

IN-DEPTH ANALYSIS

**Stakeholder, parliamentary and third country
concerns about the EU-Canada
Comprehensive Trade and Economic Agreement
(CETA)**

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Abstract

The EU-Canada Comprehensive Trade and Economic Agreement (CETA) – covering a plethora of issues, including market access, tariffs and non-tariff barriers – has elicited varied reactions from stakeholders. Business associations on both sides of the Atlantic have strongly supported the deal and its aim to boost economic relations between the partners. On the other hand, some civil society groups, trade unions and agricultural associations have voiced hesitations about some of the deal's provisions and its impact on the agricultural sector, the job market and quality of public services. CETA negotiations have also provided civil society an opportunity to discuss indirectly related issues, including visa policies, data privacy and the EU ban on the trade in seal products. Both the European and Canadian Parliaments have actively monitored the negotiations and provided opportunities for stakeholders to express their opinions. While consultation and public outreach now appears to have resolved most hurdles, criticism about the negotiations' transparency and inclusiveness – as well as concerns about the inclusion of investment protection clauses – have not entirely abated. Turkey and Canada's partners in the North American Free Trade Agreement (the US and Mexico) also have distinct reasons to fear the impact of CETA on their own economies.

This paper is the initiative of the Policy Department, DG EXPO.

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PUBLICATION:

English-language manuscript completed on 16 December 2014.
© European Union, 2014
Printed in Belgium.

This paper is available on the intranet site of the Directorate-General for External Policies, in the [Regions and countries](#) or [Policy Areas](#) section.

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1 Introduction: CETA's many stakeholders

CETA negotiations elicited strong reactions from stakeholders on both sides of the Atlantic. Key areas comprised ISDS, agriculture and labour standards.

The EU and Canadian Parliaments facilitated civil society's access to the process, providing opportunities for consultation and feedback.

Turkey and Canada's partners in the North American Free Trade Agreement (NAFTA) fear that CETA will have a negative impact on their economies.

Negotiations on a Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada have provided stakeholders on both sides of the Atlantic formal and informal opportunities to express their concerns about the content of negotiations and the likely impact of the agreement.

Formal stakeholder consultations organised in the EU and Canada have highlighted worries about the agreement's likely impact on agriculture, quality of jobs, public procurement and investor-state dispute settlement (ISDS). In general, business associations have staunchly supported CETA from the outset, pointing to the benefits the agreement would bring: enhancing cooperation opportunities while reducing costs of business transactions – something of particular importance to small and medium-size enterprises (SMEs). Other stakeholders, including trade unions and agricultural interest groups, have expressed apprehension about the agreement's potentially adverse impact on the agricultural sector, jobs and quality of public services. CETA negotiations have also provided an opportunity for interested parties to discuss issues not directly related to the agreement, including significant 'irritants' in EU-Canada relations – visas, data protection and the trade in seal products.

The European and Canadian Parliaments have played a supporting role; both actively monitored the negotiations and fulfilled their roles as defined in the constitution/treaty. The two legislatures facilitated civil society's awareness of CETA by organising hearings, workshops, fact-finding missions and thematic studies. Canada's national parliament also played a role in responding to the concerns of various regional and local (municipal) entities, helping to dispel fears and overcome hurdles.

CETA negotiations have been carefully observed by the two sides' other notable partners: the other countries of the North American Free Trade Agreement (NAFTA) – the USA and Mexico – and Turkey, which shares a customs union with the EU. All three countries fear a negative impact from CETA: the USA and Mexico worry that NAFTA will lose its economic primacy to CETA, while Turkey is concerned about a lack of parallelism in its bilateral relations with the EU's comprehensive trade agreement partners. (The idea of a Turkish-Canadian FTA has been explored but has not materialised.)

All these issues – the reactions of civil society, business associations, trade unions and agricultural groups on both sides of the Atlantic, as well as the role played by the European and Canadian parliaments during negotiations – will be fleshed out in the following pages. The concerns of the NAFTA countries and Turkey will also be addressed.

2 Expected economic benefits

Business associations in Europe and Canada have been strong supporters of CETA from the outset of negotiations. They have actively participated in

formal consultations, while vigorously pursuing lobbying and public outreach activities to amplify their fundamental message: that CETA represents an added value for both the EU and Canadian economies. Business lobbies have emphasised the positive impact that the agreement is forecast to have on the volume of bilateral trade in goods and services, *inter alia* by enhancing regulatory cooperation and protecting investments.

Business associations in the EU and Canada have been strongly in favour of CETA from the outset of negotiations.

On the EU side, business associations welcomed the ambitious and comprehensive nature of the agreement, emphasising CETA's potential to advance European business interests and allow Europe to remain an influential player in the global economy¹. EU businesses also emphasised that CETA's importance for the EU goes beyond opening the Canadian market to EU exporters and service providers; the agreement also establishes a blueprint for deep integration, which may be relevant in negotiating the Transatlantic Trade and Investment Partnership (TTIP) with the US. The other key benefits highlighted by the EU business sector include the elimination of up to 95 % of tariffs, customs and trade facilitation, the free movement of people (with temporary entry for business visitors without a work permit and the mutual recognition of qualifications) and access to sub-federal and municipal procurement markets².

In Canada, business associations have emphasised that CETA will provide Canadian companies access to a market of 500 million people, as well as a strategic advantage and leverage over the country's principal NAFTA partner – the United States³. These associations also noted that Canada's foreign direct investment (FDI) in the EU remains much higher than the EU's in Canada. The EU is currently Canada's second-most important trade partner (the first being the US)⁴, while Canada's is the EU's 12th most important trade partner. Minerals and metal exports constitute a significant part of current trade volumes).

