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The Honourable Chrystia Freeland
Minister of International Trade
Lester B. Pearson Building
Tower A, 8th Floor
125 Sussex Drive
Ottawa, Ontario K1A 0G2

Dear Minister,

I write to you in sincere appreciation of your willingness, and that of your government, to sustain an open and frank dialogue with the labour movement regarding the Trans-Pacific Partnership Agreement (TPP) negotiated under the previous administration. As your government will face very shortly the decision whether or not to sign this agreement, we would like to share some of our concerns.

To start with, it is important to remind ourselves that, currently, 97% of Canadian exports to countries within the TPP zone already occur duty free. The marginal economic benefits of reducing tariffs on the remaining exports of goods and services are limited, if not negligible. If anything, removing the remaining tariffs risks further locking Canada into the current lopsided trade pattern that finds us exporters of raw materials and importers of industrial goods. This is notably the case when one examines the impact on the automotive sector.

The automotive sector is centrally important to Canada's research and development, high value-added production and manufacturing exports. In 2014, approximately 40,000 Canadians worked in motor vehicle manufacturing and another 70,000 in parts manufacturing.

Under the TPP, Canada's current 6.1% tariff on Japanese vehicle imports will be reduced to zero over five years. By contrast, the TPP will eliminate the 2.5% US tariff on Japanese passenger cars over 25 years and will end the 25% US tariff on light trucks over 30 years. A five-year phase-out of tariffs on Canadian imports of Japanese vehicles will quickly eliminate the incentive to manufacture in Canada and encourage Japanese assemblers to import vehicles.

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The TPP also dramatically lowers the existing North American Free Trade Agreement (NAFTA) rules of origin. Currently, vehicles may be imported tariff free if 62.5% of the vehicle has been manufactured in a NAFTA nation. Under the TPP, in order to qualify for tariff-free trade, 45% of the cost of a vehicle or Canadian-produced part and 40% of other key Canadian parts will have to be from a TPP participant. This requirement is diminished further due to the fact that key parts will be subject to a “deemed originating” standard – meaning many important auto parts will count as TPP-originating, whether they actually come from a TPP country or not. This new approach results in the stated 45% requirement actually being closer to 30-35%. The lower rules of origin will increase the incentive to source auto parts from low-wage non-TPP nations, acting as a disincentive to building new engine and transmission plants in North America, including Canada. Unifor has estimated that the TPP could lead to the loss of 20,000 jobs in the auto sector alone.

Besides these direct effects on the automotive sector, the most damaging effects of the TPP, as well as the Comprehensive Economic and Trade Agreement (CETA) with the European Union which is still under review, are its likely impacts on current and future governments’ ability to regulate in the public interest. For example, the TPP will expose food labeling and food safety standards which currently offer a greater level of consumer protection than international standards such as restrictions on the bovine growth hormone rBST, currently not approved for sale in Canada. These standards could be challenged as a trade barrier. As they stand, these agreements are akin to giant omnibus bills that directly affect all manners in which governments carry out the business of governing. They go well beyond the traditional issues of market access and discrimination, and intrude into the substance of governing itself.

Our most serious concerns are as follows:

Health and Pharmaceutical Drug Costs

The TPP locks in and extends Canada’s existing costly concessions to large drug companies. The worst impacts of the agreement’s rules affecting drug prices will be felt by the poorest developing countries. However, Canada’s ability to implement cost-saving measures will also be restricted by the TPP.

Canada already has the second highest per capita drug costs in the world, and the TPP will further constrain efforts to reform prescription drug purchasing and provision in Canada. The TPP locks Canada into its current level of privatization and commercialization, effectively preventing any future innovation that involves the expansion of comprehensive public services (such as a universal national public pharmacare program).

Combined with the CETA, the TPP would imprison Canada within a more extensive and restrictive set of rules on data protection for pharmaceutical drugs. The TPP, along with CETA, would bind Canada to a more restrictive standard than currently exists and would lock in our costly, industry-friendly data protection rules in perpetuity.

The TPP is the first of Canada's international trade agreements to require "patent linkage," which will delay cheaper generic drugs from reaching the market. The TPP will freeze Canada's current patent linkage system, making future cost-saving reforms much more difficult.

Together with CETA, TPP would grant more generous patent term extensions at a potential cost of over $800 million annually in increased drug costs to Canadians. The TPP and CETA will add up to an extra two years of monopoly patent protection on top of Canada's existing term of 20 years. The "transparency annex" of the TPP would also give large pharmaceutical companies the ability to challenge the decision of governments to exclude proprietary drugs from government formularies.

Finally, pharmaceutical companies would be able to access an expanded Investor-State Dispute settlement (ISDS) mechanism. Canada is already the most sued country under NAFTA's Chapter 11 provisions and is currently being sued for $500 million by pharmaceutical company Eli Lilly after Canadian courts refused to extend patents on several of the company's drugs.

Investor-State Dispute Settlement

Against all logic, given the well-known track record of the Investor-State provisions of the NAFTA, the TPP (along with CETA) maintain the ISDS model. By now, the problems with this model of dispute settlement are well-known: the unaccountable and ad hoc nature of the arbitral panels; their expansive definition of what constitutes an investment; the fact that they do not operate in subsidiarity to national court systems, but above them; the apparent lack of deference to the prerogatives of governments, or even to national jurisprudence on any given issue.

ISDS affords large corporations a status akin to states in the context of international affairs, in that they have the privilege to directly sue democratically-elected governments in largely-unaccountable adjudication processes. This can be usefully contrasted with the extremely limited (some would say absent) protections that are given to workers under those agreements.

