Episode 166. Biden's new Indo-Pacific talks vs. TPP

[Episode webpage]

September 21, 2022

Transcript

(lightly edited)

Apple Podcasts | Spotify

Google Podcasts | Stitcher

Chad Bown: In May, President Joe Biden formally launched IPEF – the Indo-Pacific Economic Framework for Prosperity.

President Joe Biden: *Thank you all for joining today for the launch of the Indo-Pacific Economic Framework for Prosperity. We're launching today with countries from across the Indo-Pacific. We're here today for one simple purpose. The future of the 21st century economy is going to be largely written in the Indo-Pacific and our region.*

Chad Bown: On September 8th, Trade and Commerce Ministers from 14 IPEF countries flew to Los Angeles. After two days of talks, they announced IPEF's negotiating objectives. These objectives described what the United States, Japan, Australia, India, and all of these other countries want in terms of resilient, clean, fair, and connected economies.

But this isn't the first time the United States has put many of these same countries through trade-related negotiations. And the last time around a lot of those trading partners ended up getting burned.

How the United States negotiated trade deals in the past, and what we know about IPEF's negotiations today, are the topics of this week's show.

Chad Bown: You are listening to an episode of *Trade Talks*, a podcast about the economics of trade and policy. I'm your host, Chad Bown, the Reginald Jones Senior fellow at the Peterson Institute for International Economics in Washington.

To help us figure out IPEF we're going to be joined by Barbara Weisel. Barbara worked in the US government for over 30 years, most recently as the Assistant US Trade Representative for Southeast Asia and the Pacific. Barbara was the chief US negotiator the last time the United States was negotiating a major trade-related deal in the region.

That means Barbara Weisel was the chief negotiator for the TPP.

Chad Bown: Barbara, welcome.

Barbara Weisel: Thank you, Chad.

THE ORIGINS OF THE TRANS-PACIFIC PARTNERSHIP

Chad Bown: The story of the TPP or the Trans-Pacific Partnership, actually begins with a little known trade agreement called the P-4. The P-4 is a deal between the tiny, but mighty, trading economies of Singapore, New Zealand, Chile, and Brunei.

Chad Bown: Take us back to 2007, 2008, when the US began a new process of negotiating trade agreements with countries in Asia and the Pacific.

Barbara Weisel: In 2007, we decided that we wanted to consider joining the P-4. The P-4 invited us to have discussions, and we decided that we could begin the process of negotiating with them if they were open to making some changes that would meet US requirements. We ultimately decided to join and in the course of the years that followed other countries joined as well. We had Vietnam, Malaysia, Australia, Peru, and then Canada and Mexico, and finally Japan joined. So we got from the original P-4 up to twelve (countries) by 2014.

Chad Bown: Before it's publicly announced that one of these countries has agreed to join the negotiations in a deal like this, what's been happening behind the scenes in the lead up to that public announcement?

Barbara Weisel: Before we agree to allow another country to join, and in fact, even before we joined the P-4, there were months and months of discussions bilaterally about what the US would need to include in the agreement in order for us to go ahead and launch, or in order for us to add another country to the negotiation.

We didn't want to launch negotiations, go through our entire negotiating process and then reach the conclusion knowing we were never going to get Congressional approval.

Chad Bown: So you reach out to a country and the initial dance is “this sounds good, interesting…,” but then they see the reality of it. How long does it take them to come up to speed with realizing what it means to actually sign a trade agreement with the United States and (decide) whether they're really in, for the long haul?

Barbara Weisel: It varies by country. When we started the discussions with the P-4, two of the four P-4 countries already had FTAs with us and we were coming in and saying, we wanted to make some changes to the P-4 agreement to meet what would be our new standard. So they already understood. Some of the other countries took a lot longer to truly understand how serious we were about their being ready to make those kinds of commitments, and the degree of understanding we wanted to be sure they had at a political level in their countries.

Chad Bown: For some of these countries, there were standard parts of US trade agreements that no one had ever asked them to negotiate before.