3 Investor-state dispute settlement (ISDS)

Investor-to-state dispute settlement is an instrument of public international law that grants an investor the right to use dispute settlement proceedings against a foreign government⁵. Although the clause has been regularly

¹ Businesseurope, 'EU Business Strongly Backs CETA,' press release of 26 September 2014, <http://www.businesseurope.eu/content/default.asp?PageID=568&DocID=33338>.

² Eurochambres/EUCCAN joint press release, 'EU-Canada Summit: Business welcomes end of CETA negotiations,' 26 September 2014, http://www.eurochambres.eu/objects/3/Files/EUROCHAMBRES_Press_Release_EU-Canada_Summit.pdf.

³ Geopolitical Monitor, 'CETA Free Trade Agreement could Benefit Canada more than EU,' <http://www.geopoliticalmonitor.com/ceta-free-trade-agreement-benefit-canada-eu/>.

⁴ *Ibid.*

⁵ UNCTAD's definition of ISDS can be retrieved on, http://unctad.org/en/docs/iteia20073_en.pdf

Investor-to-state dispute settlement provisions are included for the first time in one of the EU's comprehensive free trade agreements.

The European Commission assured stakeholders that CETA would guarantee high levels of protection and clear arbitration process rules.

Germany attempted to block the negotiation process by refusing to sign the agreement because ISDS provisions were included.

incorporated into international investment agreements, CETA is the first of the EU's comprehensive trade agreement to include it⁶.

As in other cases (notably the Transatlantic Trade and Investment Partnership, or TTIP, which is currently being negotiated) CETA's ISDS chapter provoked an outburst of criticism from NGOs, trade unions and other interested parties (including *inter alia* some local authorities in the EU and Canada). These stakeholders feared that certain public concerns (regarding environment, safety and public health) would be run over by commercial interests and agendas⁷. In the European context, anti-ISDS objections have been raised by umbrella organisations representing consumer groups in Europe⁸. These organisations have strongly opposed the inclusion of ISDS mechanisms, claiming that the provisions could make it easier for US companies to file ISDS claims in Europe through their Canadian affiliates⁹.

Responding to these concerns, the European Commission insisted that CETA would guarantee high levels of protection to both partners, as well as their right to regulate and pursue public policy objectives in areas such as environment, safety and health¹⁰. As it stands, CETA's chapter on investments sets a clear basis for the investment protection standards, along with rules of conduct for procedures in arbitration tribunals¹¹. The agreement also maintains the rights of host governments (on all levels – including sub-regional and local governments) to continue regulating in public interest¹².

During the final phase of CETA negotiations, some EU Member States threatened to block the finalisation of the agreement. Many of their concerns echoed those of their civil society organisations. Germany refused to sign CETA in September 2014 and urged the Commission to exclude the ISDS element from the text¹³. The country's protest was triggered by its experience with the Swedish energy company; the company had made a claim – based on the European Energy Charter – for financial compensation following Germany's abrupt decision to phase out nuclear energy¹⁴. The German

⁶ European Parliament, 'Negotiations on the EU-Canada Comprehensive Economic and Trade Agreement (CETA) concluded, October 2014, [http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536410/EXPO_IDA\(2014\)5364_10_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536410/EXPO_IDA(2014)5364_10_EN.pdf)

⁷ The Council of Canadians, 'The CETA Deception: The right to regulate - health and environmental standards', July 2012, <http://www.canadians.org/ceta-deception-2>

⁸ In French 'Bureau Européen des Unions de Consommateurs', an NGO of 40 member organisations from around 31 EU countries building up a dialogue between EU consumers and EU legislative institutions.

⁹ Bureau Européen des Unions de Consommateurs, 'Canada and EU trade talks: The backdoors to ISDS endorsement', <http://www.beuc.eu/blog/canada-and-eu-trade-talks-the-backdoor-to-isds-endorsement/>

¹⁰ Comprehensive Trade and Economic Agreement (CETA), 'Protecting democracy, consumers and environment', <http://ec.europa.eu/trade/policy/in-focus/ceta/>

¹¹ European Commission, Investment provisions in the EU-Canada Free Trade Agreement (CETA), 26 September 2014, http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151918.pdf

¹² *Ibid.*

¹³ Euobserver, 'EU-Canada pact faces German opposition over investor clauses', 25 September 2014, <http://euobserver.com/news/125764>

¹⁴ TNI's Trade & Investment, Vattenfall v. Germany (II), 8 October 2013, <http://www.tni.org/briefing/nuclear-phase-out-put-test>

The issue of CETA's ISDS provisions continues to raise objections, and there have been a number of requests to focus on it during the legal review.

Federal Minister of Economics indicated that the ISDS clause in CETA should be further examined, as its inclusion was problematic for Germany¹⁵. The issue of ISDS in CETA continues to be discussed and remains problematic in Germany.

A few influential civil society actors, including the European Consumer Organisation (*Bureau Européen des Unions de Consommateurs*, BEUC), also pointed to another thorny ISDS issue: the possibility that public finances could be used to compensate foreign investors in case of losses¹⁶.

Despite the outreach of the EU and Canadian authorities on this issue, the ISDS chapter remains the most controversial one in CETA. Civil society organisations continue to call for revising the provisions, even as the agreement goes through its current phase of 'legal scrubbing'. The issue was also raised during the 2014 inter-parliamentary meeting between the EP and the Canadian parliaments, held in Brussels on 13 November 2014.

4 Quality of jobs and public procurement

Both the EU and Canada have high labour and social standards.

