



Concerns about Canada's Direction in International Trade Agreements

International Brotherhood of Boilermakers
Rev. May 24, 2017





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Introduction: What is a Boilermaker?

Boilermakers today are far removed from their counterparts in the 19th century. Today's Boilermakers still make and maintain boilers and connecting systems that produce steam. But today, we work in nuclear plants, energy installations and other facilities that are the strategic bedrock of our economy.

The scope of our trade has also expanded to include containers of all types that hold gases, liquids and chemicals, often under pressure. Because of the size of the installations we build and maintain, Boilermakers also rig cranes and fit huge components to tolerances of hundredths of an inch.

Boilermakers are the airline pilots and locomotive drivers of our industrial economy. Our qualifications and our training regime, including a four-year apprenticeship program, are the most stringent in the world for our trade. The facilities we work to build and maintain are massive, complex and potentially dangerous.

For these reasons, we have grave concerns about the direction of the trade and economic agreements our federal government is negotiating.

China Concerns

According to media reports, the Chinese government wants to include, in the proposed Canada-China free trade agreement, a provision to allow Chinese companies to import entire project workforces in constructing or maintaining large-scale industrial facilities, such as oil and natural-gas processing and refining plants.

The proposal is no surprise, since the Chinese government has negotiated similar provisions elsewhere. The China-Australia Free Trade Agreement (ChAFTA), signed in 2015, permits Chinese investors in projects worth more than AU\$150 million to bring temporary migrant workers into Australia without labour market testing such as occurs under the Labour Market Impact Assessment provision of Canada's Temporary Foreign Workers program.

Economic Impact

A \$150-million construction project would be a small one in Canadian terms. For example, the investment in the first of three phases of Alberta's new Sturgeon Refinery is more than \$8 billion. A low threshold such as this would place virtually the entire construction industry in Canada's resource sector in a position of risk.

In the Boilermaker trade alone, such a provision could have a significant economic impact. Although employment varies from year to year, we estimate that in 2016, the value of our trade's work in terms of payroll was about \$250 million in Saskatchewan, Alberta and British Columbia, the three provinces that would probably be most



affected. This is the equivalent of about 3,000 full-time jobs in a time of higher-than-average unemployment due to low oil prices.

However, Boilermakers are one of many trades in the construction and maintenance industries. When we add the work of other skilled and licensed trades, we can multiply these numbers by a factor of 10 or more to get a more complete picture of the economic value of the skilled trades in industrial-scale construction and maintenance projects.

The value to the Canadian economy of construction and maintenance projects in the strategic industrial and energy sectors is almost incalculable. We must ask ourselves, therefore, who would benefit from allowing foreign workforces to build and maintain our strategic industrial infrastructure?

Worker and Public Safety

Aside from employment concerns, in the case of China we have major reservations from the point of view of both worker and public safety. The analysis of a fatal accident in the construction of a storage tank in Alberta in 2007 by provincial investigators (Workplace Health and Safety Compliance, “Workers Crushed by Collapse of Tank Roof Support Structure,” Sept. 2017) pointed out that the imported workforce was not properly trained and could not read the project blueprints, which were in English. (This document may be downloaded in its entirety at <http://boilermaker.ca/communications/May-15-17/alberta-accident-investigation-2007.pdf>.)

Chinese training in our own trade has been identified as inferior to that which Canadian Boilermakers must complete before earning their certificates of qualification. This becomes an important factor when dealing with the construction and maintenance of immense industrial facilities like LNG plants and refineries, which process volatile substances that are frequently under pressure. An accident caused by improper procedure or faulty construction can cause both environmental and physical damage to surrounding communities.

Trans-Pacific Partnership Concerns

With the election of Donald Trump, it seemed the Trans-Pacific Partnership (TPP) agreement was doomed. Media reports, however, have stated that talks have now been resumed with countries other than the United States, which is reported to be sitting in as an observer.

Our concerns with the TPP are concentrated in two chapters, *Chapter 10 – Cross-Border Trade in Services* and *Chapter 12 – Temporary Entry for Business Persons*.

Chapter 10 sets the foundation for Chapter 12 by promoting cross-border trade in services that include “the production, distribution, marketing, sale or delivery of a service” and “the presence in the Party’s territory of a service supplier of another Party.” (Article 10.2)

Chapter 10 also prohibits limitations on the number of suppliers and the value of their work performed under the auspices of the TPP, including “the total number of natural persons that may be employed in a particular service sector or that a service



supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test.” (Article 10.5)

Strategic infrastructure

As in other proposed and actual trade agreements, our concern is that these provisions of Chapter 10 open the Canadian market in the construction and maintenance of large-scale, strategic industrial installations such as oil-sands extraction plants, refineries, pipelines and liquefied natural gas (LNG) terminals to Canada’s partners in the TPP.

