

Brief on the Trans-Pacific Partnership
To the House of Commons Committee on International Trade
By the Council of Canadians

A complete version of this paper with references can be found at:
<http://canadians.org/sites/default/files/Trade/brief-citt-tpp-1016.pdf>

Introduction

The stakes are high for the Trans-Pacific Partnership (TPP). If it were ratified, the agreement would cover 40 per cent of the world's economy. The TPP's 6,000-plus pages of rules and regulations present a heavy and substantial change to world trade. Some argue that there is no other choice and that Canada must sign this agreement or lose out on growing markets.

However, analysis of the deal shows otherwise. First, there is no evidence to suggest the TPP will increase trade, or that it will help the Canadian economy. The lack of independent economic analysis is stunning. The studies that have been done on the TPP indicate the deal could lead to job losses and cause damage to many vital Canadian industries. Analysis of Canadian free trade agreements signed in the last few years shows increased exports to countries that Canada does not have free trade agreements with. In other words, we don't need deals like the TPP to increase Canada's trade markets.

Tariffs are already low. According to the Canadian centre for Policy Alternatives, 97 per cent of goods in the TPP zones are already tariff-free. The [World Bank](#) states that, "both tariffs and restrictions caused by non-tariff measures between many TPP members are already low by historical and international comparison."

This shows that exports and tariffs are not what the TPP is about. The actual agreement itself is not about increasing trade, but rather about getting rid of "barriers to trade." Supporters of the TPP say these so-called barriers to trade are "protectionism." Others view them as important public policy initiatives. UN human rights and indigenous rapporteurs have already expressed major critiques of the TPP, asking governments to reject the deal. In Canada, there has been no human rights analysis or environmental analysis of the TPP despite its substantial public policy impacts.

The Council of Canadians is not against trade, or even trade agreements. We support fair trade and a more democratic and egalitarian vision of trade. Unfortunately, the very development process of the TPP agreement guaranteed that this vision would never triumph. The agreement was negotiated in secret with 600 U.S. corporate lobbyists (names and addresses in link) and, from what we can see, [Canadian lobbyists](#) around the table. Advisors who took part [could be arrested](#) for revealing details of the negotiation, and Canadian parliamentarians were left entirely out of the loop.³ Canada joined at a later stage of the negotiations, with much of the deal dictated by the U.S. representative before Canada's voice could even be heard. The final rounds of negotiations occurred during a Canadian federal election campaign and the Conservative government accepted the deal unreservedly. The TPP was established with rules that would benefit large corporations without citizens, environmentalists, parliamentarians, unions or civil society around the table.

Nobel economics laureate Joseph Stiglitz calls the TPP “the worst trade agreement ever.” He [writes](#), “Obama has sought to perpetuate business as usual, whereby the rules governing global trade and investment are written by U.S. corporations for U.S. corporations. This should be unacceptable to anyone committed to democratic principles.”

There are also losses to Canadian sovereignty and our country’s ability to set its own industrial, financial and economic policies. Canada’s negotiating position – during an election campaign and as a latecomer to the table, with a desperate urge to get the deal done at any cost – did not produce a balanced agreement the country will benefit from.

In this paper, we will show how the TPP is a *magna carta* for a reduced government role and reduced social protections, with major policy implications for the most vulnerable people and for the environment. At a time of increased inequality — according to Oxfam, half of the world’s wealth is owned by only [62 people](#) – and of environmental precariousness, the last thing Canadians need is to take away the ability of governments to solve problems. Another free trade agreement that advances the same privatization and deregulation agenda that caused the 2008 financial crisis is not the solution. In fact, it is an approach that people worldwide are rejecting.

Public service is the business of politicians and legislators. You are representatives of our democracy and thus protectors of it. It is imperative that you protect our democracy and your right to legislate in the face of agreements like the TPP. There is a need for proper analysis and for proper consultation – with First Nations, municipalities and the Parliamentary Budget Officer – before such an agreement is even considered.

