
# CETA: EUROPEAN FOOD AND AGRICULTURE STANDARDS UNDER THREAT



The EU-Canada trade deal CETA will provisionally enter into force on 21 September 2017. This means that large parts of CETA will be activated before ratification by the parliaments of EU member states. However, EU member states can still choose not to ratify it, in which case CETA will be rejected in its entirety. Before our parliamentarians make their decision, they must confront a series of critical questions regarding CETA and its implications for the future of European food and agriculture.

**Through CETA, the EU will become further integrated with the Canadian (and therefore by extension the US) meat industry. For example, CETA will increase the EU's quotas for imports of Canadian pork and beef 12-14 times the current levels to 75,000 tons of pork and 45,840 tons of beef.**

CETA, in common with all trade agreements, will reduce tariffs to increase international trade. However, CETA goes well beyond this traditional focus, and to an unprecedented degree seeks to influence domestic policies in the EU and Canada, with the goal of reducing costs and limiting regulation. Due to CETA's focus on eliminating so-called 'non-tariff trade barriers', agricultural and food standards will be targeted. Under threat are EU food and agricultural policies (present and future) that are either stronger than Canadian rules, or which prioritise better human and health protection over more trade (Briefing Paper 1).

The rules under threat include:

- Restrictions on the use of genetically modified organisms (GMOs), growth hormones, and antimicrobial chemical rinses in producing meat. Canada and the US have attacked the EU ban on growth hormones in WTO dispute settlement procedures. CETA provides them with new avenues to challenge the EU's ban on growth hormones.
- Country of origin labelling (COOL) rules for meat and other food products.
- Future restrictions on cloning animals and their offspring, and their labelling and traceability in the European food system.

## FOOD SAFETY UNDER THREAT BY CETA

Food systems differ significantly between Canada and the European Union. Canada has weaker food safety standards than the EU, and a farm economy more heavily dependent on chemical additives and GMOs. Regulatory cooperation fuels a race to the bottom through a process that facilitates the early and active involvement of industry lobbies, government officials supportive of these industries, and trade promotion officials in writing regulations. The focus is on cutting costs and 'red tape' – not improving health and safety.

CETA incorporates a toolbox of deregulatory measures – strongly advocated for by big corporations – that will promote the harmonisation of food safety standards to the lowest common denominator, and the weakening of the EU's risk assessment standards for food products. Moreover, the Investment Court System in CETA enables Canada-based corporations to directly challenge EU and

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## GMO SALMON

**In March 2016, Canadian authorities approved AquAdvantage Salmon, the first genetically modified animal to be approved for human consumption in the country. Canada did not require labelling, instead giving the production firm AquaBounty Technologies the option of labelling the product voluntarily. About 4.5 tonnes of GM salmon fillets have already been sold in Canada – without labelling. This means that Canadians have been consuming GM salmon without their knowledge. CETA may boost salmon exports from Canada to the EU by lowering tariffs and expanding quotas. However, given the absence of labelling and traceability in Canada, and considering that GM salmon is not authorised in the EU, each import of Canadian salmon would need to be tested in order to avoid the import of any GM fish.**

member state food safety laws and agricultural policies or regulations on the basis of alleged discrimination or loss of potential profits, and to receive compensation.

## COUNTRY OF ORIGIN LABELLING UNDER THREAT BY CETA

Country of origin labelling laws, known as COOL, allow consumers to know where certain foods originated. As the EU is gearing towards increased meat imports from countries such as China, Thailand and Brazil, and as food scandals occur on a regular basis both in the EU and outside it, consumers have a real interest in knowing where their food comes from. Large agribusinesses would prefer consumers not to know that animals are often raised in one country, slaughtered in another, and processed in a third, after which different parts of the animal are transported to different countries.

The EU has COOL regulations for fresh cuts of meat, but not for processed meat or dairy. The European Parliament wants to expand the scope of labelling to include processed foods in the EU, while several member states are moving forward with expanding them in their own countries. Yet the North American meat industry managed to cancel COOL regulations similar to the EU's in the US through the World Trade Organisation's dispute settlement process. Now, CETA offers them various avenues to weaken existing COOL regulations and to halt efforts to expand them through EU and member state law. Major meat processing corporations will be able to directly sue the EU and its member states for expanding COOL rules, if CETA enters into force with the proposed Investment Court System (Briefing Paper 2).

