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MODERNIZING TRADE RULES:  
THE TPP AND BEYOND

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## PROCEEDINGS

MS. SOLÍS: Good morning, everyone. I'm Mireya Solís, I'm the Knight Chair in Japan Studies. And it's a pleasure to welcome all of you this morning to a program we have on modernizing trade rules in the world economy.

Almost two years ago, 12 countries signed the Trans-Pacific Partnership Trade Agreement. An essential goal for the negotiators was to modernize trade rules given that they had not been updated at the multilateral level with the WTO unable to conclude the Doha Round.

However, the goal of the TPP was also broader, it was about disseminating trade rules, so that other countries could use this to enact domestic reforms, and China clearly was a country that was in the mind of the negotiators.

Now, the American withdrawal from the Trans-Pacific Partnership Trade Agreement a year ago represented a major setback, there's no question about it, but it was not an insurmountable obstacle. Just last week, the remaining 11 countries were able to reach a final agreement, and now we have what we call the TPP-11, or the Comprehensive and Progressive TPP. So, many labels now attached to this resurrected trade agreement.

So, the TPP disciplines our life, and they are influential because they also serve as benchmarks to other ongoing trade negotiations, for example, their attempt to modernize the North American Free Trade Agreement.

So, today we have gathered a panel of top experts to discuss the opportunities and challenges of disseminating TPP's standards in two critical areas of the world economy, the digital economy, and Internet governance, and competitive neutrality and state-owned enterprises.

The United States and Japan at this moment, do not share membership in the TPP, but they do share the goal of advancing, of disseminating these disciplines.

So, the plan for today for this panel as follows. First, we are going to discuss why rules on state-owned enterprises and digital economy are so important. Also, what was

accomplished in the TPP, but also what was left out, what is the next frontier, if you will? And very importantly, I've asked all the panelists and they have consented to discuss, in which ways could Japan and the United States continue to collaborate in advancing these rules even though they are navigating in a very different environment.

Now, since you want to hear from the panelists and not me, let me just very briefly introduce them. I'll just identify them, and then I'll ask them to come to the podium in that order.

Joshua Meltzer is a senior fellow in the Global Economy and Development Program here at Brookings; Maki Kunimatsu is chief policy analyst at Mitsubishi UFJ Research and Consulting, and also a visiting professor at Chuo University. Amy Porges is the Principal of Porges Trade Law, PLLC; and Tsuyoshi Kawase is professor at the Faculty of Law, Sophia University, as well as Faculty Fellow at the Research Institute Economy Trade and Industry.

So, we have a very exciting program, if I can ask Josh to come to the podium. Thank you.

MR. MELTZER: Great, thanks. Thank you. Thanks for that introduction Mireya. It's great to be here, and what a great timing, in fact, given that the president has made TPP potentially relevant, at least to talk about in this country.

So, I'm going to talk briefly about the digital trade, dimensions of the TPP. I'm probably just going to spend a little bit of time and give you a brief overview of why this matters for the U.S., and globally in terms of the internet and data flows of what's happening on a global level. And then we'll have a look at some of the trade rules around the Internet economy, and where the TPP, and now the CPTPP has made progress.

So, you know, importantly, the expansion of global data flows is being very significant, this picks up really the notion of the flow of data between some of the key nodes in the system, just looking at submarine cables and essentially, you know, the capacity that's on these cables, and really just sort of shows that you can see between the U.S. and essentially the EU,

we've had the most significant capacity installed, and data flows are really twice what they are between other parts of the world, but the growth in data flows now is very much between the United States and Asia, China and Japan, and the like.

So, just a couple of obvious data points around the fact that we've had a very significant Internet growth and access globally through approximately, half the world is online, but obviously that means another half remains offline, and there's a sort of a big digital gap there in that respect. The people that are getting online in a mobile capacity so that's well understood in terms of the penetration of mobile phones and smart phones, and that's in the developed and the developing world.

I think importantly, it's to think about this very much as an economy-wide opportunity where there's a lot of debate and discussion about, you know, the very large Internet companies, Google, Microsoft, Amazon, and obviously they are very significant players in the space, but the benefits from use of the Internet and data is very much an economy-wide phenomena.

For instance, the United States International Trade Commission who looked at this in detail, in the context of the U.S. economy came up with the conclusion that about 75 percent of the gains from the Internet are for the United States economy were not in the IT sector. You know, they are in manufacturing; they are in agriculture, services, retail and the like. And a lot of this is having very significantly important impacts on international trade, and how international trade is conducted. And I'll talk about that in a little more detail.

There is no fixed definition of actually what is digital trade. This is just one definition which has come out of the WTO e-commerce work program, and the work in the WTO is very focused on this notion of e-commerce, rather than this broader notion of digital trade, but, but I sort of wanted to highlight this notion of, you know, digitally enabled trade, or the way data flows enable trades.

So, we are talking not only about essentially, you know, the capacity to sell things online, but we are also talking about how data enables a whole range of activity, which then contributes to the international trade, so maybe through improved productivity and competitiveness which makes companies more competitive. We are going to talk a little bit about how the new digital services are very global in nature, and they are very much part of digital trade as well.

So, you know, another challenge with this issue at the moment is that the actual measurements on the importance and the impact of the Internet and data in economic growth, on jobs, on productivity, on trade, is sparse. Part of that really just stems from the fact that statistics agencies do not collect this data, it's very difficult to collect at one level because of the economy-wide impact this is having.

And there's a lot of work underway, and international organizations will get a better handle on this, and so I've just picked up a couple of statistics here. You know, this is the McKinsey Global Institute assessment about the impact of global data flows and global GDP, which comes out with a very large figure there around 3.5 percent, NTAB recently released their report on the digital economy, and they focused on the e-commerce part of it.

There's 23 trillion, it's not the digital trade element that's actually e-commerce sales, internally and cross border, they manage to sort of pass out what they thought was the business-to-consumer element which is actually the very small part of e-commerce sales anyway. And that was, you know, close to 190 billion, and the number is obviously significantly larger if you factor in B2B sales, and that's really just e-commerce. But it gives you a sense that, you know, this is becoming a very significant part of digital trade.

So, you know, I mentioned it previously, but it's worth underscoring, really the key driver and importance of this for our countries and economies is going to ultimately be the impact on innovation and on productivity.

So, if you look at, say, for instance, in the United States, certainly one of the key

productivity drivers in the 1990s was through investment in information communications technology, and the notion is that, you know, a couple of decades later, we are really into a data-driven economy and that's where a lot of the gains are going to be from innovation and productivity.

Now, there's a big debate obviously around why productivity numbers are low and, you know, why this hasn't flown through into improved productivity, and it's a global phenomena. And I'm not going to go into that in much detail now, but I mean, certainly that's the notional understanding of what the importance of this is in terms of, you know, the impact on economies and on trade.

I think it's worthwhile diving in a little bit, just to understand how business has used data in a little bit more detail to get a sense also of the cross-border nature of things.

