

# Why CETA and TTIP must be stopped

March 2016

Briefing by the Scotland Against TTIP Coalition

*Here are some talking points that you might like to use if you're asked about CETA or TTIP in the run-up to the Holyrood elections.*



***Petition against CETA is handed in to members of the European and External Relations Committee at Holyrood***

## Background to the trade agreements

A new wave of trade agreements are currently being negotiated in secret by a host of countries around the world. These new so-called trade deals are actually quite different from previous international trade deals, that have dealt mainly with lowering trading tariffs between countries. Instead, they grant corporations a host of new powers to challenge current laws and shape future laws and regulations, in order to further their own profits. They are a threat to our democracy, and need to be stopped.

**TTIP:** Transatlantic Trade and Investment Partnership. An agreement between the US and the EU, who between them make up 40 percent of the world's total annual GDP. It has been called 'the biggest free trade agreement in history'. Negotiations are ongoing, and it now looks unlikely that an agreement will be reached before Barack Obama's presidency ends in November this year.

**CETA:** Comprehensive Economic and Trade Agreement. TTIP's 'little brother': an agreement

between Canada and the EU. Negotiations were completed in 2014, and the deal is now waiting for final ratification. We expect CETA to go to the Council of Ministers in June, with a vote on the finalised agreement early in 2017.

## CETA and TTIP are a threat to our democracy

*A transfer of power on this scale from citizens and democratically elected governments to corporations is undemocratic*

Since the independence referendum, there has been a lot of debate surrounding what extended powers Scotland will get. But there is little point in Scotland winning more powers from Westminster only to have them effectively taken away again by multinational corporations.

TTIP and CETA threaten to undermine the ability of the Scottish government and Scottish parliament to freely exercise the powers devolved to them. From the NHS and the provision of education, to the protection of Scotland's environment and public health, the ratification of these trade deals will give transnational corporations more and more power over Scottish life.

## Regulatory chill: the investor clause

*Governments should not fear legal action in secret courts for decisions that they make in the public interest*

Were the government to pass or improve legislation in a way that US or Canadian transnational corporations deemed a barrier to free trade and a threat to their current or future profits then it could be sued under the investor clause - a parallel legal system - in TTIP or CETA. The threat of being sued via this secret court system by corporations wanting to protect their profits could also stop the government taking decisions that many people in Scotland would support, such as renationalising the Scottish railways or the Post Office. It might also dissuade any future Scottish or UK government from freezing energy prices or introducing greater regulation in the energy sector.

Investor clauses exist in other trade agreements

around the world and they have been used by tobacco giant Philip Morris to challenge Australia's decision to introduce plain cigarette packaging. In Germany, the Swedish company Vattenfall is using the investor clause in a bilateral trade agreement to sue the German government for three billion euros after the country voted to phase out nuclear power following the Fukushima disaster in Japan.

Since the Canadian government signed up to the North American Free Trade Agreement (NAFTA), the trade deal on which large sections of TTIP and CETA are closely modelled, it has become the most sued country in the developed world. Since ratification in 1994, Canada has paid out more than \$200 million in compensation to US companies<sup>1</sup>. The Canadian government shelved plans to introduce plain packaging laws after a tobacco company sent a memorandum to the Canadian House of Commons threatening to sue using the ISDS in NAFTA<sup>2</sup>.



***Campaigners in Glasgow city centre protesting against TTIP and the effect it will have on public services.***

## **Power to sue governments in secret courts**

By providing corporations with a separate legal arena, TTIP and CETA destroy the constitutional principal that we are all equal in the eyes of the law

It is only corporations that can sue governments using the investor clause, and not vice versa. These are secret tribunals that ordinary members of the public cannot even witness, let alone use to put a case against their own government.

Much public opposition to TTIP and CETA has focussed on this secret court system. Called the Investor State Dispute Settlement (ISDS), inclusion of the clause in TTIP was opposed by

97% of respondents to a European Commission consultation in 2014. The European Parliament also voted against the inclusion of ISDS in TTIP last year. Recently, the European Commission and Canadian government have inserted a reformed version of this investor clause into CETA, which they have called the Investor Court System. They are also negotiating for it to be included in TTIP. But while this might appear an improvement, the fact remains that corporations are being granted special privileges over ordinary citizens by gaining access to this parallel legal system. In Europe, our own domestic court systems are a perfectly legitimate mechanism for corporations to challenge government decisions.

