

**Protecting Ontario's Alcohol and Public Health Policies
in Negotiations on the Proposed Canada-EU Treaty**

Backgrounder Submitted to

**Alcohol Workgroup
Ontario Public Health Association**

By

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Protecting Ontario's Alcohol and Public Health Policies in Negotiations on the Proposed Canada-EU Treaty

Members of the Ontario Public Health Association (OPHA)¹ are concerned that negotiations between Canada and the European Union (EU) towards a Comprehensive Economic and Trade Agreement (CETA), designed to be more far-reaching than NAFTA,² could threaten public health in Ontario. We are concerned that the proposed treaty could interfere with provincial governments' ability to implement policies that reduce the substantial social and economic harm caused by alcohol consumption.

This backgrounder will assist us, and the public health community, in *urging the Ontario government to safeguard Ontario's alcohol policy flexibility so that it is not fettered by any new trade treaty provisions the current federal government may negotiate*. Ideally, beverage alcohol - and services and investments pertaining to beverage alcohol in Ontario - should be fully excluded from the application of the proposed Canada-EU treaty.

Alcohol – a major public health issue

While many of us derive pleasure from drinking alcohol, there is a growing recognition that alcohol is a drug that imposes a heavy, under-reported burden on public health and safety. In 2004, 4.6% of the global burden of disease and injury was attributable to alcohol.³ According to the World Health Organization, this level of harm is nearly equal to that caused by tobacco, and is far greater than for illicit drugs.⁴ In Ontario alone, the annual direct (healthcare and enforcement) and indirect (lost productivity due to premature disability and death) costs of alcohol were estimated at over \$2.9 billion in 2002⁵ -- then representing about \$275 per capita.⁶ For adolescents and young adults in developed countries such as Canada, alcohol is the most significant avoidable health risk.⁷

Fortunately, effective policies exist to address alcohol problems. *Even in difficult financial circumstances, well-informed governments can implement policies that have been shown to be both effective and cost-efficient through years of extensive research.*⁸ Generally, policies that increase alcohol consumption lead to higher levels of public harm, while policies that decrease consumption reduce harm. In particular, “making alcohol more expensive and less available, and banning alcohol advertising, are highly cost-effective strategies to reduce harm.”⁹

One of the most effective ways to minimize alcohol-related harm is to maintain public alcohol retail distribution systems imbued with a strong duty of social responsibility.¹⁰ While the LCBO's commercial focus now regrettably overshadows its public health function, appropriately balanced government retail monopolies can help reduce consumption and, by extension, alcohol-related health and social harms. They typically restrict the physical availability of alcohol in part by restricting the density of outlets. They are more restrained than their private counterparts in promoting alcohol sales, and more likely to aggressively challenge and refuse to sell alcohol to underage youth and the intoxicated. Public monopolies also moderate the political influence of private corporate alcohol sellers that have a vested interest in boosting alcohol sales. Finally, publicly-owned retailers can be held more directly accountable to the public.

Regulating alcohol taxes and prices is another common and effective method for controlling alcohol-related health problems. Generally, increasing alcohol taxes reduces alcohol consumption and related harm, while increasing government revenues.¹¹ Higher alcohol prices can also improve the health of young people by delaying the onset of youth drinking, slowing the increase in amounts of alcohol consumed by young people, and reducing young people's heavy drinking and the amount consumed per occasion.¹² Minimum prices for alcohol can be targeted to have a greater effect on heavier drinkers, and impose a lighter financial burden on lighter drinkers.¹³

The judicious implementation of these and other measures holds considerable promise for improving the health and social and economic well-being of Ontarians.

European CETA demands threaten health-based alcohol policy in Ontario

Unfortunately, the Canada-EU treaty negotiations threaten the activities and even the continued existence of Ontario's public alcohol monopoly (the Liquor Control Board of Ontario, LCBO) and could restrict Ontario's ability to implement pricing and other effective health-based alcohol policies.

European negotiators have been explicitly instructed to aim at a "very high level of ambition,"¹⁴ and this ambition unquestionably extends to alcohol policy, since alcoholic beverages are the EU's "largest agricultural export to Canada, worth roughly Cdn\$166 billion in 2008"¹⁵ and the LCBO is one of the largest single purchasers and retailers of alcoholic beverages in the world.¹⁶

Based on its recent negotiating history, the EU can be expected to aggressively pursue alcohol policy concessions from Canada, particularly concessions involving the LCBO and other provincial liquor boards.

Initially, European negotiators are likely to reiterate their long-standing demand for an end to what they consider discriminatory and trade distorting anti-competitive practices by the boards that they claim favour local Ontario wines, for example, and other domestic alcohol. This aspect of negotiations is likely to be detailed and intrusive, concerning LCBO practices of alcohol purchasing, listing, delisting, distribution, pricing and retail sale.¹⁷

It is important to understand that Europe's well-known demands for non-discriminatory treatment will likely only be the opening gambit in CETA negotiations. The European position is far more ambitious. EU negotiators will also attack provincial competition policies, including the direct (point-of-production) sale of local wines outside the LCBO.¹⁸ Exasperated by their perception that provinces have not complied with the 2004 EU-Canada Wines and Spirits Agreement, the EU negotiators are also likely to insist on the inclusion of a powerful enforcement mechanism that would ensure compliance at the provincial level – a development that would have profound constitutional and practical significance.