So, cloud computing, for instance, which is essentially, you know, providing distributed access to computing power, whether it's sort of applications, or services or infrastructure globally, so you have, you know, data centers which might be located in various parts of the world, but essentially you can be anywhere and you can have access to all these types of digital services.

And it's actually quite high to sort of overstate the importance, I think, of cloud computing on the way it's transforming, essentially, the computing and the IT landscape, and how businesses work and are enabled. In many respects, if you think about the telecommunications revolution which has gone from, you know, fixed to mobile and the impact that's had on lives and on growth, I mean, cloud computing might be of that magnitude.

You can a business of any size today, you know, situated almost anywhere, and you can get online and have access to the type of computational power that large businesses only had access to.

So, you know, the benefits are potentially very significant here. The United States

of course, actually in this field in particular, is very dominant, and so this is a real sort of growth opportunity for the United States businesses as well.

There is the Internet of Things, and a lot of this actually I should say is actually increasingly based on cloud computing, but the Internet of Things is essentially the idea that the centers are increasingly embedded in things, which is then basically sending data back to, you know, centers where it's being recorded and analyzed from new insights. And there's multiple applications this, and this is only the beginning really.

You've seen the thing used quite widely, and we've all had experience of it with FedEx, for instance, where you can track, you know, what's happening with whatever you've bought off Amazon. But, you know, this is a global phenomenal where supply chains are being managed, you know, very accurately using RFID devices and understanding, essentially, you know, the movement of goods in and out of warehouses, and allowing just-in-time manufacturing, and this type of thing.

But increasingly, we are wearing, you know, sensor-enabled technologies on our people. If you have a Fitbit, for instance, that's an Internet of Things device that's sending your data back, which is being analyzed, and you can imagine the applications that are going into the homes, into smart cars, and the like. And this is going to generate enormous amounts of data over time.

So, this is a big data phenomena, which is essentially, you know, the idea here is not all new, but it's basically the gathering of large amounts of data, like datasets which are being sort of larger than what we've sort of been used to analyzing before, and the application of analytics to that data to generate insights.

So, the big data is not really the new thing, it's the ability to drive insights from them. In some respects it's the capacity to aggregate datasets across borders, you know if you are doing medical trials and you can actually have populations that you can sort of do trials in

different parts of the world, and you can derive insights a lot more rapidly, and the like. But certainly this has been used by governments, it's been used by researchers, it's been used by businesses, and it's very much a global phenomena.

So, taking this into a sort of a more formal digital trade, thinking about it, the way I sort of think about this is in terms of four major transformations. And, you know, that is the idea that it's having an impact in terms of the ability to be on platforms, to sell online, on the services, on essentially, services value-added in manufacturing, or "servicitation" of goods, and we can talk about that in global value chains.

So, digital platforms is probably the most straightforward one, you know, you can be on eBay, you can be Alibaba, you can be on Etsy, you can be a MercadoLibre, and you can be a small business, and you can be reaching customers globally and immediately. And so you basically can become an exporter, and you can become global in a way that was not possible before, and this is really having a significant impact, particularly on how small businesses can engage in international trade, and it's sort of sometimes referred to as this democratization of international trade.

And it's a good data which actually supports this opportunity for SMEs, and not just in the developed world, but this very much a global phenomena, you know, whether we are in India, or in China, or in Europe, you know, this is actually happening.

Trade and services can obviously be increasingly, you know, delivered online, so you can think about your professional services, you can be an architectural service, you think about when you download software, you'll get access, increasingly, to a whole range of services over the Internet; and so the Internet has created this new opportunity for that to happen globally.

Global value chains, in a sense we spoke about this a bit in terms of the use of, you know, radio frequency identification devices, the RFIDs, tracking and tracing. But you think about basic things like communication, email, I mean a lot of what's enabled global value chains



and the disaggregation of production, has been information communications technology, as being the Internet, as being data flows globally, and that continues to be the case.

There's an interesting question about, you know, as we move into this increasing transition from goods into services, whether we are going to see more localization, and have what that impact of global value chains can be, but certainly at the moment, it underpins a lot of this global production.

And the digitization of goods is really sort of a transformative thing, which is going to affect trade, but it's going to affect production broadly, and this is to some extent, the idea of smart manufacturing, you know, Germany has got their Platform Industry 4.0, there's the Industrial Internet Coalition in the United States, which is really looking at how data and Internet connectivity is completely transforming the manufacturing space. And turning a lot of what is being the value of manufacturing, that's increasingly coming from the sort of overlay digital services, rather than the actual goods production.

You can think of an extreme example like 3D manufacturing, where, you imagine the scaling of that technology, and essentially, you know, the trade in goods becomes a trade in the design to 3D printer located in another country, who then prints the good actually close to the location of the customer.

But you think about, for instance, you know, a large goods producer, for instance like Caterpillar in the United States which produces, you know, what is undoubtedly a major good which gets exported globally. You know, Caterpillar provides now a whole range of essentially over-the-top services, they monitor their machines in real time, they provide analysis about how it's being used in terms of grading.

They can determine when parts need to be replaced before they actually break down, and communicate with relevant factories and have those parts delivered to where those machines are, so then meaning, less downtime. So, they are in a sense beginning to sell solutions

rather than goods.

Rolls Royce, for instance, you know, which manufactures jet turbines sells now packages which are based on the hours in the air that the plane is, rather in purchasing the jet engine, per se, so they basically provide a solution, which is a payment based on how many hours a plane flies, which is, you know, includes servicing, and maintenance, and monitoring the airplane, and making sure that, you know, downtime is minimized, and the like. So, you can see how this is transforming business models as well.

So, just briefly, while we've got a fairly open Internet into the global data flows, what we are dealing with is an increasing environment where there are barriers and restrictions to the movement of data globally. To some extent, it's the opportunity to becoming global governance of paying a lot more attention to what this means in terms of their regulatory agendas.

There's various other concerns about, for instance, Iran has got the Halal Internet, you know, which prohibits access to particularly content which it deems, you know, offensive to Islam. You know, China blocks, apparently, 11 of the top 25 global websites and up to 3,000 websites are blocked in China, for various political and commercial reasons. You've got security concerns overlaid with that, where governments increasingly feel that they need data to be local, whether it's law enforcement agents getting access to data in case of law enforcement issue, you know, concerns about other governments snooping on their citizen's data, and the like.

And so we are seeing a whole range of measures being proposed and introduced globally, which is actually having the impact that data is being increasingly restricted and less global.

So, what have we got in terms of international trade rules? Well, the World Trade Organization's rules which were negotiated really in the late '80s, early '90s, before the Internet was -- you know, anyone was thinking about it, it doesn't directly deal any of these, but notwithstanding that, there's actually a lot of content in those rules which are relevant for digital

trade.

And I've sort of listed out here probably some of the main ones, and the general agreement on trade and services is probably most significant partly because we've had some appellate body decisions, which is confirmed that essentially, when you've made a commitment on a market access that includes the delivery of that service online.

