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CETA and Nova Scotia

Who Pays for 'Free' Trade?

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CETA and Nova Scotia

Who Pays For *Free* Trade?

Executive Summary

Negotiations on the Comprehensive and Economic Trade Agreement (CETA) were officially launched in 2009. The Canadian government claims the agreement will be finalized by the end of 2012. Given that our unbalanced trade relationship favours the EU, merely opening up the possibility for greater competition in Europe will not automatically create economic benefits for Nova Scotians. It is more likely to mean that European companies have easier access to Nova Scotia consumers and public spending, and moreover hundreds to thousands of jobs being lost. Close consideration of the probable costs and benefits of the CETA for Nova Scotia reveals that the agreement's benefits are being oversold, while its costs and consequences are minimized or even ignored. The CETA could block legitimate, democratic initiatives of the Nova Scotia government as well as municipal governments and other public institutions to support local, community-based economic, social or environmental development.

The lack of transparency about the specifics, the complexity of the CETA negotiations and the lack of up-to-date specific data related to Nova Scotia make this analysis difficult to undertake, but all the more important. No previous report — government or otherwise — has ever been published examining the CETA and Nova Scotia. This report is a step toward remedy-

ing the unjustifiable lack of transparency about the CETA and in stimulating much-needed public debate about its potential impacts on Nova Scotia.

Unbalanced NS-EU Trade Relationship Result in Job Losses

On the face of it, we have a significant trade deficit; we import at least seven times what we export to the European Union. Even if we exclude a bulk of what is imported because much of it is only custom-cleared here and flows-through to other parts of Canada, we likely import at least twice what we export. In order to take advantage of this trade deal Nova Scotia would need to increase and change what it exports. Currently, raw natural resources including fish, along with wood/pulp/paper together represent 61% of average exports from Nova Scotia to the European Union. The CETA is likely only to increase exports of resources while weakening incentives for value-added manufacturing. Projections regarding employment implications that take into consideration the complexity of economic factors involved indicate that the CETA will result in between **510 and 2587 net job losses** in Nova Scotia. While the province might experience small gains in employment in the agricultural and fishing sectors from the mutual elimination of tariffs, this will be more than offset by losses in manufacturing and result in a net loss of **554 jobs**. If the CETA has a similar impact as the average trade flow effects resulting from Canada's existing FTAS, the estimated provincial employment impact of the CETA will be a net loss of **510 jobs.** If one takes into account not only the removal of tariffs, but also the impact of a substantial increase (19%) in the value of the Canadian dollar relative to the Euro, the CETA would do tremendous damage and Nova Scotia could incur **2587 job losses**.

Block Democratic Local Economic Initiatives

One of the main reasons the EU was interested in negotiating this agreement was to gain access to public procurement. Government procurement can be a powerful tool for community social and economic development; it can ensure that tax revenue is not just about 'value for money' narrowly defined as getting the lowest cost. Public procurement in Nova Scotia is estimated to amount to **$3.64 billion per year**. The recently awarded shipbuilding contract is one example. Irving Shipbuilding was able to bid for the shipbuilding contracts competing only against other Canadian suppliers because of Canadian sourcing rules for military procurement. In addition, the federal government could include consideration of local benefits as part of the selection criteria. If either of these measures were prohibited, the success of the Irving Shipbuilding bid would have been very uncertain. While military procurement will be excluded from the CETA, the threat posed by the CETA against any kind of 'buy-local' initiative is a serious one.

Under pressures to open up more of our local economy and public services to the private sector, government decisions may be increasingly subject to claims through the investor-state dispute resolution systems proposed for the CETA. Our experience with NAFTA raises red-flags. Take for example the case that is being brought by Bilcon against the government of Nova Scotia. Bilcon is particularly displeased that the Environmental Review Panel that decided against the company's proposal for a quarry included consideration of whether it fit with the community's 'core values'. With more than $188 million on the line in this one case, the possibility of serious repercussions exists and not just financial ones. Any assessment of the CETA must take into consideration whether it is a threat to government autonomy and democratic decision-making. Governments as well as private companies need to strengthen their efforts to ensure that local communities experience clear economic and social benefits from investment. Instead, the trend to increasing investor-state litigation and the risk of substantial payouts of public money to private companies for potential profit loss is a serious disincentive — chilling policies that support local, community-based development.

Drive Up Drug Costs, Undermine Renewal Energy, Thwart Support For Local Food Systems

The CETA could also circumvent public policy goals in Nova Scotia including those related to providing fair drug pricing, renewable energy initiatives, and supporting local food systems. It is estimated that the changes to Canada's drug patent system proposed by the EU would add approximately **$70-million annually** to Nova Scotia's prescription drug costs. This could have serious implications for Nova Scotia pharmacare programs and our government's ability to ensure fair drug prices.

A very serious threat to our agricultural sector is the effective undermining of the supply-management system by allowing the EU greater access to the Canadian dairy markets. This introduces greater uncertainty to a fragile part of the Nova Scotia economy at a time when fuel prices and shipping costs are increasing. In addition, they come at a time when there has been some positive initiatives to support local producers such as 'buy-local' initiatives, farmers' markets and the like. It is critical to ask what supports will be available for Nova Scotia farmers to ensure their operations can withstand an increase in European imports or to enable them to access the European markets at the same level.

Similarly, there is concern the CETA could allow non-renewable European energy companies to claim that Nova Scotia renewable energy producers receive an unfair advantage as a result of the government's support for renewable energy.

In addition, the CETA would go further than any previous Canadian trade and investment agreement in fully covering private education services. The obligations of the CETA would, among other things, prohibit governments from limiting the number of service suppliers or restricting the legal form of service suppliers in committed sectors. This means, for example, a privately-funded, for-profit business or medical school could be set up in Nova Scotia, and the government would be powerless to prevent it and would have little control over how it operates.

There are costs associated with trade and investment treaties, especially ones as sweeping in coverage as the CETA. Nova Scotians deserve information and data weighing the full economic and social costs and benefits. An informed, democratic decision about entering into the CETA requires an ongoing public dialogue and democratic process wherein the public can have meaningful input. Instead these negotiations have been shrouded in secrecy. Once an international treaty is negotiated and signed by the federal government it will be very difficult, if not impossible, for it to be altered to alleviate public or local government concerns, however valid. Any concerns must be addressed before the CETA is finalized, and the hour is getting late.

Introduction

In October of 2008, Canada and the European Union (EU) released a joint study on the costs and benefits of a closer EU-Canada economic partnership. This report concluded that freer trade between Canada and the EU could boost Canada's gross domestic product by $12 billion by 2014.[1] This was presented as incontrovertible evidence in support of moving forward with trade negotiations. By March 2009 the scope of the negotiating agenda was first outlined.[2] A few months later, negotiations on the Comprehensive and Economic Trade Agreement (CETA) were officially launched. The

Canadian government claims the agreement will be finalized by the end of 2012, followed by ratification by both the Canadian and European Parliaments. Meanwhile, the assumptions and projections of the economic benefits for Canada that came from the original joint study have been questioned and their limitations exposed.[3] Subsequent analysis suggests that the agreement could undermine public procurement policies,[4] and result in significant job loss.[5]

Close consideration of the probable costs and benefits of the CETA for Nova Scotia reveals that the agreement's benefits are being oversold, while its costs and consequences have been minimized or even ignored. The goal of this report is to explore more fully the effects the CETA may have on Nova Scotia. The lack of transparency about the specifics, the complexity of the CETA negotiations and the lack of up-to-dates specific data related to Nova Scotia make this analysis difficult to undertake, but all the more important. No previous report — government or otherwise — has ever been published examining the CETA and Nova Scotia.

