



November 15, 2012

The Honourable Stephen Harper
Prime Minister of Canada
House of Commons
Ottawa, Ontario
K1A 0A6

COPY

Dear Prime Minister Harper:

RE: Community Costs Associated with CETA
(Canadian European Trade Agreement)

On behalf of our 12,000 members across Saskatchewan, SEIU-West wishes to share their concerns regarding the ongoing CETA negotiations process and the community costs associated with this kind of trade deal.

As the President of SEIU-West, I take my responsibility to convey members' concerns seriously and I ask you, to genuinely consider our concerns and act on them. We have members who live and work in many communities across the province. They need to know that all of their leadership, whether that be their union leaders, civic leaders or their provincial or federal government leaders, share a common value in the protection of local services.

Our concerns include:

- Rules in CETA detailing how public bodies spend money that might prohibit a "buy local" or "buy Canadian" preference on contracts for good, services or labour. Presently, local procurement policies might be adopted by local governments as a social/economic development effort such as spurring job creation in their community.
- It is predicted that the outcome of CETA (due to Sustainability Impact Assessment portion) might lend to the privatization of Canada's mostly public water systems and a range of other important public services (from health care to education to water treatment).
- The CETA may have a negative impact on First Nations rights, and may result in heightened greenhouse gas emissions in new resource extraction and/or the transportation of goods.
- CETA investment rules prohibit public monopolies (such as a public transit system) and exclusive supplier arrangements.
- The proposed intellectual property chapter in CETA would further lend to a significant increase in costs within public and private drug plans.
- CETA may result in a significant wave of Canadian job loss.

Finally, we would note that much of what is known about the details of CETA has not been freely offered by your government; nor has this process been opened to nation-wide public consultations. We cannot trust a potential trade agreement that has such a broad scope with no real disclosure or meaningful dialogue with Canadians.

SEIU-West is a Scent Free Workplace

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Please do not hesitate to contact me if you should require further information about this subject matter. We urge you to forestall or cease the ongoing negotiations process until meaningful consultation occurs.

Yours truly,



Barbara Cape
President
SEIU-West

BC/bc/clb
Enclosures

Cc: Ed Fast, Minister of International Trade
Rona Ambrose, Minister of Public Works and Government Services
Christian Paradis, Minister of Industry
Julian Fantino, Minister of International Cooperation
Peter Penschue, Minister of Intergovernmental Affairs
Thomas Mulcair (NDP Opposition Critic)
Glenn Thibeault – (NDP Opposition Critic)
Ryan Cleary (NDP Opposition Critic)
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Helene LeBlanc (NDP Opposition Critic)
Don Davies (NDP Opposition Critic)
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Joseph Day (Liberal Opposition Critic)
Stephane Dion (Liberal Opposition Critic)
Celine Hervieux-Payette (Liberal Opposition Critic)
Geoff Regan (Liberal Opposition Critic)
Gerry Byrne (Liberal Opposition Critic)
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David Anderson, Member of Parliament, Cypress Hills Grasslands
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Ralph Goodale, Member of Parliament, Wascana
Randy Hoback, Member of Parliament, Prince Albert
Ed Komarnicki, Member of Parliament, Souris-Moose Mountain
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Gerry Ritz, Member of Parliament, Battlefords-Lloydminster
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Cam Nelson, SEIU-West President, Local 2
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Trade Justice Network

Réseau pour le commerce juste

Is CETA good for cities?

Debunking the myths about the benefits of EU-Canada free trade

There is a lot at stake for Canadian municipalities in the proposed EU-Canada free trade deal. The Comprehensive Economic and Trade Agreement (CETA) would set new limits on municipal procurement, policies and regulations. Having looked into the impacts the CETA would have on their powers, over 50 municipal governments have passed motions seeking more information and a greater say in the negotiations. More than half of these municipalities, including many large cities like Toronto, Mississauga and Hamilton, are asking the provinces to exclude local governments entirely from the EU trade deal.

