



Alberta Federation of Labour presentation on the Trans-Pacific Partnership (TPP) The House of Commons' International Trade Committee

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Delivered by AFL President Gil McGowan

Good morning and thank you for this opportunity.

My name is Gil McGowan, and I'm president of the Alberta Federation of Labour.

This committee is getting an earful from Canadians.

You're hearing about how the Trans-Pacific Partnership will affect important Canadian industries, like aerospace and auto manufacturing.

You're hearing about health care and prescription drugs; about intellectual property and environmental protection; and about procurement policies and investor-state provisions.

We at the AFL share many of these concerns...but I'm not going to talk about them today.

Instead, I'm going to spend my time discussing an issue that most people AREN'T already talking about – but should be.

Specifically, I want to talk about how the labour mobility provisions laid out in Chapter 12 of the TPP are going to distort the Canadian labour market and seriously undermine the interests of Canadian workers. Like other Canadians, we at the AFL got our first look at the full text of the TPP in the fall – after the Harper government had completed its secret negotiation with other nations.

One of the first things that caught our attention was the section of the agreement pertaining to temporary foreign workers.

The way we read it, the agreement seemed to give sweeping new powers to employers – powers that would allow them to dramatically expand the use of TFWs to displace Canadian workers and suppress wages, with few, if any, safeguards.

We almost couldn't believe what we were reading...so we reached out to a prominent Canadian law firm to give us an expert analysis.

I'm tabling that legal opinion for the committee today.

According to the team of trade and labour specialists at Goldblatt Partners, Chapter 12 is even worse than we had feared.

Based on their analysis, the effect of the TPP's labour mobility rules is to, and I quote from the legal brief, essentially "prohibit (the government of) Canada from imposing any limit on the number of foreign workers entitled to enter the country so long as they fall under one of the broadly defined categories of workers (that) Canada has agreed to admit. Furthermore, for the large majority of such workers, Canada is prohibited from administering a labour certification test before that worker can be given a work permit."

The analysis goes on to say that "Chapter 12 of the TPP...is certain to make things much tougher for many Canadians by allowing both domestic and foreign companies to bring in foreign workers to Canada to take jobs that Canadians are ready, willing and able to fill."

So what are the categories of workers that would fall under the TPP labour mobility provisions? There are four: business visitors; intra-corporate transferees; investors; and professionals and technicians.

For three of these four categories -- intra-corporate transfers; investors; and professionals and technicians -- Canada has agreed -- and I quote directly from the TPP text -- that it "will not:

- a) Require labour certification tests or other procedures of similar intent as a condition for temporary entry, or
- b) Impose or maintain any numerical restriction relating to temporary entry.

For the other category -- business visitors -- Canada has also foresworn the right to -- and again, I quote from the agreement -- to "impose or maintain any numerical restriction relating to temporary entry."

According to our legal opinion, these constraints effectively remove the ability of the Canadian government to impose a needs test on employers wanting to bring temporary workers into the country.

What this means is that foreign workers covered by Canada's commitments under the TPP will be entitled to take jobs in Canada **EVEN IF CANADIAN WORKERS ARE READILY AVAILABLE TO FILL THOSE JOBS AND REGARDLESS OF THE UNEMPLOYMENT RATE.**

Some might say: "don't worry -- it's only four categories; so we'll only be talking about a few temporary workers."

But that's not the case. Under the agreement, "business visitors" are defined as any citizen from a signatory nation -- hardly a narrow definition.

Similarly, intra-corporate transferees are defined as anyone who has worked for a company in a signatory nation for more than a year -- again, hardly a narrow definition.

And the category of professionals and technicians is made up of an extremely long list of occupations that includes everything from nurses and lawyers to construction tradespeople and oil field workers. To make matters even worse, TPP sanctioned workers in all of these categories will be able to have their so-called “temporary” permits renewed indefinitely – and most of them will be able to bring their spouses, who will also be able to work in the country under similar conditions.

At this point, I want to make a two things abundantly clear.

First, these TPP-sanctioned workers will NOT be immigrants. There will be no paths to citizenship for them. We submit that this is NOT how we built our country; and it is not how we should structure our labour market going forward.

Second, it’s also important to understand that these workers will not fall under the existing TFW program.

People who know me, know that I’ve been a leading critic of the TFW program. The program’s rules to protect the interests of Canadian workers are weak – but at least they exist.

What rules am I talking about?

Well, under the existing TFW program, a job has to be offered to Canadians before an employer can give it to a TFW. Employers also have to pay TFWs the same wages being paid to Canadians; and they have to be trained and certified up to Canadian standards when necessary.

The record clearly shows that these rules are often ignored and poorly enforced.

But with TPP sanctioned workers, even these minimal rules – designed to protect the interests of Canadians and stop the abuse of foreign workers – won’t apply.

Employers bringing workers into Canada under TPP will not have to prove that they offered the job first to Canadians; they will not have to pay prevailing Canadian wages; and, in most cases, they will not have to demonstrate that the workers in question have been properly trained.

The trade lawyers we hired say there’s even some question whether Canadian minimum wage and basic employment standard laws could be applied to these workers because it would be hard to enforce these rules on companies that operate outside Canada.

To put it another way, they worry that under Chapter 12 we may end up giving the green light to employers who want to import Third World wages and working conditions into Canada along with their foreign workers.

For me, one of the most frustrating aspects of this situation is that the current federal government has signed this agreement and is seriously considering ratifying it at exactly the same time that they have announced a comprehensive review of the existing TFW program.

Just yesterday, I spoke with federal labour minister Mary Ann Mihychuk and she said she wants to scale back the TFW program in an effort to protect Canadian jobs and stamp out exploitation and abuse.

But if the TPP is ratified, the TFW program will be the least of our worries. That's because the labour mobility sections of the TPP are like the TFW program on steroids.

The TPP will take the worst aspects of the TFW program, magnify them...and make them effectively irreversible because they will be entrenched in a complex and binding international treaty.

There will be no room for reviews or do overs – it will be a done deal...and a disaster.

I'd like to wrap up this morning by imploring you to not let this happen.

The new Liberal government should NOT see themselves as bound by a deal that was negotiated in secret by the Harper government.

Canadians firmly and unambiguously rejected that government just a few months ago – and you should reject this deal in the same way.

Thank you.

