

Stop the Corporate Giveaway! A transatlantic plea for sanity in the EU–Canada CETA negotiations

25 November 2013

On 18 October 2013, European Commission President José Manuel Barroso and Canadian Prime Minister Steven Harper announced the conclusion of the negotiations on a European Union–Canada Comprehensive Economic and Trade Agreement (CETA). This “next generation” free trade agreement will include a controversial and unnecessary investment protection chapter and investor-to-state dispute settlement process (ISDS) that a growing number of countries are rejecting for good reasons. These excessive corporate protections, built into thousands of investment treaties and free trade agreements, serve no social or economic purpose other than to undermine our democratic rights to decide public policy and public interest regulation. In spite of the 18 October “Harper-Barroso deal”, negotiations on investment protection and ISDS continue. We call upon European and Canadian governments at all levels (e.g. member state, province, municipalities, federal and EU parliament) to protest the inclusion of these extreme investor “rights” in the CETA for the following reasons:

- 1. We are locking in the corporate status-quo forever:** CETA will permanently freeze existing rules governing investment and then strictly limit government regulation of services, investment, natural resources, environmental protection and public safety measures in the interests of corporations. All existing government policies in all these areas that have not been excluded from the agreement up front will be covered, making it difficult for countries to introduce new services or regulations in the future that affect however modestly the investment opportunities of foreign companies and investors.
- 2. There is no way to tame this investor “rights” model:** There is no comfort in claims by the Commission or Canadian government that “frivolous” claims, or challenges to environmental policy, will be filtered out. Despite efforts in the North American Free Trade Agreement (NAFTA) to limit what kinds of government decisions might violate an investor’s minimum standards of treatment or other investment chapter protections, Canada continues to face investor-state disputes attacking environmental measures that affect national and foreign investors in exactly the same way (e.g. a partial moratorium on shale gas extraction in Quebec). Likewise, we are **not satisfied by efforts to limit the meaning of “indirect expropriation”** so that legitimate public welfare objectives should be immune from investor challenges. The final determination is always made by the private investment tribunals themselves, and these unaccountable tribunals have a built-in bias toward the interests of multinational corporations.
- 3. The very presence of ISDS puts a “chill” on environmental policy.** CETA will include a screen for financial policy, since both sides recognize that investor lawsuits could scare governments away from introducing new financial regulations. But there is no screen for precautionary environmental, public health or resource conservation measures. For example, any regulation aimed at limiting the use of bituminous sands or shale gas could be challenged by European or Canadian corporations eager to exploit these “dirty” fuels. Is it because Canada and the EU want to put a chill on effective climate policy? There is no other interpretation. Not all cases related to environmental policy are won by investors but lawyers specializing in investment

arbitration gloat about the use of these treaties in threatening to file investor-state lawsuits to pressure governments against new environmental policies.

4. **Canadian and European courts can handle any investor dispute with government decisions.** There is no reason to create an extra level of protection to foreign investors, above and outside the scope of domestic courts, as recognized by a European Parliament resolution in 2011 favouring a state-to-state dispute settlement process in CETA only. European and Canadian courts have a responsibility to balance corporate interests against the public interest. That balance does not exist in investment treaties or the ISDS process.
5. **There is no conclusive evidence that these investor “rights” encourages new investment!** Canadian government environmental assessments of recent investment treaties claim it is not possible to draw links between investment decisions and the existence of ISDS. Because of this uncertainty, and the evidence that investment treaties create unnecessary risks to environmental and other public policymaking, a Sustainability Impact Assessment of CETA urged the Commission not to include ISDS in the agreement.
6. **CETA is a step-up/stepping stone for the bigger U.S.-EU TTIP:** Whatever the EU gets away with in CETA, including on investment protection, will just create a new ground floor on which multinational corporations will build even more protections into the TTIP. There is urgency in pulling investor-state dispute settlement out of both negotiations. U.S. firms are the most prolific users of investment treaties, and the U.S. government is already targeting stricter European toxic regulations and the nascent Fuel Quality Directive as investment barriers that should be eliminated.

In conclusion, the CETA investments chapters come nowhere close and are in fact drifting further away from balancing the rights of sovereign nations to enact policies in the public interests with the responsibility to treat foreign investors fairly. If the CETA is signed and ratified with ISDS intact, Canadian and European democracy will suffer while corporations gain new tools to frustrate any number of policies designed to protect the environment, public health, public services, resource conservation and, crucially, to make our social-economies more sustainable and equitable. All political representatives at every level of government in the EU and Canada must call the investment negotiations in CETA to a hold and refuse to endorse the CETA until the extreme investor-state dispute settlement process has been taken out.

