

The Unhealthy side effects of CETA

Zoltán Massay-Kosubek and George Thurley
(European Public Health Alliance)

INTRODUCTION

The Comprehensive Economic and Trade Agreement (CETA) between the European Union and Canada is the first trade agreement between the EU and a major world economy and the most far-reaching bilateral trade and investment agreement negotiated to date. In the context of increasingly expensive medicines, reduced access to healthcare and the burgeoning weight of chronic non-communicable diseases (NCDs)¹, it is crucial to ensure that trade deals do not undermine wider societal objectives in the field of health. Unfortunately, CETA threatens to do just that. The deal has substantial side effects for people and public policy making; through investment measures limiting the policy space of governments in the area of public health, tariff elimination, market access commitments, negative listing of services, its lack of recognition of the health-relevant aspects of the Sustainable Development Goals (SDGs) and ignoring key health risk factors and threats such as alcohol-related harm or antimicrobial resistance. In short, CETA fails to ensure policy coherence between trade and public health.

¹ NCDs include cardiovascular disease (CVD), diabetes, cancers, chronic respiratory diseases and obesity.



Photo: Jon Chiang, flickr (CC BY-NC 2.0)

ANALYSIS OF KEY PROVISIONS

Tariff elimination for unhealthy food

CETA includes a complete elimination of tariffs on almost all goods, and this seems to be the priority for implementation under Provisional Application. Therefore, almost all existing tariffs on processed food and beverages (such as soft drinks high in sugar) will be removed: for example, tariffs for processed products and ‘miscellaneous food preparations’ will fall

CETA COULD CONTRIBUTE TO THE NON-COMMUNICABLE DISEASE (NCD) EPIDEMIC BY MAKING UNHEALTHY FOOD MORE AVAILABLE VIA TARIFF REMOVAL
Case study

Non-communicable diseases (NCDs) are one of the principal causes of mortality and ill-health in the European region. Unhealthy diets are directly linked to the development of NCDs and other chronic conditions including obesity. Research has found a correlation between the rise in overweight and obesity and a country's integration into globalised food supply chains.*

Low price is a major driver of consumption of unhealthy food. Tariff reductions from an agreement like CETA could result in processed and other foods that are high in saturated fat, sugar and salt (HFSS) becoming more available to consumers at lower prices.

PRODUCT TYPE	CURRENT EU TARIFF	AFTER CETA
Processed products, miscellaneous food preparations	Start at 12.8 %	0 % tariff
Processed pulses and grains, including baked good, pulse flour, meal and powder	Start at 7.7 %	0 % tariff
Fresh or chilled beef and veal	Various specific tariffs, e.g.: High quality beef: 12.8 % + 176.80 EUR/100kg Current autonomous tariff-rate quota of 20 %	0 % tariff-rate quota for chilled beef and veal, with gradual phase-in of 5,140 metric tons a year up to 30,840 from Year 6 and beyond
Frozen or other beef and veal	Various specific tariffs, e.g.: High quality beef: 12.8 % + 176.80 EUR/100kg Current autonomous tariff-rate quota of 20 %	0.0 % tariff-rate quota, with gradual phase-in of 2,500 metric tons a year up to 15,000 from Year 6 and beyond
Pork	Various specific tariffs, e.g.: Fresh/frozen swine carcasses: 53.60 EUR/100kg Fresh/frozen hams: 77.80 EUR/100kg	0.0 % tariff-rate quota, with gradual phase-in of 12,500 metric tons a year up to 75,000 from Year 6 and beyond

* Boyd Swinburn et al. (2009) Increased food energy supply is more than sufficient to explain the US epidemic of obesity. *Am J Clin Nutr.* [online], Yevgeniy Goryakin et al. (2015) The impact of economic, political and social globalization on overweight and obesity in the 56 low and middle income countries. *The Lancet.* [online]

from an average of 12.8 % to 0.² This could lead to a further decrease in price for unhealthy food products which are high in energy, saturated and trans fats, sugar, salt and refined carbohydrates.

The impact of increased affordability under CETA has not yet been studied, but a proliferation of cheaper unhealthy food products would likely bring negative health impacts, principally through higher consumption of those products. High consumption of food high in fat salt and sugar (HFSS) has been linked to higher incidence of cancers, heart disease, strokes, type 2 diabetes and obesity. These non-communicable diseases not only reduce the productivity of the European workforce, but also incur a sizeable cost for European healthcare systems, and reduce European citizens' quality of life. The same would be true in Canada. NCDs are responsible for 70 to 80 percent of European healthcare costs, around €700 billion annually.³ CETA only threatens to increase this burden on society, by making unhealthy foods more widely accessible both in the EU and Canada.