Investor-State Dispute Settlement: The public policy terminator

For Canadians, Investor-State Dispute Settlement (ISDS) provisions in the TPP provide a bad case of déjà vu. ISDS was developed in the 1950s to encourage investment in developing countries. The first ISDS agreement was between Pakistan and Germany in 1959. Since that time, there has been absolutely [no evidence](#) to show that [ISDS has actually encouraged investment](#).

In 1994, Canada joined the North American Free Trade Agreement (NAFTA) with Mexico and the United States. This deal introduced ISDS provisions to North America. The underlying logic was to ensure protection for companies working in Mexico where rule-of-law indicators were lower. Instead, Canada, with its tougher social and environmental rules, became the primary target for corporate lawsuits through ISDS provisions. A disproportionate number of the lawsuits filed under NAFTA – 37 out of 78 so far – have been launched against Canada, making it one of the most sued developed countries in the world.

Maude Barlow, National Chairperson of the Council of Canadians, has written about how ISDS provisions hamper [environmental and social](#) policy by imposing mammoth penalties on any country that attempts to regulate in the public interest. ISDS lawsuits have been filed for fracking bans in oil and gas extraction, a decision to close a quarry, drug regulations, patent disputes, and attempts to establish an economic development program.

In [*Oil Corporations Vs. Climate: How investors use trade agreements to undermine climate action*](#), Barlow illustrates some of the most egregious cases:

- Lone Pine, a Canadian energy company, is suing the Canadian government through its American affiliate for US\$118.9 million because Quebec introduced a temporary moratorium on oil and gas fracking under the St. Lawrence River. This challenge is even more concerning because it involves a domestic company using a foreign subsidiary to sue its own government.
- Ethyl, a U.S. chemical corporation, challenged a Canadian ban on imports of its gasoline that contained MMT, an additive that is a suspected neurotoxin. In a settlement, the Canadian government repealed the ban and paid the company US\$13 million

These and other examples show that trade and investment agreements give transnational corporations incredible rights to impose their will on governments. But they are probably just the tip of the iceberg, because many new laws, or changes to laws, never come to light because of the “chill effect” of governments avoiding certain public interest policies in order to avoid costly ISDS cases.

A study by Gus Van Harten, a scholar at the Osgoode Hall Law School in Toronto, says it doesn't even take an ISDS challenge – or the threat of an ISDS challenge – to change policy. [Interviews](#) he had with Ontario policymakers showed that policy decisions get delayed or shelved because of potential lawsuits.

One lawyer has reported that legislation is reviewed to see if it is compatible with trade agreements. He says, “Chapter 11 is the one that really bites.” Another policy official said, “You don't have to be even threatened before [ISDS] is a factor in your decision-making process.”

And in 2016, ISDS cases handled by the World Bank's International Centre for Settlement of Investor Disputes (ICSID) show that investors win most of their cases against governments, with 56 per cent of cases decided in 2016 being in favour of [investors](#). Fifty-five per cent of the cases launched in 2016 were on behalf of energy, resource or mining companies, often targeting environmental regulations. Two-thirds of the ISDS cases against Canada have been launched by mining or resource companies.

A way to block public policy

In a recent talk at the University of Ottawa, Nobel Prize winning economist Joseph Stiglitz emphasized the perversity of ISDS provisions in the TPP. He said in a time where climate change is an issue, and companies should be asked to pay for pollution, or a “polluter pay” system, with ISDS, we are implementing a system in which people pay polluters for regulating pollution. It puts a price on public policy aimed to achieve equality, protect the environment, or fix social and safety standards.

This is why Alfred de Zayas, a UN human rights expert, has condemned ISDS, saying that it reduces state sovereignty and protections for human rights. “Over the past 25 years, bilateral international treaties and free trade agreements with investor-state-dispute-settlement [provisions] have

adversely impacted the international order and undermined fundamental principles of the UN, State sovereignty, democracy and the rule of law. It prompts moral vertigo in the unbiased observer," he noted. "Far from contributing to human rights and development, ISDS has compromised the State's regulatory functions and resulted in growing inequality among States and within them."

