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TECHNOPOLITICS**WITH HOST: TIM WHITE****GUESTS:****PAT CHOATE, Trade Analyst****JUDY SHELTON, Free Trade Economist****REED MORGAN, Attorney****RHONDA ROBY, DNA Identification Laboratory****LT. COLONEL VICTOR WEEDN, DNA Identification Laboratory****SECTION: IN THE NEWS****LENGTH: 3996 words**

TIM WHITE: This week on TechnoPolitics --

Don't tell this man that DNA testing isn't reliable. The Pentagon's top DNA investigator speaks out on the Simpson case. And who's responsible when you spill McDonald's coffee in your lap? This man says McDonald's is and he has the six figure court victory to prove it. And trade analyst Pat Choate says it's time to get tough with Japan. Economist **Judy Shelton** says a trade war would be tough on everyone.

(Funders' Announcements.)

MR. WHITE: Welcome to TechnoPolitics. I'm Tim White.

President Clinton has played hardball with Japan threatening trade sanctions against what he considers to be unfair trade practices. His tough stance on trade has produced new agreements that will open up some Japanese markets and create jobs here at home. But not everyone is happy. Many economists are concerned that Clinton's use of political muscle could actually slow down the recovery and as tensions continue build, trigger a global trade war.

Foreign trade is a cornerstone of the US economy. One out of every four products we make is sold overseas and economists say that we create 16,000 new American jobs every time we ship a billion dollars worth of new exports.

The Clinton administration recognizes the value of international trade and pushed hard for the passage of the North American Free Trade Agreement. The global GATT treaty is also a priority; but despite recent progress in trade negotiations around the world, many Japanese markets remain closed to American companies. And without these very markets the administration argues, competitive American companies cannot realize their full growth potential.

IRA SHAPIRO (Counsel, U.S. Trade Representative): The key is that competitive products that sell everywhere in the world don't sell in Japan and that has to change.

MR. WHITE: One way to change that is to impose trade sanctions against Japan. These sanctions could take the form of higher tariffs on imported goods or even numerical quotas. The Clinton administration has recently warned Japan that the US will impose trade sanctions if the Japanese don't start buying more American made spare parts for automobiles such as brake pads and shock absorbers. But free trade economists warn that sanctions will, even in the best case, drive up the cost of Japanese products to American consumers. In the worse case, sanctions could put a match to the tinder of a trade war with Japan. That would be a high price to pay for brake pads and shock absorbers. Japan invests more than \$90 billion each year in the United States in plants to build our economy and bonds to fund our deficit. The American economy, and the West coast in particular, could be devastated by a trade war that causes Japanese capital to flow to other markets.

It's clear that closed markets cost American jobs; but would losing Japanese investment dollars cost even more American jobs?

Here to explain -- or attempt to do so -- how the trade with Japan is affecting you and me are Pat Choate, the leading critic of the NAFTA and GATT treaties; and free market economist, **Judy Shelton**. She is author of the new book, Money Meltdown. Thanks to both of you for coming in.

On the first of October there were new trade agreements, Pat, announced with Japan with a certain flair and enthusiasm and so forth. Will those trade agreements cure what ails US trade with Japan?

PAT CHOATE (Trade Analyst): No, these are the, I think, roughly 33rd trade agreement that we've had with Japan since 1981 to open their markets. We're going to have a record trade deficit with Japan -- \$60 plus billion. These are essentially political agreements.

They're really not economic.

MR. WHITE: Are they not enforceable?

MR. CHOATE: In truth, they're really not enforceable for a couple of basic reasons. One, they depend upon the good will of the Japanese government to change their procedures. And second, they depend upon the willingness of this president to stand up to the threat that Japan makes and has made in this particular agreement -- that if we did enforce these agreements that the Japanese would dump treasury bills and raise the interest rate in the United States. We blinked in those negotiations as we've done several times over the past 15 years.

MR. WHITE: If we hadn't blinked, Judy, what would have been the result? It would appear, at least on the surface, that the Japanese are willing to play. What are the four areas? Telecommunications, insurance, medical supplies and --

JUDY SHELTON (Free Trade Economist): Glass.