## ANIMAL WELFARE AND CLONING CONCERNS

Animal cloning has been shown to increase the frequency of malformations and is therefore likely to increase animal suffering. Cloning of farm animals occurs in the US, but not in Europe or Canada. The lack of mandatory US labelling laws on cloned animals, combined with the frequent trading of live cattle, pigs, genetic material and other animal products between the US and Canada, make the presence of cloned animals in the Canadian meat and livestock supply chain highly likely. Currently, no reliable labelling and traceability systems exist for clone-derived products leaving the US or entering Canada and the EU. This is despite repeated calls by the European Parliament to stop offspring of cloned animals entering the EU. Not only will CETA increase the trade in meat between the EU and Canada (and therefore by extension US meat industry), but it is also likely to get in the way of developing stronger cloning regulations or labelling and traceability requirements, because they could be seen as 'trade restrictive' (Briefing Paper 3).

## DO THE RIGHT THING

The future of food and agriculture is just one of many aspects of our daily lives that CETA will influence. Agribusiness corporations have lobbied hard in favour of CETA. However, it is up to the people to say 'yes' or 'no' to trade deals like CETA. This is the peoples' final chance to speak up. The ball is in the court of parliaments to choose to either ratify or reject CETA. The European Commission, Council and Parliament have all failed to acknowledge the integrated structure of meat and animal trade between the US and Canada, and have thus condoned the further opening of the European market for foods and other products derived through clone technology, GMOs, and with harmful additives such as growth hormones. Member state parliaments should not make the same mistake, and should reject CETA. Politicians represent the peoples' voice. Make sure you let them know that you reject CETA in favour of a more people, animal and planet friendly food and agriculture system!

**Briefing by IATP Europe and Greenpeace Netherlands | September 2017**

**For more information:**

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# CETA, REGULATORY COOPERATION AND FOOD SAFETY


## SUMMARY

European Union member state parliaments have the right and responsibility to ratify or cancel the EU's trade deal with Canada, in spite of its preemptive entering into force on 21 September 2017. However, from this day onward many CETA provisions, including those relevant to regulatory cooperation, will apply provisionally in the absence of unanimous endorsement of member state parliaments. In the interest of an informed decision, member state parliaments must urgently confront a series of critical questions regarding CETA, including its implications for European food and agriculture, EU law, and the precautionary principle.

CETA, in common with all trade agreements, will reduce tariffs in order to increase cross-border trade. However, CETA goes well beyond this traditional focus, and to an unprecedented degree seeks to influence the development of domestic policies in the EU and Canada, with the goal of reducing business costs and limiting regulation. Stronger EU food and agricultural policies are most at risk of weakening.

Agricultural and food standards are among those targeted by CETA's focus on eliminating so-called 'non-tariff barriers'. Food systems differ significantly between Canada and the European Union. Canada has weaker food safety standards than the EU, and a farm economy more heavily dependent on chemical inputs and genetically modified organisms (GMOs). These factors effectively prohibit increased Canadian exports of key products to the EU, creating a powerful economic incentive for Canada and its largely industrialised agricultural sector to weaken or eliminate EU food and agricultural policies that stand in their way.

More stringent EU rules include, for instance, stricter limitations on the production and sale of genetically modified (GM) crops and food products, mandatory labelling for food with GM ingredients, and for many products, identifying the country of origin (see also Briefing Paper 2). EU rules also restrict the use of growth hormones and antimicrobial chemical washes in meat production and processing, and include stronger animal welfare protections and restricting cloning. (See also Briefing Paper 3).

CETA incorporates a toolbox of deregulatory measures strongly advocated by transnational corporations. These include 1) requiring licensing regulations to be 'as simple as possible', 2) so-called 'regulatory cooperation' initiatives to synchronise regulations over time toward a single transatlantic standard, 3) special rules to promote trade in biotechnology, and 4) new risk assessment standards that will undermine the EU's more precautionary approach to regulation, especially in the application of the precautionary principle where scientific information is limited or not definitive.