Outline of the Report

The first section of this report sets the context for understanding the probable economic impact of the CETA for our province given the nature and structure of our economy and our current trade relationship with Europe. It outlines the implications of the CETA for employment in Nova Scotia. The second section considers whether the CETA could block legitimate, democratic initiatives of the provincial and municipal/local governments to support local, community-based economic, social or environmental development. The sectoral analysis in the third section outlines substantive concerns about how this trade deal could circumvent public policy goals in Nova Scotia including those related to providing fair drug pricing, renewal energy initiatives, and supporting local food systems.[6]

Lack of Transparency and the CETA Negotiations

The federal government's approach to the CETA is that "trade liberalization *always* produces mutual efficiency gains."[7] The only official overall assessment of the CETA was very unbalanced. This joint Canada-EU study, done in 2008, is the primary 'official' assessment of the CETA and is referenced repeatedly by government officials to justify the negotiations. Careful examination of this report has revealed problems with the method, the assumptions and the data.[8] For example, the modelling assumes, unrealistically, that widening trade deficits with the EU will be offset by trade flows with other countries, and that any displaced workers will find equally or more productive work in other sectors.[9]

No thorough analysis of the costs and benefits of the CETA has been commissioned or published by governments in Canada and none have been published about the CETA's potential impacts on Nova Scotia. In contrast, the European Parliament's approval must consider a final Sustainability Impact Assessment (SIA). As such, a full SIA report on the economic, social and environmental impact of the CETA was commissioned by the European Commission and published by independent European researchers.[10] The SIA sheds some light on the possible far-reaching social[11] and environmental implications of the CETA for Canada as well as the EU (including at the sectoral level). It at least included stakeholder consultations in both Canada and Europe. However, it also has some limitations in terms of its ability to do a full analysis, including because of the lack of information and uncertainty about the details of the negotiations.

This report is a step toward remedying the unjustifiable lack of transparency about the CETA and in stimulating much-needed public debate about its potential impacts on Nova Scotia and for Nova Scotians.

The Scope of the Negotiations

The CETA is markedly different from previous trade negotiations in several critical and disconcerting ways. The "comprehensive" descriptor of this agreement is an apt one; the intent is for this agreement to cover 20 plus subject areas including public regulation of foreign investment, labour mobility, intellectual property, and government procurement, as well as to enhance cooperation in a wide variety of fields (which range from science and technology, transportation and customs). The negotiations include many matters that are only peripherally related to traditional trade issues, such as reducing or eliminating quotas or tariffs that affect the cost of importing or exporting goods. Rather, there has been a focus on **removing any regulatory-type measure interpreted as shielding domestic markets from international competition**. The extent of this 'anti-protectionism' is clear in a recent report by the European Commission (the EU's representative at the trade table). The EC began assiduous monitoring of its trade partners for so-called protectionist measures at the height of the economic crisis when

G20 leaders pledged "not to resort to trade restrictive measures during the economic and financial crisis; and, to rectify without delay any measure introduced."[12] Yet the expansive 'free-market' agenda promoted by trade and investment agreements needs to be equally scrutinized for its encroachment on public policy and the ability of democratically-elected institutions to protect public interests. For example, changes to intellectual property rights and in particular patent extension for name-brand drugs could have serious implications for Nova Scotia pharmacare programs and our government's ability to ensure fair drug prices.

Equally concerning is that **European negotiators are insisting that all levels of government procurement be included in the CETA.** This will, for the first time, include contracts awarded by sub-central governments (provincial, municipal), as well as by Crown Corporations, and even more broadly any contracts to be awarded by municipal organizations, school boards and any publicly-funded social, health or education entity, as well as airports, public transit systems, ports, and public utilities.[13] As is also argued in this report, procurement is an important economic development tool to support local businesses and communities; Nova Scotia's Ships Start Here campaign[14] is a good example. The threat posed by the CETA against any kind of 'buy-local' initiative is a serious one.

Despite the inclusion of areas within the jurisdiction of sub-central public entities, **only the federal government has official standing as a direct negotiator at the CETA table.** However, since the EU insists on access to the provincial and municipal contracts and coverage of other matters that fall within provincial jurisdiction, representatives of Canada's provincial and territorial governments can attend negotiating sessions on matters within their jurisdiction. But, they have no official standing in the negotiations, which are led by the federal government. In Nova Scotia, the CETA file is being led by the provincial Department of Economic and Rural Development and Tourism. While provincial officials receive regular briefings and have had opportunities to provide input, municipal governments and the other sub-central public entities have not been directly included.[15]

This new generation of trade agreements has evolved into almost constitutional-style documents.[16] One legal opinion states that, the "**Provinces would no longer be able to exercise their respective mandates without having to operate within the strict policy and regulatory boundaries of an international treaty they have no authority to amend.**"[17] As such, the right to amend the CETA is up to the federal government, who will likely also be the one to represent the provinces at any hearings, or any challenges under the dispute resolution process. Provinces have no guarantee that the federal government will support the provincial position, the outcome of which could be that the federal government insists that the provinces have to compensate investors.

Previous trade and investment agreements included a complicated system of exclusions, known as reservations. **Even these partial protections are put at risk by the CETA because, for the first time, provincial measures must be specifically listed as reservations or they will be covered by the agreement.**[18] In October, 2011 the Quebec Network on Continental Integration released the documents which indicated the draft reservations that each of the governments provided to Ottawa, including Nova Scotia.[19] The reservations to protect existing public programs or services were found in the Annex I reservations. Reservations to protect the ability of governments to create new or expand existing public programs or services were found in Annex II reservations.[20]

No official trade documents have been publicly released by any level of government and thus our interpretation of what is on the table relies on these leaked documents. Annex I reservations protect existing programs or services, but these reservations are "bound." This means that the services are protected as they are currently. They cannot be expanded to further protect local priorities. If a Province wants to make changes to these services, the revisions would not be "reserved" and would be subject to challenge under the terms of the CETA. Once the program or policy is altered in this way, it cannot be restored to its pre-CETA status.

The Nova Scotia government chose to reserve a variety of professions (requiring residency in Canada or membership in a professional association, like accountants, lawyers and architects), as well as the liquor commission, and gambling. Its reservation of inter-urban transport requires "public convenience and needs tests apply to new entrants."[21] The Nova Scotia reservations also include similar protections for the following sectors:

- Mining
- Hydro carbons
- Fishing and aquaculture
- Electricity

Annex II reservations[22] seek to protect existing non-conforming laws, but also allow governments to take new protective measures in the future that might otherwise be inconsistent with the CETA rules on services and investment. The Annex II reservations sought by the Nova Scotia government are:

- Agriculture: Production, marketing, transformation and transport of agricultural products, food products and fisheries products;
- Fisheries: Purchase, transfer, delivery and transmission of fisheries products; as well as the production, generation, development, transmission of fisheries products;
- Transportation: Transportation services via pipeline;
- Electricity: Production, generation, development, transmission (including but not limited to system control), distribution, delivery, supply and exportation of electricity and related services;
- Forestry: Forest resource management and processing;
- Gambling and betting services; Amusement machines, races.

