Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL)

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TTIP and CETA: An attack on peasant farmers

How TTIP negotiations and the text of the CETA agreement lower valuable standards and quality levels for consumer protection and agriculture

AbL position: Trade policy must be drawn up in a future-oriented, democratic and multilateral way, taking into account social and ecological concerns, particularly those of poor countries around the world.

Context: The European Commission and the USA have been in negotiations since June 2013 on a wide-ranging free-trade agreement, the "Transatlantic Trade and Investment Partnership" (TTIP). The complete text of a similarly wide-ranging trade agreement between the EU and Canada (CETA) has been ready since September 2014 and it still has to be ratified in Europe by parliaments and the Council of the European Union. The Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL - Peasant Farmers' Association) is a co-founder and active member of the national alliance "TTIP Unfairhandelbar", which now includes 87 organisations. The AbL and the TTIP Unfairhandelbar alliance have called on politicians to stop TTIP negotiations and reject CETA, because the safest way to protect our standards and our small farmers is to reject TTIP and CETA.

Investment protection: No shifting of powers to favour private companies

The Lisbon Treaty, which came into force in December 2009, gave the European Commission exclusive powers over foreign direct investment. This allows the Commission to make wide-ranging decisions about investment protection in trade agreements, which were previously contained in numerous bilateral investment protection agreements. The TTIP negotiation mandate also allows for introduction of investment protection, including an Investor-State Dispute Settlement process (ISDS).[1]

The ISDS mechanism gives companies the right to bring cases directly against states for compensation in private international courts of arbitration - this includes matters relating to regulations on health, the environment, finance and other other safety standards that investors believe affect their rights. A possible "chilling effect" States might be afraid to introduce regulations in certain areas for fear of a wave of lawsuits.[2] The CETA agreement includes a comprehensive chapter on investment protection, which would grant extensive rights to foreign investors and multinational companies.

Investor-state dispute settlement procedures allow investors to get around national jurisdiction, and bring claims for damages before international courts of arbitration, if their profits are affected by state measures. The number of ISDS cases worldwide has increased significantly over recent years. In the early 1990s there were only about ten known cases, but by the end of 2013 this figure had risen to 568.[3]

1 Fritz, T. TTIP vor Ort – Folgen der transatlantischen Handels- und Investitionspartnerschaft für Bundesländer und Kommunen, commissioned by campact

2 Eberhardt P., Redlin B., Cecile T. (2014): "Verkaufte Demokratie – Wie die CETA-Regeln zum Schutz von Investoren das Allgemeinwohl in Kanada und der EU bedrohen", published by Aitec, AK Wien, CCPA, CEO, CUPE, EGOD, FUE, FoEE, PowerShift, QCEA, RQIC, TNI, T&E, November 2014

3 Fritz, T. See footnote 1.

In 2014 the European Commission carried out an online consultation on investor protection. They received 150,000 responses. The results of this consultation, which were published in January 2015, clearly showed that 97 percent of the responses received were critical of investor protection.[4] Critically, this consultation could not be taken into account during CETA negotiations or in the investor protection chapter, as the CETA text has already been completed.

Conclusion: National jurisdiction must be fully retained. Shifting of powers to private companies must be prevented, so we can still improve our standards in the future.

Regulatory cooperation: No reduction of environmental and consumer standards, for example regarding GMOs

After various earlier versions had been leaked and publicly discussed, on 10th February 2015 the European Commission published a proposed text on regulatory cooperation that had been discussed with the USA.[5] It was a result of the eighth round of negotiations in Brussels.

Evaluation: According to this proposed text, companies in the USA and the EU would in future be involved in drafting relevant legislation, allowing them to exert an influence. Article 5 "Early information on planned acts“ (page 5) of the document offers a sort of legislation early warning system. If new legislation is to be passed in Europe, it would be presented to the USA and vice-versa. The purpose and scope of the planned legislation must be stated, along with the schedule and a list of possible effects on transatlantic trade. Article 6 "Stakeholder Consultation" (page 5) stipulates that interest groups should have the chance to comment on regulations. This process should also be taken into account in the final texts of legislation. Article 14 (page 11) institutionalises regulator cooperation by setting up a Regulatory Cooperation Body. This proposed text would dismantle democracy in Europe. Regulatory cooperation would be a disaster for environmental and consumer protection.

Regulatory cooperation hands private companies the tools to harmonise various standards, i.e. bring them into line. More details are provided in an appendix to this paper, which lists the regulatory differences between the EU and Canada for the example of GMOs. The CETA agreement already allows for dismantling of standards governing use of GMOs in agriculture through this type of cooperation.

