

The Trans-Pacific Partnership and Canadian Labour Rights



Briefing Note

About Unifor

Unifor represents 310,000 workers across Canada, and is the country's largest union in the private sector. Unifor also represents tens of thousands of public-sector workers, in a range of sectors including health care, education and transportation. Over 40,000 Unifor members work as certified skilled tradespersons, across all sectors of the economy.

Trouble with the TPP

The TPP was negotiated behind closed doors, with no analysis of its impacts on Canada's economy and without any meaningful input from the public. Recent studies predict the TPP will have a negative effect on Canada's economy. Even in best case scenarios, the TPP will have little to no impact at all. In either case, the risks to Canada's public policy and decision-making appear to be real and raise serious concerns for Canadians on a number of fronts. For instance:

- The inclusion of investor-state dispute settlement (ISDS) will grant extraordinary and extra-judicial rights to private corporations, allowing them to sue governments over public policy decisions;
- A "negative-list" approach that opens markets to foreign investors and all service suppliers, unless explicitly excluded from the deal, promotes permanent deregulation and limits government decision-making over the long term;
- Patent reforms and new digital policy rules risk everything from higher Canadian drug prices to data privacy.

The Impact of the TPP on Canada's Labour Rights

One of the long-standing concerns with trade and investment agreements is that they will enable employers to exert downward pressure on wages and working conditions. For instance, if an employer could produce goods in a country with high labour standards (at a higher cost) or low labour standards (at lower cost), with no barriers in the exchange of those goods between nations, they would opt for the lower cost jurisdiction (all other things being equal). This helps to explain why many trade treaties include provisions (usually a designated chapter) on labour rights and the expectation that parties will preserve minimum work standards. However, it should come as no surprise that trade pacts built on promoting free market disciplines, encouraging less government regulation and smoothing cross-border capital flows, will have relatively weak labour rights provisions, compared to those afforded to private investors. The TPP is no exception.

In fact, the TPP's labour chapter (Chapter 19) encourages "cooperation", "consultation" and "dialogue" among parties as an appropriate means to "enforce" its stated provisions on labour rights, including minimum wages, job creation, skills development and other matters. However, nothing in the chapter guarantees the protection or enhancement of these rights – not near the degree to which investor rights are protected and enforced in other parts of the deal.

Chapter 12 of the TPP (Temporary Entry for Business Persons) establishes rules around the movement of workers between nations and within the TPP region – similar to other free trade deals, like NAFTA. Under this chapter, employers have the right to import employees into Canada to perform work. And while Canada maintains the right to establish licensing and certification requirements for professional occupations, no such requirements can be imposed "at the point of entry" into Canada.¹

Unifor is urging federal Members of Parliament not to ratify the Trans-Pacific Partnership agreement. Canada's approach to global trade and investment must serve to enhance our collective economic and social development, and must be guided by progressive, fair trade principles.

The TPP also lifts any restrictions on the number of temporary workers a firm can import under the terms of the deal, and negates the use of a Labour Market Impact Assessment – a test administered by Economic and Social Development Canada (ESDC) requiring employers to prove there is both a “need” to utilize temporary foreign workers and that there are no Canadian workers available to perform the job. These assessments, although heavily criticized for their effectiveness, are still standard protocol under Canada’s Temporary Foreign Workers Program.

The TPP’s essentially unlimited flow of temporary skilled trades workers and technical employees does not bode well for Canada’s job creation prospects. Although it is difficult to predict the extent to which these temporary entry provisions will be utilized by firms in TPP member states, developed countries like Japan and Australia certainly stand to benefit (since existing skill standards and other cultural factors are relatively compatible with Canada’s own). And at a time when economic and job uncertainty dominates the political landscape in Canada, greater government effort must be put toward job-creation initiatives and steering away from potential job displacement under the TPP.

About Unifor Protecting Canada’s Labour Rights

The TPP is a bad deal for Canadians, including for Canadian workers. Unifor believes that:

1. Trade agreements must guarantee the protection and enhancement of worker rights, including minimum wage laws, union representation, collective bargaining and others. These provisions (and the penalties for breach of those provisions) must also be enforceable under any trade treaty;
2. The TPP must not exacerbate the influx of temporary foreign workers into Canada; it must not undermine public authority over the movement of workers, and it must not be used to circumvent immigration channels.

The Trans-Pacific Partnership treaty is fundamentally-flawed and a missed opportunity for Canada to facilitate global trade that is fair, ethical and of benefit to all. Unifor urges the federal government not to ratify the TPP.

¹ Mertins-Kirkwood, Hadrian (2016). “Migrant Workers and the Trans-Pacific Partnership A regulatory impact analysis of the TPP’s temporary entry provisions,” published by the Canadian Centre for Policy Alternatives:

<https://www.policyalternatives.ca/publications/reports/migrant-workers-and-trans-pacific-partnership>