

Comprehensive Economic and Trade Agreement is Offensive in Every Sense

By Terry Boehm

This fall (in October) the fourth round of CETA (Comprehensive Economic and Trade Agreement) negotiations will be taking place in Ottawa. This is a so-called bilateral agreement between the European Union and Canada. It must be noted that this agreement is in reality between Canada and the 26 member states of the European Union, and therefore is hardly bilateral. That being said, the European Commission is negotiating on behalf of the member states and is aggressively pushing an extreme right-wing agenda. Coupled with strong Canadian leanings this same way, the agreement has provided a platform for bringing forward legislation that would likely never pass on its own. Essentially CETA is a “lets get it in the back door” approach from both sides. This is also exacerbated with a semi-secret negotiation process, where the "parties" have agreed not to disclose the content of the text while negotiations are going on.

The NFU was able to get a leaked draft text of the CETA agreement last March. The scope and reach of the agreement is breathtaking, requiring compliance from all levels of government including provincial and municipal. It is clear that the Europeans want both access to our resources and access to all government procurement actions down to municipal level, as well as all public institutions like hospitals, public utilities, provincial insurance schemes, etc. It really is a recolonization of Canada with our federal government laying down the welcome mat. However, it is not just a recolonization by Europeans, but colonization by international business interests via the European Commission.

Agriculture is subjected to a wide range of measures in this agreement. The procurement provisions would open up any agreement by public hospitals, universities, and all other government institutions, to make decisions to access local food. In addition decisions to favour local businesses, disadvantaged sectors of the population, etc. would all be subjected to this agreement and severely handicapped again by the procurement provisions of the CETA. Article IV pg. 206 of the agreement states: *1. With respect to any measure regarding covered procurement, each party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering such goods and services, treatment no less favourable than the treatment the Party, including its procuring entities, accords to (European Union: its own) (Canada: domestic) goods, services and suppliers.*

The International Convention for the Protection of New Varieties of Plants 1991 Act (UPOV 91) is legislation also being called for by the Europeans in the draft text. This is likely to be agreed to by Canada, as various Canadian governments have tried to introduce this highly restrictive and powerful form of Plant Breeders Rights (PBR) legislation in the past. It was only the NFU and its citizen allies that stopped this from being put in place in Canada. Canada currently has PBR legislation based on the much less restrictive version called UPOV 78. This is sufficient to live up to all of our trade agreement obligations. UPOV 91 would severely limit and could outright stop a farmers' ability to save, reuse, exchange and sell seed. This would be accomplished by the breeder, or its designate, having the ability to control the conditioning (cleaning and treating) and the stocking (storing or warehousing) of the seed. No farmer would plant seed contaminated by weed seeds, which if cleaning was restricted, would severely impact the success of his/her crops.

In addition, the provision of a cascading right in UPOV 91 would allow the collection of royalties at any point in the food system. The so-called farmer's privilege is dependent on governments granting this, and is trumped by the provisions above. Essentially the age-old practices of farmer seed saving and reuse would be restricted and/or eliminated, and placed in someone else's hands. These hands are interested in forcing farmers to buy all of their seeds every year at exorbitant prices. Control of seed gives control of the food system and concentrates immense power, in a few hands. Farmers will find their precarious financial situation even more tenuous if they are forced to buy all their seeds, rather than saving some.

In those crops (and in the future, animals) with intellectual property rights attached as in PBR's or gene patents, the EU is calling for the most chilling enforcement procedures ever seen. (These provisions would apply to all patents, copyrights, etc.). They are calling for both the right to issue an interlocutory injunction to prevent infringement, and the precautionary seizure of all assets of an alleged infringer. This would mean for a farmer that he/she could be issued an order to prevent planting a crop with his/her own seed. Moreover, if he/she was alleged to have infringed he/she could be subjected to the seizure of crops, land, equipment, and the blocking of bank accounts before the court hears the case. As stated in [EC: Article 19] pg 252: *2. An interlocutory injunction may also be issued to order the seizure or delivery up of the goods suspected of infringing an intellectual property right so as to prevent their entry into or movement within the channels of commerce. 3. In the case of an infringement committed on a commercial scale, the Parties shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of his/her bank accounts and other assets.*

These provisions if adopted would put every farmer at such great peril from simple accusation of infringing that they would likely buy all their seeds, etc., just to avoid these measures being used against them. Even if the accusation was wrong, the average farmer would be unable to fight because of the expense involved. If that is not enough there is also a call to extend patents and Intellectual Property Rights (IPRs) by the length of time of time that it takes a regulatory body to approve a product for use or sale. If a minor use is found for the product not originally claimed, the IPR/patent term would be extended again. This would not only add to the term of the "right" but would increase the costs of everything from seed, pesticides, and drugs.

Our healthcare budgets are comprised of a factor of nearly 50% drug and medical supply expenditures and anything adding to those costs, as this will, is a direct transfer of funds from taxpayers to big pharmaceutical corporations. It is interesting to note that public healthcare costs skyrocketed after extended drug patents were granted in the early 90's. The data provided for regulators to base their decisions on is to be confidential as well. Public oversight agencies will not be able to disclose the basis on which they make their decisions. They will also not be able to use this data for their own research.

Regulations are to be harmonized in this agreement with food inspection, as an example, to be accepted by the other Party without verification (except in exceptional circumstances or new trade in that item). Therefore something inspected in Europe is to be accepted by all provinces and territories in Canada. The same applies for Europe in regards to our inspection services, except in exceptional circumstances.

In the draft text supply management and the Canadian Wheat Board (CWB) are to be dealt with in a later chapter. It is likely due to the hostility of the European Commission that

these measures will be attacked and jeopardized. They are also captured in the general text about removing all forms of domestic support and export support.

For those Canadian farmers growing Genetically Modified (GM) crops who expect that this agreement will help to open up European markets, this is simply not going to be the case. All European GM regulations are exempted from the terms of this agreement in Appendix 1B. Indeed, Canada's chief negotiator, Steve Verheul, stated in a briefing call that Canada was only seeking an increase in the adventitious levels of GM material acceptable by the EU, and expected little more.

The threats to Canadian agriculture and farmers are clear in this agreement. The broader scope of the agreement will affect all Canadians. What is particularly vexing is the speed at which the negotiations are proceeding and the relative secrecy. These governments and negotiators are our governments and negotiators, and yet they agree to keep the text from us. There has to be a demand that we be informed of all aspects of the negotiations and text and that the public interest be respected and enhanced. All too often our governments confuse their role as acting for us and in the public trust, to that of making sure they get out of the way of corporate interests no matter how short-sighted they are.

The NFU is organizing a campaign to stop this agreement. We will need all of our tools, allies, and commitment to derail this and its content. In the coming weeks fact sheets, petitions, letters, and other campaign materials will be distributed. Take the time to call and write your politicians at all levels about this and fight for all of us. The CETA goes beyond the World Trade Organization and Multilateral Agreement on Investment. We cannot let it proceed as it is. Join the fight for our seeds, hospitals, local food systems, local businesses, public utilities, supply management, the CWB, and our autonomy, in the face of corporate domination. We have little to gain and everything to lose.