SIGNED:

Networks:

Europe

Friends of the Earth Europe
Seattle to Brussels Network

Canada

Alternatives North
Trade Justice Network

Organisations:

Europe

11.11.11
Africa Contact

Africa Europe Faith and Justice Network (AEFJN)
Aitec-Ipam
Amigos de la Tierra (FoE Spain)
Amis de la Terre France
Aquattac
ATTAC Spain
Attac-France
Bits of Freedom
Both ENDS
Bürgerinitiative Fracking freies Hessen
Bürgerinitiative für ein lebenswertes Korbach
Center for Encounter and active Non-Violence
CNCD (Centre national de coopération au développement)
Colibri - Beiträge für eine menschenwürdigere Welt e.V.
Corporate Europe Observatory
Deuda en la Globalizacion (ODG - Debtwatch)
Eco Ruralis
Ecologistas en Acción
Environment and Development
European Federation of Public Service Unions (EPSU)
European Public Health Alliance (EPHA)
Fairwatch
FDCL
Fédération syndicale unitaire (FSU)
Food & Water Europe
Foundation for a Free Information Infrastructure (FFII)
Fracking Free Ireland
Goliath
Greenpeace
Hegoa (Instituto de Estudios sobre Desarrollo y Cooperación Internacional)
International Trade Union Confederation (ITUC)
Le collectif "Gaz de Schiste Non Merci" de Clapiers (34)
Magyar Természetvédők Szövetsége (FoE Hungary)
Milieudéfense (FoE NL)
NOAH (FoE Denmark)
Oxfam-Magasins
Power-Shift
SOMO
Stichting Schaliegasvrij Nederland / Shale Gas Free Netherlands
Trade Union Congress (TUC)
Transnational Institute
UK Tar Sands Network
Union syndicale Solidaires
Vrijschrift
WIB Wasser in Bürgerhand
World Economy, Ecology & Development – WEED

Canada

Blue Planet Project
Boreal Forest Network
Canadian Health Coalition
Canadian Union of Postal Workers
Canadian Union of Public Employees (CUPE)
CUPE Manitoba Global Justice Committee
Development and Peace, Prince Edward Island

Edmonton and District Labour Council
Greenpeace Canada
Idle No More
MacKillop Centre for Social Justice, Prince Edward Island
Manitoba Peace Council
MiningWatch Canada
National Council of Women of Canada
National Farmers Union
Northern Territories Federation of Labour
Ontario Federation of Labour
PEI Federation of Labour
Polaris Institute
Prince Edward Island Health Coalition
Public Service Alliance of Canada
Registered Nurses' Association of Ontario
RETS
San Luis Obispo Mothers for Peace
Saskatchewan Federation of Labour
Sierra Club Canada
Sierra Club Nuclear Free Campaign
The Council of Canadians
Transition Winnipeg
UNIFOR
United Steelworkers
University of Winnipeg Students' Association Ecological People In Action (UWSA EcoPIA)

Québec

AmiEs de la Terre-Québec
ATTAC-Québec
Coalition québécoise pour une gestion responsable de l'eau *Eau Secours!*

RQIC (Réseau québécois sur l'intégration continentale) et l'ensemble de ses membres:
Alliance du personnel professionnel et technique de la santé et des services sociaux (APTS)
Alternatives
Association canadienne des avocats du mouvement syndical
Association québécoise des organismes de coopération internationale (AQOCI)
Attac-Québec
Centrale des syndicats démocratiques (CSD)
Confédération des syndicats nationaux (CSN)
Conseil central du Montréal métropolitain (CCMM-CSN)
Fédération des femmes du Québec (FFQ)
Fédération des travailleurs et travailleuses du Québec (FTQ)
Fédération étudiante collégiale du Québec (FECQ)
Fédération étudiante universitaire du Québec (FEUQ)
Fédération interprofessionnelle de la santé du Québec (FIQ)
Groupe de recherche sur l'intégration continentale (GRIC-UQAM)
Mouvement d'éducation populaire et d'action communautaire du Québec (MÉPACQ)
Réseau québécois des groupes écologistes (RQGE)
Syndicat des professionnelles et professionnels du gouvernement du Québec (SPGQ)

Union des consommateurs du Québec

USA

Citizens for Alternatives to Chemical Contamination (CACC)

Coalition for a Nuclear Free Great Lakes
Don't Waste Michigan
Frack Free IL
New Jersey Friends of Clearwater
Nuclear Information and Resource Service (NIRS)
Ohio CARE - Citizens Against a Radioactive Environment
Pennsylvania Alliance for Clean Water and Air