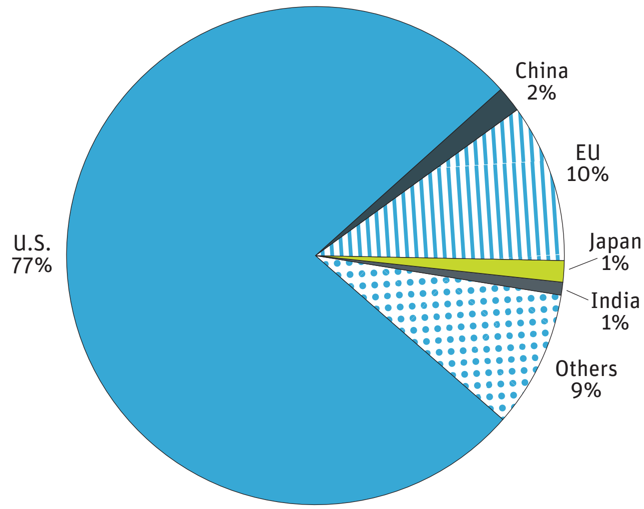
Nova Scotia has not listed any provincial reservations for possible new health care programs (for example, the provision of pharmaceuticals through a fully public system). However, the federal government also has reservations, including for health, public education and social services, which would provide some protection of Nova Scotia measures in these areas.

The Trade Relationship Between the EU and Nova Scotia

The evidence produced about the possible benefits of 'freer' trade often rest on the assumption that, on balance, the deal will improve our competitiveness, open up new markets and result in increased exports.[23] However, the actual impact depends on the economic, social and policy context in which the agreement is implemented.[24]

Canada in general and Nova Scotia in particular, have disadvantageous trade relationships with the EU; Canada is "bargaining from a position of weakness."[25] Canada currently incurs large bilateral trade deficits with the EU ($15 billion in goods, and close to $4 billion in services).[26] We export mostly unprocessed or semi-processed goods to Europe, while the EU has a large trade surplus and competitive advantage in high value-added goods. Exports of value-added products are worth more, and create more and higher paying jobs, than simply exporting raw natural resources.

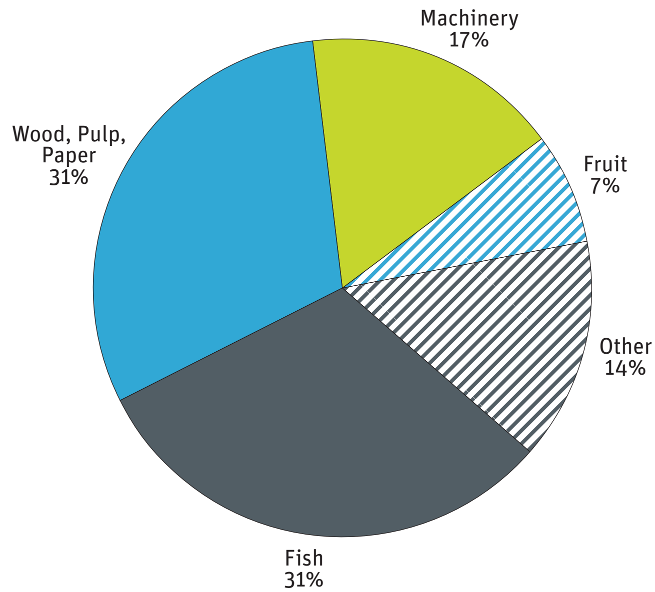
FIGURE 1 Average Share of Nova Scotia Domestic Exports 2007–11



In Nova Scotia, we currently export only about 10% of our goods and services to the residents of the European Union.[27] As is shown in *Figure 1*, the U.S. (where we export 78% of our goods) remains our most significant partner, with very little change in that relationship over the last five years.

In 2011, Nova Scotia companies exported goods and services valued at **$470 million** to the European market; representing only about 1% of the Gross Domestic Product (GDP) of our province, and about 1% of the total Canadian exports to Europe. Goods and services imported from Europe to Nova Scotia during that same year amounted to **$3.5 billion**.[28] On the face of it, we have a significant trade deficit where in we import more than seven times the amount we export. However, the import data is highly unreliable. As a province with significant port-shipping, the import shipping is reflective of goods that are custom-cleared in Nova Scotia, but just flow through the province to other areas of Canada. About three-quarters of the imported goods are cars and trucks, which we know are exported to other parts of Canada. Therefore, while the province imports a significant amount of EU goods (representing almost 60% of imported goods into NS), it is difficult to know what it means in terms of what actually remains to be consumed in the province. If we exclude cars and trucks, that could amount to about **$875 million**. This still leaves us with a significant trade deficit where we import and locally consume almost double what we export.

FIGURE 2 Domestic Exports to the European Union, Nova Scotia 2006–10



When considering the potential impact of the CETA on the Nova Scotia economy, it is important to also look more closely at exports from Nova Scotia to the European Union. The actual goods Nova Scotia exports to the EU are dominated by raw natural resources such as wood including pulp and paper, as well as fisheries ($144 million and $140 million respectively in 2010). Fish, along with wood/pulp/paper together represent 61% of average exports from Nova Scotia to the European Union in 2006–10.[29]

One of the arguments being made in support of the CETA is the possible increase in traffic through the Port of Halifax. For example, "As the increased trade flow occurs both ways, a lot of that movement will come through the Port of Halifax. Some of it may indeed be moving through the airport, through the cargo aspects [...] And, we know every ship that comes through the harbour creates four full-time jobs per year."[30] This statement may be accurate in terms of direct employment on the docks; however it does not take into account possible negative implications of increased port traffic such as environmental impacts or wear and tear on infrastructure. Increased traffic alone is not enough to create a net benefit to Nova Scotia without altering the significant trade imbalance that exists by increasing and changing the nature of what NS currently exports to the EU. Merely opening up the possibility for greater competition in Europe will not automatically create economic benefits for Nova Scotians. It is more likely to mean that European companies have easier access to Nova Scotia consumers and public spending.

Employment Implications for Nova Scotia

Supporters of free trade agreements often claim the elimination of tariff barriers will create more jobs as well as increase wealth. The predictions of the EU Canada Joint Study were based on the use of a "Computable General Equilibrium" (CGE) model. However, these predictions were based on unrealistic assumptions. CGE assumes private businesses will not move or close and also assumes full employment (i.e. that everyone has a job and if they are displaced they will find another job). The predictions are very different when the economic realities ignored by CGE are considered. One such analysis conducted by Jim Stanford estimates that, contrary to the CGE analysis, between 28,000 and 150,000 Canadian workers will lose their jobs as a result of the CETA.[31] Adapting Stanford's methodology using Nova Scotia data, we find that **between 510 and 2587 people will lose their jobs** in Nova Scotia (see *Table 1*).

The estimated impacts of the CETA on employment by sector are based on three scenarios: "one in which tariffs are mutually eliminated; one in which EU-Canada trade expands in line with the historical experience of Canada's previous FTAs; and one in which tariff elimination is combined with the appreciation of Canada's currency (versus the Euro) which has been experienced in fact since the two parties launched free trade negotiations."[32]

For each scenario, changes in net trade flow (using Industry Canada 2009 data) are converted into employment effects based on average employment intensities (using Statistics Canada, CANSIM data) of output for 13 sectors. The Nova Scotia projections assume job gains or losses based on the province's share of total national employment in each sector.

Using Nova Scotia's share of employment in those sectors in 2009, it is possible to provide projections of employment impact provincially based on a disaggregation of the national estimates of employment impact as reported in Stanford's 2010 report.