Canada's prior experience in implementing the North American Free Trade Agreement (NAFTA) illustrates the threat to legislation. The high degree of integration within the US and Canadian agricultural markets spurred by NAFTA resulted from both lowering tariffs and harmonising food safety regulations.[1] The NAFTA experience suggests that deregulatory initiatives such as those in CETA, even if technically 'voluntary', lead to a harmonisation of standards towards the lowest common denominator in a process that lacks transparency and gives industry stakeholders preferred access.


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Over two decades since NAFTA came into effect, the Canadian government has "gradually deregulated, under-regulated and moved toward industry self-reporting in order to 'reduce the burden' on business".[2] It justified these actions by invoking a need for regulatory cooperation. The result has been a deterioration in food safety standards, reduced concern about the risks associated with toxic chemicals, and a greater willingness to allow pesticide residue contamination in foods.[3]

Canadian agribusiness strongly advocated for regulatory cooperation in CETA, and the industry is not waiting for CETA's ratification to advance its deregulatory agenda. Canadian agribusiness is already objecting to the continued existence of stricter EU food safety standards, saying they are inconsistent with CETA and a problem that must be resolved. The Canadian meat producing, packing and processing industries have complained of 'technical barriers' that remain in place even after CETA's signing that prevent export of their products to the EU.[4]

In parliamentary hearings, the Canadian Cattlemen's Association conditioned its support of CETA with a demand for "a commitment from the government of Canada to develop and fully fund a comprehensive strategy utilising technical, advocacy and political skills to achieve the elimination of the remaining non-tariff barriers to Canadian beef".[5] There is no question that the industry, with its allies in Canada's trade and agriculture ministries, is poised to take full advantage of CETA to push its agenda to weaken EU standards.

## IN CONTRAST TO EU AGRICULTURAL PRACTICES, CANADA RELIES HEAVILY ON CHEMICAL INPUTS AND GENETIC ENGINEERING, AND ALLOWS INTERNATIONALLY BANNED ADDITIVES AND PROCESSES

**Canada is a significant cultivator of genetically engineered crops.** Canada is one of just five countries that together account for 90 percent of genetically engineered crops in the world. Globally, it was the fifth-largest producer in 2015.[6] Genetically modified varieties account for a very large percentage of four crops grown in Canada – canola (rapeseed), corn (maize), soy and sugar beet. Canola is Canada's biggest crop and accounts for one-fifth of all farmland,[7] and fully 95 percent of Canadian-grown canola is genetically modified (GM).[8] Most canola is exported.[9]

Rampant use of GMOs has led to several problems, including a dramatic rise in herbicide use and threats to biodiversity.[10] Canada's GM crops are engineered for insect resistance and herbicide tolerance, and are specifically designed for use with Monsanto's herbicide 'Roundup'.[11] The active ingredient of Roundup is glyphosate, classified as 'probably carcinogenic' by the World Health Organisation,[12] the use of which has resulted in five glyphosate-resistant weeds in Canada.[13] GMOs also threaten biodiversity, as they readily spread through ecosystems via cross-pollination and interbreeding.[14] In Canada, genetically modified canola is so pervasive that it can be found in products that are purported to be GMO-free, such as honey.[15]

In contrast, only one genetically modified crop, a corn variety, is authorised for cultivation in the EU, and it is grown in an insignificant quantity in Spain and Portugal.[16] In 2015, GM crops were being grown on only 0.14 percent of the arable land in all of Europe.[17] EU Directive 2015/412 allows EU member states to restrict or prohibit the cultivation of genetically modified organisms in their territory. Seventeen member states (Austria, Bulgaria, Croatia, Cyprus, Denmark, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland and Slovenia) and three regions (Wallonia in Belgium, and Scotland and Wales in the UK) have done so.[18]