So, a lot of the market access commitments that countries have made under the GATT also includes, you know, digital delivery of that service, and so there's that. There is essentially a commitment on the free flow of financial information in the WTO as well.

The Trade Facilitation Agreement, which came into effect last year, which is the latest, I guess plurilateral agreement that they did is important, because it really simplifies customs procedures which is important when you think about small business selling goods online, and you think about the movement of small-value goods and customs becomes very important.

The Information Technology Agreement, which reduced the price of technology used to enable Internet access, and a lot of these digital services has gone down, because of the WTO, and that's been an important. Intellectual property is increasingly a key enabler of the digital economy. We go back to the smart manufacturing example, and you're trading in a design, I mean, essentially, you're trading in an IP right.

So, you know, when you download software, you are to some extent trading in a license, so you need effective intellectual property rules really to underpin a lot of these new movement of digital services. The telecommunication annex is being contributing to the competition of telecommunications market, and the cost of Internet access, TBT agreement from the standard perspective, and there's been an ongoing agreement among WTO members for moratorium on application of customs duties to electronic data.

So, the U.S. has obviously also got a whole range of free trade agreements and, you know, they have all had e-commerce chapters which has a range of commitments there which

have been relevant for digital trade. You know, basically, this is what they've done. They've sort of, you know, there has been nondiscrimination between digital products, there's been actually a recognition of the importance of privacy, there's been a commitment rather than this ongoing moratorium, and actual commitment on the electronic commerce side.

There are commitments around paperless trading, consumer protection online, and the Korea FTA which is sort of the large FTA before the TPP sort of do an important step forward around commitments to the free flow of data but it was not sort of a complete buy-in, the commitment was really one of best endeavors in a sense.

So, the Trans-Pacific Partnership, the U.S. really led a major effort to beef up rules on digital trade in that agreement. And the outcome was, you know, very significant, and this is not a complete list, I just wanted to pull out some of the main ones, the ones that I consider most significant, so there's a commitment in there now to the free flow of information globally.

So this gets at this issue that data flows globally are really important for, you know, the right trade is conducted, the way businesses are conducted, subject through a GATT's Article XIV style exception, and we can talk about that. There is commitment to know -- to avoid data localization requirements, again subject to an exception.

There's a commitment around not disclosing source code, on this condition of market access or investment. There's a recognition of the importance that everyone has Internet access and use of applications of their choice, and they sort of expand on the privacy issue and talk about, essentially saying, look, everyone is going to go and approach privacy differently. It's got to be robust, it's got to be stronger, these regimes need to be interoperable, and we need to work towards that.

Of course all these FTAs have got commitments, you know, in intellectual property standards, competition policy, you know, this is a broad agenda and other elements of the trade agreements matter, but we won't go into that detail now.

And so that leads me to the latest iteration, the Comprehensive and Progressive. I actually kind of wish I hadn't called it that, because I'm not sure what they'll call it if the U.S. rejoins, as it's no longer comprehensive and progressive, but I'm just going to call it the TPP.

And really what that did, was they suspended provisions, right, so they haven't actually excised these provisions. I'm not actually sure what suspended quite means but, you know, it seems to signal that they are open to these provisions coming back into force under the right circumstances, and one would assume that is when the U.S., if it does decide to rejoin at some point.

And I picked out just a couple. I mean there's actually a whole in there that's suspended, just to sort of highlight some where they are suspended and which are relevant to the digital part. So, there's no extension to copyright terms, there's no new protection to rights management information, which is, again, a copyright issue and no obligations to have Safe Harbor.

And Safe Harbor, which we all know, is a Digital Millennium Copyright Act in the United States which is the sort of balanced between what Internet service providers are meant to do, to take down a notice for hosting copyright infringing material, and the like.

And you know, so the U.S. is -- these are not there, now it has to be said, a lot of these are already in the United States bilateral FTAs, and the U.S. has got bilateral FTAs with, I think, it's six of the TPP-11, that are left over.

So, it's rally, you know, there's no FTA with Japan, you know, there's no FTA with Vietnam, with Malaysia, so there are some countries where those do not apply. So, I don't think, from a U.S. perspective, it's terrible at this stage. We've obviously now got the NAFTA negotiations, where the latest report is 90 percent of the Digital Trade Chapter has been agreed, that's not surprising given that they've already agreed to the Digital Trade Chapter now in the CPTPP, which obviously makes it a party too.

And one would assume that, you know, largely, what we saw in the TPP is going to get reflected in the NAFTA negotiations, so I think this will be next iteration, where we actually see U.S. participation. I'll leave it at that. Thank you. (Applause)

MS. KUNIMATSU: Good morning. It's a great honor of mine to join you this morning. Thank you, Mireya and the Brookings Institution, and this distinguished panelist, namely: Amy, Joshua, my esteem friend Tsuyoshi Kawase, and all participants.

This morning, I'm going to discuss how we should develop trade rules for digital economy and Internet governance. For this sake, first I will go through recent phenomena in regulatory policies in several countries. And second, will look into the TPP E-Commerce chapter on the final issue -- that there are several fora in which the U.S. and Japan can cooperate, and to contribute to disseminate TPP and develop beyond TPP rules for the digital economy.

After the year 2010, or even within a couple of years, we have been observing several countries introducing the new regulations and policies that would give a negative impact for free flow of data; measures including the restriction of a cross-border data flow, data localization, prohibition of data processing abroad, source code requirements and standard assessment for essential goods and equipment.

These measures appear in a variety of forms, little laws are easier to the marketplace while in transparent proxies will give uncertainty on the policy announcements, sometimes will give on foreseeability in case there is no information of concrete timing of enforcement. Each measure has different target data, such as barometrics, or to a public domain, data came out from publicly from data researches.

There was a roadmap, for example, focusing on M2M, machine-to-machine data only for localization in India. Targeted play or measures also vary, these couple of years over the top service providers in addition to Internet service providers or telecommunication service providers becoming in the scope. I'm sorry, I'm dropping that.

(Discussion off the record)

Thank you very much for your patience, now I'm back. Here we go. Well, Asian countries including China have laws and regulations and the policy papers that include data localization that you have to put your server in the countries, or restrictive measures for cross-border flow of solid data. Some of them are sector specific, such as financial sector or health care sector, while others are horizontal in nature, and have the broader scope.

While some of the measures might be regarded as digital protectionism, of course there are certain measures necessary to fulfill legitimate public policy objectives. We basically share the notion of balance between policy objectives, and the acceptable exemptions, from existing trade agreements, including that Article XX, like Joshua listed up, we basically agree that at least we need certain measures to protect privacy, consumer, national security, public order, intellectual property, competition, and so on.

So, accumulation of the WTO dispute cases help to draw the line of balance between protectionism and policy objectives. Also, agreement on the WTO and chapter of FTAs provide issue-specific and sector-specific legitimacies. Such as the improvements in financial services sector.

