



European Federation of Public Service Unions

EPSU update on trade developments 28 February 2017

This update focuses on:

- The EP plenary vote on CETA (15 February 2017) and next steps
- EC consultation on a Multilateral Investment Court (MIC)
- The recent 'stalling' of TiSA negotiations
- Recent developments on EU development policy concerning the Sustainable Development Goals (SDGs) and the global 2030 agenda

1. CETA – vote in the European Parliament (EP) and next steps

On 15 February MEPs approved CETA with 406 votes in favour, 255 votes against, 35 Abstentions (and 54 absences). While disappointing, the result was narrower than many had anticipated. The S&D group was split over the vote, while the other groups voted more or less as expected. You can find a breakdown of how MEPs voted on [VoteWatch](http://www.votewatch.eu/en/term8-eu-canada-comprehensive-economic-and-trade-agreement-draft-legislative-resolution-vote-consent-conse.html) <http://www.votewatch.eu/en/term8-eu-canada-comprehensive-economic-and-trade-agreement-draft-legislative-resolution-vote-consent-conse.html>

EPSU was very active in the run up to the vote, building on the ETUC position on CETA adopted in December 2016 <https://www.etuc.org/documents/etuc-assessment-eu-canada-comprehensive-economic-and-trade-agreement-ceta#.WFPwY40ixYU>

See for example:

- Joint letter on 22 December [here](#) to the ENVI committee with the European trade union federations (ETUFs)
- EPSU health and social services members letter to ENVI – see <http://www.epsu.org/article/free-trade-agreements-health-and-social-services-are-not-for-trading>.
- Joint ETUFs briefing to MEPs before the plenary vote: <http://www.epsu.org/article/ep-plenary-vote-15-february-ceta-joint-briefing-european-trade-union-federations>
- Joint letter to MEPs before the plenary vote with environmental groups <http://www.epsu.org/article/green-10-today-urged-meps-voting-ceta-strasbourg-reject-flawed-eu-canadian-trade-deal>
- Joint letter by European Water Movement on risks of CETA to freshwater resources and water services at both sides of the Atlantic www.blueplanetproject.net
- EurActiv article with Friends of the Earth Europe (FoEE) <http://www.euractiv.com/section/trade-society/opinion/a-vote-against-ceta-would-reset-europes-trade-agenda/>

After the vote EPSU published a joint PR with FoEE on the result - see <http://www.epsu.org/article/ceta-backward-step-environment-global-inequalities-and-workers-rights>

EPSU issued a special newsletter reporting on the EP vote (and the ETUC pay campaign) <http://www.epsu.org/article/fight-against-ceta-continues-despite-european-parliament-vote>
The EP vote in favour of CETA paves the way for national ratification in the 28 Member States. The ratification process varies from country to country and in some cases involves regional parliaments. Latvia became the first country to ratify CETA on 23 February.

National ratification processes should provide opportunities to discuss the content of CETA and lobby national parliaments to reject. In some countries opposition is expected (Austria, Netherlands..). Importantly provisional application of the exclusive EU competence parts of the agreement starts now. Furthermore, the EC has also indicated (in letter to EP INTA Committee Chair Bernd Lange¹) that it will soon open discussions with the Canadians on improving CETA's trade and sustainable development (TSD) chapter. It is committed to initiate a review of the TSD chapter of CETA before the Summer of 2017.

2. Investment protection: EC consultation on a 'Multilateral Investment Court' (MIC)

The EC has launched a public consultation on the EU's current policy on investment dispute resolution and the possible establishment of a permanent Multilateral Investment Court (MIC). The results of this public consultation will feed into discussion on the options to engage in multilateral reform of the international investment dispute resolution system. The consultation runs until 15 March 2017. See http://trade.ec.europa.eu/consultations/index.cfm?consul_id=233. The consultation is complemented by and 'Inception Impact Assessment.'

The ETUC trade working group discussed the MIC consultation at its meeting on 23 February and received a presentation from the EC on the main lines of the MIC 'project'. The EC suggested that the Council might agree a negotiating position for the EU by the end of the year. The EC would prefer an international organisation to host negotiations, by preference the UN.

The EC affirmed that the MIC would not change the substantive provisions of investment agreements, rather it would lead to more consistency regarding the interpretation of the provisions. If investment agreements were in future to include obligations on investors, in theory these could be addressed too. The EC also said that there had been discussions about including in the MIC possibilities for legal assistance to developing countries to deal with investment protection. This might complement EU support given to developing countries to strengthen their legal systems / good governance systems. The World Bank too provides assistance to countries regarding investment life-cycles.

