

# The Great CETA Swindle - Signing Of Trade Deal Hits Last Minute Glitch

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Today, Belgium followed a 'no' vote by two of its regional Parliaments on the controversial EU-Canada trade deal CETA, temporarily blocking the first step towards the treaty's ratification in a meeting of EU trade ministers. A close look at the CETA - and a recent declaration designed by Brussels and Ottawa to reassure critics and gain support for its ratification - shows that concerns over CETA are well-founded.

Behind the PR attempts by the Canadian Government and the European Commission to sell CETA as a progressive agreement, it remains what it always has been: an attack on democracy, workers, and the environment.



As the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada has entered the ratification process, the controversial deal has faced massive waves of protest. A record 3.5 million people across Europe [signed](#) a petition against CETA and its twin agreement TTIP (Transatlantic Trade and Investment Partnership). More than half a million took to the [streets](#) in [opposition](#). And [European](#) and [Canadian](#) trade unions, [as well as consumer, environmental and public health groups](#) have called for the rejection of CETA.

The controversy has also reached governments and parliaments. More than 2,000 local and regional governments in 13 EU countries have declared themselves [TTIP/CETA free zones](#), often in cross-party resolutions. National and regional parliaments, too, worry about CETA, for example in Belgium, France, Slovenia, Luxembourg, Ireland, and the Netherlands.

Last week, two Belgian Parliaments denied their federal government the authorisation to sign CETA, mentioning a long list of concerns ranging from threats to farmers and banking regulation to public services (see [here](#) and [here](#)). This is why Belgium could not sign CETA in today's meeting of EU trade ministers as had been planned. For now, this puts the symbolic CETA signing, which was planned for next week's EU-Canada summit, in limbo.



## Whitewashing CETA, smearing critics

Over the past weeks, to salvage CETA's ratification process, the European Commission, the Canadian Government as well as some EU governments and MEPs had gone into a massive propaganda mode. They have framed CETA as "a very progressive trade agreement" ([European Trade Commissioner Cecilia Malmström](#)) which will "shape globalisation" along

the principles of “fair trade” and in the interest of workers ([Germany’s Foreign Minister Frank-Walter Steinmeier](#)). The deal’s critics have been stigmatised as “trade hooligans” ([European Council President Donald Tusk](#)) who are “fuelling concerns and fears, which have no bearing on the actual CETA text” ([Conservative MEPs Daniel Caspary and Elmar Brok](#)). Parts of the media have joined the CETA cheerleading, claiming that “much of the criticism, which might be justified for TTIP, does not apply to CETA” (German news site [Spiegel Online](#)).

Let us now have a look at both key passages of the joint declaration as well as the actual [text](#) of the CETA deal, so that you can see through the big swindle, which the CETA supporters are currently staging to win support for what is actually a major assault on democracy, workers and the environment.

## **Swindle #1: CETA protects workers’ rights**

The European Commission [praises](#) CETA’s “strong rules on the protection of labour rights”.

But the actual labour protections in CETA are poor. Chapter 23 on trade and labour is full of good intentions, such as that “a Party shall not... fail to effectively enforce its labour law and standards to encourage trade or investment” (article 23.4.3). But there is no penalty if EU countries, Canada, or companies operating there violate a provision like this. A violation of CETA’s labour rights would only result in a non-binding process of discussions and recommendations.

European and Canadian trade unions have proposed a [protocol](#) – to make CETA’s labour rules effectively enforceable. The issue is important for them as they fear that CETA would put labour standards at risk (as employers can more easily shift capital to locations where standards are weak and laxly enforced).

Many CETA rules are actually detrimental to the interests of working people: CETA’s intellectual property provisions will drive up drug prices; the rules on public procurement could lead to legal challenges when public authorities link their buying practices to social criteria such as the minimum wage or compliance with collective agreements; the market access rules in CETA’s services chapter may impair efforts to establish adequate staffing levels in hospitals or nursing homes; CETA’s foreign investor privileges could lead to expensive lawsuits against states when they don’t interfere in long-lasting strikes. The list goes on and on (see [Making Sense of CETA](#) for an analysis of CETA’s different chapters).

Finally, CETA is likely to lead to significant job losses. According to a September 2016 [study](#) from Tufts University, 200,000 jobs would be lost in the EU and 30,000 in Canada. The researchers also predict a politically dangerous rise in inequality on both sides of the Atlantic as the gains from CETA would overwhelmingly flow to owners of capital. Both forecasts reflect the experience under previous trade deals such as the North American Free Trade Agreement NAFTA (see the [assessment](#) of the US trade union confederation AFL-CIO).