The important challenge in front of us for future rulemaking is to identify acceptable measures, acceptable in the sensible combination of full scope subject methodology process which is not more bothersome, or harmful for digital trade, that's necessary to achieve our policy goals.

For this sake, our team over at Mitsubishi UFJ Research and Consulting, which is a private think tank I belong to in Japan, is now working on mapping measures of selected countries, as a part of many projects to help, and to find the balance between legitimate policy objectives, and protectionism.

The study is yet underway, and now we are learning different types of measures,

some of them are already within the scope of the TPP, and others fall the traditional GATT or GATT services agreements, or FTA chapters. Therefore, provisions of existing trade agreements are still effective to deal with the discipline for digital transactions.

Also, we find that there are certain blank or empty spots in our map, where we could encourage other countries to keep it as it is. Not to introduce additional regulations. Our interview and the questionnaire surveys to the business sectors in Japan and abroad finds that the business sectors prefer the scope of measures as limited as possible, or as clearly defined as possible of course, to achieve the cross-border business and creating new business models.

Sharing of successful business models by using involvements without restrictive measures may encourage countries stepping back from introducing new measures. APEC, or Asia and Pacific Economic Cooperation may be appropriate place to do this kind of exercise.

Last week in Tokyo, Head of Delegates agreed to sign the TPP-11 Agreement in forthcoming months as Mireya introduced. And the result amendment of the TPP Chapter 13, that provides the most of advanced set of rule to govern e-commerce. The e-commerce chapter is based on years of works in several international fora; TPP is the first FTA to successfully include mandatory rules for data free flow, data localization, and the source code. These we call three principles of TPP e-commerce chapter in Japanese trade community.

As we are observing measures consistent with these principles, have been introduced or are under preparation of introduction by non-TPP countries, dissemination of TPP principles will be a challenging and urgent task. There are still issues in TPP E-Commerce chapter, however, this is a wonderful chapter but still have challenges, especially some exceptions of obligations in data free flow, and data localization provisions give large discretion to the government of each member.

Legitimate public policy objective can be a rationale for exceptions so that legitimacy has to be further identified. This end of our provisions are also legally rich, there are



also questions regarding effectiveness of coverage, dispute settlement function, private sector contribution to TPP.

While several countries are introducing new measures, it is essential for U.S. and Japan to improve and disseminate this e-commerce chapter of TPP, or a notion, or a spirit of TPP E-Commerce chapter. For this sake, each channel and forum would be fully used in accordance with characteristic trade. So, the current text of TPP has some challenges, we can expect it would be developed in a better shape by going through negotiations and discussions in different international fora including other FTAs.

We have successful experience of upgrading sets of rules in trade agreements. For example, WTO had communication agreement with reference paper, which is a competitive -- a pro-competitive paper, but a rather simple, and had unclear definitions when it was put into force in '90s, actually 1997.

Step-by-step after that, through the phase of negotiations of FTAs and works on the international fora the set of prohibitions was upgraded, and now have clearer definitions and stronger functions to govern the new situation, not appeared at the time of the WTO negotiations; such as number of portable leave, for example, or international mobile roaming.

Let's expect the wisdom of the negotiators, and the interested parties including private sector for development of e-commerce chapter, and digital trade rule. Given the multilayered trade rules, and the multi-channeled external economic policy, it is effective to seek all possible ways to disseminate favorable rule for U.S. and Japan.

Bilateral economic cooperation between the U.S. and Japan is one of the fora that could aim to achieve TPP Plus with less discretion. Other FTAs both newly-negotiated and reviewed, dialogue channel will be fully used for Japan, all except which is among 12 countries, on the Japan-Chin-Korea dialogue are ongoing, so they can be also used.

WTO countries to be -- WTO continue to be important, as the digital economy is

relevant to almost all the agreements activities under WTO. Development of work would be expected under the new initiative, on the electronic commerce declared by WTO ministers in December last year.

APEC has been an innovator to develop software such as CBPR, Cross-Border Privacy Rules, and the new trade agreements such as IDA, in the '90s, '80s, and appropriate forum for U.S.-Japan Cooperation Initiative. This year APEC Papua New Guinea put an emphasis on digital.

Concrete outcome is expected among different positions of APEC economies, open cyberspace oriented U.S. and Japan, and also manage cyberspace oriented other members on the digital divided focus, and so on.

So, that's the end of my presentation. Thank you very much for your presence.  
Thank you. (Applause)

SPEAKER: You will need these --

MS. PORGES: Okay. There's still time. I have no PowerPoint, and I will try to keep this short. So, I'm here to talk about the state-owned enterprise chapter of TPP. As we all know the WTO is stuck, all the action and trade negotiations and trade liberalization is now in FTAs, and I'll start with a punch line.

The state-owned enterprise chapter in TPP was also one of the most popular innovations in TPP, and I think it's been very influential from the moment it was -- the U.S. first tabled its proposal, in October 2011, there was great interest by other governments, it's come up in other FTA negotiations, other governments are thinking: how can we do this too? Because it's a common problem, it's a widespread problem.

I think the TPP approach to it isn't flawless, it can be improved upon, and it will be in NAFTA. I think this has been a very successful example of policy entrepreneurship by the U.S. Government, and it's going to become a standard subject in ambitious FTAs.

And including, the other really good news is that the TPP-11, that is the Comprehensive and Progressive TPP adopts -- it's a really elegant design where you have an umbrella agreement which simply incorporates the TPP text into it by reference, minus some provisions that are suspended, and the suspended provisions don't include the SOE chapter. So, basically everyone's on board, all the governments, even those that were initially, you know, somewhat reluctant.

So, I'm going to start with where the TPP, SOE Chapter came from. It actually came from the U.S., it came actually from the U.S. private sector, and I think the business support for this chapter is one of the secrets for why it has had this kind of sustained support.

In 2010 service industries in the U.S., other industries, manufacturing as well, were quite concerned about a rising presence of state-owned industries in the global economy, and specifically their effect on markets for services in various countries in East Asia; including China, India, Vietnam, elsewhere. So the idea; the effective government favoritism for their own SOEs, such as, let's say, insurance providers that used to be owned by the government. Okay? SOEs and national champions made it really hard for foreign service companies to compete.

And this was a concern for a broad spectrum of the mainstream U.S. business community, and these concerns exist today, you'll hear about them from Professor Kawase, they are a little different but they are still there. It was also the considered opinion of the business community the existing rules weren't doing the job.

GATT has had from the beginning, something called Article XVII, on state-trading enterprises, it isn't really aimed at the kind of state-owned enterprise that we have now. It's mainly classically -- it's something about -- something like a grain trading company, a single desk trading company like the Canada Wheat Board, but even in dealing with that, it hasn't really delivered good results.

So, it has a loose obligation to act in a manner consistent with the general

principles of nondiscriminatory treatment, and a loose obligation for enterprises like that to make purchases or sales solely in accordance with commercial considerations, but nobody -- the GATT doesn't really define what that means, and the jurisprudence has been, let's say, disappointing.