MR. WHITE: And glass. Flat glass. Plate glass. It seems like a major concession by the Japanese. Those are important segments of their economy that we can now compete in freely or not?

MS. SHELTON: Well, I think that there's a lot of rhetoric there, but on both sides. I think there's also a realization that nothing decisive was settled during those negotiations. I think it calls into question the whole idea of trying to negotiate US Japanese trade. I think the Japanese are valid and in some ways we have to cede to them the moral high ground in wanting to resist management of that trade relationship.

They're saying, I thought we were all for capitalism and letting consumers make choices. And now you're saying that our consumers must buy so many American products and we have to cut back or make our products less desirable to Americans -- maybe through exchange rates -- and I think that all smacks of government central control at a time when, ironically, much of the world is moving away from that kind of oversight of commercial relations.

MR. WHITE: Well, in those particular areas -- not to get bogged down on these agreements, which no one thinks have a whole lot of meat on the bones anyway, but isn't it a matter of just making more American products available to Japanese consumers? Isn't that what they're trying to do, Pat?

MR. CHOATE: They are trying to do that, but we have the moral high ground here. The telecommunications market is a government market. They have deliberately excluded foreign products, not just simply our products, but all foreign products. Flat glass in Japan is an industry that's controlled by three companies. It's a cartel and what we're demanding is that they break the cartel. When you get into medical devices, it's been Japanese regulations, not the market, that has kept high quality competitive US products out.

So we have a legitimate right and a demand to say, if you're going to sell your products here, we want you to end these managed trade barriers to put our products in there. The difficulty is is Japan will agree to any agreement that you want to take the products; but when you get down to selling the products, they will not do it. Now, the one area where you had real market potential, where you could even talk about markets, was in autos and auto parts -- the after market -- and the Japanese would make no agreement on the auto after parts market because our after part industry is one of the most competitive in the world and they just simply will not let us into the market.

MR. WHITE: Judy, what you seem to be leading up to is the idea that all of this talk with the Japanese is rather pointless anyway. That the market ought to play itself out and eventually --

MS. SHELTON: Well, I think that we can get caught up in numbers and statistics and lose sight of the real goal. In fact, if you look at this deficit, the 60 billion, two-thirds of it -- 40 billion -- has to do with autos and auto parts. But one-third of the auto parts that are imported from Japan into this country go into vehicles manufactured by the Big Three in Detroit. So I think you get into a damaging situation when you start pointing fingers at the economic enemies, because, in fact, we're very much integrated.

MR. WHITE: Judy, give us, if you would, a thumbnail lesson on why substantial trade deficits between countries are bad -- US and Japan. Who cares?

MS. SHELTON: My bottom line is what you just said. I don't think it is a problem. I mean, think of what we're talking about. We're irked with Japan because they provide goods that we find appealing, that we find give value. We want to buy those goods. They end up, then, recycling the money they get from selling their exports to our country into our government's securities. I mean, they've been very generous.

MR. CHOATE: But they're not doing that.

MS. SHELTON: Well, can you blame them?

MR. CHOATE: They stopped that since 1990. So your argument doesn't hold since 1990.

MS. SHELTON: No, my argument is that if government interjects itself into this system thinking it's doing a favor for Americans, you end up having something else poke out somewhere else. MR. WHITE: Dr. Choate, answer the mini-lesson, will you?

MR. CHOATE: The mini-lesson is this: each billion of trade equals 20,000 jobs. This year we will have a \$60 billion trade deficit with Japan. That means that we're losing about 1.2 million jobs and it's coming in autos, electronics, medical equipment and other high value added top level employment in this country. That's what it all boils down to: jobs.

MS. SHELTON: So in your perfect world, no nation has a surplus or deficit with any other nation? I mean, who's going to control this?

MR. CHOATE: No, that's not the question.

MS. SHELTON: What government is smart enough to make sure that happens?

