

AGENDA
ENVIRONMENT AND NATURAL AREAS ADVISORY COMMITTEE
Committee Room 2, Municipal Hall
Tuesday September 27, 2016, 5:15 PM – 7:15 PM

1. **ADOPTION OF MINUTES** (attachment)
 - Adoption of June 28, 2016 minutes.
2. **FEDERAL TRANS-PACIFIC PARTNERSHIP AGREEMENT** (attachment)
 - Committee discussion
3. **UPTOWN-DOUGLAS CORRIDOR PLAN**
 - Presentation from Planning
4. **STORMWATER MANAGEMENT**
 - Presentation from Engineering
5. **ENVIRONMENTAL BILL OF RIGHTS**
 - Update from working group
6. **UPDATES**
 - Tree Bylaw
 - Significant Tree Tour
 - Derelict Vessels
 - Revised ENA Award Guidelines

Adjournment **
Mark your calendars:
Next Regular Meeting is October 25, 2016

**To ensure a quorum, please call Elizabeth van den Hengel
at 475-1775 ext. 3430, if you are unable to attend**

GO GREEN

Members are encouraged to bring a mug to the meeting

MINUTES
ENVIRONMENT AND NATURAL AREAS ADVISORY COMMITTEE
Held at Saanich Municipal Hall, Committee Room No. 2
June 28, 2016 at 5:15 p.m.

Present: Councillor Dean Murdock (Chair), Harry Drage, Hal Gibbard, Kevin Brown, George Klima, Mary Haig-Brown, Roberta Hesselgrave, Al-Nashir Charania, Jude Coates

Staff: Adriane Pollard, Manager Environmental Services; Jane Evans; Darren Copley; Elizabeth van den Hengel, Committee Clerk

Guests: Larry Layne

Minutes

MOVED by K. Brown and Seconded by J. Coates: "That the Minutes of the Environment and Natural Areas Advisory Committee meeting held May 24, 2016, be adopted as amended."

CARRIED

POLLINATORS

The Environmental Education Officer gave the Committee an overview of pollinators, and the following was noted:

- BC has approximately 450 species of native bees.
- Approximately 75% of all flowering plants need pollinators.
- In BC there are 35 native bumble bees. The honey bee is not a native bee, but is still an important pollinator.
- Flies, moths, butterflies, ants, beetles and birds are also pollinators.
- One third of every mouthful of food we eat can be attributed to the work of pollinators.
- Saanich's pesticide bylaw is an important step in protecting pollinators.
- The EDPA and the SDPA are also key steps in pollinator protection.
- Pollinators require four basic conditions to thrive:
 - Diversity of plants, with native plants being preferential.
 - Nesting and egg laying habitat
 - Sheltered and undisturbed wintering sites
 - Pesticide free environments
- Limiting roadside mowing is beneficial to pollinator populations.
- Updates to Saanich plant lists could be considered.
- Saanich could develop pollinator demonstration gardens to help educate the public as to pollinator friendly gardening.
- Farm community could be approached with information of supportive practices for pollinators.
- Many diseases that attack the native bee populations are diseases that are imported by non-native bees.

AGRICULTURE AND FOOD SECURITY PLAN

The Planner gave the Committee an update on the Agriculture and Food Security Plan, and requested feedback from the Committee. The following was noted:

- The Saanich Agriculture and Food Security Task Force, Upland Agriculture Planning Consultant Ltd and the Saanich Planning Department staff are working on the development of the Agriculture and Food Security Plan (AFSP) for Saanich.
- Work on the AFSP for Saanich has resulted in a Public Engagement Strategy and a Vision Statement for the Plan.

Committee discussion occurred and the following was noted:

- ALR is under threat and policies need to be in place to secure viable farm land for future generations.
- Stronger policies need to be in place to protect farmland.
- Access, both physical and economic access to food should be included in the definition for food security.
- Will the task force address income and supply issues which are fundamental chain management pieces to create a complete Plan?
- Greenhouses sterilize the land and cause significant pollution.
- To achieve internal consistency the FAO definitions should be used. The Planner will investigate why the FAO definitions were dropped.
- Natural environment and agriculture need to be managed in partnership.

The Committee thanked the speaker and look forward to future presentations to further discuss the Agriculture and Food Security Plan.

BIODIVERSITY CONSERVATION PLANNING

The Environmental Manager gave the Committee a brief overview of biodiversity conservation planning. The following was noted:

- Biodiversity conservation strategies for local governments give a big picture overview and highlight conservation priorities.
- An inventory of the biodiversity in Saanich should be compiled as a first step in conservation planning.