So, meanwhile, the OECD has been working on a concept called Competitive Neutrality. First of all, in Australia the idea that government business activity shouldn't enjoy net competitive advantages over their private competitors just because they're owned by the government.

Competitive neutrality, and the OECD work of course has been very influential but you know, it's not binding. It wasn't creating the kind of binding norms that the business community was interested in. So, in 2010 the Coalition Services industries decided to collaborate with the U.S. Chamber. They, on a policy initiative, Charles Levy, the Counsel to the CSI, and I were the Counsel to this initiative, which eventually folded in the informal collaboration of the other mainstream, broad-based business community organizations.

The Chamber and CSI put out a report in early 2011, and started talking it up, they met with various parties, interested parties in Washington, in the government, and the report had identified the problem, which was distortion of competition created by foreign government policy measures, favoring state-owned enterprises and state-supported enterprises, that were sponsored as national champions.

And the thing was the report proposed that we needed no rules. We needed new rules, and where were those rules going to be taking place; in the TPP. By then, by 2010, the Obama administration decided to go for the TPP as part of its strategic pivot to Asia. A strategic pivot to unite East Asia as an alternative to the Chinese narrative, that's what it was all about. To make ambitious trade rules for the 21<sup>st</sup> Century, that would compete with China.

So, U.S. FTAs had already dealt with state-owned enterprises in Singapore, Korea, more seriously Singapore FTAs, and even in NAFTA, but we wanted something new, we

wanted something more serious and we proposed that they do it at TPP. Not just because it was the main -- the only game in town, but also because the TPP includes some economies that are definitely -- they are in transition, or not in transition for the major state presence in the economy, like Vietnam, Malaysia, and Singapore.

So, there was a good argument that state-owned enterprise provisions could make market access more meaningful in the long run. So, the administration decided they like the idea, there was also support by the steel industry, and also labor for this concept, it was very helpful. There was bipartisan interest on the Hill, bipartisan, and eventually in the LIMA Round in October 2011, USTR tabled the text in the competition sub group, and then negotiations began. It took some time to get liftoff.

When Canada and Mexico joined in December 2012, it made a huge difference because they were very actively interested. Japan joined in 2013 and proved to be a really good partner on this issue, because of the concerns of the Japanese Government, which you'll hear about from Professor Kawase.

And finally, after a lot of false alarms, TPP closed. So, where are we at now? So, this final -- Just, I'll talk about what's in the chapter. The final chapter is I think a genuinely new type of trade discipline. It's not great; it's not perfect, because it had to allow for the defensive interest of all those 12 governments at the table.

It's not perfect, and in fact, the defensive interest included the United States, to some extent. We've met the enemy, and he is us, right. It happens. But it's there, and the thing is, the architecture is there and it can be built upon. We now know how to do this kind of obligation, and we can do it better the next time.

So, the parties have agreed to ensure that their state-owned enterprises make their commercial purchases in sales on the basis of commercial considerations. And then here's the caveat, except when doing so it would be inconsistent with public service mandate. They also

agreed to ensure that their state-owned enterprises or designated monopolies don't discriminate against the enterprises goods or services of other parties.

And these are obligations that bind the governments to order their -- the governments are bound to ensure that their state-owned enterprises deliver on these obligations. Remember the governments themselves are bound by separate obligations in the TPP Agreement not, themselves, to discriminate. You know, so these extend on those nondiscrimination obligations elsewhere in the TPP.

The chapter also has a negative list architecture that is it has a set of basic rules with some broad exceptions, and then it provides for exemptions that are bargained out by each country, for a list of nonconforming activities of state-owned enterprises.

So, again, more exceptions, right, but the thing is the basic rules and the availability of these specific -- country-specific, issues-specific exceptions, they affect each other. The fact that you can have nonconforming activities made it possible to have more ambitious basic rules. There is a tradeoff there.

So, the first question is: what is a state-owned enterprise? What's the scope? The chapter applies to the activities of state-owned enterprises and designated monopolies, but only activities that in fact trade and investment between the parties within the TPP. The state-owned enterprises, and enterprise, it is principally engaged in commercial activities in which the party -- okay, and it's limited to SOEs where the party directly owns over 50 percent of the share capital.

Or controls through ownership interests, exercise of more than 50 percent of the voting rights, or holds the power to appoint the majority of Members of the Board, or any other equivalent management body. So, it doesn't cover minority-owned SOEs, it doesn't cover enterprises that have, let's say, a golden share, one golden share held by the government, for instance in Singapore. And this is a weakness, right. It's not perfect, but we can do better later.

And it also doesn't cover, very importantly; it doesn't cover enterprises, or companies that are not principally engaged in commercial activities like, for instance, hospitals. Nobody wanted to cover hospitals, nobody. So, there is a separate category of designated monopolies covered by this, these are privately-owned companies that are given a monopoly right to buy or sell or good or service.

And they also include monopolies that are owned or controlled by a TPP government. So, these are the new entities that are covered by this chapter. It really expands disciplines on these entities, at least potentially. So, the parties have to ensure that these SOEs act in accordance with commercial considerations, and it defines what commercial considerations are. These are long definitions, the definitions were very well -- during all those years of negotiations, they did a lot of very good work on the definitions.

So, the SOEs have to act in accordance with commercial considerations and not discriminate against goods or services supplied by an enterprise of another party, or by a covered investment, or of a foreign investor of another party. So, there you have, it's reaching out to cover discrimination against foreign investors, services or goods. It covers services; it doesn't just cover goods.

You have similar obligations for designated monopolies, and these are really an improvement on GATT Article XVII. They are clear, they avoid the problems that have been created by the WTO jurisprudence, so each party has to ensure that when it's state -- SOEs, state enterprises, or designated monopolies exercise, government authority that's been delegated to them, they have to act in accordance with the TPP Agreement.

So you can't have your SOE, you can't delegate to an SOE, for instance, the right to license service providers, and then tell the -- if you do that, you can do that, but if they do that, the SOE itself has to not discriminate, as if it were a government. So, there's another useful thing.

There are further obligations. Administrative bodies have to exercise their

regulatory discretion, in an impartial manner including with respect to SOEs, also useful, right, because that is of course another big problem, where the government cuts their SOEs a break. There are provisions that then, sovereign and automatic sovereign immunity for SOEs.

And then there are elaborate disciplines on subsidies called non-commercial assistance provided by government to its SOEs, or subsidies provided by SOEs to other SOEs and those were of great interest to a number of parties in the United States. I refer you to the text, they are very elaborate, and a non-commercial assistance is basically assistance to an SOE, by virtue of its government ownership or control.

Finally, transparency, each party has to provide a list of its SOEs, and it has to answer, upon request, provide information, a long list of possible information about things like ownership, shareholding, government connections, revenue, assets, exemptions that an SOE benefits from; all kinds of information that are normally not available for state-owned enterprises, or haven't been available in these markets.