The United Nations Special Rapporteur for Indigenous Rights, Victoria Tauli-Corpuz, says the Trans-Pacific Partnership threatens Indigenous land rights as well as the natural resources they preserve. In an interview with the International Work Group for Indigenous Affairs, as reported by Latin American television network Telesur, she said the major issue with the TPP is "the clause of non-discrimination between a local and an international investor.... (It) grants more rights to transnational firms, often at the expense of indigenous rights."

Tauli-Corpuz states in the report, "This is a crucial issue as most of the remaining natural resources available on Earth are located on indigenous lands — because protecting them is part of the indigenous culture, or because they are located on remote lands. Unfortunately, indigenous land rights and their legitimate access to natural resources are not defended as strongly as in the past by either the state or international organizations.... Trade agreements like the TPP prioritize corporate rights over human rights. Even if states implement policies to protect human rights, companies may challenge them at court with the support of such trade agreements."

[Minimum wage](#), plain packaging on tobacco, taxation policies, nuclear energy policies, anti-apartheid policies, drinking water protection – these have all come under attack using ISDS provisions. No other rights have as much protection as corporate rights entrenched in trade deals. While we face international threats, such as global income inequality, and as Canada signs important documents such as the United Nations Agreement on Climate Change in Paris and the UN Declaration on the Rights of Indigenous Peoples, our government contradicts these efforts by signing trade agreements that undermine these rights. The irony is that trade agreements lock in these rights for companies at the international level and are binding, with tough enforcement mechanisms. Very few other treaties benefit from such enforcement, whether it's [the Paris climate agreement or international standards on labour](#), health or human trafficking – none of these are binding or enforceable.

Other countries are rejecting ISDS

Many countries are re-evaluating or refusing to enter into trade agreements that have ISDS provisions.

According to [The Economist](#), "Brazil continues to receive lots of foreign investment despite its long-standing refusal to sign any treaty with an ISDS mechanism. Other countries are beginning to follow Brazil's lead. South Africa says it will withdraw from treaties with ISDS clauses and India is considering doing the same. Indonesia plans to let such treaties lapse when they come up for renewal. Australia briefly forswore ISDS in the wake of a complaint by Philip Morris about its requirements for health warnings on cigarette packets. But its new government says it will consider allowing such mechanisms in future treaties."

In fact, in Australia, under a [Liberal-Conservative coalition](#), Australia's free trade agreement with the United States does not have an ISDS mechanism in it.

"In 2003," *The Economist* notes, "a conservative Liberal-National coalition government led by John Howard commenced trade negotiations with the United States. The Australia–United States Free Trade Agreement (AUSFTA), which came into force in 2005, did not include a standard provision on ISDS. The official line taken by both governments was that ISDS was unnecessary because each country has a 'robust' legal system for resolving disputes."

Later, a Labour government led by Julia Gillard pledged "that it will no longer include provisions on investor-state dispute settlement (ISDS) in bilateral and regional trade agreements."

In July 2016, India pledged to withdraw from its agreements that included ISDS and began renegotiating [47 agreements](#) asking for a new model for investment. With respect to international trade, India, Brazil, Australia and Indonesia are among the top 30 trading nations of the world, according to the [WTO](#).

The TPP and the Economy

Recently, the Office of the Chief Economist of Global Affairs Canada released a study on the purported benefits of the TPP, arguing that Canada would gain \$4.3 billion if it were in the deal, but would lose \$5.3 billion if it was not.

The Council of Canadians has been asking the Parliamentary Budget Officer to provide independent analysis of the TPP, which, to date, has not been done. A review of the Global Affairs Canada study – which itself could hardly be qualified as independent – reveals severe shortcomings in its methodology. Council of Canadians National Chairperson Maude Barlow notes that "(The study) promises paltry gains: 0.127 per cent over two decades. Coincidentally, the gains – \$4.3 billion predicted – by the model is the same amount, \$4.3 billion, which was promised to farmers for giving away protections in their industry. So the net economic gain is zero, and yet, we sign up to higher health care costs and straightjacket our democracies' ability to set policy. It doesn't sound like a win."

