

CONCERN FOR DIVERSITY IN A FREE-TRADE ZONE

by Dr. Diane Dodd and George Chatzinakos



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The Transatlantic Trade and Investment Partnership (TTIP) between the EU and USA and the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada are bilateral agreements that are currently being negotiated and will not only affect specific sectors (agriculture, industry, cultural products and services, tourism etc.) but also importantly set the legal framework for trade in the future.

Referring to TTIP, on an official website of European Commission¹ they defend that "negotiations aim at removing trade barriers (tariffs, unnecessary regulations, restrictions on investment etc.) in a wide range of economic sectors so as to make it easier to buy and sell goods and services between the EU and the USA. EU and USA also want to make it easier for their companies to invest in each other's economy."

¹ <http://ec.europa.eu/trade/policy/in-focus/ttip/about-ttip/article-218.html>

On 26 September 2014 in Ontario, the last summit between the EU and Canada was held and participants decided the ratification of the bilateral Comprehensive Economic and Trade Agreement (CETA), putting it into orbit of implementation and waiving the few remaining civil rights of European citizens. Already seven rounds of discussion between US and EU have been completed, while the corresponding between CETA has reached its final form. The negotiations are moving towards validation under full secrecy and opacity. If the two agreements will be signed, there will be significant impacts on over 500 million European citizens and also millions of American and Canadian citizens.

In the negotiations neither representatives of elected parliaments nor entities of civil society participated (neither did the European Parliament and the US Senate participate in the negotiations). In contrast to many other agreements the American President will manage himself the agreement. The role of the European Parliament is delimited to approve or reject the final agreement. This contrasts with Article 218 of the Treaty on the Functioning of the EU (Lisbon Treaty)² which states that "the European Commission within the negotiation of international trade agreements is obliged to immediately fully inform the European Parliament." The European Court of Justice in two important decisions on 2 June 2014 and 3 July 2014 has essentially criticized the lack of transparency and information to the negotiations. Only seventeen of the Member States have complained about this process.

The Guardian³ noted that the common objective of these agreements is the circumvention of all the national laws that protect the rights of the peoples of Europe, in order to remove completely the last minimum barriers, ensuring the super-profits of the transnational corporations on both sides of the Atlantic. TTIP and CETA are considered as obvious examples of how undemocratic negotiations are taking place for trade and investment policies solely on behalf of big multinational enterprises.

Furthermore, the European Commission rejected the proposal submitted by 250 European social and other organisations, institutes and political parties in order to put into citizens' consideration, a formal investigation procedure of "European Citizens' Initiative" on the topic of TTIP. However, this broad coalition didn't remain passive, deciding to launch a bottom-up "European Citizens' Initiative" in order for European citizens to express their views on this very important process that exceeds the framework of a simple trade agreement between states. Organisations supporting the campaign are more than 350⁴.

A number of internet campaigns have collected signatures asking for the European Parliament to block the vote. Nikos Chrysogelos, member of the European Parliament for Ecologist Greens/European Free Alliance states that citizens' response has been impressive. In less than 6 days from the start of the electronic campaign 600,000 signatures were collected on the web platform <http://stop-ttip.org/>. Organizations, institutions and parties that support the "European Citizens' Initiative STOP-TTIP" focus their criticism on the

² <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-5-external-action-by-the-union/title-5-international-agreement/506-article-218.html>

³ <http://www.theguardian.com/commentisfree/2013/nov/04/us-trade-deal-full-frontal-assault-on-democracy> (accessed 1 June 2015)

⁴ The supporting organisations can be found here: <https://stop-ttip.org/supporting-organisations/> (accessed 1 June 2015)

lack of transparency in the discussions, the lack of democratic participation in the negotiations and to the effort of adopting standards that would limit the social and labour and consumer rights, and environmental protection. According to the activist of the initiative "we want to prevent TTIP and CETA because they include several critical issues such as investor-state dispute settlement and rules on regulatory cooperation that pose a threat to democracy and the rule of law. We want to prevent lowering of standards concerning employment, social, environmental, privacy and consumers and the deregulation of public services (such as water) and cultural assets from being deregulated in non-transparent negotiations. The ECI supports an alternative trade and investment policy in the EU". On 11 October 2014 there were coordinated manifestations all across Europe and USA. Even if the European Commission claims that a potential dismissal will be at the expense of economic growth and employment, and will void five years of negotiations and will disturb its trading partners, the large participation shows that in most countries people are aware and worried.

