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Presentation to Toronto City Council, Executive Committee
Re: Canada-European Union Comprehensive Economic and Trade Agreement

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February 13, 2012

The Council of Canadians is Canada's largest citizens' advocacy organizations with tens of thousands of members across the country. We don't seek or receive any government or corporate money to do the work we do. I'm speaking in my capacity as a trade researcher and campaigner with the Council, though most of our advocacy work, whether on trade, or environmental or health issues, is carried out by volunteer chapters with strong roots in their communities.

The Comprehensive Economic and Trade Agreement, or CETA, is unique among Canada's recent bilateral free trade agreements in that CETA will have the most impact on people and policies here at home. Like any free trade deal, CETA is only marginally about lowering tariffs, which are on average very low for Canadian goods entering the EU market and vice versa. These negotiations address "behind the border" policies that one side or the other would like to see changed.

In the areas of public procurement and intellectual property rights protection, it's not an exaggeration to say that Canada is being asked simply to adopt European norms. Both of these areas involve policy changes imposed from outside, through closed-door negotiations, and not the kind of internal political debate we should demand from our elected leaders.

As the staff report before you explains, municipal procurement – or the tendering of goods, services and construction projects – is an important part of the CETA negotiations and something new for Canada. Also new will be the extent to which municipally delivered services, such as drinking water and wastewater, garbage collection, transit and other services will be bound by investment rules that will limit municipal policy space in the future.

The European objective is first to pick up more government contracts in Canada for big ticket items – for example, transit and energy projects, major construction and other infrastructure projects. And second, to lock in existing European investment in the service sectors mentioned above. A powerful investor-to-state dispute settlement mechanism planned for the CETA will allow firms to bypass Canada's court system to challenge municipal and provincial decisions before non-transparent arbitration panels.

I will speak mainly to the possibility of Toronto being bound by procurement rules in the EU deal. Last July, Canada exchanged procurement and goods offers with the EU at a meeting in Brussels. The offers were not made public but previously leaked EU demands show that they are seeking to cover all major Canadian municipalities in the procurement chapter.

If that is the case, the CETA would forbid the City of Toronto from applying “offsets,” defined as any condition designed to encourage local development, on public spending over certain thresholds. Local content or hiring quotas fall into the category of forbidden offsets and will be vulnerable to legal or trade challenges from losing bidders. “Buy Canadian” policies will be outlawed forever, depriving cities of a seldom used but effective job-creating tool employed quite freely by cities in other parts of the world, including extensively in the United States.

The thresholds that Canada and the EU have apparently agreed to are around $300,000 for goods and services, and $8 million for construction. The federal government claims the bulk of municipal tenders fall below those values. That may be true for the number of bids. But according to officials at the Ontario Ministry of Economic Development, 80 per cent of the *value* of province-wide procurement will be covered by CETA’s restrictions. These are the big ticket items where offsets or incentives create the most beneficial spinoff effects in the community.

The Toronto staff report lists some examples of where the City already applies offsets, including the local food purchasing policy, local hiring requirements, and the 25 per cent local content quote on transit. In the United States, many cities go a step further by favouring the in-state option on contracts even if it costs 10 per cent more than the lowest bidder, as long as the local company meets all the other technical requirements.

I am not advocating this way of spending public money all the time. I offer it as an example of how procurement policy could apply local employment and manufacturing preferences in a completely transparent, up front way. If this made sense in Toronto only occasionally, you would like to know you had the option. CETA takes away that option. The EU also typically seeks to eliminate set-asides for small- and medium-sized businesses in its trade agreements.

Toronto’s procurement practices are already fair and transparent. You can decide to open tenders widely to foreign and local bidders if increased competition is your objective. You are already bound by the Agreement on Internal Trade, which forbids discriminating against out-of-province firms. But these internal trade deals allow for Canadian preferences and they do not expressly forbid cities like Toronto from considering offsets or local benefits when choosing a winning bid. The CETA does – it is new and therefore deserving of much more scrutiny by local and provincial governments and by the public.

Procurement commitments in international trade agreements are rare for sub-federal governments, and many countries avoid them altogether. Canada had until recently avoided including provincial government spending under the WTO Government Procurement

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Agreement, or GPA, which has about 40 member countries, most of them in Europe. Canada still does not include municipal governments in its WTO procurement commitments.

Other countries currently pursuing free trade deals with the EU have challenged some of the same procurement and services demands being asked of Canada. These countries see few benefits but many risks to home-grown industry and workers. In the recently announced EU-South Korea free trade deal, the capital city of Seoul made sure to protect its right to give some preferences to local small- and medium-sized businesses in public contracts.

We have no indication the Province of Ontario is considering even this small exception for municipalities in the CETA. But, based on documents leaked publicly this January, we do know the McGuinty government has asked to preserve its policy space in the area of renewable power.

Ontario negotiators are seeking to protect the Green Energy Act, which allows the province to require up to 60 percent local content on solar power in return for its feed-in-tariff rate. The province is right to hold onto that policy space, to try to shield it however imperfectly from trade challenges. But shouldn't Canadian cities have that right also?

A growing number of Canadian municipalities are concerned enough about this EU trade deal to request to be excluded, at least from the procurement chapter and preferably from investment rules that will restrict policy space in many areas related to municipally delivered services. The Council of Canadians strongly encourages the City of Toronto to take the same position by passing the motion before you. We think seeking an exemption is the cautious thing to do, if only until councillors have had a chance to see everything on the negotiating table affecting municipal policy and been given a say in what should be taken off that table.

Thank you very much.

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