Committee discussion occurred and the following comment was noted:

- Presentation of biodiversity concepts and the importance of biodiversity conservation should be given at Community Association meetings and to Saanich citizens.

ENA AWARDS

The Manager of Environmental Services reviewed the 2016 ENA Awards event with the Committee.

UPDATES

The Chair provided updates to the Committee, and the following was noted:

- The Significant Tree Tour, will be planned for Late August or early September 2017.
 - The tour could comprise of select trees that are good examples of the criteria, "Greatest Hits Tour".
- Rainbow Road property was removed from the EDPA
- The City of Victoria did not implement a voluntary 10 cent per plastic bag fee, the City is seeking a mandatory 10 cent per plastic bag fee.

ADJOURNMENT

The meeting adjourned at 7:18 p.m.

NEXT MEETING

Next meeting is scheduled for Tuesday, September 27, 2016.

Councillor Murdock, Chair

I hereby certify these Minutes are accurate.

Committee Secretary

DRAFT

**JOINT MEETING OF THE ENVIRONMENT & NATURAL AREAS,
HEALTHY SAANICH & PLANNING, TRANSPORTATION AND ECONOMIC DEVELOPMENT
ADVISORY COMMITTEES**

**TO RECEIVE PUBLIC INPUT ON THE
FEDERAL TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP)**

Held at Saanich Municipal Hall, Council Chambers
Tuesday, September 13, 2016 at 7:00 p.m.

Present: Councillor D. Murdock, Chair, Environment & Natural Areas Advisory Committee (ENA)

Councillor F. Haynes, Chair, Planning, Transportation & Economic Development Advisory Committee (PTED)

Councillor C. Plant, Chair, Healthy Saanich Advisory Committee (HSAC)

Staff: Sharon Froud, Deputy Legislative Manager and Lynn Merry, Senior Committee Clerk

WELCOME AND INTRODUCTIONS

Councillor Murdock called the meeting to order. He advised that he would be chairing the meeting and welcomed the members of the public and Advisory Committee members who were in attendance.

Councillor Murdock also advised that the purpose of the meeting was to receive a presentation from the Victoria Chapter of the Council of Canadians in relation to the TPP and hear public input on the matter. The notes from the meeting would be provided to the Advisory Committees to review and based on each committees' discussions, recommendations could be made to be forwarded to Council. Committee recommendations would be considered at the October 24, 2016 Council meeting and, at that time, members of the public would have another opportunity to provide input if they wished.

Councillor Plant introduced himself and advised that this meeting was a result of a Delegation that presented at the August 15, 2016 Council meeting. The Council Procedure Bylaw gives Council the ability to refer a Delegation to an Advisory Committee, therefore the item was referred to the Environment & Natural Areas, Healthy Saanich and Planning, Transportation & Economic Development Advisory Committees. It was decided that one joint informal meeting of the Advisory Committees was preferred rather than having three separate committee meetings. The input received from the public at this meeting would be brought back to the Advisory Committees for discussion. He indicated that while the decision to opt into the TPP is a Federal decision, it does have local ramifications and therefore it is not unreasonable to ask residents for feedback.

Councillor Haynes introduced himself. He advised that there is a history of Saanich standing up to protect the rights of residents at the federal level. He also advised that the notes from this meeting would be provided to the Advisory Committees and the public would have the opportunity to provide further input at the committee level.

DELEGATION

T. Woynillowicz and N. Mussell, Victoria Chapter of the Council of Canadians, presented to Council and highlighted the following:

- TPP negotiations commenced in 2009; negotiations were held in secret.
- It is called a free trade agreement but has little to do with trade; it is a transfer of power away from local governments.
- The Investor-State Dispute Settlement (ISDS) replaces courts with rigged tribunals and no right to appeal.
- It poses a threat to municipalities in that corporations could sue local governments to change laws such as: local voting laws, environmental laws, laws that protect environmentally sensitive areas or that encourage sustainability laws; it could also affect food safety standards and local food production.
- It vaguely mentions climate change.
- The TPP undermines democratic authority of local governments; it benefits large corporations and individuals and could be seen as a corporate bill of rights.
- The Council of Canadians asks Saanich to pass a resolution requesting the Federal Government not ratify the TPP.
- Other countries have stated that if ISDS is part of the TPP, they would not take part.

