Assessing the Climate Impact of Trade Policy and Agreements

A Case Study of CETA – Executive Summary

PowerShift

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Executive Summary

This study, prepared by PowerShift, provides an analysis of the climate impact of the Comprehensive Economic and Trade Agreement (CETA) between the European Union and Canada, which entered into provisional application on September 21, 2017.

Methodology

The methodology used for this ex-post assessment rests on four pillars:

1. an analysis of the variations of trade in goods between the EU and Canada, with a focus on commodities whose trade has a significant impact on climate change;
2. an analysis of rules, institutions and decisions that govern the climate policies of the trade agreement;
3. an analysis of the work of the committees and dialogues, created by CETA, that have a strong climate impact;
4. estimates of the implications of CETA's investment provisions on flows, stocks and investment protection.

This methodology goes beyond traditional impact assessments as it includes analysis of goods that were already duty-free when CETA entered into force – such as iron ore, crude oil, hard coal, soya beans and many wood products. Only by including the trade in these climate-damaging commodities is it possible to identify the full extent of harmful trade enabled and promoted by CETA. A truly progressive trade agreement would require the inclusion of targeted measures to address this trade and mitigate its impact on climate change.

Trade in Goods between the EU and Canada

Our analysis of the variations in trade flows reveals that bilateral trade in numerous products harmful to the climate has indeed increased since CETA's implementation. This is the case with the most important raw material exported from Canada to the EU – iron ore – as well as fossil fuels such as crude oil and hard coal. In addition to accelerating climate change, the production and consumption of these minerals and fuels causes numerous other environmental impacts – such as air and water pollution, biodiversity loss and land use change.

The liberalisation of trade in agricultural products adds to the negative climate impact of CETA. The quotas and tariff preferences offered for animal products, such as dairy and beef, pose particular risks. This is important given that both partners have largely failed to make any significant progress in reducing the greenhouse gas emissions of their livestock

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sectors, with methane being the most harmful of the gases emitted. Since CETA's implementation, both partners' beef exports to each other have risen sharply.

Closely linked to the livestock industry is the Euro-Canadian trade in oilseeds used for animal feed, especially soya beans and rapeseed. While EU soya bean imports from Canada saw a rather modest increase, EU rapeseed imports grew considerably since CETA's application. The large majority of rapeseed and soya plants grown in Canada are genetically modified to withstand being sprayed with herbicides. The use of these herbicides in Canada has increased substantially over the last 15 years, causing biodiversity loss and significant greenhouse gas emissions.

Trade in forest products has also increased since CETA's implementation. While EU imports of Canadian wood reversed the decline that had occurred before the agreement, EU exports to Canada increased sharply. This bilateral increase in timber trade occurs against the background of accelerated forest loss in Canada and the EU. In both regions, there has been a significant decrease in the capacity of forest land to remove carbon dioxide, mainly due to high rates of industrial logging.

CETA's market access commitments for the chemical industry are also fuelling demand for goods harmful for the environment. For instance, since CETA's implementation, EU plastics exports to Canada have risen substantially, including particularly damaging products such as microplastics, plastic packaging and synthetic fibres. The production of these plastics requires large amounts of energy and is thus a huge contributor to climate change.

Another concern relates to the absence of targeted measures to mitigate the climate risks of trade in all these products. CETA does not link its trade preferences to concrete improvements in the production process of the sectors benefitting from the agreement, even in sectors known to be polluting. It also lacks concrete provisions to reduce or end trade in especially harmful products such as fossil fuels. Another glaring lacuna relates to the lack of technology transfer to facilitate decarbonisation in harmful sectors which have been liberalised.

While trade in environmental goods saw a slight increase since CETA's implementation, the failures listed above cannot be compensated by this, especially given that the share of 'green' goods in total bilateral trade has never surpassed 10 percent. It is therefore difficult to see how 'green' goods could offset the climate impact of the 90 percent of non-green and emissions-intensive goods exchanged between the EU and Canada.

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Rules, institutions and decisions governing climate policy

Our analysis of the rules and institutions governing the agreement reveals further shortcomings. CETA's sustainability chapters, for instance, lack precise commitments to climate protection and do not even reference the Paris Agreement – even though the CETA negotiations coincided with its adoption by both parties. The Trade and Sustainable Development Committee made only lacklustre efforts to enforce meaningful climate protection measures, while the role of civil society in monitoring these provisions remains very limited.