These are exactly the questions that people often ask about Chinese SOEs, by the way. So, yes there are exceptions, there are exclusions, big issues that finance ministries care about, the finance ministry has got carve outs for as they always do.

Monetary policy, exchange rate policy, financial services regulation by stock markets, activities for resolution of failed or failing financial institutions, this was, after all, right after the crisis.

Sovereign wealth funds are outside these disciplines if they are just doing asset management, so are government pension funds, government procurement, and also sub-central SOEs and designated monopolies at the sub-central level. Now, that is a good question, that's something that could change in the future.

And smaller SOEs, okay, with under a certain value threshold, a current 200 million SDRs which is about \$291 million, so that's where we are now. So, where do we go from



here? Obviously, this is not flawless, people have said, oh, gee, net of the exceptions, of the exclusions, what do you have? Is there nowhere there? I don't think so. I don't think so. It can be improved upon; the TPP actually builds in a five-year review at which time there are supposed to be discussions on expansion of coverage.

And in fact, the parties -- the U.S. can go farther with willing partners, and so could Japan. The U.S. will go farther, I believe, in NAFTA. NAFTA Chapter 19 had a few really narrow provisions on state-owned enterprises, very sketchy, but now the state-owned enterprise obligations have become one of the principal negotiating objectives in the TPA Bill of 2015, there are mandatory subject in all future U.S. trade agreements.

And in fact, the administration has stated in its NAFTA objectives that they want a TPP-Plus SOE chapter as part of NAFTA. They want to expand covered SOEs so that they include situations of control through minority stockholding. And they could also consider covering ways to cover significant sub-central SOEs, and that would be good.

Canada and Mexico were quite positive about this idea in the TPP, they, I think, the chapter is said to have been as, let's say, maybe 90 percent done, maybe all done. Who knows? Close to completion, of course the big question is: will there be a NAFTA at all? We don't know. But I think there are many areas for joint policy entrepreneurship by Japan. I will leave those to Professor Kawase, because I'm out of time. Thank you. (Applause)

MR. KAWASE: I believe I'm in trouble. Can anybody help me out?

(Discussion off the record)

MR. KAWASE: So, one moment, please. She's taking care of that. Okay. Thank you for your patience in this. I'm sorry to have kept you waiting.

So, good morning everyone, it is my great pleasure to talk to you this morning, and I would like to extend my gratitude to Mireya and the Brookings Institution, and for inviting me to this wonderful opportunity. And also, my thanks go to the distinguished panelists, and the entire

audience in this room, and for joining us this morning.

So, this morning I will touch upon the recent developments and strategy regarding how Japan and the United States can disseminate the TPP-11, or even TPP Plus rules on SOEs, and the competitive neutrality. Ever since the rise of the state capitalist countries, including the BRICS market economy countries, including the United States and Japan, have been concerned about, economically, the original behavior by SOEs, in the emerging economies.

Market distortion are caused by SOE, it's a consequence of a governmental assistance with the priority of the regulatory and the financial tools, and lack of a stringent corporate governance on the part of the SOEs. Such concerns about -- such concerns then have been even more important in the context of a current development including overcapacity, and Made in China 2025, and One Road, One Belt Initiative.

The existing international trade and the invest agreement that with these measures to some extent so as to ensure competitive neutralities. The centerpiece of this instrument is the WTO Agreement, of course, and in particular the SCM Agreement to combat the unfair use of subsidies. The OECD and IMF Guideline, and recent FTAs concluded by the U.S., also regulate a specific aspect of the SOE structure and activities.

That said, as Amy had emphasized, most of the controversial -- conventional economic rules only indirectly control SOEs and the various important aspect of their activities, and the governmental support, and some of them still fall out of the ambit of the rules. Also, some of them are even non-binding and not enforceable through any dispute settlement procedure.

To fill this regulatory gap, TPP Chapter XVII offers the most progressive SOE regulatory framework, but then I'm going to skip this slide because this slide substantially overlapping, I mean, Amy's talk. And maybe, you know, I should skip this one too, because I mean this also overlapped in Amy's talk. I'm losing my job. (Laughter)

Well, anyway. Under the circumstances then how can Japan -- what kind of

circumstance, these are, you know, like the TPP Chapter 11 is kind of far from imperfection -- far from perfection, as Amy emphasized. So, under the circumstances, how can Japan make the TPP-11 or even TPP Plus rules on the SOE, prevailing in the Asia-Pacific regions? My simple answer is that Japan itself should pursue this goal through a series of its own, you know, trade negotiation.

We have already successfully done that, this in the recently concluded to the Japan EPA, also prompt entry into force of CPTPP, or TPP-11 is the most important. Right, Maki? Okay.

And RCEP is also one of the best forum to disseminate high-quality TPP rules in the Asia-Pacific. It covers ASEAN Plus Six, including a non-TPP state capitalism country like China, and prospective TPP parties like, you know, Indonesia and Thailand. Unfortunately, some parties seem quite reluctant to come to the negotiating table on these issues, and no major accomplishment can be expected.

This RCEP reality suggested that establishing rules regarding SOEs, might impracticable in the short term, and if so a more cooperative and managerial approach would be an alternative. The last year in the APEC Economic Committee, Vietnam raised an issue on internalizing the OECD guideline for SOE corporate governance, and proposed to share the best practices for this purpose.

To support this initiative, Japan shared its experiences regarding SOE governance in a policy dialogue at an August meeting of their Committee. The framework for this purpose has been already established. The second round of the Japan U.S. Economic Dialogue, last October, also agreed upon the basic scheme for the bilateral economic cooperation, as is shown in this slide.

And in the Japan-U.S. Summit Meeting in November, the reader welcome the result of the dialogue, and agreed on their initiative to establish a high standard trade, and

investment rules, and cooperation on the enforcement of the rules against unfair trade practices in the third countries.

Reportedly, similar working groups a composite of the government officials have been established and the discussion on SOE issues is a part of their mandate. In this framework, both countries are expected to jointly develop a new template for SOE rules, which will be made available to both of the countries in their own future trade negotiations with the third parties.

The TPP text remains a good starting point for this purpose, but inconsideration of the shortcomings, I mean mentioned by Amy, the TPP Plus worth considering. The division and coverage of the SOE should be broadened enough to include the entity, and a substantial governmental influence regardless of their ownership in the structure.

And also, it would be helpful to agree on a list of prohibited forms of assistance, as is found in the WTO SCM Agreement, as well as Japan UFTA. As a possible agenda, item include higher level of transparency, and better corporate governance in accordance with OECD guideline.

They should also make an alliance in Multilateral Fora. In the context of the OECD and G20, they led a Global Forum on the Steel Excess Capacity to the policy recommendation thrust, while the U.S. Government will never be satisfied with a forum approach, to simple set the capacity reduction target. Still, Japan and the U.S. should continue to play a leading role in the follow-up process to implement a recommendation.

