



# TEAMSTERS

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## COMMENTS ON THE PROPOSED TRANS-PACIFIC PARTNERSHIP TRADE AGREEMENT

**Submitted to the Office of the U.S. Trade Representative by the  
International Brotherhood of Teamsters  
January 25, 2010**

These comments are submitted on behalf of the 1.4 million members of the International Brotherhood of Teamsters in response to the notice published on Dec. 16, 2009 (74 Fed Reg 66720). The notice said the President intends to enter into negotiations ... with the objective of shaping a high-standard, 21<sup>st</sup> Century agreement.” (Emphasis added).

The Trans-Pacific Partnership (TPP) is a framework for trade negotiations inherited from the Bush Administration. The countries that will benefit from its high-standard provisions are four with which we already have bilateral trade agreements -- the Commonwealth of Australia and the Republics of Chile, Peru and Singapore -- and three new ones -- the State of Brunei, New Zealand and the Socialist Republic of Vietnam.

These proposed negotiations and the agreement that emerges will be the first manifestation of President Obama’s approach to international trade policy. The whole world is watching what will emerge. The transnational corporate and investment elites will be following the negotiations closely, but so also will civil society including family farmers, consumers, workers, and advocates for a clean environment and human rights. People all over the world have a stake in U.S. trade policy reform. The TPP agreement will be controversial and historic.

The Teamsters are eager to assist the U.S. Trade Representative as it develops its negotiating objectives for the proposed regional agreement. We are grateful for the opportunity to weigh in on what a high-standard, 21<sup>st</sup>

Century agreement should include and avoid. After so many years opposing the expansion of the NAFTA model, we look forward to working with the administration and Congress to raise the low standards of those 20<sup>th</sup> century trade deals. We hope to help bring the Obama trade doctrine into focus by working together through the USTR Labor Advisory Committee, on which our general president sits, and in any other way we can.

On July 24<sup>th</sup>, 2008, in Berlin, then-Senator Obama declared that “[t]rade - has been a cornerstone of our growth and global development. But we will not be able to sustain this growth if it favors the few, and not the many. Together, we must forge trade that truly rewards the work that creates wealth, with meaningful protections for our people and our planet. This is the moment for trade that is free and fair for all.”<sup>1</sup>

We agree with the President; we want to support a “high-standard” Trans-Pacific Partnership.

The Teamsters will support a TPP that contains a democracy clause. The US should not enter trade agreements with countries that don’t have democratic forms of government. We note with approval that Australia, Brunei, New Zealand and Singapore are all members of the Commonwealth of Nations and therefore support democracy, human rights and the rule of law.<sup>2</sup> Negotiations on the inclusion of a democracy clause may be difficult, however, with Brunei, which is governed by a sultan and lacks a free press,<sup>3</sup> and Vietnam, where the citizens are denied basic freedoms of speech and assembly and the right to change their government.<sup>4</sup>

The Teamsters will support a TPP that protects workers and their right to organize. Two years ago, in a letter to the Iowa Fair Trade Campaign, Sen. Obama discussed fixing the NAFTA model and predicted, “*We’ll add binding obligations to protect the right to collective bargaining and other core labor standards recognized by the International Labor Organization.*”

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<sup>1</sup> On YouTube at <http://www.youtube.com/watch?v=Q-9ry38AhbU> and see also transcript at <http://www.observer.com/2008/arts-culture/obamas-berlin-speech>.

<sup>2</sup> Singapore Declaration – see Commonwealth at [http://www.thecommonwealth.org/shared\\_asp\\_files/GFSR.asp?NodeID=141097](http://www.thecommonwealth.org/shared_asp_files/GFSR.asp?NodeID=141097).

<sup>3</sup> As documented by our State Department at <http://www.state.gov/g/drl/rls/hrrpt/2006/78767.htm>

<sup>4</sup> As documented by Human Rights Watch, <http://www.hrw.org/asia/vietnam>, and our State Department (“Vietnam’s suppression of political dissent has continued to be a main issue of contention in relations with the United States, drawing criticism from successive administrations, as well as from members of Congress and the U.S. public.”) at <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119063.htm> .

*And I will add enforceable measures to NAFTA, the World Trade Organization (WTO), CAFTA and other Free Trade Agreements (FTA's) currently in effect.”*<sup>5</sup> Assuming that President Obama intends to protect workers' rights in future negotiations, it will be an historic day when these eight countries agree to enforce the core labor standards as described in the International Labor Organization's (ILO) Conventions<sup>6</sup> – namely:

- Freedom of association and collective bargaining (#87 and #98);
- Elimination of forced and compulsory labor (#29 and #105);
- Abolition of child labor (#138 and #182); and
- Elimination of discrimination in employment (#100 and #111).