These weaknesses are compounded by the fact that the sustainability chapter is exempt from CETA's State-State dispute resolution mechanism, leaving it vulnerable to violation and subversion. Moreover, the European Commission declined Canada's offer to allow the violation of sustainability commitments to be penalised with trade sanctions – despite the widely acknowledged deficit in enforcement mechanisms for sustainability provisions in EU trade agreements. This refusal is also regrettable as neither Party can claim to be a climate champion: both Canada and the EU lag behind in achieving their climate goals.

Committees and bilateral dialogues established under CETA

The activities of the committees and bilateral dialogues established under CETA are another cause for concern. For instance, the committees enjoy extensive powers, including the right to amend the agreement without the involvement of the European Parliament – a privilege which raises concerns about their democratic legitimacy. By mutually recognising each Party's standards, the committees can weaken environmental and climate regulations. They could also limit the capacity of the EU or Canada to unilaterally strengthen the requirements for energy-intensive industries, for example. Given this context, the lack of transparency from the CETA committees is worrying – detailed minutes are not publicly available, nor is key information on participants and upcoming decisions.

The risks to environmental standards are clearly illustrated by the discussions in the Sanitary and Phytosanitary (SPS) Committee on food safety. Canadian officials, for instance, argue that the EU's Maximum Residue Levels for pesticides are too stringent and thus a barrier to trade for their farmers. They also seek to influence regulations on Genetically Modified Organisms (GMOs) and want the EU to accept higher levels of unauthorised GM contamination in crops. Canada also used CETA's bilateral dialogue on forest products to challenge the

EU's new deforestation regulation – a worrying development given the huge emissions associated with ongoing forest loss in both Canada and the EU.

The fossil fuel lobby, particularly in Canada, managed to significantly influence the EU Fuel Quality Directive during CETA negotiations. Tar sands oil, whose climate impact is especially high, is not adequately included or restricted in the directive. This lobbying success may hinder future efforts to strengthen EU regulations on fossil fuels.

Investment: flows, stocks and protection

Other shortcomings of CETA relate to the agreement's rules on investment liberalisation and protection. CETA does not contain any provisions committing the partners to implement climate-related criteria for bilateral FDI (Foreign Direct Investment). Such an environmental investment screening mechanism is needed because the emissions-intensive manufacturing industry and the mining, oil and gas industry are among the top sectors receiving bilateral investments in and from the EU and Canada. In addition, our analysis of FDI flows and stocks reveals that a large majority of bilateral investments in the EU and Canada are channelled through two important EU tax havens, the Netherlands and Luxembourg. These capital flows are diminishing the fiscal revenues desperately needed to support energy transition.

The Investment Court System (ICS) – a modified version of Investor-State-Dispute Settlement – included in CETA gives foreign investors the exclusive right to sue states for damages if policy decisions impact their profits. This corporate privilege could significantly increase the cost of strong climate legislation – or even prevent the adoption of public interest laws – due to states fearing having to pay excessive compensation payments. Given the huge bilateral investments in the oil, gas and manufacturing sectors, CETA could enable many investment disputes on climate legislation, emissions standards and the energy transition. Moreover, the 'Interpretative Declaration', ostensibly developed to minimise these risks after criticism of CETA, is largely inadequate for this purpose.

All these weaknesses point to perhaps the most basic failure of EU trade policy in relation to the climate crisis – the ongoing prioritisation of liberalisation over transformation. But, as our analysis of CETA's implementation clearly shows, these priorities must be reversed. The transformation of the productive apparatus and the decarbonisation of goods traded internationally must take precedence over the dismantling of barriers to trade, in order to mitigate climate change.

Recommendations

To address these concerns, and to really deliver a trade agreement with strong progressive environmental and climate impacts, CETA should be revised to:

1. include strong provisions on climate protection in all chapters of the agreement,
2. restrict or end trade in harmful products,
3. disempower undemocratic committees and create transparency,
4. include environmental investment screening and reject Investor-State Dispute Settlement.

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