

The CETA Treaty - The Trojan Horse of Europeanization

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Abstract: *The Comprehensive Economic and Trade Agreement (CETA), that numbers about 2,000 pages, is a free trade agreement between Canada and the European Union. By adopting it, there will be eliminated 98% of Canada-EU trade tariffs. According to a study made by the Impact and Sustainability Commission (SIA), the EU economy will grow by 0.03% over the long term due to the CETA Agreement, while Canada's economy would increase by 0.2-0.4%. Critics who oppose the treaty argue that it will weaken consumers' rights from a food safety perspective and that tariffs are already negligible. Negotiations ended in August 2014, the agreement was approved by the Council of the European Union and the European Parliament and was ratified by all EU Member States. Ratification of the CETA (Canada & Europe Trade Agreement) has always been the subject of serious concerns, first of all Canada was "cautiously optimistic" about the fate of this Treaty.*

Keywords: *trade negotiations, free trade agreement, regional opposition, ratification, free movement of labor, recognition of qualifications, arbitration tribunal*

JEL Classification: *F, F02, F1*

1. Introduction

On September 21, 2017, the Comprehensive Economic and Trade Agreement between Canada and the European Union (CETA) entered into force, creating new opportunities for both the EU and Canada. In this context, the customs duties between Canada and the EU member states have been eliminated at a rate of 98%. The agreement creates new and far-reaching opportunities for both European and Canadian countries, opens new markets for exporters, generates quality jobs and strengthens the existing relationship between Canada's economy and the economies of the EU.

2. Arbitration tribunals - the most controversial side

European Commissioner for Trade, Cecilia Malstrom, remained discreet after signing on 27 October 2016, first by Belgium (then by EU presidency) of the Free Trade Agreement with Canada, known as the CETA Treaty (Cecile Ducourtieux et Jean-Pierre Stroobants, *La ratification du CETA reste semee d'embuches*, in *Le Monde, Economie et Entreprise*, 29 octobre 2016, p. 4). Mrs. Malstrom posted the following comment on the tweet: "Finally, white smoke on CETA. The Belgians agreed. Let us hope that once will be found quickly for an EU-Canada summit. "

After initially saying NO to the CETA Treaty on the grounds that it is a threat to the economy and regional social standards, the Parliament and Wallonia's Prime Minister, Socialist Paul Magnette, have obtained an agreement considered "honorable".

The interpretative statement on the CETA provisions - a point of view signed by the representatives of Austria, Germany and Slovenia - was negotiated separately from Wallonia and the Brussels region, which provided Canada with guarantees that the social protection of their citizens would not be affected by the Treaty,

as well as a withdrawal clause for a CETA country, if imports of Canadian agricultural products disturb the country too much.

Arbitration tribunals between multinationals and EU Member States - the most controversial part of the agreement - will not be implemented during the provisional implementation period of the CETA agreement; the Ministers of the 28 EU Member States agreed on this provision on 18 October 2016.

Following the negotiations with Canada on the treaty, held between 19 and 26 October 2016, the Kingdom of Belgium committed itself to refer the matter to the Court of Justice of the EU on the compliance of the arbitration tribunals of CETA. Wallonia province said it received from Canadians assurance that judges charged with settling disputes will not be selected from business environments, but elected and paid by the signatory states of the Treaty.

Paul Magnette, the craftsman of this European claim, which raises the hopes of the opponents of free trade and globalization, has positively evoked the new rule on the compliance of CETA arbitration tribunals; this was not, however, likely to convince left-wing radicals and ecologists, hostile to the CETA Treaty in principle. The tentative procedure for the signing of the Treaty by the Heads of State and European Governments, followed by the EU-Canada Summit, was pursued to allow Canada's Prime Minister Justin Trudeau to paraphrase the Treaty.