Finally, EU negotiators can be expected to renew in CETA the controversial demand they made, and never withdrew, in WTO services treaty negotiations, which are currently stalled. The EU joined with the US to demand full Market Access commitments involving alcohol from 19 unspecified countries¹⁹ – a position that mirrors the policies of the powerful European Spirits Organization (CEPS)²⁰ and the World Spirits Alliance²¹. If Canada's federal government were to agree to a similar demand in CETA negotiations, it would result in the elimination of the LCBO, as it is currently constituted, thereby undermining a vital means for implementing health-based alcohol policy.

CETA negotiations have the potential to affect a wide swath of Ontario's established regulatory authority—including the province's ability to implement measures that are most effective in reducing alcohol-related harm.

Several Ministers of the Ontario Government have authority over many aspects of alcohol policy that are threatened by the EU-Canada negotiations even though they are within unquestioned provincial jurisdiction. As a first step toward addressing this serious issue, the government could initiate a review of all European proposals and Canadian proposed offers to ensure that Ontario's ability to reduce alcohol-related harm remains unfettered.

Our government's active involvement is needed to safeguard both the financial health of the province and the long-term health of its citizens. Public Health practitioners should be prepared to consult with government representatives.

Endnotes

¹ The Ontario Public Health Association (OPHA), a not-for-profit organization formed in 1949, provides an independent voice for citizens committed to improving the health of all Ontarians. Its mission is to provide leadership on issues affecting the public's health and to strengthen the impact of people who are active in public and community health throughout the province. The OPHA Alcohol Workgroup advocates specifically for policies to reduce problems caused by alcohol consumption, the prevalence and gravity of which are similar to those caused by tobacco.

² European Commission, "Recommendation from the Commission to the Council in order to authorize the Commission to open negotiations for an economic integration agreement with Canada," Brussels, April 2, 2009.

See also:

Saunders, Doug, Canada-EU trade proposal rivals scope of NAFTA, *Globe and Mail*, 18 September 2008; European Commission, EU and Canada start negotiations for economic and trade agreement, news release, IP/09/896, 10 June, 2009;

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/896&format=HTML&aged=0&language=EN&guiLanguage=en>, viewed 20 January 2010; and

Foreign Affairs and International Trade Canada, website, Canada-European Union: Comprehensive Economic and Trade Agreement (CETA) Negotiations, <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/eu-ue/can-eu-report-intro-can-ue-rapport-intro.aspx>, viewed 20 June 2010.

³ Rehm, J., Mathers, C., Popova, S., Thavorncharoensap, M., Teerawattananon, Y., Patra, J. (2009) Global burden of disease and injury and economic cost attributable to alcohol use and alcohol-use disorders, *Lancet*, 373: 2223-2232.

⁴ The World Health Organization has identified alcohol as one of the world's top ten health risks. World Health Organization (2002), *The World Health Report 2002, Reducing Risks, Promoting Healthy Life*, Geneva, Switzerland: World Health Organization. See p. 82, Figure 4.9: "Global distribution of burden of disease attributable to 20 leading selected risk factors."

Of the 26 risk factors examined in the WHO 2000 Global Burden of Disease study, alcohol ranks as fifth most detrimental, accounting for about the same amount of global burden of disease (4.0%) as fourth-ranked tobacco (4.1%). World Health Organization (1999) *Global Status Report on Alcohol*. Geneva, Switzerland: World Health Organization.

See also: Babor, T., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., Grube, J., Gruenewald, P., Hill, L., Holder, H., Homel, R., Osterberg, E., Rehm, J., Room, R. and Rossow, R. (2003) *No Ordinary Commodity: Alcohol and Public Policy*, Oxford: Oxford University Press.

⁵ Addiction Research Foundation, *The economic costs of alcohol, tobacco and illicit drug abuse in Ontario: 1992*. For media highlights, visit <http://sano.camh.net/announce/htscost.htm>.

See also: Single, E., Robson, L., Xie, X. & Rehm, J. (1998). The economic costs of alcohol, tobacco and illicit drugs in Canada, 1992, *Addiction* 93 (7): 991-1006.

⁶ \$2.862 billion/10.428 million Ontario residents in 1991 (Statistics Canada, Population – Social Indicators, Population by province, in thousands, 1971, 1981, 1991, 1999 to 2005, available at <http://www.statcan.gc.ca/pub/11-008-x/2006008/t/4097851-eng.htm>, viewed 20 January 2010).

