence and lobbying (Section 3). Then, I will go on to delve into the detail of what the U.S. industry and trade organisations and individual corporations have actually been demanding during the TPP negotiations, particularly in relation to Japan's commitment to the agreement (Section 4). The subtle

divergences of interests among agribusiness subsectors will be taken into consideration when analysing the details of submitted comments and relevant statements.

I have to acknowledge some limitations in this paper. In order to explore the fate of the TPP negotiations, the national and business interests in Australia and New Zealand, two other key players in agricultural trade in the region, cannot be ignored. However, due to time and capacity constraints, we need to exclude these countries from our analysis, which will be limited to the United States. Furthermore, while it is non-agricultural issues such as the deregulation of the financial and service sectors, strengthening of intellectual property rights, enforcement of investor protection, and disciplining of government procurement rules that are the focus of many of documents and statements issued by cross-sector business associations [Kelsey ed. 2010], the discussion in Section 4 is restricted to agriculture and food related industries.

## **2. U.S. Legislative Procedures for Trade Agreements**

The House Committee on Ways and Means is the chief tax-writing committee in the House of Representatives. It has a strong mandate (jurisdiction) over revenue-related issues, such as tariffs and trade agreements, social security policy and the medical insurance system. In addition to the aforementioned hearing held in the Trade Subcommittee in December 2011, the committee convened several hearings between January and April 2011. These included "*Hearing on the Pending Free Trade Agreements with Colombia, Panama, and South Korea and the Creation of U.S. Jobs*" and "*Hearing on President Obama's Trade Policy Agenda*". At the hearing on the pending FTAs held in January 2011, in particular, testimony was given by President of the American Farm Bureau Federation and written statements received from agricultural organisations and large agribusiness corporations (e.g. PepsiCo, Campbell Soup, and ConAgra Foods).

In addition to the House Committee on Ways and Means and its counterpart in the Senate, the Committee on Finance, other committees also hold similar hearings in relation to trade agreements. For example, the House Committee on Agriculture held "*Hearing to Review Market Promotion Programs and Their Effectiveness on Expanding Exports of U.S. Agricultural Products*" (Subcommittee on Rural Development, Research, Biotechnology, and Foreign Agriculture) in April 2011 and "*Hearing to Review Pending Free Trade Agreements*" in May 2011. In the former hearing, producer organisations such as the Coalition to Promote U.S. Agricultural Exports, the American Soybean Association, and the U.S. Meat Export Federation, repeatedly testified as to the importance of USDA's market promotion programmes (i.e. export subsidies), such as "Foreign Market Development Program (FMD)", "Market Access Program (MAP)" and "Emerging Markets Program (EMP)"; the producer organisations argued strongly in favour of continuation of the market promotion programmes. In the latter hearing, other like-minded organisations, such as the National Association of Wheat Growers, the National Corn Growers Association, the National Pork Producers Council, and the National Cattlemen's Beef Association, vigorously insisted on the promotion of pending FTAs that aim to undermine agricultural protection policies in importing countries. Here we observe the nature and the logic of agricultural trade "liberalisation" policy laid bare.

The legislative process in the U.S. usually proceeds via the following steps [Hornbeck and Cooper 2011]. After being introduced, a bill is referred to the appropriate committee to go through the process of Congressional approval. A bill is first considered in a subcommittee, where it may be accepted, amended, or rejected in a mock mark-ups session. If the members of the subcommittee agree to move a bill forward, it is reported to the full committee, where the process is repeated again. Throughout this stage of the process, the committees and subcommittees call hearings to investigate the merits and flaws of the bill. They invite experts, advocates, and opponents to appear before the committee and provide testimony as mentioned earlier. If the full committee votes to approve the bill, it is reported to the floor of the House or the Senate, and the majority party leadership decides when to place the bill on the calendar for consideration. If a bill is particularly pressing, it may be considered immediately. A bill must pass both houses of Congress before it goes to the President for consideration. As the Constitution requires that the two bills have the exact same wording, the bills are brought into alignment at the Conference Committee consisting of members from both chambers. The members of the committee produce a conference report, intended as the final version of the bill, then vote again to approve the conference report and present it to the Speaker of the House and the President of the Senate for their signatures. The bill is finally sent to the President. If the President agrees substantially with the bill, he may sign it into law, and the bill is then printed in the Statutes at Large. If the President believes the law to be negative, he may veto it and send it back to Congress. Congress may override the veto with a two-thirds vote of each chamber, at which point the bill becomes law<sup>3</sup>.

When it comes to trade agreements, however, there is a mechanism called "Trade Promotion Authority (TPA, also called Fast-track negotiating authority)", by which the Congress grants the authority to the President to negotiate and enter into a certain reciprocal free trade agreement. The Congress can then vote on the agreement, but without amendment. TPA originated in the Trade Act of 1974, pursuant to which it was in effect between 1975 and 1994. It was subsequently restored by the Trade Act of 2002 (Bipartisan Trade Promotion Authority Act), TPA expired on July 1, 2007. What further complicates the current situation is the fact that free trade agreements with Colombia, Panama and South Korea were negotiated and signed before the expiration of TPA, while the TPP negotiation has been carried out by the Obama Administration in accordance with TPA process but without any authority or direction to do so from Congress. At the end of February 2012, it was reported that the USTR Ambassador Ron Kirk told a congressional panel that the Obama Administration would ask lawmakers to renew TPA for on-going trade agreements<sup>4</sup>. At the Senate Hearing on Trade Agenda on March 7, 2012<sup>5</sup>, there was a discussion on the possible renewal of TPA<sup>6</sup>.

Under the Trade Act of 1974, the President must (i) afford interested persons an opportunity to present their views regarding any matter relevant to any proposed agreement; (ii) designate an agency or inter-agency committee to hold a public hearing regarding any proposed agreement; and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effects on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports<sup>7</sup>. In addition, the expired Trade Act of 2002 outlined the following procedures. Before negotiations commence, the President must conduct certain notifications and consultations that include: (i) providing the Congress, at

least 90 days before initiating negotiations, with written notice of his intent, and identifying the specific objectives for the negotiation, (ii) consulting, before and after submission of the notice, with appropriate Congressional committees such as the House Ways and Means Committee, the Senate Finance Committee, and the Congressional Oversight Group regarding any proposed agreement, and (iii) providing special consultations on agriculture and import sensitive agricultural and textile products. The President must also conduct specific notifications and consultations before and after agreements are entered into and signed, including: (i) notifying the Congress in writing of his intention to enter into an agreement at least 90 days prior to doing so; (ii) consulting with appropriate Congressional committees (same as above mentioned) regarding the nature of the agreement and any potential effects it may have on existing laws; (iii) notifying the revenue/finance committees at least 180 days prior to entering into the agreement of any potential changes to U.S. trade remedy laws that may be required; (iv) submitting private sector advisory committee reports (discussed later) to the Congress, the President, and the USTR no later than 30 days after notifying the Congress of his intention to enter into an agreement; (v) providing the ITC with trade agreement details at least 90 days prior to entering into an agreement; (vi) presenting to the Congress the ITC report on the impact of the agreement on the U.S. economy in general and in specific U.S. industries no later than 90 days after the President enters into the agreement.

Then as described above, the trade agreement needs to be reviewed, prior to the implementing bill being introduced, by the House Ways and Means Committee and the Senate Finance Committee and other interested committees. Although the agreement (as already agreed with negotiating partners) cannot be amended, the Congress is given an opportunity to investigate a draft version of the implementing bill and express their views on it in mock mark-ups. If approved in all of the aforementioned procedures and signed by the President, the bill becomes an implementing trade law.