Barbara Weisel: They'd never negotiated different rules on transparency or labor or environment and a number of other issues that we include in our trade agreements that are not generally included in the trade agreements that they had negotiated up until then.

Malaysia had never negotiated a trade agreement with us, And there were many elements of the agreement that they had never included in their own trade agreements.

One example is government procurement. It was an extraordinarily sensitive issue for them, and it went back and forth and back and forth up to the ministerial level several times before we were ready to launch the negotiations, because we were confident enough that they understood that this was going to be an element of the agreement.

Chad Bown: Sometimes when administrations are actually beginning, or in process of negotiating, a trade agreement, they already have what's called in the United States Trade Promotion Authority (TPA). And that's essentially a contract with Congress that says, “this is what we're going to go out and negotiate over, in broad terms, on your behalf.”

And the agreement is – once we go out and negotiate the deal, at least in principle, we bring it back to you (Congress) and you don't try to amend it. The best you (Congress) possibly can, just give it an up or down vote. And that gives the rest of the world confidence that (the deal) has the blessing of the entire United States, that (USTR is) out there actually negotiating on its behalf.

When did the issue of TPA come into the TPP negotiations?

Barbara Weisel: The issue of TPA came up from the first day that we sat down with our trading partners to discuss our interest in P-4. They understood that we would need to meet the requirements that were set out in TPA, and that if we couldn't do that, we would not successfully conclude the agreement, or we wouldn't get approval.

So TPA expired and we were continuing to negotiate under TPP. But there was an understanding that the (Obama) administration was consulting closely with Congress during the course of that negotiation and that we would have TPA by the time we concluded the negotiation, and that gave confidence to our trading partners that we would ultimately be able to get approval.

Chad Bown: In July, 2015, the US Congress did grant the Obama administration Trade Promotion Authority so it could finish up TPP.

THE TPP CHIEF NEGOTIATOR ALSO HAS DOMESTIC RESPONSIBILITIES

Chad Bown: The chief US trade negotiator for TPP has a busy job. But negotiating with those 11 other countries all around the Pacific was really only the half of it.

The other half was soliciting America's great ideas and getting the entire US government on the same page with what the TPP agreement was supposed to cover.

Barbara Weisel: Some of the ideas come internally from within the US government – things that different agencies or people within USTR have seen in the way previous trade agreements have worked that they would like to update. Some things come from the private sector or other stakeholders who have ideas of ways to build on our trade agreements, or weaknesses they've seen in previous generations that they want to improve. And some of it comes from Congress.

So you're taking input from all sources and putting together draft texts that you think reflect that input and would likely achieve the goals.

Chad Bown: Can you tell us of any examples from the TPP process where it may have been particularly challenging, within the US government, to arrive on its final negotiating position because there were internal battles between either the administration and Congress or different government agencies about what they wanted the updated rule book to look like?

Barbara Weisel: There are a lot of examples here. You reminded me of one – regulatory coherence, which was an issue that the US proposed adding into TPP because we thought that having more coherence in our regulatory systems would make for more seamless trade across the region.

We did not (in USTR) consider this to be a particularly controversial issue for the US. But as it turned out, when we circulated the draft proposal across agencies, including regulatory agencies, they didn't see it that way. They thought that the draft could tie their hands and limit their (policy) space to propose or implement new regulations. And it took quite a bit of back and forth with the regulatory agencies to get them comfortable with the language that we ultimately put forward.

Chad Bown: <I'm laughing because I remember some of those meetings being at those meetings at the time and watching as a spectator, it going back and forth...>

Chad Bown: How about other examples? State-owned enterprises (SOEs) was a new chapter that ended up in TPP. Were there any inter-agency controversies there within US government?

Barbara Weisel: This was a chapter that everyone understood was really important – i.e., that we develop new provisions that would discipline SOEs.