The Teamsters opposed the US-Peru trade agreement negotiated by the Bush Administration because it did not go far enough in protecting workers' rights. That agreement did not incorporate these core labor standards. We will support an agreement with binding obligations to protect the ILO's core labor standards. Further, we will endorse a TPP that punishes violations of core labor standards as stringently as violations of its commercial provisions. We have argued for many years that labor and human rights should enjoy the same status as copyrights in our trade agreements. We will join with our brothers and sisters in all these countries to advance a TPP that protects our rights.

As with the democracy clause, the president should expect the Sultan of Brunei to resist labor standards. Brunei is not a member of the International Labor Organization (ILO), has no legal foundation for collective bargaining, and criminalizes strikes.<sup>7</sup> Similarly, as our Ambassador to Vietnam has reported, “[u]nions are subject to control by the communist party and have only limited independence, and workers are generally not free to join or form unions of their choosing,”<sup>8</sup> The Administration will need to be clear in its initial exchanges with the Vietnamese Ministry of Industry and Trade: participation in the TPP requires adherence to core labor standards.

The Teamsters will support a TPP that does not grant greater rights to foreign investors than to U.S. firms. In April 2008, Sen. Obama, in response

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<sup>5</sup> See [http://www.citizen.org/documents/Obama\\_IFTC.pdf](http://www.citizen.org/documents/Obama_IFTC.pdf)

<sup>6</sup> See <http://www.ilo.org/ilolex/english/convdisp1.htm>

<sup>7</sup> As documented by our Department of State at <http://www.state.gov/g/drl/rls/hrrpt/2005/61602.htm>.

<sup>8</sup> “International Labor Standards -- Critical To Successful Economic Development” at <http://vietnam.usembassy.gov/econ5.html> .

to a questionnaire from the Pennsylvania Fair Trade Coalition, promised that, “[w]ith regards to provisions in several FTAs that give foreign investors the right to sue governments directly in foreign tribunals, I will ensure that foreign investor rights are strictly limited and will fully exempt any law or regulation written to protect public safety or promote the public interest. And I will never agree to granting foreign investors any rights in the U.S. greater than those of Americans.”<sup>9</sup>

In order to fulfill that promise, the President should use the language in the Australia-U.S. free trade agreement as a template, and negotiate an even better agreement that includes investment rules that:

- Preserve the ability of each country to regulate foreign investment in a manner consistent with its needs;
- Define a standard of minimum treatment to provide no greater legal rights than U. S. citizens possess under the due process clause of the 14th Amendment to the Constitution;
- Allow each country to restrict speculative capital to reduce global financial instability and trade volatility; and
- Provide for government-to-government dispute resolution relating to expropriation, and only for those disputes relating to a government action that permanently destroys all value of the real property of a foreign investor, to the exclusion of investor-state dispute settlement mechanisms.

These rules should be introduced early in the negotiations. So long as the TPP does not enable foreign corporations and investors to challenge America’s environmental, health and other public-interest policies in private foreign tribunals, the Teamsters will support it.

The Teamsters will support a TPP that protects the environment. As Sen. Obama explained to the Iowa Fair Trade Campaign, agreements must include “*binding environmental standards so that companies from one country cannot gain an economic advantage by destroying the environment.*”<sup>10</sup>

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<sup>9</sup> See [http://www.citizen.org/documents/PA\\_Fair\\_Trade\\_Coalition\\_Obama.pdf](http://www.citizen.org/documents/PA_Fair_Trade_Coalition_Obama.pdf)

<sup>10</sup> Dec. 26, 2007 letter to Iowa Fair Trade Campaign; see also, response to questionnaire from Texas Fair Trade Coalition, March 3, 2008 at <http://www.citizen.org/documents/TXFairTradeCoalitionObama.pdf>

We wholeheartedly agree. Working families around the world have been harmed by environmental degradation brought on by low-standard, 20<sup>th</sup> Century globalization and bad trade deals. We support the recommendations of the American environmental movement for the TPP negotiations.

President Obama should establish those environmental priorities in consultation with Congress. The administration should also assess current environmental governance in all seven countries, as well as the likely impact of the agreement. Finally, the Obama administration should estimate the cost to U.S. taxpayers of helping those countries raise environmental standards.

The Teamsters will support a TPP that protects food safety and family farms. In his letter to the Iowa Fair Trade Campaign, Senator Obama promised, “*As president, I will make sure that any goods coming into America meet American safety standards, and that the U.S. Consumer Product Safety Commission, the Food and Drug Administration and the other agencies that protect consumers have the tools necessary to make sure that what we’re buying is safe.*”<sup>11</sup>

We agree that America must bar the import of food products that do not meet our safety standards with respect to pesticides, inspections, packaging and labeling. By the same token, our partner countries must be able to impose public safety standards on food imports without violating the TPP or any other multilateral trade arrangement.