On the basis of these Trade Act procedures, the Office of USTR notified in the Federal Register of January 26, 2009, of "*Request for Comments and Notice of Public Hearing Concerning Proposed Trans-Pacific Partnership Free Trade Agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam*"<sup>8</sup>. Of the 57 submitted opinions, 25 were received from agricultural and food-related stakeholders. After having consulted with relevant Congressional committees, the USTR notified Congress that the President intends to enter into negotiations of the TPP agreement "with the objective of shaping a high-standard, 21<sup>st</sup> century agreement with a membership and coverage that provides economically significant market access opportunities for America's workers, farmers, ranchers, service providers, and small businesses", and requesting comments concerning the proposed agreement on December 16, 2009. In response to the notice, 130 submissions were received, including 46 from agricultural and food-related stakeholders<sup>9</sup>. In addition, notifications were made requesting "*Comments Concerning an Environmental Review of the Proposed TPP Agreement*" in March 2010<sup>10</sup> and "*Comments on Negotiating Objectives With Respect to Malaysia's Participation in Proposed TPP Agreement*" in October 2010<sup>11</sup>. Then, as mentioned above, the notification to request public comments on the interest in the proposed TPP agreement expressed by the Japanese, Mexican and Canadian governments respectively was issued in the Federal Register of December 7, 2011<sup>12</sup>.

Needless to say, these three countries had not yet expressed their decision to join the TPP negotiations

formally at that time, and therefore the procedures were regarded just as a reference. When, as a next step, Mexican and Canadian governments have officially announced their participation in negotiations of the TPP agreement and the U.S. government has accepted it, then the President is to notify the Congress, and negotiations will be formally launched no later than 90 days<sup>13</sup>. Although it looks like a long way to go, any newly participating country is required to accept “unconditionally” the ground rules already agreed by the existing nine TPP countries and therefore will not likely extract any concessions, as claimed in unison by the U.S. government and stakeholders. In addition to the U.S. automotive industry that has expressed reservations about Japan’s participation in the TPP negotiations, those U.S. industry organisations that are faced with many problems concerning Japanese tariffs and non-tariff barriers are warning that Japan's participation must not delay the negotiations and bring about any concession to “a high quality, comprehensive, 21st century trade agreement”. Therefore, it is possible that once the Japanese government formally announces its intention to participate in the TPP agreement, the negotiation procedures as specified in the Trade Act could be processed immediately.

### **3. Influence of Business as a Political Actor**

It is not through public hearings and comments alone that related industry organisations are able to exert influence over the policy making processes that pertain to trade agreements and implementing bills. Indeed, there is a lot of space (opportunities and routes), in which industry associations and individual companies can wield their influence as political actors in policy making processes, especially those of international trade policy.

#### ***1) Membership of Advisory Committees***

First of all, industry associations and corporate actors regularly participate as official members of various expert advisory committees that are established by government agencies concerned with formulating international trade policies. For example, the trade-related advisory committee system, established by the U.S. Congress on the basis of Article 135 of the Trade Act of 1974 to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests, is managed by the USTR's Office of Intergovernmental Affairs & Engagement (IAPE) in cooperation with other agencies, including the Departments of Agriculture, Commerce, and Labour, and the Environmental Protection Agency<sup>14</sup>. The system consists of 28 advisory committees: (i) Advisory Committee for Trade Policy and Negotiations (ACTPN), (ii) five policy advisory committees such as Agricultural Policy Advisory Committee (APAC) and Industry Trade Advisory Committees (ITAC), and (ii) 22 technical advisory committees, including Agricultural Technical Advisory Committee for Trade (ATAC, consisting of 6 commodity groups: animals and animal products; fruits and vegetables; grains, feed and oilseeds; sweeteners and sweetener products; tobacco, cotton, peanuts, and planting seeds; and processed foods) and 16 sub-committees of ITAC<sup>15</sup>. While the more than 600 registered members of these 28 advisory committees include academics, labour unions, consumer groups, environmental groups and local governments, the membership is dominated by representatives of industry associations and private companies. In particular, it is notable that the membership of APAC includes representatives from large agribusiness companies such as PepsiCo, Tyson

Foods, ADM, and Cargill, as well as major producers and manufacturers associations such as the American Meat Institute (AMI), the American Soybean Association (ASA), the International Dairy Foods Association (IDFA), the National Oilseed Processors Association (NOPA), and the Grocery Manufacturers Association (GMA). Prominent in the membership of ATA are representatives of Coca-Cola, Kraft Foods, and General Mills. The membership list for the ATAC for Trade in Processed Food in particular, reads like a list of leading agribusiness interests. In addition, the role of the President Export Council (PEC), established in 1973 to serve as a private advisory board for trade policy of successive Presidents, is not negligible<sup>16</sup>. As part of the President Obama's "National Export Strategy" launched in January 2010, the President has appointed twenty private-sector members to the PEC which he relaunched after a hiatus. The PEC includes CEOs of Xerox and Boeing as the chairperson and vice-chairperson respectively, and CEOs of Dow Chemical, Campbell Soup, and ADM. Significantly, the PEC also includes CEOs from the services and investment sector which has become a focus of the TPP negotiations. What is problematic is that these advisory committee members have full access to an array of draft texts and an inside role in the process, as well as privileged access to government leaders, negotiators and policy makers. Indeed, as heavily criticised in the case of TPP negotiations, these "advisers" are legally barred from disclosing any detailed information about the issues being discussed in the committees [Eagleton 2006]. Formally the purpose of the PEC is to directly advise the President on "government policies and programs that affect U.S. trade performance; promotes export expansion; and provides a forum for discussing and resolving trade-related problems among the business, industrial, agricultural, labour, and government sectors" (according to the PEC's mission statement). However, through membership of the PEC, corporate actors are in a position to exert political influence on policy making processes by providing "expertise and knowledge" which ensures that their vested interests are reflected in review reports to Congress on the agenda and contents of trade agreements.

## **2) Business Lobbying Groups**

Second, a range of powerful business lobby groups have been organised to wield political influence on behalf of business interests by approaching and donating to government officials and members of Congress [Beder 2006]. In the U.S., the National Association of Manufacturers (NAM) and the Chamber of Commerce (USCC), among others, are longstanding organisations with a very broad basis including small and medium sized corporations. But, when it comes to the influence on international trade policies, the role of cross-sectoral business lobby groups led by large, transnational corporations is highly significant. The latter includes the National Foreign Trade Council (NFTC), the U.S. Council for International Business (USCIB), the Emergency Committee for American Trade (ECAT)<sup>17</sup>, and Business Roundtable (BRT). These groups work to achieve political goals through a combination of public relations and political lobbying with a strong leverage effect derived from the fact that they claim to represent broad sectors of the business community.

At the level of bilateral or regional cooperation, we also need to pay attention to the role of American Chamber of Commerce and U.S. Business Council located abroad such as the American Chamber of Commerce in Japan (ACCJ), the U.S. Korea Business Council, and the U.S. China Business Council. The Food and Agriculture Working Group of the U.S. ASEAN Business Council is chaired by Cargill and Monsanto,

while the board members of the National Center for APEC (NCAPEC), which is focused exclusively on facilitating U.S. private sector input to the APEC process, includes Cargill, John Deere, Kraft Foods, Starbucks, and Wal-Mart. These organisations have been tasked with lobbying government officials and policy makers in partner countries. In a similar vein, the APEC Business Advisory Council (ABAC) was established in 1995 to enable the private sector body of each member country to present recommendations to APEC Leaders in an annual dialogue and advise APEC officials on business sector priorities and concerns”.

These business lobby groups have played an important role in swiftly responding to the requests for public comments on the TPP and FTA negotiations, and also occasionally publicly releasing their statements and open letters on related issues. For example, in its 2009 Agenda, the ECAT allocated 7 pages (11 pages in the ECAT 2011 Agenda) to the TPP, and has continuously listed the issue at the top of its priority agendas. The ECAT has pointed out that: “TPP is a much-needed response to the proliferation of preferential trade agreements in the Asia Pacific that do not include the United States” (ECAT 2011 Agenda). As such, the TPP is perceived as an indispensable U.S. response to a possibility of being sidelined and excluded from the rapidly growing and vital Asia-Pacific markets and to fears that these regional FTAs “generally fall far short of the strong and comprehensive type of FTA that the United States negotiates, including with respect to such issues as services liberalization, investment protections and competition policy”. What is noteworthy is that since at an early stage the TPP has been viewed as “a building bloc that could eventually bring other major trading nations, such as Canada, Japan, Mexico and Korea, into a common set of rules and market-opening measures that will provide concrete and important benefits for the United States” (ECAT 2009 Agenda).