But when we got to the details of developing the proposal, it was controversial within the US government, especially in those agencies that thought that programs that they ran could be covered by the provisions. For instance, Treasury programs that might run afoul of the obligations, or USDA programs that they were concerned might be captured by the commitments. And then, of course, Congress was looking at an infrastructure bank at that point, which they were concerned might be covered.

LABOR STANDARDS IN TPP

Chad Bown: On labor standards, the TPP was also proposing some pretty big changes. One problem historically had been with Mexico. The US did have a side agreement on labor with Mexico under the 1994 NAFTA, but there really wasn't a way to enforce it.

In TPP, the new labor provisions would now be enforceable. They would apply not only to Mexico, but to all of the other trade agreement partners, including countries like Vietnam and Malaysia.

And that wasn't all.

Barbara Weisel: Another big innovation in TPP was that we negotiated bilateral side letters with countries on which we had specific concerns. For instance, we negotiated side letters with Vietnam, Malaysia, and Brunei. We also had discussions with Mexico.

The side letters were subject to dispute settlement, and they also had provisions in them that allowed the US to suspend the tariff benefits if those countries did not implement the commitments in those side letters completely.

US POLITICS: THE RISE AND FALL OF TPP

Chad Bown: Lots of amazing stuff would ultimately end up in TPP, but the negotiations were dragging on and on.

It's now late in 2015, and the US is still haggling with these other countries. The US wants more export market access for American farmers. The trading partners are finding it politically difficult to agree to proposed US texts for protection of intellectual property, state-owned enterprises, and those labor standards.

But finally, in October, we get a political agreement between these 12 countries.

President Barack Obama: *With this Trans-Pacific Partnership, we are writing the rules for the global economy. America is leading in the 21st century. Our workers will be the ones who get ahead. Our businesses will get a fair deal. And those who oppose passing this new trade deal are really just accepting a status quo that everyone knows puts us at a disadvantage.*

Chad Bown: The US Congress apparently did not agree with President Obama. It never passed TPP, and the agreement never came into force in the United States.

Barbara Weisel: There were substantive issues that were still being debated even after the conclusion of TPP; issues for which the business community preferred different outcomes than the ones we ultimately had.

One of the issues that got quite a bit of press was biologics and the term of (data) protection. There were other issues like the carve out that we included in ISDS (investor-state dispute settlement) for tobacco.

But I think the real issue was that we concluded at what was already the beginning of the election cycle. And this issue got caught up in the politics of the 2016 elections, and there was a lot of anti-trade sentiment that built during the course of that campaign.

Chad Bown: That anti-trade sentiment was stoked masterfully in the 2016 campaign by presidential candidate, Donald Trump. He won the election and, on his first Monday in office, Trump withdrew the United States from the TPP.

President Donald Trump: *Everyone knows what means, right? We've been talking about this for a long time. Great thing for the American worker what we just did.*

Chad Bown: Over the course of the next four years, President Trump took a very different approach to trade policy.

He renegotiated NAFTA, the agreement with Mexico and Canada, into something called the USMCA. He renegotiated the US agreement with Korea. Trump also signed a bilateral deal with Japan, one of the countries that had been left behind when he had said no to TPP.

And after more than 30 years of government service, Barbara retired in 2017. So she was not involved in all those Trump-era trade negotiations.

TRADE NEGOTIATIONS UNDER THE TRUMP ADMINISTRATION

Chad Bown: From the perspective of a trade negotiator, what are some of the ways that the Trump administration carried out negotiations differently from how they had been done in the past?

Barbara Weisel: USMCA was negotiated under TPA as previous trade agreements had been. But the other trade agreements that they negotiated were negotiated as Executive Agreements that did not require Congressional approval.

When you negotiate an Executive Agreement, the administration negotiates what it sees as the objectives and what they hope to accomplish.

I think that the agreement that they got, for instance, with Japan on digital issues was a high standard agreement, and it mirrored what was in other digital agreements with some slight improvements. In that case, I think that having been an Executive Agreement really didn't have that much of an impact.