A concern was raised in the meeting of the European members of the International Federation of Arts Councils and Culture Agencies (IFACCA) in Lithuania last September about the lack of consultation.

In light of the above, IGCAT also raised the issue at its first Art of Food meeting held in Sant Pol de Mar, June 2014. The result of that meeting of experts was an agreement to send a letter to EP officials, UNESCO and the EC to ask for a full consultation process.

The official line of European Commission as can be viewed from the Economic Assessment from March 2013⁵, is that these agreements will create job positions and boost economic growth. However, the beneficiaries of these agreements are not directly people, but large international companies. As the European Citizens' Initiative Stop TTIP and CETA notes:

1. The Rule of Law (Rechtsstaat) is being affected by the introduction of a parallel justice system. Canadian and American companies receive the right to sue for compensation if they believe that they have suffered losses because of the law or EU measures or individual Member States of the European Union (Investor-State Dispute Settlement - ISDS). This may also affect the laws that have been enacted in the interest of the common good, such as laws and regulations on environment or consumer protection. Instead of public courts, private arbitration tribunals would meet secretly to make decisions about the compensations. The payment of these allowances will be made from the state budget, i.e. by using taxpayers' money. The decisions of arbitration courts are final, with no possibility of appeal and this directly contradicts with the basic principles governing the rule of law.
2. Companies' lobbies will even participate in the drafting of new regulations and laws, under the excuse that these laws and regulations could affect their commercial interests. Thus the existing laws of EU and its Member States will have to change in cases they don't "agree" to the terms and articles of the agreements as they will have more power as intergovernmental agreements. This process of involvement of private interests in the legislative process very misleadingly named as regulatory co-

⁵ The completed assessment can be viewed at: http://trade.ec.europa.eu/doclib/docs/2013/marc_h/tradoc_150737.pdf (accessed 1 June 2015)

operation. This means that the representatives of large enterprises will be called by the governments to participate in expert groups to influence the new legislation, even before they are discussed in the elected parliaments. This undermines democracy in the sense that the political intention must derive from the people, and not by the representatives of multinational enterprises creating agreements on trade and investment!

3. Multinational enterprises have and continue to have (allegedly) big impact during the secret negotiations with regards to CETA and TTIP. Only during the preparatory phase for TTIP, 590 meetings were held between European Commission and lobby representatives according to official statements. 92% of these meetings were conducted with representatives of companies, while only in a few cases there were discussions with consumer representatives or trade unions.
4. The negotiations are conducted under the utmost secrecy. Even public representatives know little about the progress of negotiations. They will receive the results in a form of huge text (CETA for example, has about 1,500 pages of legal text) only after the completion of the negotiations will public representatives be able to either accept or reject the entire Agreement.
5. Workers' rights are under pressure and jobs positions in many industries will find themselves endangered such as in agriculture, entertainment, tourism and culture, due to tougher competition from abroad.
6. Liberalization and privatization are intended to be one-way. The return to public services, after being privatized, will become more difficult or even impossible by implementing the agreements CETA and TTIP.
7. EU and its member States will, in an attempt at transatlantic "harmonization," undermine the power of national and local governments. For example, the USA permits the cultivation of genetically modified organisms and cloning for animal consumption that the EU currently does not allow. The USA does not force a certification system that informs the consumers that the meat is derived from cloned animals or the offspring of cloned animals. Therefore EU citizens will unwillingly be introduced to 'foods' currently not considered good for public health.
8. Standards in food and consumer protection are threatened as EU companies will lobby to reduce to the same level as the "lower" US standards. (In USA first must be proved the dangerousness of a product and then it is banned, while in the EU each company must first prove the non-risk and then be allowed to use). However, we still need higher and not lower protection standards from the ones that are valid today as regards to the use of pesticides and methods of production. The regulatory co-operation will make it much more difficult or even impossible to impose higher standards.
9. According to the economic assessment made by the European Commission "reducing non-tariff barriers will be a key part of transatlantic liberalisation. As much as 80% of the total potential gains