Notwithstanding the filtering and manipulation of information by the mainstream mass media in Japan<sup>18</sup>, the ECAT has unequivocally stated that the main point of TPP negotiations is not limited to market access for consumer and industrial goods and agricultural market access, but rather extends to a wide range of disputed, sovereignty-threatening issues, such as substantial openings in all key service sectors, strong rules on access, accountability and transparency in government procurement, and the promotion and protection of intellectual property rights as well as foreign direct investment (e.g. provisions for Investor-State Dispute Settlement (ISDS) mechanism). The scope and extent of the influence of ECAT and other leading business lobbying groups is partly evidenced by the fact that their views and points raised and even their texts and passages used at an early stage have been repeated in subsequent statements issued by various other business associations.

### **3) Ad-hoc Lobbying Coalitions**

Third, specifically aimed to promote TPP negotiations and ensure that trade and investment rules prioritise business interests over national and public concerns, the U.S. Business Coalition for TPP (hereafter described as the TPP Coalition) has been formed, and released the first available statement and open letter addressed to the USTR ambassador Ron Kirk in June 14, 2010, on its website<sup>19</sup>. Along with General Electric and Pfizer, Cargill and Wal-Mart are designated as co-chairs of the TPP Coalition, the members of which include Kraft Foods, Mars, Monsanto, P&G, the American Farm Bureau Federation and



the Corn Refiners Associations among other agricultural and food-related organisations. The TPP Coalition is far from the first business coalition in the U.S. and elsewhere formed to address ad-hoc policy issues. According to [Sharon Beder \[2006\]](#), who has examined the role of transnational corporate agency in social policy, “a vast network of business coalitions and groups, supported by an array of well-funded think tanks and public relations firms, proliferated during the 1980s and 1990s”, the period in which we witnessed the advent of neoliberal globalisation that has been undermining the role of national governments and democratic decision-making processes in favour of transnational business interests as described in the concept of “corporate food regime” [[McMichael 2005](#)].

While coordinating corporate/sectoral interests and enhancing the partnerships among their member corporations, these business coalitions have been acting as a class --- “transnational capitalist class” in the words of [Leslie Sklair \[2001\]](#), based on the common interests of global capital rather than a collection of competing companies---, to intervene in trade and investment policy.

For example, behind the shift of GATT/WTO negotiations from tariff barriers to non-tariff barriers, notably to services and investment rules and intellectual property rights, we cannot help but look at the role of the following business lobbying coalitions.

- i. The U.S.-based Multilateral Trade Negotiation (MTN) Coalition was formed in 1990 as part of the lobbying attempt to encourage the suspended negotiations, then succeeded by the Alliance for GATT Now in 1994, the U.S. Alliance for Trade Expansion (USTrade) in 1999, and American Business Coalition for Doha (ABCDoha) in 2005 in order to promote the multilateral negotiations and successful ratifications in the Congress [[Beder 2010](#)]. However, their organisational structure and management are usually less visible, and furthermore it is difficult to follow-up their activities in detail due to the fact that these ad-hoc coalitions usually cease to exist after achieving their political goals.
- ii. In the service sector, various coalitions have been established, such as the U.S. Coalition of Service Industries (USCSI, 1982) and the European Services Forum (ESF, 1999), as an aggressive lobbying effort to place services firmly on the global trade agenda. The conclusion of the General Agreement on Trade in Services (GATS) in the final GATT agreement in 1994 was a major victory for the services industry lobbying campaign by the USCSI [[Wesselius 2002](#)]. Since most developing countries have not made strong liberalisation commitments under the 1994 GATS agreement, the industry lobby campaigns have been re-launched in many countries, notably the ESF, to prepare for and influence the so-called GATS 2000 negotiations with the objective of increasing the number and quality of liberalisation commitments [[Eagleton 2006](#)].
- iii. Also included in the final GATT agreement was Trade-Related Intellectual Property Rights (TRIPS) despite the opposition of developing countries. It has been revealed that behind the scenes of the negotiation process, CEOs of Pfizer and IBM collaborated to persuade the U.S. government and Congress first through the advisory committee (ACTPN), subsequently through forming the Intellectual Property Committee<sup>20</sup> (IPC, 1986) in cooperation with Japanese and European industry associations so that they could organise international lobbying in Washington D.C. as well as in Geneva to include the issue in GATT negotiations [[Drahos 2002](#)].
- iv. In the agricultural and food sector, with the initiative of Yum! Brands, a group of multinational fast food

chains including KFC, Pizza Hat and Taco Bell, the U.S. Food Trade Alliance was formed in 2005, in cooperation with other food service multinationals such as McDonald's, Burger King, and Starbucks. It further evolved into the coalition of Global Alliance for Liberalized Trade in Food and Agriculture, including more than 40 agri-food industry lobby groups and producers' groups from 15 countries in order to stimulate the faltering agricultural free trade negotiations [Eagleton 2006: 30].

- v. It is well known that the USCIB organised international lobbying activities towards the realisation of the Multilateral Agreement on Investment (MAI), involving the European Round Table of Industrialists (ERT), the Japan Business Federation (Keidanren), the International Chamber of Commerce (ICC) and the OECD's Business and Industry Advisory Committee (BIAC) [Beder 2006]. Faced with massive anti-MAI campaigns organised by many NGOs across the world, the proposal was finally abandoned at the end of 1998 [Eagan 2003]. However, the basic framework of bilateral investment agreements and the know-how of negotiating investment agreements (i.e. to keep the draft in secret to the end) were learned in the process, and are now being applied in the recent bilateral investment agreements as well as TPP negotiations<sup>21</sup>.

#### **4) Other Political Tools: Instrumental and Discursive Powers**

Lastly but not least, political donations and "revolving door" practices are still important tools for individual companies and industry associations to directly and instrumentally exercise their influence on policy makers and government officials. Also, corporations are able to influence the process of producing and communicating policy ideas and framing problems and solutions to legitimise certain policy goals by funding university academics, research institutions, think tanks and policy discussion groups [Beder 2006]. This dimension of the political power of business is what Dris Fuchs [2007] has identified as "discursive power"<sup>22</sup>. Although it is beyond the scope of this study, we need to pay attention particularly to the role of neoliberal think tanks such as the American Enterprise Institute (AEI), the Heritage Foundation and the Cato Institute in setting policy agendas, while providing advice to and networking strategically with officials who are influential in areas of policy<sup>23</sup>.

#### **4. Request of the United States for agriculture-related industry**

Out of the 115 public comments concerning the announcement made by the Japanese government of its interest in joining the TPP negotiations, 47 comments relate to agriculture and food issues, while 28 out of the 124 comments on Canada and 32 out of the 94 comments on Mexico are submitted by agriculture and food-related organisations. Although there is only a slight difference in the area of concerns between the countries, it is clear that issues in the agriculture and food sector, along with the textile and apparel sector, are particularly sensitive in the negotiations. Note, however, that a variety of interests are usually represented by sectorally and geographically different organisations in the agriculture and food-related sector, resulting in the number of its trade organisations outnumbering other sectors. Although in the U.S. the American Farm Bureau Federation consisting of relatively large-scale market-oriented farms and the National Farmers Union (NFU) composed of relatively small and medium-sized family farms are largely representing the voices of American farmers as a cross-sectoral organisation<sup>24</sup>, their unionisation rates are

not necessarily high compared with those of Europe and Japan [Fukuda 2008]. More attention needs to be paid to the fact that not only major agribusiness corporations including grain trade and processing companies such as ADM and Cargill and agricultural input companies such as Deere and Monsanto, but also major food processing and food service companies such as ConAgra Foods, Kraft Foods, and McDonald's on the demand side of agricultural products, are affiliated with some commodity-based producers' organisations as regular members or supporting members. At the same time, commodity producers and their trade organisations sometimes have the membership of some industry associations organised by major agri-food corporations. In this regard, we can assume that varying interests of the agriculture and food sector have been adjusted and reconciled by major agri-food corporations, while also contributing to cross-sectoral industry associations, to increase their overall clout to influence policy processes (Table 1).

