Executive Summary

Investment

The CETA contains an investment protection chapter and accompanying investor-state dispute settlement mechanism (ISDS), which together give foreign corporations the right to seek compensation from governments, outside of the regular court system, for measures that may hurt the value of an investment. ISDS is controversial globally for its increased use by investors to challenge environmental protection measures, public health regulations and other public interest legislation. Under similar investment protections in the NAFTA, Canada has already paid out more than $170 million in damages and is facing billions of dollars in current ISDS claims related to resource management, energy and pharmaceutical patents.

The CETA financial services chapter will hamper financial regulators charged with protecting consumers and the overall stability of the financial system. Foreign investors have broader rights to challenge financial regulations through ISDS. A "prudential carve-out" in the agreement does insulate "reasonable" financial regulation from challenge, but this protection is both procedurally and substantively weaker than what is found in the NAFTA. The CETA also restricts certain non-discriminatory financial regulations, such as limits on the size of firms or the growth of risky financial instruments.

Public Procurement

Canada has agreed to cover almost all public procurement by provincial, municipal and MASH sector entities, and by Crown corporations, significantly expanding commitments recently made in the WTO Agreement on Government Procurement.

Covered public entities will be prohibited from applying local content or local training requirements on purchases of goods, services or construction projects over certain low thresholds, from setting aside a portion of spending for local businesses or social enterprises, or from otherwise using public procurement for local development objectives.

Regional development exceptions from previous Canadian trade agreements have been watered down to satisfy EU demands for unconditional access to Canadian procurement markets. These exceptions will only apply to projects in some provinces that cost less than $1 million, are not federally funded, and do not encourage development in an urban centre.

Public Services

The CETA provides multiple grounds for public services to be challenged. The CETA locks in current and future privatizations and could discourage governments from introducing new public services.

Existing liberalization and deregulation of postal services in Canada will be frozen by an inadequate Annex I reservation for existing non-conforming measures, giving future governments little room to reverse this deregulation or expand postal services into new areas.

The negative list approach adopted in the CETA means all public services are covered by these provisions unless explicitly carved out by negotiators. The "list it or lose it" character of these commitments is a high stakes gamble with public services.

The CETA adopts the inadequate protections for public services found in other trade agreements, and compounds the threat to public services by extending the scope of the agreement to new areas.

Regulation

The CETA imposes new obligations on governments in Canada and the EU that will restrict their ability to regulate. Certain types of non-discriminatory regulations are restricted by the agreement, even though they are unrelated to trade.

The CETA imposes requirements on governments to provide corporations with licensing procedures that are "as simple as possible" and do not "unduly complicate or delay" their activities. The public interest in thorough assessments will be sacrificed to the benefit of corporations in construction, mining, oil and gas, and other sectors where applications often invoke public opposition.

The CETA includes a regulatory co-operation process that will further tie the hands of governments by requiring them to consult with foreign governments and investors before instituting new trade-related regulations. The process will be housed in a new body, the Regulatory Cooperation Forum, which is only vaguely defined and appears to be open to the direct influence of corporate lobbyists.

Negotiators failed to include a general exemption for culture in the CETA. The cultural exemption is limited to five of the CETA's nearly three dozen chapters. This exemption is weaker for the EU than it is for Canada.

Intellectual Property Rights

The changes to Canadian patent protection for pharmaceuticals required by the CETA will delay the availability of cheaper, effective generic drugs, driving up health care costs for Canadians. The additional cost of extended patents is estimated at a minimum of $850 million annually, or 7% of total annual costs for patented drugs.

The CETA expands protections for European geographical indications. These provisions will prevent Canadian companies from using dozens of specific food names, especially for wines and cheeses.

Most of the initial, aggressive EU demands on copyright and related rights have been withdrawn from the CETA final text, which is broadly consistent with Canada's *Copyright Modernization Act*. While not perfect, the Act strikes an important balance between the rights of creators to protect and benefit from their works, and the rights of users to access copyrighted materials for non-commercial purposes, including personal use, education and research.

Trade, Tariffs and Transport

Official projections acknowledge that tariff elimination under the CETA will increase Canada's substantial bilateral trade deficit with the EU. The CETA can also be expected to deepen Canada's disproportionate reliance on exports from extractive industries such as mining and oil and gas relative to higher-value-added manufacturing.

European-made vehicles will gain a 6.1% price advantage as a result of ending Canadian tariffs on automotive trade. The existing large trade imbalance in this strategic industry will get wider with negative implications for the Canadian industry, which is still struggling to recover from the devastating impacts of the last decade. The 2013 market share for European-made vehicles in Canada was at least 100 times larger than the market share of Canadian-made vehicles in Europe. To the extent that companies producing vehicles in Canada experience greater sales in Europe, they are likely to meet that demand from European facilities, not Canadian plants.

The CETA would change the *Coasting Trading Act* to weaken existing Canadian cabotage laws, which currently stipulate that all ships conducting shipping between Canadian ports must be flagged in Canada with crews trained and certified in Canada. The CETA does not appear to dramatically alter the provisions of the 2009 Air Transport Agreement, which largely liberalized air transportation between Canada and the EU.

Agriculture and Food Sovereignty

Despite official claims, the CETA is unlikely to result in significant increases of beef or pork exports from Canada to Europe, since the EU is itself a major exporter of both products. The agreement will almost certainly lead to greater cheese imports from the EU, through a near-doubling of the quota for EU cheese. It is estimated that this will cost Canadian dairy farmers 4% of the domestic cheese market.

Expanded intellectual property rights for multinational seed companies will increase seed costs and undermine farmers' autonomy.

The CETA threatens food sovereignty by increasing the likelihood that buy-local food purchasing programs at the provincial and municipal level will be curtailed because they violate the agreement's procurement obligations. Canada could have reserved the right of hospitals, municipalities and other public bodies to adopt minimum local food requirements in publicly run institutions but failed to do so.

Workers and the Environment

The CETA will give new rights to corporations to move certain categories of workers across borders. These workers are exempt from economic needs tests and other measures designed to ensure a strong and stable domestic labour market.

Although the CETA contains language on workers' rights, it does not include an effective enforcement mechanism to ensure that workers' rights are respected.

The ISDS mechanism and other deregulatory rules in the CETA threaten existing and future environmental regulations. The CETA contains a chapter on sustainable development, but like the labour chapter its language is aspirational and not enforceable.

With limited exceptions, the CETA treats water as any other tradable good, and the delivery of water as it does any other commercial service. After considerable public pressure to exclude water services from the agreement, Canada and the EU have taken broad Annex II reservations for market access and national treatment obligations with respect to the collection, purification and distribution of water. These reservations give governments the authority to restore public monopolies, where water privatization has failed, but foreign investors can still challenge this decision under the fair and equitable treatment and the expropriation provisions of the investment chapter. The CETA does not provide adequate protection for what should be a universal right: affordable, publicly delivered water and sanitation services.