



Submission by United Steelworkers to the
Standing Committee on International
Trade regarding the Trans-Pacific
Partnership (TPP)

May 12, 2016



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Submission to the Standing Committee on International Trade Re: Ongoing concerns regarding the Trans-Pacific Partnership and its impact on Canadian workers

The United Steelworkers is the largest industrial union in North America representing over 250,000 active and retired members in Canada. Our members work in virtually every tradable sector from mining and metals, glass and rubber, paper and forestry, automotive and aerospace and countless other areas including services, university, healthcare and security. On behalf of our hard-working members I would like to thank the Committee for holding these consultations and for allowing the USW the opportunity to submit our serious concerns regarding the Trans-Pacific Partnership and the impact it will have on Canadian workers and their families.

We believe that the TPP will not resolve the most important challenges that have decimated our manufacturing base in recent years. In the TPP text, we see little to suggest the deal will provide a net benefit to ordinary Canadians. The TPP, if ratified, will further bind our economy to a currently-flawed global economic system that has not only hurt Canadian workers, but one which will also undermine our democracy, environment and national autonomy.

Under the previous federal government, TPP negotiations were conducted largely behind closed doors, with no real input from civil society. We commend this committee for your efforts to consult the public in advance of making a decision to ratify the treaty. We also recognize that this government has already engaged in more public consultations on the TPP than the previous government did during years of negotiations. Even so, we worry that this government has not fully considered the broad impacts that the TPP will have on the Canadian economy, public policy and on Canadian workers and their families.

In the pages below we outline some of our more detailed concerns with several aspects of the deal. This is not meant to be an exhaustive list. We hope that you will give these concerns thorough review as you prepare your report to parliament and we look forward to answering any questions you may have.

The TPP will further erode Canada's manufacturing and industrial base and eliminate Canadian jobs

The TPP will further undermine an already weakened manufacturing base in this country. Under the TPP, the privileged access of Canada's auto parts manufacturers to North American markets will be eroded and Canada's 6.1% tariff on vehicle imports from Asia will be eliminated over just five years (much faster than auto tariffs are removed in other TPP countries). Current rules negotiated under NAFTA require that 62.5 per cent of auto parts come from North America in order to avoid tariffs. Under the TPP, regional content rules

are weakened to 45 per cent North American content. UNIFOR economist Jim Stanford has calculated that these reductions will threaten 20,000 well-paying jobs in Canada's auto-sector alone.

The impact of these provisions will surely bleed into other areas of this country's industrial and manufacturing base. The TPP will further lock the Canadian economy into a pattern of unprocessed raw materials export, particularly from our forestry and mining sectors, because the agreement renders it more difficult for governments to implement job creation strategies to process raw materials domestically. We are particularly worried about the damage that the deal could cause the steel industry, which still accounts for thousands of jobs in this country and which is already under severe stress as a result of foreign competition, dumping, and currency manipulation as well as negligence on the part of previous federal governments.

We understand that the federal government has yet to complete a comprehensive economic and sectoral impact assessment of the TPP. The absence of such research renders it difficult to make a meaningful assessment of the TPP's putative effect on economic growth and development. However, a recent Tufts University study suggests that the alleged benefits from the TPP have been grossly over-stated. According to the study, economic growth as a result of TPP implementation will be negligible—for Canada a mere 0.28 per cent over 10 years. Moreover, it predicts a loss of 58,000 jobs in Canada and greater inequality due to labour's reduced share of the gains achieved under the agreement. Other studies completed by the World Bank and the Peterson Institute ignore distributional concerns but similarly predict that the deal will bring only marginal benefits to GDP growth.

On closer examination, these conclusions should not come as a surprise. It is worth remembering that currently 97% of Canadian exports to TPP countries already occur duty free. Although the direct economic impact of reducing tariffs may be negligible, the downstream effects of these reductions for what remains of our manufacturing base would be catastrophic.

Enhanced Investor-State Dispute Settlement under the TPP further undermine the public interest

The controversial Investor State Dispute Settlement (ISDS) provisions (Chapter 28) are really at the heart of the TPP. ISDS severely constrains environmental, health, and safety regulations as well as financial regulations deemed to have significant macroeconomic impacts on the ability of foreign companies to profit from their investments. ISDS operates beyond the domestic jurisdiction of states and national legal systems as it forces sovereigns into a private arbitration system dominated by international-trade lawyers and economists. In effect, the TPP's ISDS provisions would grant foreign firms greater rights than domestic firms enjoy under Canadian law and the Canadian court system. Furthermore, while the TPP gives powerful rights to multinational corporations, it does not require of them equivalent responsibilities to respect environmental, anti-corruption or labour standards.