The chapter of the CETA agreement on "Regulatory Cooperation"[6] calls on both parties to the agreement to: “establish, when appropriate, a common scientific basis“ (page 399). According to this wording, a common scientific basis should be applied at an unspecified time in the future for authorisation of high-risk technologies, such as genetically modified plants. This approach follows the "principle of proof", as applied in the USA and Canada. High-risk technologies can only be banned when a hazard to the environment or to health has been proven. This represents a serious attack on the European precautionary principle, which makes it possible to impose restrictions on high-risk products or ban them due to scientific uncertainty.

The chapter of the CETA agreement on "Dialogue and bilateral cooperation" includes exchange of information on products of biotechnology (page 443). It refers to: "promoting efficient science-based approval processes for products of biotechnology". It was also clear here that the lower standard, i.e. the common scientific basis, would be favoured.

The CETA agreement also threatens the European zero tolerance approach. In Europe food and seeds must be entirely free from contamination by genetically modified organisms (GMOs) that are not permitted here. The text of the CETA agreement mentions: "cooperating internationally on issues related to biotechnology such as low level presence of genetically modified organisms".

[4] European Commisson (2015). COMMISSION STAFF WORKING DOCUMENT Report Online public consultation on investment protection and investor-to-state dispute settlement (ISDS) in the Transatlantic Trade and Investment Partnership Agreement, Brussels, 13/01/2015

[5] Initial Provisions for CHAPTER [ ] Regulatory Cooperation. This TEXTUAL PROPOSAL is the European Union's initial proposal for legal text on" Regulatory Cooperation" in TTIP. It was tabled for discussion with the US in the negotiating round of 2-6 February 2015 and made public on 10 February 2015. The actual text in the final agreement will be a result of negotiations between the EU and US.

[6] Consolidated CETA Text (2014): Published on 26 September 2014

Agricultural companies have been calling for a "low level presence" of GMOs to be allowed in food and seeds for a long time. They want to see a change to the zero-tolerance policy, as occurred in 2010 in the area of animal feed.

Some stakeholders in the EU would welcome GMOs, as EU Agriculture Commissioner Phil Hogan explained. GMOs are politically controversial, although there may be no purely scientific objections, he said. He agreed that the delay in import permits to the EU could become a problem if the cost of feed from overseas rose as a result, and he said that the Commission would discuss this issue and the overall procedure in detail over the coming weeks. Hogan also gave assurances that the new opt-out regulation would hasten adoption of GMOs at least in some parts of Europe.[7]

A host of common bodies, such as the Regulatory Cooperation Forum (RCF), are also to be created, and in most cases they will sit in private.[8] Only a very vague description of the workings of this institution has been given. In any case, there is a clear lack of accountability and the European Commission has a lot of room for interpretation.[9]

Conclusion: We must maintain standards for environmental and consumer protection now and in the future. Sovereignty for legislation and regulations must remain exclusively with European Parliaments and political decision-makers.

No creeping introduction of chemical cleaning of carcasses

The EU allowed use of lactic acid for surface treatment of beef carcasses in February 2013 as a concession to the USA and Canada.[10] Although this process is not currently used in the EU, it enables importing of carcasses treated in this way from Canada and it opens the door to this process entering common practice in the EU in the future. Current non-industrial slaughtering methods in the EU mean that virtually no surface treatment is necessary. In exceptional cases drinking water is used for cleaning.

Canada is also currently pushing for the Danish practice of treating carcasses with recycled hot water to be accepted by all EU member states, and the European Commission has been open to the proposal.[11] The European Food Standards Authority (EFSA) published a position on this process in 2010, stating that heat-resistant bacteria could accumulate if the water was not heated and replaced in the correct manner. Residues of medicines and other chemicals could also become concentrated in the water.[12]

In Europe slaughtering processes have already been centralised and rationalised. However there is still some decentralised non-industrial slaughtering. In the USA production and processing of poultry is mainly carried out on an industrial scale and inspection of slaughtered poultry is largely privatised. The legislation aims not to jeopardise the efficiency of slaughtering operations. It is necessary to insist on decontamination so as not to threaten industrial slaughtering operations.[13]

Conclusion: A change to slaughter practices would not just benefit the slaughter industry in Canada or the USA - it would also mean that local slaughter methods in Europe could be further industrialised. Although the process quality in Europe is sometimes higher, it would be replaced by