There is a risk that the MIC might prevent, or make more difficult, more radical reform at a time when there is support for such reform, with countries pulling out of ISDS agreements. The S2B network has produced comprehensive paper on the MIC consultation outlining the shortcomings of the EC proposal and the problems with ISDS – see <http://www.s2bnetwork.org/isds-dangerous-crossroads/>.

Forthcoming research from the OECD is also expected to show that:

- There is no evidence that agreements with investor protection increases the amount of foreign direct investment (FDI)

¹ See letter of Commissioner Malmstrom to the Chair of the INTA Committee Bernd Lange on the Trade and Sustainable Development (TSD) chapter in CETA <https://ec.europa.eu/carol/index-iframe.cfm?fuseaction=download&documentId=090166e5af9d7b2e&title=letter.pdf>.

- There is no evidence that there are societal benefits from agreements with investor protections
- It is likely that agreements with investor protections influence government behaviour – i.e., they provide a ‘chilling effect’ whereby governments will be less likely to act in a way which invites litigation
- There is very little evidence to suggest agreements with investor protections prevent expropriation or discrimination against investors

The EC has not however attempted to explore the alternatives to ISDS/ICS, e.g. private insurance. Furthermore, there are no indications that it is willing to argue for more radical reform of ISDS/ICS, or for binding obligations on investors.² This being the case there is a view that modest improvements in the procedural aspects of ISDS/ICS might represent a step forward. Discussion on these points continues within the ETUC.

To note, on 27 February the EC organises a stakeholder consultation on the MIC.

3. Trade in Services Agreement (TiSA)

As reported in the [December EPSU trade update](#), TiSA negotiations have come to a halt and there are uncertainties about the future of the negotiations, at least until the position of the US is clearer.

The EC’s Trade Sustainability Impact Assessment (SIA) that began in January 2014 is however still ongoing and the [draft interim report](#) has been published. A meeting took place on 13 January to discuss the report where EPSU pointed out that the SIA does not refer to the wide research and publications that underpin critical views about TiSA; rather it describes stakeholders’ perceived ‘fears’ about TiSA. Such ‘fears’ are systematically played down, while the EC’s assertions are played up and largely uncontested. Furthermore, while EPSU and others consider the EU ‘public utilities clause’ insufficient it is more than some other TiSA parties have. The SIA does not however provide any insight on the impact of TiSA on non EU countries, which we argued is at odds with the EU’s obligation to promote its fundamental values in external relations.³

On 28 February the EP intergroup on public services will organize a discussion on TiSA.

4. Sustainable Development Goals (SDGs) and global 2030 agenda

EPSU participated in the meeting of the Trade Union Development and Cooperation Network (TUDCN) on 16-17 February. The TUDCN, which is run by the ITUC in cooperation with the ETUC, is currently focusing on the EU new European Consensus for Development, the revision of external financing instruments of the EU and the role of business in development, in the framework of ODA modernization at the OECD and the increased role of development finance institutions (DFIs).

² There are discussions in the UN for a binding Treaty on multinational corporations and human rights. The Treaty would provide affected communities with legal remedy if their rights are violated by actions of multinational corporations. See http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9 and for background information <http://www.stopcorporateimpunity.org/binding-treaty-un-process/>

³ See in the minutes of the meeting that this point was not picked up http://trade.ec.europa.eu/doclib/docs/2017/february/tradoc_155310.pdf

All the background documents and presentations are available here: www.ituc-csi.org/tudcn-eu-wg-meeting-brussels-16-17

In many EU countries development aid is being cut and/or risks being diverted to non development areas such as security and migration management, or to support business. The EP has recently adopted a report that addresses some of the challenges [Report - Revision of the European Consensus on Development - A8-0020/2017 - Committee on Development](#). The TUDCN and EPSU supported a number of amendments in these areas as well as to highlight the role workers' rights, trade unions, and the decent work agenda. We also criticized the support for Public Private Partnerships (PPPs) and other financial instruments. The EP report does stress that private sector initiatives must be transparent etc and bring 'real value' but it is not very critical of the complexity and poor value that PPPs have been shown to deliver compared to direct public investment⁴. The EP report is currently discussion with Council.

As regards the SDGs, each region is now following-up on commitments made. For Europe, the UNECE Regional Forum on Sustainable Development will be the body that monitors implementation and the TUDCN is coordinating trade union input into this process.

⁴ For more information see for example <http://www.world-psi.org/en/why-public-private-partnerships-dont-work>
[Why we need public spending \(2014 edition\)](#)
[Public and private sector efficiency](#)
[Our Public Water Future The global experience with remunicipalisation](#)