

**Statement of Assistant Secretary Tom Malinowski, Bureau of Democracy,
Human Rights and Labor**

**Senate Foreign Relations Committee, Subcommittee on East Asia, the Pacific,
and International Cybersecurity Policy**

***Strategic Implications of Trade Promotion and Capacity-Building in the
Asia-Pacific Region***

June 16, 2015 at 2:30pm

Mr. Chairman, thank you for the opportunity to testify today. You have asked us to discuss the strategic implications of trade promotion in the Asia-Pacific region. This is obviously a timely question given the intense debate now underway on Trade Promotion Authority (TPA) and the Trans-Pacific Partnership (TPP) agreement.

The TPP is, first and foremost, an economic agreement, for which the economic case is clear. But as the first trade agreement spanning both sides of the Pacific, the TPP will deliver larger strategic benefits as well. The TPP will be a community of common interest – a group of nations that have consented to join their economic destinies together, according to rules that all must respect and that will be enforced if violated. America’s central role in this partnership further cements our leadership in the Asia-Pacific, and ensures that the rules being negotiated reflect our interests and values.

The alternative to the TPP, should it fail to materialize, would not be an absence of trade in this region. Trade across the Pacific, with all of its creative and disruptive consequences, has been expanding steadily for years, between countries already linked by trade agreements and those, like the United States and China, that are not. But absent TPP, there would be far less political cooperation between nations in shaping the rules governing this growing commerce, including rules that protect labor rights and the environment. And to the extent rules and values might still develop, countries other than the United States would be shaping them. The fact is that the high standards we seek will only happen if we are there to insist on them.

By binding its parties’ economic futures together, the TPP also can deepen cooperation across the region on other matters of importance to the United States. There are historical parallels. The European Coal and Steel Community of the 1950s, for example, was also an economic agreement, but few people remember it solely as a common market for two industrial commodities. We remember it as the

first transnational community forged in post-war Europe, and a foundation for European and transatlantic unity on political and security issues as well.

In evaluating the potential strategic benefits of TPP, I will focus on how it could help us advance human rights and labor rights. Promoting human rights is one of America's core objectives in the Asia-Pacific, and in our Asia "rebalance." It helps build more stable societies by encouraging governments to give people peaceful outlets for political expression and to seek the most reliable source of legitimacy: the consent of the governed. It supports our economic goals by promoting laws and institutions that secure property rights, enforce contracts, fight corruption, and ensure the free flow of data and information. It empowers citizens to hold their governments accountable on issues like the environment and product safety, which are important to the health of our own people. It aligns American leadership with the aspirations of everyday people in the region, and with values that they admire. And it distinguishes us from other great powers that define their interests in narrower and more cynical terms.

To say that TPP can help us advance these goals is to say something not immediately obvious to many people who have followed the debate over the agreement. TPP is a trade agreement, not a human rights treaty, and some of its parties – Vietnam in particular – have poor human rights records.

Many people are skeptical of the argument that free trade itself encourages democracy. I am one of those people. Authoritarian government can coexist with a McDonalds in every city and an iPhone in every pocket. Democracy and the rule of law are built by political effort, usually in the face of stubborn political resistance.

But I am convinced that, on balance, TPP will greatly aid the effort to advance human rights in the Asia-Pacific region.

Promoting human rights in the region depends on using our voice, our assistance, and our economic and diplomatic leverage to stand up for universal values and the people who are defending them. But governments in the Asia-Pacific are more likely to respect our voice on these issues if they know the United States also remains committed to maintaining our leadership for security and prosperity in their region. In other words, to champion human rights effectively, we must be principled and present at the same time.

TPP will be a cornerstone of our strategic presence in the Asia Pacific. Its conclusion is the single most important thing the United States can accomplish in its economic and strategic relationship with the region this year. It will help ensure that we, the United States and our partners, will continue to play the leading role in shaping the region's institutions and norms.