Market access commitments

Similarly, CETA makes considerable commitments regarding the trade of animal products. Not only is increased trade of meat products a stated aim of CETA, but tariffs on agricultural goods will also be slashed: currently agricultural products are covered by an average tariff rate of 13 %. The European Union will eliminate 99.2 % of its agricultural tariffs at entry force into CETA, and after 7 years, 93.8 % will be eliminated. The EU has made substantial concessions in the beef and pork sector in exchange for increased access to

the Canadian cheese market. For example, Canada will receive immediate duty-free access for 50,000 tons of beef.⁴

Data shows that meat consumption is considerably higher than recommended by the World Health Organisation (WHO) in both the EU and Canada.⁵ Meat consumption in Europe is twice the global average, and this contributes to an elevated intake of saturated fat. It is widely accepted that high consumption levels of processed meat and red meat in diets increases the probability of obesity⁶, type-2 diabetes⁷, cancer⁸, Alzheimer's Disease⁹ and cardiovascular disease.¹⁰

Furthermore, by increasing trade in meat, CETA may well contribute to the excessive use of antibiotics in meat production, and therefore to antimicrobial resistance (AMR), which poses a major threat to both human and animal health. Estimates suggest that if current trends continue, by 2050 drug-resistant infections could kill 10 million people globally every year.¹¹ Thus CETA's commitment to expand trade in meat products threatens to exacerbate existing health risks, as well as fuelling the rise of potentially deadly superbugs.

2 <https://www.italaw.com/sites/default/files/archive/ceta-final-negotiated-outcomes.pdf> p9 [Accessed 26/05/2017]

3 The 2012 Ageing Report: Economic and budgetary projections for the 27 EU Member States (2010-2060), European Economy 2|2012. European Commission. http://ec.europa.eu/economy_finance/publications/european_economy/2012/pdf/ee-2012-2_en.pdf

4 <http://www.livingstonintl.com/our-experts-speak/closer-look-ceta-part-3-tariff-reductions-benefit-chemical-telecom-industries/> [accessed 26/05/2017]

5 OECD data, meat consumption <https://data.oecd.org/agroutput/meat-consumption.htm>

6 Meat consumption providing a surplus energy in modern diet contributes to obesity prevalence: an ecological analysis <http://bmcnutr.biomedcentral.com/articles/10.1186/s40795-016-0063-9>

7 Association of Specific Dietary Fats With Total and Cause-Specific Mortality <http://archinte.jamanetwork.com/article.aspx?articleid=2530902>

8 Food sources of fat may clarify the inconsistent role of dietary fat intake for incidence of type 2 diabetes <http://ajcn.nutrition.org/content/early/2015/04/01/ajcn.114.103010>

9 Using Multi-country Ecological and Observational Studies to Determine Dietary Risk Factors for Alzheimer's Disease <http://www.tandfonline.com/doi/full/10.1080/07315724.2016.1161566>

10 IARC Monographs evaluate consumption of red meat and processed meat https://www.iarc.fr/en/media-centre/pr/2015/pdfs/pr240_E.pdf

11 The Review on Antimicrobial Resistance (2016) Tackling drug-resistant infections globally: final report and recommendations. <http://bit.ly/1ToZXcw>



Photo: Gerd Altmann, pixabay (Creative Commons license)

Intellectual property rights (IPR)

CETA fails to recognise the concerns held by many regarding the impact intellectual property rights (IPR) have on medicine prices. IPR acts as an insurmountable barrier to equitable access to medicines, by driving up prices. This is of particular concern in Canada, which already has the second highest drug costs globally. CETA's provisions could increase Canadian drug costs by between 6.2 % and 12.9 %, from 2023.^{12 13} CETA will not only affect intellectual property rights in Canada, by securing eight years of market exclusivity, but will also serve to undermine a critical wider debate on access to medicines, and lock Europeans and Canadians into a model that enables pharmaceutical companies to charge exorbitant prices that bear no relation to their research and development costs, thanks to IPR rules. In the EU, Sofosbuvir, a medicine used to treat Hepatitis C, is a real-life example of the challenge