PUBLIC INPUT

J. Schmuck, Member of PTED, stated:

- He strongly supports food safety rules and buying local whenever possible.
- The TPP would open up markets tariff-free to Canadian producers and create environmental standards; it establishes fair labour standards that may not currently exist.
- Protectionism isolates economies and starves economic growth; agreements are regularly negotiated in secret.
- He wonders if making the request to the Federal Government is part of Saanich's mandate; dealing with current local issues are more important.

G. Holloway, Rosehill Road, stated:

- He is grateful that the topic is being discussed.
- The TPP has implications to all levels of government.
- It is appropriate to have the Advisory Committees consider the issue and is worthy of further discussion; the definition and the authority of the ISDS should be reviewed.
- Revisions cannot be made to the agreement; the risks of the TPP outweigh the benefits.
- It is appropriate to have Saanich pass a resolution requesting the Federal Government not support the TPP.

G. Klima, Member of ENA, stated:

- He is concerned with the fact that a municipality would be addressing an international trade agreement and wonders whether the Federal Government would have any reason to listen.
- If enough municipalities notify the Federal Government, they may listen.
- Municipalities may incur massive costs during a TPP proceeding, because they would have to hire lawyers who would know how to address themselves to the ISDS.
- The TPP would affect buying local purchasing decisions; the language in the TPP to protect the environment and for public consultation is weak.

- The idea that the municipality should oppose the TPP is supportable but it is important to frame the opposition in terms that are relevant to the municipality; some of the issues that may be relevant include regulations around pesticides, the EDPA, building permits, water and land use, and the integrity of our bylaws.

H. Wolf, Kincaid Street, stated:

- The TPP is not about free trade; most of the trade addressed in the TPP is already free.
- He thanks Saanich for the opportunity to provide feedback on this item; the ISDS process is a concern.
- A specific local issue that needs to be addressed is a proposed pipeline to process LNG in the Saanich inlet; this falls under Investor-State Protection under NAFTA.
- If TPP goes through we would not be able to stop oil tankers in the Strait of Juan de Fuca.

H. Gibbard, Member of ENA, stated:

- Environmental issues and food security are concerns.
- Some of the words in the TPP are chilling; the TPP is not concerned about people, politics or the environment.
- It is important to look closely at the TPP; he is not sure if the municipality has the power to ask the Federal Government to oppose the TPP or if the Federal Government will listen.
- The Federal Government did not give residents the opportunity to provide feedback into the TPP.

R. Hasselgrave, Member of ENA, stated:

- The proposed resolution asks that local government autonomy be protected; if nothing further can be done to modify the TPP, that may not be possible.
- A lot of the initiatives that protect the environment and health come from the local levels of government; municipalities are leading the way in climate change initiatives.
- The TPP has the potential in putting a chilling effect on the local level of government and the initiatives that start at that level; the TPP may affect drug pricing controls.

J. Gaylord, Member of BIPED, stated:

- The TPP is extremely concerning; she appreciates the opportunity to provide input.
- Saanich is within its rights to make recommendations to the Federal Government on what may affect the municipality; the Federal Government has not given the public an opportunity to provide feedback.
- Trade protectionism can be a bad idea; this is not a trade agreement.
- As long as it has the ISDS clause in it, the TPP should not proceed.

N. Mussel, Victoria Chapter of the Council of Canadians, stated:

- The Comprehensive Economic and Trade Agreement (CETA) and the TPP have the same investor-state protectionisms and many of the same provisions.
- The town of Hudson, Quebec banned pesticide use in the city; the town was sued under Chapter 11 of the NAFTA Agreement and lost.

CLOSING REMARKS

Councillor Haynes stated:

- He appreciated the comments and insight provided and invited members of the public to attend the upcoming Advisory Committee meetings.
- The TPP is a long and complicated document; the ISDS could mean the loss of local government authority.

Councillor Plant stated:

- He thanked the presenters and members of public for attending; he supports free trade, but not at the cost of democracy.
- The TPP as it exists, is not supportable; the ISDS is concerning and should be removed from the TPP.

Councillor Murdock stated:

- He thanked the audience for attending and providing feedback.
- He advised that the next step would be for each committee to deliberate and make a recommendation to Council; the item will be brought forward at the October 24, 2016 Council meeting and the public would have the opportunity to speak to the item or provide comments in writing.

ADJOURNMENT

The meeting adjourned at 8:10 p.m.