## **Threat to public services**

They are a serious threat to public services, potentially leading to further privatisation and preventing future governments bringing them back into public hands

The stated purpose of TTIP and CETA is to open up market access between the EU and the US (TTIP), and the EU and Canada (CETA). But these trade deals are not just about trade in goods. They also cover trade in services. Under TTIP and CETA, public services will be treated as things to be bought, sold and profited from.

The Scottish government has written to the UK government on several occasions asking for reassurance that the NHS will not be affected by TTIP – but no reassurance has been forthcoming. With the privatisation of sections of the NHS well underway in England, Scotland should be concerned that TTIP and CETA will put pressure on the NHS in Scotland, forcing greater privatisation. And it is not just the NHS we should be concerned about. Scottish Water, one of Scotland's biggest public sector success stories, will be under pressure to invite further private sector investment because of these trade deals. TTIP could also stop any future Scottish government from making the decision to renationalise the railways or the Post Office.

## **Lowering standards**

CETA and TTIP threaten to lower hard won regulations and standards on workers' rights, human rights, health and safety, the environment and food safety

Both CETA and TTIP include a commitment to a certain amount of 'regulatory cooperation'. This innocuous sounding term, will actually threaten legislation that in some cases, has been fought for

by the trade unions and civil society for decades. In order to make it easier for corporations to do business across the Atlantic, EU legislation on the environment, workers' rights and food safety could be weakened in order for standards to be the same across continents.

In many cases, there are striking differences in regulations between the US and the EU. For example, the EU currently bans the use of 1,377 harmful substances for use in cosmetic products. The US bans just 11. Harmonising regulations between the EU and the US could lead to hundreds of dangerous substances being approved for use in the EU. In a worst case scenario, this could mean acceptance of lead in lipstick (legal in the US) or even a return to the limited use of asbestos (also legal in certain products in the US). At the very least, regulatory cooperation will slow down the adoption of new safety standards and regulations, delays that could cost lives, and introduce dangerous or environmentally damaging products into Europe by the back door.

There is a proposal for a 'regulatory cooperation body', where all legislation will be screened before it is drafted to consider its impact on trade and, through which, business will be given early sight of draft legislation – even before elected representatives see it. Combined with the Investor Court System, this would give corporations far greater powers to stop, or weaken legislation being created to protect citizens, in order to further their profits.

## Public opposition

More than 3 million citizens across Europe have signed a petition opposing TTIP and CETA.

Around the world, opposition to these trade deals is growing fast. 3.2 million people in Europe signed a year-long petition to stop TTIP and CETA. Last October, a quarter of a million people were on the streets of Berlin protesting against these secret deals. The latest polling in Europe shows the more people know about TTIP and CETA the less they want them. Support for the ongoing negotiations has fallen in 24 out of the 28 EU member states in the last year.

Here in Scotland, the Scotland against TTIP coalition has been active in its opposition to TTIP and CETA. The coalition is a broad based alliance with more than 25 member organisations including Global Justice Now, Friends of the Earth Scotland, STUC, Unite, Unison, and the Radical Independence Campaign. Across Scotland, local groups are springing up all the time to campaign locally on TTIP and CETA, and a third of local authorities in Scotland have now passed motions against TTIP.

It is vital that our politicians reflect the extent of public opposition and speak out against these deals.

1 [www.globaljustice.org.uk/sites/default/files/files/resources/fighting-ttip-ceta-isds-lessons-from-canada-maude-barlow.pdf](http://www.globaljustice.org.uk/sites/default/files/files/resources/fighting-ttip-ceta-isds-lessons-from-canada-maude-barlow.pdf) p.9

2 Huffington Post [www.huffingtonpost.com/lori-wallach/public-interest-takes-a-h\\_b\\_8918010.html](http://www.huffingtonpost.com/lori-wallach/public-interest-takes-a-h_b_8918010.html)

## Scotland Against TTIP



Scotland Against TTIP is a coalition of trade unions, campaign organisations and local activists, campaigning in Scotland to stop TTIP, CETA and other huge transatlantic trade deals. For more information, go to our website: [www.scotlandagainsttip.org.uk](http://www.scotlandagainsttip.org.uk)