So, rather than protecting workers as its cheerleaders claim, CETA promotes the wealth and power of a very few at the expense of workers. They get nothing but inconsequential feel-good rhetoric. The additional declaration does nothing to change that.

## Swindle #2: CETA is a good deal for the environment

According to the [European Commission](#), CETA contains “strong rules on the protection of... the environment”.

But the actual protections in the CETA text are weak. Like the chapter on labour, chapter 22 on sustainable development and chapter 23 on trade and environment contain sweet-sounding language on “trade supporting sustainable development”, “trade favouring environmental protection” and so on.

But like the labour chapter, CETA’s environmental provisions cannot be enforced through trade sanctions or financial penalties if they are violated. Victims of environmental abuse cannot bring a claim.

Also, CETA does not include provisions that would allow urgently needed environmental and climate policies to overrule, or otherwise be exempt from CETA rules that might endanger them.

There are many rules in CETA which will make it more difficult to fight climate change and protect the environment: CETA’s investor rights could trigger [costly lawsuits from polluting companies](#) when governments ban or regulate toxic dirty mines or want to phase-out fossil fuels; CETA’s liberalisations in the agricultural sector and the thin protections for high food production standards would expand an industrial model of farming that is already destroying the planet; (See [Making Sense of CETA](#) for an analysis of the different CETA chapters.)

In short, the pro-environment rhetoric around CETA is pretty empty and meaningless. It is nothing but an attempt to greenwash a deal which poses real threats to the environment and strong action to save the planet from climate disaster.



## Swindle #3: CETA’s investor rights do not endanger regulations to protect the environment, health and other public interests

According to the [European Commission](#), CETA’s investment chapter “guarantees the right of EU governments to regulate in the interest of their citizens, while still encouraging foreign investors by protecting their investments”.

The critical point missing in this statement, as Canadian trade expert Scott Sinclair has [explained](#) at length, “is that while parties retain the right to regulate, they must do so in conformity with their CETA obligations and commitments”. And CETA’s chapter eight on investment contains the same wide-ranging ‘substantive’ rights for foreign investors as existing international treaties, which have been the legal basis for hundreds of investor lawsuits against states – including against regulations to protect health, the environment, and other public interests.

CETA’s investor rights could make politicians reluctant to enact desirable safeguards if those are opposed by big business. Examples of such regulatory chill include the above mentioned settlement between Germany and Vattenfall and the delayed implementation of anti-smoking rules in Canada and New Zealand, following lawsuit threats and actual claims by big tobacco.

So, rather than safeguarding the right to regulate as its proponents claim, CETA will force governments to pay when they regulate – whether it is to protect the environment, health or other public interests. And this threat alone is a sure-fire way to bully decision-makers, potentially curtailing desirable policymaking (particularly in combination with CETA’s domestic regulation and regulatory cooperation chapters, analysed in [Making Sense of CETA](#)).

## **Swindle #4: CETA protects public services like healthcare and water**

In September, European Trade Commissioner Cecilia Malmström [assured the Austrian Parliament](#) (and in [nearly identical wording](#) also the Belgian one): “What about public services – known here as “Daseinsvorsorge” – like healthcare? This agreement protects them. Unambiguously. Public authorities – local, regional and national – will continue to have full freedom to organise public services as they wish. There is no obligation on anyone to privatise anything. And if services have already been privatised they can be renationalised.”

The actual CETA text, however, is pretty dangerous for public services.

Probably the biggest threat to public services comes from the far-reaching foreign investor rights in CETA’s chapter eight. This makes regulations in sensitive public service sectors such as education, water, health, social welfare, and pensions prone to all kinds of expensive investor claims.

Around the world, public service regulations have been targets of investor-state claims. When, in response to its 2001-2002 economic crisis, Argentina froze utility rates to secure people’s access to energy and water, it was hit by numerous lawsuits. Estonia is currently defending a €90 million claim over its refusal to increase water rates. (See [Wolf in Sheep’s Clothing](#)).

So, when Commissioner Malmström claims that “if services have already been privatised they can be renationalised” under CETA, she misses the point. Because governments could end up paying billions in compensation to foreign investors in return. The decision would be taken by a panel of for profit arbitrators (rather than independent judges), would be based on CETA’s extreme investor rights (rather than a country’s constitution, which balances the rights of property holders) and could include compensation for loss of expected future profits (which would not be compensable under most constitutions). Facing such an incalculable risk, governments might not go ahead with their plans to take services back into public hands – even when past privatisations have been failures.

