



Submission on the possible entry of Canada into Trans-Pacific Partnership trade negotiations

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Founded in 1985, the Council of Canadians is Canada's largest citizens' advocacy organization with tens of thousands of members across the country. We work nationally through our network of volunteer chapters to promote progressive policies on fair trade, access to clean water and sanitation, climate justice and energy security, public health care, and other issues of social and economic concern to Canadians. We are completely member-funded and do not accept or seek out corporate or government funding. The Council of Canadians also takes part in international campaigns for the human right to water, WTO reform, and a strong, binding multilateral agreement on climate change mitigation.

We welcome the opportunity to present our views on Canada's potential entry into the ongoing Trans-Pacific Partnership free trade negotiations between Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam, with additional interest from Mexico and Japan. The notice of consultation posted in the Canadian Gazette on December 31, 2011 mentions the importance to the Government of Canada of being fully aware of the interests and potential sensitivities of Canadians with respect to this U.S. trade initiative in the Pacific. We appreciate that the scope of the consultation includes room for views on sustainable development, human rights, workers' rights, transparency of business and commercial practices, environmental protection and other social concerns as they could be affected, either positively or negatively, by the TPP.

This submission will first list what the Council of Canadians feels to be core conditions of Canadian participation in the TPP negotiations. It then looks at specific areas of social policy that could be negatively affected or constrained by the trade and investment liberalization objectives of the TPP and other bilateral and multilateral trade agreements that Canada has entered into or is currently negotiating with other countries. These include intellectual property rights and access to medicines, copyright, financial services regulation, and constraints on procurement that will limit development options for developing countries. Finally, we question the value, in strict economic terms, of free trade agreements like the TPP to the Canadian economy.

The Council of Canadians is not opposed to trade or efforts to expand it through trade agreements. We do however join a growing chorus of international voices calling for transparency in the TPP negotiations, and the creation of a new international trade and investment framework that treats quality of life, the creation of good jobs, poverty eradication and ecological sustainability as first principles – not potential barriers to trade as they are considered under the current regime. To that end, we object to Canada entering into the TPP negotiations, which appear to reinforce the status-quo ideology that says governments should rarely if ever intervene in markets. In fact, the TPP would reproduce the worst parts of Canada’s existing free trade agreements while further shielding corporate activity from needed regulatory and public policy reforms.

Scope of the TPP

The Trans-Pacific Partnership began in 2000 as a Trans-Pacific Strategic Economic Partnership Agreement between Singapore, New Zealand and Chile (the P-3), somewhat parallel to the Central American Free Trade Agreement negotiations which stood in for the failed Free Trade Area of the Americas. Brunei joined the P-3 shortly afterward and in 2006 a free trade agreement came into effect which excluded financial services or investment. The Trans-Pacific Partnership talks were born two years later with United States participation and leadership.¹ Today there are nine negotiating members: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam, with additional interest from Mexico, Canada and Japan. There is potential for this group to expand to include China and all other APEC countries, which combined account for 54 per cent of global GDP and 40 per cent of world trade.²

Despite the impressive numbers, the value of the TPP to all participating countries is meagre, amounting to an average one-shot boost to national GDPs of about 1 per cent.³ This underwhelming statistic undermines statements from the United States Trade Representative (USTR) suggesting the TPP is about supporting U.S. jobs. While U.S. exports have increased in the short term, the U.S. and Canadian experience with free trade agreements is that they tend to widen trade deficits even with marginal economies.⁴ For example, Canada’s trade balances worsened with the U.S., Mexico, Israel, Costa Rica and Chile under free trade agreements as imports outpaced exports. According to Jim Stanford, chief economist with the Canadian Autoworkers Union:

There is no historical basis to conclude that free trade agreements are good for either Canadian exports, or for Canadian trade balances. Despite this observed failure, signing

¹ McArthur, Travis and Lori Wallach. “U.S. Participation in the Trans-Pacific Partnership (TPP) Agreement,” January 15, 2010: <http://www.citizen.org/documents/tpp-background-memo-jan-2010.pdf>