- Scenario 1 (mutual elimination of tariffs) shows small gains in employment in the agricultural and fishing sectors based on reducing tariffs. Tariff elimination will disproportionately benefit EU exporters given that Canada currently has higher average tariffs on merchandise imports. Canada currently imposes higher trade barriers on

TABLE 1 Employment Implications of the CETA, Nova Scotia, By Sector

Sector	NAICS Code	NS Employment Numbers (2009)	Scenario 1: Tariff Elimination	Scenario 2: Other FTAs	Scenario 3: $C Appreciation + Tariff Elimination
Agriculture	111,112,115	6600	74	296	74
Fishing	1,141	6300	56	364	56
Mining	212 ex 2121	1258	0	409	0
Processed Foods	311	8545	-339	-78	-492
Beverages & Tobacco	312	857	-73	-141	-191
Wearing Apparel	315	595	-95	-68	-163
Wood Products	321	2031	-5	24	-47
Paper Products, Publishing	322,323	3110	0	47	-64
Chemical, Rubber, Plastic Products	326	4645	-135	-1123	-1129
Mineral Products	327	805	-9	-31	-31
Metal Products	332	1625	-17	-60	-84
Machinery & Equipment	333	0	-14	-163	-220
Transportation Equipment	336	3262	3	15	-294
Total			**-554**	**-510**	**-2587**

Source Calculations based on Stanford's scenarios 2010 (p. 34), NS Data from Statistics Canada CANSIM Tables 281-0024 and 282-0008.

imported EU products in Canada (3.5% average) than Europe imposes on Canadian products to the EU (2.2% average).[33] Therefore, the small job gains will be more than offset by larger job losses across the provincial manufacturing sector including food products, as well as chemical, rubber and plastics. As a result, the projection is that **554 jobs would be lost in Nova Scotia**.

- In Scenario 2 (future trade predictions based on historical data), the estimated provincial employment impact is similar to Scenario 1, if the CETA has a similar impact as the average trade flow effects resulting from Canada's existing FTAS.[34] In this case, mining, fishing and agricultural sectors could gain employment. However, significant job losses are again predicted in the manufacturing sector. The net impact indicates that Nova Scotia would face a **loss of 510 jobs.**

- Scenario 3 (removal of tariffs and currency appreciation) presents the employment impact on Nova Scotia's industries by the removal of tariffs as anticipated in the CETA (Scenario 1), and adds in the impact of a substantial increase (19 %) in the value of the Canadian dollar relative to the Euro.[35] In this case, the combination of tariff removal and an appreciating currency do tremendous damage. With the exception of small gains in the agricultural and fishing sectors, Nova Scotia would incur **2587 job losses** in this worst case scenario.

It is, however, difficult to take into account the nontariff barriers and the results of changes to regulatory mechanisms. For example, if the CETA were to undermine the agricultural supply-management system, this could result in job losses in the agricultural sector in Nova Scotia (versus the small gains predicted in *Table 1*). As is reflected above, currently, the EU imposes high barriers for fish and fish products (12.5%). If these were eliminated, exports from Canada might increase, which could increase employment for fish processing. None of these scenarios take into account the indirect effects of job losses on the **wider economy**. Nor do these scenarios capture the **social impact** on particular Nova Scotia individuals, families and communities.

Public Procurement

"[A]ccess to Canadian government procurement was one of the main reasons, if not the main reason, that the EU agreed to negotiate a trade agreement with Canada."[36] The proposed CETA changes regarding public procurement could limit the flexibility of the various levels of government when awarding contracts; and/or threaten initiatives aimed at creating local jobs that impose requirements pertaining to the local content of equipment or services.[37] The wording from the leaked draft text is that the EU wishes to prohibit "any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, countertrade and similar action or requirement."[38] This means local benefits cannot be considered by governments in their purchasing decisions and tendering processes. It is critical to consider what may be lost if our government and public institutions cannot apply social, economic or environmental requirements on these purchasing contracts. By its nature, local procurement decreases the economic and environmental costs of shipping, boosts local economies by allowing more money to circulate in the local economy longer, facilitates local employment, and generates income that contributes to the local tax base.[39]

The federal government claims the CETA would offer Canadian companies reciprocal access to compete for public procurement contracts in Europe. The European public procurement market has an estimated value of

$2.3 trillion. The mere opportunity to bid on a request for proposals however does not mean a Canadian company will be awarded a European contract. According to the SIA, Canadian suppliers are likely to see comparatively smaller gains in market share merely through opening up European public procurement.[40]

As previously indicated, nothing in the CETA will change the existing dynamic of trade imbalances. Removing the ability of governments to award points for local bids does not make it any more likely companies from Nova Scotia will be able to successfully obtain EU contracts.

What is more likely is that small and medium-sized Canadian companies will reduce their bids as a result of greater competition. While this might be attractive for Canadian public institutions and governments, it does not take into account the effect of lower payments for wages and products, and the multiplier effect of these reductions for local economies. As one researcher points out: "assessing the overall benefits of a proposal in terms of local job creation, increased taxes, opportunities for marginalized groups, and environmental benefits provides a fuller cost accounting, and superior value for money than simply going with the lowest bid without considering local spinoffs and community impacts."[41] During the last decade, many local governments have used the public purchasing of goods and services as a tool to maximize positive spinoffs for the community.[42] In Nova Scotia, Cape Breton Regional Municipality awards up to five percent of its procurement score for local businesses.[43] The Town of Truro's sustainable procurement plan includes provisions to award up to fifteen percent for things like local sourcing.[44] The potential to build and grow these kinds of initiatives could be thwarted by the CETA.

The procurement threshold — the minimum cost at which international firms must be allowed to bid — for goods and services is approximately $300,000 and $8.5 million for construction projects.[45] All public tenders above these thresholds will have to be open to bids by European companies and can have no discriminatory clauses for these companies to participate in the bid process, and no weighting of criteria beyond price and ability to fulfil the contract. The draft text of the CETA released to date stipulates that goods being purchased for national security or defence will be exempt.

With the exception of national defence contracts and those goods and services below the cost threshold, the CETA threatens to limit the rights of public bodies to assess competitive bids on the basis of local benefits. It is estimated that public procurement accounts for 10–15% of GDP.[46] In Nova Scotia that amounts to **$3.64 billion per year by all levels of government**.

National Shipbuilding Procurement

The national shipbuilding procurement contract to build warships and other military vessels recently awarded to the Irving Shipyard in Halifax is one example of how this tool of "local priority" can be used strategically.[47] Irving Shipbuilding was able to bid for the shipbuilding contracts competing only against other Canadian suppliers because of Canadian sourcing rules for military procurement. In addition, the federal government could include consideration of local benefits as part of the selection criteria for the $25 billion contract under the National Shipbuilding Procurement Strategy. If either of these measures were prohibited, the success of the Irving Shipbuilding bid would have been very uncertain because of competition by European companies. Moreover, the provincial government would have been prevented from supporting this bid financially. It is estimated that this contract could create up to 11,500 jobs in Nova Scotia; the increase in personal income will average $447 million per year and could result in a 2.4 per cent growth in the provincial GDP.[48] In addition, there will be considerable impact in the rest of Canada because of the suppliers used in Nova Scotia;"for every $1,000 spent in procurement from shipbuilding inside Nova Scotia, another $491 in real GDP will be generated in other regions across Canada."[49]

As far as has been reported, the particulars of this procurement contract would still be permitted under the CETA because the only exceptions to European demands regarding procurement are for: procurement of arms, procurement indispensable for national security, and national defence.[50] However, it is still not clear whether the further civilian procurement or purchases in aid of the shipbuilding contract will be excluded. It is important to note that the shipbuilding contract is flagged in a recent EC report on protectionism and will likely continue to be monitored.[51] In a recent round of CETA negotiations, the EC also indicated its concern about Canadian tariffs related to shipbuilding and its desire to see them lowered.[52]

Government procurement can be **a powerful tool for community social and economic development**; it can ensure that tax revenue is not just about 'value for money' narrowly defined as getting the lowest cost. The shipbuilding contract is one example.