Where it had an impact is on the trade part of the agreement (with Japan) where the administration decided to negotiate market access of a limited set of products. That is not something that, in a trade agreement that would've gone to Congress, Congress would've found acceptable. Doing it as an Executive Agreement gave the administration the freedom to decide that they were going to do a limited set of products and then promise to go back for the rest later.

Chad Bown: With Japan, President Trump never did go back for the rest later.

And that was far from the only time that Trump did not consult with Congress on trade.

Congress was not involved in his decision to impose tariffs on imports of steel and aluminum, including from America's military allies like Canada, Japan, Korea, and countries in Europe, when he claimed they were a threat to America's national security.

Congress was also not consulted on President Trump's trade war or the Phase One agreement he signed with China in January 2020.

THE BIDEN ADMINISTRATION TAKES OVER

Chad Bown: In November of 2020, Joe Biden won the US presidential election.

During the campaign, Biden had made it clear that he too was concerned about things like China and trade, but he had promised a different approach. Biden would work with allies instead of antagonizing them with tariffs like President Trump.

But at the same time, trade would just not be a priority for the new president.

In 2021, the Biden administration was going to focus on things at home. The COVID-19 pandemic was still raging. US unemployment was still high. The president had campaigned on promises to pass through Congress a massive legislative agenda on climate and infrastructure and tax reform.

There would be no new trade deals until the Biden administration had fully Built Back Better.

It wasn't until May of 2022 that they announced IPEF, the Indo-Pacific Economic Framework for Prosperity.

Chad Bown: What is IPEF?

Barbara Weisel: First to say, it's not a trade agreement, or a traditional trade agreement. It's an economic agreement, and it has four pillars. They are: connected economy (or trade), supply chains, clean economy, and fair economy.

SCOPING OUT IPEF

Chad Bown: On September 9th, the IPEF countries released their negotiating objectives – eleven pages of text. So Barbara and I took out our **red pens**, scouring them for clues.

To be clear though, no one really knows yet what IPEF is, not even the negotiators. And that may turn out to be really important.

But we do already know what IPEF is *not*. Sort of.

Chad Bown: The administration has made it clear this is also not TPP. TPP carries a lot of political baggage domestically in the United States still. But in some ways it might be like TPP.

In what ways could you envision IPEF having similarities to TPP?

Barbara Weisel: There are some objectives that they have set out for the trade pillar that could overlap with TPP. And that is in setting new rules that would apply to the region.

If you look at the chapters that they've set out in the scoping papers that were agreed earlier this month, I think many of those are similar to the chapters that were in TPP.

So you have labor, environment, digital trade, trade facilitation, SPS (sanitary and phyto-sanitary), TBT (technical barriers to trade), and good governance – a lot of overlap with what was in TPP. So it is possible that the administration decides that they're going to look to TPP for some of the commitments as a starting point and decide whether or not they want to update or change those to reflect their own priorities.

Chad Bown: What might be in the trade pillar? They've said they're not going to be focused on negotiating tariff cuts, so what are they likely talking about?

Barbara Weisel: What we know so far is very limited, about exactly what it is they want to negotiate. But one would think that if they're setting rules, that they're going to want to set high standard rules, building off of the last generation of agreements that were negotiated – TPP, USMCA, and other agreements. But there will be areas where they're going to want to go beyond what's in the last generation of agreements.

A good example there would be environment. So when we were negotiating the last generation of agreements, we were prohibited by Congress from negotiating anything to do with climate change. That issue now is something that will be very central to what the administration wants to do in this agreement, and that other countries will want to cooperate with the United States to see what can be done on climate change, and what can be incorporated here, that would be valuable.

POTENTIAL LABOR PROVISION IN THE NEW IPEF

Chad Bown: The new US Trade Representative, Katherine Tai, has made clear the Biden administration will pursue a worker-centered trade policy.

Her previous job was as chief trade counsel for the House (of Representatives) Ways and Means Committee. And that meant she was instrumental in getting the USMCA passed through Congress, including by helping to negotiate, at the last minute, a new enforcement provision for labor.