DRAFT



Memo

File: 1410-02

To: Councillor Fred Haynes,
Chair, Planning, Transportation and Economic Development Advisory Committee
Councillor Dean Murdock,
Chair, Environment and Natural Areas Advisory Committee
Councillor Colin Plant,
Chair, Healthy Saanich Advisory Committee

From: Donna Dupas, Legislative Manager

Date: August 17, 2016

Subject: **Federal Trans-Pacific Partnership Agreement**

This memorandum will confirm that Council, at their meeting on August 15, 2016, considered a presentation from the Victoria Chapter of the Council of Canadians further to the above, and resolved as follows:

"That the topic of the Federal Trans-Pacific Partnership Agreement (TPP) be referred to Environment and Natural Areas, Healthy Saanich and the Planning and Transportation Economic Development Advisory Committees for further discussion and to forward recommendations to Council."

A copy of the presentation materials and excerpt of the Council minutes are attached for your reference. Please place this item on your September meeting agendas.



Donna Dupas
Legislative Manager

dh

cc: Kelli-Ann Armstrong, Senior Manager, Recreation Services
Elizabeth van den Hengel, Secretary, Planning, Transportation and Economic Development,
Environment and Natural Areas, and Healthy Saanich Advisory Committees

1410-02
Delegation

VICTORIA CHAPTER OF THE COUNCIL OF CANADIANS
Subject: Federal Trans-Pacific Partnership Agreement (TPP)

Mr. T. Woynillowicz and Mr. N. Mussell presented to Council and requested that Council pass a resolution requesting that the Federal Government not ratify the Trans-Pacific Partnership Agreement. They advised that the TPP will adversely affect local governments in that foreign corporations could challenge zoning and environmental laws and laws that protect environmentally sensitive areas or that encourage sustainable development. They also advised that the TPP undermines democratic authority of local governments.

MOVED by Councillor Plant and Seconded by Councillor Haynes: "That the topic of the Federal Trans-Pacific Partnership Agreement (TPP) be referred to Environment and Natural Areas, Healthy Saanich and the Planning, Transportation and Economic Development Advisory Committees for further discussion and to forward recommendations to Council."

Councillor Plant stated:

- Referring the item to the Advisory Committees would be appropriate; members of the public would be able to attend and provide feedback.
- The Advisory Committees would forward any recommendations that they may have to Council.

In response to a question, Mr. Woynillowicz stated that October 31, 2016 is the deadline for feedback from the public.

In response to a question from Council, the Legislative Manager stated:

- The item could be scheduled for the September meetings of the Advisory Committees and recommendations be forwarded to an October Council meeting; further discussion would be needed to coordinate a joint Advisory Committee meeting.

Councillor Brownoff stated:

- She requests that the report in relation to the Canada-Europe Union Comprehensive Economic and Trade Agreement dated May 1, 2012 and the minutes of the May 7, 2012 Council meeting be forward to the Advisory Committees for reference.
- Staff are also requested to consult with Federation of Canadian Municipalities' joint working group for background information.

Councillor Derman stated:

- The TPP is not a trade agreement; it is a transfer of power to specific corporate interests.
- There is value in the Federal Government receiving letters from Canadian municipalities outlining concerns.

Councillor Murdock stated:

- This is an opportunity to discuss the effects the TPP may have on Saanich; a resolution may have an effect on federal decision makers.

The Motion was then Put and CARRIED

Item 8

REPORTS FROM MEMBERS OF COUNCIL

1300-20
FCM

CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Report from Councillor Brownoff dated May 1, 2012 recommending Council adopt the motion outlined regarding the Canada-European Union Comprehensive Economic and Trade Agreement.

**MOVED BY Councillor Brownoff and Seconded by Councillor Derman;
"That:**

- a) **Saanich Council endorse the Federation of Canadian Municipalities (FCM) seven Municipal principles for the Federal Government to apply to the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and future trade deals; and**
- b) **Saanich Council request the Government of Canada protect the powers of Saanich to create local jobs, protect the environment, and provide services and programs as it sees fit, from any restrictions to those powers in the CETA; and**
- c) **Saanich Council request the Government of Canada and the provinces and territories solicit comments from all the parties that will potentially be affected by the proposed trade agreement before finalizing any such agreement; and**
- d) **Saanich Council communicate its position to the Government of Canada, the Province of British Columbia and the Federation of Canadian Municipalities."**

Councillor Brownoff stated:

- The potential impact of this agreement on municipalities is not clear due to the confidential negotiation process; however, municipal procurements are to be included and municipalities such as Saanich may be affected. Municipal procurement was excluded from previous trade agreements.
- Stringent rules will apply; the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) will prohibit a "Buy Canadian" policy as an offset; local policies which promote local job creation and local foods are among those which may be affected.
- It appears the CETA provisions may not be consistent with our Saanich Vision.

