

United States Senate

WASHINGTON, DC 20510

May 8, 2015

The Honorable Michael Froman
United States Trade Representative
The Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

The Honorable Thomas E. Perez
Secretary
United States Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Dear Ambassador Froman and Secretary Perez:

We write to underscore the importance of including strong labor standards in the Trans-Pacific Partnership (TPP) and to urge the complete implementation of those standards by all TPP countries before the trade agreement enters into force. We are particularly concerned about workers' rights in Vietnam, Malaysia, Brunei, and Mexico. American workers cannot compete against workers in these countries where fundamental worker rights are not protected. TPP has been presented as a unique opportunity to measurably improve the lives of workers in all TPP countries, but only holds such promise if countries are required to meet and uphold the agreement's labor standards before the agreement is implemented. We applaud your commitment to make the agreement's labor provisions the strongest ever, and we ask you to commit to accomplishing this objective before the agreement takes effect.

Vietnam: We know you are engaged in discussions with the Vietnamese government about improving worker rights, and we encourage you to continue these negotiations to secure tangible changes to Vietnamese law that protect workers' rights to organize and collectively bargain. As you know, currently Vietnamese workers must organize under the Vietnam General Confederation of Labor (VGCL), which is an arm of the Vietnamese Communist Party and does not allow workers the freedom to associate or collectively bargain. An independent union registration system must be established and implemented in Vietnam to provide its workers with the most basic freedoms such as the right to form a union, bargain collectively, and to associate as they choose. If the VGCL continues to exist, we are concerned that workers may be compelled to join the VGCL even after a registration process for independent unions is set up. It is imperative that Vietnamese workers are able to organize without compulsory affiliation with the VGCL, and we urge you to make this issue a top enforcement priority with Vietnam.

TPP's labor standards will only be as effective as they are monitored and enforced, and we urge USTR to include strong enforcement provisions in the agreement text. Specifically, we ask that the agreement include an independent panel to monitor, investigate, and enforce Vietnam's compliance with TPP labor standards. Although we have been told that the labor chapter will be subject to TPP's dispute settlement provisions, previous agreements have shown government-to-government enforcement of labor standards is rare and does not yield timely resolutions of violations. An independent panel with enforcement authority will efficiently and effectively settle labor compliance issues under TPP.

It is consistent with international norms and U.S. law that Vietnam meet and enforce ILO's core labor standards before TPP is implemented. It is also critical that all components of Vietnam's

consistency plan and the associated monitoring and enforcement mechanisms are incorporated into the TPP text. If Vietnam is unable to meet the agreement's labor standards before TPP takes effect, USTR's ability to enact change on the ground will severely diminish if not disappear after TPP's enactment date.

Malaysia: Malaysia's labor laws also need to be changed before TPP is implemented. The country's labor law contains long-standing prohibitions on strikes, federations, and leadership roles for migrant workers. We urge you to convey to Malaysia the need to reject any efforts to establish vote thresholds on strikes or restrictions on issues over which workers can strike. It is also important that the government not have any discretion to cancel or refuse to register unions. Once Malaysia has changed its law, it is critical that TPP provide for the monitoring and enforcement of workers' right to organize and collectively bargain. We urge you to ensure that any mechanisms necessary for doing so are established and included in the text of the TPP and not part of a side agreement that has minimal effect and will not provide a level playing field for U.S. workers.

The U.S. Department of Labor (DOL) has found forced labor in three Malaysian industries, including electronics, garments, and palm oil. In addition, DOL found incidences of child labor in Malaysia's palm oil sector. Eradicating child and forced labor must be a top goal of the agreement and would be consistent with ILO Convention 182, to which the U.S. and Malaysia are signatories. We understand Malaysia is taking steps to address these labor violations through the Association of Southeast Asian Nations and by revising its migrant worker policies. But progress is not sufficient. We are concerned that TPP efforts to address child and forced labor are being described as longer-term plans that will not be completed before the agreement is signed. We ask for an in-depth justification of this decision and a detailed description of the plan Malaysia will need to implement before TPP is signed, before the agreement is implemented, and after it takes effect. We will not tolerate ongoing, unaddressed child and forced labor in any TPP countries, all of which need to comply with child and forced labor standards before the agreement takes effect.

Brunei: Brunei's labor laws are similarly inadequate and must be changed before TPP takes effect. For example, it is important that Brunei pass a minimum wage law and to ensure that their labor laws guarantee freedom of association and the right to collectively bargain. Although Brunei is a city-state with the smallest workforce in TPP, their laws and regulations must meet TPP's labor standards and be implemented accordingly.

In addition to problems with its labor laws, Brunei's poor human rights record, including its adoption of a new penal code last year, is deeply troubling. We urge USTR and the TPP labor chapter to address inconsistencies between local laws in Brunei and international labor standards. For example, we believe that the principles of Brunei's current legal system are antithetical to the terms of ILO Core Convention Number 111.

Mexico: Mexico's ongoing, serious violations of worker rights must also be addressed in TPP. Mexico's labor laws are inconsistent with ILO standards and with the TPP labor chapter. In addition, rampant corruption and impunity have corroded the institutions intended to afford workers the right to organize and collectively bargain. Mexico's labor boards, for example, are overrun by political bias, and the process for electing worker representatives is complicated and opaque. The boards have narrowly interpreted the right to strike, often denying strikes for technical reasons.

Protection contracts cover workers' pay and conditions but are not negotiated or approved by them. These contracts and the lack of collective bargaining deny workers the right to demand better wages or working environments. And employer-run "unions" intimidate and threaten workers who try to exercise their fundamental rights.

Mexico's 2012 labor reform did not address widespread violations of workers' rights, and we fear the Mexican government will not bring the law and implementation into compliance with international standards on its own. The Mexican government has had three years to implement these changes, and yet little to no progress has been made. We ask USTR to convey the need for Mexico to make the necessary statutory changes to its labor law and implement the reforms before TPP takes effect. Lastly, we request that you provide us with the details of these consultations and the improvements to workers' rights that will be required of Mexico.

Improving workers' rights in these four countries should be a top priority of the TPP negotiations, and we appreciate your work to improve labor standards in Vietnam, Malaysia, Brunei, and Mexico. American workers are the most productive in the world, but they cannot compete against workers who are paid pennies, denied their right to collectively bargain, or forced to work in unsafe conditions. That is why we want to stress the importance of achieving meaningful changes to labor standards in law and on the ground for workers in these countries. The U.S. has maximum leverage to accomplish these objectives during the negotiations and before the agreement takes effect. We urge you to incorporate commitments to improve labor standards in the base text of TPP and to require implementation and enforcement of those standards before its benefits begin to accrue.

Thank you for your consideration of this letter, and we look forward to working with you to advance international workers' rights.

Sincerely,



Sherrod Brown
United States Senator



Charles E. Schumer
United States Senator



Robert P. Casey, Jr.
United States Senator



Benjamin L. Cardin
United States Senator



Debbie Stabenow
United States Senator



Al Franken
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Edward J. Markey

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Jeff Merkle

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Tommy Baldwin

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Tom Udall

Tom Udall
United States Senator

Brian Schatz

Brian Schatz
United States Senator

Elizabeth Warren

Elizabeth Warren
United States Senator