The new labor provision is called the Rapid Response Mechanism.

So far, the Rapid Response Mechanism has been used a number of times in auto plants in Mexico.

The way it works is the threat that the United States can impose trade sanctions rapidly – stopping the plant's shipments of car parts or trucks from coming into the United States – that helps empower Mexican workers to have new votes to unionize and to then bargain collectively.

I asked Barbara about the mechanism and what a worker centered trade policy might mean for the trade pillar in IPEF.

Barbara Weisel: On labor, what I think could be the outcome is a mechanism that's like the Rapid Response Mechanism, but without all the rules surrounding it. So governments would consult, there would be engagement with the private sector, but not under a formal dispute settlement process or a formal Rapid Response Mechanism. I think they may have in mind something that looks like it without the formality of it.

We don't really know yet how they intend to reflect their priority of including worker-centric provisions in this agreement. We see that they've included language suggesting that it's important in all of the pillars. So they're clearly thinking about it.

You can imagine some areas where they would like to update the last generation of agreements – digital trade being one of them – where they might want to look at, for instance, gig workers and if there are appropriate commitments that would cover gig workers in this negotiation.

IPEF PILLAR TWO: SUPPLY CHAIN RESILIENCE

Chad Bown: The second pillar in IPEF is supply chains.

Chad Bown: Is it fair to say that there's a supply chain pillar because of all of the supply chain disruptions? That this is the new buzzword, and every agreement from here on out is going to need to have a supply chain resilience component to it?

Barbara Weisel: For the foreseeable future anyway.

The administration picked the topics they picked because those are the topics that are on the minds of countries around their region. Those are the priorities for every government. Supply chain resilience is one of those priorities. And therefore I think the governments wanted to figure out if there's a way to work together to reinforce the resilience of each other's supply chains.

Chad Bown: One of the supply chain issues out there is the concern of excessive geographic concentration of certain supply chains in China, and getting more geographic diversification for things like critical minerals, personal protective equipment, and things like that.

Barbara Weisel: I do think they're talking about geographic diversification. They're all acutely aware of the risks of having supply chains with single nodes.

One of the issues is first of all, "mapping" supply chains in some areas that they think are critical, and they'll have to define what those are. And then to determine whether or not there are ways to support cooperation between the countries in ensuring supply in those areas.

Chad Bown: By "mapping," we mean data collection – I know as an economist we have very bad data on supply chains – so understanding who's shipping what to whom, and where in the process you are.

Then, beyond that, are we talking about data sharing? Market surveillance and, "we see that somebody just suffered a flood or a fire or drought and that seems to be impacting the supply of this critical input," and we know because we've got this supply chain mapped, that that's going to be a problem? And we can start to share that information with each other?

Businesses understandably want to keep their information private. There's a question that government policy makers face of how do we convince businesses and the private sector to share some of their information with us (policy makers) that we need to ensure that the supply chain is going to continue to function without threatening their competitiveness, turning it over to their competitors, and things of that nature.

Maybe one of the goals here is to try to develop better systems and cooperation with other governments about keeping that information of the private sector safe so that it's more likely to be shareable when it's really needed.

Barbara Weisel: I think that there's a lot of work to do to figure this question out. The only areas where this has really successfully been done is in agriculture. And you're talking about commodities there and companies are much less concerned about sharing data related to commodities than the kinds of products that we're talking about here. So the limits of what they can do need to be tested.

Chad Bown: Critical minerals – we mentioned those earlier, but they are another example for the supply chain pillar, given they're essential for all of these new electric vehicles and the massive private sector investments in battery plants that are now coming online.

One current concern is that some of those critical minerals are being processed almost exclusively in China.

Barbara Weisel: So if you're a country that would like to produce critical minerals but is currently not a major manufacturer of critical minerals, like the Philippines or Indonesia, you want to link into those supply chains. You would like to have investment in your production of those inputs, but then you want to have an assured supply chain throughout the process that links to the auto manufacturers.

