

## **CETA/UPOV steamroller set to crush farmers**

*By Terry Boehm, National Farmers Union President*

Canada and the European Union (EU) are negotiating a new “free trade” agreement, the Comprehensive Economic and Trade Agreement (CETA).

This Agreement with the EU no small matter for farmers. The CETA, if implemented, will, as much as the NAFTA or WTO, transform Canadian agriculture and farms. And not for the better. The CETA will further intensify Canada’s farm income crisis.

The CETA would mean many changes, but none would be more negative or sweeping than its effect to extinguish farmers’ rights to save and re-use seeds. Worse, the Agreement would give farm-crushing enforcement powers to any corporation that asserted a farmer had infringed the company’s intellectual property rights (IPRs).

The CETA would require Canada to implement the “UPOV ’91” version of Plant Breeders’ Rights (PBR). That version of UPOV (the International Convention for the Protection of New Plant Varieties) would virtually eliminate farmers’ rights to save, reuse, and sell seed. (Intellectual Property chapter, page 249.)

How would UPOV ’91 do this? One way is to give PBR holders control over who can “condition” seed (they can ban seed cleaning by non-authorized persons) and who could stock the seed (i.e. storage and binning). UPOV ’91 would also give the PBR holder the power to collect royalties at any point in the food chain—so-called “cascade rights.” Cascade rights mean that if seed companies neglect to collect royalties from farmers, companies can collect those royalties down-stream, from grain companies or processors. Such provisions will create a chill among grain handlers and processors, leading to pressure on farmers to use more purchased seed.

Today, Canada’s PBR legislation is based on UPOV ’78. That standard is adequate for full compliance with all international obligations, including the WTO’s TRIPs agreement (Trade Related Intellectual Property Rights). There is no reason Canada needs to implement UPOV ’91. UPOV ’78 gives farmers latitude to save, reuse, and sell seeds. UPOV’91 does not, because the so-called “farmers privilege” in UPOV ’91 is trumped by other provisions. The inclusion UPOV ’91 in the CETA is unnecessary, and harmful to farmers. It is one poison pill among many contained in the CETA.

Further, the CETA goes beyond even the draconian powers of UPOV ’91 and includes additional Intellectual Property “protections” that will give seed companies the power to seize crops, farms, and seeding and harvest equipment, and freeze bank accounts if companies suspect infringement by a farmer. CETA’s IPR Chapter (Article 19, Paragraph 3, page 252.) states: "In the case of infringement committed on a commercial scale . . . the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including blocking his/her bank accounts and other assets." Article 23 goes on to state that an infringer may be required to

publicize the decision, including prominent advertising of the decision at the infringer's expense. Thus, biotech, pharmaceutical, pesticide, seed, and grain companies will gain powerful tools to force farmers to buy seeds at high prices on company terms, because even being *accused* of infringement could destroy a farmer. With powers such as those contained in CETA/UPOV, seed companies will gain significant power over who farms and how.

With regard to farm support programs, the CETA states: "The Parties agree to co-operate in WTO agriculture negotiations in order to achieve a substantial reduction of production and trade distorting domestic support" (Article 10, Paragraph 6, page 20.). This means that Canadian farm support programs will be cut. Further, programs such as supply management—which allow dairy, poultry, and egg producers to earn a decent living (in sharp contrast to the grain, cattle, and hog sectors)—will come under sustained attack. There is also a proposal to add a CETA chapter on State Trading Enterprises, which will undoubtedly take aim at the Canadian Wheat Board. The EU has not masked its hostility to this farmer-controlled marketer. Nor has the Canadian government. Transnational grain companies will be the beneficiaries of this agreement; farmers will be the losers.

Finally food safety will suffer under the CETA, which states: "official certificates or attestations shall be accepted without regular audit/inspection of the exporting parties' certification system, unless non compliance has been notified or at the start of a new trade."

The costs are high. But what of the benefits? Canadian farmers who produce GM crops are going to be severely disappointed if they think that European markets will open up for their crops as a result of the CETA. Because the Agreement says all European GM regulations are exempted from its provisions (Article 3, Appendix 1b, page 50). Cattle producers have nothing to gain. The WTO has already ruled Europe's ban on Canadian beef illegal; but the EU accepted the ruling and chose to pay the fine rather than accept our meat. As a "market access agreement," the CETA fails miserably.

The CETA's intent and effect is to erode food safety, end supports to farmers, and make sure intellectual property rights holders have powerful tools to control our food system, via control of seeds and other technologies. The wealth that companies will be able to extract from farmers and other citizens is enormous. The CETA/UPOV agreement represents a massive transfer of power and wealth, and thus, it must not be allowed. The public interest is clearly absent in spirit and letter of this Agreement. There is no reason we should sign it, ample reason we should reject it.