² APEC statistics cited in Dawson, Laura, “Can Canada Join the Trans-Pacific Partnership?” C.D. Howe Institute, February 2012: http://www.cdhowe.org/pdf/Commentary_340.pdf

³ See Gallagher, Kevin P. “Bamboozled by the TPP” on the Triple Crisis blog <http://triplecrisis.com/bamboozled-by-the-tpp/>, and Gallagher and Timothy A. Wise’s “Are there large new gains from trade?” January 2010: <http://www.ase.tufts.edu/gdae/Pubs/rp/GallagherWiseBridgesJan10.pdf>

⁴ See “Ballooning Trade Deficit Under the NAFTA-WTO Model,” Public Citizen report: <http://www.citizen.org/documents/ProsperityUnderminedFINAL.pdf>

more free trade agreements seems to be the default policy response in Ottawa to Canada's worsening global trade performance.⁵

Of course trade agreements have never been about just trade. From the beginning, the U.S. government referred to the TPP as a "next generation" or "high standards" trade agreement. This gave U.S. labour, environmental and social justice organizations hope that Obama would seek to correct the failings of the NAFTA model. A growing majority of U.S. citizens blame NAFTA for hollowing out U.S. manufacturing, the growth of inequality and the depression of wages. There was antipathy or hostility among voters to Bush-era FTAs with Korea, Colombia and Peru for the same reasons. In the latter two cases, U.S. labour organizations objected to the deals because of their potential to worsen human and labour rights in those countries.⁶ When the USTR announced that Obama-era trade agreements would prioritize job creation and sustainable development, U.S. social movements sent letters to the government encouraging the transformation.

In 2009, the Citizens Trade Campaign, a broad coalition of national labour, environmental, consumer, family farm, religious and other civil society groups wrote to Ron Kirk, newly appointed USTR, to say:

Correcting our past trade and globalization policy mistakes and moving forward on a new path can help our nation face our considerable economic challenges. Changing our current trade agreements and policies is critical to regain the policy space to accomplish key domestic non-trade priorities regarding health care, economic stability, climate change and more. We look forward to working with members of Congress and the Obama administration to create a new American trade and globalization policy that can ensure that future trade agreements obtain broad support.⁷

Since then, reality has sunk in for many of these groups. The Obama administration has pushed ahead with Bush-era free trade agreements and bilateral investment treaties, and it continues to sideline the WTO reform agenda urged by developing countries. U.S. civil society groups have joined a global network of fair trade advocates in warning against supporting the TPP, which they say cannot be separated from the Obama administration's geopolitical strategy to exert U.S. military and economic might in the region as a counterforce to China's growing influence.⁸

According to the USTR, the TPP will go beyond past trade deals in how it will bring other countries in line with U.S. regulatory systems and the governance of new innovative products, such as digital

⁵ Stanford, Jim. "Out of Equilibrium: The Impact of EU-Canada Free Trade on the Real Economy," October 2010: http://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2010/10/Out_of_Equilibrium.pdf

⁶ See Pew Research Center poll (November 9, 2010) showing "there is increased skepticism about the impact of trade agreements such as NAFTA and the policies of the World Trade Organization": <http://pewresearch.org/pubs/1795/poll-free-trade-agreements-jobs-wages-economic-growth-china-japan-canada>

⁷ Letter to Ron Kirk from Citizens Trade Campaign, March 18, 2009: http://www.citizen.org/documents/NewDayOnTrade_Final.pdf

⁸ Kelsey, Jane. "Investment Developments in the Trans-Pacific Partnership Agreement, January 12, 2012: <http://www.iisd.org/itn/2012/01/12/investment-developments-in-the-trans-pacific-partnership-agreement/>

technologies.⁹ The agreement will also look at curbing the role of state-owned enterprises, and extending U.S. patent protection rules to other TPP countries when these and other U.S. proposals have been consistently rejected at the WTO. An investor-state dispute process will give added tools to corporations and investors to challenge government measures enacted to protect public health, the environment or to conserve scarce resources.

