Joint statement on changes needed to CETA
by the European Trade Union Confederation and the Canadian Labour Congress

When negotiations first started on the Comprehensive Economic and Trade Agreement (CETA), trade unions on both sides of the Atlantic were hopeful. We knew that the negotiation of a free trade agreement between Canada and Europe – both developed regions – offered an important opportunity to demonstrate that it is possible to both expand trade links and maintain and even improve social, labour and environmental standards. We believed this was especially important given growing global consensus around the need to promote social cohesion and foster sustainable development.

CETA could indeed have become the new "gold standard" for global trade agreements.

Canadian and European trade unions called for transparent negotiations that included the full participation of labour and civil society. But after years of secrecy, the negotiated text was released, and we were told it was not open for debate or amendments.

But while there was very limited opportunity for discussion or debate in Canada, Europeans did have some opportunity to discuss and debate the deal. Civil society and trade unions there were able to raise serious concerns and win some amendments to Investor-State Dispute Settlement (ISDS) provisions in the deal.

While those changes were a good first step, we believe there's more work to do. Like all recent trade agreements, CETA still reduces the space for public policy, and constrains governments striving to provide services or regulate in the public interest.

As such, the ETUC and CLC are calling for five more changes to CETA, before it goes to a vote.

First, foreign investors cannot be granted special privileges not granted to domestic investors. The investor court system currently proposed still gives foreign investors remedies that would not be available to them under any domestic court system in Europe or Canada. There is no need for investor court systems or ISDS mechanisms between countries with fully developed and effective court systems.

Second, the proposed text lacks mechanisms for enforcing labour rights. CETA encourages – but does not require – participating countries to ratify and fully implement ILO core labour conventions. If participating governments really want CETA to be the gold standard for trade agreements, violations of its labour provisions must be subject to sanctions.

Third, we propose that the final agreement requires a full review of the merits and effectiveness of both the investment and labour provisions within a five years of ratification.

Fourth, CETA must contain a “positive list” for its service commitments and no ratchet or standstill clauses so that public services are fully excluded from the deal.

Currently CETA uses a “negative list”, requiring countries to list services they want excluded from the deal. This means that new or emerging areas of services, such as pharmacare or child care, would be automatically subject to the agreement. No responsible government can reasonably commit to privatization to default. Instead, a “positive list” would better protect the public interest by allowing countries to specify which services would be covered by the agreement.

As it stands, even when countries choose to protect specific public services by including them in reservations under “Annex 1”, they are subject to so-called “standstill” and “ratchet” clauses. This means existing privatization is locked in and public ownership cannot be expanded. In combination with the investor-state provisions, these clauses could prove to be a real and costly obstacle to future governments, at all levels, that may want to increase public involvement in services.

Lastly, local governments must maintain the right to attach social, economic and environmental conditions to public procurement. As it stands, CETA calls for “unconditional” access at all levels of government. This is excessive and unprecedented. Governments use public procurement to promote the public interest, by, for example, creating local jobs, providing training for local workers, promoting affordable housing, supporting local business and protecting the environment. If ratified as is, CETA will curtail local governments’ rights. This is especially troubling while governments everywhere are being called on to fight climate change and address economic uncertainty.

CETA will come into effect at a time of growing inequality, economic instability and an undeniable climate crisis. Any gold standard trade agreement must reflect that reality. Taking the time now to get this deal right will benefit local and national governments and their citizens in the long term, ensuring all parties retain greater policy and regulatory space.

Changes recently made to CETA’s ISDS provisions give us hope that the changes we propose are still possible. And unless these changes are made, we will call on our governments to reject the deal.