ISDS leaves governments vulnerable to costly legal battles when foreign investors say they suffered financial losses as a consequence of government actions. For example, under NAFTA's Chapter 11, Canada has been subject to 35 ISDS claims, with 63 per cent of them challenging environmental protection or resource-management measures. As the most-sued developed country under ISDS, Canada currently faces \$2.6 billion in ISDS claims.

Even under the current trade regime, the promoters of these investor protections have yet to provide compelling evidence of a corresponding public benefit. The TPP goes further, however, in that it codifies a more generous interpretation of the "fair and equitable" treatment standard under trade and commercial law by allowing investors' "expectations" to be a key factor in determining whether a government has breached its obligations under the treaty. Under such liberal provisions it does not even take an actual ISDS challenge to change policy; governments and stakeholders will hesitate to regulate in the public interest lest they incur the considerable costs of defending their position in unaccountable arbitral panels.

ISDS under the TPP reflects a further evisceration of the role of domestic policy and institutions in the Canadian economy and poses even greater risks for governments and domestic stakeholders. In fact, the EU, faced with growing public opposition to ISDS, recently demanded that Canada reopen CETA negotiations on this issue. The CETA text unveiled in March features some notable changes to the ISDS rules, with Canada largely acquiescing to European demands. Notably, Minister Freeland has characterized CETA as a "gold plated" trade deal even as the TPP ISDS provisions fall well short of even CETA's problematic but improved ISDS provisions. Moreover, the CETA renegotiations around ISDS demonstrate that signed trade deals are not done deals—this government can and should reopen discussions in the public interest before it even considers bringing this problematic deal to parliament for ratification.

TPP investor protections will also significantly increase drug costs and threaten public healthcare programs

Canadian drug costs are already the second highest in the world, but the IPP chapter of the TPP could prove disastrous for future efforts to control drug costs in Canada. A recent Canadian Centre for Policy Alternatives study finds that the TPP investor protections would make it more difficult and costly for Canadian governments to establish new public health programs, including pharmacare.

Canada is one of only three TPP countries with a patent linkage system for pharmaceuticals, which allows brand-name patent holders to contest regulatory approval for generic drugs. But the TPP effectively locks in patent-linkage and precludes future cost savings reforms which would benefit workers and their prescription drug plans. Language from the TPP also suggests that negotiating bulk purchases of drugs from companies will be significantly more expensive for governments that use such bulk purchases for aid programs and prisoners.

But it is the poorest TPP countries that will be hardest hit by the agreement's healthcare and investor protection provisions, leading Doctors without Borders to suggest that "The TPP agreement is on track to become the most harmful trade pact ever for access to medicines in developing countries." Preventing generic medicines from entering the market is particularly devastating given the success of India's revolutionary generics model which has significantly expanded local access to medicines, a model that could be implemented in Latin America and Southeast Asia if not for TPP provisions.

The TPP will hinder Canada's ability to address climate change

Assertions that trade deals provide exceptions that allow governments to enact environmental policies are misleading, since ISDS and other provisions of the TPP will assess environmental projects on the basis of whether they restrict trade or investment. Current arbitral practice suggests that ISDS panels will ignore or narrowly interpret these provisions, making them practically useless. According to the Council of Canadians, the environmental provisions merely mirror the weak commitments and almost non-existent enforcement options in NAFTA's environmental side agreement.

The federal government has promised to dramatically reduce greenhouse gas emissions pursuant to the Paris agreement on Climate Change. Given Canada's heavy reliance on the fossil-fuel sector, this already monumental challenge will only be hindered by Canada's adoption of ISDS under the TPP. Even more troubling is that the environmental provisions, which were negotiated before the Paris climate agreement, do not even mention climate change. In our view the TPP provisions on the environment are merely aspirational and do not propose binding standards that need to be met by all countries. It is not clear how the government plans to reconcile its TPP treaty obligations with the climate commitments made in Paris.

Inadequate restrictions on International Labour Mobility and Temporary Foreign Worker programs

The problems of Canada's Temporary Foreign Worker Program and International Mobility Program are well documented. Under the Conservatives it was rife with cases of abuse and was plagued by ineffective or non-existent enforcement and monitoring. The TPP's labour mobility provisions raise serious concerns that foreign companies could bring an unlimited number of foreign workers with little oversight. The language covers a broad range of occupational categories, and expands programs that will take jobs away from Canadian workers and drive down Canadian wages while at the same time exposing vulnerable foreign workers to precarious work without access to fundamental protections.

