

# Truth is the best weapon to combat the CETA paranoia pandemic

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The Council of Canadians and the Canadian Union of Public Employees (CUPE) are running a travelling medicine show – coast to coast in Canada.

They are knocking on doors peddling groundless and misinformed claims about the Canada–European Union Comprehensive Economic and Trade Agreement (CETA) in a crusade to recruit municipal councils across the country to their cause. And it has been working.

Many municipalities have succumbed to the alarmist claims of Council and CUPE spokespersons. More than 20 have joined this quixotic crusade. It risks reaching pandemic proportions. The municipalities range from Burnaby, B.C. and North Vancouver to Esterhazy, Saskatchewan to Tecumseh and Hamilton, Ontario to Baie Comeau, Quebec and Sackville, N.B. – and Montreal and Oshawa have jumped on the bandwagon.

Toronto City Council will be considering a “shelter our procurement from Europe” motion. But there is hope that logic, common sense and the truth about CETA will cure the disease. Earlier this week, Saskatoon City Council prudently rejected an Executive Committee recommendation to seek exemption from the CETA.

Keith Moen, Executive Director of the North Saskatoon Business Association, said “Although appreciative of the perceived intent of helping local business, such a move would actually do the opposite, as our business community collectively relies extensively on markets outside of Saskatoon.”

He added, “At a time when the eyes of the world are on Saskatoon and Saskatchewan for the abundant investment opportunities here, among the last things we should do is send a message to the international business community that they are not welcome in Saskatoon.”

Hopefully Toronto City Council will follow Saskatoon’s lead.

Municipalities cannot opt-out of an international trade agreement. Municipalities have no constitutional powers. Before anyone considers ignoring the rules, it is important to understand what is at risk because of CETA. The short answer is very little, if anything.

The principal bogeyman is municipal procurement. Municipal procurement above \$340,000 for individual contracts for goods and services and \$8.5 million for construction would be subject to

CETA tendering and rules. These are the thresholds in the WTO Government Procurement Agreement. International Trade Minister Ed Fast has suggested that the same thresholds will apply in the CETA.

Does CETA mean that municipalities need to establish new open and non-discriminatory procurement systems? Not at all. The Agreement on Internal Trade (AIT) already requires municipal procurement to be non-discriminatory and transparent on all contracts for goods and services above \$100,000 and all construction contracts above \$250,000.

The New West Partnership Trade Agreement (NWPTA) among B.C., Alberta and Saskatchewan reduces the thresholds to \$75,000 for goods and services and \$200,000 for construction.

These protections apply to all firms located in Canada, whatever their ownership. So it seems clear that the ability of municipalities to use procurement for local development is already constrained by internal agreements and much more severely than the CETA thresholds envisage. Systems are already in place for proper tendering. And procurement is subject to review on appeal to the Canadian International Trade Tribunal.

So, in return for the opening up of our municipal procurement contracting, how much E.U. procurement will Canadians be able to access? – only \$2.4 trillion. That is trillion with a “T”.

The Federation of Canadian Municipalities (FCM) has expressed

concerns about the application of CETA rules to procurements, and Ottawa has taken those concerns on board.

The other municipal concern is foreign investment in water services/wastewater services. I pointed out in an earlier column that:

- drinking water standards are a Federal responsibility;
- constitutional responsibility for water is vested in the provinces; and
- delivery of water and wastewater services and management are normally municipal government services.

The second bogeyman for municipalities is investor-state dispute settlement. Municipal actions are currently not excluded from NAFTA Chapter 11 investor state dispute settlement. Nor are municipalities required by CETA (or NAFTA for that matter) to privatize any services which they provide. Nor are provinces.

No one should object to CUPE trying to protect its members' livelihoods. That is Paul Moist's job and he does it well.

Where we part ways is that CETA will not put municipal employees' jobs at risk any more than they may be now. If municipalities decide to contract out services they have provided, there are no rules preventing contracting to any business in Canada. If foreigners invest in providing municipal services under contract, they will have a right to be treated fairly and equitably. How many Canadians really object to this?

There have been imaginative claims under NAFTA Chapter 11 – some of the claimants did not even have investments in the defending party. Arbitrators have been downright niggardly in their awards and have interpreted “tantamount to expropriation” — the basis for launching a case — very narrowly.

Ministers of all three NAFTA parties moved quickly under Article 1128 to affirm a narrower scope for international law than the negotiated text suggested.

Municipalities are much better protected in CETA because provincial representatives are at the negotiating table. City, town and village councils deserve the truth about CETA – it will have little effect on their activities; indeed, no potential effect which does not already exist.

Canadian municipalities should not buy into the unfounded fear-mongering of the 21st century P.T. Barnum-wannabes. It sends the wrong signal to Canada’s trading partners at a time when Canada so badly needs trade diversification and foreign investment.