In the WTO, in facing the impasse of Doha Round, it is realistic to begin with a dialogue in a likeminded groups. At the closing of the DMC-11 in Buenos Aires last month, Japan, the U.S. and EU issued a trilateral joint statement defining the problem of overcapacity, and it was as good to start to address the ISO issues in the WTO.

Meanwhile, at first it was Japan framework put on even to greater emphasize on the importance of rule implementation. A body of the case law regarding unfair market distortion by SOEs has been developed in the cause of the WTO dispute settlement procedures, and Japan

and the U.S. could be a core complainants in bringing a case against a third country, or at least to mutually, I mean, support one another as the third parties.

Currently a few large-scale and cases involving SOE's proceeding, and there will be a very good -- I mean, a touchstone in this respect.

In addition, and both countries can utilize on it, unilateral trade remedies for this purpose, and Japan and the U.S. can consult to remedy these enforcement against the same unfair trade practices by a specific third country. Japan's recent example over early duties on the (inaudible) originated from China; following the same move by the United States is a very good example.

The investigation authority of both countries can also share information regarding the SOEs, unfair trade practices for future investigation. Technical assistance is another example over the practical corporation. In fact, in the past few years, Japan's media has been holding seminars on a regular basis, inviting the investigators from the USDOC and the USITC to share their abundant experiences including those in the SOE cases with their Japanese counterpart.

So, I guess that's all from me this morning. And I thank you for your attention, and patience. (Applause)

MS. SOLÍS: Thank you so much. That was a wonderful set of presentations. So many things on the table, and I'm sure that you'll have tons of questions. And I want to just table my question, I'm going to pose it, because it may be that many of you are thinking along those lines, but then I'll open to the floor and take two more questions to make sure that I can take as many questions from the floor as possible.

And my question has to do with the elephant in the room. I mean China looms very large in today's discussion, because many of its policies and practices challenge the principles of competitive neutrality, and free flow of data. You have Made in China 2025, that strategy and where it's a essential role to state-owned enterprises, and you have President Xi

advocating the notion of cyber sovereignty, and with a heavy emphasis on data localization.

When the United States was part of the TPP, there was the expectation that these could then help encourage China to engage in domestic reforms, but those expectations were very much deflated when the United States left.

So, my question for the panelists, just to undertake later one, if you would consider so, is in this new environment what is possible? How can we incentivize, encourage China to engage in reforms bring greater convergence on the Internet governance, and reform of state-owned enterprises? And what is the right balance between rulemaking and enforcement? How do we have a productive dialogue with China, as we try to advocated this is standard, given that the United States is no longer in the TPP?

And we know of course that President Trump talked in Davos about a possible -- that was a possible return to TPP, but I would make the guess that that's not going to be a swift return, there are many obstacles. Having said that, I want to open it to floor, and there are people with microphones. So, if you can please raise your hand, I'll take two questions. Super-concise please, so we give an opportunity to others to intervene. If you identify yourselves and ask a very concise question, I would appreciate it.

So, any questions? Oh, so I guess I'm going to ask the panel to take a lot of time with questions. Are you sure? All right; so, what do we do China and the digital economy and state-owned enterprises?

MR. MELTZER: It's a really vexed problem, and I don't think there's any obviously, a straightforward answer to it. I completely agree with you socially, I mean, I think it's obvious that the U.S. sort of it was a decision to leave the TPP.

I mean, essentially, you know, much of what the administration has identified as challenges with its relationship with China would have been, you know, it would have been a much better position to address in a more systematic manner, it would have been in the TPP, and finding

its way back to something like the TPP whatever it may is going to be part of that at the end of the day.

I think there is on the cyber sort of digital side, a conversation that's been underway at different levels with the Chinese government about all the challenges that you identified. I think one of the key problems with it, what China seems to have done, is they seem to have turned what are essentially, some serious economic issues into a security issue for them, and you have President Xi who essentially heads that security apparatus now.

And it means that I think the discussions become more challenging because you essentially have to convince the security side of the government that, you know, this is actually something that should be more open and more liberalized. And I think that would increasingly difficult.

So I don't see an easy solution at this stage. I do think though that what needs to happen is that the United States, Japan and the EU needs to get on the same page with this issue. You know, I think the issues that separate them pale in significance compared to, I think, where the common ground is, and the challenges I think that they all face with regards to where China is heading on this issue, you know, call for a united kind of response.

And I don't think that -- I think that it's going to require that type of common sort of action, and common position, whether it's through bilateral dialogues, or the trade rules and the like, which is going to be required to get any significant, I think, change on the Chinese side.

MS. SOLÍS: Thank you.

MS. PORGES: I agree it's particularly challenging on both sides for digital and SOEs because -- partly because China, compared to 15 years ago, things have really moved backwards from our perspective, and the only -- and I totally agree, I think the best possible recipe would be to go back to TPP. That's it. And in the interim form, the best kind of team and start the teamwork working, to push back.

MS. SOLÍS: Thank you.

MR. MELTZER: No, I think that there's clearly a debate underway, I absolutely agree with the premise and, you know, empowering reformist, I think it's always been a core part of the agenda here, for the United States and other countries. And I think that has to continue. I mean this is still somewhat of a fluid situation.

One of the things I -- I mean, and there is a lot of work underway to do that. I mean one of the things we miss a little bit of, which I mentioned in my presentation, is good data, I think on where the costs of some of these policies are. I'm not optimistic that this would necessarily lead to a particular course correction at the moment in China even if they had a better handle on it, but I think there's, you know, I think some of that work would help.

I think that the U.S. has to absolutely, crucially play a key leadership role in this digital aspect. You know, I salute the Japanese government in particular for essentially filling some of that vacuum as the U.S. left the TPP, and really pushing the conclusion of the TPP-11. And I think it's really a fascinating observation that it's continued, and that most of what was challenging in the negotiations remains in the TPP.

I think it also speaks to a variety of things, which we can get into, and I won't go on. But I mean, I think it also reflects a regional appreciation that China has presented challenges, not to the United States and Japan only, but the Asian sort of economic mess at the moment. So, I think there's a lot of potential alliances and partners in the region which can be utilized in this.

MS. SOLÍS: Thank you. I have one more question for the panelists, but I see a hand. Is that Claude? I can't see very well. Claude, please?

QUESTIONER: Just a point, that the United States is about to act, and I'd like to - and even with the feckless administration such as we have now in trade, I'd like to get your reaction to what the United States should do if it -- as it seems about to do, it's going to act alone on intellectual property, on the forced transfer of technology on a variety of issues. It's kind of



fantasy to think that we could wait, or go to the WTO, which could take a decade. But what should we do now, or if anything: on the cyber side, and on the SOE side, both?

MS. SOLÍS: Maki San?

MS. KUNIMATSU: Thank you very much for your question. For the cyber side, obviously there are several fora that we can use, for example, the APEC is one of them, and then it's just less discipline in APEC as you know, that's one of the really good fora.