Chad Bown: So we do have this new Inflation Reduction Act, which has lots of tax credits for electric vehicles, if you can meet very complex supply chain requirements. And one of those is not have the name “China” for things like critical minerals or components needed for batteries. So those sorts of (IPEF) countries might be looking at pieces of domestic legislation in a country like the United States and saying, we want to be able to satisfy those criteria.

The Inflation Reduction Act is written so that certain elements are only available to free trade agreement partners. IPEF doesn't look like it's a free trade agreement, but maybe we can change that later on, or relabel it somehow.

Barbara Weisel: I do think that's the way some of the countries are thinking about it. There are two issues that have come up in that conception.

One is that it's a very hub-and-spoke kind of an approach, with the United States being the hub and everybody else being the spoke. And for this to work, I think many of the countries would like to see a model that allows them to trade across the region without having the US have to be at the center.

And the second is that there are limits on what they can sell to the United States under not just the Inflation Reduction Act, but under our Buy American rules, and other rules that would limit their ability to sell into the market. So if they're going to be able to participate in these kinds of supply chains and hope that they're going to benefit, they want to know that ultimately if they go through this whole effort to do this, that there's a high probability that they're going to be successful in the US market.

Chad Bown: So what that all means is, at the end of the day, ultimately you get back to negotiating rules on government procurement and rules of origin. 😊

Barbara Weisel: It raises the question of the linkage between the supply chain pillar and the elements of the supply chain that are included in the trade pillar and how those are going to interact.

IPEF's THIRD PILLAR: THE CLEAN ECONOMY

Chad Bown: The third pillar of IPEF is the clean economy, including cooperation over climate.

Chad Bown: How would we describe what's in the clean economy pillar?

Barbara Weisel: There's a lot of discussion of cooperation on R&D and sharing best practices, promoting low and zero emission goods, and agricultural sustainable practices. And I think that what you come away with there is that we all are looking to support each other's climate transition. How can we best do that through this agreement?

But the question is, are they going to simply be sharing best practices? Or are they going to be trying to develop standards that countries would have to meet to promote those goals?

The more difficult question in this negotiation is that, in the United States, we're still figuring out what those regulations ought to be in a lot of these areas related to climate, just as they are in many of these other countries.

Chad Bown: This clean economy pillar could also be one where the United States is open to learning from those agreements that other partners are already negotiating between themselves.

Barbara Weisel: You can see in the language of the documents that were released that there were some proposals that were drawn from the green economy agreements that Singapore and Australia are planning to negotiate. Other countries have thought about what they can do in the trade space that's related to green economy. One of the things that they've talked about potentially is rules of origin for green goods, so that you would look at the carbon content in supply chains and measure it, and then maybe have some sort of facilitated trade for green supply chains, or maybe you're just promoting green supply chains that way.

IPEF'S FOURTH PILLAR: THE FAIR ECONOMY

Chad Bown: The fourth and final pillar of IPEF is the fair economy. The negotiating objectives language here involves transparency and also cooperation to tackle things like corruption and tax evasion.

In the United States, tax and anti-corruption policies are usually handled by the US Treasury.

WITHIN THE US GOVERNMENT, IPEF IS BEING NEGOTIATED DIFFERENTLY

Chad Bown: Stepping back, this points to another different feature of these IPEF negotiations.

In IPEF, the US side is now being led jointly by two different agencies – the Office of the US Trade Representative and the Department of Commerce. This is very different from the approach in trade agreements like TPP, where USTR took the lead all by itself.

Chad Bown: In what ways might it matter that there's now a different approach, from the US government side?

Barbara Weisel: It will certainly add to the challenges that the administration is facing in successfully concluding this agreement.

In TPP, USTR was established as the coordinating office on trade for the government. You have the leads for all of the issues under the chief negotiator within USTR. Everybody is working together as a team, really effectively, within the building.

Other agencies are part of the negotiating teams and in some of the chapters were co-leading. In financial services, Treasury co-leads, in labor, the Labor Department co-leads – so they do play a very significant role.