Municipalities in Nova Scotia

Over 80 municipal councils, school boards and municipal associations across the country have expressed concerns about the CETA negotiations. Many of these public bodies have passed resolutions to flag concerns about the lack of transparency surrounding the negotiations, to ask for more information, or to request an exemption to the agreement altogether.[53] In Nova Scotia, both Lunenburg and the Cape Breton Regional Municipality (CBRM)[54] have passed resolutions about the CETA. In May 2011, the Municipality of the District of Lunenburg passed the first resolution in Nova Scotia. The Council asks "the Federation of Canadian Municipalities, during negotiations towards a Canada-European trade treaty, to defend the power of municipalities to make local spending decisions."[55] In November 2011, the CBRM Council voted unanimously on the resolution, which states the procurement requests of the EU "would significantly reduce or eliminate the right to specify local priorities when public money is invested in goods, services or capital projects." The resolution also warns that combined with investment protections for EU service firms, the CETA "may encourage privatization and reduce economic development options for local communities."[56]

The largest municipality in Nova Scotia, the Halifax Regional Municipality (HRM), has not passed any resolution on the CETA. It did pass a motion asking for a staff report on the negotiations. Staff advised Council that after meeting with officials at the Nova Scotia Department of Economic and Rural Development and Tourism they felt reassured about the CETA. They were told it would take three years before the CETA would come into effect and, at that time, all three levels of government would be "working together on communication and implementation strategies."[57] The staff report assures Council that even if a foreign entity had an issue with a municipal decision on a purchasing contract, a case could not be directly brought against a municipality. The HRM staff opinion report concluded that the government procurement exemption thresholds were high enough to mean the CETA "would not impact the majority of HRM's tenders". No further actions were brought forward on the CETA at Halifax Regional Council.

The first point should not have reassured Council that any concerns would necessarily be satisfactorily addressed during this implementation period. Once an international treaty is negotiated and signed by the federal government it will be very difficult, if not impossible, for it to be altered to alleviate local government concerns, however valid. Any municipal government concerns must be addressed before the CETA is finalized.

On the second point, even if it might legally be the case that the municipality cannot be directly sued, this doesn't necessarily mean that the federal government won't force the municipality to pay for any breaches. Complaints by European suppliers that purchasing contracts violate the CETA will likely be heard before an administrative tribunal similar to the Canadian International Trade Tribunal. Such tribunals have the authority to compel government entities to re-tender contracts and to pay damages to aggrieved suppliers. While the municipality could receive legal assistance from the province, it would certainly incur legal and administrative costs in any such dispute.

On the third point raised by HRM staff, while the exemption thresholds are significant for smaller communities, they do not exclude major municipal projects in Nova Scotia. For example, the money required to rebuild municipal water infrastructure clearly goes beyond these threshold amounts and will require bids to be open to private companies from Europe and to avoid any local content provisions.

The federal government has recently created additional regulations, which will require significant spending to upgrade municipal water systems. It is expected at least 25% of all Canadian municipal wastewater treatment systems will have to be entirely rebuilt at a total cost of more than $20 billion.[58]

The Halifax Harbour Solutions Project for the HRM constructed three sewage treatment plants and connected various sewage pipe networks with lift stations to treat all sanitary sewage. The project cost approximately $333 million (including the repair costs after the flooding in 2009 which were reimbursed by insurance and the builders) with money from the Federal, Provincial and Municipal governments.[59] If the CETA had been in effect, HRM could not have considered local priorities in this project. The total value of the list of infrastructure projects for HRM, which was enumerated in 2009, was $2.25 billion.[60]

The Cape Breton Regional Municipality (CBRM) estimates $425 million in capital construction costs over the next 10 years to upgrade and build eight treatment plants to meet strict effluent discharge guidelines.[61] If the CETA comes into effect, CBRM would be unable to give priority to bids from local companies in contracts, or sub-contracts, to build its water treatment plants. An injection of that amount of money into the local economy would have a significant impact.

Municipalities are responsible for fifty-three per cent (53%) of Canada's infrastructure spending — up from thirty-four per cent (34%) in the 1960s. The infrastructure deficits of Canadian municipalities are significant and very concerning. Municipalities need to fund both maintenance of deteriorating infrastructure and acquisition and construction of new infrastructure at an estimated monetary investment of $123 billion (2007).[62] Nova Scotia municipalities have limited tax bases and are struggling to cover the operating costs of the provision of services, let alone the capital costs to maintain and upgrade infrastructure. They face significant pressure to open these projects up to the private sector. The CETA provisions only add to the pressure.

Implications for Government Autonomy

Under pressures to open up more of our local economy and public services to the private sector, government decisions may be increasingly subject to claims through the investor-state dispute resolution (ISDR) systems proposed for the CETA. An ISDR system refers to dispute resolution mechanisms contained in international trade agreements that allow a private investor to make a direct financial claim against a government to a tribunal rather than through a domestic court of law.[63] The claims brought typically allege that a government action has negatively impacted the ability of the private company to make a profit. The investors of the private company sue for the lost opportunity to make these profits.

The ISDR clauses bring with them financial, legal and administrative demands to each signatory country. Previously it was the case that "Since the provinces are not signatories to these agreements, it falls to the federal government to defend not only its own actions but also those of the provinces and to compensate investors when so ordered."[64] Early in the CETA negotiations, Canada proposed language for an investor-state clause. Initially, the EU resisted the idea of ISDR. However, the EU now wants, in some respects, even stronger investor rights than found in NAFTA, and also wants sub-central governments (provinces, municipalities, school boards, etc.) to be bound by the dispute resolution process. As indicated, even if these sub-central levels of government cannot be brought directly into the process, they may still have to cover costs if the federal government seeks reimbursement. Indeed, the federal government made this clear in the AbitibiBowater case.

