

CUPE·SCFP



September 21, 2017

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Chrystia Freeland, P.C., M.P.
Minister of Foreign Affairs
House of Commons
Ottawa, ON K1A 0A6

Dear Prime Minister, Dear Minister:

We, as leaders of many of Canada's largest unions, welcome the moves your government has announced to make real and enforceable labour rights a part of the NAFTA negotiating objectives.

However, we need to point out that this change alone will not result in a NAFTA that is acceptable to us. Far from it.

Your positive move on labour rights has the potential to be an important development in the evolution of international agreements. Your government is, so far as we can determine, leading the way by putting real and enforceable labour rights on the table during the negotiation over what is usually described as a trade deal, even though trade is no longer the most significant part of these agreements.

The almost complete absence in most existing trade deals of provisions to protect the rights of working people has worsened job losses and wage stagnation. Those undeniable negative results have been a major contributor to labour's dissatisfaction with these deals.

It is an inescapable conclusion that NAFTA has to this point cost our economy many thousands of manufacturing jobs, and has been a significant contributor to the crippling wage stagnation that has been such a cornerstone of growing income and wealth inequality.

We want to express our firm support for the position you have taken on the issue of labour rights. The issue of course includes, but is not limited to, the pervasive use of so-called right-to-work laws in the United States, which are ill-disguised attacks on the strength and effectiveness of unions. It includes, but is not limited to, the almost complete failure of the Mexican government to actually enforce the laws that therefore only theoretically protect workers in that country.

Effective labour provisions in NAFTA would have to address the failure to have in place adequate labour rights and standards on the entry into force of a new agreement, and would then have to prevent any action on the part of governments to aid multinational corporations by lowering the labour rights and standards in their jurisdictions.

Any new labour rights provisions must include an effective, efficient, and transparent enforcement mechanism that provides workers and their representatives with a real role in the enforcement of rights and real remedies. And effective labour rights provisions would have to apply to multinational or national corporations themselves, suspending their privileges under the trade agreement if they are abusing the rights of their workforces.

But having congratulated you on introducing real labour rights into the equation, let us add two very important provisos.

First, we would be extremely disappointed to discover that the question of effective and enforceable labour rights had been dropped in the course of the negotiations, that the issue was only raised as a bargaining chip to be traded off later. Similarly, it would be extremely disappointing to learn that the issue of effective labour rights had been watered down to basically copy the same old ineffective "words on paper" that do not translate into any real, enforceable rights. Working people would not be lulled into a false sense of security in that case.

We saw that approach in the Canada-EU agreement, CETA. There are nice words there about labour rights, but they are only words because they can't be enforced, while corporate rights in the agreement are fully enforceable.

The same reasoning applies with respect to Indigenous rights and gender equality. While we applaud the intention to have clauses on both in a new NAFTA, the real question is the effectiveness and enforceability of any such clauses. Without these the words are just window dressing.

Secondly, we have to reiterate that improved labour rights in a bad agreement do not magically result in a good agreement. There are many things wrong with NAFTA. Leaving NAFTA essentially a corporate-favouring trade deal while addressing only labour rights would not be in any way acceptable.

The right, and indeed the duty, of governments to take action to protect the environment and mitigate climate change has to be absolutely clear in any trade deal in this age of looming climate crises. We cannot freely do business with a country or with a corporation that denies the reality of climate change or refuses to take action to limit its impacts. We certainly should not sign trade agreements that guarantee such countries or corporations privileged access to our markets.

We understand that you have expressed an intention to have strong environmental language in the new NAFTA, and we support your government's intentions. But we are very wary about how almost all of the appointees to the NAFTA Advisory Council on the Environment are pro-business with a serious lack of environmental expertise or activism thereon.

The right of private for-profit foreign companies to challenge the laws and rules democratically decided by our governments is an outrageous capitulation to corporate interests. The enforcement of NAFTA should be by way of country-to-country dispute settlement, not private company to country. Why on earth a company located in the US should have more rights to challenge our government than we enjoy as citizens has never been explained and is simply unacceptable. NAFTA's investor-state dispute settlement (ISDS) provisions can't be fixed by tinkering, they have to be removed.

Let us be abundantly clear that the ISDS provisions in CETA that retain the essential right of for-profit corporations to challenge governments, while making the procedure by which to do so more transparent and controlled, are not enough. Corporations simply cannot be given that kind of right to override democracy.

The right of governments to regulate in their jurisdictions needs to be preserved. Regulatory convergence, where one set of regulations, jointly agreed to, takes precedence over an individual country's regulations, perhaps sounds harmless, until one realizes that this approach will remove regulations from any country's democratic control and move the regulatory power to a shadowy, unaccountable international forum.

We should not prevent provinces or cities from spending tax money (sent to them by their citizens) in ways that improve their local economies. Opening up procurement to foreign companies and tying the hands of elected governments to choose local employers means losing the ability to spend local taxpayer dollars to boost local enterprises and jobs.

We need to ensure that a new NAFTA does not continue to threaten public services. And we need to remove the invidious *negative list* provisions that mean if governments don't now protect future public services—even if they haven't thought of them yet—they will lose the right to develop new public services into the future.

A new NAFTA has to contain an explicit protection for government-owned enterprises, what some provinces call Crown corporations. They were not set up to act as private businesses, they were set up to serve the public, and that freedom to act on other than purely business motives has to be protected.

We need to ensure that our system of supply management in agriculture is not threatened.

Many of the signatories to this letter have sent detailed submissions to the NAFTA review process your government established, so we don't have to repeat everything here. But let us restate that a bad agreement with good labour rights is still a bad agreement, with only one of many unacceptable features addressed.

Sincerely,



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