But there, you still had one agency coordinating the negotiation, the way it was conducted, and how you were interacting with other countries.

Now you have two agencies negotiating. They may be negotiating each of their pillars separately, and they will move forward with that pillar without regard to what the other agency is doing on those pillars. But at some point, all of this does need to come together and it's going to be more complicated to have it between two agencies.

Now, that isn't to say that they can't figure it out, but it's certainly more complicated.

Chad Bown: Getting the right rules into IPEF may also require a new type of engagement with stakeholders – like companies in the private sector and workers, as well as NGOs and civil society.

Barbara Weisel: I think there is a distinction between previous trade agreements and the approach being taken here. In previous trade agreements, you would consult with stakeholders, you'd develop the rules, and then the rules get put in place, and companies use the rules as they have been agreed and implemented.

But here what you're doing is saying – in order for us to have supply chain resilience or to have diversity in our supply chains – we need the private sector as a fundamental actor in coming up with the approaches and sharing information or mobilizing the capital to build the infrastructure that we need.

Their role is now much more central than it is in a traditional trade agreement. So another area that they're going to need to think about is the process, the mechanisms, the tools that they're going to use to encourage the private sector participation and to make that participation effective.

HOW TRADING PARTNERS FEEL ABOUT IPEF

Chad Bown: From the perspective of trading partners, TPP took seven or eight years, which was a lot of time to get all those eleven other countries on board with what the United States ultimately wanted in that agreement.

But a lot has changed since when those talks first started.

Barbara Weisel: I think it's different than it was in 2008 in many respects. I think that the countries do want to negotiate with the United States because they want to ensure that the US continues to play an active role in the region, and by participating in this negotiation, they're encouraging that.

They also recognize that this is a different kind of trade agreement so there may be more flexibility than what they would have in a traditional trade negotiation, and for many of them that's a very positive thing.

Chad Bown: Why do you think, at this stage at least, that trading partners seem to be reasonably excited about IPEF?

Barbara Weisel: I think that they see this as an opportunity to participate in the development of these initiatives or these commitments in new areas that haven't been included in previous trade agreements. The United States clearly is still thinking through its approach and what kinds of proposals it wants to put forward. But it is being presented as a very collaborative process where they're looking for input from all of the countries, and I think the countries that are participating in IPEF probably find that very attractive.

Secondly, it doesn't look like the Biden administration is intending to put forward a traditional dispute settlement chapter. They are saying, at least for the trade pillar, that it will include binding commitments, but exactly how they intend to enforce those commitments is not clear yet.

Some are saying that they would like to use a more incentive-based approach. I'm not sure that the administration has decided, but this may be something that they discuss with other countries, and a more cooperative approach to dispute settlement is something that many of the IPEF countries probably find appealing.

Chad Bown: In IPEF, the elephant in the room is clearly China.

Barbara Weisel: What the countries are trying to do here is to strengthen their own competitiveness in these areas that are next generation issues – i.e., climate change, supply chain resiliency, and the digital economy.

Yes, there are implications on China and relations with China – there are commercial implications and there are strategic implications. But the way that I looked at it when we were doing TPP, and I think applies very much here as well, is to focus on what it is we are trying to achieve and not on the implications for others.

WHERE IPEF MIGHT GO WRONG

Chad Bown: So we're both optimists. You were a trade negotiator, so you have to be an optimist in that kind of job.

But let's play devil's advocate. What are some of the ways in which this thing could potentially go wrong?

Barbara Weisel: The first issue that may be a concern is how you define success. Previously, when we had TPA agreements, the definition of success was agreed before you started. That is not the case here.

I think – another way that this could, I won't say that it will fail but – the challenge that may emerge here is that, because it's not a TPA agreement, there's no floor to what the US needs to achieve. If Congress was part of this negotiation, the US would have a limited amount of flexibility in what those outcomes could be. But here, if there's pushback from some of the other countries, the United States may be in a position of having to negotiate weaker commitments in order to reach agreement, or they might lose some of the other countries.