Here are some other problems with the study's analysis:

- The analysis rests on the highly discredited Global Trade Analysis Project from Purdue University. This computable generalized equilibrium (CGE) model is based on [assumptions](#) that do not exist in the real world: that there is full employment, that trade balances do not change, that there is limited capital mobility, that countries share in the gains, amongst others. As the Austrian Chamber of Labour notes, "most of these CGE studies are constructed upon a methodology that is heavily biased towards demonstrating the positive effects while sidelining potential negative effects."
- Even this analysis predicts gains of \$4.3 billion, while compensation to industries under supply management for their TPP compensation is calculated at \$4.3 billion. **In other words, the model**

predicts minimal growth, which is eaten up by the compensation needed to maintain the deal.

- The analysis fails to examine overall employment, which is a major variable for Canadian well-being. Growth and employment are not necessarily synonymous, and trade deals often bring downward pressure on wages. A Tufts University analysis based on the United Nations Global Policy model sees a net loss of 58,000 jobs in Canada, along with dismal economic growth and rising inequality.
- The analysis does not include legal defence costs in ISDS cases, estimated at \$4 million per case. Nor does it include compensation to affected industries, unemployment costs, or higher social service costs, as other models have done. How much do drug costs and patent extensions cost Canadian consumers and taxpayers?

In Australia, the Productivity Commission conducted an analysis of the TPP, which said the deal offered “questionable benefits.” It slammed the ISDS provisions that allow companies to sue states over policy and regulatory changes.

Jim Balsillie, former head of BlackBerry Limited (previously RIM), told a [Parliamentary Committee](#) that, “It is like buying a house or buying a business or entering into a marriage with absolutely no facts whatsoever about what you’re getting into because houses are good and businesses are good and marriages are good. No, they’re not good any way, any time, any how. It’s a function of understanding what somebody is looking for and making sure that it works.”

Many business leaders question whether free trade agreements are “magic bullets” for boosting trade. Matthew Wilson of the association Canadian Manufacturers and Exporters [told a Senate Committee](#), “To be blunt, Canada has a poor history of success in free trade agreements. Aside from NAFTA and specifically the Canada-U.S. trade relationship, very few, if any, free trade agreements have led to an increase in exports in any goods, let alone from Canada’s advanced manufacturing sector.” The fact that free trade agreements, without underlying infrastructure, do not advance trade has been echoed by others.

Trade agreements are making Canada more dependent on exports of raw materials and resources and are hampering its manufacturing and high-value industries. Balsillie doesn’t mince his words. He told a [House of Commons](#) committee, “I guarantee you there will never be another Canadian tech company like RIM under the framework of TPP.” He adds, “Canada has the most superficial innovation discourse that I’ve seen in the world. We take these articles of faith that more intellectual property enforcement is good. Free trade is always good. We have these false myths and orthodoxies that we just take on, unchallenged.”

Local food security threatened

In agriculture, pressures on the supply management system are compromising Canada’s ability to protect its own food security by producing milk, poultry and eggs. Free trade is eroding small-scale, lower-pesticide domestic production in favour of large-scale industrial global farming with serious consequences on human health and the environment.

Canada's supply management system is the envy of many farmers around the world. A working system that adjusts production based on demand to avoid overproduction, with farmers able to make a decent livelihood, has helped maintain the farm economy in a northern climate. In Canada, regulations control the market. In Europe and the United States, farmers receive huge government subsidies. European agriculture faces a crisis due to collapsing Chinese demand and Russian sanctions. Prices paid to farmers are down 30 per cent, sometimes to less than the price of production. Europe has increased subsidies by €500 million offered in assistance, to cope with the crisis.

Unlike the U.S., Canada prohibits the use of [bovine growth hormones](#) in milk production. Brent Patterson, Political Director of the Council of Canadians, warns that with the TPP allowing more U.S. milk to cross the border, more milk will come in with BGH. A side letter in the TPP mentions the need [to conduct an assessment of equivalency](#) between U.S. and Canadian regulations on Grade A milk.