⁷ *No Ordinary Commodity: Alcohol and Public Policy*, *supra*, note 4, Sect. 4.3.6

⁸ Anderson, P., Chisholm, D., and Fuhr, D. (2009), Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol, *Lancet* 373:2234-2246.

⁹ *Ibid.*, summary.

¹⁰ Room, R. (2002) *Why Have a Retail Alcohol Monopoly?*, Paper presented at an International Seminar on Alcohol Retail Monopolies, Harrisburg, Pennsylvania, August 19-21, 2001.

See also:

Centre for Addition and Mental Health (2004) *Retail Alcohol Monopolies and Regulation: Preserving the Public Interest.*, available at:

http://www.camh.net/Public_policy/Public_policy_papers/Retail%20Alcohol%20Monopolies%20Position%20Paper.pdf, viewed 20 January 2010;

and

Ontario public health associations, *Alcohol and Public Health: The Implications of Changes to Ontario's Beverage Alcohol System*, submission to the Ontario Beverage Alcohol System Review Panel, 25 February 2005, available at <http://www.faslink.org/OntarioBeverageAlcoholSystemReviewPublicHealthSubmission.pdf>, viewed 20 January 2010.

¹¹ Anderson et al., *supra*, endnote 8.

¹² *Ibid.*, p. 2239.

¹³ *Ibid.*

¹⁴ European Commission, *supra*, endnote 2.

¹⁵ European Commission, Market Access Database, Canada, *liquor boards*, available at http://mkaccdb.eu.int/madb_barriers/barriers_details.htm?barrier_id=960047, viewed 20 January 2010.

¹⁶ Liquor Control Board of Ontario, LCBO website, Media Centre, Frequently Asked Questions, item 4; http://www.lcbo.com/aboutlcbo/media_centre/faq.shtml, viewed 20 January 2010.

¹⁷ For background on European business' concerns about Canadian alcohol practices, see: Dehousse, F., Ghémar, K., and Iotsova, T. (2002) Business survey on conditions to access to the Canadian Market, Final Report, Section 3, Wines and Spirits, Centre D'Etudes Economiques et Institutionnelles, Brussels, pp. 47-59. The report was prepared with the financial assistance of the European Commission, and is available on a European Commission-sponsored website at http://mkaccdb.eu.int/madb_barriers/studiesList.htm, viewed 20 January 2010.

¹⁸ For a list of what the European Commission has identified as "barriers" to alcohol trade in Canada, see its so-called "guide to cracking world markets": European Commission, Market Access Database, Canada, Competition Issues, liquor boards, Barrier id 960047, http://mkaccdb.eu.int/madb_barriers/barriers_details.htm?barrier_id=960047, viewed 20 January 2010.

¹⁹ This so-called plurilateral request is understood to cover alcohol unless otherwise negotiated and specified by its recipients on a country-by-country basis. This request on Distribution Services, made in negotiations on the WTO services treaty (General Agreement on Trade in Services, or GATS) was meant to remain confidential, but was leaked to the public and is available online at <http://www.tradeobservatory.org/library.cfm?refid=79991>, viewed January 20, 2010. The plurilateral request also specifies (para. 3) that it "is intended to complement, and not supersede, the bilateral request-offer negotiations..." that are meant to occur under the GATS.

²⁰ The European Spirits Organization (CEPS) identified alcohol services liberalisation as a "priority objective" for WTO negotiations. It has called for "[l]iberalisation, and where possible, *elimination of restrictions on services associated with the marketing of distilled spirits, including restrictions on foreign firms engaged in the importation, distribution or retailing of imported distilled spirits...*" (italics added for emphasis). CEPS has also called on EU negotiators to "consider using alternative means of securing improved market access for EU exports in key overseas markets, through mechanisms such as bilateral and regional Free Trade Agreements (FTA)" of which CETA is one such mechanism. See: *The EU Spirits Industry's Trade Priorities for the 6th WTO Ministerial Conference in Hong Kong*, European Spirits Organisation, CEPS, 11 October 2005, available online at http://www.wto.org/english/forums_e/ngo_e/posp51_e.htm, viewed 20 January 2010.

²¹ The World Spirits Alliance, which consists of national associations representing the industry in Europe, Canada, the United States and a number of other countries, has called for "[l]iberalisation, and where possible, *elimination of restrictions on services associated with the marketing of distilled spirits, including restrictions on foreign firms engaged in the importation, distribution or retailing of imported distilled spirits*, and discriminatory limitations on advertising of imported distilled spirits." (italics added for emphasis). The WSA emphasizes that "[t]he industry firmly believes that distribution rights and advertising freedoms are essential components of market access and should benefit from the broadest possible liberalisation within the Doha Round [WTO] services negotiations." (See: *The Doha Development Agenda: Position and Priority Objectives of the International Spirits Industry*, World Spirits Alliance, October 2005, available online at http://www.wto.org/english/forums_e/ngo_e/posp54_wsa_e.doc, viewed 20 January 2010.