

A Canada–E.U. Free Trade Agreement: Public Good or Private Interest?

Presentation to a one-day forum, sponsored by the Canadian Centre for Policy Alternatives (CCPA), Carleton University's Canada-Europe Transatlantic Dialogue, and the Freidrich Ebert Siftung Foundation (FES)

Ottawa, Ontario – October 28, 2010

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Thank you very much for the opportunity to be a part of this discussion today.

We are living through a new moment in Canada's history of international trade and investment relations, one in which the trade in services, not just goods, is playing an increasing role, and one in which provinces and territories are also directly implicated.

We may identify three different dynamics in trade negotiations: from the post-War period of liberalization of tariffs, to the insertion of investor provisions in the NAFTA era of treaty-making, to the current moment where we are facing direct liberalization by international agreements of public services, regulation, and other areas of domestic policymaking.

The liberalization of services is a relatively new development in international negotiations, and further challenges the idea that international relations are conducted in a realm apart from domestic politics, or that what happens within a nation's borders has little meaning for its foreign policy and policymakers. Indeed, when we consider Canada's foreign economic policy, the boundary between domestic and foreign policy is increasingly porous.

Related to that is the problematic assertion of a unitary national interest taken into the negotiating room. Indeed, our trade negotiators are dealing

with a complex set of issues driven largely by the interests of the business sector.

We are also living through a period of economic crisis in which the neo-liberal model has failed spectacularly to live up to its promises. However, in this country, we have a government committed to extending neo-liberal solutions to a crisis caused by neo-liberalism. This government is fully intent on using the economic crisis and the need for stimulus spending to impose new austerity on the public sector.

Today, I have been asked to speak about some of the social implications of the Canada–E.U. Comprehensive Economic and Trade Agreement, or CETA.

For most people, the idea that Canada would enter into a closer partnership with the European Union would be a welcome one. Most people see Europe as having higher standards, rich cultural diversity, high quality products, and a strong social safety net.

In the labour movement, it's well known that in comparing our welfare state with the United States, Canada often comes out looking really good, but when compared with Europe, we fare rather badly. Certainly, the labour movement would love to see Canada adopt the strongest measures of the European Social Model and welfare state provisions. However, Canada is not being invited to join the European Union. The labour movement in Canada is well aware that these negotiations are the extension of a shared vision that comes from the most neo-liberal elements of both societies.

Many people, including Christoph Hermann, have argued that European integration has itself undermined many of national expressions of social provision in favour of:

- flexible labour relations (attacks on labour);
- budgetary cutbacks (attacks on universality and social inclusion);
- privatization (attacks on the public sector); and
- other elements of neo-liberalism.

In sum, this is an agenda which has as its main goal the abolition of barriers to capital mobility, and the redistribution of wealth from workers to investors (Hermann 2007).

In these negotiations, we are witnessing the effort to construct an economic relationship that is based only partly on the reduction of tariffs, but also upon a deep restructuring of the state-society relationship through the insertion of greater investor rights. These negotiations are meant to open up public services to privatization by both Canadian and European corporations and investors.

The labour movement is of the view that Canadian advocates of free trade with Europe are wildly optimistic, and have discounted the considerable costs that will be borne by the Canadian people if, indeed, these negotiations are to be completed.

The CETA is fundamentally about the re-creation of social relationships in Canada.

I shall briefly outline some of these problems in relation to CETA chapters on Government Procurement, Public Services, Regulations and Labour, and Indigenous Rights.

Procurement and Public Services

Given the European Union's priorities in areas of sub-federal jurisdiction, the critical point in the early talks was to get provincial and territorial sign-on. The E.U. would not even begin negotiations until the provinces indicated their willingness to be bound by international trade and investment disciplines.

This they did in the February 2009, *Statement of the Council of the Federation — Support for the Negotiation of a New and Comprehensive Economic Agreement with the European Union*.

Twelve of the 13 provinces and territories confirm their commitment to the negotiation and implementation of an accord (not signed by Newfoundland and Labrador). This deal would mean that international trade rules would be applied to local, territorial, and provincial governments.

What this means is that Canada is willing to give corporations the right to take local governments to international arbitration in cases where they say their rights have been infringed upon. With this agreement, we see that the private sector is seeking new profit-making opportunities in the public sector by liberalizing procurement policy, and by permitting more contracting-out and privatization of public services.

The European Economic and Social Committee (EESC) notes that it is pleased to see that Canada opened up its public procurement markets at the sub-national level in its agreement with the United States earlier this year. This is important to the E.U., because it knows provinces have jurisdiction over energy, the environment, transport, and health. Says the EESC, “the agreement shows that the provinces are willing to open their public procurement markets to international competition.” (EESC 2010, 4.5) The E.U. requests full access for European firms to bid on contracts for public transit systems, water services, and waste water treatment.

The Canadian government is also pleased with the potential of opening up procurement markets. Says Trade Minister Peter Van Loan, “To the extent that we’re going to have more of them bidding means we’re going to have more value for our consumers here — lower taxes, or at least more services for the same taxes.” Van Loan says, “I know we can compete.” (Jacobs 2010, 26)

In other words, the Canadian Government is advocating in favour of the dismantling of the public sector and all that has been built and all that remains to be built collectively for the benefit of the population as a whole.

The Canadian Government says it is leading the way against protectionism, but what does this really mean? Suddenly, the status quo is now protectionist, and the public sector is an impediment to capital accumulation.

They say this, without discussing social inclusion, or market inabilities to meet the needs of Canadians on a universal basis, and they have obliterated discussions of problems with privatization from a social point

of view. What is the social meaning of the public sector? What is the social meaning of privatization?