After a favorable vote in the European Parliament, the CETA Treaty could be applied in a provisional manner, pending the ratifications of the 38 national and regional parliaments of the EU, which generally takes several years. Wallonia and the Brussels region have crystallized the opposition of those opposed to free trade. In Austria, Germany or Luxembourg, the anti-CETA and anti-TTIP movements (formerly the US Free Trade Agreement) were less virulent than in Belgium. Indeed, the EU needs Canada, which is a friendly country, at least for the relocation of a part of emigrants now facing the EU. The opposition to the provisions on investor-to-state relationship within the CETA is increasing on both parts of the Atlantic on behalf of civil society organizations, trade unions and even public opinions expressed in some of the EU Member States. In response, the European Commission and the Canadian government are conducting a propaganda to minimize the risks of investment arbitrations and to divert attention from the fundamental problems of the system by focusing on "cosmetic reforms" (Eberhardt, Pia; Redlin, Blair and Toubeau Cecile, *How CETA's Investor Protection Rules threaten the Public Good in Canada and the EU*, on site <https://www.tni.org/sites/www.tni.org/files/download/ceta-isds-ro-executivesummary-1.pdf>).

2.1. Canada's "Optimistic Prudence"

"We are cautiously optimistic about the evolution of the CETA Treaty," Canadian Foreign Minister Stephane Dion said on October 27, 2016 after the Wallonia Parliament's veto on the treaty. Canada wants this treaty, and Mrs. Dion also admitted that, "We are ready to sign the Treaty and hope the EU speaks in one voice, as Canada does." In turn, Canada's international trade minister, Chrystia Freeland, proved to be very prudent when, on October 21, 2016, after three days of talks with Wallonia's Prime Minister, took note of the deal concluded in Belgium, which she described as "a positive one," adding that there is much to do and other steps to go through before signing the treaty. Regarding foreign investments and the risk of seeing a multinational in front of an arbitration tribunal against a European state (sensitive topics for Wallonia) Stephane Dion said that this uncertainty would be slightly modified: "With this agreement it will be possible we start to respect the sovereignty of states."

3. The 2,000 pages that crystallize fears

Agriculture, customs duties, arbitration tribunals are sensitive topics and CETA aims to combat trade barriers existing between European countries and Canada in many sectors (Anne Pelons, *Le Canada, "prudemment optimiste" pour l'avenir du traite*, Le Monde, Economie et Entreprise, 29 octobre 2016). Like its bigger cousin, the TTIP, CETA develops more fear, so the ambition to boost EU-Canada trade is greater. The CETA agreement aims to tackle trade barriers on all fronts. Trade rights are placed first on the agenda and they are reflected in the drastic reduction of duties still paid by exporters. In the agriculture field, quantitative quotas that regulate very closely the trade of products between the two parties will be widely assumed through the increase of the Canadian quotas authorized on the European market to: a) beef (from 4,122 to 45,828 tons per year); b) pork (from 5,549 to 75,000 tons per year); c) wheat (from 38,853 to 100,000 tons per year). These quantities accepted by Brussels are marginal compared to the size of the European market – the importing quotas for

Canada represent less than 1% of European consumption, and the new quotas caused some fear for the most fragile agricultural regions of Europe, which are facing more competition.

Milk producers will benefit more from CETA, on the one hand, because there are increased export quotas from 13,472 to 18,500 tons per year, but also because the European cheese brands exported to Canada - Feta, Reblochon, and Roquefort - are indeed part of the protected trademarks whose names cannot be used by Canadian manufacturers; so does the Parmesan or Agen plums.

According to the CETA Agreement, only 145 of the 1500 European protected trademarks benefit from protection; these are the most famous and therefore the least likely to be counterfeit. The CETA must help European enterprises willing to emerge on Canadian market - after signing CETA, at least 30% of Canadian public markets will be open, compared to 10% now. Free movement of people and public recognition of qualifications will be facilitated.

4. CETA Trojan horse

CETA is perceived as a Trojan horse of liberalization that threatens the citizens' interests and the environment protection. Relatively harmless in the automobile sector, where Europeans and Canadians have common standards, CETA becomes more sensitive in terms of food security or the environment protection. So far Brussels has banned Canadians from exporting into the EU beef with hormones, pork containing rectopamine, the new genetically modified organisms. The EU has also pledged to talk with Canadian representatives on the possible future convergence that is coming out from the context of the Treaty.

The threat to European public services is now more serious: the EU has so far pledged to liberalize only the sectors explicitly cited in trade agreements that are subject to privatization or in the position of public monopolies. Services such as autonomous (electric) or intercontinental transport are not mentioned in the CETA Treaty, but they will also need to be negotiated in the future.