While the labour and social standards of both the EU and Canada are considered among the highest in the world, trade unions on both sides of the Atlantic have voiced apprehensions throughout the negotiations.

Trade unions on both sides of the Atlantic have been vocal throughout the negotiations, as they fear that the introduction of ISDS mechanisms and the liberalisation of public procurement will erode standards.

The European Trade Union Confederation and the Canadian Labour Congress have expressed the need to maintain high labour standards in CETA. Both organisations have been officially consulted throughout the negotiation process. They have issued numerous public documents outlining their positions, noting their unease with the potentially negative impact of ISDS mechanisms on labour rights. The groups have also suggested that CETA could interfere with the right of governments (including local governments) to regulate in the public interest, protect public services and create new public programs. (*See above*¹⁷.)

In parallel, Canadian regional parliaments and municipal assemblies have vigorously debated CETA's potential impact on public procurement. More than 50 municipalities and municipal organisations, including in Toronto, Hamilton and Victoria, initially demanded an exemption from CETA's procurement provisions¹⁸. In their view, the future rights of local contractors

¹⁵ The unresolved issue of ISDS has potential to weight into the fate of the agreement. At the time of this writing, some arguments of whether CETA is indeed a mixed agreement and as such would need to be ratified by all national parliaments, persist.

¹⁶ Bureau Européen des Unions de Consommateurs, 'Canada and EU trade talks: backdoor to the ISDS endorsement, 8 May 2014, <http://www.beuc.eu/blog/canada-and-eu-trade-talks-the-backdoor-to-isds-endorsement/>

¹⁷ Joint ETUC/CLC Statement on the EU-Canada Comprehensive Economic and Trade Agreement, 24 January 2013, http://www.etuc.org/sites/www.etuc.org/files/CLC_ETUC_final.pdf

¹⁸ Policy Alternatives Canada, 'Making sense of the CETA, an analysis of the final test of CETA, September 2014, https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2014/09/making_sense_of_the_ceta_PROCUREMENT.pdf

Some municipalities initially demanded an exemption from CETA's procurement provisions.

could be threatened by an influx of European multinational companies, which the agreement allows to take part in public calls¹⁹. These local objections appear to have been calmed by the Canadian authorities' dialogue with the Federation of Canadian Municipalities (FCM). Although the agreement, as initialled, does not provide for exceptions, federal authorities apparently assured their local counterparts that the sustainability of public services would not be jeopardised by CETA²⁰.

Another thorny issue has been labour standards, although CETA incorporates relevant provisions and refers to the standards enshrined in the 1998 International Labour Organisation Declaration (ILO).

5 Agriculture

The EU and Canada recognise the economic importance of agriculture and the value of high food safety standards.

As the agricultural sectors in the EU and Canada are economically significant – and as food safety issues remain a focus of public attention and regulatory activities – civil society organisations have paid close attention to the negotiations on agricultural issues. The two key issues of concern in this context have been geographic indications (GIs) and genetically modified organisms (GMOs). The EU has been particularly attentive to the GI issue; the debate concerns more than 150 EU products, and no Canadian ones. The GMO debate has also been primarily an EU concern, driven by European civil society organisations. They fear that CETA may alter the EU's approach to the issue.

Geographic indications (GIs) proved a thorny issue during the negotiations, as the EU and Canada do not share a common approach to their denomination.

GIs indicate the origin of manufactured products produced in a certain territory and having particular qualities. The labels proved a particularly challenging item during the CETA negotiations. The issue also ties directly to the dispute on the rules of origin – to defining the necessary conditions to be classified as originating from the EU or Canada, and thereby to benefit from the agreement's trade preferences.

The agreement reached on GIs was welcomed in Europe, but not by everyone in Canada.

During negotiations, the two sides reached an agreement on the issues of GIs and rules of origin. The settlement was greeted with satisfaction by EU civil society groups, who considered that the EU's objective to protect certain categories of food had prevailed. CETA currently preserves around 145 EU GIs, including, *inter alia*, the Italian *Mortadella Bologna*, German *Bayerisches Bier* and French *Brie de Meaux*²¹. Some civil society organisations in Canada

¹⁹ *Ibid.*

²⁰ Statement by FCM President following the release of the final text of CETA, <http://www.fcm.ca/home/media/news-releases/2014/statement-by-fcm-president-following-the-release-of-the-final-text-of-the-comprehensive-economic-and-trade-agreement-ceta.htm>

²¹ A more in-depth analysis on GIs and rules of origin is presented in: Canadian Centre for Policy Alternatives, 'Making Sense of the CETA: An Analysis of the Final Text of the Canada-European Union Comprehensive Economic and Trade Agreement,' September 2013, https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2014/09/making_sense_of_the_ceta_INTELLECTUALPROPERTYRIGHTS.pdf.

have accused the Canadian authorities of 'caving in' to the EU on this matter²².

While the EU and Canada regulatory approaches to GMOs largely overlap (and the issue does not figure in CETA), civil society discussed the matter and expressed fears about a possible liberalisation of GMO trade.

While the draft version of CETA does not contain provisions on genetically modified organisms (GMO), civil society focused on the issue during negotiations. In fact, the issue may be more relevant to the TTIP negotiations, where EU and the USA attitudes on GMOs differ significantly. The CETA negotiations involve two partners with similar regulatory approaches to the matter, backed by convergent public opinions. Nevertheless, some civil society organisations have expressed concern about a possible evolution in the trade of genetically modified food crops as a result of CETA²³. For the moment, however, the EU and Canada have maintained their strong regulatory approaches to GMOs and controlled GMO trade across borders.