For Canada, the TPP has been referred to as a NAFTA renegotiation or “NAFTA on steroids.”¹⁰ Considering how little trade Canada does outside of the U.S. and Mexico, and the power of the U.S. to set the terms of the TPP in a number of areas, this is an accurate assessment with consequences for what kind of deal Canada can hope to get out of the negotiation and whether it will be worth the concessions we would have to make, as described in the next section.

Opposition to the TPP is growing in countries like Australia, New Zealand and the United States with concerns ranging from the threats to access to medicines for developing countries (see below), procurement and the restriction of development policy space to the benefit of U.S. exports, the risks to farmers (a particular concern in Japan, which is also seeking entry despite majority parliamentary and public opposition to the TPP), and the establishment of an investor-state dispute process for the whole region. Australia is resisting U.S. calls for an investor-state arbitration process, which was not included in the country’s U.S. trade agreement in 2004. This is mainly the result of an investment dispute against Australia’s plain packaging cigarette law by Philip Morris which became a lightning rod for criticism of these investor rights around the world.

South Korea also recently indicated it would like to renegotiate the investment portion of its free trade deal with the U.S. because of similar concerns for public policies at risk. And India is objecting to an investor-state dispute process in its free trade agreement with the EU. These are not related to the TPP but show a growing awareness of the negative impacts these investment protections have had on public policy.

Conditions for Canadian entry into TPP negotiations

Canada’s entry into TPP negotiations will be conditional on the approval of the countries already negotiating. Speculation in the media suggests Canada will be required to make certain promises to lower protections for agricultural producers in supply-managed sectors such as dairy. This is in a context of heightened attacks in the media on Canada’s functioning and non-trade distorting supply management systems for dairy, eggs and poultry.¹¹ Supply management, which guarantees fair wages

⁹ USTR website: <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/united-states-trans-pacific-partnership>

¹⁰ Clark, Peter. “Is the Trans-Pacific Partnership a re-writing of NAFTA?” Ipolitics, January 10, 2012: <http://www.ipolitics.ca/2012/01/10/peter-clark-is-the-trans-pacific-partnership-a-re-writing-of-nafta/>

¹¹ See Simpson, Jeffrey, “It hurts dancing to supply management’s tune,” The Globe and Mail, December 1, 2011: <http://m.theglobeandmail.com/news/opinions/jeffrey-simpson/it-hurts-dancing-to-supply-managements-tune/article2257216/?service=mobile> and the Macleans magazine special web section on supply management: <http://www2.macleans.ca/tag/supply-management/>.

and stable prices for farmers in non-exporting sectors, is too valuable to Canada to sacrifice on a negotiating table with little to offer on the other side.

We may also be required to accept in advance U.S. proposals in the area of intellectual property rights designed to increase monopoly protections for large brand name pharmaceutical companies and the U.S. entertainment and software industry. Japan and Mexico are also facing conditions of entry, mostly set by the United States and its powerful industrial lobby groups. The Council of Canadians questions why any country should be required to make concessions in advance of joining trade negotiations.

Core principles for process and content of trade agreements

In spring 2010, the Council of Canadians joined with dozens of other Canadian organizations to set out what it considered core principles that should be applied in free trade negotiations with the European Union (the Comprehensive Economic and Trade Agreement, or CETA). These principles, which are paraphrased here, apply equally to the Trans-Pacific Partnership talks should Canada seek and accept entry into the negotiations.¹² Many of the following principles are included in a recent declaration by labour federations from seven participating TPP countries.¹³

1. Full transparency: In the past, the public has been excluded from any meaningful participation in trade agreement negotiations. Since both the TPP and CETA agreements will be more ambitious than NAFTA and have greater impacts on federal, provincial and municipal policies, programs, regulations and public services, the public has the right to full disclosure and an opportunity for review and comment in advance of the signing of either agreement.

2. A comprehensive impact assessment: Canadian government consultations related to trade agreements have prioritized business input and downplayed the social, environmental and human rights impacts of trade and investment liberalization. The government should perform a comprehensive impact assessment of the TPP on the economy, jobs, poverty, gender, human rights, culture and the environment in Canada and in other participating countries.

