

January 2012

Dear Member of Council,

On behalf of the Canadian Union of Public Employees, the Council of Canadians and the Trade Justice Network, we are writing to you with new information about the impact on local governments of the Canada-European Union Comprehensive Economic and Trade Agreement (CETA).

The CETA is a “next generation” free trade agreement that Canada and the EU have been negotiating since 2009. It is Canada's most expansive free trade initiative since NAFTA and covers regulatory practices, procurement, investment, intellectual property and Internet measures, among other public policy areas that are not strictly trade-related. While the government has been secretive during much of the negotiations, documents from the latest round have been leaked to the public, giving us a very good idea about what is at stake. Urgent action is necessary to affect the CETA negotiations since a deal is expected to be signed in the next few months.

To date, more than 80 Canadian municipalities have passed motions expressing concerns about the CETA negotiations, with more than 40 of those seeking a clear, permanent exemption from the deal. These motions have been passed by councils in Toronto, Hamilton, Victoria, Sackville, Red Deer and across Canada and take issue with procurement restrictions that would forbid local or national (“Buy Canadian”) preferences on purchases of goods, service contracts or construction projects over certain thresholds. The CETA would also prohibit the use of offsets, or any attempt by a listed government or public agency to use public spending for purposes of local development.

### **Latest Leaked Documents**

While we still do not know precisely which government entities or agencies will be covered by these procurement rules, recently leaked documents related to the negotiations suggest Canadian and provincial negotiators are ready to give the EU negotiators most of what they were asking for. The documents, obtained by the Coalition Avenir Québec (CAQ) and posted to the *La Presse* website<sup>1</sup> in November, describe in detail the current state of the CETA negotiations (“*State of Play*” document) and the expected end result (“landing zones” document) for the EU in areas including government procurement.

These EU documents, which are marked **EU Restricted** and provide an official internal analysis of the current negotiations, say that Canada’s procurement offer “outreaches the mutual commitments between the different Canadian Provinces in the Agreement on Internal Trade (AIT),” and that, “The outcome regarding the inclusion of regional and local government entities, including agencies, crown corporations, and the MASH sector (municipalities, municipal organizations, school boards and publicly-funded academic, health and social service entities) is highly satisfactory.”

If this EU assessment is accurate, and there is no reason to doubt that it is, it would contradict assurances from the federal and provincial governments that municipalities are protected from the CETA procurement rules and that these rules will not include any restraints that do not already exist in the AIT.

## **Banning Buy Local Policies for Municipalities**

The inter-provincial trade agreement has a clear allowance for Canadian content rules, including local content quotas, as long as they do not discriminate against the goods or services from another province. EU-based firms with investments in Canada already benefit from these AIT rules. For example, a public agency or municipality in one province is not allowed to discriminate in favour of a local firm and against a European firm established in any other province. The AIT also allows for exceptions to the rules where a municipality can demonstrate local development priorities such as encouraging economic growth in depressed regions.

Contrast this with the latest draft of CETA which, like the WTO Government Procurement Agreement, would forbid "Buy Canadian" policies of any kind (example – price allowances, preferences, or requirements for some national content) on any covered procurement. CETA would make it difficult to favour even a locally established European firm over a Europe-based firm with no investment in the province (or anywhere in Canada). The dispute process, which both European and Canadian firms could use to challenge local government spending decisions, has not been adequately explained to municipal governments or the public.

## **The EU Wants Even More**

Even though the EU finds Canada's existing offer "highly satisfactory," it continues to press for more. The "landing zone" document says "there do remain some important gaps in areas of EU interest, and Canada is keeping for the end game certain additional concessions, especially at the provincial level." These include:

*(1) On Public Urban Transport, Canada must provide full access and in particular eliminate all local content requirements for EU operators.*

*(2) On Energy, Canada must provide a significant overall improvement to its coverage, in particular in Quebec, Ontario and Newfoundland.*

*(3) Provincial and Regional Development Clauses must be either eliminated or redrafted so as not to undermine Canadian Provinces' market access commitments.*

## **CETA Covers Municipalities**

We are aware that the Federation of Canadian Municipalities is in regular contact with the Harper government, and was assured that the concerns of municipalities are being heard. However, these newly leaked documents suggest otherwise.

Not only has the municipal sector been largely covered by CETA's new rules forbidding local preferences and other strategic forms of public spending, these leaked documents suggest the Harper government is ready to include even sectors like energy and transit in exchange for better access to the EU market for the beef and pork sectors. This is in spite of the FCM insistence that these are strategic and therefore should be excluded from prohibitions on local content requirements or "Buy Canadian" policies.

## Not In Our Interests

We propose that this trade off is not in the best interests of Canadian municipalities, which will have their spending powers compromised in ways that will not affect U.S. municipalities or other cities of the world. The Harper government is misleading Canadian municipalities about the likely impact of these procurement rules on local governments. There is no need to include local governments in Canada's procurement offer, especially if the return is simply an opportunity to export more meat to Europe.

We encourage you to speak up now about the CETA negotiations, which could be concluded very shortly. If we act together, we can exclude all Canadian municipalities from the CETA procurement rules, and if you have not done so yet we urge you to consider passing a motion calling for just such an exemption for your own municipality. We would be happy to answer any questions you have about the Canada-EU trade negotiations.

Sincerely,



PAUL MOIST  
National President  
Canadian Union of Public Employees



MAUDE BARLOW  
National Chairperson  
Council of Canadians

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i <http://affaires.lapresse.ca/economie/canada/201211/23/01-4597184-negos-canada-europe-trop-de-choses-restant-sur-la-table-selon-la-caq.php>