Regulation

Given the different regulatory frameworks of Canada and the E.U., we are concerned that the agreement will favour North America's "risk-management" over the European preference for the "precautionary principle." The leaked negotiating text of the Comprehensive Economic and Trade Agreement (CETA) indicates that the negotiators from both sides are willing to give investors greater rights to challenge "non-tariff barriers" and regulations. Similarly, we have been told by government officials that Canada will not accept the European higher standard of REACH for chemicals, because of chemical industry opposition here.

This speaks to the downward rather than upward harmonization. This will not be acceptable to labour and civil society insofar as it means gutting regulations put in place to protect the public interest.

The Canada-European Commission Joint Study suggested that any agreement should address state aid as well as disciplines for designated monopolies and state/public enterprises to ensure they do not distort competition and create barriers to trade and investment (E.U. Competition policy covers a broad range of policy areas).

In our view, there should be complete reservation of the right to domestic regulation regarding public services, culture, finance, public health, and the environment. Regulatory harmonization efforts must adopt the higher standard in either Canada or the European Union. Municipalities, provinces and territories, and the federal government must retain the

right to develop even higher standards of protection than currently exist in the European Union or any other trading partner.

Related to this is the question of “legislative harmonisation” — which the EESC says will be an important element in the negotiations. “[T]he system of legislative powers shared between the federal state, the provinces, and the territories could be an obstacle for the agreement negotiations in this regard. (EESC 2010, 5.7) And, from the Canadian side — “If something in the agreement affects provincial or national law, legislation might be needed. For example, some provinces have monopolies on liquor stores,” Peter Van Loan, Canada’s Minister of Trade. (Jacobs 2010, 25)

Labour Rights

Negotiators have told us that they are looking to negotiate a gold standard on labour rights — to be used as a model for other negotiations. However, any agreement on labour issues will be meaningless insofar as workers’ rights are corroded by investor-rights provisions, relegated to a side agreement, or defended by sanctions that are non-binding and not enforceable. Investors should be required to abide by the highest standards. Workers’ organizations must be included in economic and social decision-making. Any comprehensive agreement must commit to raise labour standards, and strengthen inspection and enforcement mechanisms for labour law, especially with respect to migrant workers and others facing precarious economic and social situations. Dispute resolutions must be based upon an independent and transparent complaints’ process with a supranational mechanism of enforcement when states refuse to live up to their own obligations.

As outlined in the Canadian Labour Congress Statement on Canada–E.U. CETA negotiations, the labour movement in Canada has serious concerns about Canada’s commitment to labour rights.

Ratification of ILO Fundamental Conventions

Canada’s record of support for labour rights is indefensible. Canada has only ratified five of the eight fundamental International Labour Organization Conventions. Canada refuses to ratify ILO Conventions No. 29 on Forced Labour, 1930; No. 98 – Right to Organize and Collective Bargaining, 1949; and No. 138 – Minimum Age, 1973. Canada must also ratify the priority conventions for good governance.

Respect for Workers’ Rights in Labour Mobility: We believe that labour mobility should be a human right and not a commercial opportunity for exploitation. Therefore, issues of labour mobility must not be part of trade deals at all, where disputes will be evaluated by commercial arbitration panels. Rather, protocols, policies, and programs that support labour mobility must be governed under international instruments, such as: ILO Conventions No. 97 on Migration for Employment (Revised), 1949; No. 143 on Migrant Workers (Supplementary Provisions), 1975; the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Their Families; as well as Recommendation No. 86 on Migration for Employment (Revised), 1949; and No. 151 on Migrant Workers, 1975 – none of which Canada has ratified.

Respect and Protect Indigenous Rights

Canada has recently pledged to endorse the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). While this is a welcome step,

proper implementation requires the government to receive Free, Prior, and Informed Consent from Indigenous Peoples whenever Indigenous rights may be affected by any government decision. Since the proposed Canada–E.U. agreement is so sweeping that it will undoubtedly impact Indigenous rights, the agreement must uphold the maximum protections for the rights of Indigenous Peoples in compliance with the UNDRIP as the highest international standard, especially in the case of foreign industries operating in Indigenous lands, territories, and water.

First Nations governments are not at the table, even though many of these themes will have direct bearing on their areas of governmental responsibility.

Conclusion

The boundary between national and international politics is not fixed whatsoever. Neither is there a single national interest that may be identified on these issues. So, the argument that in democratic countries, international politics is best left to negotiators to grapple with, without the interference of civil society, is untenable. These processes desperately need to be democratized.

I would like to leave us with one challenge.

To the university community — to look beyond the facile claims that are being made in the name of the Canadian people — Canadian social activists need to enhance our political and economic knowledge of the European Union. We need to understand the political economy of Global Europe as much as the institutional history of the E.U. itself. Over many years now, Canadian social movements have developed critical analyses of Canada’s trade and investment deals. You have seen examples of this

research today — I propose that political economists in general, and Europeanists in particular, should also take the time to interrogate the texts of trade agreements. I also think that the defenders of public services in labour and other social movements would benefit from closer links with critical research going on within the university. There is a temporal problem, however. The cycle for labour movement research takes place on a weekly or monthly timetable, whereas the cycle for academic research is much longer. I think the Canadian Centre for Policy Alternatives, the Friedrich Ebert Stiftung Foundation, and Carleton's Canada–Europe Transatlantic Dialogue offer us a way to meet in the middle, and I commend them for the most valuable role they have played in bringing us together today. That said, it seems to me that on the question of social impacts and, public services, we still need to look carefully at the claims being made, and we would welcome increased collaboration.

Thank you.

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