MR. CHOATE: The one thing we can do with our trading partners, we've certainly done it with Europe. Europe will take our goods. We will take their goods. We will take Japan's goods, but Japan will not take our goods. So what we say to them, look, you're a business partner. It's got to be a quid pro quo relationship. If you don't do your part, then you can't have the benefits here. That's what it boils down to, because we don't want to be in this process of exporting our jobs and that's what we're doing.

MS. SHELTON: Well, of course, then they should come back and say, you actually don't buy as many of our government securities as we buy of yours and have a perfect quid pro quo --

MR. CHOATE: No, we're buying the goods which gives them the money to buy their own government securities. Look, what are we doing? We take their investment in this country to build industrial facilities. They do not permit us to do that in Japan. We let them buy companies here. They prohibit us from doing that in Japan. We take their goods and services. They block us in Japan. Our workers are the net losers in this exchange.

MR. WHITE: Should Mickey Kantor have driven a harder bargain with the Japanese in these four areas in which agreement was --

MS. SHELTON: I think Mickey Kantor has done a great deal of damage, hurting the relationship between the two largest trading partners in the world and I think threatening a trade war and I think that dampens economic prospects around the world. MR. WHITE: And the possibility of sanctions on automobiles just exacerbates that tension?

MS. SHELTON: Exacerbates that tension! Yes, I see it as a real negative and I'm very troubled at a time when we're standing at the crossroads and we have a chance to come out from under the overspending on defense between super powers. We have this vision of a global economy and comparative advantage and everyone does what they do best and it's all going to be based on free trade. And then we start talking protectionism. I'm embarrassed as an American because I think that's so anti the Americans for fair competition.

MR. CHOATE: What's wrong with fighting for open markets?

MR. WHITE: All right. We're going to have to fight for the bottom line question now, because it's time for it. Pat Choate, first to you: if it comes to trade sanctions against the Japanese, is that good for the American economy?

MR. CHOATE: If we'll carry it through.

MR. WHITE: **Judy Shelton?**

MR. CHOATE: I think all trade sanctions are bad for consumers in America and everywhere. Japan is not our economic enemy.

MR. WHITE: Thank you both.

Up next: what do you do when you spill coffee in your lap? Why, sue the restaurant, of course! Plaintiff's attorney, Reed Morgan, talks about his big victory over McDonald's.

And the lawyers may argue about DNA, but the government's top DNA investigator says the case is closed.

It's time for the TP Top 10 election wrap-up. Last week, political analyst Charles Cook graciously climbed out on a limb for us and picked winners in 10 key technopolitical races. So, how did he do, handicapping this historic election? He correctly picked victories for: Pataki, Feinstein, Nethercutt, Bingaman, Thomas, Santorum, and Thompson. Cook missed the mark with his picks of North, Bush, and an upset in the Vermont Senate race that simply didn't happen. Overall, Charlie Cook was seven to 10. Not bad.

Did you ever stop to pick up a cup of coffee at a drive through and by the time you reached your destination, the coffee is cold? Well, that probably has never happened if you drink McDonald's coffee. McDonald's sells coffee at 180 to 190 degrees Fahrenheit. That's about 20 degrees hotter than other restaurants. And apparently, people like their coffee piping hot, because McDonald's sells 1 billion cups of coffee each year; however, getting that really hot coffee may be a thing of the past. That's because a New Mexico jury recently pronounced McDonald's coffee "defective or unreasonably dangerous" and found McDonald's guilty of malicious conduct for serving it.

It all began when 79-year-old Stella Leebeck (ph), while a passenger in her son's car, accidentally spilled a cup of McDonald's coffee into her lap. Mrs. Leebeck suffered third-degree burns and spent eight days in the hospital. Her medical bills ran to \$9,900, most of which was paid by Medicaid. But Mrs. Leebeck wanted McDonald's to pay too and when the company balked at her \$20,000 request, she decided to sue.

Mrs. Leebeck turned to this man, Reed Morgan, a Houston attorney who had acquired a sterling reputation in spilled coffee litigation and on August 16, 1994 a jury awarded her \$2.9 million. The presiding judge thought that a \$2.9 million award was rather excessive punishment for the offense of serving hot coffee.

ROBERT SCOTT (District Court Judge): I'm going to reduce the punitive damages award to \$480,000.

