



EPSU update on the Comprehensive Economic and Trade Agreement (CETA), Transatlantic Trade and Investment Partnership (TTIP), the Trade in Services Agreement (TiSA)

August 2016

This update reports on recent developments and EPSU activities on trade, in particular regarding CETA, TTIP and TiSA. All EPSU trade updates and briefings are on the new EPSU website available under the [network Public Services, document type: Papers and publications](#).

Comprehensive Economic and Trade Agreement (CETA)

The negotiations on CETA were concluded in August 2014 but discussion continued on the investment protection provisions and it was not until 5 July 2016 that the European Commission [formally proposed to the Council the EU the signature and conclusion of CETA](#). Following a decision by the Council (expected in September) it will be possible for member states to provisionally apply CETA. Its full entry into force will be subject to the EU's conclusion, through a Council decision with the consent of the European Parliament, and by all Member States through the relevant national ratification procedures.

Friends of the Earth Europe (FOEE), EPSU and the European Anti-Poverty Network (EAPN) criticised the decision to apply CETA before national parliamentarians had their say in a joint PR released in July. The three groups expressed their worries about the negative effects the agreement would have on workers, low income households, social rights and the environment. Of particular concern is the inclusion of the Investment Court System (ICS) in the agreement. ICS is a rebranded version of the controversial Investor-State Dispute Settlement mechanism (ISDS) which maintains its core flaws. For the joint PR see <http://www.epsu.org/article/eu-canada-trade-deal-ceta-be-applied-national-parliaments-can-vote>.

In April 2016 the EPSU Executive Committee agreed an 'EPSU roadmap to oppose ratification of CETA'. The roadmap was drafted during an EPSU/ETUI training seminar "preventing the liberalisation of public services in CETA, TTIP and beyond" organised on 2-4 March 2016 in London. The report of the meeting is available here <http://www.epsu.org/article/epsu-etui-training-seminar-liberalisation-public-services-eu-trade-agreements>. The main reasons for opposing CETA were communicated on 14 March 2016 to the EP trade Committee (INTA) that held its first exchange of views on the finalised agreement (for letter see <http://www.epsu.org/article/epsu-calls-rejection-ceta-because-its-bad-deal-citizens>).

Our concerns include the following:

- Public services are included CETA. The patchwork of protections for public services offered by CETA does not safeguard public services. No fewer than 11 EU member States have committed long-term care such as residential care for the elderly in CETA. Such commitments could stand in the way of measures to protect the healthcare and long-term care sector against the asset-stripping strategies of financial investors that led to the collapse of Southern Cross in the UK.
- CETA is the first EU agreement with a 'negative list' approach for services commitments. This means that all services will be subject to market liberalisation unless an explicit exception is

made and marks a radical departure from the positive lists used so far in EU trade deals. The negative list approach thus expands the scope of trade agreements and makes it more difficult to anticipate and regulate new services that emerge in the future. CETA's 'standstill' and 'ratchet' mechanisms will then serve to lock-in present and future liberalisation, so limiting the future efforts by governments to extend regulation or renationalise services, even when past liberalisations have proven to be failures and when it is in the public interest to do so.

- CETA may restrict universal service obligations being introduced in public utilities such as post, electricity, telecoms and urban transport – obligations which guarantee citizens universal access to basic services at affordable prices. CETA will also limit the freedom of public utilities to produce and distribute energy according to public interest goals, for example, by supporting renewables to combat climate change. Regulations in the general interest will need to be justified.
- CETA contains far-reaching investment protection provisions. While CETA's revised investor protection mechanism (Investment Court System – or ICS) is an improvement on the toxic and much-criticised Investor-State Dispute Settlement (ISDS), it nonetheless fails to meet the mark. Under ICS, investors will still be granted special rights over other groups in society to sue governments for policies that threaten their profits. This right will also apply to the many US companies that have operations in Canada.
- CETA is weak on human rights, including workers' rights. Not only does CETA not contain a clause saying that the respect for human rights is an essential element of the agreement, it does not include binding and enforceable measures to ensure ILO core labour standards are respected in its sustainable development chapter. Furthermore, the public procurement provisions do not include obligations to respect labour and environmental standards nor promote the use of social and environmental criteria in public tenders. CETA leaves open for Public-Private Partnerships (PPPs) to be included at a later date.

To support opposition to CETA, EPSU launched the Say No to CETA (#StopCETA) campaign on World Public Services Day (23 June) and a series of actions against the ratification of CETA. For information on the campaign and available materials see www.epsu.org/CETA. EPSU's website also has a selection of EPSU affiliates' national actions, see: <http://www.epsu.org/article/unions-are-mobilizing-no-ceta-bad-deal-workers-and-people>. Actions are varied from events to protests and blogs. For an example of a CETA union blog see <http://blogg.kommunal.se/utredare/2016/07/20/nationell-beslutsratt-om-ceta-en-seger-for-demokratin/>.

