



Emily Sheff

Hundreds of people joined the protest against CETA last October as negotiators met for a fifth round of trade talks in Ottawa. Concerns have been expressed over the deal's sweeping impacts on local decision-making.

CETA's High Toll on Health Care

Free trade with the EU would make health care less affordable and increase the role of the private sector



by **Stuart Trew and Adrienne Silnicki**

The wheels are starting to fall off the CETA bus. By CETA, we mean the Comprehensive Economic and Trade Agreement Canada is pursuing with the European Union. Just a few months ago, not many Canadians had heard of the deal, but it's now ringing alarm bells for members of the public, some governments and even the private sector. Billed by the Harper government as Canada's most ambitious trade agreement to date, CETA is proving too costly for Canadians.

Perhaps nowhere is this more obvious than with respect to public health care in Canada. While governments of both Canada and the EU claim they will protect public services in CETA, the truth is EU demands related to pharmaceutical regulations in the services chapter will put unnecessary strains on Canada's public health system. These are not just casual requests from the EU negotiators. They are make-or-break parts of the deal, which put pressure on the federal government to agree. But the real question remains about what – if any – benefit they provide for Canadians.

I NEED A NEW DRUG (ONE I CAN AFFORD)

On February 7, the Canadian Generic Pharmaceutical Association (CGPA) released a report about the impacts CETA's proposed intellectual property (IP) chapter would have on Canada's legal and regulatory systems for pharmaceuticals.

The report finds that EU proposals on patent term extension and data exclusivity “will considerably lengthen the period of exclusivity for innovative drugs in Canada, so that Canada would have the most extensive structural protection of innovative drugs of any country in the world. Payers – consumers, businesses, unions and government insurers – would face substantially higher drug costs as exclusivity is extended on top-selling prescription drugs, with the annual increase in costs likely to be in the range of \$2.8 billion per year.”

These increased costs come from delays these extra protections for Big Pharma would put on the introduction of cheaper generic drug versions in Canada. The EU wants Canada to completely overhaul its pharmaceutical approval process to increase patent terms from 20 to 25 years, and extend data exclusivity terms from

8 to 10 years. EU negotiators, at the request of the powerful brand-name pharma industry in Europe, also want a new right of appeal under the Patented Medicines regulations of Canada's Patent Act. There is no comparable right in the EU, and brand name as well as generic drug companies already have ample opportunity under Canada's system to appeal regulatory decisions.

The report estimates these three new protections – patent term extension, data exclusivity and right of appeal – would delay the entry of comparable generic drugs into the Canadian market by, on average, 3.46 years, which translates into a \$2.8 billion hike in the cost of private and public drug plans. Consumers and businesses that offer drug plans will be hit hard. But about half of that astronomical figure would be carried by provincial, publicly funded drug plans as the provinces and territories scramble to reduce the ever-rising price of drugs.

The price of drugs continues to affect Canadians. According to Statistics Canada, 24 per cent of Canadians have no drug coverage at all and 8 per cent of Canadians claim that they did not fill a prescription in the last 12 months because they couldn't afford it.

BIG PHARMA NOT INTO RESEARCH

The intellectual property reforms proposed by the EU in CETA are financially unsustainable and unnecessary and should be rejected. They are based on heavy lobbying by the brand-name pharmaceutical industry to prolong monopoly patents and delay the availability of generic medicines. These companies, many of them branch plants of European and American multinationals, say that intellectual property protections are essential to supporting research and development (R&D) into new drugs. The reality is Canada's research-based brand-name drug companies do little research in Canada. These firms, which persistently rank high on lists of the most profitable global enterprises, rely heavily on tax subsidies, and spend three times as much on marketing as they do on innovative research and development.

According to the Patented Medicine Prices Review Board, the brand name

industry's R&D-to-sales ratio in Canada is a low 7.5 per cent. It is more than double that in the U.K. and France, where drug prices are 10 per cent lower than in Canada. The industry spends only 1.8 per cent of revenues on research that could lead to new drugs. So why is the Canadian public putting more subsidies into the pharmaceutical industry than they receive in benefits? Especially when it creates artificially high prescription drug prices that act as a barrier to essential medicine for millions of Canadians? The EU requests in CETA will thicken that barrier while draining provincial budgets and hurting the public.

AT THE SERVICE OF PRIVATE INSURERS

The health costs in CETA go beyond drugs. Trade deals are designed to protect and encourage the private delivery of services, including public services such as health care and water. Europe is home to many private health care providers and insurers that would benefit from any watering down of already weak protections in NAFTA for public health care. The link to NAFTA is that any new investment protections for these companies in Canada would automatically be extended to U.S. private health care firms as well. It would be a convenient way for the federal government to use trade commitments to force Canada's public health care system to private interests.

NAFTA has two built-in safeguards designed to protect Canada's public health system. The first, an Annex 1 reservation, was included in NAFTA in 1996 at the strong insistence of the Canadian Health Coalition. The safeguard was meant to address concerns about a problematic but potentially much stronger Annex 2 reservation, which allows governments to develop new health measures (policies, programs) that would otherwise be NAFTA-inconsistent. The fear then, as it is now, was that Annex 2 would create too much uncertainty about what was covered. For example, it was unclear whether the creation of a national pharmacare plan could be challenged by private health insurers already providing drug plan services provincially.

Scott Sinclair, Senior Trade Researcher with the Canadian Centre for Policy

Alternatives, says provinces will be asked to list all their non-conforming health measures for CETA negotiations, creating a very real threat that health services and measures accidentally left off the list, as well as any new measure or policy adopted after any deal is signed, will be vulnerable to trade and investment challenges from the EU and its health firms.

PROTECTING HEALTH CARE, PROTESTING CETA

The Romanow Commission on the Future of Health Care (2002) recognized the threat to health care from trade deals. It recommended that Canada negotiate a new, more effective exemption for health care in all future trade and investment agreements. Sinclair suggests this exemption could look a lot like the internationally coveted cultural exemption in Canadian bilateral trade agreements. A health exemption would stipulate that "nothing in CETA shall be construed to apply to measures adopted or maintained by a party with respect to health care or public health insurance," says Sinclair.

Public health care should not be undermined by services and investment provisions in CETA designed to privatize health and other social services. The provinces, territories and federal government need to completely reject the EU's intellectual property requests, which are guaranteed to increase drug costs and reduce the availability of generic drugs in Canada. Canadians cannot afford to pay more for drugs simply to satisfy the EU- and U.S.-based pharmaceutical lobbyists.

Most importantly, we need to continue to urge provincial and territorial governments to step back from the CETA negotiations in order to publicly assess their impact. The rationale for CETA has been undermined by recent assessments of its consequences for health care. But only concerted public pressure on our local and national decision makers will guarantee a full public airing of what's on the table, what should be taken off, and whether or not we should be negotiating a free trade deal with the EU at all.

Stuart Trew is the Trade Campaigner and Adrienne Silnicki is the Health Care Campaigner for the Council of Canadians.