MR. WHITE: But Mrs. Leebeck's attorney, Reed Morgan -- who will pick up \$160,000 of the award -- insists the penalty is not enough to teach McDonald's a lesson, even though the judgement itself still stands.

This case has already taken on legendary qualities as a feat of courtroom persuasion by Mr. Morgan and has all of America talking about the question of individual accountability. Mr. Morgan was able to convince that New Mexico jury of McDonald's responsibility for Mrs. Leebeck's coffee spill and its repercussions. But can he convince the ultimate jury, you?

Joining us now is the man who dragged Ronald McDonald into court and won. Plaintiff's attorney Reed Morgan.

What was Mrs. Leebeck's responsibility here? Did she have none? A 79-year-old lady and she put the cup of coffee between her legs trying to get the cap off, correct?

REED MORGAN (Attorney): Yes.

MR. WHITE: What was her responsibility there? Now, if you can divorce yourself from trying this case and say, practically speaking, you don't put a cup of really hot coffee down between your legs. You just don't do that!

MR. MORGAN: Well, you see, this is where the whole analysis of products liability comes in. Whether or not the ordinary consumer of ordinary knowledge knows of the risk of harm when they buy a product. If they don't know of the risk and if a reasonable consumer that knew of this risk wouldn't buy the product, by definition it is defective.

MR. WHITE: So this cup of coffee, then, is a defective product as the court's --

MR. MORGAN: As the jury found.

MR. WHITE: As the jury found.

MR. MORGAN: Yeah.

MR. WHITE: So the answer for a company that wanted to avoid the kind of liability case that was brought against them by you on behalf of Mrs. Leebeck, a company that wanted to avoid that would have to serve a lot cooler coffee.

MR. MORGAN: If they want to avoid what we call full-thickness burns, third-degree burns, yes. They have to serve it at a much cooler

temperature or at a very minimum, they need to consider the ramifications of having sales into cars at one temperature and Styrofoam cups, which are collapsing when people try to remove the lids, and serving in the restaurant.

MR. WHITE: Okay, what about printed warnings? Suppose the Styrofoam cup that's handed out through the take-out window, it said, don't spill this coffee on your lap or this is very hot coffee. I mean, would that have protected McDonald's in this case?

MR. MORGAN: It would have helped it very much. McDonald's has a cautionary statement on the side of the cup that says: caution, contents hot, which is literally between rows of M's that circle the cup where people don't look. And in New Mexico, the law is that if you are selling a product to the general consumer who does not have an awareness of the risk, you have an obligation to put a warning on the product that warns of the nature and extent of the danger, i.e., very serious burns if this product is spilled.

MR. WHITE: Do you know how this looks, though, to people who think that lawyers are out suing everybody in sight to get every dollar they can for every imagined risk that goes with being alive? And without meaning to over simplify or sound absurd, if I invite you over to my house for a steak dinner and you take the fork and put it in your mouth and run the tines of the fork into your tongue, can you sue me because I didn't properly warn you? And doesn't that seem to be where we're going with all this?

MR. MORGAN: No, number one, you can't successfully file a lawsuit for that sort of a mishap. And number two, I don't think that's where we're going with this. A lawsuit such as this was designed to alert McDonald's. If you're going to repeatedly injure people and you're not going to take responsibility for a product that's unacceptable or unreasonably dangerous, then you're going to have to face the voice of our community: a jury that will award punitive damages.

MR. WHITE: Okay, Reed Morgan. Thank you very much for coming in. Good to talk to you.

MR. MORGAN: Thank you.

MR. WHITE: Up next: Robert Shapiro may not like DNA testing, but it's working just fine for these Pentagon researchers.

Now that Judge Ito has decreed that cameras will be permitted to bring you every moment of the O.J. Simpson trial, you too can enroll in the world's largest biology course. A DNA match between O.J.'s blood and blood found at the scene of the crime is, as we all know, the lynch pin of the prosecution's case. And so, in the coming weeks and perhaps months, you will be treated to an exhaustive examination of the science of genetic profiling. As one DNA researcher put it: it may be the most thorough biology course that many Americans will ever take. There's just one problem. It will be taught by lawyers.