And when it comes to labor rights, specifically, TPP is also principled. I know that some people have doubts about this, perhaps because many past trade agreements put such issues to the side, or had weaker standards than the TPP. But as a candidate for president, then Senator Obama promised to put labor and environmental standards at the core of trade agreements and to make them enforceable like any other core commitment in the agreements. TPP keeps that promise. In addition, we have leveraged the interest of countries to be part of TPP to advance an even broader range of human rights and worker rights objectives – for example to press Malaysia to take stronger action against human trafficking, and Brunei's recent commitment to sign the Convention against Torture.

Let me discuss how this will work with respect to the country with some of the broadest human rights challenges among potential TPP countries – Vietnam.

We have no illusions about how far Vietnam must still go to become a country that fully respects the human rights of its people. It is a one party state. It has laws that criminalize political dissent. It does not yet fully guarantee freedom of expression, assembly, or association.

At the same time, there is a high stakes debate underway in Vietnam about whether and how to build a more democratic society under the rule of law. That debate is being driven by civil society, but has also been joined by many within the government who do not want changes in their society to leave them behind. The reformers' most powerful pragmatic argument is that reform is necessary to secure something everyone – from Communist Party leaders to democracy activists – says the country needs: a closer economic and security partnership with the United States.

Under the spotlight of the TPP negotiations, Vietnam has released prisoners of conscience, bringing the total number down to around 110 from over 160 two years ago. In 2013, Vietnam convicted 61 people for peaceful political expression; thus far in 2015, there has only been one case in which activists were convicted under statutes criminalizing peaceful expression. Vietnam has recently ratified the Convention Against Torture and the UN Convention on the Rights of Persons with

Disabilities, and promised to bring its domestic laws – including its penal and criminal procedure codes – into compliance with its international human rights obligations. This will be a long and hard process, which some in the Vietnamese government will resist. But the government has been sharing drafts of new laws with its public and invited the input of other countries, including the United States, which would have been unthinkable a few years ago.

What's more, the TPP agreement will include a requirement that Vietnam guarantee freedom of association, by allowing workers to form genuinely independent trade unions. Allowing workers for the first time under their system to establish and join trade unions of their own choosing would be an historic breakthrough in a one party state. Vietnam will have to make the necessary legal reforms or miss out on the agreement's benefits. And its commitments will be subject to the same enforcement provisions as every other core obligation of the TPP agreement.

These developments may not by themselves guarantee full respect for human rights and labor rights in Vietnam. But the question we must ask is, will we be better or worse off with TPP? I believe there is no question that advocates for human rights and the rule of law in Vietnam will be better off if by next year, their country has independent trade unions, fewer dissidents in prison, legal reform, and a foreign policy that links its destiny with the United States. Without the chance to join TPP, it is not likely Vietnam would be making any of these choices. Passage of TPA legislation, which helps preserve that chance, gives us bargaining power to keep pushing Vietnam for more progress. And if Vietnam then meets the conditions for TPP itself, we will still have leverage, such as via Vietnam's strong desire for a full lifting of restrictions on the transfer of lethal arms.

It's hard to see how these goals would advance if TPA fails. The Vietnamese understand our political process, and calendar. They know that approval of a trade pact is less likely in the United States next year. If Congress closes the door to an agreement now, the Vietnamese government will turn its focus to internal political consolidation – with a Communist Party leadership contest coming up in 2016 – rather than on what it will take to improve its relationship with the United States. In this scenario, there would be zero chance of seeing independent unions legalized in Vietnam, less support for the legal reforms we are seeking, and a greater likelihood of a political crackdown.

Members of Congress concerned about human rights in Vietnam are right to maintain a healthy skepticism about its government's intentions. Congress should

keep demanding more progress. But Members should also recognize the critical role TPA and TPP play in sustaining a process that facilitates securing more progress. TPP is not a leap of faith; it is an instrument of leverage, with respect to Vietnam and all the nations aspiring to participate in the TPP. I hope that the Congress will enable us to continue to use that leverage, and to maintain America's role as the nation shaping the future of the Asia-Pacific.

Thank you for the opportunity to testify today. I'd be pleased to answer any questions you may have.