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Trade Negotiations Consultations (TPP)
Foreign Affairs and International Trade Canada
Trade Policy and Negotiations Division II (TPW)
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On behalf of the United Steelworkers' (USW), please see the attached document with respect to Canada's proposed entry into the Trans-Pacific Partnership (TPP) free trade negotiations.

Regards,

Ken Neumann
Canadian National Director

United Steelworkers' Submission to the Government of Canada on the Trans-Pacific Partnership

The United Steelworkers union welcomes the opportunity to comment on Canada's proposed entry into the Trans-Pacific Partnership (TPP) free trade negotiations.

Our union represents 200,000 Canadian workers, employed in every sector of the economy. While our traditional membership base has been in mining and steel, our membership has become increasingly diverse over the past twenty years. Our members now not only mine ore and make steel, but also produce electronics, auto parts, tires, rubber and plastics. They work in banks and credit unions, legal clinics, nursing homes, hotels, restaurants, cafeterias, warehouses, call centres, security companies, offices, universities, and trucking companies.

Our experience over the last twenty years has been that trade agreements have a significant impact on our members' lives. Notwithstanding this fact, trade agreements negotiated by successive federal governments have contained robust protections for investors while providing few if any protections for workers.

The United Steelworkers union opposes the negotiation of another trade agreement that gives special privileges to foreign investors and undermines labour standards. The Government of Canada should not join the TPP unless it fundamentally changes its approach to trade negotiations to prioritize the promotion of high-quality jobs, enforceable labour rights and sustainable development.

Trade Flows

Canada already has free trade deals with three of the current TPP members. The other six TPP members combined account for below one percent of Canada's exports. Any conceivable increase in exports to these markets would be almost insignificant in terms of total Canadian output and employment.

Canada should not feel compelled to make significant concessions to be admitted into the TPP. In particular, Canada should not surrender policy space that it has exempted from previous trade deals, such as provincial and local procurement, social and cultural programs,

and the right to review foreign investment. We endorse the Canadian Labour Congress submission, which explores these areas in greater detail.

Corporate Canada is interested in the TPP partly because it expects that larger economies like Japan and China might join (C. D. Howe Institute Commentary No. 340, February 2012). However, Canada suffers from substantial trade deficits with both of those countries. Further liberalization would pose major challenges, particularly for our manufacturing sector.

Any new trade arrangements with Japan or China should be considered on their own terms and subject to Parliamentary approval. Japan has asked to join the TPP. If it is admitted, Canada would need to re-evaluate the TPP's costs and benefits accordingly.

Investment

Many “free trade” agreements have been less about trade than investment. In particular, they have established investor-state dispute processes through which foreign investors can directly challenge public policies that allegedly reduce their potential profits. Commercial tribunals adjudicate these claims behind closed doors. Two years ago, the Government of Canada felt compelled to pay \$130 million to settle such a claim by AbitibiBowater.

Australia, a current TPP member, rightly rejected this approach in its April 2011 Trade Policy Statement:

Some countries have sought to insert investor-state dispute resolution clauses into trade agreements. Typically these clauses empower businesses from one country to take international legal action against the government of another country for alleged breaches of the agreement . . .

The Gillard Government supports the principle of national treatment – that foreign and domestic businesses are treated equally under the law. However, the Government does not support provisions that would confer greater legal rights on foreign businesses than those available to domestic businesses. Nor will the Government support provisions that would constrain the ability of Australian governments to make laws on social, environmental and economic matters . . .

In the past, Australian Governments have sought the inclusion of investor-state dispute resolution procedures in trade agreements with

developing countries at the behest of Australian businesses. The Gillard Government will discontinue this practice.

We fear that Canada would be among the countries seeking to insert an investor-state dispute resolution clause into the TPP. We encourage the Harper government to adopt the same stance as the Gillard government on this issue.

Labour Rights

By ensuring that businesses can sell their output across borders and protecting foreign investment, free trade agreements increase the mobility of capital. The threat of relocation strengthens the bargaining power of business relative to workers and governments.

To prevent jurisdictions from competing for mobile capital by lowering their labour standards, trade agreements must uphold meaningful labour standards.

We recognize that recent Canadian trade agreements include commitments to adopt laws that are consistent with International Labour Organization core labour standards. However, trade agreements must also commit the signatories not to derogate from these standards. Further, labour obligations must be subject to effective enforcement procedures with strong remedies.

In existing Canadian trade agreements, labour protections are relegated to substandard side agreements that provide no meaningful enforcement of workers' rights. Enforcement of these rights remains at the discretion of the signatory governments. In contrast to the investment chapters, there are no provisions that provide for independent legal actions by trade unions or other workers' organizations that could lead to remedies for parties who are affected.

Finally, in existing labour side agreements, the penalties are limited to relatively small fines. Canadian trade agreements contain no provisions for trade sanctions, such as the imposition of countervailing duties or the abrogation of preferential trade status.

The enforcement mechanism should be at least as strong for workers' rights as for investor rights. In particular, penalties must be sufficient to remove any unfair competitive advantage gained by undercutting internationally-recognized labour standards.

Access to Medicine

The U.S. Trade Representative has identified “stronger protection of intellectual property rights” as a negotiating objective. Drug companies will attempt to impose additional patent requirements through the TPP. Canada should not accept provisions that would further limit our ability to produce affordable medicine, use it in our healthcare system, or provide it to developing Asian nations.

The Need for Transparency

Over the last 25 years, so-called free trade agreements have transformed the Canadian economy. It is unconscionable that, increasingly, these agreements are negotiated in secret, without any significant public consultation.

The United Steelworkers union therefore joins with other groups in demanding that, if the Government of Canada elects to participate in the TPP, it conduct regular and meaningful consultations with trade unions, civil society groups and the general public throughout these negotiations. Draft texts and proposals should be made available for public review. Following consultations and amendments to these drafts, if the Government wishes to proceed with the TPP, we submit that an agreement of this importance must be put to a vote in the House of Commons.

Canada does not have an enviable record with respect to transparency when it comes to the negotiation of trade agreements. While the original FTA and, to a lesser extent NAFTA, were the subject of considerable public debate, the subsequent negotiation and ratification of Canadian trade agreements have taken place without any broad public consultation.

If the TPP is to have any legitimacy whatsoever, the negotiations must be transparent.

Conclusion

There is no justification for the negotiation of trade agreements that provide unfettered commercial rights to multinational corporations and other investors, while at the same time providing no protections to the workers who often bear the brunt of increased capital mobility. The Government of Canada should not join the TPP unless it is prepared to prioritize labour rights at home and throughout the Pacific region.

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