### ***1) Some Conflicts within the Agrifood Sector***

As a whole, agriculture and food related industries along with others have urged the U.S. government and its TPP partners "to move forward decisively and ambitiously" so that a final TPP agreement can be reached as soon as possible. Also they stress that the inclusion of Japan would "enhance the significance of the TPP and make the agreement much more encompassing", and therefore they largely welcome Japan to the negotiations. However, they at the same time express their sense of caution about a possible delay and compromise in the negotiations undermining the comprehensiveness of the agreement. In the meantime, it has turned out that there were several conflicts within the sector when 63 agri-food companies and organisations were preparing an open letter of December 5, 2011, issued to the USTR Ambassador Ron Kirk and the USDA Secretary Thomas Vilsack respectively in the aim of promoting the participation of Japan in the TPP negotiations.

One of the conflicts exposed during the process can be seen in the case of the American Soybean Association (ASA, hereafter ASA-soy in order to differentiate from ASA-sugar). Indeed, the ASA-soy did not sign the letter partly because it was sensitive to "possible adverse effects" on U.S. soy exports that could stem from Japan joining the TPP<sup>25</sup>. It is ironic that soy meal exported to and used in Japan to feed its livestock would be compromised if the Japanese livestock industry which is still viable due to trade barriers is displaced by the increase of beef exports from the U.S. under the TPP trade deal. In the statement submitted to the USTR public comments, however, the ASA-soy has changed its stance and now supports Japan's inclusion in the TPP on the ground that the removal of Japan's barriers to U.S. livestock exports "would offer substantial new opportunities to expand U.S. exports to Japan of dairy, pork, beef and poultry products", whereby demand for soybeans as a major component of feed rations would expand accordingly<sup>26</sup>. Also, the ASA-soy has calculated that Japan's reform efforts under the TPP framework to make its farmers more efficient and competitive will mean continuing to have access to low-cost feeds, and therefore Japan will continue to import soybeans from the U.S. for processing. However, it seems a state of delicate balance between the actual conflicts in their nuanced expressions as in the case of the American Feed Industry Association saying that: "The U.S. would ultimately be exporting more feed to Japan in the form of value-added products such as meats and dairy products, and those sales would benefit the U.S. feed, livestock and poultry industries, and their customers"<sup>27</sup>.

Another example of the nuanced conflicts within the agri-food sector is revealed between the National Milk Producers Federation (NMPF) and the American Sugar Alliance (ASA-sugar) on the one hand, and the U.S. Dairy Export Council (USDEC), the Sweetener Users Association (SUA), the National Confectioners Association (NCA) and the Grocery Manufacturers Association (GMA) on the other. That means there have been conflicts between those who produce agricultural raw materials in internationally a less competitive way and therefore feel threatened by free trade deal with Australia and New Zealand in particular, and those who use and process raw materials and therefore want to source them internationally at a lower cost. According to an article released by the weekly journal of *Inside U.S. Trade*, the agri-food groups adopted “a softer tone than they had in earlier drafts of the letter”<sup>28</sup>. For instance, they set no explicit preconditions for Japan’s entry into the negotiations in the final version of the letter, though they had previously planned to demand Japan not to exclude any sectors from the TPP trade deal. This was because the tougher language was resisted by some letter signatories such as the NMPF, who has been urging USTR to exclude U.S.-New Zealand dairy trade from the TPP by insisting that they cannot compete against “the uniquely anti-competitive situation in New Zealand whereby one company there controls over 90% of the country’s milk production and more than 40% of global dairy trade in key product areas”<sup>29</sup>. Instead of using the term “no exclusions”, the final letter only stated that one important issue to be tackled before a decision on Japan can be made is whether Japan “recognizes and accepts that TPP must be a comprehensive agreement”. This terminology is ambiguous enough to be interpreted several ways. It is said that simply because an agreement is “comprehensive” does not necessarily mean that all products will be subject to complete liberalisation as argued in the Korea-U.S. free trade agreement (in which rice market access has been excluded, but still described as a “comprehensive” agreement) and therefore acceptable for the NMPF and the like<sup>30</sup>. The USDEC shares the concern of the NMPF and demands the USTR to exclude the U.S.-New Zealand dairy trade deal unless there could be created a level playing field for dairy products. Despite similar concerns expressed by the ASA-sugar, however, the SUA, the NCA, and the Coalition for Sugar Reform who represents “consumer, trade, and commerce groups, manufacturing associations, and food and beverage companies that use sugar, as well as the trade associations for these industries”, are demanding the elimination of the USDA’s sugar price support programme and lobbying for the introduction of “the Free Market Sugar Act”, insisting that: “The current U.S. sugar policy puts sugar-using companies at a severe disadvantage. We are forced to pay artificially inflated prices that seriously hamper our ability to be profitable and to invest back into our business”<sup>31</sup>. The SUA additionally justifies its demand to eliminate U.S. barriers on sugar by referring that the sugar exclusion from Australian additional market access in the U.S.-Australia FTA “despite warnings this would lead other countries to seek exclusions in future FTAs” has actually lead to, for example, the rice exclusion from the U.S.-Korea FTA that is “denying U.S. rice producers access to the Korean market”, and the SUA describes this as “a valuable lesson” to be learned by U.S. trade negotiators<sup>32</sup>. The comment by Wal-Mart is more straightforward, saying that: “we believe it is imperative that the U.S. government hold itself to the same standard it demands of its trading partners by offering meaningful market access in potentially sensitive areas to the U.S. such as textile, dairy and sugar”<sup>33</sup>.

In spite of these nuanced differences and conflicts, the announcement of interest by Japan in joining the

TPP negotiations has been largely welcomed by even the organisations of these sensitive products, mainly because it would “offer important new market access opportunities for U.S. dairy exports, as well as a wide range of other agricultural products and the U.S. economy as a whole”<sup>34</sup>.

On the other hand, there is another concern expressed by the U.S. beef industry. According to the *Inside U.S. Trade* article, the U.S. beef industry favours a “low-key approach in terms of its demands because it does not want to arouse public opposition in Japan to letting in more U.S. beef imports, or create the impression that the U.S. is pressuring Japan on this issue”<sup>35</sup>, while at the same time the National Cattlemen’s Beef Association (NCBA), the American Meat Institute (AMI) and the U.S. Meat Export Federation (USMEF) continue to put massive pressure on Japan to increase its access for U.S. beef exports especially in relation to its age restrictions imposed in the wake of BSE outbreak. In this regard, it is interesting to see that Wal-Mart mentioned in its comments that: “We believe, however, that the Administration should not be so cautious and deliberative about new members as to undermine the desire and will of acceding countries to join the TPP. A TPP that is too difficult to join (either by demanding pre-negotiation of issues or limited participation in the negotiations process) will not deliver on the full promise of the pact”<sup>36</sup>. Cargill also gave a comment on the issue with respect to food export embargo: “TPP economies should exhibit necessary leadership and express through a binding commitment that food is not a weapon. The agreement should provide for free flow of exports across the region”. Here, Cargill did not explicitly frame the food embargo issues in the language of food security, but this is arguably related to a food security concern faced by food importing countries like Japan. Needless to say, this framing of and solution to food security concern is based on the neoliberal corporate food regime [McMichael 2005], i.e. a food security fulfilled by trade liberalisation (i.e. eliminating both tariff and non-tariff measures to facilitate free trade) and by structural adjustment of the domestic agricultural sector (i.e. concentration to small number of large-scale producers who are “efficient” and “productive” in narrowly defined economic terms), as echoed in the written testimony by Cargill’s international business relations director Mr. Boughner, who mentioned that: “we see a strong TPP agreement as important to the increase of global food security because it reduces barriers to moving food from places of surplus to places of deficit”<sup>37</sup>.

In the same line of arguments, Cargill along with the North American Grain Export Association (NAEGA) and the National Grain and Feed Association (NGFA) claim the inclusion of an “innovative technologies working group” in the TPP as a forum to address trade issues related to technology and agriculture, including “low-level presence (LLP) of biotech products and labelling issues”. By so doing, as well as by establishing a “science-based regulatory framework” based on the WTO SPS and TBT agreements, it is expected to increase and facilitate trade in agricultural products produced with agricultural biotechnology (i.e. genetically modification), which are regarded by them to be a top priority with respect to “the challenges facing global agriculture and energy supplies in the future”<sup>38</sup>.

## **2) Individual Interests and Demands of Key Sub-sectors**

Let us take up some of the business interest that seems to be characteristic of an individual sub-sector.

