



INTERNATIONAL TRADE AND LABOUR MOBILITY

CNA POSITION

International trade agreements (ITAs) and the mobility of health professionals can affect the accessibility and quality of health and social services and the health outcomes of Canadians. The Canadian Nurses Association (CNA) urges governments to:

- ▶ conduct thorough public consultations on ITAs before signing them;
- ▶ monitor the development of ITAs in relation to trends in labour migration and immigration; and
- ▶ assess the impact of ITAs on the Canadian economy, environment, labour force and on health and social policy.

CNA supports the provision of quality health care for all on the basis of need rather than the ability to pay, a goal best achieved through a publicly funded, not-for-profit health system. CNA therefore urges governments to act against the privatization of health-care services and to protect Canada from international trade obligations that compromise our ability to sustain or enhance the health system. To these ends,

- ▶ CNA opposes ITA investor protections and investor-state dispute settlement (ISDS) mechanisms, which allow foreign investors and companies to challenge or sue Canada for actions taken (by any level of government) to protect the public and the environment. Such measures threaten Canada's health system and enable its privatization.
- ▶ CNA urges the government to reject ITA negotiations on intellectual property rights that extend drug patent protections. Giving up these rights can mean higher drug costs, the loss of anticipated savings from generic drugs and less accessibility to affordable drugs worldwide.
- ▶ CNA supports ITA provisions that safeguard sensitive information such as health and financial data.

In addition, the federal government must protect the authority of Canada's nursing profession to self-regulate in international trade agreement negotiations. CNA is committed to working with regulatory bodies on solutions that reduce barriers to labour mobility without compromising quality standards.

CNA respects the right of individual nurses¹ to choose their country of work as long as the nurse meets all registration requirements. CNA encourages nurses who intend to work in another country to inform themselves about its cultural, social, political and professional circumstances. At the same time, governments, employers and regulators must provide accurate and easily accessible information to facilitate the integration of newcomers.

ITAs must also include enforceable labour standards that protect workers and foster quality health-care environments.

BACKGROUND

International trade agreements

ITAs provide a set of rules that govern trade relations between partners, define commitments for removing trade restrictions and, in some cases, define exclusions or limitations to protect specific sectors. These agreements are intended to liberalize the movement of goods, services and persons across borders and facilitate economic growth and investment.

Canada has participated in a number of [ITAs](#) and forums that affect labour mobility, such as the North American Free Trade Agreement and the Trans-Pacific Partnership (TPP), and it is currently exploring others including the Canada-European Union Comprehensive Economic and Trade Agreement (CETA).

Globalization of health care

Trade among countries affects both health-care services and the professionals who supply them. Trading in services (including health-care services) follows four basic methods:

- ▶ A resident of one country supplies services to residents within another country.
- ▶ Residents purchase services while abroad.
- ▶ Foreign suppliers establish subsidiaries or branches in another country.
- ▶ Individuals are offered permission to enter another country to supply a service.

Each method necessarily raises issues in other areas, such as access to employment, professional self-regulation (i.e., establishing and maintaining professional standards, liability and accountability), the protection of domestic health and social policies in the public interest, intellectual property rights, privacy of information, and labour practices. Canada's willingness to address such areas directly affects our health system's ability to respond to the health needs of Canadians.

¹ Unless otherwise stated, nurse or nursing refers to any member of a regulated nursing category (i.e., a registered nurse, nurse practitioner, licensed/registered practical nurse or registered psychiatric nurse). This definition reflects the current situation in Canada, whereby nurses are deployed in a variety of collaborative arrangements to provide care.

Health-care worker migration

When nurses (and other health-care workers) relocate to another country to provide services, limitations can arise from employment conditions and requirements for professional licensure and registration. For registered nurses in Canada, professional self-regulation ensures that competent and qualified nurses provide safe and ethical care in the public interest. However, ITAs can reduce such occupational qualifications, possibly to the lowest common denominator, by standardizing them across many countries.

Government and investor-state dispute settlements

The health of Canadians depends on a broad range of factors known as the social determinants of health, which include the environment, water quality, housing and access to health care. Therefore, the ability of our governments to regulate these services in the public interest is critical. Yet, ITA foreign investor protections and ISDS mechanisms can constrain a government's power to legislate, regulate, and implement policies and programs. Such measures can even put Canada's publicly funded, not-for-profit health system at risk. In Europe, "foreign investors have used investment treaties to challenge reversals of privatization in public health insurance systems. In at least two instances they succeeded" (Sinclair, 2016, p. 11).

ISDS mechanisms also allow foreign investors to bring the Canadian government before international tribunals if they construe (even routine) government actions as unfairly interfering with current or anticipated profits. As of 2014, Canada had been targeted in 35 claims under NAFTA's ISDS mechanism, paying out damages of over \$172 million and spending more than \$65 million in legal costs (Sinclair, 2015). In addition, many other claims are still pending. In 2012, Eli Lilly filed a \$500 million claim against Canada after the Federal Court invalidated an extension of its Zyprexa drug patent because it had not delivered on its promised utility (Sinclair, 2015).

Intellectual property rights

Intellectual property rights contained in ITAs have the potential to further protect brand name drugs manufacturers and their profits, delaying the entry of generic medicines and increasing the costs of patented drugs. Patented drug prices in Canada are "the third highest among comparator countries" (Patent Medicine Prices Review Board [PMPRB], 2015, p. 16). The estimated increase to drug costs for Canadians due to CETA are "between \$850 million and \$1.645 billion annually. . . . Since 2003, Canadian brand-name manufacturers have consistently failed to meet pledges to invest 10% of their sales revenues in [research and development] that they made in 1987 in exchange for greater market exclusivity" (Lexchin & Gagnon, 2013, p. 1). In 2014, the R&D-to-sales ratio was 4.4 per cent (PMPRB, 2015).

Anti-privacy measures and labour conditions

Some ITAs (e.g., the TPP) feature “several anti-privacy measures that would restrict the ability of governments to establish safeguards over sensitive information such as financial and health data as well as information hosted by social media services. [For example,] according to the Canadian government’s summary, the agreement ‘prevents governments in TPP countries from requiring the use of local servers for data storage’” (Geist, 2015, paras. 5-6).

With respect to labour conditions, workers in poor countries are generally disadvantaged by market integration. Most live without labour legislation to protect wages and ensure the health and safety of their workplaces (World Health Organization [WHO], 2008). Deregulation and the liberalization of trade have meant a more wide-spread commercialization of services (including health care, water and electricity) and a corresponding growth in unhealthy working conditions. The unregulated commercialization of health services results in unequal access to care and disparities in health outcomes (WHO, 2008).

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Replaces: International Trade and Labour Mobility (2009)

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Also see:

Related CNA position statements:

[Primary Health Care](#) (2015)

[Global Health and Equity](#) (2009)

[Pan-Canadian Health Human Resources Planning](#) (2012)