CETA and the TPP combined attacks to supply management offer a one-two punch to Canadian farmers and can endanger smaller farms. It must be noted that in CETA, Canada has expanded access to its cheeses market from five per cent to nine per cent. The TPP grants tariff-free access to 3.25 per cent of Canada's current dairy market, 2.3 per cent for eggs, 2.1 per cent for chicken, two per cent for turkey and 1.5 per cent for broiler hatching eggs in the first five years, with the amounts rising in future years.

Trading Away Our Health

Much of the recent discussion around the TPP and patent rights is in regards to "biologics." Biologics are a class of medical products that include a wide range of drugs that are made from biological sources. Most of the drugs we are familiar with are chemically synthesized and are made up of a relatively simple combination of molecules. Biologics are made of giant molecules that are many hundreds of times the size of conventional drug molecules (a molecule of aspirin consists of 21 atoms, whereas a biopharmaceutical molecule might contain anywhere from 2,000 to 25,000 atoms). Biologics can be composed of sugars, proteins, or nucleic acids or complex combinations of these substances and are manufactured inside animal cells or micro-organisms such as bacteria.

In Canada, biologics are an increasing burden on health care budgets. In 2010, biologics accounted for more than 14 per cent of the Canadian pharmaceutical market and cost the Canadian health care system over \$3 billion a year. Biologics are expected to grow to approximately 20 per cent of the market over the next decade. The drug remicade, for example, cost Ontario \$84 million in 2012/2013, equivalent to 4.3 per cent of the Ontario Drug Benefit Plan's drug budget. Across Canada, biologics are the largest cost driver in drug spending and three drugs alone accounted for \$1.5 billion in pharmaceutical spending in 2013.

State-owned enterprises

The TPP puts restrictions on state-owned enterprises if they compete with private companies, imposing restrictions on what kind of support governments can offer and how much infrastructure they can use. These companies would be subject to the same treatment as private foreign

corporations, limiting their use for policy objectives. While CBC and Radio-Canada are exempt from these restrictions, other agencies such as Canada Post, provincial liquor boards and electrical utilities would not be.

As trade lawyer Steven Shrybman of Goldblatt Partners notes in a legal opinion to the Canadian Union of Postal Workers, “TPP rules concerning State-Owned Enterprises (SOEs) and monopolies also expand and make more explicit similar constraints in NAFTA and the GATS on the conduct of Canada Post in meeting its mandate to provide universal postal services to Canadians while maintaining a viable business model that includes express delivery services.” Shrybman also says that Chapter 17 of the TPP sets a series of constraints on the ability to provide “non-commercial assistance” that could be applied to Canada Post’s relationship with Purolator, such as the providing of collection and distribution facilities.

First Nations

Recently, the Canadian government signalled its willingness to start a new relationship with First Nations people by signing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This important action appears to be offset by the signing of the Trans-Pacific Partnership agreement in Auckland. As previously noted, the United Nations Special Rapporteur for Indigenous Rights, Victoria Tauli-Corpuz, warned that the TPP’s ISDS provisions would be in conflict with the UNDRIP. Since the ISDS provisions are binding, with monetary rewards for corporations that challenge First Nations control over resources, while the UNDRIP is not binding, First Nations’ rights are put in peril.

With many First Nations communities located near resource extractions, the conflict between Indigenous people’s rights and Canada’s constitutional duty to obtain free, prior and informed consent will be placed in direct conflict with ISDS provisions. Simply put, companies could sue for being refused access to resources.

As Assembly of First Nations National Chief Perry Bellegarde has already told [the House of Commons International Trade Committee](#), “This is of particular concern to First Nations, given that many federal and provincial actions to recognize the rights of First Nations may be deemed indirect expropriations to investors under the TPP or other trade agreements. The ISDS provisions obligate Canada and investors to adjudicate the scope and content of First Nations’ rights between each other.”

In particular, he says, ISDS investors have already targeted sacred indigenous sites and treaty harvesting rights. These would be seen as indirect expropriations under treaties. As well, since many First Nations’ self-government treaties would come under attack since they are obliged to respect Canada’s treaties. As “new” legal governments, First Nations communities are also starting to develop resource extraction policies requiring new legislation. This new policy would be vulnerable to ISDS lawsuits.