Councillor Murdock stated:

- Local food security and production are written into Saanich's Official Community Plan.
- He supports the seven municipal principles of free and fair trade but this agreement has implications unlike other trade agreements for local governments; we may not be able to look out for our own local interests.

Councillor Derman stated:

- All affected parties should be consulted during negotiations for such trade agreements.
- There could be unnecessary additional costs incurred by the municipality as a result.
- It would appear to put an unreasonable constraint on our ability to act for the citizens of our area.

THE
COUNCIL
OF CANADIANS



LE
CONSEIL
DES CANADIENS

Victoria Chapter of The Council of Canadians

August 3, 2015

Dear Mayor Atwell and Council,

On behalf of the Victoria Chapter of The Council of Canadians we wish to appear on Monday August 15th, 2015 (pending confirmation) as a delegation to address our concerns regarding the Trans-Pacific Partnership Agreement (TPP) and the effect it will have on the ability of local governments to serve their constituents.

As details of the proposed agreement emerge, citizens and elected officials are beginning to have concerns with the TPP that they are communicating to the federal government.

Some of the concerns that have been raised include the following:

- **The TPP has been negotiated in complete secrecy**
- **The TPP is not really a trade agreement**
- **It may violate our most fundamental principles of democracy**
- **The TPP will likely impact city planning, a major function of city government**
- **Increase global warming and costly extreme weather events**
- **Create a new regulatory bureaucracy that overrides local laws**
- **May rob local government of the ability to protect local jobs**
- **Could inflate healthcare costs**

Please find enclosed information that includes: the spring 2016 magazine Canadian Perspectives and two information sheets for your perusal.

You are also invited to visit our website for more information on the TPP:

www.canadians.org/tpp

Additional information will be emailed to you by Tuesday, August 9th, 2016.

Respectfully submitted by:

Ted Woynillowicz, Co-chair Victoria Chapter of the Council of Canadians

Neil Mussell, Board Member, Victoria Chapter of The Council of Canadians

Contact: Ted at

Humor

THE
COUNCIL
OF CANADIANS



LE
CONSEIL
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Respectfully submitted by:

Ted Woynillowicz, Co-chair Victoria Chapter of the Council of Canadians

Neil Mussell, Board Member, Victoria Chapter of The Council of Canadians

Contact: Ted at

HOW WILL THE TPP AFFECT YOU?

The Trans-Pacific Partnership (TPP) is a "free" trade deal between Canada, the United States, Mexico and nine other countries, representing 40% of the global economy.



diminished sovereignty

Corporations will have the right to sue governments for changes in policies that threaten profit.

gold-plated corporate rights

Corporations are accorded privileged legal rights not given to citizens or states.

unfair competition

Restrictions imposed on Crown corporations will not give them "preferential" treatment.

local jobs at risk

Foreign companies have the same rights as local companies to government contracts, erasing any buy local programs.



food insecurity

Our ability to protect our own production and markets will be significantly diminished.

higher drug costs

Pharmaceutical patents will be extended, which means that some cheaper generic drugs will be less available.

decreased wages

Corporations benefit from new rights while workers in all countries will see lower wages and job losses.



environmental risks

Corporate lawsuits are often used to challenge policies that protect the environment. In these disputes, corporations almost always win.

who benefits?

Studies show that trade deals like the TPP and their corporate lawsuits benefit very large corporations and wealthy individuals. Experts are now saying that the TPP will result in job losses and only minimal economic growth in Canada.

