



April 27, 2016
via e-mail

Mayor Heyck and City Council,
City of Yellowknife,
Yellowknife , NWT

Dear Mayor Heyck and Council:

Re: Request for the City of Yellowknife to Formally Oppose the Trans-Pacific Partnership

Like all municipalities in the NWT, the City of Yellowknife is well aware of the restrictions posed by trade agreements. The 1995 *Agreement on Internal Trade* agreement resulted in the City and other NWT municipalities having to surrender the power to apply local preference in contracting decisions. The Trans-Pacific Partnership (TPP) is a much broader and restrictive agreement (see the attached fact sheet). The TPP is a bad deal for Canada and for municipalities. In this letter, the NWT Chapter of the Council of Canadians is requesting that the City of Yellowknife: 1) formally oppose this deal; 2) ask that the NWT Association of Communities to do likewise; and 3) make this opposition known to the GNWT and the Federal Government.

There are a number of serious problems with the TPP. The most serious flaw is the Investment chapter and the Investor State Dispute Settlement (ISDS) provisions which allow foreign corporations to seek damages through secretive trade tribunals for any laws and policies that inhibit corporate profitability. The ISDS provisions in the Investment chapter of the TPP are the enforcement mechanism for the provisions embedded within the other 29 chapters of the agreement. These chapters are far reaching - only four deal directly with tariff barriers to trade while the remaining 25 chapters deal with non-tariff barriers and what governments and citizens can/cannot do with respect to the rights and powers of transnational corporations.

Currently Canada is the most sued country under the investment chapter of NAFTA, having paid \$170 million to foreign corporations for the 'loss of potential' profit under that agreement. A number of pending decisions under NAFTA could add another \$300 million to charges to the public purse. What level of government pays is unclear but any claim against government is a claim against every citizen. What is clear is that the TPP is likely to increase financial claims against Canadian governments.

The consequences of the TPP are plain for municipal as well as federal and territorial governments. For example, the TPP investment chapter **Article 9.2 (2a)** states that: **A Party's**

obligations under this Chapter shall apply to measures adopted or maintained by the central, regional or local governments or authorities of that Party. This TPP clause specifically implicates the decisions made by local levels of government in the ISDS process. This means that decisions made by local governments that impact the potential for the profits of foreign corporations from TPP countries could be the basis of a claim for compensation. Further, terms embedded in the agreement such as National Treatment, Most Favoured Nation Status, Minimum Standard of Treatment and Indirect Expropriation will bind the decisions of municipal governments wishing for example, to take measures to protect the health of citizens or the local environment.

In chapter 10 on Cross Border Trade in Services (Article 10.1a), the TPP states that **measures adopted or maintained by a Party means measures adopted or maintained by central, regional, or local governments or authorities.** This clause will bind municipalities to open up bidding for services to foreign corporations in any TPP countries. This will cause local and Canadian companies to compete with corporations in Vietnam, Brunei, or Malaysia where labour standards are very low and unenforced.

ISDS is also a tool used by corporations to put a chill on regulation. Just the threat of an ISDS claim against a government has stopped the enactment of good legislation that protects the public interest. An example of this is the ISDS suits launched by tobacco giant Philip Morris against any country that has enacted plain packaging laws for cigarette packages. Threats of similar suits have stopped other countries from enacting similar legislation even though plain packaging has proven to decrease the rate of new smokers taking up the habit.

The negotiations for the TPP were extremely secretive and did not include Canadian parliamentarians or provincial/territorial and municipal governments. It did include representation from some of the world's largest multinational corporations. Now that the negotiations are over, the final TPP agreement cannot be amended. It must be accepted as is. The TPP is extremely detrimental for the democratic authority and decision making power of municipalities and should not be ratified as written.

The NWT Chapter of the Council of Canadians respectfully requests that the City of Yellowknife formally oppose this deal and bring its opposition to the NWT Association of Communities requesting NWTAC to do likewise and to make this opposition known to the GNWT and the Federal Government in the form of a motion requesting that the Canadian government not ratify the Trans-Pacific Partnership.

Please feel free to contact me for more information, if required. Thank you in advance for working to retain the integrity of our democracy.

Sincerely,



Lois Little,
Co-Chair, NWT Chapter

c.c. NWTAC