Question for written answer E-005144/2016
to the Commission
Rule 130
Emma McClarkin (ECR)

Subject: Canada's dual litigation

During the Comprehensive Economic and Trade Agreement (CETA) negotiations, the Commission strongly advocated improvements in Canada's life sciences intellectual property environment, in order to level the playing field between the EU and Canada, in particular providing innovators with an effective right of appeal (ROA) in patent linkage proceedings. Previously, Canada stated that addressing ROA in CETA 'gives scope for Canada to end the practice of dual litigation'. Despite a new ROA for investors included in the agreement, if the practice of dual litigation is terminated, an asymmetry in legal rights between generic drug manufacturers and innovators may persist, removing the equal footing sought by the Commission.

There is a lack of clarity in Canada's future intention with regard to 'dual litigation'.

1. Has the Commission enquired with Canada about its intentions with regard to 'dual litigation'?

2. Given that removing such a fundamental right for innovators could nullify the Canadian concession on ROA in CETA, does the Commission agree that it is important to clarify the intentions of the Canadian Government ahead of CETA's ratification?

3. Does the Commission intend to remind Canada that the right of appeal was meant to address an inequity in its current regime?