In 2010, the federal government paid AbitibiBowater $130 million in the face of its complaint under NAFTA seeking $500 million in damages for what it saw as the 2008 expropriation of its assets in the Province of Newfoundland and Labrador by the government of then Premier Danny Williams. Two days after the settlement, Prime Minister Harper said: "I do not intend to get back the monies expended in this case from the government of Newfoundland and Labrador. But I have indicated that in future, should provincial actions cause significant legal obligations for the government of Canada, the government of Canada will create a mechanism so that it can reclaim monies lost through international trade processes."[65]

Canada's previous experience with the dispute resolution process in the NAFTA raises many concerns. Since NAFTA came into effect in 1994 (and up to October 2010), 30 some claims have been brought against the Canadian

Bilcon v. Community Values

In the case of *Clayton/Bilcon v. Government of Canada* currently under review with the NAFTA tribunal, Bilcon of Delaware and its major investors (the Clayton's) wanted to establish a basalt quarry and marine terminal development project at Whites Point (in the Digby Neck area of Nova Scotia). After a federal-provincial government-mandated Environmental Review, which included public consultations, the review panel recommended the project not be allowed to go ahead because of significant adverse environmental affects.[67] The then government of Nova Scotia had a choice to accept the project and impose conditions, or reject it; it accepted the environmental review panel's recommendations and rejected the proposed project by Bilcon.[68]

The company filed a NAFTA investor-state claim for $188 million for loss of potential profits, plus fees and associated expenses with the case. Several documents have been submitted to the NAFTA tribunal to date, but no hearing has been held.[69] Bilcon claims the conduct of the environmental review process was flawed; that the Environmental Review took "an unreasonably long time," "was politically motivated and carried out in a biased and partial manner."[70] Bilcon is particularly displeased with what they call a ruling that was outside of the Panel's mandate because it considered the community's 'core values'.[71] The Panel did indeed conclude that "The proposed injection of an industrial project into the region would undermine and jeopardize community visions and expectations, and lead to irrevocable and undesired changes of quality of life."[72]

In this case, Nova Scotia will be represented by the federal government and may well still have to cover a portion of any costs of the settlement. Given the federal government's actions regarding Abitibi Bowater, our government should be very concerned. With more than $188 million on the line in one case, the possibility of serious repercussions exists for the Nova Scotia government and possibly the municipality if the provincial government insists that it repay some portion or the entire claim.

government by American companies. The Canadian government has already been forced to pay over $157 million of taxpayers' money to these companies and their shareholders and incurred millions more in legal costs.[66] An example of such a claim is the one by a private American company (Bilcon) challenging environmental assessment and regulation by the governments of Canada and Nova Scotia (see text box).

In 2012, the then Australian government developed a policy that it would no longer sign agreements containing investor-state dispute settlements. The rationale for that decision was: "the Government does not support provisions that would confer greater legal rights on foreign businesses than those available to domestic businesses. Nor will the government support provisions that would constrain the ability of Australian governments to make laws on social, environmental and economic matters in circumstances where those laws do not discriminate between domestic and foreign businesses."[73] After thorough and careful consideration of the costs and benefits of the investor-state resolution system, the Australian government concluded that it is a threat to government autonomy and democratic decision-making. Any assessment of the CETA investment provisions and investor-state dispute resolution mechanism by the Nova Scotia government must take this into consideration.

Restricting Public Policy in Nova Scotia

Free trade deals are designed to protect and encourage competition, which in effect has meant the private delivery of services. This is of particular concern for public service sectors that currently have weak regulations or where provision of services is significantly commercialised.[74] At this point, nothing in the CETA will force a government to privatize or deregulate services. However, any new initiatives or reform to current programs or services must be liberalized and cannot limit the rights of foreign investors and service providers in any limited or incremental way.[75] In addition, specific sections of the CETA such as related to changes to Intellectual Property Rights can have far-reaching effects on public services.

To understand the extent to which public policy could be threatened by the CETA, consider this conclusion to an article about private investor challenges regarding feed-in tariffs:

> Governments should also be aware that making long term commitments with respect to tariffs and other benefits to stimulate investment in the renewable energy field can lead to expensive international arbitration down the road, as can be seen in the claims brought against cash-strapped European countries. Governments should take care to build in flexibilities at the outset so as to eliminate the risk of legitimate policy decisions triggering legal battles, while at the same time providing adequate assurances to the investors.[76]

Governments as well as private companies need to strengthen their efforts to ensure that local communities experience clear economic, social and environmental benefits from investment. Instead, the trend to increasing litigation is a serious disincentive, no matter whether there is a very real threat or not. Instead, the trend to increasing investor-state litigation and the risk of substantial payouts of public money are chilling policies that support local development or respond to a public need. For example, in the face of threats by the foreign insurance industry to sue under international trade treaties, the New Brunswick government chose to reject the recommendations of an all-party legislative committee made in 2004 to adopt a public auto insurance system.[77] Other examples of the narrowing of policy space are very troubling for example with regards to fair drug policy.

Health Care and Fair Drug Policy

According to the Canadian Institute for Health Information (CIHI), costs for pharmaceutical products are increasing. Drugs continue to represent the second-largest share of total health care spending after hospitals, accounting for an estimated 16% of the total health care bill in Canada.[78] The independent SIA study commissioned by the EC concludes that:"the CETA will likely have significant adverse impacts on consumers of pharmaceutical products in Canada."[79]

The people of Nova Scotia spend more per capita on prescription drugs than almost anyone else in the country (only residents of one other province spent more). Spending on prescription drugs has nearly doubled in the last eight years.[80] The Nova Scotia Government identified three contributing factors for these increases: (1) more Nova Scotians are enrolling in the Pharmacare programs (Family and Seniors); (2) people are taking more medications; and, (3) medications are costing more.

This third factor will be affected by the demand of the EU to provide greater patent protection for the brand name manufacturers of drugs, many of whom are located in Europe. Currently, generic drugs make up only 40 per cent of the total cost of the province's Pharmacare program despite being used for 60 per cent of the total number of prescriptions provided. Brand name drugs are used less often, yet represent 60 percent of the total program costs.

The Province of Nova Scotia has developed a fair drug pricing plan that allows for even further reductions in the price paid for generic drugs. The Province has also been engaged in discussions with other Atlantic provinces to establish a bulk purchasing agreement to further reduce the cost of pharmaceuticals.

When the province introduced the Fair Drug Pricing Act[81] and it was debated in the Law Amendments Committee, the Canadian Generic Pharmaceutical Association (CGPA) presented a submission. The CGPA was concerned any savings made by the Province with respect to the legislation would be "simply transferred to brand-name drug companies based in Europe".[82] The

CGPA also referred to a study it commissioned which estimated the changes to Canada's drug patent system proposed by the EU would add approximately **$70-million annually** to Nova Scotia's prescription drug costs.[83]

Under the CETA, pharmaceutical industry patents would last longer, delaying the entry of cheaper generic drugs into the market. Brand-name pharmaceutical companies claim they deserve longer patent protection to reward them for research and development spending. Yet pharmaceutical companies spend very little of their vast profits manufacturing products, or engaging in research and development — only about 7.5% of sales revenues in Canada.[84] Even if there might be some gains in research and development, these are unknown given that there are no guarantees and no way for the public to hold these companies accountable. There are other less expensive ways to encourage this kind of investment.[85]

Regarding the broader health care system, no province has reserved any health care measure under either Annex I or II; all are relying on the federal government's reservation to cover any issues that may arise. The federal government does have health care listed as an Annex II reservation, but this reservation is qualified and states it is excluded "to the extent that they are social services established or maintained for a public purpose".[86] The reservation exposes future policy and regulatory measures to trade challenges and foreign investor claims.[87] The Romanow Commission on the Future of Health Care recommended that Canada negotiate a new and more effective exemption for health care in all future trade and investment agreements.[88] It could be similar to the cultural exemption which already exists in the Canadian bilateral trade agreement, which would stipulate that "nothing in the CETA shall be construed to apply to measures adopted or maintained by a party with respect to health care or public health insurance."[89]

Supporting Local Food Systems

Nova Scotia has an active agricultural industry consisting of twenty-four different sectors, governed by various boards and associations. Nova Scotia has approximately 250 dairy farmers producing over 165 million litres of high-quality milk each year. This represents revenue at the farm of approximately $120 million per year, and over 550 on-farm jobs. The dairy farmers primarily supply the "liquid" market, but also supply the province's six processors and two producer/processors with milk to make yogurt, ice cream, cheese, butter, and skim milk powder.[90]

Family farms and a strong agricultural sector are important to Nova Scotians — for our economy, our food security and our food sovereignty. The agricultural sector employs about 6600 people (2010),[91] 2000 farms[92] and net farm income is $24.8 million.[93] Protecting and extending our ability to develop local, sustainable, accessible and affordable food should be a priority for our provincial government. While our governments have undertaken some positive initiatives to do so, these may be threatened by the CETA.