come from cutting costs imposed by bureaucracy and regulations, as well as from liberalising trade in services and public procurement". However, often the lifting of bureaucracy means the reduction of quality and protection as has been observed in many European countries

Members of the European United Left/ Nordic Green Left claim that if these agreements will be signed, the multinational enterprises will have the exclusive right to sue national governments before international judges, independent of the national and European legal systems. By the signing of these agreements, the rules of labor protection and labor rights, the environmental standards, the rules on food safety and public services such as health and education, as well as the laws on the protection of personal data are being placed in the margin and European citizens are left completely unprotected towards the profitability strategies of multinational enterprises. These agreements represent the most significant cases of implementation of extreme neoliberal policies at the expense of the working class and civil society on a global level. They will cause the sell-out of basic public services, and confine working and social rights.

Thus any ratification would constitute a flagrant violation even for the democratically "disabled" European Treaty of Lisbon, since are binding in secret not only the European institutions, but also the national parliaments in areas specifically excluded from the legislative powers of the Council and the European Parliament and the compulsory common policies. Such agreements are attempting to circumvent both the European and national parliaments, and jeopardize what has been acquired with decades of struggle, testing in such a way European culture which promotes free thinking and democracy.

In light of the above as an International Institute dedicated to supporting food and culture diversity, IGCAT would like to address the fact that TTIP and CETA must not be signed or at the very least:

The TTIP and CETA agreements should:

- ensure that the aims and obligations of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (the UNESCO Convention) are fully respected. The Convention reaffirms the sovereign right of the signatory States to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions;
- guarantee that there will be no commitments that might be damaging to cultural and food diversity by respecting the aims and obligations of the UNESCO Convention and to especially take into account Article 20 of the Convention, which provides that signatory States recognize that they shall perform in good faith their obligations under the Convention and all other treaties to which they are parties. Accordingly, without subordinating the Convention to any other treaty, when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, States shall take into account the relevant provisions of the Convention.
- adequately reflect a 'local food and culture diversity' exemption by securing a broad and future-proof exclusion; and a clear exemption of cultural services is needed in the agreement, and we hereby recommend the negotiators to use the broader notion of the UNESCO Convention. A reference

to the obligations of the UNESCO Convention should also be stated in the preamble of any trade agreement.

- contribute to more transparency in the negotiation process by making the negotiation documents available to a greater extent to the citizens of Europe; a big democratic problem in the TTIP and CETA negotiations has been the lack of transparency. The secrecy of the negotiations also contradicts Article 11 of the UNESCO Convention, which states that Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of the Convention.

If adequate safeguards are not enshrined in the free trade agreement, this will logically affect national and regional cultural subsidies and schemes, harm local and regional employment in the cultural and local food sector, as well as tourism sectors and be detrimental to the European copyright systems. All these possible detrimental effects of the trade agreements are counterproductive to the strengthening of the conditions of the artists, local food sectors and the creative sector in Europe and will counter efforts to support sustainable tourism initiatives.

An open and democratic negotiation process is crucial to make free trade agreements a success for everyone.

This paper was written in 2015 for the “Food and Cultural Diversity IGCAT Trends Report 2015 - Volume 1”.

IGCAT’s mission is to empower and facilitate local communities to realise the potential of their distinct food, culture, arts and sustainable tourism and local resources.

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