New Zealand, unlike Canada, has provided an exemption for its Maori people and for the Treaty of Waitangi that protects them. However, the Maori were not fully engaged in the process of negotiating

the TPP, which is guaranteed by the Treaty of Waitangi, and they continue to oppose the deal. Canada, too, is obligated to consult First Nations before signing such agreements, as the Hupacasath Nation argued before the Supreme Court in a hearing concerning the Canada-China Foreign Investment Protection and Promotion Act (FIPA) in 2012. If Canada is serious about its commitment to the UNDRIP and to Canadian law, it must consult First Nations in detail before signing the TPP. To date, the Canadian government has not done this.

ISDS provisions should be rejected in the TPP and all other trade deals. There should be an exemption in the TPP for First Nations treaties, self-government and language agreements, recognizing the primacy of free, prior and informed consent for First Nations. There should be extensive consultations with First Nations before any agreement is signed. It is also imperative that the government conduct a full review of the TPP from a human rights perspective.

Labour Rights

The TPP's labour chapter has been analyzed by unions worldwide and has been found severely lacking. This is a very important point because having specific and enforceable labour legislation affects everyone's quality of life. In particular, broader trade puts downward pressure on wages and working conditions. Canadian workers find themselves competing with workers in countries that have low labour standards or even forced labour. Enforceable mechanisms are imperative in trade deals to address these issues.

The [International Trade Union Confederation](#) (ITUC) analyzed the TPP provisions and gave the agreement a failing grade.

Migrant labour and forced labour are not fully addressed, the ITUC says. The TPP allows countries to set import restrictions on goods made by child labour or forced labour in ways they find appropriate, but it puts no obligation on them to do so.

The agreement is aspirational in seeking acceptable labour standards of work, but fails to set minimum guidelines. It says only that a country must respect its own standards. If a country sets regulations on maximum hours of work – no matter how weak – merely meeting those requirements puts it in compliance with the TPP. The ITUC says, “Article 19.3.2 of the TPP provides that a party have laws related to ‘acceptable conditions of work,’ rather than merely a commitment to enforce those laws that a party may have – if any. It does not expand the definition of acceptable conditions of work however. Further, it does not require that those laws adhere to any particular international standard, but rather ‘acceptable conditions as determined by the party.’ Thus, a party may still comply with this text merely by having laws governing hours of work, even if the maximum hours of work are excessive.”

Another area of major concern is temporary foreign workers. In the last few years, Canada has been under pressure to tighten its rules regarding foreign workers, often hired for jobs that Canadians are available and willing to perform.

According to an opinion by lawyer Steven Shrybman, presented to the Alberta Federation of Labour, under the TPP temporary foreign workers include those hired by Canadian-based

multinationals or transferred within a corporation. The TPP contains no language on minimum wage for foreign workers. There is also no requirement to determine if Canadian labour is available to fill the demand, or, in other words, no needs testing.

Temporary workers can stay for up to three years, depending on their qualifications. There is no limit to how many times a work permit can be extended. Spouses of foreign workers are also able to work, regardless of profession, for any company and in any region or industry they choose.

Environmental Protections

Like the labour chapter, the environment and sustainable development chapters in the TPP have also been criticized for not having enough teeth to enforce environmental regulations, despite rhetoric to the contrary. Most worrisome is the [Sierra Club's](#) observation that there is no mention of climate change in the agreement and no reference to the United Nations Framework Convention on Climate Change. Even worse, it refers to only one multilateral environmental agreement. This is disturbing because the TPP's ISDS chapter, as we have demonstrated, has been particularly effective at hampering laws and policies aimed at protecting the environment.