I think there's also some concern about the fact that it's an Executive Agreement and whether, if there's a change of administration, there will be either withdrawal from this agreement or a new administration takes a completely new direction.

Chad Bown: There is also a worry that countries are choosing to negotiate IPEF as four separate and discreet agreements.

Barbara Weisel: A traditional trade agreement would be negotiated as what we call a single undertaking, so nothing is concluded until everything is concluded, and everything is linked across chapters and there are tradeoffs across chapters that allow countries to find solutions to things that they have as priorities and trade them off between one chapter and another.

But here, because this is not being negotiated as a single undertaking, those tradeoffs don't exist. You're going to need to reach agreement within each pillar, independent of what's done in the other pillars. That gives you less flexibility and room to negotiate in ways that you do when it's a single undertaking.

So if you wanted to achieve a high standard outcome on labor in the trade chapter, and another country was looking to get benefits, and those benefits are in the clean energy pillar, that country could decide that they'll take the benefits in the clean energy pillar – e.g., we mobilize capital, we support infrastructure development through that pillar – and they'll take that benefit, but they withdraw from the trade pillar.

Chad Bown: What's your bottom line, as of today, on IPEF?

Barbara Weisel: I think they have a lot of work to do to fill out the details of the proposal. But having been a trade negotiator myself, where people are constantly doubting your ability to develop the proposals in a way that make them meaningful, I feel like I need to give them time to do that.

There are a lot of important elements of this agreement and some of these are really groundbreaking new areas that have not been included in previous trade agreements.

So let's give them the room to succeed. Let's support them where they can and hope that they're successful.

Chad Bown: Barbara, thank you very much.

Barbara Weisel: Thank you for having me.

PIECING IPEF TOGETHER

Chad Bown: To wrap things up, overall, I too am optimistic. There's a lot to like about a new approach that's inclusive, collaborative, and where countries are not just getting a take-it-or-leave-it offer from the United States.

But trading partners should be clear that this approach carries its own risks. They have newfound responsibilities.

In the old days, under TPA, what the US wanted from other countries was clear almost from the beginning. Here, if objectives turn out poorly defined or misunderstood, IPEF could fail.

The worry is IPEF ends up being like the WTO's Doha Round of negotiations, which went nowhere for 15 years before they were ultimately scrapped.

From the American side, there's also some concern about the market access issue. US exporters continue to face relatively high tariffs from countries in the region like Vietnam, Malaysia, and certainly India.

IPEF negotiations may deliver amazing new rules and standards to underpin resilient supply chains for a cleaner and fairer economy. But in order for American companies to take advantage of those fantastic new rules, they need market access. And if you don't reduce other countries' tariffs, American companies may not be able to fully participate in the region's supply chain.

The last worry involves this approach of separating the four pillars. A benefit of the old approach – of a single undertaking – is that it allowed for tradeoffs across pillars. (I lose a little in this pillar, but it's offset by massive gains in this other pillar.) But today, if the pillars are not linked, maybe none of the key countries participates in that first pillar.

Those concerns aside, it is a great thing that the United States is now trying to build something rather than simply seeking to tear something down without a vision for how to replace it – which was seemingly the US approach during the last administration.

So I do think the Biden administration is headed in the right direction. Though, of course, there's still a lot of work to be done.

And to all the negotiators across the IPEF countries – today's Barber Weisels – I too wish you the best of luck.

GOODBYE FOR NOW

Chad Bown: And that is all for *Trade Talks*. A huge thanks to Barbara Weisel, former Assistant US Trade Representative for Southeast Asia and the Pacific, and now at Rock Creek Global Advisors.

Thanks to Melina Kolb, our supervising producer, Yiling Wang on data, and Nia Kitchin on graphics.

Thanks also to Colin Warren, our audio guy.

Do follow us on Twitter. We are on @Trade__Talks. That's not one but two underscores @Trade__Talks.

<insert super funny double underscore joke here> .