6 Issues entangled with negotiations: The seal product trade, visas and data protection

The contentious issue of the trade in seal products has been excluded from CETA to prevent the negotiations from being hampered by it.

The issue of the trade in seal products was excluded from CETA. Arguments on this issue are long-standing and complex, with the European Union and European civil society strongly opposed to the trade²⁴. In 2008, the European Commission proposed legislation prohibiting trade in seal products obtained from seal hunting in the EU (Regulation (EC) No 1007/2009)²⁵. The Parliament voted in favour of the regulation the following year.

The EU's 2009 ban on the trade in seal products was upheld by the European

Because of the ban applied not only to seal products obtained in the EU, but also to imported products, Canada and Norway – countries with a significant trade in seal products – challenged the EU regulation at the World Trade Organisation (WTO) in January 2011²⁶. In response, in June 2011, Members of the European Parliament issued an open letter to the Canadian government declaring they would not support CETA until the Canadian government withdrew its challenge to the EU ban before the WTO²⁷. The ban was upheld

²² Carleton University, CETA Policy Briefs Series, 'CETA and Geographic Indicators: Why a Sensitive Issue?', http://www.carleton.ca/ces/wp-content/uploads/CETD_CETA-policy-brief_Gls_Viju.pdf.

²³ Agricultural and Rural Convention 2020 (civil society platform comprising over 150 EU civil society organisations), 'CETA-setting the precedent for TTIP?', <http://www.arc2020.eu/front/2014/08/ceta-%E2%80%93-setting-the-precedent-for-ttip/>.

²⁴ International Fund for Animal Welfare (IFAW), Humane Society International (HSI), Eurogroup for Animals.

²⁵ Regulation (EC) No 1007/2009 of the European Parliament and the Council of 16 September 2009 on trade in seal products, http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145264.pdf

²⁶ WTO, Dispute Settlement DS401, European Communities - Measures Prohibiting the Importation and Marketing of Seal Products, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds401_e.htm

²⁷ European Parliament, Open Letter to the Canadian government concerning the Canada's commercial seal hunt, June 2011, http://www.europarl.europa.eu/meetdocs/2009_2014/documents/d-ca/dv/openletter/openletter_en.pdf

Court of Justice and backed by the World Trade Organisation (WTO).

While sealing remains important to livelihood of northern Canadian communities (including Inuit ones)...

...over 86 % of Canadians support the EU ban, according to a recent poll.

Visa liberalisation issues have also resurfaced during negotiations.

by the European Court of Justice in April 2013²⁸. In 2014, the also WTO issued a decision supporting the European ban – a ruling welcomed by international animal rights organisations²⁹ – effectively ending the dispute. In an official statement, the Commission seconded the WTO decision and declared it would review its heavily criticised exceptions for the Inuit communities' hunt³⁰.

The Canadian Sealers Association expressed its deep disappointment with both the European Court of Justice and WTO's decisions. The Association argued that CETA would have a detrimental impact on local economies in northern Canada, which depend heavily on profits from trade in seal products³¹. For their part, the Canadian indigenous communities have perceived the ban and European criticisms as an attack on their livelihood; given the limited economic opportunities available in the north, these communities argue that their livelihoods depend on seal hunting and the trade of in seal products³². Nevertheless, the support for seal hunting within Canada seems to have diminished. Over 86 % Canadians recently polled supported the EU ban³³. Despite the intensity of the debate, the issue has not impeded the negotiations.

Another issue – unrelated to the content of CETA, but linked on a political level – was the Passenger Name Record (PNR) agreement with Canada. The agreement has been undergoing re-negotiation, following the expiration of the Commission's 'adequacy decision' – a decision of 6 September 2005 outlining measures to guarantee adequate protection of personal data contained in the PNR data of air passengers transferred to Canada Border Services Agency³⁴. This agreement, which sets conditions for transferring data, is considered of crucial importance in the fight against terrorism and organised crime. It stipulates the maximum periods that data may be stored, the conditions under which Canadian authorities may access the information, and the modalities of protecting personal data and obtaining redress. A draft agreement has already been transmitted to the EP for its consent.

²⁸ European Court of Justice, Case T-526/10, Judgment of the General Court, 25 April 2013, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=136881&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1227>

²⁹ International Fund for Animal Welfare (IFAW), Humane Society International (HSI), Eurogroup for Animals.

³⁰ European Commission, 'WTO upholds EU ban on seal products', 22 May 2014, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1084>

³¹ The Canadian Sealers Association, 'CSA disappointed with CETA talks', 22 November 2013, <http://www.sealharvest.ca/site/?p=2505>

³² Canadian Ministry of Foreign Affairs, Trade and Development, press release of 10 October 2014, 'Canada Pursues Expanded Access and Opportunities in European Markets for Indigenous Sealers', <http://www.international.gc.ca/media/arctic-arctique/news-communiqués/2014/10/09a.aspx?lang=eng>

³³ IFAW, HSI, Eurogroup for Animals, Resolution on EU-Canada Trade Relations, http://eurogroupforanimals.org/files/policies/downloads/108/briefing_for_meps_on_eu-canada_trade_relations_wto_case_on_seals.pdf

³⁴ The so-called 'Adequacy decision' of 6 September 2005 can be retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:091:0049:0060:EN:PDF>.

Data privacy questions have arisen in relation to a separate, on-going revision of the Passenger Name Record (PNR) agreement.