Like the labour chapter, the environmental chapter fails to set actual standards governing how the environment would be protected. [Instead](#), Article 20.3(2) of the environment chapter allows each party to determine "its own levels of domestic environmental protection and its own environmental priorities," the Sierra Club notes. Article 20.3(5) provides states with further discretion in determining whether and how to investigate and prosecute violations of domestic environmental rules. The phrasing used is that each TPP member country shall "adopt, maintain and implement laws" on various aspects without saying what those laws should cover. This is used as a catch-all sentence in the sections on protecting the ozone layer, safeguarding the marine environment from ship pollution, defending biodiversity, guarding against overfishing, and protecting endangered species.

Mirroring the labour chapter, the TPP's environment chapter establishes a state-to-state dispute settlement process that allows complaints from government, but only insofar as state regulations or environmental policies affect investment. Again, Canada's experience with NAFTA shows that the North American Agreement on Environmental Cooperation (NAAEC) has rarely been effective. The Peru-U.S. FTA, which has a similar state-to-state mechanism to prevent illegal logging, has also been [cited](#) as a case study in ineffectiveness. There is a vaguely defined citizens' process mentioned in the TPP, [but with very little](#) detail or enforceability.

What About Parliamentary Sovereignty?

All countries, including Canada, will be subject to the U.S. certification process, a dubious procedure that gives the United States the ability to change other countries' laws before their own TPP obligations take effect. Under fast track legislation, requiring the U.S. Congress to ratify or reject the deal without amendments, the President must have written confirmation that each of the countries has complied with certification before the U.S. ratifies the deal.

Because the TPP requires ratification by countries totalling 85 per cent of the TPP zone's GDP for it to take effect, and because the United States accounts for almost 60 per cent of this GDP, no deal can

be ratified without the United States. In the certification process, the U.S. can ask for concessions and laws that are not even in the TPP text. In Peru's case, the U.S. wrote environmental legislation and observed its passage through the Peruvian Congress. In Australia's [case](#), the U.S. was not happy with regulations for implementing the Australia-U.S. Free Trade agreement. It demanded immediate changes to copyright laws, granting fewer exemptions to copyright rules. The Australian Parliament held an emergency sitting to rush through amendments to its Copyright Act. The Australian Senate was given 24 hours to study the act, hold hearings and produce a report. In Guatemala's case, the U.S. sought and received patent-term extensions. In the Dominican Republic, at the request of Chevron, a U.S.-based oil giant, the U.S. asked for a transport law to be repealed.

Canada will be subjected to this process when it writes the implementing laws for the TPP.

Conclusion

This isn't a comprehensive reckoning of everything wrong with the TPP. Other organizations have analyzed the absence of protection for [culture](#) and of general exemptions for culture, education and indigenous rights, in contrast to previous agreements. [Others](#) have provided excellent analysis of copyright, digital rights and censorship of the Internet.

Through all this analysis, a general theme emerges: an excessive emphasis on corporate rights, and minimal efforts to protect the public good, with a willingness to create rules when they serve corporations, but few rules serving public interests. Parliaments, for better or for worse, are democratic institutions with the ability of citizens to influence outcomes. In the TPP, governments from around the world surrender their powers to set rules that are in their citizens' best interests.

It is impossible for us to offer recommendations on how to reform the document, or improve the TPP. We do ask, however, that the government do its due diligence and submit the document to the Parliamentary Budget Officer for an independent analysis that consults provinces, civil society, unions, municipalities and First Nations groups, and includes a full human rights and environmental analysis of the agreement before it considering ratification.

In the future, any trade agreement process should begin with input from all stakeholders including civil society, First Nations, labour, provinces, municipalities and the public. These stakeholders should be provided with legal and trade expertise to help formulate recommendations that would create a more balanced trade agreement.

As citizens we should have the same access to the agreement that lobbyists and corporations do. In this instance, an open process where people could debate the agreement would have created a very different deal. This would have resulted in greater consideration of matters, including labour standards, capital movements, tax havens, transparency of information, environmental standards and other international concerns that extend beyond national boundaries.

Following the experience of other states, the investor-state dispute mechanism in the TPP and other trade deals must be rejected in favour of the rule of law. Policies that encourage high value-added industries and better quality jobs must be reflected in trade.

The people and the planet deserve much more than what the TPP offers.