First, there are a lot of claims against Japan’s remaining high tariffs and demands for their immediate removal, in anticipation of expanding U.S. exports to Japan, one of the biggest markets in the region. For

example, Japan is one of the largest export markets for U.S. dairy products (forth behind Mexico, Canada and China in 2011), but according to the dairy sector organisations their access to the Japanese market is still tightly restricted in most product areas due to its “significant tariff barriers” including approximately 25 to 35% of the ad valorem tariffs, “a complicated quota system” and mark-up price system managed by the Agriculture & Livestock Industries Corporation (ALIC), as well as non-tariff restrictions such as the food additive approval system and health certificate requirement<sup>39</sup>. Similarly, the USA Rice Federation, the global advocate for all segments of the U.S. rice industry, complains that, despite the fact that Japan consistently ranks as the second largest export market for U.S. rice, its potential to export more rice from the U.S. has been restricted by the limited amount of TRQ (tariff-rate quota) import commitment (approximately 7-8% of domestic consumption) required under the WTO agreement and “a prohibitively high” out-of-quota duty (set at ¥341 per kilogramme, or about six times the FOB price of U.S. rice shipped to Japan). The USA Rice Federation warns that any exception of tariff lines from the TPP negotiation will weaken the benefits of a prospective agreement to the United States<sup>40</sup>.

Second, even in the pork sector, in which Japan is the largest value market and the second largest volume market in the world for U.S. pork exports, the National Pork Producers Council (NPPC) claims that a “Gate Price” system imposed by Japanese government has severely restricted imports of many lower and medium-priced pork cuts<sup>41</sup>. Japan also heavily relies on the U.S. for soybeans and soy meal imports with zero-duty TRQ, making Japan the U.S. soybean industry’s third largest country (after China and Mexico) while ranked 7<sup>th</sup> for U.S. soy meal export destination. However, the National Oilseed Processors Association (NOPA) claims that due to 6.5% and 7.6% of the ad valorem rates imposed on refined and crude soybean oils respectively Japan remains ranked only 20<sup>th</sup> for U.S. soybean oil<sup>42</sup>. The Corn Refiners Association (CRA) also targets remaining high tariffs for starch-based sweeteners (glucose, dextrose and high fructose corn syrup) and strictly limited TRQ for unmodified starch, although lower or zero tariffs are already implemented for most refined corn products<sup>43</sup>.

Third, there are many claims concerning the SPS requirements that have been one of contentious non-tariff barrier issues for some time. With regard to rice, testing for maximum residue levels (MRL) of approximately 800 chemicals and testing for the presence of the genetically modified trait of Liberty Link 601 rice are required on U.S. rice as a condition of entry<sup>44</sup>. The USA Rice criticises these measures as unscientific and non-tariff barriers to be removed. In addition, BSE related restrictions (i.e. the age limits) on U.S. beef imports, MRL sanctions on U.S. potato imports, and “rigorous” pest treatment process required for the import of apples and cherries are raised as concerns by respective producer organisations as well as food processing and service companies.

Fourth, remaining high tariffs on processed food items have also drawn much attention. The NCA requests the elimination of the high tariffs of 10-25% on U.S. confectionery within five years, while the GMA has raised the SPS and TBT related issues including regulations on the use of ingredients, additives and processing aids so much as to be regarded by the GMA as “unnecessary restrictive and overly influenced by activist views”, emphasising that: “Should any of the new partners openly express opposition to any of the specific ‘plus’ text put forward by the U.S. which is strongly supported by GMA companies and others, GMA would be reluctant to support that country’s candidacy going forward”<sup>45</sup>. The American Frozen Food

Institute (AFFI) expresses dissatisfaction by citing the fact that Japan, with a total food and drink market of \$635 billion, imports “only” \$11.1 billion of U.S. food and agricultural products. By referring to the increased food exports to Canada under the NAFTA, the AFFI shows the expectation that: “Eliminating Japanese non-tariff barriers to trade for U.S. food imports alone would represent new opportunity for the frozen food industry”<sup>46</sup>.

Fifth, comments from Yum! Restaurants International (Yam! Brands’ international arm), which operates more than 1,500 KFC and Pizza Hut restaurants in Japan, are very suggestive and inclusive<sup>47</sup>. Concerns for the company include both tariff and non-tariff barriers that restrict the import of a number of ingredients used in their restaurants. By referring specifically to frozen fries, fresh and processed cheese, frozen raw chicken cut, and prepared corn in particular, the company estimates that eliminating these tariffs would allow the company to import “tens of millions of dollars of additional products from U.S. producers for its restaurants in Japan”. When it comes to non-tariff barriers, the company requests the USTR to put additional pressure on Japan to deregulate or eliminate BSE related restrictions of U.S. beef, avian flu related restrictions on U.S. poultry, pesticide residue sanctions policy on U.S. potatoes, and lengthy, cumbersome and unnecessary procedures required for new active ingredients. On the other hand, Wal-Mart Stores Inc., which operates the network of more than 9,700 stores in 28 countries worldwide and has launched business in Japan through its subsidiary Seiyu (since 2002), submitted its comments with a focus on “inefficient and collusive distribution networks” based on its own experience in struggles to enter the market before acquiring Seiyu, along with remaining high tariffs on staple goods such as rice, dairy and other food products such as fish, citrus, red meat, etc. and excessive inspections required for apples. The company has also been involved in lobbying activities in the service sector through the Coalition for Service Industries (CSI) and the like, though covering it is beyond the scope of this paper.

Sixth, despite assumptions that CropLife America (CLA), representing the U.S. plant science (agrochemical) industry, would mention the issue of GMO mandatory labelling, comments actually refer to the problem of intellectual property rights. This is probably because its organisational configuration is different to that of CropLife International (CLI), which is controlled by transnational agro-biotechnology companies such as Monsanto, Syngenta and DuPont. The CLA comments positively on Japan’s willingness to take part in the TPP negotiations by reasoning that Japan’s commitments (as well as those of Canada and Mexico) to implement and enforce IPR “must be leveraged with those of the existing TPP countries”. Also, the association’s comments draw attention to the freer foreign investment flows and stronger protection of investors, “transparent, effective, enforceable and mutually coherent” regulatory systems, and conditions for fair competition in relation to the so-called state-owned enterprises (SOEs).

Lastly, I have to refer to the comments submitted by the Organic Trade Association (OTA)<sup>48</sup>. It is estimated that the organic food market grew 8% while the mature market of other foods only experienced 0.6% growth in 2010; especially U.S. organic exports are an important driver for the U.S. organic sector with its exports of all organic products at \$1.7 billion in 2009, contributing to well-paying jobs and incomes generated throughout rural economies; and relatively higher margins on exports are also beneficial to small- and medium-sized organic companies. However, we should be reminded that many organic companies have gone through acquisitions by major food processors such as Heinz, Kellogg, Kraft Foods,

PepsiCo and Campbell Soup, who actually have a stake in the OTA behind its member list of more than 1,130 small- and medium-size organic companies<sup>49</sup>. The interest of these major food companies is not in the realisation of environmentally-sound and locally-oriented sustainable agriculture, but rather aimed at profiting from the rapidly growing organic market and export opportunities. The OTA complains that inconsistencies and duplication of procedures between the U.S. National Organic Program (NOP) and the Japan Agricultural Standards (JAS) certification for organic products “discourage any attempts to cultivate Japanese markets by small- and medium-size U.S. organic companies”. It also regards Japan’s implementation of a zero-tolerance residue policy for pesticide and exclusion of NOP-approved materials as trade restrictive barriers. The association’s concerns and demands mentioned beforehand are not significantly different from other “conventional” industry associations<sup>50</sup>.

