

# Labor Standards in the TPP

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# Labor Standards and Trade

- Labor standards in FTAs motivated by (1) ensuring fair treatment of workers; (2) making it difficult for other countries to outcompete through lower standards, i.e., “race to the bottom.”
- Labor not covered by WTO rules; quality of FTA labor commitments and enforceability vary widely.
  - By 2013, 58 FTAs with labor provisions vs. 21 in 2004, 4 in 1994.
  - Majority not “conditional” or backed by trade sanctions.
- TPP includes most ambitious labor obligations of US FTAs—does not mean it addresses *all* concerns of labor rights advocates, but does move labor agenda forward.

# Overview: TPP and Labor

- **TPP upgrades NAFTA**—North American Agreement on Labor Cooperation—not part of core text plus different enforcement procedures, e.g., disputes related to freedom of association or collective bargaining (majority of filed complaints!)
- **TPP upholds May 10, 2007 agreement** requirements for labor chapters (Colombia, Korea, Panama, Peru):
  1. Core labor standards of ILO Declaration;
  2. Subject to dispute resolution procedures, including trade sanctions.
- **TPP expands May 10 template** with new provisions on issues of longstanding concern.
- **Bilateral Labor Plans** for countries with poorer records, Brunei, Malaysia, Vietnam.

# ILO fundamental worker rights conventions in force in TPP-12

	Per capita GDP 2014 (dollars)	Freedom of association, right to organize & bargain collectively		Elimination of forced labor		Elimination of discrimination in respect of employment		Effective abolition of child labor and its worst forms	
		C87	C98	C29	C105	C100	C111	C138	C182
Australia	61,887	O	O	O	O	O	O	X	O
Brunei	41,344	X	X	X	X	X	X	O	O
Canada	50,271	O	X	O	O	O	O	X	O
Chile	14,528	O	O	O	O	O	O	O	O
Japan	36,194	O	O	O	X	O	X	O	O
Malaysia	10,934	X	O	O	O	O	X	O	O
Mexico	10,230	O	X	O	O	O	O	X	X
New Zealand	42,409	X	O	O	O	O	O	X	O
Peru	6,551	O	O	O	O	O	O	O	O
Singapore	56,287	X	O	O	O	O	X	O	O
United States	54,629	X	X	X	O	X	X	X	O
Vietnam	2,052	X	X	O	X	O	O	O	O

ILO = International Labor Organization, C = Convention, O = treaty in force, X = treaty not in force.

Sources: World Bank's WDI database and ILO (2015).

# What's New in the TPP?

1. **Maintain “acceptable conditions of work”:** minimum wages, hours of work, occupational safety and health regulations
  - Does not stipulate baseline standard for regulations.
2. **Enforce ILO rights and conditions of work in export processing zones**
  - EPZs strongly identified with trade/investment promotion, labor-intensive assembly production.
  - 3,000+ zones worldwide, 70 million workers.
3. **“Shall discourage” trade in goods made by forced labor**
  - Language could be much stronger
  - Concerns in Malaysia (electronics, garments), Mexico (sugarcane, tobacco), Peru (nuts, cocoa, gold), Vietnam (bricks, garments).
  - TPP does not explicitly address protections for migrant workers.

# Bilateral Labor Plans

- **TPP labor plans distinct from past US efforts, e.g., Colombia:**
  1. Formally attached to FTA;
  2. Reforms more targeted, required before TPP entry into force;
  3. Subject to dispute settlement procedures.
- **Brunei:** Greater autonomy of unions and right to strike; Prohibit employment discrimination; Set minimum wage.
- **Malaysia:** Enforce anti-trafficking measures; Prohibit passport withholding/illegal recruiting practices; Lift state interference in unions.
- **Vietnam:** Allow independent formation of unions separate from VGCL; transition period for cross affiliation, with unilateral suspension tariff benefits possible; Measures to address forced and child labor.
- **No formal plan for Mexico, but parallel talks underway.**

# TPP Approach to Implementation and Enforcement

- **Labor Council:** meets every 2 years, 5<sup>th</sup> year review.
- **National Labor Advisory Body and Public Submissions Process:** TPP mandates, though guidelines are broad.
- **Labor Consultations:** more specific timelines than past FTAs.
- **Government-to-Government Dispute Settlement:** all labor provisions enforceable.
- **Bilateral Labor Plans:**
  - Standing committee of senior officials to meet annually;
  - More independent oversight for Vietnam: (1) ILO technical program; (2) 3-member committee of nongovernment experts.

# US Track Record of Enforcement: Labor Complaint Submissions

Submission no.	Date filed	Date accepted	Defendant	Status
US Submission 2011-02	11/14/2011	1/13/2012	Mexico	Under review
US Submission 2015-01	7/23/2015	9/21/2015	Peru	DOL report issued 3/2016
US Submission 2011-03	12/22/2011	2/22/2012	Dominican Republic	DOL report issued 9/2013
US Submission 2012-01	3/26/2012	5/14/2012	Honduras	DOL report issued 2/2015; monitoring and action plan issued 12/2016
US Submission 2010-03	12/30/2010	7/19/2011	Peru	DOL report issued 8/2012
US Submission 2011-01	4/21/2011	6/10/2011	Bahrain	DOL report issued 12/2012; in consultations since 5/2013
US Submission 2008-01	4/23/2008	6/12/2008	Guatemala	DOL report issued 01/2009; in dispute settlement

Note: Does not include past cases resolved under NAALC.

Sources: GAO (2014) and Department of Labor reports, [www.dol.gov/ilab/reports/](http://www.dol.gov/ilab/reports/).



# Concluding Thoughts

- “Promoting global labor standards simultaneously with trade could spread the benefits of globalization more broadly, discourage the worst abuses of workers, and thereby also increase public support for trade agreements” (Elliott 2011).
- TPP will not solve all labor challenges within TPP-12, but it can play a constructive role through added pressure to upgrade standards and to enforce binding TPP commitments.
- TPP labor plans are a major innovative component, effective implementation will be the test of TPP’s success.