The federal government has tried to pacify these growing concerns in a Q&A-style document circulated to Canadian municipalities. Unfortunately, the information in the document is extremely misleading and in parts inaccurate. It also fails to address many of the real concerns being raised by municipal governments through their CETA motions. The following myth-busting guide attempts to set the record straight for municipal councillors and officials, as well as the general public.

The Trade Justice Network comprises labour, environmental, social justice, cultural, farming, Indigenous, student and other civil society groups in Canada challenging the broad scope and closed-door negotiating process of the CETA negotiations.

For more information visit: [**tradejustice.ca**](http://tradejustice.ca)

Myth #1:

Under CETA, Canadian businesses will benefit by securing preferential access to the European Union's government procurement market, estimated at \$2.3 trillion.

Fact:

European firms will undoubtedly be the big winners in the reciprocal liberalization of goods and services markets, including government procurement markets. Canada has a large trade deficit with Europe and exports mostly unprocessed or semi-processed goods to Europe, while the EU has a large trade surplus and competitive advantage in high value-added goods.

The question really should be: "Who will benefit from securing preferential access for Canadian businesses?" The major Canadian firms that are best able to compete in the European government procurement market have European subsidiaries. Under existing rules, these Canadian firms already have secure access to European government procurement opportunities on an equal footing with domestic suppliers.

Some Canadian goods suppliers without a commercial presence in Europe may gain new bidding opportunities through the procurement rules of the CETA. But economist Jim Stanford, in his study *Out of Equilibrium*, has found that overall the CETA will result in a worsening trade balance for Canada and the loss of Canadian jobs, particularly in the manufacturing sector (estimates of up to 150,000).¹

Myth #2

Under CETA, Canadian municipalities can continue to set environmental or social criteria when issuing tenders for the purchase of goods and services.

Fact:

The statement that "All governments in Canada can continue to meet their socioeconomic objectives under international trade agreements" has been bandied about by CETA proponents, but it also masks some key aspects of the proposed deal.

Under the CETA procurement chapter, social and environmental criteria may be adopted *only if there is no local or Canadian bias whatsoever in these government purchasing decisions*. For example, while it would be possible to stipulate the purchase of recycled paper on environmental grounds, it would not be permissible to stipulate the purchase of locally or regionally produced food or materials, even if based on environmental

considerations, such as reduced greenhouse gas emissions from transport. Similarly, while it would be permissible to require that prospective suppliers employ a certain number of women, minorities, or members of disadvantaged groups, it would not be permissible to require that they employ *Canadian* or *local* women, minorities or members of disadvantaged groups.

As noted in the federal document, preferences for Canadian Aboriginal peoples can only be maintained because they are explicitly excluded from the CETA procurement chapter. The same exclusions are not in place for other disadvantaged and vulnerable groups.

Myth #3

CETA will not prevent governments from sourcing goods and services locally to spur job creation and economic development.

Fact:

When making purchases, many municipal governments consider and encourage local spinoffs such as taxes paid, wages, training for workers, opportunities for marginalized groups and other benefits. This *integrated cost-benefit analysis* approach results in the best overall value for public money spent, and the fairest and most efficient use of taxpayer's dollars.

The procurement chapter of the CETA, however, explicitly prohibits "offsets," defined as "any condition that encourages local development." Under such rules, local benefits may not be required, or even considered, by governments in their purchasing decisions and tendering processes. Canadian governments would lose a powerful tool for spurring job creation and economic development.

The use of selection criteria that maximise local benefits and advance public priorities is completely consistent with open, fully transparent public tendering and other safeguards commonly put in place to prevent corruption. Indeed, as long as the selection criteria are clearly specified early in the tendering process, they can be used to objectively assess the social and economic benefits resulting from public procurement, as well as ensuring fairness and value for money in public spending.

The existing procurement rules of the Agreement on Internal Trade (AIT), which cover most provincial and municipal procurement, expressly allow preferences for Canadian suppliers (Article 504). The AIT also contains exemptions for regional and economic development (Article 508), does not fully cover most provincial crown corporations and excludes contracts with public bodies or non-profit organizations (Article 507).

As for the scenario of foreign suppliers sourcing and hiring locally, while this does happen in some cases, the CETA would tie the hands of local governments in ensuring that suppliers, whether local or foreign, actually follow through on pledges to hire or source locally.