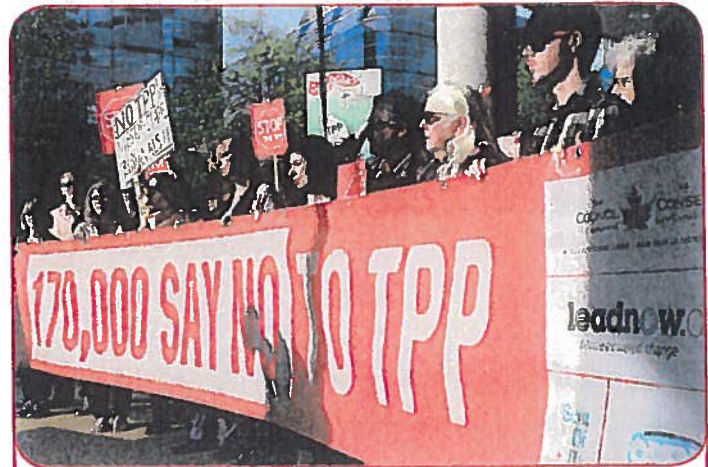
The Trans-Pacific Partnership: Expanding the power of corporations

The Trans-Pacific Partnership (TPP) is a multilateral investment and corporate rights agreement involving 12 Pacific Rim countries. Canada joined the negotiations in 2012.

The text of the agreement was developed in secret. Parliamentarians were kept out of the loop. Corporate lobbyists, on the other hand, were given full access. The deal is now finalized and cannot be modified as it awaits ratification of the signatories. The countries involved (Australia, Brunei Darussalam, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States of America and Vietnam) make up approximately 40 per cent of the global economy.

The TPP is a "docking" agreement, meaning that other countries can join the existing deal without negotiations, which is significant due to the failure of previous multilateral efforts. Countries, such as the Philippines, Thailand, South Korea, Colombia and Taiwan, are considering joining.

Of the 30 chapters in the TPP only six relate to trade issues. The TPP is not a "trade" agreement – it is about entrenching and expanding the rights of corporations.



What's in the TPP?

The TPP will affect issues as wide ranging as internet freedoms, food sovereignty, health care costs, environmental standards and banking regulations. In all of these instances the rights of corporations are promoted at the expense of the rights of communities.

Here are a few examples of what we can expect from the TPP:

- **Increases in some drug costs.** The TPP includes the expansion of patent regimes to support pharmaceutical companies. Consumers and public health care providers will see higher prices. For communities in the global South who rely on low-cost generic drugs, this can be a matter of life and death.
- **A global race to the bottom in wages.** Lax corporate rules will mean continuously lower wages everywhere. Union organizing will be undermined while the exploitation of more temporary foreign workers and of workers in the Global South will increase. Ultimately this leads to increased profits for corporations while many workers are paid less.
- **Softening country of origin rules.** This makes it easier for corporations to produce product components in countries outside of the TPP and still have preferential tariffs. These rules of origins are weaker than those in NAFTA.
- **Deregulation of financial institutions.** TPP rules would require domestic law to conform to the now-rejected model of deregulation. The TPP would undermine bans on particularly risky financial practices, such as the derivatives that led to big bank bailouts during the 2008 financial crisis.
- **Undermining community and government efforts to buy local.** Corporations in the TPP must have access to bid on most government contracts. This means a country cannot give preference to local suppliers or enact "buy local" policies.
- **Encouraging a carbon-intensive economy.** Trade agreements encourage the expansion of a shipping-based export economy. They also promote large, global transnational agriculture instead of locally produced food. These are important factors in creating climate change. The TPP text does not have a single reference to climate change.

(Examples - con't)

- **Reducing environmental protection and indigenous sovereignty.** The TPP includes special rules for corporations that allow them to take environmental policies and laws to court. Environmentally destructive companies, such as oil companies or mining companies, are particular users of these rules. Indigenous lands, which are on the front lines of mining and oil resources, are often impacted by these environmentally damaging projects.
- **Canadian dairy markets opened to more rBGH milk.** The TPP will open up the Canadian market to U.S. milk as part of harmonizing dairy standards. Canada has banned recombinant Bovine Growth Hormone, produced by Monsanto,

while the U.S. has not. Cows injected with rBGH, pushed to yield unnaturally large quantities of milk, suffer from more stress and a higher incidence of udder infections, reproductive disorders, swollen legs and premature death.

- **Restrictions on internet freedoms.** People's internet freedom would be restricted through expanded copyright terms, new rules for enforcement of the intellectual property rights of corporations online and the protection of digital locks, which prevent downloads. People will be limited in using and creating digital content and the protection of "trade secrets" could impede whistleblowers working in the public interest. Few privacy protections for users are provided.

Investor state dispute settlement (ISDS) provisions

Investor-state dispute settlement (ISDS) provisions are included in the TPP as well as many other international "trade" agreements. These provisions are the most obvious example of how trade deals are a corporate bill of rights. The ISDS provisions allow corporations to sue governments for policy decisions or regulations that cut into their corporate investments or profits.

