

...TPP LABOR CHAPTER: Political cover for a corporate power grab

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like Japan, Canada, Australia, New Zealand, and the United States to human rights abusers like Vietnam, Malaysia, and Brunei, where workers can't unionize.

"TPP has the strongest protections for workers of any trade agreement in history."

— Official statement of the Obama administration

TPP has a chapter on labor rights commitments, and Lee says it's true that it goes farther than any previous U.S. trade agreement. But that's not saying much: In past agreements like the North American Free Trade Agreement (NAFTA) and the Central America Free Trade Agreement (CAFTA), countries merely promise to enforce their own labor laws, and when they fail to do even that, enforcement mechanisms under those agreements have been time-consuming and toothless. Of the dozens of NAFTA cases brought against Mexico for failing to enforce its labor laws, only one got a favorable ruling from an international tribunal; it resulted in a meeting Lee calls "a ministerial cup of coffee," plus an official government seminar on labor rights, held in Tijuana, at which union activists were attacked by thugs. And an AFL-CIO complaint against Guatemala under CAFTA — for failing to enforce its own labor laws or take action to prevent violence against trade unionists — has dragged on seven years with no result.

CAFTA and later trade agree-



TRADE, AMERICAN-STYLE: At the Portland Terminal 6, over 2 million Hyundai vehicles have entered since 1990.

ments with Panama, Korea, and Colombia were *also* touted as the best-ever on labor rights. The reason: Democrats took back the U.S. House in 2007, and in what is known as the "May 10 agreement," they got President Bush to agree to add language to several trade agreements saying that failure to abide by core international labor standards could result in trade sanctions. TPP makes three insignificant additions to that:

- **Countries must have laws setting a minimum wage and maximum hours.** Though Brunei currently lacks such laws, even a penny an hour or a 24-hour daily limit would satisfy the requirement.

- **Countries can't weaken labor laws in export processing zones in order to increase trade or investment.**

"That's underwhelming," Lee says. "Why would you limit it to export processing zones?"

- **Countries must take steps to discourage imports of goods made with forced labor.** "Really vague and really weak," Lee says: "It could be posting a notice or making a speech."

"We kind of thought, maybe it was crazy to think this, that because we had a Democrat in the White House we would really build on that labor chapter and do something much more far-reaching," Lee said. "We had a lot of ideas that we gave

PROTESTING THE TPP: Knowing that staff representatives of Washington U.S. Senators Patty Murray and Maria Cantwell would be attending their monthly meeting Nov. 4, delegates to the Southwest Washington Central Labor Council staged a protest against the proposed Trans-Pacific Partnership. Nearly 100 people turned out to air their concerns about the trade agreement. Earlier this year, Murray and Cantwell — along with fellow Democrat Ron Wyden of Oregon — rigged the rules in favor of the TPP by voting to give upcoming trade deals "Fast Track" treatment.

nam, for example, says it will allow free and independent unions for the first time. But the plan gives Vietnam five years to do that. And if it fails, there would be up to two years of consultations. Only then could there be trade sanctions — and that's if the U.S. president wanted to enforce the commitment. Thus TPP gives Vietnam and the others seven years of tariff-free access to the U.S. market with no enforceable commitment to allow workers to unionize.

"We didn't think Vietnam was a great candidate to be in a free trade agreement with the United States," Lee said. "You can't drop independent and democratic unions into a non-democratic country.... We've been saying to the government all along: Listen, we understand Vietnam is pretty far away from being able to comply with the [labor] standards," Lee said. "In that case Vietnam should not get the full benefits of the agreement until it is able to come into compliance." The Obama Administration didn't heed that.

Was it worth it — serving on a labor advisory panel for an administration that didn't take labor's advice? Lee won't burn any bridges, but says the whole process was incredibly frustrating: "Even compared to past administrations, this administration was not very forthcoming with cleared advisers. We did not get useful timely information." Lee and the other labor advisers got access to the initial U.S. negotiating positions — on trade in services or investment rules, or labor commitments, for example — but years would go by and they never got access to the updated negotiating texts as other countries came in with their positions.

the Administration, virtually all of which were ignored."

Besides the labor chapter, TPP also comes with bilateral side agreements known as "labor consistency plans" between the United States and Vietnam, Malaysia, and Brunei. The plans lay out how the countries are going to bring their labor laws into compliance with the TPP's labor chapter.

"They didn't share with us one single word of the consistency agreements prior to [release]," Lee said. "And we asked for it about a thousand times."

Taken at face value, the commitments are significant. Viet-

Why unions oppose the TPP

- **TPP countries would be considered "American" for purpose of "Buy America" requirements in government contracts.** That waters down the ability to use government procurement policies to stimulate the economy. Bidders from other TPP countries would have access to U.S. goods, services, and construction contracts at 93 government agencies, including Department of Transportation, Department of Defense, and the General Services Administration.
- **Weak rules of origin mean goods from China and other non-TPP countries come in tariff-free.** TPP gives tariff-free access to goods from Japan, Vietnam, and so on. But what does it mean that a car, for example, is Japanese? To be tariff-free under NAFTA, 62.5 percent of a Mexican product had to come from Mexico. Under TPP, just 45 percent of a good's content, by value, must come from TPP nations. In other words, an auto with 55 percent Chinese content could be considered to be Made in the TPP.



"Once you read the TPP text, you see why they kept it hidden for so long."

— Arthur Stamoulis, executive director of the labor-backed Citizens Trade Campaign

- **It gives foreign investors the right to sue governments if new regulations lessen their expected profits.** This so-called Investor-State Dispute Settlement (ISDS) process undermines democracy and governments' ability to regulate in the public interest. It also gives foreign

firms greater rights than domestic firms under U.S. law and in U.S. courts. If TPP is ratified, more than 1,000 corporations in TPP nations, with more than 9,200 subsidiaries in the United States, could launch ISDS cases against the U.S. government. The suits would be handled in special tribunals staffed

by three private sector attorneys, with none of the transparency or due process standards of the regular court system.

- **TPP is a "dock on" agreement.** TPP is an open-ended agreement which other countries can join at almost any time. So it could be infinitely expandable, whatever its weaknesses. And it isn't clear whether Congress would vote on each new entrant, or whether the president could decree it. During the Fast Track debate, an amendment that would have specified a Congressional vote failed.