The federal government has indicated it intends to protect systems of supply management in operation in the provinces of Canada. However, the recent experience with the Canadian Wheat Board both in process and outcome puts this into doubt. This board was a mandatory marketing board for wheat and barley in Western Canada, but the federal government recently turned it into a voluntary option for farmers.[94] The legislation required a democratic vote of farmers in order to institute this kind of change. The federal government ignored the results, in which a majority of farmers voted against the change.[95] Skepticism is high and likely warranted about the degree to which the supply-management system will be protected by this federal government at the CETA negotiating table.

At its simplest, supply-management matches supply with demand. The system in place in Canada is "a complex one involving an array of policies, formulae, and actions to set prices and production levels."[96] The aim of these supply management systems is "to provide efficient producers with fair returns and to provide Canadian consumers with an adequate supply of the product at reasonable prices."[97] In addition to setting prices for which farmers will be paid for their supply, it also sets production levels. The other key element of the system is restricting imports, which involves setting quotas and high tariffs to allow domestic producers an opportunity to provide for consumers.

Nova Scotia has supply management arrangements for poultry production (chicken, turkey and eggs specifically). Producers are required to have a license which sets a quota on their production. Chicken producers negotiate the price to be paid to processors, while turkey and egg producers have the authority to set their own price. In 2007, poultry farm cash receipts represented 33% of Nova Scotia's total livestock and products output, approximately $85 million per year.[98]

The evidence in support of this system is clear. As the Chair of the Dairy Farmers of Nova Scotia said in defense of the supply-management system of the dairy industry, "In Nova Scotia, the agricultural industry as a whole is struggling. Our hog industry is all but wiped out, the beef industry is struggling, yet the dairy industry is stable, and a much-needed contributor to the rural economy."[99]

Supply management systems encourage farmers to work together to grow the food and products Nova Scotia consumers need, when they need them. They create a reliable supply of quality food at reasonable prices for the buyer, while at the same time providing farmers with a fair return on their agricultural production that reflects the real costs to bring goods to market. This fair return allows farmers to re-invest in the farms as needed. It allows farmers to live and work in their communities. It allows controls on imports for quality as well as product. It means residents of Nova Scotia don't suffer from sudden price shifts as a result of shortage or excess.

Even if the supply-management system itself is not directly on the table, it could effectively be undermined by allowing the EU greater access to the Canadian dairy markets. The independent study of the sustainability impacts of the CETA concludes that in regards to dairy: "Significant degrees of liberalisation would substantially benefit the EU, while leading to declines in output and domestic market share in Canada."[100] Currently, imports account for only about 5% of dairy products consumed in Canada. The EU wants to be able to sell its cheese and industrial milk products (milk protein concentrates and milk powder). It is critical to ask what supports will be available for Nova Scotia farmers to ensure that they can withstand an increase in European imports or to enable them to access the European markets at the same level.

The potential changes to existing supply management systems introduce greater uncertainty to a fragile part of the Nova Scotia economy at a time when fuel prices and shipping costs are increasing. In addition, they come at a time when there has been some positive initiatives to support local producers. Over the last decade, there has been a slow proliferation of local farmers' markets, and an increase in 'buy local' initiatives. The province of Nova Scotia and many municipalities have increased their support for local food systems.[101] The CETA may allow EU companies to bid on contracts offered by Nova Scotia communities, schools, universities and hospitals for food services, jeopardizing local food initiatives and denying an important economic opportunity for local farmers.

Farmers are also worried about the intellectual property rights provisions of the CETA. The proposed trade deal contemplates extraordinary powers for poly-chemical companies such as Monsanto or Bayer against farmers who are suspected of violating a patent for a seed, including seizure of the farmer's seed, land, equipment and bank accounts pending court litigation. Prison terms are even contemplated if a farmer is found guilty of violating an intellectual property right by planting genetically modified seed.[102]

Developing Renewable Energy

Proclaimed in 2007, Nova Scotia's Environmental Goals and Sustainable Prosperity Act[103] seeks to make our province one of the most environmentally and economically sustainable places to live in the world. This legislation pledged to reduce greenhouse gas emissions in Nova Scotia to at least 10% below 1990 levels by 2020. In 2009, Nova Scotia released the Greenhouse Gas Emissions Regulations[104] to establish absolute GHG emission caps on the electricity sector. Further, amendments were made to the Air Quality Regulations[105] to set new, tighter limits on Nova Scotia Power Inc., sulphur dioxide and nitrogen oxide emissions for 2015 and 2020.

One of the ways governments are seeking to mitigate climate change is by increasing the amount of renewable energy they use. In 2010, Nova Scotia's Renewable Electricity Plan[106] set out to move Nova Scotia away from carbon-based electricity towards greener, more local sources. Nearly 90% of the province's electricity supply currently comes from fossil fuels — most of it coal. By 2015, 25% of Nova Scotia's electricity will be supplied by renewable energy sources. The Province hopes this will reach 40% by 2020, although this is not yet legislated.[107]

As with other governments, feed-in tariffs do figure in the NS government's plans as a way to stimulate investment in the sector. Feed-in tariffs in Ontario have been raised in several international trade disputes because private companies claim they are a form of government subsidy (e.g. governments offer a guarantee price for the electricity produced; typically higher than market price). They are often tied to provisions for sourcing some materials locally.[108]

The Nova Scotia government has been actively supporting developments of various types of alternative energy and power. For example, as of 2010, wind energy produces 3.2% of electricity in Nova Scotia with 160 wind turbines throughout the province. However, wind has the capacity to provide up to 14% of Nova Scotia's electricity requirements, making it the highest "capacity to peak load ratio" in Canada. Production of wind turbines is also an industry in NS. With financial assistance from the NS government, Daewoo has set up a plant to build wind turbines, and is providing work for about 100 staff.[109]

The Province has based much of its *JobsHERE*[110] strategy on the development of these alternative energy sources creating companies and jobs in Nova Scotia. Given the significant public funding provided for the development of these alternative energy sources in our province, there is concern the CETA will allow non-renewable European energy companies to claim that NS renewable energy producers receive an unfair advantage as a result of the government's support for renewable energy. The EU is currently challenging the Green Energy Act in Ontario to the WTO and is pressuring Ontario to abandon its local content preferences and ensure that its government agencies responsible for energy purchasing and policy are covered (which were excluded at the WTO level).[111] If the province is to continue to be able to take measures ensuring that public investment in renewable energy actually results in local jobs and local community benefits, then it must fully exclude the renewable energy and electricity sector from both the government procurement and the investment and services obligations of the CETA. Any reservations must protect both existing, non-conforming measures and future policy flexibility.

Protecting Public Post-Secondary Education

The federal government has reserved public education in Annex II, however any privately-run education programs would be covered by the CETA. Given the decreasing amount of public funding being made available for post-secondary education, there is some concern that this sector will be opened up to private companies. This sector is significant to the NS economy. The NS government's recent O'Neill Report was commissioned to examine the state of our post-secondary system in the province, including the public cost. It concluded that Nova Scotia universities accounted for approximately $259 million in annual spending on research and development. The O'Neill Report recommended some of the public funds currently going to post-secondary institutions be given to private, for-profit companies to offer services such as financial administration, human resource management, and registration services.[112] If this recommendation was followed, under the CETA private European companies could bid for these services.