The next stage in the actions will be around the Council meeting planned for September in Bratislava. The Belgian trade unions will co-organise events in Brussels.

Recent publications to support lobbying on CETA

A number of specific reports are also available giving more details of the different problems with CETA. Many of these reports deal with the 'new' Investment Court System (ICS) provisions and argue that ICS is not so different from ISDS:

- 'The zombie ISDS' from Corporate Europe Observatory (CEO) <http://corporateeurope.org/>. Summaries also are available in French, German, Spanish and Dutch
- Report from Public Services International (PSI) [Investment Court System \(ICS\): The Wolf in Sheep's Clothing](#) available on PSI [website](#) in English, French and German

- Investment Court System Put to the Test New EU proposal will perpetuate investors' attacks on health and environment - see <https://www.policyalternatives.ca/publications/reports/investment-court-system-put-test#sthash.BF1bggjk.dpufhttps://www.policyalternatives.ca/publications/reports/investment-court-system-put-test>. Summaries in English, French, German and Spanish.
- The European Commission's Proposal for Investment Protection in TTIP http://www.fes-europe.eu/fileadmin/user_upload/WEB_FES_2017plus_Krajewski_ENGL.pdf

EPSU also published in May 2016 a new working paper from EPSU on the potential harmful impact of CETA and TTIP (and TiSA) on healthcare and social services. The working paper sets out detailed arguments and examples of the loopholes and shortcomings of the GATS-like protections that the EU and Member States rely on and highlights the new threats posted by ISDS/ICS. Areas covered by the working paper include:

- hospital planning
- staff-patient ratios
- health and safety regulations
- mutual recognition of professional qualifications
- temporary stay of health professionals in another country
- socially-responsible public procurement and
- locking in of health and social service privatisations.

You can find working paper on the [EPSU website](#) together with executive summaries in English, French, German and Spanish. The working paper is a firm rebuttal to claims from the EC and Member States that public services are adequately protected and that no new provisions in trade agreements are needed.

EPSU/AK Europa published in April a further study with Professor Markus Krajewski setting out in more detail how new safeguards for public services might be included in trade agreements. The study and brief note of an exchange on the study's findings are on the EPSU website <http://www.epsu.org/article/new-study-model-clauses-exclusion-public-services-trade-and-investment-agreements>.

Professor Krajewski argues that existing protections dating from GATS should be seen as a sandcastle, constructed at a time of low tide. Previously EU trade policy was less focused on regulatory measures and mainly dealt with opening public service markets in developing countries. Today trade agreements are being negotiated with highly-developed countries with offensive export interests in public services. These agreements reflect an agenda that goes beyond trade and includes investment protection, public procurement and much more. In this context the GATS sandcastle-like protections are not sufficient.

AK, ÖGB and DGB have also published four new brochures on the trade and investment agreement between EU and Canada. Each folder deals with one of the following subjects:

- CETA – NO PRIVILEGED RIGHTS TO SUE STATES FOR CORPORATIONS
Main criticism of many new trade agreements, which the EU is currently negotiating, is the privileged rights for corporations to sue states.
- CETA – LABOUR STANDARDS NOT ON THE AGENDA
The eight ILO Core Labour Standards have to be ratified, transposed into national law and effectively applied.
- CETA – PUBLIC SERVICES UNDER PRESSURE
Security of supply, jobs and quality of public services are at stake.

- **CETA – REGULATORY COOPERATIONS JEOPARDISES OUR DEMOCRACY AND STANDARDS**

Democratic deficit - parliaments are ignored. Regulatory cooperation between the EU and Canada will be held in transatlantic forums

Opposition to CETA is also apparent in Canada, in particular in municipalities. [See here for details.](#)

CETA and other trade agreements will also be high on the agenda of the August 2016 World Social Forum (WSF) in Montreal Canada. PSI organises events here, as does the Health and Trade Network organises a number of events – see www.healthandtradenetwork.org.

Upcoming European Parliament activities on CETA

On 6 September 2016 a hearing on CETA will be organised CETA, TTIP: two sides of the same coin?" by the Progressive Caucus of the EP. The Progressive Caucus have recently launched a CETA website where you can find a sample of relevant chapters of CETA with technical explanations and pro/con analyses so citizens can give their opinion about some key provisions of the agreement. The website can be accessed through the following link

<http://www.unravellingceta.eu/>.