During the debate on this issue in the Civil Liberties, Justice and Home Affairs (LIBE) committee on 5 November 2014, Rapporteur Sophia in 't Veld indicated that the consent procedure could be delayed because the Commission had yet to adequately answer a number of the Parliament's questions about the agreement; the Rapporteur said she did not intend to recommend the procedure advance until the questions were answered. A decision on consent had previously been expected for the first half of January 2015.

7 Transparency and inclusiveness of the process

Foreign investment policy is an exclusive EU competence since the Treaty of Lisbon.

The 2009 Treaty of Lisbon extended the competence of the European Parliament in the field of the EU's common commercial policy (CCP) and established foreign investment policy as one of the exclusive competences of the Union. This permits the European Commission to negotiate international trade agreements that include provisions on investment protection on behalf of EU Member States.

CETA negotiations, like many previous talks, have been conducted behind closed doors. This has provoked sharp criticism from civil society organisations on both sides of the Atlantic, who have accused their governments of keeping the public in the dark. European civil society's interest in CETA was not initially strong (from 2009, when the negotiations were launched). Yet as negotiations progressed, and as TTIP negotiations accelerated, many issues common to the two agreements raised public interest in CETA.

In both the EU and Canada, public consultations have been organised on CETA.

After the European Commission was authorised to open discussions on a comprehensive economic and trade agreement with Canada, in late April 2009, the negotiation process was launched. To ensure public feedback, the Commission produced a questionnaire to gather information from the public to serve as a guide in establishing priorities and making decisions during negotiations³⁵. Following the usual practice, however, the text of the agreement was classified as confidential and only opened to public scrutiny on 26 September 2014 – the day the EU-Canada summit was held in Ottawa, where the negotiations were formally concluded³⁶.

The Commission has regularly posted official statements about negotiating progress on website of the Directorate-General for Trade. This began in 2004,

³⁵ European Commission, Questionnaire on a Comprehensive Economic Agreement with Canada, 7 May 2009, http://trade.ec.europa.eu/doclib/docs/2009/may/tradoc_143107.pdf

³⁶ European Commission, Consolidated CETA text, 26 September 2014, http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf

when the Commission announced the design agreed for a future EU-Canada Trade and Investment Enhancement Agreement³⁷. The document was followed by series of assessments, studies and reports on EU-Canada trade relations³⁸.

In Canada, the House of Commons' Standing Committee on International Trade launched a study in 2011 in order to provide information that would allow the authorities to tailor the agreement's implementation to local needs³⁹. Following this, the Committee held hearings in Ottawa with Canadian stakeholders throughout 2011. The aim of these meetings was to collect views from interested parties. Representatives of civil society, academia and farming associations were among those invited to discuss CETA's possible impact⁴⁰.

Further impetus for consultations was provided by an unexpected leak of the draft CETA agreement in August 2014⁴¹. One-third of the draft version (519 pages out of 1 500 prepared), which had been negotiated over five years, was subsequently published by the German broadcaster ARD⁴².

In response to the leak, the Commission provided further explanations on the most contentious points of the public discussion (including ISDS, as well as the overall transparency of the process), clarifying potential outcomes and explaining the subsequent steps. The Commission has made particular efforts to explain the ISDS-related issues to the public, in the hope of underscoring the necessity of including ISDS⁴³. Another document, focused on the investment provisions in CETA, was published to clarify possible misinterpretations of the provisions⁴⁴. Moreover, the Commission's official

In August 2014, a surprise leak of the draft CETA agreement prompted EU and Canadian authorities to organise additional public outreach campaigns on the agreement's content and potential impact.

³⁷ European Commission, EU-Canada: Commission agrees design of future EU-Canada Trade Investment Enhancement Agreement, 3 March 2004, http://trade.ec.europa.eu/doclib/docs/2004/march/tradoc_116065.pdf

³⁸ European Commission, DG Trade, Canada, http://trade.ec.europa.eu/doclib/cfm/doclib_section.cfm?sec=118&link_types=&dis=20&sta=1&en=20&page=1&langId=EN

³⁹ Parliament of Canada, Committee Report, Report 1, Negotiations toward a Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union, Adopted by the Committee on March 1, 2012, Presented to the House on March 12, 2012, <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5431905&File=87>

⁴⁰ Standing Committee on International Trade, 15 February 2011, <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4962131>

⁴¹ Euobserver, 'What the leaked EU-Canada trade paper means for TTIP', 18 August 2014, <http://euobserver.com/news/125270>

⁴² Canada-EU trade deal text leaked ahead of fall summit, 13 August 2014, <http://www.cbc.ca/news/politics/canada-eu-trade-deal-text-leaked-ahead-of-fall-summit-1.2735856>

⁴³ European Commission, DG Trade, Public consultation on modalities for investment protection and ISDS in TTIP, March 2014, http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152280.pdf

⁴⁴ European Commission, Investment provisions in the EU-Canada Free Trade Agreement (CETA), 26 September 2014, http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151918.pdf

Some observers remain critical of the negotiation process's lack of transparency and inclusiveness.

website provided a comprehensive explanation of CETA, elaborating on focal points, including democracy, consumers and environment protection⁴⁵.

The cabinet of the Canadian International Trade Minister abstained from commenting on the leaks of the negotiating text.⁴⁶ At the time of the leak, the text was undergoing the translation and legal review process; it was to be fully released (and was released) after the EU-Canada Summit in Ottawa⁴⁷. Despite the authorities' efforts to consult broadly, many civil society actors did not consider the CETA process transparent or inclusive, and felt it should not be emulated in the future (particularly with the TTIP).

8 Reactions and the role of the European and Canadian Parliaments

Both the European and Canadian Parliaments have actively monitored the course of CETA negotiations.