**Canada has weak oversight of GM crops and food, and doesn't require labelling.** Both Canada and the EU regulate GM crops and foods as 'novel foods' and require prior approval of biotechnology-derived products, but there are significant differences in the practical application of their rules.[19] Canada's approach to risk assessment gives industry more control over the information relied on by regulators, and limits the scope of evaluations of risks and hazards.[20]

The Canadian system collects limited and largely industry-generated data about GM crops, has approved more products for production or sale (including genetically modified salmon, apples and potatoes), has weak oversight functions, and provides consumers with little information about what is in their food.[21] The Canadian government does not require labelling,[22] even though public opinion surveys conducted over 20 years consistently show that more than 80 percent of Canadians support the labelling of GM foods.[23]

## GM SALMON IN CANADA

**The difference between Canada's fast-track approvals of GMOs and limited regulation compared to the EU's approach is illustrated by Canada's speedy approval and sale of genetically modified salmon. In March 2016, Health Canada, a federal institution, and the Canadian Food Inspection Agency (CFIA) approved AquAdvantage Salmon, the first genetically modified animal to be approved for human consumption in the country.**

**Health Canada did not require labelling, instead giving the production firm AquaBounty Technologies the option of labelling the product voluntarily.[24] According to a report released in August 2017, about 4.5 tonnes of GM salmon fillets have already been sold in Canada – without labelling.[25] This means that Canadians have been consuming GM salmon without their knowledge.**

**Reportedly, AquaBounty wanted prompt approval of its GM salmon eggs in order to export them to China, Argentina, Brazil and Panama, and pressured CFIA to fast-track safety tests on these eggs.[26] Several Canadian civil society organisations challenged the approval of GM salmon in court, arguing that the Canadian government's assessment did not adequately consider the potential environmental impact of GM salmon.[27] [28] The court ruled in favour of the Canadian government, thus upholding its inadequate environmental assessment.**

**Canada's parliamentary Standing Committee on Agriculture and Agri-Food conducted a study in late 2016 on GM animals for human consumption. Its recommendations included greater transparency in the regulatory system for GM animals, and mandatory labelling and traceability systems.[29] To date, the government has failed to act on these recommendations and Canada still lacks transparency, mandatory labelling, and traceability of GM foods. CETA may boost salmon exports from Canada to the EU by lowering tariffs and expanding quotas.[30]**

**Given the absence of labelling and traceability in Canada, and considering that GM salmon is not authorised in the EU, each import of Canadian salmon would need to be tested in order to avoid the import of any GM fish.**

In contrast, the EU mandates the labelling of foods containing more than 0.9 percent of GM ingredients, and requires farmers and food and feed manufacturers to track GMOs and GM food and feed at all stages of the supply chain.[31] The EU focus on traceability is key to effective oversight and labelling, and underpins the EU's stricter regulation of inadvertent GM contamination of foods.

Canada's weak oversight of the GMO supply chain has led to contamination of foods intended for export and created conflict with EU regulators; in 2009, EU regulators turned back cereals, bakery products, baking mixes and nut/seed products found to have been contaminated with GM flax not approved for human consumption, except in Canada and the US.[32] While EU regulators have a zero-tolerance policy requiring goods contaminated with non-approved GMOs to be withdrawn from the market, Canada has promoted international standards that allow for GMO contamination.[33]

**Canada allows the use of growth promotion drugs, including hormones and antibiotics, a practice banned in the EU.** The EU prohibited the use of growth hormones for farm animals in 1996, and the ban applies both to member states and imports from non-EU countries.[34] This ban has been maintained and expanded over many years based on a series of scientific opinions on the risks to human health, which found that 'no acceptable daily intake could be established for any of these hormones' and that oestradiol 17ß, in particular, is 'considered a complete carcinogen'.[35]

Since 2006, the EU has also banned the use of any antibiotics in animal feed for growth promotion purposes.[36] Routine antibiotic use in animals – for growth promotion and overall disease prevention in crowded conditions – is contributing to widespread antimicrobial resistance through superbugs that have mutated after exposure to these drugs.[37] This phenomenon poses a serious threat to global public health, as medicines become ineffective in combatting human infections, leading to deaths.[38]