And then this year, well, this May, we are going to -- well, Japan is hosting ABAC Meeting, which is the APEC Business Meeting in Tokyo, and where the U.S. and Japan can work both on the government side as well as company side, can develop something to, you know the starting point of the rulemaking for the digital.

MS. SOLÍS: Amy, please.

MS. PORGES: No. We have had -- How to be diplomatic?

SPEAKER: We can't hear you.

MS. PORGES: Oh, you can't hear me. That's very diplomatic. Okay. So, yes, we've had many -- We are all reading the newspapers, right? Every day we are -- this is the administration, ever since January 2017, people have started using far more time, looking at the internet than they used to, right, because anything could happen any day. It's just that kind of environment. And now we have the Section 301 on intellectual property which there are all kinds of rumors that it will be rolled out in the State of the Union, or that there will be a more gradual rollout, or whatever.

And there are rumors about what might be done. There are rumors about tariffs; there are rumors about other things that the administration might do. All I can hope is that whatever is done won't be economically an own-goal, you know. I sincerely, as an American, hope that the administration doesn't shoot us in the collective foot. And I certainly hope that the U.S. is consulting with its allies.

A large part of what they are trying to accomplish, I guess, I hope, is to change the environment for China through what they are doing, and part of changing the environment is to get your allies saying stuff that supports you, and you can't do that, if it's a total surprise to them. So, I certainly hope that there will be advanced consultation, that's part of the old-fashioned diplomacy.

I'm sorry, that's not an answer maybe, but I think it's actually, kind of an essential element of the environment we are in, that as the president has said, America first, is not America alone.

MS. SOLÍS: Thank you. Tsuyoshi, do you have a comment?

MS. KUNIMATSU: No. I don't.

MS. SOLÍS: Okay. So, my last question, if I may, because again, I think we are all grappling with how different the world looks today, and when the TPP-11 was announced just last week, I think that one of the striking facts was: how much of the agreement was left in place as the panelists have mentioned through their presentations? And the idea was that the TPP would likely unravel without the United States because developing countries would not agree to the commitments on the rules area once they would not have access to the large American market.

And these expectations did not pan out. And there were 22 suspensions, and the bulk of them, if you look at the actual commitments; we are in the IP chapter, and a narrowing down of the investor-state dispute settlement and mechanism. But by and large, the state-owned enterprise provisions, and certainly the e-commerce, and a lot of the digital trade economy provisions remained.

So, I guess this brings the question of the resilience of these rules, and I would like to ask the panelists: why do you think that these rules, even though they are challenging for developing countries, have been so resilient and they made it through in the TPP-11?

SPEAKER: Also there's a question in the back.

MS. SOLÍS: Okay. But we are almost out of time. If you can ask your question

very concisely, I'll take that last question, the lady in the back, and then a last round with the panelists, and we'll close. Thank you. So, that lady, thank you.

QUESTIONER: Thank you. So, my question is what kind of difficulties and core issues that you think prevent e-commerce from growing internationally?

MS. SOLÍS: Okay. Great! All right, thank you. Last word from the panelists on this issue, Tsuyoshi, you can go?

MR. KAWASE: Yes. Okay. So, I'm answering to the Mireya's I mean, second question. And I believe the SOE Chapter was not the major obstacle to the TPP-11. As, you know, I mean, Amy said, like the level of ambition of the original text very -- I mean, are not so high, and acceptable to even to Vietnam and Malaysia.

And Malaysia, actually, I mean, because of the modification the party perspective -- exceptions regarding the Petronas, it's like oil national champion company. And this is the only suspension of the original text regarding SOEs. So, Vietnam has already set about a drastic SOE reformation, and so I took initiative, APEC talks on the corporate governance of SOE, as I explained.

So, this shows Vietnam's appetite for the SOE reformation, and simply, Vietnam didn't need any suspension of the original text about the Chapter 11 of the TPP. That is my answer. Thank you.

MS. SOLÍS: Thank you very much.

MS. PORGES: All those exceptions and exclusions made this chapter very digestible, right?

MR. KAWASE: Right, right. Yes.

MS. PORGES: But the basic thing is, that I think it reflects a lot of interests in the business community everywhere in being able to compete more effectively with legacy state-owned enterprises. As for the digital chapter, my God, the digital chapter was, I think, one of the

most popular bits of the TPP. It was being used -- this was the big thing that the Obama administration was using to market the TPP domestically. I don't know how it was used in Japan, but I mean, everybody wants to be on the Internet.

I don't know anybody who doesn't want to be part of the information superhighway. It's a no-brainer. And so, yes, it was very, very popular, and of course, it also has some very large businesses behind it.

MS. KUNIMATSU: Yes. Very briefly about the e-commerce chapter in TPP, which is a very good set of popular ruling, but it has exception and room for the discretion, so it is not really the heavy problem for them. Thank you.

MR. MELTZER: You know, one of the things I think which goes under-appreciated sometimes, particularly when you have long negotiations which tends to be the norm, is the socializing aspect of these negotiations in terms of giving countries the time and the opportunity to actually learn about the new rules which are put forward by whichever country it might be, and to think about, you know, except those are in their interest.

And I think it's really telling that at the end of the day all countries, you know, if you look at sort of what was, you know, suspended now, it really speaks to the fact that while there's sort of this ongoing narrative that the U.S. sort of forces these rules to other countries, and they are sort of forced to accept, and all the rest of it, you actually see at the end of the day, you know, the trade agreements are ultimately about domestic reform agendas, which parallel what the governments actually want to do at the end of the day.

And the U.S. definitely pushes it on the IP side, which is, I think, that's where most of the suspensions are. But in everything else, you know, these really parallel where countries are going in the region from a whole range of development sort of, you know, paradigms, and I think that's reflected in the fact that we've moved forward there. So, I think it's interesting from that perspective and important as well.

You know, and on the digital bit, I mean, the big thing at the moment is getting more people online, I mean, to some extent. The digital device is real, and it's substantial, and it's really, when you think about developing countries seeing digital really is in their best interest, and you think about the splits in the WTO around the digital agenda, and elsewhere.

You know, they are still at the very basic question of, you'd still need to convince us why this really is going to be helpful to us when, you know, the majority of our people don't even have Internet access. So, I think making sort of progress on the infrastructure side still matters.

MS. SOLÍS: Yes, Amy?

MS. PORGES: One last thing. For getting the next billion online, they are going to get online not through their computers, they are going to get online through cell phones. It's the mobile Internet that really matters most, the mobile Internet which is powered by cell phone towers, and also by big data. By apps on your cell phone that pump data up to the cloud where it's processed and it's returned to you.

So, the whole infrastructure, including mobility of data is going to be necessary to get all those people in line with new payment solutions, new apps, new everything. So, I look forward to that. And I'm happy that TPP has helped to facilitate it, even if the U.S. is not on board.

MS. SOLÍS: All right. Well, thank you so much. It's been a terrific discussion. Please join me in thanking the panelists. (Applause)

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CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2020