The CETA would go further than any previous Canadian trade and investment agreement in fully covering private education services. For example, the services and investment obligations of the CETA, which go beyond those in the NAFTA, would, among other things, prohibit governments from limiting the number of service suppliers or restricting the legal form of service suppliers in committed sectors. For example, if a European or U.S. corporation wished to set up a privately funded business or for-profit school in Nova Scotia, the government would be powerless to prevent this. Similarly, the provincial government would be unable to require that universities, colleges or other post-secondary institutions be incorporated as not-for-profit entities in order to be recognized as degree-granting institutions. It would also become far more difficult to regulate private, for-profit on-line educational providers, for example by requiring they have a minimum local presence such as teachers, administrative facilities, or libraries within the province.[113]

Preserving Public Monopolies

Two of the areas for which Nova Scotia requested Annex I reservations are alcohol and gaming: both monopolies provide significant revenue for the province, bringing in about $350 million in revenue per year to the provincial government treasury. The NS Liquor Commission (NSLC) alone had $559 million in sales last year.[114] If a future Nova Scotia Government decided to give up its monopoly and allow private businesses to sell alcohol, the reservation would no longer apply. The NSLC would be prohibited from enforcing additional 'buy local' provisions, such as it has challenged the liquor commission from doing in Ontario.[115] EU producers and exporters recognize that they would likely benefit from the removal of "discriminatory" or local practices in place at the provincial level that are implemented through the Liquor Control Boards. While the SIA report concludes that there may be a negative impact results with a decrease in the domestic market share, the EU is not asking that the liquor boards be dismantled because they play an important role in public health.[116] Without an Annex II reservation, the ability for the NSLC to institute these kinds of 'buy-local' future measures would violate the CETA and if the monopoly is privatized, it could not be returned to public distribution.

Conclusion

The Comprehensive and Economic Trade Agreement (CETA), currently being negotiated, represents a new generation of trade agreements. The scope of the negotiations is broader than previous agreements and includes matters that are only peripherally related to trade. Never before have international trade agreements been extended as fully to provincial and municipal governments or crown corporations. In fact, the CETA goes further than any previous Canadian bilateral, regional and multilateral trade and investment agreement in seeking to remove any regulatory-type measure interpreted as shielding domestic markets from international competition. The nature and scope of this agreement are cause for concern for Canadians and for the province of Nova Scotia in particular.

The lack of transparency about the specifics, the complexity of the CETA negotiations and the lack of up-to-date specific data related to Nova Scotia, made this analysis difficult to undertake, but all the more important. Without further evidence to the contrary, this report concludes that the probable costs of the CETA greatly outweigh the benefits for Nova Scotia. Merely opening up the possibility for greater competition in Europe will not automatically create economic benefits for Nova Scotians. It is more likely to mean that European companies have easier access to Nova Scotia consumers and public spending.

The CETA will provide European companies with opportunities to bid on government procurement opportunities and prevent public institutions from including social, economic or environmental requirements on these purchasing contracts. Losing the ability to focus on local procurement is a lost opportunity to decrease the economic and environmental costs of shipping, boost local economies by allowing more money to circulate in the local economy longer, facilitate local employment, and generate income that contributes to the local tax base.

Some of those who are now raising red flags about the CETA had initially thought that "a CETA could serve as a more socially responsible counterweight to NAFTA."[117] Robert Finbow dissects this possibility in his research on the impact of the CETA and concludes "the EU has essentially taken a "hands-off" approach to labour and social elements, suggesting these are an internal matter for Canada's governments."[118] Moreover, "the EU has made plain that its new generation of FTAs are to be based on criteria of economic advantage, not broader political agreements to promote shared values and social conditions."[119] A faint hope exists that the EU standards will positively influence Canadian labour standards. However, it is more likely the EU's competitive advantage will cause Canadian companies to look for labour cost savings thus negating these gains.

In Nova Scotia the CETA could also adversely affect agriculture, in particular undermining supply management systems and local food systems. It could also threaten renewable energy initiatives. It may also significantly increase the price we pay for pharmaceuticals, and open up post-secondary education to greater numbers of private companies. All of these sectoral examples could have serious implications for our province and should not be left to be undermined by an international trade agreement. They should be part of an ongoing public dialogue wherein the public is presented with information and data about the impacts of the CETA including the details of what is being negotiated.

Notes

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2 Department of Foreign Affairs and International Trade Canada, Canada-European Union Joint Report: Towards a Comprehensive Economic Agreement. (Ottawa: Government of Canada, 2009) http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/eu-ue/can-eu-report-can-ue-rapport.aspx?view=d

3 Jim Stanford, *Out of Equilibrium*. (Ottawa: CCPA, October 2010). http://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2010/10/Out_of_Equilibrium.pdf) and Library of Parliament http://www.parl.gc.ca/Content/LOP/ResearchPublications/2010-53-e.htm as well as CUPE's analysis http://www.cupelocal1091.com/CETAMythsEN.pdf and the Council of Canadians: http://www.canadians.org/trade/issues/EU/index.html

4 Scott Sinclair, Negotiating from Weakness: Canada-EU trade treaty threatens Canadian purchasing policies and public services (Ottawa: Canadian Centre for Policy Alternatives, 2010).

5 Stanford, IBID, 2010. See also John Jacobs, *Straightjacket: CETA's Constraining Effects on Ontario* (Toronto: CCPA-Ontario, 2012).

6 The issue of CETA and the fishery will be the subject of a separate and fuller analysis forthcoming in another CCPA research report by Scott Sinclair.

7 Stanford, IBID, 2010, p. 18.

8 Stanford, IBID, 2010, p. 18.

9 Stanford, IBID, 2010, p.6.

10 Development Solutions, *A Trade Sustainable Impact Assessment (SIA) Relating to the Negotiations of a Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada*, Final Report. (June 2011) http://trade.ec.europa.eu/doclib/docs/2011/september/tradoc_148201.pdf; Here to after referred to as SIA *Final Report*. See also: Annex to the Report http://trade.

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11 SIA Final Report, Ibid, p. 29. The social indicators include: (p.29): Wages/income: Equity in wages, worker displacement levels and ability to shift among occupations, strength of collective bargaining, quality of work environment in terms of health and safety. Other: -strength of institutional and regulatory environments, policy space, poverty levels, public safety, access to and/or quality of healthcare, access to and/or quality of education, rate of technological advancement/innovation.

12 European Commission Directorate-General For Trade, Ninth Report on Potentially Trade Restrictive Measures, September 2011 – 1 May 2012. (Brussels: (European Commission, June 2012). p.4. http://trade.ec.europa.eu/doclib/docs/2012/june/tradoc_149526.pdf

13 Alexandre Gauthier and Michael Holden, *Canada-European Trade Negotiations. 6. Government Procurement* (Ottawa:Library of Parliament, September 2010). http://www.parl.gc.ca/Content/LOP/ResearchPublications/2010-57-e.htm Note that this is a series of briefs, the other subjects covered in this series are market access in agriculture, non-agricultural market access, trade in services, investment protection, technical barriers to trade and regulatory cooperation, intellectual property protection, labour mobility and dispute settlement. http://www.parl.gc.ca/Content/LOP/ResearchPublications/business-e.htm

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