

CETA: TTIP's little brother

A guide to the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada

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Millions of people across the EU have signed a petition calling on the EU to stop negotiations on the Transatlantic Trade and Investment Partnership (TTIP) and the Comprehensive Economic and Trade Agreement (CETA).

While there is growing public awareness about the timetable and content of the TTIP negotiations, CETA is on the verge of being ratified but is not receiving the scrutiny or attention it deserves.

CETA includes the most controversial part of TTIP,

Investor State Dispute Settlement (ISDS), which gives corporations new powers to sue governments through a special corporate court. As a result of many US firms having Canadian subsidiaries, CETA will also enable US corporations to operate in the EU market. Public services are particularly vulnerable because CETA locks in current levels of liberalisation making it difficult for future governments to stop Canadian companies from delivering public services in the EU.

Until CETA is ratified in mid-2016, there is a chance we can stop the deal.



About CETA

CETA has been negotiated between the EU and Canada since 2009. Like TTIP, it has been negotiated largely in secret. It is unlikely that MEPs will have read the whole 1500 page text and there has been no scrutiny by the UK Parliament at all. The final text was signed in September 2014 and has been waiting for the EU Parliament to ratify the deal ever since.

The EU Commission argues that CETA will increase EU-Canada trade and services by 23% and increase EU Gross Domestic Product by about €12 billion a year. This is because it will remove 99% of tariffs from EU-Canadian trade and increase unconditional access to the EU and Canadian markets by businesses from each side. However, the benefits are less than certain, with other economists estimating that even seven years after the agreement comes into force, economic growth will only increase by 0.09% annually.

public and political outcry that earlier this month the EU Commission modified its position to call instead for an Investment Court System. This remains an unnecessary parallel legal system for corporations, but the hearings will be presided over by judges and will not be secret.

If the EU Commission does not want ISDS in TTIP anymore, then CETA should not be ratified as long as ISDS is part of the deal.

There are many US companies which are likely to use subsidiaries in Canada in order to take advantage of the ISDS provisions in CETA, including Wal-Mart, Chevron, Coca Cola and Monsanto. Canada is also home to highly litigious companies of its own. OceanaGold is a Canadian mining firm that is currently suing El Salvador for \$301 million because it declared a moratorium on mining in the country. Another Canadian mining company, Lone Pine Resources, even sued its own government through ISDS by using a US subsidiary to pose as a "foreign" company and attempt to extract \$250 million in compensation for Quebec's moratorium on fracking.

If we fail to stop CETA, then it is likely that we will also get much of what campaigners are seeking to avoid from ISDS in TTIP by the backdoor.

Secret Corporate Courts

CETA includes the parallel judicial system where corporations can sue governments, known as Investor State Dispute Settlement (ISDS), if they pursue any regulation or policy that could limit the profits a company is expecting to make. Whether this is the case or not is decided not by judges, but by a panel of corporate lawyers, who have a vested interest in encouraging more cases due to the way in which they are paid. There is no right of appeal.

ISDS has been used to by Veolia to sue Egypt for increasing the minimum wage and by numerous energy companies to sue Argentina for freezing energy prices. The awards given to multinational corporations have been gigantic. US oil company Occidental Petroleum, for example, won compensation of over £1.5 billion in a claim against Ecuador.

UK MPs held an inquiry on TTIP and ISDS and did not believe there was enough evidence to demonstrate why ISDS is necessary for states with strong judicial systems, such as the EU and US. Research by the UK's Department for Business Innovation and Skills (BIS) found there to be no economic benefits and significant political costs from ISDS.

ISDS has been proposed in TTIP but led to such

Locking in privatisation

CETA poses a major threat to the UK's ability to renationalise or regulate public services. The negative list approach adopted in CETA means all public services are covered in the provisions of the agreement unless explicitly ruled out by governments (known as the list it or lose it approach). This is a first for an EU trade agreement. The EU has negotiated exclusions for public services, including health, education and social services, although the definition of what a public service is remains unclear. However, there is no exclusion for public services from ISDS.

CETA also includes a ratchet clause to lock in current levels of privatisation and liberalisation and increase the role of the private sector in the future. If Canadian or EU governments want to reduce or remove privatisation and liberalisation in the future they will break the terms of the agreement.

Danger for the climate

CETA will provide a major opportunity for foreign energy and mining companies from Canada to step up fracking and other environmentally damaging activities in the UK and the EU.

In particular, the prospect of the EU importing carbon-intensive tar sands oil from Canada is a major threat to the climate. Since 2009, the EU has been planning to introduce a new Fuel Quality Directive (FQD) which would make it difficult to import tar sands oil. If CETA is ratified, the EU is unlikely to adopt a more robust FQD and imports of dirty tar sands oil will be guaranteed for the foreseeable future.