3. Protection for public services: Any agreement should fully protect existing public services as well as the ability to create new public services, without reservation, and without fear of trade or investment challenges. Governments at all levels, in particular municipalities, must retain the authority to favour public delivery of services, such as water treatment and distribution, and the freedom to easily remunicipalize failed privatizations.

4. No new procurement commitments: Canada has recently included provincial and federal governments in its WTO Government Procurement Commitments. These rules limit how covered agencies or other government entities can spend public money by banning offsets, incentives and other local or national preferences. These public policy tools are proven to create jobs and can be used

¹² The principles are from the Civil Society Declaration on a possible Canada-EU Comprehensive Economic and Trade Agreement: <http://tradejustice.ca>.

¹³ See: <http://www.citizen.org/documents/Report-Labor-Declaration-on-the-Negotiation-of-the-TPP.pdf>

effectively to make communities more sustainable. Canada must under no circumstances decide to cover municipal procurement in the TPP or in the CETA. Canada must ratify ILO Convention No. 94 on social clauses in public procurement.

5. The right to regulate: There should be complete reservation of the right to domestic regulation regarding public services, culture, finance, public health and the environment. Regulatory harmonization efforts must adopt the highest standard in all participating countries. Municipalities, provinces and territories, and the federal government must retain the right to develop even higher standards of protection than currently exist in any other trading partner without fear of trade or investment disputes. More generally, Canada should adopt the precautionary principle more frequently in its development of public health and consumer regulations.

6. Protection of our cultural sovereignty: Canada's ratification of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions must be backed up by the resolve to systematically exempt all cultural products and services from any commercial agreement in the Pacific, with the EU or any other trading partner. Canada and the provinces must remain free to adopt all cultural and linguistic policies they deem necessary to promote our cultural specificity and to ensure Canadian citizens have access to the works of Canadian artists and producers.

7. No investor-state dispute process: There should be no right for an investor or private company to directly challenge, before private tribunals, the laws or regulations of a foreign government that is a party to the trade agreement, but this right to challenge should reside solely with the competent government jurisdiction. In November 2011, the Council of Canadians joined a large global network of civil society organizations in proposing an alternative international investment framework that is based on democratic principles and prioritises public interests over private profits. The new framework should:

- Incorporate binding obligations on corporations related to human, economic, environmental, labour and social rights;
- Exclude investor-state dispute settlement mechanisms;
- Grant no greater rights for foreign investors than to domestic investors;
- Guarantee full democratic policy space to governments to regulate in favour of public interests, the environment and sustainable development; and
- Include the right to restrict and control speculative and destabilising international capital flows.

8. Labour Rights: An agreement on labour issues will be meaningless insofar as workers' rights are corroded by investor- rights provisions, relegated to a side agreement, and defended by sanctions that are non-binding and not enforceable. Investors should be required to abide by the highest standards. Workers' organizations must be included in economic and social decision-making. Any comprehensive agreement must commit to raise labour standards and strengthen inspection and enforcement mechanisms for labour law, especially with respect to migrant workers and others facing precarious economic and social situations. Dispute resolution must be based upon an independent and transparent complaints process with a supra-national mechanism of enforcement when states refuse to live up to

their own obligations. Canada must ratify the three core conventions of the ILO it has not yet ratified, as well as the priority conventions for good governance.

9. Respect and Protect Indigenous Rights: Canada has recently pledged to endorse the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). While this is a welcome step, proper implementation requires the government to receive Free, Prior and Informed Consent from Indigenous Peoples whenever Indigenous rights may be affected by any government decision. Since the proposed TPP, as well as the CETA with the EU, are so sweeping they will undoubtedly impact Indigenous rights, these trade agreements must uphold the maximum protections for the rights of Indigenous Peoples in compliance with the UNDRIP as the highest international standard, especially in the case of foreign industries operating in Indigenous lands, territories and water.