7 Agra Europe (2015). TTIP: Hogan will „Schnellstraße über den Atlantik“, Agra-Europe 9/15, 23 February 2015

8 Then, C.: Freihandel – Einfallstor für die Agro-Gentechnik – Auswirkungen von CETA und TTIP auf die EU-Regulierungen im Bereich der Landwirtschaft – eine kritische Begutachtung, commissioned by the Bündnis 90 / Die Grünen parliamentary group. Test Biotech, an institute for independent impact assessment in biotechnology

9 Hartmann A. (2014). "Risiken und Gefahren im CETA-Kapitel zu Regulatorischer Kooperation" in: Kurzbriefing zu „Making Sense of the CETA“ – Europäische Perspektive auf das Freihandelsabkommen zwischen der EU und Kanada. Produced by: Powershift, AbL, FUE, Weed, November 2014

10 European Commission (2013) COMMISSION REGULATION (EU) No 101/2013 of 4 February 2013 concerning the use of lactic acid to reduce microbiological surface contamination on bovine carcases

11 Correspondence (2014): Correspondence between the Canadian Agriculture Minister, Gerry Ritz, and the EU Health Commissioner, Tonio Borg, 11th April 2014 (https://netzpolitik.org/2014/europaeisch-kanadisches-freihandelsabkommen-wir-veroeffentlichen-saemtliche-geheime-ceta-dokumente/)

12 Agra Europe (2015). "Lebensmittelsicherheit und Prozessqualität von Lebensmitteln", Agra Europe 10/15, 2 March 2015

13 IATP, Heinrich Böll Stiftung (2013): Promises and Perils of the TTIP, October 2013 (http://www.iatp.org/documents/promises-and-perils-of-the-ttip-negotiating-a-transatlantic-agricultural-market)

product quality relying on chemicals.[14] Non-industrial slaughtering operations and the process quality in Europe should rather be protected and strengthened.

No weakening of the regional seal of origin for quality products

The Geographical Indication (GI) refers to the names of places and regions indicating the origin of agricultural product. The GI enables farmers to establish local markets to sell quality goods at a higher price, and strengthen rural economic development and value creation.

CETA, the pre-negotiated trade agreement between Europe and Canada, includes a chapter on "Intellectual property", containing a section on "Geographical Indication" (page 340). Appendix I of the agreement deals with this subject, listing the European GIs which are also protected in Canada. Closer inspection reveals that these include just 145 (Appendix I, pages 357-365) of over 1400 GIs protected in the EU. How did this discrepancy come about?

An official statement of position by the Commission states:

> *[…] the EU can opt either for trying to protect all GIs registered at EU level or for the protection of a short list of GIs. This choice depends primarily on the legal and policy landscape of the trading partner. Since the negotiations of the 2010 EU/Korea Free Trade Agreement, the short-list approach has been frequently and successfully used in trade agreements negotiated by the EU.*[15]

This means that only a limited number of GIs protected in the EU are protected in more recent trade agreements (since 2010).

This is in fact what Darcy Vetter, the US Chief Negotiator with responsibility for Agriculture, wants. She highlighted the potential significance of Europe for US agricultural products, stressing that the problems in the area of protected designations of origin were not insurmountable. At the same time she observed that protected EU products are already very successful in the US market. She said that a solution was being sought, to protect product designations linked to a specific place, while also allowing free trade of generic produce (imitation products).[16]

Conclusion: Regional seals of origin strengthen small-scale agriculture and related markets. They should not be weakened by agreements like TTIP and CETA, but rather further strengthened within the EU more effectively organised.

Small-scale farming must not be destroyed by excessive market opening

The price the European Commission had to pay for retaining the ban on hormones in meat imports was to allow an extremely high level of market access in the sensitive European meat sector. Production costs in Canada (and in the USA) are significantly lower than in the EU. If CETA[17] is signed, Canada could export up to 80,549 tonnes of hormone-free pork into the EU without paying any duty (page 35). This is a 16-fold increase compared to the previous duty-free quotas. The duty-free quota for beef would be raised to at least 50,000 tonnes (page 32/33), a 12-fold increase. If these quantities are exported, we would expect to see market price distortions in meat markets, which are already over-saturated.