CETA severely limits governments’ ability to create, expand, restore, and regulate public services. This threatens people’s rights to access services like water, health care, and energy, as well as labour conditions in these sectors. Claiming that CETA protects public services without changing the deal’s provisions that work to the contrary is wishful thinking, at best.

## **Swindle #5: CETA establishes an independent court to settle investor-state disputes**

The European Commission [claims](#) that CETA establishes an investment court system (transformed into a proper “investment court” by parts of the media), which is “independent” and will settle disputes between investors, Canada, the EU and its member

states in an “impartial manner”.

CETA’s chapter 8, section F on the “resolution of investment disputes between investors and states” grants corporations the right to bypass national courts and directly file highly enforceable multi-billion euro compensation claims against states in international tribunals. But the tribunals are not judicially independent. Rather, they have a built-in, pro-investor bias.

Under CETA, investor-state lawsuits would be decided by a tribunal of three for-profit arbitrators with vested interests. Unlike judges, they would not have a fixed salary, but be paid per case US\$3,000 per day. In a one-sided system where only the investors can sue, this creates a strong systemic incentive to side with them – because as long as the system pays out for investors, more claims and more money will be coming to the arbitrators.

So, while CETA proponents praise its “independent court”, what the agreement actually does is establish a dispute settlement process which is heavily slanted in favour of foreign investors – and has very little to do with a court.

## **Swindle #6: CETA will uphold standards to protect people and the environment**

According to European Trade Commissioner [Cecilia Malmström](#), CETA will “fully uphold Europe’s high standards”. On its [website](#), the Commission even claims that “standards and regulations related to food safety, product safety, consumer protection, health, environment, social or labour standards etc. will remain untouched” (emphasis added).

But several chapters in CETA directly contradict those empty words designed to reassure.

Take electronic waste for instance. In 1998, a proposal from the European Commission backed by the European Parliament included plans to ban hazardous substances in electronic waste. Through a dialogue process bearing all the traits of regulatory cooperation under CETA, US officials and business lobbyists attacked the proposal, referring to its much vaunted negative impacts on transatlantic trade. In 2002, when the waste directive was adopted, the hazardous substances part had been significantly weakened. It took a court case by the Danish government and the European Parliament to finally take one substance which was to be banned in the original proposal (deca-BDE) off the EU market – ten years after it was first proposed. This is the power of regulatory cooperation. (For this and other examples from the EU-US context, see the report [Dangerous Regulatory Duet](#) and the analysis of CETA’s regulatory cooperation chapter in [Making Sense of CETA](#).)

Ellen Gould from the Canadian Centre for Policy Alternatives has pictured how CETA would “exert enormous pressures on governments to never take... important initiatives”. Referring to the 1997 French ban on hazardous asbestos, she [writes](#): “If CETA had been in place, Canada and its asbestos industry would have had many powerful tools to keep the French ban from ever coming into being. The asbestos industry could have threatened a CETA investor-state suit demanding billions in compensation; the ban could have been opposed by companies using asbestos arguing it had not been established in advance of when they got their licenses;... through CETA’s regulatory co-operation provisions, Canada would have been able to attack the ban in closed door meetings even before French citizens were advised it was being considered. And finally, if these efforts had failed, as a CETA party Canada could have demanded delays in implementation of the ban, giving the asbestos

lobby more time to fight it.”

So, rather than upholding social, environmental, or health standards, CETA poses a real risk of lowering them. It results in heavy additional burden on regulators and strengthens the role of business lobbyists in the development of regulations, potentially undermining not only the development of much needed regulations, but also our democracies.

## **A top draw for corporations**

The European Commission and the Canadian Government are [pitching](#) CETA as “the most forward-looking free trade agreement that Canada or the EU have ever negotiated”. European Commission President Jean-Claude Juncker has [called](#) it “our best and most progressive trade agreement”.

Nothing could be further from the truth.

CETA is a long list of what governments and parliaments are not allowed to do. For example, if they want to fight climate change. Or social inequality. Or regulate banks. Or reverse failed privatisations. Or tackle any other of the pressing problems of our times. In fact, CETA will worsen many of these problems. And CETA can force governments to pay when they choose to press ahead with pro-people and environmental policies for which they have been elected by their citizens.

Rather than the “best” trade agreement for the citizens of Canada and the EU, CETA clearly is a top draw for corporations on both sides of the Atlantic. With CETA, they get ample new ammunition to bully governments and local authorities over regulations which could hamper their profits.

By **Corporate Europe Observatory**. The above article is summarized version. Read the full article [HERE](#)

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