10. Ecological sustainability and climate action: With global warming reaching the tipping point and the majority of the planet's ecosystems on the verge of collapse, political leaders must recognize the limited carrying capacity of the planet and the causal role of increased global trade on increased greenhouse gas (GHG) emissions. Commitments to sustainable development in existing Canadian and international free trade agreements, as well as those under negotiation, do very little to ensure the highest protection of our air, earth and water from corporate activity. Meanwhile these agreements go out of their way to protect investors from burdensome regulations and to lock-in unsustainable trading patterns. A fundamental policy shift is needed in Canada and Europe that places environmental, public health and human rights concerns above the limited interests of corporations.

Intellectual property rights and access to medicines

Intellectual property rights, in particular related to pharmaceutical and agricultural products, have emerged as a highly controversial aspect of the TPP negotiations. Canada, like many other countries, is under constant pressure from the U.S. and European Union to "strengthen" its intellectual property rights regime. Regulators and policy makers in these two countries have been largely captured by Big Pharma. The agenda finds a home in U.S. trade policy which aggressively tries to move developing countries out of their comfort zone on pharmaceutical policy, which is delineated in the Doha Declaration on TRIPS and Public Health at the WTO. This statement affirms that the WTO agreement on Trade Related Aspects of Intellectual Property Rights should not prevent members from protecting public health.

The threat to developing countries from the TPP and other so-called TRIPS-plus agreements relates to access to affordable medicines, in particular for HIV/AIDS, malaria and tuberculosis and other illnesses where brand name drugs can be far too expensive. According to Doctors Without Borders, the first generation of HIV drugs has come down in price by 99 per cent over the past decade, from \$10,000 per person per year to roughly \$60, thanks to cheaper generics from Brazil and India.¹⁴ But drug regime changes pushed by the U.S. and EU in their next generation trade deals have already undermined access

¹⁴ Doctors Without Borders. "How the Trans-Pacific Partnership Agreement Threatens Access to Medicines," September 2011, pg 1: <http://www.doctorswithoutborders.org/press/2011/MSF-TPP-Issue-Brief.pdf>

to medicines. For example, the Jordan-U.S. Free Trade Agreement, which contained TRIPS-plus measures, resulted in a 20 per cent rise in drug prices without any corresponding benefit in domestic innovation or new products.¹⁵

Like India and Brazil, Canada has a strong generic drug sector which has been negatively impacted already by Canadian concessions to the U.S. on intellectual property rights. Canada is under pressure from EU trade negotiators in ongoing CETA talks to increase patent terms and data protection on brand name drugs in Canada, to grant a new right of appeal to be used against the introduction of new generics, and to implement new enforcement measures that empower customs and border agents to seize suspected counterfeit products. The most comprehensive economic study of the effects these demands would have on Canada shows they would increase the price of public and private drug plans by almost \$3 billion annually.¹⁶

The TPP and CETA proposals for intellectual property are very similar. Development NGOs such as Oxfam and Doctors Without Borders warn of further brand name drug protections in the TPP that would remove flexibilities around the granting of unfair patents. Pre-grant opposition systems in several TPP negotiating countries, which allow third parties to challenge the merits of patents, could be banned under the agreement. Oxfam has roundly criticized the U.S. government for claiming these changes to drug IPR will improve public health in other countries. “The pursuit by USTR of TRIPS-plus IP provisions and restrictions on pharmaceutical reimbursement policies should be called by its true name – mercantilism, and not falsely allege to be in the public good,” states the organization in its December 12, 2011 briefing to the U.S. Subcommittee on Trade of the Committee on Ways and Means.