The biggest criticism is focused on the arbitration mechanism, which will allow businesses to complain to European states about financial compensation if they deviate from the CETA rules. The most flagrant deviations observed in the recent years in investment arbitration have to be corrected by replacing free elected judges with a panel of independent judges appointed by states to limit conflicts of interest.

The CETA treaty gives "fair and equitable treatment" to all businesses and leaves room for maneuver to challenge state decisions, even those that target public goods, such as anti-smoking policy and the privatization of renewable energy. The CETA Treaty follows the long road of ratification in the 38 national and regional parliaments of the EU - which will last for at least 2-3 years. It is hoped that the Treaty will be applicable at the earliest by 2020.

5. The Wallonia region has tried to block CETA

The Wallonia Region initially blocked the signing of the CETA agreement, unsatisfied with several of its provisions, in particular those relating to arbitration of commercial disputes, social protection, effects on agriculture, traditional industry and environmental protection. Wallonia proposed new rules for negotiating international treaties by the EU through the Namur Declaration. Wallonia's Prime Minister Paul Magnette said on December 2, 2016 that he was again blocking the EU-Canada Free Trade Agreement (CETA), accusing the prime minister of the federal government in Brussels, Charles Michel, of failing to respect the terms of the compromise through which Wallonia gave its agreement to sign the treaty at the end of October 2016 (MAE, 2016). The new tensions are related to a circumscription of Belgium's consent to sign / ratify the CETA, which states that Belgium "will seek the opinion of the Court of Justice of the European Union on the compatibility of the CETA arbitration tribunal mechanism for the settlement of disputes between states and companies within European treaties ". In response, Belgian Prime Minister Charles Michel said on 24 November 2016 before the Belgian Parliament that he would assess "at the right time (...) whether such a request is needed".

"It will create a new crisis in Europe, and that is not our goal, but the federal government and Prime Minister Michel ignite the wicker," Paul Magnette said, accusing the Belgian chief of office of "abusing the Walloon patience" and threatening to "Activate the clause allowing Wallonia to suspend the CETA" if it does not receive clarification "as soon as possible" on compliance with the commitments made in the context of unblocking the signing of the treaty.

On December 5, 2016, Wallonia made public the Namur Declaration proposing the reform of international treaties negotiations based on three major principles: 1. respect for democratic procedures; 2. compliance with European legislation in the social, economic and environmental domains, and 3. defense of the

public interest in the dispute settlement mechanism between states and companies. The document was signed by 40 representatives of the Wallonia Academy, including its President Paul Magnette, as Professor in the Université Libre de Bruxelles, and before being published was presented to the President of the European Commission (COM), Jean Claude Juncker. The signatories say that the revision of the basic principles of EU international treaty negotiations is imperative because of the concern expressed by an increasing percentage of European citizens accusing private interests of having priority in negotiations to the detriment of the public interest. The document proposes, in this regard, the launch of public analyses and surveys before the negotiation mandate is established, as well as the increase of the transparency level, by publishing the interim results of the negotiations. The Namur Declaration also emphasizes the importance of national competences in mandating and negotiating, especially in mixed agreements such as CETA or TTIP. In this regard Wallonia's proposals aim at prior debates in national and regional parliaments with similar competences.

6. Green light for CETA

On 23 January 2017, the European Parliament's Committee on International Trade approved the Comprehensive Economic and Trade Agreement between the European Union and Canada (CETA). The plenary of the EU legislative body voted on the agreement in mid-February 2017 (See the site <http://www.parlamentor.ro/youth-parlamentor-what-s-up/comisia-de-comert-international-a-parlamentului-european-proba-acordul-dintre-ue-si-canada-6504>): the members of this committee voted in favor of the text, with 25 votes in favor, 15 against and one abstention, according to a press release from the European Parliament.

On 15 February 2017, the European Parliament endorsed the European Union-Canada Comprehensive Economic and Trade Agreement (CETA), with 408 votes in favor, 33 abstentions and 254 votes against. Although the EP voted in favor of the CETA, the agreement still needs the approval of the Parliaments of the 28 EU Member States and Autonomous Regions of Belgium, which could take years.

