CETA: TTIP’s little brother
A guide to the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada
September 2015

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.
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 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.

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
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.