When considering the text of the CETA agreement, one should always bear in mind that it clears a path for TTIP. Given that Canada has around 30 million inhabitants and the USA has around 300 million inhabitants, TTIP will be a lot more far-reaching than CETA. Documents such as those on regulatory cooperation have already demonstrated this. The US meat industry has already announced that if the EU continues to import only hormone-free meat it will expect significantly higher duty-free quota amounts than those in CETA. The quantities would rise and the pressure on

[14] Arbeitsgemeinschaft bäuerliche Landwirtschaft (2014): Freihandelsabkommen stoppen – unübersehbare Auswirkungen auf die bäuerliche Landwirtschaft, Berlin/Hamm, April 2014

[15] Phil Hogan, speaking for the Commission, response to parliamentary question P-000233/2015, 11/02/2015

[16] Agra Europe (2015), see footnote 7

[17] Consolidated CETA Text (2014), see footnote 6

our meat markets would increase.

Simulations in the milk sector show that annual exports by the European dairy industry to the USA would increase by 2.4 billion US dollars. On the other hand, the US dairy industry could look forward to an annual increase in exports worth 5.7 billion US dollars. Agricultural added value would drop by 0.5 percent in the EU under TTIP, while it would increase by 0.4 percent in the USA.[18] In many areas European agriculture and food production come out of these negotiations as the loser. However there would be benefits for European and US food companies.

Conclusion: European trade policy must continue to be able to protect sensitive agricultural markets in the EU, in order to protect small-scale farming and strengthen it through appropriate and necessary agriculture policies. European trade policy must also work to ensure that other nations around the world can protect their agricultural markets against destructive imports.

[18] European Parliament (2014). Risks and opportunities for the EU Agri-Food sector in a possible EU-US trade agreement, Brussels, July 2014

Appendix 1

To gauge the scope of new instruments such as regulatory cooperation, it is necessary to know the regulatory differences between the EU and the USA/Canada.

Example: **GMOs**[19]

- Authorisation: In the EU it is a political decision whether a genetically modified plant is authorised for import or cultivation (under certain conditions if appropriate). In the USA and Canada it is an administrative decision, which is the responsibility of the relevant authorities.
- Duty to authorise GM plants: In the USA and Canada, GM plants are generally "substantially equivalent", which means that legislators do not distinguish between GM processes and other production processes. This means that in the USA and Canada, unlike in the EU, GM plants can reach the market without an authorisation test if it slips past the authorities. In the EU there is an authorisation procedure: A risk assessment is carried out on genetically modified plants, there is a public register of authorised GMOs and there are labelling requirements.
- Dealing with scientific uncertainty: In the EU all points of uncertainty in the risk assessment and the authorisation process must be taken into account (the precautionary principle). Broadly speaking, genetically modified plants are considered to be safe in the USA until proven otherwise (the principle of proof).
- Zero tolerance: In the EU there is a strict policy of zero tolerance. Unauthorised genetically modified matter must not be imported into the EU even in small quantities, and it must be taken off the market if it is discovered. In 2011 this zero-tolerance policy came under significant pressure from agribusiness on the issue of feed, where a technical value of 0.1 percent applies under certain conditions. In Canada, if there is the slightest presence of unauthorised genetically modified organisms, the authorities take measures to get rid of the impurity. In 2012 Canada introduced a "Global Low Level Presence Initiative". A total of 15 states are involved, including the USA. Asynchronous authorisations are thought to be the main reason for the phenomenon.
- Labelling requirements: In the USA and Canada GMOs are generally not labelled, as GM plants and conventional plants are considered to be equivalent. Labelling may however be necessary if, for example, a particular toxic content exceeds acceptable levels or there is a risk to health or safety. This means that there is no transparency for consumers and farmers on whether food or feed has been made using GM plants. In the EU food and feed are appropriately labelled. There is a loophole for some animal products - milk, eggs, meat - which do not have to be labelled, even if the animals have been fed genetically modified plants.
- Protection of GM-free farming: In the USA and Canada there are no laws to protect GM-free farming or to stop the uncontrolled spread of GMOs in the environment. In the EU such regulations exist, although they do not go far enough.

[19] Compiled from:
Then, C.: Freihandel – Einfallstor für die Agro-Gentechnik – Auswirkungen von CETA und TTIP auf die EU-Regulierungen im Bereich der Landwirtschaft – eine kritische Begutachtung, commissioned by the Bündnis 90 / Die Grünen parliamentary group. Test Biotech, an institute for independent impact assessment in biotechnology
Goldbecker, S. (2014): Individual questions on environmental and consumer protection standards in the EU, Canada and the USA, German Parliament, WD 5 - 3000 – 057/14, April 2014