12 HAI, Commons Network, Public Citizen: CETA and pharmaceuticals: impact of the trade agreement between Europe and Canada on the costs of prescription drugs <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4108121/>

13 See also, full report Making Sense of CETA. 2Nd edition. Chapter on Canada-specific concerns p. 71.

of high medicine prices in Europe. While the 12-weeks treatment course is priced at €41,680 to the French Social Security system, the Indian, generic version is sold at only €220.¹⁴ The impact of IPR rules on medicine prices is that they grant monopoly to a given medicine. This means that other, cheaper, generic versions of the same medicines cannot be placed on the market until the patent protection exists. While the current patent system might be changed via domestic democratic processes, it is very difficult to change those periods once they are locked into international trade agreements, such as CETA. There has been no impact assessment of CETA, or associated regulatory cooperation¹⁵, in relation to medicine prices, and this must be undertaken in order to ensure CETA's coherence with ensuring accessible medicines. Effective regulatory cooperation on the issue of medicines is already taking place at a technical level, and therefore, it is unclear what added value CETA's regulatory cooperation regime would bring. Instead the unclear regulatory cooperation system threatens to obscure the policy-making process in this crucial area, rather than prioritising that citizens are assured access to affordable medicines.

Negative listing and the ratchet clause

The negative list approach used in CETA means that unless explicitly excluded, public services—including healthcare, social services, education and water—are open to liberalisation. This preference for liberalisation limits governments' freedom to organise public services as they see fit, and could therefore undermine the quality and affordability of Services

14 <http://hepcoalition.org/news/press-releases/article/hepatitis-c-gilead-patent-on-sofosbuvir-partially-maintained-following-mdm>

15 See also, full report Making Sense of CETA. 2Nd edition. Chapter on Regulatory Cooperation p. 43.

MARKET ACCESS FOR WINE AND SPIRITS IN CETA NEGLECTS ALCOHOL RELATED HARM

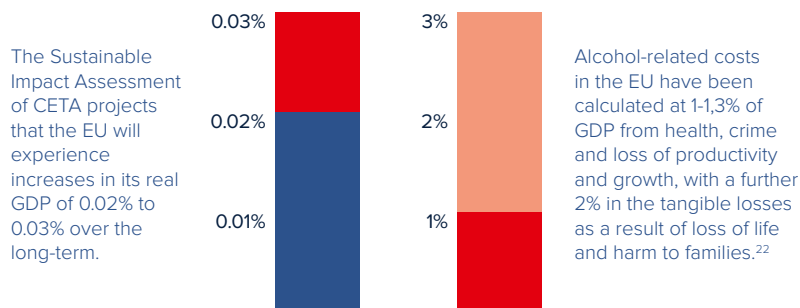
Case study

Why is it problematic that CETA does not address alcohol-related harm when it contains a Wine and Spirits Chapter? Why is it troublesome that CETA sets up the Committee on Wines and Spirits without any health representative, or without setting up a Committee on Cross-border Health Determinants?

Europe has the highest level of alcohol consumption in the world. Alcohol negatively affects work performance and productivity, drains social welfare and healthcare systems and is a contributory factor in crime, accidents and injuries. Alcohol-related harm is pervasive in Europe, often affecting others than the alcohol users themselves, and disproportionately burdening young people and family members.

Alcohol-related harm is a major public health concern in the EU and accountable for over 7 % of all ill health and early deaths. Young people are particularly at risk of short term effects of alcohol, with alcohol-related deaths accounting for around 25 % of all deaths in young men aged between 15 and 29. The OECD quotes a total cost of alcohol of between 1.4 %-2.7 % of GDP in four developed nations: France, Scotland, US and Canada.

Alcohol costs drain more of EU's GDP than CETA could ever add



²² Nick Sheron, Alcohol and liver disease in Europe – Simple measures have the potential to prevent tens of thousands of premature deaths, *Journal of Hepatology*, 2016. vol. 64 957-967

of General Interest (SGEI)¹⁶. The ratchet clause¹⁷ goes further, and limits the reservations made by Parties of the agreement. Therefore, this will prevent governments from going against any liberalisation measures—for example renationalising a given service or sector. All this combines to limit the policy space of governments to organise public services.