## **5. Conclusion**

It should be noted that the above-mentioned issues requested by U.S. agri-food groups and companies concerning Japan’s possible inclusion in the TPP negotiations largely but not exclusively overlap with those listed in a series of annual reports that the USTR submits to the Congress, such as “National Trade Estimate Report on Foreign Trade Barriers”, “Report on Sanitary and Phytosanitary Measures (SPS Report)” and “Report on Technical Barriers to Trade (TBT Report)” that have chapters dedicated to each contesting country, including Japan. In this way, these industry concerns have been raised publicly but anonymously. By analysing in detail those public hearings and comments made, statements released, and open letters issued by relevant agri-food trade organisations and companies, however, all the dots are now connected and identified. Despite some conflicting interests among sub-sectors of sensitive products that are usually at a competitive disadvantage with Australia and New Zealand, and also despite some nuanced differences between sub-sectors whose products have penetrated into the Japanese market and those whose exports to Japan have been restricted, it is obvious that Japan’s participation in the TPP is considered indispensable and positively awaited in order to achieve meaningful gains from the market under the TPP Agreement. It is worthy of attention that, because of the significance of the Japanese market to be included in the TPP, there have been some nuanced and moderate approaches by advising caution in making excessive demands for Japan which could undermine Japan’s willingness to join the TPP, or by bringing into arguments the idea of “food security” with a concern of importing countries like Japan in mind. At the same time, however, there are found to be clear and strong messages that Japan’s participation should not lead to any delay and compromise in the TPP negotiations, putting pressure on U.S. negotiators not to give any room for renegotiation and compromise to possible new members.

Due to limited space and time, this paper has been focused exclusively on agriculture and food related issues and therefore short of elucidating the interests of industry in services, intellectual property rights, public procurement, and investment related issues<sup>51</sup>. While it is evident that agreements on these issues would benefit multinational companies [Wallach 2012b], what impacts it has on the U.S. domestic industry, especially employment, is not necessarily clear. According to the U.S. Chamber of Commerce, it is estimated that nearly 18 million U.S. jobs depend on trade with its FTA partners, 5.4 million of which have been



created by the increase in trade unleashed by the free trade agreements<sup>52</sup>. The USDA estimates that every \$1 billion worth of agricultural exports supports 9,000 jobs and generates an additional \$1.4 billion throughout the U.S. supply chains of agricultural products<sup>53</sup>. Whether they are true or not, the TPP and other FTAs are viewed by the Obama Administration as a key policy to achieve the objectives of its "National Export Strategy": namely to double the export and create 2 million jobs for the coming five years (2010-15). This is why the phrase of "job creation" is always included in the title and outline of public hearings and other official documents. However, negative impacts of FTAs on people's livelihoods and local economies have already been experienced by many in the NAFTA. In fact, scepticism and criticism against the TPP and FTAs have spread among trade unions, civil society organisations and family farmers' organisations in the U.S. and other TPP member countries, providing the potential to raise public awareness and anti-TPP movements beyond the national borders<sup>54</sup>.

It has become clear that the TPP agreement encroaches on policies and institutions related to national and peoples' sovereignty. However, the content and processes of the TPP negotiations are being kept secret from the public (and even to legitimate lawmakers) and will not be disclosed to the public for up to four years after the conclusion of the agreement. This undemocratic process of negotiations has attracted intense criticism [Wallach 2012a]<sup>55</sup>. Notwithstanding the secrecy with which the negotiations are being conducted, representatives (lobbyists) from major companies and industry organisations are given access to the "confidential" official documents and share the information regularly with negotiators (high rank officials) of member governments as laid out in the Section 3. These lobbyists are not just privy to the process and outcomes of negotiations, but are also wielding direct and indirect influence over the policy setting agenda, and generating "knowledge" to be reflected in policy documents [Beder 2006].

Although these kind of arguments might be dismissed as "non-academic", political economy bears the responsibility of analysing interactions between economic actors/processes and political actors/processes theoretically and empirically, and therefore now is the time for us to play this significant role to do so.



## References

- Andrée, P. (2007) *Genetically Modified Diplomacy: The Global Politics of Agricultural Biotechnology and the Environment*, Vancouver: UBC Press.
- Beder, S. (2006) *Suiting Themselves: How Corporations Drive the Global Agenda*, London: Earthscan.
- Beder, S. (2010) "Business-managed Democracy: The Trade Agenda". *Critical Social Policy*, Vol.30, No.4, pp.496-518.
- Braithwaite, J. and Drahos, P. (2000) *Global Business Regulation*, Cambridge: Cambridge University Press.
- Buck, D., Getz, C., and Guthman, J. (1997) "From farm to table: The organic vegetable commodity chain of Northern California". *Sociologia Ruralis*, Vol.31, No.2, pp.3-20.
- Colás, A. (2002) *International Civil Society: Social Movements in World Politics*, Cambridge: Polity Press.
- Dolata, U. (2002) "Book Review: Governing Molecules. The Discursive Politics of Genetic Engineering in Europe and the United States: Herbert Gottweis, The MIT Press, 1998". *Research Policy*, Vol. 31, Issue 7, pp.1214-1215.
- Drahos, P. (2002) *Information Feudalism: Who Owns the Knowledge Economy?* London: Earthscan.
- Egan, D. (2003) "Global Capitalism and the Internationalization of the State: Some Lessons from the Defeat of the Multilateral Agreement on Investment". A paper submitted for *the International Conference on the Work of Karl Marx and Challenges for the 21st Century*, Havana, May 5-8.
- Eagleton, G. (2006) *Under the Influence: Exposing undue corporate influence over policy-making at the World Trade Organization*, Johannesburg: ActionAid International, January 2006.
- Fuchs, D. (2007) *Business Power in Global Governance*, Boulder, CO: Lynne Rienner Publishers.
- Fukuda, Ryuichi (2008) "Agricultural Interest Group's Opinion about Recent U.S. Free Trade Agreements". *Journal of Agricultural Policy Research*, No.14, pp.37-66 [in Japanese].
- Guthman, J. (2004) *Agrarian Dreams: The Paradox of Organic Farming in California*, Berkeley: University of California Press.
- Haas, P. M. (1992) "Introduction: epistemic communities and international policy coordination" *International Organization*, Vol. 46(1): 1-35.
- Hornbeck, J. F. and Cooper, W. H. (2011) "Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy". Congressional Research Service, April 7, 2011.
- Jordan, S. (2010) *A Comparison of the Conventionalisation Processes in the Japanese and Australian Organic Sectors*. A PhD thesis submitted to Hokkaido University, February 2010.
- Keck, M. E. and Sikkink, K. (1998) *Activists Beyond Borders: Advocacy Networks in International Politics*, Ithaca, NY: Cornell University Press.
- Kelsey, J. ed. (2010) *No Ordinary Deal: Unmasking the Trans-Pacific Partnership Free Trade Agreement*,

Wellington: Bridget Williams Books.

Kelsey, J. (2011) "TPP As Lynchpin of U.S. Anti-China Strategy". *Scoop News*, November 21, 2011.

<http://www.scoop.co.nz/stories/WO1111/S00588/tpp-as-lynchpin-of-us-anti-china-strategy.htm>

Levy, D. L. and Newell, P. J. (2004) *The Business of Global Environmental Governance*, Cambridge, MA: The MIT Press.

McMichael, P. (2005) "Global Development and the Corporate Food Regime". In: F. H. Buttel and P. McMichael, eds., *New Directions in the Sociology of Global Development*, Oxford: Elsevier.

Rich, A. (2004) *Think Tanks, Public Policy, and the Politics of Expertise*, Cambridge University Press.

Sklair, L. (2001) *The Transnational Capitalist Class*, Oxford: Blackwell Publishers.

Stone, D. (2000) "Non-Governmental Policy Transfer: The Strategies of Independent Policy Institutes". *Governance: An International Journal of Policy and Administration*, Vol. 13(1): 45-70.

Wallach, L. (2012a) "A Stealth Attack on Democratic Governance". *The American Prospect*, March 13, 2012.

<http://prospect.org/article/stealth-attack-democratic-governance>

Wallach, L. (2012b) "NAFTA on Steroids". *The Nation*, July 16-23, 2012.

Wesselius, E. (2002) "Behind GATS 2000: Corporate Power at Work". Amsterdam: Transnational Institute.

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<sup>1</sup> The full text of these remarks and testimonies are available on the following website:

<http://waysandmeans.house.gov/calendar/eventsingle.aspx?EventID=271573>

<sup>2</sup> Office of the United States Trade Representative, "Request for Comments on Japan's Expression of Interest in the Proposed Trans-Pacific Partnership Trade Agreement", *Federal Register*, Vol.76, No.235, December 7, 2011, Notices, pp.76476-76479 [FR Doc No: 2011-31322].