Myth #4

CETA will not force governments to privatize public water systems or other public services.

Fact:

Many public services – such as waste management, drinking water, and public transit – are delivered by municipal governments. While the CETA does not force governments to privatize such services, when any future government does privatize or contract out services, foreign investors that enter those markets will be protected by the powerful rights created under the CETA procurement and investment rules.

Under the procurement rules of the CETA, prospective foreign suppliers will gain new rights to dispute any perceived unfairness or local bias in tendering decisions before a federal or provincial administrative tribunal. Such semi-judicial bodies have the authority to award compensation to foreign suppliers and to compel governments to re-tender the contract.

In addition, the CETA's investment rules would allow foreign investors to bypass domestic court systems and instead use the investor-state dispute settlement process. These investor-state tribunals are mandated to enforce the investment rules of the CETA. Canadian laws and regulations are irrelevant to their deliberations, except to the extent that those laws or regulations conflict with the investment rules of the CETA. The tribunals can order governments to compensate investors allegedly harmed by public policies, laws, or regulations.

Canadian local governments could lose their freedom to restore public services and to bring privatized services back into the public sector without facing compensation claims from disgruntled foreign investors. Any rights won by European investors under the CETA will be automatically extended to U.S. and Mexican investors under the NAFTA. This ratchet effect – the locking-in of privatization – interferes with the normal ebb and flow of democratic governance.

Myth #5

CETA will not affect a municipalities' right to regulate.

Fact:

It is simply untrue that the CETA will not affect the ability of municipalities and other governments to regulate. As already noted, the CETA contains powerful rights for foreign investors and service providers to challenge a very broad range of laws and regulations as inconsistent with the treaty.

In some instances, the CETA also prohibits certain broad types of regulations, even if they are completely non-discriminatory (applying equally to Canadian and European investors

and service providers). For example, in fully covered sectors, the CETA investment rules prohibit public monopolies (such as a public transit system) and exclusive supplier arrangements (such as granting a private transit or waste management company exclusive rights in certain regions).

The CETA also precludes governments from applying “economic needs” tests, which limit the numbers of service suppliers based on an assessment of what the local or regional market can accommodate. So, for example, if the Vancouver City Council found it had too many taxicabs operating within the city, it could lose its authority to limit the number of licenses.

The CETA also precludes restrictions on the types of legal entities through which service providers or investors are allowed to deliver services. For example, regulations requiring that child care providers or addiction rehabilitation services be delivered exclusively through not-for-profit entities could violate these rules. Similarly, regulations limiting certain types of service providers, such as corporate big-box stores, could be challenged.

Importantly, the CETA will contain a reservation (i.e. exclusion) for all existing non-conforming measures at the local government level. Consequently, existing public monopolies, exclusive supplier arrangements and economic needs tests at the local level will be protected. But if a local government seeks to adopt new measures of these types, or expand existing ones into new sectors, they will be vulnerable to challenge. Furthermore, existing measures are under a legal ratchet, meaning that if they are changed or eliminated they cannot later be restored by a future government.

So, for example, if a municipality without an existing public transit system or public water system wanted in future to create such systems, this step would violate the CETA. Remarkably, the EU is taking reservations that protect the rights of European local governments to create new public monopolies. The Canadian federal government, however, has not taken corresponding reservations.

It insults the intelligence of local elected representatives and their citizens for the federal government to provide categorical, but unfounded, assurances that the CETA does not affect the right to regulate.²

¹ Jim Stanford, *Out of Equilibrium: The Impact of EU-Canada Free Trade on the Real Economy*, Canadian Centre for Policy Alternatives, October 27, 2010. Available at: <http://www.policyalternatives.ca/publications/reports/out-equilibrium>

² For further information and analysis see: Scott Sinclair, *Municipalities, Progressive Purchasing Policies and the Canada-EU Comprehensive Economic and Trade Agreement*, June 16, 2011. Available at: <http://www.policyalternatives.ca/publications/reports/municipalities-progressive-purchasing-policies-and-canada-eu-comprehensive-econ>