We encourage the USTR to work closely with the U.S. commissioner for Food and Drugs to assess whether TPP countries have quality standards as high as ours. If the TPP requires harmonization of food safety standards, those standards must be as stringent as those in the U.S.

If the TPP includes agricultural provisions, the agreement must provide for, in each country, adequate and stable market returns for farmers, affordable supplies of safe food, the right to encourage conservation through crop production and management and ensure that agricultural workers are treated in accordance with core labor rights. Finally, the TPP should prohibit dumping of agricultural products onto world markets at prices below the cost of production.

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<sup>11</sup> Dec. 26, 2007 letter to the IFTC.

The Teamsters will support a TPP that allows Congress and state legislatures to enact government procurement programs in the public interest, like the “Buy American” provisions in the federal stimulus legislation a year ago. The U.S. should enter TPP negotiations prepared to defend all federal, state and local infrastructure projects, renewable energy projects, recycled and domestic content rules and environmental safety regulations that would have been challenged under previous trade deals. This is essential given high unemployment and the administration’s commitment to restoring U.S. growth and economic leadership.

The Teamsters will support a TPP that does not require fast-track trade promotion authority from Congress. The USTR should heed Senator Obama’s commitment to the Wisconsin Fair Trade Campaign: “I will replace Fast Track with a process that includes criteria determining appropriate negotiating partners that includes an analysis of labor and environmental standards as well as the state of civil society in those countries.”<sup>12</sup> And the Congress should heed his response to the Pennsylvania Fair Trade Coalition’s questionnaire, “[t]he current Fast Track process does not mandate that agreements include binding labor and environmental protections nor does it give an adequate role to Congress in the selection and design of agreements. I will work with Congressional leaders to ensure that any new TPA (trade promotion) authority fix these basic failings and open up the process to the American people for their participation and scrutiny.”<sup>13</sup>

The Federal Register Notice to which these comments respond indicates that the “USTR is observing the relevant procedures of the Bipartisan Trade Promotion Authority Act of 2002 ... with respect to notifying and consulting with Congress regarding the TPP.” Those procedures do not require the analysis and the crucial role of Congress that the President prefers. Therefore, we agree with House Trade Subcommittee Chairman Sander Levin, D-Mich., that fast-track authority should not be used for a 21<sup>st</sup> century trade deal. Chairman Levin noted “[w]e negotiated a major agreement, the Uruguay Round, without fast track.”<sup>14</sup>

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<sup>12</sup> Letter to Wisconsin Fair Trade Coalition, February 18, 2008 at [http://www.citizen.org/documents/WFTC\\_Obama\\_Letter.pdf](http://www.citizen.org/documents/WFTC_Obama_Letter.pdf)

<sup>13</sup> PA Questionnaire, op cit.

<sup>14</sup> “Levin Argues Against Fast Track,” Congressional Quarterly (Dec. 15<sup>th</sup>, 2009) at <http://www.cqpolitics.com/wmspage.cfm?docID=cqmidday-000003267623>

The Teamsters will support this administration as it strives to fulfill the promises of the candidate who told us to get ready for real change in international relations and trade policy. We will work closely with the USTR and the Secretary of Labor on the Labor Advisory Committee to make sure that working families are at the table – not merely near it anymore – in the formulation of U.S trade policy. On Capitol Hill, where the Constitution invests exclusive authority to regulate commerce with foreign nations,<sup>15</sup> we will work with the Democratic leadership and appropriate committees to articulate a new set of trade objectives as well as a new process to replace the fast-track grants that hindered systemic trade reform since the Nixon administration.

In the past, the Teamsters have opposed so-called “free trade” agreements because we care about keeping good jobs in this country and creating new jobs that respect workers rights. We opposed the NAFTA model and its expansion through this hemisphere as CAFTA, the Caribbean Basin Initiative and the Free Trade Area of the Americas. We opposed it in Africa, where it was sold as the African Growth and Opportunity Act. We opposed it in Geneva, where the World Trade Organization subordinates the interests of working families and the values of civil society to the short-sighted profit motives of transnational corporations. All those trade deals have sacrificed American jobs – an historical fact that we hope this administration understands and will redress, starting with the Trans-Pacific Partnership.

After many years opposing bad trade deals, the Teamsters are eager to support a high-standard, 21<sup>st</sup> Century trade policy. We will lobby Congress to vote FOR a TPP that President Obama negotiates in accordance with the criteria respectfully set forth in this Comment.

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<sup>15</sup> Constitution of the United States, Article I, Sec 8, Para 3.