And while the dueling lawyers will argue about the limits of DNA testing, the scientific community is moving toward consensus on the power of DNA testing. The remaining argument concerns the odds of a coincidental match. That is, the odds that blood belongs to someone besides the defendant in a criminal case. The scientific disagreement is largely confined to whether the odds of such a coincidence are one in 100,000 or one in 10 million. Those are the conservative estimates. The odds of a coincidental match in any given case could be as low as one in 15 billion. Fairly remote when you consider that there are fewer than 6 billion people on the planet.

If DNA profiling is fighting for acceptance in the legal field, it has won a ringing endorsement in another arena. Defense Department researchers are now using the technology to identify the remains of US soldiers killed in Vietnam. By comparing the DNA from Vietnam remains with blood samples from the families of missing soldiers, Pentagon researchers are providing answers to decades old identity questions.

In fact, thanks to new cooperation from Hanoi in locating remains and improved testing techniques, the Pentagon is now identifying 10 fallen soldiers a month with DNA profiling. We spoke to the director the Pentagon's DNA Identification Lab, Lieutenant Colonel Victor Weedn and his top investigator, Rhonda Roby.

If it's the identifying of last resort, does that imply that it is always an absolute certain identification? I think people may be confused about this. They may hear, mmm-hmm (in acknowledgement), the DNA has been matched to so-and-so; therefore, case closed, whatever the case is.

RHONDA ROBY (DNA Identification Laboratory): DNA is another tool that can be used. What you're talking about here is people have other evidence also in these cases.

MR. WHITE: But if they don't have other evidence, is DNA sufficient? Are we competent in the process to say that DNA evidence is sufficient?

LT. COL. VICTOR WEEDN: You're right to say that DNA is really a statistical inference as opposed to absolute positive identification by itself. However, when you deal with numbers of one in several million, then that becomes very good evidence.

Generally, though, I will say that in most of the dealings that we have had to date in the military, we've been looking at closed populations. We know --

MR. WHITE: What do you mean by that?

LT. COL. WEEDN: We know who died. It's one of these several names. And we can say, the only person among these 50 names is David Jones or is Bob Smith and in that way, we can actually be positive.

MR. WHITE: Is the science still evolving?

MS. ROBY: Yes.

MR. WHITE: Will, we get to the point, Doctor, where, in fact, if a DNA identification is made it's the end of the story? That's the last word on who this individual is?

LT. COL. WEEDN: We had actually come very close to that prior to the O.J. Simpson case. The defense challenges had clearly been waning. O.J. Simpson reopens the book, almost, in the case. What I'm concerned the O.J. Simpson trial will do for the DNA community is raise a false sense of controversy. You have to realize that these courtroom battles are a part of the system and people aren't used to that. And they see people arguing and they say, well, that must mean that there is some sort of problem when that is not necessarily so.

MR. WHITE: You mean you think that the O.J. Simpson trial would be discrediting DNA testing?

LT. COL. WEEDN: I think that what it could plant is a seed of doubt because of the perception of controversy.

MR. WHITE: And that seed of doubt is unwarranted in your mind as a scientist?

LT. COL. WEEDN: Yes, Sir.

MR. WHITE: And in your's, Ms. Roby?

MS. ROBY: Yes.

MR. WHITE: You folks are sure of what you're doing, aren't you?

LT. COL. WEEDN: Yes, we are. We're quite confident and we have plenty of reason to be. We've repeated our testing many, many times. Over and over. We get sets of remains and this very old -- the very old cases from Vietnam and Korea -- literally decades in the ground, hot, humid climates. Dealing with very few DNA strands, and yet, each of the bones matches each other. After we do the bone and we say to the people, these are our sequences, we then go to the family and sure enough, lo and behold, the exact same sequence. Now, that's very satisfying. And we see that so much that it really does give us much confidence in this testing.

MR. WHITE: Thank you both for coming in. Good to talk to you.

And thanks to you for being with us as well. Until next time, for TechnoPolitics, I'm Tim White.

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