Throughout the week of 17-21 of October 2016, actions, workshops and events will take place as part of the Citizens' CETA Summit in Brussels in run up to the official EU-Canada Summit where CETA is due to be signed on October 27. As part of these events, a cross-party group of MEPs and the TTIP-free zones European Network are inviting mayors, councillors, and other local representatives to come to the European Parliament to deliver a strong message from citizens against this agreement, for the same reasons and concerns raised in TTIP, TPP and other new generation free trade deals. [The TTIP-Free zones European Network](#), which first met in Barcelona in April 2016, adopted a strong statement by over 40 elected local representatives from across Europe, against CETA and TTIP, which you can read [here](#) declaring themselves "TTIP/CETA free". To register for the Citizens Summit event see <http://www.greens-efa.eu/events/registrations/804-the-citizens-ceta-summit.html>.

During the week civil society organisations and trade unions will be active. The Seattle to Brussels Network is coordinating a number of events – see <http://www.s2bnetwork.org/ceta-action/>.

Transatlantic Trade and Investment Partnership (TTIP)

In spite of earlier US and EU statements indicating the intention to speed up negotiations, but reports indicate a lack of progress. On 14 July 2016 the EC published texts on regulatory cooperation in the sectors of cosmetics, medical devices, cars, chemicals and textiles. Also published was a new article on climate protection as a part of the chapter on sustainable development, as well as separate chapters on energy and raw materials, market access for financial services, and on institutional cooperation within TTIP. See

<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1527>.

The EC also organised on 13 July 2016 a [series of stakeholder events](#) to coincide with the July TTIP negotiations round.

The drafting of the EC TTIP Trade Sustainability Impact Assessment (TSIA) study on the potential economic, social and environmental effects of the Transatlantic Trade and Investment Partnership (TTIP) is still ongoing. The latest newsletter [here](#) gives details of the publication the of final Interim

Technical Report, contains information about draft Final Report and includes the planning and timeline of the study.

In May 2016 Eurocities updated its position on TTIP - see <http://www.eurocities.eu/eurocities/documents/EUROCITIES-statement-on-the-Transatlantic-Trade-and-Investment-Partnership-and-future-trade-agreements-WSPO-AAASGK>.

The main points are:

- Public services should be protected and explicitly excluded from the scope of the agreement. In addition, the method of the 'positive list' of covered services should be used in the whole agreement (market access, national treatment, most favoured nation)
- EU rules on public procurement should be safeguarded and maintained
- EU social, labour, environmental and health and safety standards should be safeguarded and maintained
- There is no need to create new judicial bodies for investor state dispute settlements, as the EU national courts guarantee a sufficient and efficient legal protection.

Eurocities also asks for a full Impact Assessment of TTIP on local governments, looking both at direct and indirect impact of TTIP on the delivering of public services, public procurement and EU standards.

ETUC and US unions AFL-CIO have indicated that they will update their 2014 joint statement https://www.etuc.org/sites/www.etuc.org/files/document/files/afl-cio_ttip_report_uk_1.pdf.

Trade in Services Agreement (TiSA)

For the timetable, there are contrary indications as to whether TiSA can be finalised before the end of 2016. Next rounds are scheduled for:

TiSA Round – week of September 19th

TiSA Round – week of November 7th

The EC's summary report of progress made in the 8-18 July round of negotiations (see http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc_154824.pdf) does not indicate speedy progress is being made.

On 25 May 2016 WikiLeaks published more TiSA documents, including on State Owned Enterprises (SOEs) as well as updates on Domestic Regulation, New Provisions, Transparency, Electronic Commerce, Financial Services, Telecommunication Services, Professional Services and the Movement of Natural Persons. See <https://wikileaks.org/tisa/>. The PSI website has critiques of the leaks and other for relevant information see <http://www.world-psi.org/en/database-tisa> that will be shared at the World Social Forum (WSF) in August in Canada <http://www.world-psi.org/en/world-social-forum-2016>.

PSI together with Our World is Not for Sale (OWINFS) <http://www.ourworldisnotforsale.org/en/themes/3085> will organize a civil society strategy meeting in Geneva during the next negotiation round which will take place in Geneva, September 19-23.

In April 2016 the EC responded to the report of the European Parliament (EP) on TiSA that was adopted in January. EPSU commented on the EP report in a joint press release (PR) on 3 February with the Social Platform, CEEP, and ETUC – see: <http://www.epsu.org/a/12006>. On 24 May 2016 EPSU and the Social Platform were invited to an exchange on public services with the EP TiSA rapporteur/shadow rapporteurs.