Say, for example, a company invested in a mine or an oil field. The communities whose health and safety are affected could ask the government to stop the project to protect their health and safety. But if the government changes policy or rules that affect a TPP country's investment, the company can sue for lost profit – and not just what it invested, but also the "future profits" the company projects it would lose.

With ISDS provisions communities are likely to be bombarded with investment in resources extraction and infrastructure projects even though unresolved land claims, indigenous title and environmental opposition would otherwise be major risks to investment. These investments leave lands vulnerable to plunder and displacing people.

Public resources as corporate insurance

It used to be corporations that assumed the risks of doing business in another country. Now, with ISDS provisions, corporations are ensuring that bad investments and questionable projects are compensated for by governments. The funds used to compensate these multinational corporations could otherwise be used for spending on housing, public health, education and other social services.

The chill effect on public interest policy

Governments faced with continuous financial losses to ISDS claims may be discouraged to pass policies in the public interest that can impact the profits of multinational corporations. We have seen corporations challenge pesticide bans, public health labeling on cigarettes, the rejection of pipeline projects, fracking bans and much more. Governments will either continue to pay these corporations for their ISDS claims, or they will stop enacting policies and regulations in the public interest in order to save money. Either way people and the environment will suffer.

To learn more about what you can do to stop the Trans-Pacific Partnership visit www.canadians.org/tpp or call toll-free 1-800-387-7177.

Trade Deals Give Corporations the Power to Sue



by Brent Patterson

The Trans-Pacific Partnership contains the controversial investor-state dispute settlement (ISDS) provision.

In short, ISDS gives corporations the power to sue national governments for lost future profits related to public interest legislation, most commonly related to the protection of the environment. This provision is known as Chapter 11 in the North American Free Trade Agreement (NAFTA). It is in the yet-to-be ratified Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and in the recently signed Trans-Pacific Partnership (TPP), and it is the subject of debate and reform proposals in the United States-European Union Transatlantic Trade and Investment Partnership (TTIP).

The Trudeau government is defending this provision in the TPP. Global Affairs Canada (Prime Minister Trudeau's department of foreign affairs and international trade) says, "With respect to ISDS, the TPP will not impair the ability of Canada or its partners to regulate and legislate in areas such as the environment, culture, safety, health and conservation. Our experience under NAFTA demonstrates that neither our investment protection rules nor the ISDS mechanism constrain any level of government from regulating in the public interest."

In fact, Canada's experience under NAFTA has been the complete opposite of that. Since NAFTA came into force on January 1, 1994, Canada has been subject to 35 NAFTA investor-state claims. Sixty-three per cent of those claims have involved challenges to environmental protection or resource management measures. A notable example includes the Delaware-registered, Calgary-based Lone Pine Resources' \$250-million Chapter 11 challenge against Canada over Quebec's moratorium on fracking for

oil and gas underneath the St. Lawrence River.

Toronto Star columnist Thomas Walkom has cautioned, "Ottawa says the TPP does not remove the right of governments to 'legislate and regulate in the public interest.' That's what was said about NAFTA originally. But those claims proved to be false. With the TPP, as with NAFTA, all will depend on how the final text is worded and how the dispute settlement panels interpret this wording. In the end, the new Trans-Pacific deal is essentially a renegotiated NAFTA with Japan and a couple of cheap-labour countries (Vietnam, Malaysia) thrown in."

The ISDS provision threatens both climate policy and Indigenous rights.

As Friends of the Earth highlights, "The ISDS mechanism included in the TPP investment chapter grants foreign investors access to a secret tribunal if they believe actions taken by a government will affect their future profits. This provision is a ticking time-bomb for climate policy because many government policies needed to address global warming are subject to suits brought before international investment tribunals. ... Other TPP chapters, like the one covering trade in goods, can be the basis for state-to-state suits challenging climate policies."

Council of Canadians National Chairperson Maude Barlow has called for a provision in global climate agreements that would protect government measures reducing greenhouse gas emissions from ISDS challenges. She stated, "The central problem is that many of the same countries pledging to take serious action on climate change are also party to, or are aggressively negotiating, trade and investment deals that contain a mechanism that gives large corporations the right to challenge any changes to the

current rules under which they operate." United Nations Special Rapporteur for Indigenous Rights Victoria Tauli-Corpuz has warned that "the clause of non-discrimination between a local and an international investor ... grants more rights to transnational firms, often at the expense of indigenous rights." She says this is a crucial issue because most remaining natural resources are located on Indigenous lands.