There are further concerns related to the application of investment protections and an investor-state dispute mechanism to the intellectual property rights chapter in the TPP. In a letter to India’s Prime Minister, Doctors Without Borders warned that recourse to investment arbitration would allow brand name drug companies to skirt the India legal system in order to challenge tobacco warnings and measures to reduce the price of drugs. “Pharmaceutical companies must be given no additional avenues to pressure India on policies and laws that promote access to medicines,” said the organization in their letter. “India is already reeling from multiple litigations filed by companies like Novartis and Bayer against health safeguards enshrined in India’s patent law.”¹⁷

Doctors Without Borders makes several recommendations to the India government which the Council of Canadians feels the federal government should insist upon if it decides to enter the TPP negotiations:

- The withdrawal of the IP enforcement measures, and as a minimum safeguard, the deletion of patents from the entire scope of the enforcement section;

¹⁵ Ibid, pg. 2

¹⁶ Grootendorst, Paul and Aidan Hollis. “The Canada-European Union Comprehensive Economic & Trade Agreement: An Economic Impact Assessment of Proposed Pharmaceutical Intellectual Property Provisions,” February 7, 2011: <http://www.canadiangenerics.ca/en/news/docs/02.07.11CETAeconomicImpactAssessment-FinalEnglish11.pdf>

¹⁷ See the letter: <http://donttradeourlivesaway.files.wordpress.com/2012/02/open-letter-to-the-hon-dr-manmohan-singh.pdf>

- The withdrawal of third party liability from the enforcement provisions;
- The withdrawal of specific provisions dealing with injunctions from the enforcement provisions in order to preserve the existing flexibilities of the Indian judicial system;
- Border enforcement should be limited to the requirements of the TRIPS Agreement and as such exclude exports and trademark infringements; and
- The withdrawal of IP and the investor-to-state dispute mechanism from the scope of the investment chapter.

The Canadian pharmaceutical regime is not perfect. Previous Canadian governments have made concessions in trade negotiations with the United States such that brand name control over the market has expanded relative to Canada's strong generic sector. Canada is expected to make further concessions in negotiations with the EU that will only increase the price of drugs for Canadians.

It is also difficult under the existing regime to export Canadian generic drugs to global markets that clearly need access to cheap medication. Efforts to reform Canada's Access to Medicines Regime (CAMR), which were recently defeated in the Senate, need to be reintroduced to make it easier for Canada's generic drug makers to export badly needed combination medicines for those suffering from AIDS in the developing world.¹⁸ Conclusion of the CETA negotiations on EU terms or Canada's entry into the TPP on U.S. terms with respect to intellectual property rights would undermine access to medicines in both Canada and the rest of the world.

Copyright and Internet freedom

The Canadian government has struck a balance in recent copyright legislation between the rights of artists and other content producers and those of consumers. The TPP, on the other hand, would fundamentally undermine Canada's sovereignty in the area of copyright development by forcing Canada to adopt U.S. copyright norms that are criticized globally for being overly restrictive.

A leaked copy of the TPP negotiating text shows the U.S. pushing for: extended copyright protection after the death of an artist from 50 years to 70 years; increased penalties and fewer exceptions than Canada's copyright law would allow for circumventing digital locks; an extended definition of prohibited activities and lower standards for determining violations of copyright; personal information disclosure rules that could undermine privacy protections; new criminal penalties even in cases where there was no financial incentive to break copyright rules; and liability provisions for Internet Service Providers that would require a notice and takedown system for infringing web content (versus notice and notice as exists in Canada as per international norms of copyright protection).¹⁹

The TPP and the CETA negotiations with the EU, not to mention the highly controversial Anti-Counterfeiting Trade Agreement which Canada has signed but not ratified, threaten to upset the careful

¹⁸ See Grandmothers for Grandmothers campaign: <http://grandmothersadvocacy.org/issues/camr-reform-2/>

¹⁹ Taken from a summary by University of Ottawa law professor Michael Geist: <http://www.michaelgeist.ca/content/view/6321/125/>

balance that successive Canadian government have attempted to maintain in the areas of copyright, pharmaceutical and agricultural IPR protection. The U.S. demands on copyright in the TPP far exceed international standards set in more democratic institutions such as the World Intellectual Property Organization (WIPO) and WTO. They should be rejected outright by Canada. If further copyright reforms beyond those proposed in current legislation are required as a condition of Canadian entry to the TPP talks, Canada should walk away from the table.