By contrast, growth hormones have been widely used in beef cattle in Canada since the 1960s.[39] Health Canada (the federal body that regulates and approves the use of products from a health perspective) has approved the use of six hormonal growth promoters in beef cattle: three natural hormones (progesterone, testosterone and estradiol-17ß), and three synthetic hormones (trenbolone acetate, zeranol and melengestrol acetate).[40] Health Canada dismisses health concerns about hormone use in meat production, unlike its EU counterpart.[41] Canada also allows use of antibiotics for growth promotion in the production of meat and poultry products.[42] Canada and the US have attacked the EU ban on growth hormones in WTO dispute settlement procedures.[43] CETA provides them with new avenues to challenge the EU's ban on growth hormones.

**The Canadian meat industry applies chemical washes after slaughter as a cheap substitute for good hygiene throughout production, making EU-banned practices a standard in Canada.** As in the US, in Canada, animal carcasses and parts are often cleaned with chemicals after slaughtering.[44] Health Canada allows a wide range of chemical washes for use on beef or poultry, including antifreeze and chlorine bleach.[45]

The EU has taken a markedly different 'farm to fork' approach to food hygiene and safety. This policy reflects European consumers' public health concerns and clear preference for meat that has not undergone any chemical treatments.[46] Since 1997, the EU has required that only water may be used to wash poultry carcasses for sale in the European market. Other treatments, including peroxyacids and chlorine, have not been approved to date based on insufficient evidence of efficacy, and because of concerns about increasing the risk of antimicrobial resistance.[47]

Until recently, the water-only policy applied to beef as well. Pressured by the US government and the meat industry in 2013 when negotiations for TTIP (the US-EU trade deal) were active,[48] the EU modified the prohibition with respect to beef, allowing use of lactic acid in slaughterhouses to decontaminate beef carcasses, half-carcasses, and beef quarters.[49]

## CETA'S REGULATORY COOPERATION PROVISIONS PUT EU FOOD STANDARDS AT RISK

The Canadian government has a history of initiating and participating in challenges at the World Trade Organisation (WTO) against food safety standards of the EU and other trading partners, including against country of origin labelling,[50] biotechnology (including GMO) review and approval procedures,[51] and bans on hormones in beef.[52] CETA provides additional opportunities for such challenges by both governments and transnational corporations.

Through its regulatory cooperation provisions, CETA effectively institutionalises a preference for weaker standards. As Canada lacks many of the EU's food safety standards and has a farm economy heavily dependent on practices banned or restricted in the EU, there is a powerful economic incentive to use CETA to undermine these standards. This is because tariff reductions alone will fail to provide the promised economic benefits. Advocating for regulatory cooperation in CETA and other trade deals, the president and CEO of the Canadian Chamber of Commerce made the case: "In some cases, we're looking at a 1,700%-increase in price for a Canadian product abroad, once you factor in the costs of regulatory conformity."[53]

**What is regulatory cooperation?** At its heart, regulatory cooperation is a cross-border process for early review and collaboration on regulations to align standards so that they are as similar as possible. The result is generally to move to an international standard that is less protective of the public interest, and in many cases drafted with heavy industry involvement.[54] Other regulatory cooperation elements include requiring impact assessments of proposed and existing regulations to identify and eliminate anything perceived as a trade barrier. This paves the way for corporate challenges to environmental, food safety and other public interest regulations that stand in the way of increased trade.

Regulatory cooperation also includes mutual recognition agreements that allow imports of products even when countries continue to have different standards.[55] This means that Canada's weak food safety or GMO contamination standards could be declared 'equivalent' in a mutual recognition agreement, allowing currently banned products to be imported into the EU.