In a January 2016 op-ed published in the *Winnipeg Free Press*, Council of Canadians Regional Organizer Brigette DePape and Winnipeg chapter activist Jobb Arnold wrote "[The ISDS provision] could affect the First Nations on Lelu Island, B.C. ... There, the battle is against Petronas, a company that wants to exploit liquefied natural gas. It's not just the land and water, but also the fishing economy at stake for future generations. Under the TPP, Petronas, a Malaysian company, could sue the Canadian government if it were to limit LNG exploitation on the island. In this way, the TPP gives multinational corporations more power and grassroots land-defenders less."

The Trans-Pacific Partnership includes the 12 countries that produce nearly 40 per cent of the monetary value of all the finished goods and services in the world. There is a mixture of countries within it, including G7 "major advanced economies" (the United States, Canada and Japan), G20 "major economies" (Australia and Mexico), relatively smaller economies (New Zealand and Singapore), and "developing economies" (Brunei, Chile, Malaysia, Peru and Vietnam).

Giving the transnational corporations that operate in these countries the power to sue government over public interest legislation is the wrong way to go.

Brent Patterson is the Political Director for the Council of Canadians.



TPP 'worst trade deal ever,' says Nobel-winning economist Joseph Stiglitz

Trans-Pacific Partnership should be revised to advance interests of citizens, not corporations, he says

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Nobel Prize-winning economist Joseph Stiglitz says the Trans-Pacific Partnership may well be the worst trade agreement ever negotiated, and he recommends Canada insist on reworking it.

"I think what Canada should do is use its influence to begin a renegotiation of TPP to make it an agreement that advances the interests of Canadian citizens and not just the large corporations," he said in an interview with CBC's [The Exchange](#) on Thursday.

- [Highlights: What's in Trans-Pacific Partnership?](#)
- [EU quietly asks Canada to rework trade deal](#)

Stiglitz, a professor at Columbia University in New York, was a keynote speaker at a conference at the University of Ottawa on Friday about the complex trade deal.

International Trade Minister Chrystia Freeland put Canada's signature on the Trans-Pacific Partnership trade deal, but it has yet to be ratified here. The House of Commons trade committee is studying the TPP — a process that Freeland said could take up to nine months.

Stiglitz described Freeland as "old friend" in an interview with The Canadian Press and said he has explained some of the pitfalls of the TPP to her, among them its potential to reduce workers' rights.

Stiglitz takes issue with the TPP's investment-protection provisions, which he says could interfere with the ability of governments to regulate business or to move toward a low-carbon economy.

Multinationals have right to sue

It's the "worst part of agreement," he says, because it allows large multinationals to sue the Canadian government.

"It used to be the basic principle was polluter pay," Stiglitz said. "If you damaged the environment, then you have to pay. Now if you pass a regulation that restricts ability to pollute or does something about climate change, you could be sued and could pay billions of dollars."

There were similar provisions in North American Free Trade Agreement that led to the Canadian government being sued, but the TPP goes even further.

He said the provision could be used to prevent raising of minimum wages or to overturn rules that prevent usury or predatory lending practices.

Stiglitz argues the deal, which is a 6,000-page mammoth and extremely complex, should have been negotiated openly.

"This deal was done in secret with corporate interests at the table," he said.

He also forecasts the deal will have little impact on trade volumes, especially in advanced countries like the U.S. and Canada, where mostly capital-intensive goods are exported and labour-intensive goods are imported.

Rules of origin provisions

But it will change the basic legal framework that governs society, shifting power to corporations, he said.

Stiglitz said the "rules of origin" provisions have the ability to hurt North American employment, because they allow "very clever ways of hiding what's going on."

- [Trans-Pacific Partnership divides auto parts industry](#)
- [Canada, Mexico share concerns about TPP impact](#)

"You could have an automobile where the vast majority of the automobile was actually made in China and Thailand [which did not sign the TPP] but it comes into Canada as a Japanese good," he said.

All the presidential candidates now are speaking out against the deal and it may never be passed in the U.S.

"I'm a little surprised that Canada would seriously consider going through the political fight that is associated with getting this agreement ratified until the U.S. adopts it," he said.

He recommended Canada work with the Europeans, who have also objected to the investment protection provisions, to rework the deal.

With files from The Canadian Press