Under Chapter 12 (Foreign Entry of Business Persons) of the agreement, the Intra-Corporate Transferees category allows firms to import "specialists," meaning "an employee possessing specialized knowledge of the company's products or services." The Article prevents Canada from imposing economic needs tests, labour certification tests, or numerical restrictions on the granting of temporary entry to these workers.

It is difficult to predict the potential size of the influx of workers into Canada under the labour mobility agreement. Where rigorous standards applied by the regulatory bodies effectively result in foreign workers under the TPP not being permitted to work in Canada, it is possible that some Parties may complain that these measures “impair” their rights under the agreement. In effect, the TPP provides “labour mobility” for multinational corporations, but workers have few rights, either in home or foreign markets.

Weak enforcement of labour rights

In both the global North and global South, states have deregulated or otherwise not strengthened labour protections in the interests of investors and to attract capital. Workers’ incomes have stagnated in real terms and demand continues to stall. As the Tufts University study cited above suggests, the TPP will only further exacerbate inequality and prioritize the rights of capital over the needs of Canadian workers. Under “free trade”, it is often stated, the winners will compensate the losers; but as Nobel Prize winning economist Joseph Stiglitz remarked at a recent forum at the University of Ottawa, there is little evidence to support this economic assumption.

Trade agreements such as the TPP simply have not benefited workers and this agreement must do more to impose labour standards on the parties. As it is currently written, the TPP does not adequately enforce the standards embodied in the International Labor Organization (ILO) conventions to ensure that workers’ rights are implemented across every workplace and subject to effective enforcement. In countries like Vietnam and Malaysia, where workers have faced extraordinary abuses, there must be binding and enforceable plans to bring those countries’ laws and practices into compliance with TPP labor requirements. We are also concerned with the lack of freedom of association in Brunei and lax protection of labour unions in Mexico. Many workers in Vietnam are routinely denied basic labor standards and Malaysia’s problems with human trafficking are well known.

There is little in the TPP that will address these concerns. As multinational companies continue to proliferate their global supply chains, the TPP will not prevent these firms from exploiting poor labour standards while absolving themselves of their responsibility in encouraging these conditions. These trends will only serve to further drive down wages and working conditions for workers here in Canada as firms seek to move production to jurisdictions with the lowest material cost.

Canadians deserve a better deal

If the benefits of trade under the TPP are to be distributed to all Canadians, then Canadian leaders must negotiate a better deal than the one signed in Auckland last February. There is no reason for this government to accept the content of the deal even as the leading US presidential candidates as well as congressional Democrats and Republicans voice concerns. There are ways to reopen the TPP in order to preserve jobs,



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National Director/ Directeur national

protect the environment, limit the power of multinational corporations and avoid higher drug prices. There is a better deal for Canada and your government can push for renegotiation or decline to ratify the deal on Canada's behalf.

As the Minister of International Trade stated, signing the deal is not the same as ratifying it. We will continue to urge Parliament to reject pressure to ratify the TPP. In the meantime, the federal government should inform TPP partner countries that Canada will not be bound by the agreement as it currently stands, and that public input could affect demands for change. Real consultation, in our view, means a full public review including a thorough and independent analysis of the TPP text and impact assessment by the Parliamentary Budget Officer and separate and meaningful consultations with trade unions, First Nations, and other civil society groups.

Parliament should not limp begrudgingly into the TPP; Canadians deserve to be told in clear language precisely what the economic and political costs and benefits will be. These studies have yet to be done. Furthermore, consultation should go beyond the decision to ratify. Although we believe that Canada should reject this deal, the government should also explore flexibilities within the TPP or otherwise bargain side letters to limit the negative consequences of the provisions therein. If ratified, implementation will pose its own challenges and this government will need to take action to protect Canadian workers.

Our union is not anti-trade. However, we believe that trade as an instrument of economic policy can forge a new approach; one that would lift wages up rather than push them down, one that would reduce our growing trade deficit, one that would promote domestic manufacturing and employment rather than more outsourcing and offshoring, one that would begin to reverse the widening gap of income inequality.

We thank this committee for permitting us the opportunity to speak about our members' concerns and we look forward to answering any further questions you may have.

Respectfully,

A handwritten signature in blue ink that reads "Ken Neumann". The signature is written in a cursive, flowing style.

Ken Neumann
United Steelworkers National Director for Canada

cc. Leo W Gerard – International President
Canadian Directors