The Netherlands and Bulgaria have already announced that they could block the approval of the trade treaty if they call for a national referendum to be convened (Stan, 2017). CETA will eliminate 99% of customs duties on EU-Canada goods exchange. European Trade Commissioner Cecilia Malmstrom pleaded for MEPs' approval of the CETA, considering this agreement "more important than ever" in front of the protectionism promoted by Donald Trump. The European Commissioner for Trade considers CETA to be the "most progressive trade agreement ever concluded in history". Negotiated for seven years, the CETA was signed in October 2016 by the EU and Canada after several days of uncertainty due to the opposition of the regional Wallonia's Parliament in Belgium.

The European Parliament's vote on the EU-Canada Trade Agreement (CETA) is also a reaction to Donald Trump's protectionist policies, says Manfred Weber, chairman of the European People's Party (EPP) in the European Parliament: "Instead of protectionism, we want partnership. Instead of fear and lack of trust in each other, we want openness and even stronger ties with some of the closest allies we have in the world. Instead of letting globalization happen without us, we want to set it up with our high standards. CETA represents a fair trade agreement and a model for future cooperation based on values and standards. Those who oppose are also against our prosperity."

7. Position of Bulgaria

In mid-March 2017, Bulgarian President Rumen Radev said he was never and will never agree with the EU-Canada Free Trade CETA (Mina, 2017). Radev underlined: "As a Bulgarian president and guardian of the Constitution, I will refer the Constitutional Court to this file because the CETA requires the amendment of the fundamental law, and the Constitutional Court will have to rule on its legal compliance. From now on, the CETA is in the hands of the Bulgarian Parliament, which will vote on its ratification. "According to him, Bulgaria has a considerable contribution to the future of Europe and will insist that cohesion policy has a place in strategic documents and be reflected in the EU's multiannual financial framework.

8. Romania's position

In addition to allowing the elimination of Canadian visas for Romanian citizens, the CETA Agreement also presents other opportunities for Romania, as Siegfried Muresan explains: "The trade agreement between the European Union and Canada (CETA) is a good agreement for the European Union because it provides, among others, the elimination of 98% of customs duties affecting trade between the EU and Canada, which Romania will also enjoy implicitly."

The CETA agreement has the following advantages for Romania: a) offers the possibility for Romanian citizens to travel without visas to Canada; b) involves the elimination and reduction of duties for many categories of goods and services that Romania exports in large quantities to Canada; c) improves and secures the access of Romanian companies to the Canadian services market, the third largest non-EU market for Romania's exports of services; d) allows SMEs in Romania to better compete with large international companies, especially in the area of digital commerce; e) facilitates the investments of Canadian companies in Romania; f) facilitates the free movement of labor and the mutual recognition of qualifications.

Romanian exports to Canada reached 117.32 million \$ in 2016, up 41% from 2015 and imports to 81 million \$, up 20.4%. In the first seven months of 2017, exports to Canada reached 152.4 million \$, up 180% over the same period in 2016, and imports amounted to 62.8 million \$, up 55%. On August 31, 2017, 1,923 Romanian-Canadian joint ventures were registered in Romania and the volume of investments amounted to 136.6 million \$, with Canada ranked 29th among foreign investors in Romania. Around 42,000 jobs now depend directly on the trade activity between our country and Canada.

9. Conclusions

On September 21, 2017, the Comprehensive Economic and Trade Agreement between Canada and the European Union (CETA) entered into force, creating new opportunities for both the EU and Canada. In this context, the customs duties between Canada and the EU member states have been eliminated at a rate of 98%. The agreement creates new and far-reaching opportunities for both European countries and Canada and opens new markets for exporters, generates quality jobs and strengthens the existing relationship between Canada's economy and the economies of the EU.

The estimated effects of the agreement are represented by 23% annual growth in EU exports to Canada and by 11.6 billion euro per year increase in EU GDP. In this context, the CETA Agreement brings significant benefits to the business environment of the signatory countries, for Canada's processed agricultural products and dairy products, for example. The benefits for the EU GDP may be higher than the estimated 11.6 billion euro per year. In addition to the removal of export duties, CETA will allow mutual recognition of professional qualifications, thus facilitating access for EU specialists to the Canadian labor market.

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