Throughout the talks, the EP and the Canadian Parliament have monitored the negotiations and contributed their ideas in a number of ways. The legislatures have adopted thematic resolutions, held meeting with government representatives involved in the negotiations and provided opportunities for civil society entities to voice their concerns. Parliamentary meetings and workshops have been particularly important points of consultation.

The European Parliament adopted a thematic resolution on 8 June 2011 to express its views on the desired outcome.

The European Commission kept the European Parliament – under the lead of its International Trade Committee (INTA) – informed of the negotiations' progress and the potential impact. The discussions culminated with a resolution adopted on 8 June 2011 (Rapporteur Vital Moreira, S&D/PT, on behalf of the International Trade Committee/INTA)⁴⁸. This resolution highlighted the likely positive impact the agreement would have on both signatories' economies, as well on reinforcing commercial ties. Political links were to be reinforced by a parallel Strategic Partnership Agreement, which focuses on political aspects of EU-Canada cooperation⁴⁹. At present, both CETA and the SPA are undergoing legal review. Both will be subject to the consent procedure.

The Canadian Parliament provided opportunities for civil society to express itself through public hearings.

The Canadian Parliament has also actively expressed its views on CETA, monitoring the negotiations and providing opportunities for civil society to voice its concerns. The House of Commons' Standing Committee on International Trade has organised numerous hearings, during which civil society actors provided testimony. Most aspects of CETA were discussed in

⁴⁵ European Commission, DG Trade, Questions and answers, <http://ec.europa.eu/trade/policy/in-focus/ceta/questions-and-answers/>

⁴⁶ The Globe and mail Canada, 14 August 2004, <http://www.theglobeandmail.com/report-on-business/international-business/leaked-eu-trade-pact-appears-to-show-canada-caved-in-on-patent-protection-for-drugs/article20056195/>

⁴⁷ *Ibid.*

⁴⁸ The first EP resolution of CETA from 8 June 2011 can be retrieved on <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0257&language=EN&ring=B7-2011-0344>.

⁴⁹ *Ibid.*

quite some details. Discussions on agriculture and labour standards have been particularly heated⁵⁰. The House of Commons' Standing Committee on Agriculture and Agri-Food presented a report on the Canada-EU CETA negotiations in March 2014⁵¹. Three separate studies on CETA's potential impact were also conducted during the 2011-2014 period. All were subsequently published on the Parliament's website, with summaries of key debates, concerns and lines adopted⁵².

Canada's regions have also been consulted.

Because Canada is a federal state, various regional parliaments were consulted during negotiations. The Canadian provinces were granted observer status in the negotiations.

British Columbia and Nova Scotia have been positive about the agreement.

While central Canada was generally positive about the agreement, western Canada was less satisfied. British Columbia – a region highly dependent on trade – was one of the most favourable to the federal government's decision to conclude CETA's negotiations⁵³. British Columbia's evaluation was shared by Nova Scotia, another heavily trade-dependent province. (In 2009, goods exported to the European Union by Nova Scotia alone represented around 442 million Canadian dollars.⁵⁴

Concerns in Quebec pertained to CETA's potentially adverse impact on the province's cheese industry...

Although the government of Quebec gave its full support to the signature of CETA, dairy and cheese producers strongly protested, anticipating future losses. In December 2013, the Prime Minister of Quebec, Pauline Marois, declared that the Quebec legislature would not support the EU-Canada agreement until it received a guarantee of substantial compensation for the province's cheese producers⁵⁵. The Canadian central government has since

⁵⁰ Summaries and minutes of such meetings are publicly available on the website of the Canadian Parliament, and retrieved from the links below:

<http://www.parl.gc.ca/CommitteeBusiness/CommitteeMeetings.aspx?Language=E&Mode=1&Parl=41&Ses=2&Cmte=CIIT&Stac=8113956> (report of June 2014)

<http://www.parl.gc.ca/CommitteeBusiness/CommitteeMeetings.aspx?Language=E&Mode=1&Parl=41&Ses=1&Cmte=CIIT&Stac=4266735> (report of March 2012)

<http://www.parl.gc.ca/CommitteeBusiness/CommitteeMeetings.aspx?Language=E&Mode=1&Parl=40&Ses=3&Cmte=CIIT&Stac=3216938> (report of February 2011)

⁵¹ Report of the House of Common's Agriculture Committee on CETA can be retrieved on <http://www.parl.gc.ca/content/hoc/Committee/412/AGRI/Reports/RP6482794/agrip01/agrip01-e.pdf>, while the meeting's summary and minutes can be retrieved on

<http://www.parl.gc.ca/CommitteeBusiness/CommitteeMeetings.aspx?Language=E&Mode=1&Parl=41&Ses=2&Cmte=AGRI&Stac=8114404>.

⁵² All studies can be retrieved through the links below:

June 2014 CETA report of the Standing Committee on International Trade

<http://www.parl.gc.ca/content/hoc/Committee/412/CIIT/Reports/RP6674904/ciitrp02/ciitrp02-e.pdf>;

March 2012 CETA report of the Standing Committee on International Trade

<http://www.parl.gc.ca/content/hoc/Committee/411/CIIT/Reports/RP5431905/CIITrp01/ciitrp01-e.pdf>

February 2011 CETA report of the Standing Committee on International Trade

<http://www.parl.gc.ca/content/hoc/Committee/403/CIIT/Reports/RP4928552/ciitrp05/ciitrp05-e.pdf>

⁵³ Debates of the Legislative Assembly of British Columbia, 16 July .2013,

<http://www.leg.bc.ca/hansard/40th1st/20130716pm-CommitteeA-Blues.htm>

⁵⁴ Nova Scotia Canada, Canada-EU Comprehensive Trade and Economic Agreement, http://www.novascotia.ca/econ/tic/tradepolicy/ceta_survey.asp

⁵⁵ The Globe and Mail, Quebec won't back Canada-EU trade deal without help for cheese industry, 16 December 2013, <http://www.theglobeandmail.com/news/politics/quebec->

addressed these concerns, saying that measures will be taken in to limit losses.