Financial services liberalization

Since the latest financial crash, the Canadian government has on numerous occasions promoted its financial regime as a model for the world to emulate. As Ellen Gould explains in a report for the Canadian Centre for Policy Alternatives, Canada never fully liberalized its financial sector and maintains numerous measures to protect the banking system from shocks as well as foreign takeovers. Gould concludes that, "Developing countries skeptical of full liberalization of financial services could point to the Canadian experience as evidence that protecting national banks from foreign take-over and competition can lessen their vulnerability to contagion from global financial crises."²⁰

It is strange, then, to see Canada pushing liberalization on developing countries at the WTO and in fact blocking an attempt at the end of last year, led by Ecuador and supported by a powerful bloc of countries, to review how WTO rules on financial regulation may have affected the severity of the crisis and efforts to mitigate it.²¹ In December 2012, the Council of Canadians joined hundreds of other global organizations in endorsing a statement on needed WTO reforms that included a section on financial services. The Our World is Not for Sale statement declared:

- Countries should not be pressured to take any additional commitments for liberalization of trade in financial services.
- Existing and proposed GATS (General Agreement on Trade in Services) rules should be reviewed in light of the financial crisis, and then clarified and/or modified in order to ensure policy space for all countries to use macro-prudential measures, such as capital controls and financial transaction taxes, as well as to implement other financial regulatory and prudential measures; and
- It is not appropriate for the WTO to elaborate or adopt disciplines on domestic regulation in the accountancy sector agreed to before the financial crisis, or to adopt or elaborate any other disciplines on domestic regulation.

The TPP will likely be used as a venue by the U.S. to extend financial services commitments beyond where countries at the WTO were willing to go. Like in other controversial areas, the TPP is a means with which the U.S. is trying to avoid accountability and difficult discussion at the WTO on the risks of trade

²⁰ Gould, Ellen. "Nobody's poster child:

²¹ Tucker, Todd. "Trying to inch the WTO away from extreme financial deregulation," January 26, 2012: <http://citizen.typepad.com/eyesontrade/2012/01/trying-to-inch-the-wto-away-from-extreme-financial-deregulation.html>

and investment liberalization on ecological and financial stability. The TPP could even threaten basic tools such as capital controls which are endorsed by the G20 and IMF, and which Asian and other countries have used successfully to combat volatility. Canada should reverse its opposition at the WTO to discussing the possible effect of financial liberalization on the crisis.

As a potential member of the TPP negotiations, Canadian negotiators would play a more productive role by endorsing the same flexibility as exists in Canada for regulating its banking and financial services sectors.

Conclusion

The days when trade negotiations were exclusively about trade and tariffs have long since passed to the point where today anything a government does can be argued to interfere in some way with trade and investment flows. The effect the TPP would have on Canadian policy space and that of developing countries is considerable. At the same time returns will be very low for most countries and lowest for those developing countries in the TPP that risk losing important protections for their domestic industries.

The WTO negotiations have come to a standstill partially because of this dynamic created by existing trade and investment liberalization rules. Poor and developing countries are resisting rich country pressure to expand WTO agreements on services (GATS), investment (TRIMs), procurement, financial services and intellectual property, at least until their concerns about the implementation of existing WTO rules have been addressed.²²

Rich countries, including Canada, have followed the lead of the United States and European Union in seeking preferential trade and investment pacts with developing countries and with each other outside the WTO framework. This has the most important effect of bypassing reasonable demands by developing countries to level the global playing field in the interest of true development. Canada has essentially abandoned its longstanding foreign policy objective of advocating for a single, multilateral, rules-based trading system in favour of a race to sign preferential FTAs like the TPP and the CETA.

The Council of Canadians encourages the Canadian government to stand down from negotiating TPP- and CETA-like bilateral and regional free trade agreements, which are of modest to insignificant economic value to the country and which put important environmental, social and job-creation policies at risk at home and abroad.

²² See <http://www.ourworldisnotforsale.org/en/article/wto-turnaround-food-jobs-and-sustainable-development-first>