



Health and Trade Network's Statement on CETA for the Informal Meeting of Trade Ministers 22  
September 2016

**Don't be fooled by "Europe's most progressive trade agreement", the Canada-EU Trade Agreement  
CETA is a wolf in sheep's clothing**

In his State of the Union Speech on September 14<sup>th</sup> 2016, the President of the European Commission, Jean-Claude Juncker called the Canada-EU trade agreement the most progressive trade agreement the EU has ever negotiated. Despite the fact it was negotiated under Canada's more conservative former government, and for the most part before the current trade Commissioner took up her post, both the Commission and the Canadian governments are attempting to sell CETA as a modern, more transparent and less threatening trade agreement. In truth however, the agreement that has sometimes been called TTIP's (little) 'brother'<sup>i</sup> the EU-Canada Comprehensive Economic and Trade Agreement (CETA) that is coming up for ratification by the European Parliament is problematic for public health. According to Dr Gabriel Siles-Brügge, Associate Professor in Politics and International Studies, University of Warwick (UK) and President of HaT *'The main problem with CETA is that it features the same provisions on investor protection and investment arbitration as the EU wants to incorporate into TTIP. There is a real risk that these could inhibit public interest decision-making in the area of health.'*

***Institutionalisation of ISDS/ICS***

While Investor-to-State Dispute Settlement (ISDS) – the ability of foreign companies to sue governments for public policy measures that infringe on their rights as foreign investors in shadowy arbitration tribunals that exist independently of domestic courts - has got a lot of attention due to its proposed inclusion in TTIP, CETA already contains such provisions. Although the Commission has recently undertaken a reform of ISDS that has found its way into the CETA text - and (misleadingly) renamed it the Investment Court System (ICS) – much of the problems of the old system remain in the new.<sup>ii</sup> These include the ability of arbitrators to interpret investor rights like 'fair and equitable treatment' and 'indirect expropriation' widely. In addition, the intrinsic bias of a system where arbitrators rely on their income on repeat custom from foreign companies (who are the only ones who can initiate suits) brings the impartiality of the so-called 'court' into question.

ISDS in CETA (even when rebranded as ICS) will potentially constrain European governments when it comes to introducing public policy measures that threaten corporate bottom lines, having a so-called 'chilling effect.' Both the TTIP and the CETA go way beyond traditional tariff reductions of 'old style' trade agreements; one of the key reasons why they are so dangerous.

ISDS/ICS in CETA is not less problematic than what is being proposed in TTIP. Canada has previously taken European Union to (state-to-state dispute settlement in the WTO for European asbestos legislation and Canadian mining companies have been used actively for scope for ISDS for

compensation. Furthermore, when ISDS/ICS has been institutionalised in CETA, it would be available for US industries with Canadian bases as well.

### ***CETA Pits Corporate Interests Against Public Health Legislation***

Taxes on soft drinks and fatty foods are an evidence-based way to slow down the impending epidemic of chronic diseases in Europe caused by increasing obesity across the region. However, with increased powers for investor-state dispute settlement cases arising in CETA (and of course, the TTIP), proposals such as The UK's 'soft drinks industry levy' or sugar tax may be under threat if soda companies sue for indirect expropriation.

CETA will eliminate tariffs on soft drinks entirely<sup>iii</sup> which runs in direct contradiction to the price increasing aims of taxes such as the sugar tax. The EU currently applies tariffs of 9.6% on soft drink imports from Canada and the United States<sup>iv</sup> Even the Interim Trade Sustainability Impact Assessment (TSIA) conducted on behalf of the European Commission for the TTIP found that consumption of such unhealthy products could increase<sup>v</sup> if tariffs are eliminated. *"Lobbyists from Big Tobacco, Big Alcohol and Big Food want to ensure that the CETA and TTIP put a freeze on policies designed to prevent obesity and chronic disease for fear of profit loss"* states Emma Woodford, Founding Director of the Health and Trade Network.

### ***CETA Threatens the Provision of Public Healthcare***

CETA will likely affect the way that healthcare services are managed in both Canada and the EU. The public healthcare systems in both Canada and the EU can be excluded from the CETA services commitments. However the first use of negative listing in an FTA by the EU means that any future new healthcare services will not be excluded from the rules of the trade agreement. Furthermore, the investment protection chapter in CETA extends to all sectors, including the health sector. While governments have the right to regulate, this does not preclude the threat of compensation claims. In addition, some EU countries such as the UK have not bothered to exclude healthcare from the CETA entirely.

### ***CETA May Mean Higher Medicine Prices in Canada***

The CETA Agreement includes obligations with respect to pharmaceuticals and may lead to increases in pharmaceutical prices in Canada<sup>vi</sup>. From a public health and health policy perspective, it would have been wise not to seek further data exclusivity for pharmaceutical trials in Canada, but rather to limit this in both the EU and Canada. However, that is not the direction to which "free trade" negotiations on IPR take place, with negotiators preferring to submit to pressure from Big Pharma to strengthen intellectual property provisions and increase profits rather than make more medicines available at lower prices.

Finally, HaT Board Member Meri Koivusalo ends by saying that *"even though CETA may not require changes in European policies, it will make it more difficult to change European policies"* making CETA just as much of a threat to democracy as it's "big brother" TTIP.

### **About us:**

The Health and Trade Network is a campaigns think tanks for all issues relate to the health impacts of trade policies. For more information please contact [emma@healthandtradenetwork.org](mailto:emma@healthandtradenetwork.org) and our website: [www.healthandtradenetwork.org](http://www.healthandtradenetwork.org)

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<sup>i</sup> (<http://www.globaljustice.org.uk/sites/default/files/files/resources/ceta-ttip-little-brother-global-justice-now.pdf>),

<sup>ii</sup> ([http://corporateeurope.org/sites/default/files/attachments/the\\_zombie\\_isds\\_0.pdf](http://corporateeurope.org/sites/default/files/attachments/the_zombie_isds_0.pdf)).

<sup>iii</sup> ([http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc\\_152806.pdf](http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf)).

<sup>iv</sup>

[http://ec.europa.eu/taxation\\_customs/dds2/taric/measures.jsp?Lang=en&SimDate=20160513&Taric=2202100000&LangDescr=en](http://ec.europa.eu/taxation_customs/dds2/taric/measures.jsp?Lang=en&SimDate=20160513&Taric=2202100000&LangDescr=en)

<sup>v</sup> <http://www.trade-sia.com/ttip/wp-content/uploads/sites/6/2014/02/TSIA-TTIP-draft-Interim-Technical-Report.pdf>, pp. 122-3)

<sup>vi</sup> <http://globalizationandhealth.biomedcentral.com/articles/10.1186/1744-8603-10-30>