...while in Newfoundland and Labrador, local authorities feared the impact on the local seafood market.

The apprehensions of Newfoundland and Labrador hinged on CETA's potential impact on the local seafood market. Local entrepreneurs and associations feared that local plants would not be able to compete with the relatively low processing wages of European countries with high unemployment rates, such as Spain and Greece⁵⁶.

Initially, some municipalities were deeply sceptical of CETA...

The municipalities of Victoria, Toronto, London, Ontario, Sackville and New Brunswick also expressed misgivings about the agreement. These areas were concerned about issues including local jobs and the powers of local authorities⁵⁷.

... but consultations with central authorities have mostly lifted their reservations.

During each round of CETA negotiations, the Federation of Canadian Municipalities (FCM) represented the interests of the municipalities. The FCM released statements at various stages. On 26 September 2014, an FCM statement stated that it 'believe[d] that agreement is consistent with FCM's principles for free and fair international trade aimed at protecting local government's interest' and noted that 'the federal government has committed to continue working with FCM on implementation details of the agreements'⁵⁸. On the basis of that statement and previous ones⁵⁹, it now appears as though suitable compromises have dissipated tensions.

9 Reactions from NAFTA countries (the US and Mexico) and Turkey

CETA exceeds the scope of the trilateral NAFTA agreement between Canada, the US and Mexico.

The five years of negotiations that CETA required resulted in an agreement with a scope and reach beyond that of the trilateral NAFTA agreement between Canada, US and Mexico, which dates back a decade, to January 1994.

The NAFTA agreement helped to abolish duties and quantitative restrictions among its members, while also facilitating foreign investment⁶⁰. Since then,

[wont-back-canada-eu-trade-deal-without-help-for-cheese-industry-marois-says/article15989003/](http://www.cbc.ca/news/international/wont-back-canada-eu-trade-deal-without-help-for-cheese-industry-marois-says/article15989003/)

⁵⁶ *Ibid.*

⁵⁷ 'CETA: Provinces failing to defend themselves in Canada-EU free trade negotiations', Huffington Post, 7 September 2012, http://www.huffingtonpost.ca/2012/07/09/ceta-canada-eu-free-trade_n_1660348.html

⁵⁸ Statement by FCM President following the release of the final text of CETA, <http://www.fcm.ca/home/media/news-releases/2014/statement-by-fcm-president-following-the-release-of-the-final-text-of-the-comprehensive-economic-and-trade-agreement-ceta.htm>

⁵⁹ FCM statement of March 2014 can be retrieved <http://www.fcm.ca/home/media/news-releases/2014/statement-by-fcm-president-following-the-release-of-the-final-text-of-the-comprehensive-economic-and-trade-agreement-ceta.htm>

FCM statement of October 2013 can be retrieved on <http://www.fcm.ca/home/media/news-releases/2013/statement-by-fcm-president-following-the-signing-of-the-canada-europe-trade-agreement.htm>

⁶⁰ Office of the United States Trade Representative, North American Free Trade Agreement (NAFTA), <http://www.ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta>

Canada has maintained a negative trade balance with Mexico, while counterbalancing it with a positive trade balance with the US. In 2013, Canadian exports to the US amounted to 357.5 billion Canadian dollars, while imports amounted to 247.4 Canadian dollars⁶¹. In comparison, the same year, Canada's exports to Mexico amounted to 5.4 billion Canadian dollars. Canada's imports from Mexico were much extensive – valued at USD 25.5 billion.⁶²

CETA will eliminate 99 % of trade barriers, while NAFTA proposed to eliminate only 26 % of tariffs.

CETA will undoubtedly have an effect on the trade relations between Canada and its NAFTA partners. NAFTA originally guaranteed levels of trade and investment, and eliminated tariffs at the border. CETA's tariff eliminations will affect almost 99 % of possible barriers; in this regard the agreement is three times as powerful as NAFTA, which enabled its partners to abolish only 26 % of barriers⁶³.

The US automotive sector has voiced its own worries about CETA⁶⁴. The agreement is likely to deeply affect the automotive industry, as the Canadian and US auto markets are closely interconnected. Much Canadian manufacturing is executed under a policy shared with its NAFTA partners, with different parts of the automotive sector controlled in different countries. For this reason, CETA introduces rules of origin, obliging Canadian cars to be at least 50 % manufactured on Canadian soil in order to be considered Canadian and gain access to EU markets. To minimise potential threats to the sector, which is highly integrated with Canada's North American partners, Canada will inevitably have to introduce adjustments to its manufacturing process. For US producers, this hints at potential threats and difficulties in coordinating cooperation in the sector⁶⁵.

Bilateral relations between Canada and Mexico have suffered from the visa restrictions Canada applies to Mexican citizens.