Chapter 12 of the TPP takes these provisions an extra step by allowing the virtually unfettered importation of foreign workers, explicitly including the construction trades.

Foreign workers can be brought into Canada through the provision on Intra-Corporate Transfers, which allows technicians and members of specialty occupations (as defined in *Canada’s schedule of commitments* for temporary entry for business persons) and their spouses to enter the country without work permits and without regard to any economic means tests, such as the Labour Market Impact Assessment under the Temporary Foreign Workers Program.

Canada’s schedule of commitments, as it concerns the construction trades, applies to companies from Australia, Chile, Japan, Mexico and Peru. These provisions of Chapter 12 would allow construction workers (including Boilermakers) and their spouses from these countries to stay and work in Canada for at least 12 months, with the possibility of extending their term, so long as they are employees or contractors of a company that is building or maintaining a facility in Canada and continue to work on that same facility.

Further, under Section D of *Canada’s schedule of commitments*, Canada 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. “

Concerns

These provisions of the TPP give rise to concerns similar to those outlined above in the section on the proposed free trade agreement with China. In the long term, as economic trends continue to favour the globalization of investments, multinational corporations based offshore will likely become more accustomed to using these provisions and we will see an increase in the number of firms using imported workforces when they win a construction or maintenance contract.

These provisions have serious longer-term implications for Canada’s skilled-trades labour force. The TPP will limit opportunities for Canadians training in these trades and will have implications for everything from our current apprenticeship programs to national security.



CETA Concerns

Chapter nine of CETA (*Cross Border trade in services*) specifically excludes “the supply of a service in the territory of a Party by a person of the other Party.”

This exclusion would seem to preclude an EU company from bidding on a project and importing an entire project workforce to complete it. However, this preclusion is seemingly negated by the Chapter 8 (*Investment*), which would allow an EU investor to temporarily import the workers required to complete a project in which they were investing.

Article 8.4 states that “A Party shall not adopt or maintain ... a measure that: ...

“1) Imposes limitations on: ...

“5) the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of economic activity in the form of numerical quotas or the requirement of an economic needs test.”

In addition, Chapter 10 (*Temporary entry and stay of natural persons for business purposes*) allows an EU company that has a legal contract to supply services to a Canadian company, but has no office in Canada, to bring its own employees or contract workers into the country on a temporary basis. Workers can stay for up to 12 months.

Chapter 10 defines “contractual service suppliers” as workers employed by an EU company without an office in Canada that has concluded a contract with a Canadian company “that requires the presence on a temporary basis of its employees in the territory of the other Party in order to fulfil the contract to supply a service.”

Chapter 10 goes further in incorporating a number of the provisions of Chapter 9, excluding Chapter 9’s exemption of “the supply of a service in the territory of a Party by a person of the other Party.”

Existing safeguards

There is no doubt that, from time to time, Canada does need skilled foreign workers. Before oil prices dropped, for instance, demand for our own trade was so strong that there were not enough qualified Boilermakers in Canada to complete maintenance and construction projects in large-scale industrial projects.

In the instance of our own union, Canada’s Temporary Foreign Workers (TFW) program was able to fill the gap, when used conscientiously. Our own union, because of the unique nature of our trade, used the TFW program from time to time in order to supply contractors with needed Boilermaker workers.

For us, the TFW program was necessary because without enough qualified Boilermakers, some of our projects could not have proceeded. Delays in these projects would have meant unemployment not only in our own trade, but also in other trades that depend on the completion of Boilermaker work.

Our TFW program, however, was much different from the popular image of the job-stealing, exploitative way in which some companies have used it. From the beginning,



our program paid TFWs the same as they would have received had they been Canadian. The TFWs we hired worked under our union contracts, with the same rights and benefits as our Canadian members. Our union charged no fees and ensured that housing and transportation were provided free of charge. We called on TFWs only for short periods, and only when they were needed.

To prove TFWs were needed, federal legislation and regulations mandates that a Labour Market Impact Assessment (LMIA) be done before the appropriate approvals are issued. The LMIA examines the employment situation in the area where foreign workers are needed, and assesses the effectiveness of recruiting efforts to hire Canadians first.

In the parlance of international trade, the LMIA is an “economic needs text,” something which is prohibited in Chapter 8 of CETA (see Article 8.4.1.5, as quoted above).

Conclusion

Boilermakers are members of a skilled trade that is essential in the construction and maintenance of strategic industrial infrastructure. It is in the national interest to ensure that, as much as possible, Canadians make up the Boilermaker workforce on these projects. The role of our trade, and of other skilled trades, is worthy of protection in the interests of our economy, national interests, the safety of our workers and communities and the health of our industrial infrastructure.