<sup>3</sup> It is said that any clause of free trade agreements that is not beneficial to the U.S. (business) interests could be regarded as invalid on the ground that it would contradict the U.S. Constitution, which "superiority" is stipulated in the implementation laws of each free trade agreement. This is remarkable as we know that the U.S. government always negotiates for a trade agreement that is highly binding and providing other governments with less room to manoeuvre.

<sup>4</sup> The full text of Ron Kirk's testimony is available on the following website:

<http://waysandmeans.house.gov/calendar/eventsingle.aspx?EventID=281489>

<sup>5</sup> The full text of committee members' statements and Ron Kirk's testimony and the video of the whole hearings and discussions are available on the following website:

<http://www.finance.senate.gov/hearings/hearing/?id=100a5535-5056-a032-5221-cd749e768acf>

<sup>6</sup> We have to be reminded that even the FTAs with Colombia, Panama and South Korea, which were signed by the Bush administration with a valid Trade Promotion Authority and therefore supposed to be voted without modification by the Congress, faced with a difficulty in the process of political accommodation. The White House eventually could enact those FTAs by urging the Senate majority Democrat to promote the ratification of the FTA implementation laws on the condition of the renewal of a trade adjustment assistant (TAA) programme, which is aimed to provide job training and employment search services, as well as income and insurance assistance to workers who have lost jobs due to the effects of international trade, while at the same time urging the House majority Republican to ratify the TAA law on the condition of the promotion of the FTA implementation laws. However, due to a bipartisan compromise on the TAA, there seems less room to persuade less internationally competitive industry sectors and labour unions to support the TPP that will surely and negatively impact on them.

<sup>7</sup> According to the USITC News Release 12-087, August 7, 2012, the investigations "U.S.-Trans-Pacific Partnership Free

*Trade Agreement Including Canada and Mexico: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports*” were requested by the U.S. Trade Representative (USTR) in a letter received July 19, 2012. The USITC was expected to submit its confidential report to the USTR by November 19, 2012. The USITC was also scheduled to hold a public hearing in connection with the investigations on September 12, 2012.

<sup>8</sup> *Federal Register*, Vol.74, No.15, January 26, 2009, Notices, pp.4480-4482 [FR Doc No: E9-1515].

<sup>9</sup> The full text of these public comments are available on the following website with a search for “USTR-2009-0002”

<sup>10</sup> *Federal Register*, Vol.75, No.57, March 25, 2010, Notices, pp.14479-14481 [FR Doc No: 2010-6653].

<sup>11</sup> *Federal Register*, Vol.75, No.202, October 20, 2010, Notices, pp.64778-64779 [FR Doc No: 2010-26332].

<sup>12</sup> *Federal Register*, Vol.76, No.235, December 7, 2011, Notices, pp.76478-76481, for Japan [FR Doc No: 2011-31322], Mexico [FR Doc No: 2011-31317], and Canada [FR Doc No: 2011-31318].

<sup>13</sup> According to this procedure, President Obama formally announced to invite Mexico (June 18, 2012) and Canada (June 19, 2012) to join the TPP negotiations. The Administration shortly notified the Congress of its intent to include Mexico and Canada in the TPP negotiations. The notification has triggered a 90-day consultation period with the Congress on U.S. negotiating objectives with respect to those two countries.

<sup>14</sup> <http://www.ustr.gov/about-us/intergovernmental-affairs/advisory-committees>

<sup>15</sup> ITAC’s subcommittees include: 01- Aerospace Equipment; 02- Automotive Equipment and Capital Goods; 03- Chemicals, Pharmaceuticals, Health Science Products and Services; 04- Consumer Goods; 05- Distribution Services; 06- Energy and Energy Services; 07- Forest Products; 08- Information and Communications Technologies, Services, and Electronic Commerce; 09- Non-Ferrous Metals and Building Materials; 10- Services and Finance Industries; 11- Small and Minority Business; 12- Steel; 13- Textiles and Clothing; 14- Customs Matters and Trade Facilitation; 15- Intellectual Property Rights; 16- Standards and Technical Trade Barriers.

<sup>16</sup> <http://www.trade.gov/pec/>. Although the PEC includes members from both Congress and Government officials, it is representatives of the private sector (corporate CEOs) who are playing a crucial role.

<sup>17</sup> The ECAT is an association of the chief executives of leading U.S. business enterprises with global operations.

<sup>18</sup> The rhetoric employed by Japanese mass media and the mainstream business federation “Keidanren” is aimed to manipulate what is actually argued in the TPP negotiations and to turn it into a matter of free trade of goods. Then, various false dichotomies have been presented, such as: (i) “98.5% vs. 1.5%” discourse: based on the fact that Agriculture GDP as share of total GDP is 1.5%, but the reality is that the agricultural sector in general has a multiplied effect over broad areas of local economies and bears ecological and cultural multifunctional values. (ii) “Open to vs. isolation from global economies”: based on the fact that some of agricultural products such as rice are protected with relatively high tariffs and non-tariff regulations, but the reality is that Japan heavily and exceptionally depends on food import (food import dependency is more than 60% on a calorie basis): i.e. already too much open to the global market, and if compared to other food-importing developed countries such as South Korea, Norway and Switzerland, Japan’s average tariff rate for agricultural products is low, and rather comparable with food-exporting countries. (iii) “If not join the TPP, Japan would get left behind other Asian countries” discourse: based on the fact that ASEAN countries and South Korea are very active in free trade agreements, but the reality is that the relationship among ASEAN countries has been destabilised due to individual TPP deals with the U.S. and therefore major ASEAN economies such as Thailand and Indonesia are sceptical of the TPP and keep a distance from it. It is also argued that Japan’s FTA policy is left behind South Korea’s rather aggressive FTA policy. However, it is meaningless to compare the level of trade dependency ratio to GDP between Korea and Japan since the latter has relatively huge domestic market, while extremely high trade dependency makes Korean economy unstable when the global economy goes into decline. Furthermore, it is manipulatively described that the agricultural sector is the biggest hurdle for “benefiting” free trade, global economy. In addition to these attacks on the agricultural sector, the cooperative, health-care, and postal service sectors come under the lash of the mainstream mass media and Keidanren. Such a situation has triggered massive anti-TPP campaigns with an extra effort to criticise the role of mainstream mass media, analyse the historical and structural backgrounds of TPP and reveal its hidden agenda and probable impacts on the people’s living conditions. For example, Noubunkyou [Rural Culture Association Japan] ed. (2011) *TPP-to Nihon-no Renten [TPP and Points of Contention for Japan]*, Tokyo: Rural Cultural Association Japan; Hagiwara, S. (2011) *Nihon-no Kouzou ‘Kaikaku’-to TPP [Structural ‘Reform’ of Japan and TPP]*, Tokyo: Shinnihon Shuppansha; Nougyou-to-Keizai [Agriculture and Economy], Extra Edition on TPP, May 2011; Nougyou-to-Keizai [Agriculture and Economy], Special Issue on TPP, May 2012; Tashiro, Y. ed. (2012) *TPP-Mondai-no Shin-Kyokumen [A New Phase of TPP Issues: Reasons to Stop TPP]*, Otsuki Shoten. All of these are published in Japanese.

<sup>19</sup> U.S. Business Coalition for TPP, “TPP Coalition Expresses Strong Support for TPP Negotiations: Urges U.S. and TPP

Negotiating Partners to Complete a Comprehensive and High-Standard Agreement by 2011”, News Release, June 14, 2010.

<sup>20</sup> The IPC was an ad hoc coalition of 13 major US corporations: Bristol-Myers, DuPont, FMC Corporation, General Electric, General Motors, Hewlett-Packard, IBM, Johnson & Johnson, Merck, Monsanto, Pfizer, Rockwell International and Warner Communications.

<sup>21</sup> Jane Kelsey describes the TPP as being “the Multilateral Agreement on Investment on steroids” in an interview with Sam Varghese, “TPPA ‘threatens national sovereignty’”. *iWire*, October 21, 2011.

<http://www.itwire.com/opinion-and-analysis/open-sauce/50568-tpa-threatens-national-sovereignty/50568-tpa-t-threatens-national-sovereignty?limitstart=0>

<sup>22</sup> Fuchs describes discursive power as “the capacity to influence policies and the political process as such through the shaping of norms and ideas” [Fuchs 2007: 139], whereby political authority and legitimacy are increasingly acquired by business actor.