Bilateral relations between Canada Mexico have suffered since Canada introduced stricter visa requirements on Mexicans in 2009. The decision visa was a response to concerns about organised crime⁶⁶, but the link between Canada and Mexico is believed to have lost dynamism as a result⁶⁷. Once the restrictions were put in place, an unprecedented drop in visa requests was registered: the number of Mexicans visiting Canada annually decreased from 200 000 to about 130 000⁶⁸. Although Mexico is one of the most dynamic emerging markets, trade relations between Mexico and Canada have also

⁶¹ Government of Canada, Canadian Industry Statistics (CIS), http://www.ic.gc.ca/eic/site/cis-sic.nsf/eng/h_00029.html

⁶² *Ibid.*

⁶³ Financial Post, 'CETA offers more far reaching tariff elimination than NAFTA', 26 September 2014, <http://business.financialpost.com/2014/09/26/ceta-offers-more-far-reaching-tariff-elimination-than-nafta/>

⁶⁴ The Globe and Mail Canada, 'Why the Canada-EU trade affects almost every industry', 18 October 2013, <http://www.theglobeandmail.com/news/politics/explainer-why-the-canada-eu-trade-deal-will-affect-almost-every-industry/article14937574/>

⁶⁵ *Ibid.*

⁶⁶ National Post, Czech tourists will no longer need visas but Mexican travellers out of luck as serious security concerns remain, 16 October 2013, <http://news.nationalpost.com/2013/10/16/czech-tourists-will-no-longer-need-visas-but-mexican-travellers-out-of-luck-as-serious-security-concerns-remain/>

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

weakened, as the instability of political relations has apparently overshadowed the economic and trade relations between the two NAFTA partners.

Turkey has had a customs union with the EU since 1995, and this has led bilateral trade between the two to increase more than fourfold since 1996. The customs union has also facilitated increased FDI into Turkey and has prompted the country to align its legislation with the EU's *acquis*⁶⁹.

While recognising the benefits of the customs union, Turkey has not pursued bilateral FTAs with the EU's new FTA partners. The slow progress of the WTO's Doha Round of multilateral trade negotiations has also taken its toll. As Turkey has not secured parallel FTAs with the EU's partner countries and regions, the asymmetry of the EU's and Turkey's trade relations has deepened. This has proved costly for both Turkey and the EU, and both parties are now weighing the introduction of product origins controls, the absence of which has been a key benefit of the joint customs union⁷⁰.

In October 2009, Turkey indicated its interest in opening free trade negotiations with Canada, paralleling the EU's effort⁷¹. In February 2010, a bilateral consultation took place in Ottawa, allowing the two sides to explore the feasibility of such an undertaking⁷². Some official outreach and public consultations took place in August 2010, and formal exploratory talks were held in Ankara in October 2010⁷³. Through its public consultations, Canadian authorities reached out to various stakeholders, including business associations and the country's provinces and territories on the issue of Turkey.

While Turkey has benefitted from its customs union with the EU, the country has not secured deals with all the EU's trade agreement partners.

10 Conclusions: An increasing engagement

Despite reports to the contrary, civil society on both sides of the Atlantic has been active throughout the CETA negotiations.

Media outlets have often depicted civil reactions to CETA as muted and subdued (especially when compared to civil society's much more forceful reactions to TTIP, often augmented by social media activism). Yet upon closer inspection, civil society on both sides of the Atlantic has expressed itself on a number of topics directly related to the agreement – as well merely entangled with it – throughout the negotiations.

Business associations in the EU and Canada have been strongly supportive of the agreement, pointing to the mutual advantages it is likely to bring, particularly for SMEs. Other groups, including trade unions and agricultural lobbies, voiced concerns – although most appear to have been successfully

⁶⁹ The World Bank, Report No. 85830-TR, 'Evaluation of the EU-Turkey Customs Union,' http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2014/20140403-evaluation-of-the-eu-turkey-customs-union.pdf.

⁷⁰ *Ibid.*

⁷¹ Canada Gazette (Canadian government's official journal), Volume 144, No 32, 7 August 2010, <http://www.canadagazette.gc.ca/rp-pr/p1/2010/2010-08-07/html/notice-avis-eng.html#d101>.

⁷² *Ibid.*

⁷³ *Ibid.*

resolved. The notable exception is ISDS, which remains problematic.

Although European and Canadian authorities have both organised official consultations with civil society, they have also faced criticism about a lack of transparency and inclusiveness in the negotiations. Unexpected leaks of parts of the draft agreements in August 2014 have led EU and Canadian authorities to undertake additional public outreach, further explaining the content of negotiations and the issues.

The EU and Canadian Parliaments have played a supportive role in gathering civil society's contributions through hearings, visits and studies.

Both the European and Canadian Parliaments have helpfully provided opportunities for civil society representatives to express their opinions. Canada's national parliament has been particularly active, gathering input from the regions and municipalities and in helping soothe concerns about CETA's impact on local authorities in areas including public service procurement and investor-state disputes.

As explained earlier, Turkey and Canada's NAFTA partners have voiced their concerns on CETA's potentially detrimental impact on their economies. For the NAFTA countries, key issues include the impact on the US automotive sector and on Mexico's decreasing trade volume with Canada. For Turkey, a major concern remains the country's own bilateral relations with Canada – which do not benefit from a trade agreement, despite the fact that Turkey does have a customs union with the EU. (Turkey's failure to conduct parallel free trade negotiations has dogged the country in the past as well.) Turkey did indicate its interest in pursuing an FTA with Canada in 2009, but only preliminary consultations have been held, and no agreement has been reached that would allow negotiations to start.

Civil society plays a growing role in monitoring and even shaping free trade agreement negotiations.

The range of reactions towards CETA outlined in the previous pages points to the agreement's strategic importance and to its significance to stakeholders in the EU, Canada and beyond. More broadly, the reactions also demonstrate a trend: interest groups are increasingly engaged in free trade negotiations – as are parliaments, which can play a helpful role in facilitating these agreements.