Weaker food standards

The UK has chosen not to protect UK food standards and labelling in CETA.

Across the EU, governments ensure that certain products can only be produced in explicit geographical areas through a system called Geographical Indications (GIs). This is why only sparkling wine made in the Champagne region of France can be called Champagne and Cornish pasties can only be called this if they are made in Cornwall.

The ability of small producers to protect locally produced food and the benefits it brings to local economies is important across the EU, and around the world.

France and Italy have negotiated 42 exemptions each to protect many of their products, including brie and parmesan cheese, but the UK has chosen to protect none of its GIs. Under CETA, we could be eating Yorkshire Wensleydale cheese produced in Ontario and Cornish pasties from Nunavut.

Furthermore, British exports are likely to be hit hard by increased competition from Canadian firms which produce their own Cornish pasties and Cumberland sausages instead of importing them from the UK.

A separate agreement between the EU and Canada already exists to protect Scotch whisky and other alcoholic beverages.

Threatening the ability to regulate in the public interest

CETA is explicit in its ambition to reduce regulation on business. Governments will be expected to provide corporations with licencing procedures that are as 'simple as possible' and that do not 'unduly complicate or delay their activities'. These provisions could make legitimate public enquiries or assessments open to challenge.

While the CETA text refers to the harmless sounding regulatory cooperation. In practice this can lead

to reducing standards in either the EU or Canada, whichever has the strictest regulations, in order to find a compromise between the different standards. This could lead to a race to the bottom in areas such as food safety, workers' rights and environmental regulation.

The ability of governments to protect their economies by regulating financial services is also at risk from CETA. Important measures could be restricted, such as limiting the growth or transactions of financial firms that have become 'too big to fail'. The onus will also be placed on governments to prove that this regulation is 'all and no more than is necessary'.

Information sharing is also a big element of regulatory cooperation. However, the proposals are likely to institutionalise the influence of multinational corporations because corporations will get greater and earlier access to any proposed regulation. It is unlikely they will be pushing for higher standards.

Unlike in TTIP, however, regulatory cooperation within CETA is mostly voluntary. While this is preferable, the power of voluntary measures to increase corporate influence should not be underestimated.

Global context

CETA and TTIP are just two of many new trade deals which are currently being negotiated around the world.

12 countries in North America, Latin America, Australasia and Asia have been negotiating the Trans Pacific Partnership (TPP) for many years. It



Photo: (c) Dan Oja, Dominion

An aerial view of the Canadian tar sands.

is a particularly aggressive free trade agreement, targeting intellectual property, public services and government procurement. But it goes further by committing countries to liberalising all services, unless they are specifically excluded. It is not easy to carefully define services, with the purpose of excluding them. It is impossible to protect future services which have not yet been developed.

In 2012, 47 countries (27 of them in the EU) began negotiating to liberalise and deregulate services as part of the Trade in Services Agreement (TISA). Specifically the deal seeks to give foreign corporations access to domestic markets and restrict national, regional and local governments' ability to regulate in the public interest. TISA is likely to include investment rules to allow corporations to sue governments which implement policy changes

in the future that could adversely affect their profits.

These trade deals share many characteristics, in particular giving corporations new powers to protect their profits in corporate courts; lowering standards; and creating new opportunities for business to provide public services and public procurement. More fundamentally, by calling them trade deals many things you might not understand as trade, or believe could be traded, are bundled together to be sold, including knowledge, support for local businesses and food standards.

They are also negotiated away from public and political scrutiny. None of these deals have been scrutinised by the UK parliament and MPs will have no opportunity to change or amend the content of the deals.

Take action

There is a large and growing movement of people around the world taking action to stop trade deals which are not in people's interests and harm the planet, and campaign instead for trade which helps make the world a more just, equal and sustainable place.

Find out more about CETA and other trade deals at www.globaljustice.org.uk

Come along to one of the public meetings taking place in November as part of a nationwide speaker tour on CETA, TIPP and TISA.

Email your MEP and tell them you do not want CETA to be ratified because it includes ISDS.

- 1 Scott Sinclair et al, *ibid.*, p.35.
- 2 UNISON, *op. cit.*, p.3.
- 3 UNISON, *ibid.*, p.3.
- 4 Scott Sinclair et al, *op. cit.*, p.10.

Take action To find out how you can help tackle corporate power and become part of a movement for real change visit www.globaljustice.org.uk or call 020 7820 4900.



Global Justice Now campaigns for a world where resources are controlled by the many, not the few, and works in solidarity with social movements to fight injustice. We used to be the World Development Movement.

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