<sup>23</sup> Think-tank is generally defined as a group of people with experience or knowledge of a particular subject, who work to produce ideas and give advice. However, several political scientists define it in a different way, for example: “Think tanks attempt to influence or inform policy through intellectual argument and analysis rather than direct lobbying” [Stone 2000]; “Rather than organisations committed to objective analysis of policy problems, think tanks have become organisations that turn experts into advocates and policy information into ammunition” [Rich 2004].

<sup>24</sup> There is also the National Family Farmers Coalition (NFFC) representing family farm and rural groups with a close relation with a growing international food sovereignty movement. The NFFC as well as the NFU are opposed to the on-going FTAs and TPP that do not learn any lessons from NAFTA.

<sup>25</sup> Inside U.S. Trade, “U.S. Food, AG Groups Express Eagerness for Japan to Join TPP Talks”. *Inside U.S. Trade*, Vol.29, No.48, December 9, 2011.

<sup>26</sup> Comments by the ASA-soy, January 13, 2012 [Docked# USTR-2011-0018-0014]; Inside U.S. Trade, “American Soybean Association Pushes to Allow Japan into TPP Talks”. *Inside U.S. Trade*, Vol.30, No.2, January 13, 2012.

<sup>27</sup> Comments by the AFIA, January 13, 2012 [Docked# USTR-2011-0018-0076]

<sup>28</sup> Inside U.S. Trade, op.cit., December 9, 2011.

<sup>29</sup> Comments by the NMPF, January 25, 2010 [Docked# USTR-2009-0041-0026].

<sup>30</sup> Inside U.S. Trade, op.cit., December 9, 2011.

<sup>31</sup> The Coalition for Sugar Reform, “The Coalition for Sugar Reform Applauds U.S. Reps. Pitts and Davis for Introduction of Bipartisan Legislation: The Free Market Sugar Act”, April 6, 2011. The ASA-sugar expresses its concerns that: “Granting of duty-free treatment to sugar imports from TPP countries (notably Australia, as well as some potential participants in Southeast Asia and Oceania... inserted by the author) would clearly be ruinous to the U.S. sugar industry and would make operation of the domestic sugar program, mandated by Congress in the Farm Bill, impossible.... The United States is already the world second largest net importer of sugar and has committee to importing no less than 15% of its needs. In many years, that percentage is higher. As a matter of national food security, the remaining U.S. sugar industry should not be put at risk”.

<sup>32</sup> Comments by the SUA, January 13, 2012 [Docked# USTR-2011-0018-0024].

<sup>33</sup> Comments by Wal-Mart Stores, Inc., January 13, 2012 [Docked# USTR-2011-0018-0113].

<sup>34</sup> Comments by the NMPF, January 13, 2012 [Docked# USTR-2011-0018-0037].

<sup>35</sup> Inside U.S. Trade, “AG Groups, Auto Companies at Odds over Japan Entering TPP in Near Term”. *Inside U.S. Trade*, Vol.29, No.45, November 18, 2011.

<sup>36</sup> Comments by Wal-Mart Stores, Inc., op.cit.

<sup>37</sup> Written Testimony of Devry S. Boughner, Director of International Business Relations, Cargill, Inc., before the U.S. House of Representatives, Committee on Ways and Means, Trade Subcommittee, December 14, 2011. In this regard, it is interesting to see the comments by the ASA-sugar on the TPP and probable economic effect of providing duty-free treatment for imports before the ITC, March 2, 2010 [Investigation Nos. TA-131-034 / TA 2104-026], saying that: “The United States is already the world second largest net importer of sugar and has committed to importing no less than 15% of its needs. In many years, that percentage is higher. As a matter of national food security, the remaining U.S. sugar industry should not be put at risk”. This kind of food security discourse is exactly as same as what the Japanese Ministry of Agriculture has long been insisting in international negotiations.

<sup>38</sup> Comments by Cargill, Inc., January 13, 2012 [Docked# USTR-2011-0018-0111].

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- <sup>39</sup> Comments by the NMPF, op.cit.
- <sup>40</sup> Comments by the USA Rice, January 13, 2012 [Docked# USTR-2011-0018-0075].
- <sup>41</sup> Comments by the NPPC, January 13, 2012 [Docked# USTR-2011-0018-0073].
- <sup>42</sup> Comments by the NOPA, January 13, 2012 [Docked# USTR-2011-0018-0039].
- <sup>43</sup> Comments by the CRA, January 13, 2012 [Docked# USTR-2011-0018-0089].
- <sup>44</sup> Comments by the USA Rice, op.cit.
- <sup>45</sup> Comments by the GMA, January 13, 2012 [Docked# USTR-2011-0018-0044].
- <sup>46</sup> Comments by the AFFI, January 13, 2012 [Docked# USTR-2011-0018-0100].
- <sup>47</sup> Comments by Yum! Restaurants International, January 13, 2011 [Docked# USTR-2011-0018-0063]; Please note that the network of Yum! Brands restaurants in Japan is owned and operated by Mitsubishi Corporation, which established KFC Japan jointly with US KFC (part of Yum! Brands, Inc. since 2002) in 1970, bought out Yum! Brands' stake of the joint subsidiary in December 2007. Despite this background, Yum! Restaurants International calls the Japanese network of KFC and Pizza Hut restaurants as "its" restaurants. Given the significance of "brand" values in the food services industry and also the fact that KFC Japan is never beyond a licensee of Yum! Brands, this is understandable.
- <sup>48</sup> Comments by the OTA, January 13, 2011 [Docked# USTR-2011-0018-0098].
- <sup>49</sup> Phil Howard; Stephanie Strom, "Has 'Organic' Been Oversized?" The New York Times, July 7, 2012. Heinz once owned Hain Ceresttial Group, who itself has acquired many organic companies, divested in 2005.
- <sup>50</sup> The studies by [Buck, Getz, and Guthman \[1997\]](#) and [Guthman \[2004\]](#), among others, provided a framework to consider the organic sector from the point of view of agribusiness and off-farm capital on organic production, in rule setting, intersectoral dynamics and agronomic practices. They coined and used the term "conventionalisation" to describe the processes by which an organic farming sector reproduces the most salient features of the conventional modes of farming or is to a degree subsumed into conventional agro-food commodity chains [[Jordan 2010](#)].
- <sup>51</sup> Therefore it is quite probable that even if common interests among agribusiness industry could be confirmed, they are still part of the entire "capitalist class" who eventually aggregates different interests and incorporates them into the national and inter-national agreements. At the same time, however, as [Kelsey \[2011\]](#) has assumed and warned that the driver of the proposed TPP agreement has little to do with commercial gain than to do with revival of U.S. geopolitical and strategic influence in the Asian region to counter China's ascendancy by isolating and subordinating China in part through setting up a U.S.-defined, region-wide legal regime.
- <sup>52</sup> U.S. Chamber of Commerce, *Opening Markets, Creating Jobs: Estimated U.S. Employment Effects of Trade with FTA Partners*. May 14, 2010.
- <sup>53</sup> For example, see the Statement by Thomas Vilsack, Secretary of Agriculture, Before the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Committee on Appropriations, U.S. Senate March 2, 2010.
- <sup>54</sup> The Citizens Trade Campaign (CTC), a U.S. national coalition of environmental, labour, consumer, family farm, religious, and other civil society groups founded in 1992 to improve the North American Free Trade Agreement (NAFTA), is actively engaged in anti-TPP campaigns. Public Citizen, a national, non-profit consumer advocacy organization founded in 1971, is also active on the issue through its division of Global Trade Watch. These organisations are closely collaborating with their counterparts in Australia (AFTINET), New Zealand (TPP Watch), and other TPP participating countries.  
<http://www.citizenstrade.org/ctc/trade-policies/tpp-potential-trade-policy-problems/>  
<http://tppwatch.org/>
- <sup>55</sup> It is not only civil society organisations and advocacy groups that have criticised the secrecy of the TPP negotiations. Even members of Congress are raising their concerns while leaked TPP text on investment and intellectual property clearly show the dangers of negotiations.