If the goal behind the TPP is to foster a better world economic order, it is time to end the flawed experiment with ISDS. It is time to come back to more reasonable forms of investor protection which should be subsidiary to national judicial processes, should privilege state-to-state settlements, and should emphasize investors' responsibilities just as much as the protection of their assets.

TPP and the Environment

The chapter on the environment is unable to overcome the damage of the investment chapter and other provisions of the TPP, which will assess environmental policies on the basis of whether they restrict trade or limit investment. The TPP will limit the ability of current and future governments to undertake the vitally-important public policy steps required to make the transition from an economy and a built environment dependent on carbon emissions, toward a low-carbon and climate-resilient economy. Without a large and leading role for the public sector, this transition simply will not occur in time to avert climate catastrophe.

The TPP's intended provisions increase the constraints on governments' ability and willingness to lead this vital transition. The "negative list" approach of the TPP means that unless carefully and specifically excluded in advance, all sectors are subject to the agreement in perpetuity. The TPP ensures that existing privatization and liberalization is locked in (the "standstill" mechanism) and cannot be undone. Further, if Canada agrees to liberalize various laws, policies, or regulations under a separate agreement, this liberalization would apply to TPP countries (the "ratchet" effect) and cannot be undone. The TPP contains broad prohibitions on performance requirements (such as requiring technology transfer or local sourcing to foster green industry). Such restrictions will serve as an actual and anticipated "chill" on governments contemplating steps that could be later determined to amount to "creeping" expropriation of corporate profits.

Dairy Sector

With CETA and now TPP looming, we have real concerns about the future of supply management in the dairy sector, which provides high-quality, locally-produced food while supporting small family farms and rural communities. Canada's dairy trade balance has been consistently in deficit and deteriorating since 2006. Imports in 2014 amounted to $900.1 million, while exports totalled $280.9 million. The leading dairy exporters to Canada are TPP member states (US and New Zealand) or CETA member states (Italy and France).

Under the TPP agreement, foreign dairy producers will be able to access an additional 3.25% of Canada's 2016 dairy milk production. This comes at a time when the dairy industry is already under considerable stress – 250 million litres of milk and subsequent production jobs are at risk annually. On top of this, CETA would allow an additional 16,000 tonnes of fine cheese and an additional 1,700 tonnes of industrial cheese into Canada, an amount equivalent to 32% of the Canadian fine cheese market. Despite a 15-year compensation package for dairy farmers (but not workers) displaced by CETA and TPP, we see little evidence of a plan to preserve rather than facilitate the gradual erosion of the dairy industry in Canada.

International Labour Mobility

Canada's Temporary Foreign Worker Program and International Mobility Program already provide employers with access to unfree and temporary workers. The TFWP is rife with well-documented cases of abuse, and poor and inadequate compliance assessment and enforcement.

Chapter 12 (Temporary Entry of Business Persons) of the agreement now compounds this process. It gives employers the ability to move employees to worksites in Canada, *en masse*. Under the TPP, the Intra-Corporate Transferees category allows firms to import "specialists," meaning only "an employee possessing specialized knowledge of the company's products or services." This applies to Australia, Brunei, Chile, Japan, Mexico, New Zealand and Peru; Canada will not require labour certification tests or impose any numerical limits on persons from these countries. There is no requirement that Intra-Corporate Transferees be paid a prevailing wage or salary. The Professionals and Technicians stream also permits employers to transfer skilled trades and technical employees, with no requirement that an employer attempt to hire within Canada first.

Labour Rights

Since the NAFTA and the creation of the World Trade Organization (WTO) in the early 1990s, workers across the world have been told that trade agreements would not jeopardize their rights and living standards but in effect strengthen them. The sad reality is that economic liberalization has not been associated with such improvements.

Virtually everywhere, work has become more precarious, income inequalities have grown, multinational corporations have been able to escape their responsibilities through intricate systems of sub-contracting, and states have either deregulated or not enforced labour laws to make themselves "investor-friendly."

Today, the world is facing a structural crisis that is largely the result of these developments: productivity is increasing everywhere but workers are not able to capture their fair share and create the demand for the goods and services produced, thus leading to world economic stagnation.

The TPP will do nothing to change this. A simulation using the United Nations Global Policy Model carried out under the auspices of Tufts University projects greater income inequality in <u>each</u> of the TPP signatory countries by 2025 as a result of the agreement.

We suggest it is high time to change the paradigm. Market access should be made more closely linked to genuine commitments in the area of the respect for labour rights. This is the *sine qua non* for such arrangements to genuinely benefit all and meet their stated objectives.

All in all, the merits of Canada's participation in the Trans-Pacific Partnership have not been demonstrated. The previous government undertook no economic or environmental impact analysis and no convincing case has been made for the economic benefits of participating in the TPP. As we have outlined above, the CLC has serious reservations regarding this agreement.

Given the questionable social and economic outcomes of the current model of "trade" liberalization and the need to give priority to the global climate challenge, the Canadian government would do a service to all by not treating the TPP and CETA as business-as-usual, but taking the time to revisit their premises and likely impacts. The notion that Canada cannot afford not to be part of any regional and multilateral trade deal has been largely abused and its consequences exaggerated.

This is why we call on your government not to proceed with the TPP until a proper impact studies and a full debate over its likely impacts have been carried out. Specifically, we think it would be in order for the Standing Committee on International Trade to carry out broad consultations throughout the country. Given the high economic and political stakes, Canadians deserve no less than a full and substantive discussion on the potential consequences of this draft agreement.

Yours sincerely,

Hassan Yussuff
President

cc: Christine Hogan, Deputy Minister
CLC Canadian Council
National and Regional Directors

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