Open letter to
European Governments,
Members of Parliaments,
the Council of the European Union

Subject:
Will the first transatlantic treaty be signed soon? CETA: TTIP’s precursor or ‘Trojan horse’

Dear Elected Representatives,

Governments and parliaments will be faced in the coming months with a major choice: in order to preserve the capacity of democratic institutions, European, national and local, to implement measures protecting citizens’ rights and health, are they willing to prevent the signature of the “CETA” transatlantic treaty, which opens the door to TTIP?

A year ago, at an EU-Canada summit on September 25-26th 2014, the CETA (Comprehensive Economic and Trade Agreement) negotiations were declared "concluded" and the 1600 pages text published, and it could be submitted soon to European governments to be signed. Signing CETA would mean accepting to expose ourselves for the first time to new mechanisms that will reduce policy space of democratic decision making in Europe and take away chunks of political power from governments and parliaments to delegate them to supra-national unelected bodies. They include a “regulatory cooperation forum” aiming to prevent regulatory divergence, “Investor-to-States arbitration panels” able to make governments pays millions if they affect or even threaten transnational companies’ profits and State-to-State dispute settlement bodies capable of imposing trade sanctions on States e.g. if they regulate economic services sectors in a way that are not explicitly protected from liberalisation in a “negative list”, while at the same time the sanctions cannot in any way enforce fundamental workers’ rights or environmental standards. These are the same mechanisms that are heavily contested in the TTIP (Transatlantic Trade and Investment Partnership), currently under negotiations between the US and the EU.

In the last two years you may have heard the debate growing in Europe. Millions of European citizens expressed an unprecedented level of concern over the Transatlantic treaty called “TTIP”. The TTIP considers high health, labour, environment protection rules as costs that should be minimised and obstacles to trade to be lowered. That the business world and more specifically the lobbies of transnational firms were historically the first to suggest TTIP, and are still the main supporters of it, while millions of citizens and a wide variety of large civil society groups including consumers, workers, health, environment, human rights and even SMEs defenders have expressed their concerns, should be an eye-opener.

While the TTIP is still under negotiation, a number of its concrete damages on our health, environment and social standards could materialise soon through the other transatlantic treaty: CETA. If signed, CETA would be the first so called EU “new generation trade deal” with a G7 country, introducing these new dangerous provisions. The “ISDS” arbitration clause would allow Canadian corporations to sue European States if public interest decisions affect their profit in arbitration panels which are private and
fundamentally flawed. What is presented by The European Commission as reformed version of this system in CETA is actually a mechanism that remains structurally biased and the necessity of which still has not been successfully established, especially in the case of the well-developed and reliable judicial systems that exist in the US, Canada and the EU. It would still allow panels based on a commercial arbitration model to sentence States to pay millions for a public interest measure that affects profits if the panel finds it disproportionate or unnecessary. It is still structurally biased towards investors because only they can activate this highly lucrative system, so the very existence of the system and the job of arbitrators depend on their capacity to attract investors to introduce more claims. Some European states already have such a provision in force in other treaties and they have been sued for public interest decisions. For instance, this arbitration system is currently being used by a Canadian mining company to challenge Romania’s democratic decision to prevent the opening of the biggest and strongly contested open-pit gold mine in Europe. Worse: the CETA would widen the scope of ISDS much beyond just Canadian companies. It would already allow companies from the US to sue European States through their Canadian subsidiaries. CETA would be the first treaty at European level to expose European public measures to such lawsuits. After undergoing an extensive debate about this “ISDS” provision in TTIP (investor-to-state dispute settlement mechanism), we cannot allow CETA to simply go through with it.

From all sides of the political spectrum we have heard commitments that TTIP should not just be accepted at any price and that the final text would need to be assessed. One year after it was published, the few analyses of the 1600 pages CETA text show that it does not meet any kind of minimal criteria of acceptability and no comprehensive public assessment has been made. The CETA is a major test of our elected representatives’ ability to challenge hazardous treaties since ISDS is just one of the many dangerous mechanisms that CETA will bring to Europe.

The by-default liberalisation of services included in the deal, takes away part of the decision making capacity on the future of our economy and public services from the hands of elected policy makers. A systematic analysis remains to be done of which existing economic regulations (or which can be voted on currently in each country) will be subject to repeal or forbidden by CETA. For instance, some Member States have fully excluded their social security systems from liberalisation, others have not. The exact implications in each Member State need deeper analysis.

CETA’s regulatory cooperation mechanism creates a labyrinth of red tape for regulators and policy makers willing to protect people and the environment, and increases the influence of corporate lobbies over the regulatory process.

Canada asked during the negotiations to include sanctions in case of non-compliance with International labour standards. The European Commission refused. How can governments that are committed to protect their citizens, accept signing a deal where trade and investment provisions are highly enforceable through dissuasive sanctions but labour rights are so belittled that they are simply mentioned but without any enforceability? More detailed analysis of CETA can be found at www.s2bnetwork.org/issues/eus-free-trade-agreements/ceta-material/

Based on the limited available information, it is possible that CETA could be submitted to the signature of each of the 28 European governments still in 2015 to be then approved by the Council and the European Parliament as early as spring 2016. After that, CETA could already be ‘provisionally implemented’ although it hasn’t been voted on by Member States’ parliaments. That is why we cannot wait to act until CETA’s national ratification stage to have the long overdue public debate, with national parliaments and governments, and we must stop CETA now.

Legislators are entitled to ask if sufficient information about CETA’s implications on citizens’ lives has been produced to take any decision on it. Over 2.5 million European Citizens already affirmed their will to stop CETA. Our voices must be taken into account.
We ask our governments
  • to commission comprehensive analyses of this text – including implications for human rights, health, employment, environment, democratic policy space - in order for elected representatives to do their due diligence in protecting the public good, to answer the pending fundamental questions on CETA and organise widely concerted forums around them.
  • to refuse to sign CETA at least until we have credible answers to these questions. In our opinion, the hypothetical 0.09% extra-growth, predicted in the 2008 pre-negotiations study, do not justify blindly signing a treaty that is primarily designed by corporate lobbies to increase pressure on our democracy and our rights.

We ask Members of Parliaments to exercise their role of government control by calling on their governments to refuse to sign CETA. Ways to do that include asking the serious questions raised above which need answers before any approval decision can be taken, organising public hearings and voting resolutions to oppose CETA’s signature. We cannot wait for the national ratification stage; now is the time for governments to refuse to sign.

We are willing to meet with you to discuss the 1600 paged CETA text and its impacts on citizens’ lives. Before any decision can be made, many questions remain to be answered.

Regards,