Investment measures

As with practically all areas of public policy, there is a threat that the investment protection measures, whether in the form of the newer Investor Court System (ICS) or the original Investor State Dispute Settlement (ISDS) mechanism will undermine policy initiatives to promote or protect good public health. However, it is worth noting that there are many existing cases of legislation to protect and promote public health being blocked or delayed by investor-state cases. Several high-profile examples relate to tobacco control measure, such as the Philip Morris case against Australia, following the introduction of plain packaging. The tribunal took 4 years to deliberate¹⁸ and despite the fact the court rejected Philip Morris's claims, unofficial estimates suggest that the Australian government spent between 30 and 50 million Australian dollars (approx. €33 million) defending the case.

Tobacco is not the only health concern affected by investment arbitration. Lifesaving public health measures which could be affected by CETA's investment chapter include, among other initiatives, minimum pricing of alcohol, food labelling, air pollution restrictions, chemicals legislation and soda/sugar taxes.

Silence on alcohol related harm and health sustainability

CETA is also inconsistent with public health objectives regarding the prevention of alcohol induced harm, as it is likely to increase the availability and affordability of alcohol—exemplified by the European spirits lobby's role as one of the foremost cheerleaders of the deal. CETA fails even to acknowledge the link between alcohol consumption and major societal impacts, including a fall in productivity, NCDs and other forms of alcohol-related harm, including addiction, violence, crime and road deaths.

Omitting health sustainability aspects

In the Sustainable Development Chapters of CETA, there is a failure to acknowledge public health sustainability issues, as they make no reference to crucial global public health commitments such as the United Nations High-Level Political Declaration on Non-Communicable Diseases (NCDs) or the World Health Organisation's Framework Convention on Tobacco Control (FCTC).

There is also no reference made to the health-relevant aspects of the Sustainable Development Goals (SDGs), which are binding on both the EU and Canada. CETA may particularly conflict with SDG Goal 3, to “ensure healthy lives and promote well-being for all at all ages”, including sub-targets to reduce the prevalence of NCDs, to achieve universal healthcare coverage and to cut the incidence of road deaths and injuries. CETA therefore threatens to undermine international commitments on health sustainability.

¹⁶ See also, full report Making Sense of CETA. 2Nd edition. Chapter on Public Services p. 27.

¹⁷ For an explanation of the “ratchet clause”, please see full report Making Sense of CETA. 2Nd edition. Chapter on Public Services p. 28

¹⁸ <https://www.ag.gov.au/tobaccoplainpackaging>

Interpretative declaration

Following criticism on these and many other issues, the parties issued a joint interpretative declaration on CETA in October 2016. The declaration seeks to assure stakeholders that CETA will protect governments' ability to achieve legitimate public policy objectives, including public health and safety, and it recognises positively that trade is intended principally to increase *"the well-being of citizens"*.¹⁹

However, by its very nature as a non-binding document, it cannot change the already negotiated text, meaning it can never adequately address the above identified problems, and help to deliver good public health. The fact that such assurances are included at all indicates they are not sufficiently addressed in the legal text. The declaration gives no reassurance that there will be no race to the bottom, and makes no mention of negative listing. Lastly, it makes no substantive changes to the Investor Court System (ICS) which remains fundamentally unnecessary for a deal concluded between two developed democracies.

(social, healthcare, education, water), promotes tobacco, alcohol and unhealthy food as well as ignores health-relevant Sustainable Development Goals and the global health threat of antimicrobial resistance. While CETA's adoption paves the way for the expansion of Europe's global trading relations, it represents a significant threat to public health, both in the EU and Canada. Trade is not inherently a threat to public health, economically or socially, but when public health concerns are not sufficiently addressed, included or prioritised—as in CETA—it is vital to make those concerns known, and hold trade deals to those standards. As civil society worldwide joins forces to redefine EU trade policy, under the spotlight of unprecedented public interest, Europe has the historical opportunity to lead the way towards more public interest and public health oriented trade deals.

CONCLUSION—CETA IS A BAD DEAL FOR PUBLIC HEALTH

The deal, opposed by a broad coalition of civil society organisations including the European Public Health Alliance, was hastily adopted by the European Parliament in early 2017 despite health concerns and other major roadblocks.

CETA is a bad deal for public health because it opens the door for businesses to challenge public health laws, limits policy choices for Services of General Interest

¹⁹ <http://data.consilium.europa.eu/doc/document/ST-13541-2016-INIT/en/pdf>