Regulatory cooperation provides corporations with a powerful toolkit to use in secretive international meetings, enabling them to convince regulators to roll back public interest regulations. Multiple rounds of industry review and new layers of cost-benefit analysis will delay necessary public protections or even prevent their adoption.[56] [57] The focus is on cutting costs – not improving health and safety.[58] CETA follows this model, establishing mechanisms to scrutinise new and existing regulations at the earliest stages of their development to 'prevent and eliminate unnecessary barriers to trade and investment', and to pursue 'regulatory compatibility, recognition of equivalence, and convergence.'[59]

CETA's regulatory cooperation is mislabelled as 'voluntary'. Supporters of CETA claim that regulatory cooperation activities are purely voluntary as stated in CETA Article 21.2 (6),[60] and thus of no concern. In fact, both Canada and the EU are bound by the regulatory cooperation mechanism to try to synchronise their regulations over time.[61] This deregulation focus is embedded throughout CETA in:

- The chapter on technical regulations emphasising compatibility of standards, targeting the EU's GMO and country-of-origin labelling requirements, as well as more comprehensive chemical and pesticide protections.[62]
- The required biotechnology market access dialogues focused on "asynchronous" approvals and "accidental release of unauthorised products", squarely aims at increasing the EU's approvals of GMOs and changing its policy of zero tolerance on contamination.[63]
- The rules seeking to declare food safety standards "equivalent", to allow the sale of non-conforming products such as exports of "chlorine chicken" and other meats (even though the EU's farm-to-fork approach to hygiene and Canada's chemical-based meat washes represent radically different systems of food safety).[64]
- The requirement that licensing regulations (broadly defined) "are as simple as possible, and do not unduly complicate or delay the supply of a service, or the pursuit of any other economic activity,"[65] a deregulation mandate that could apply to many food-related activities, including meat processing.[66]

Alarmingly, in addition to these chapter-by-chapter requirements, CETA includes a comprehensive regulatory cooperation chapter intended to apply across virtually every area of domestic policy (Chapter 21). In addition to encouraging information exchanges and bilateral discussions, this chapter includes a provision urging Canada and the EU to jointly establish a "common scientific basis" which, if effected, could severely erode the EU's precautionary principle in order to further the agribusiness ambition of more market access.[67] While the activities outlined in the chapter are technically "voluntary", a refusal to participate must be explained to the other party, and the entire process is overseen by the Regulatory Cooperation Forum (RCF) and the powerful CETA Joint Committee.

The CETA Joint Committee has broad authority to make decisions binding on both Canada and the EU and to resolve any issues concerning implementation and interpretation of the agreement. **While the scope of its authority is unclear, legal questions have been raised about the extent to which domestic policy changes could be made through the Joint Committee without consultation with parliamentary bodies.**[68] The RCF, made up of high-level officials from each government, appears to be modelled on a regulatory cooperation body established between Canada and the US following NAFTA. The NAFTA experience shows that even voluntary regulatory cooperation lowers standards, reduces transparency, and increases corporate influence on the regulatory process [see box].

## REGULATORY COOPERATION UNDER NAFTA – A BAD MODEL FOR CETA

Canada has experience with regulatory cooperation under the North American Free Trade Agreement (NAFTA). NAFTA spurred the integration of US and Canadian agricultural markets by lowering tariffs and harmonising food safety regulations.[69] US-Canada regulatory harmonisation under NAFTA has been heavily influenced by multinational corporations, and has included a focus on pesticide standards and research, food safety systems, labelling and food processing.[70]


Even though these harmonisation initiatives have been voluntary, the Canadian government 'used the excuse of North American cooperation as a justification' to avoid improving the regulation of toxins, food safety and biotechnology.[71] Since NAFTA, Canada has "gradually deregulated, under-regulated and moved toward industry self-reporting in order to 'reduce the burden' on business."[72] Food safety standards have deteriorated.[73] Canada, once a leader in the assessment and regulation of toxic chemicals, has fallen significantly behind the EU.[74] Canada and the US both have weak standards allowing pesticide residue contamination in foods, and harmonisation initiatives in North America have helped keep these regulations industry-friendly.[75]

In 2011, a US-Canada Regulatory Cooperation Council (RCC) was created to coordinate regulatory harmonisation efforts.[76] Composed of senior regulatory, trade and foreign affairs officials, the RCC institutionalised prior regulatory cooperation activities conducted through ad-hoc working groups.[77] The RCC relies heavily on industry guidance and participation. For example, just three of 24 regular members of an RCC technical committee to assess the risk of new and existing chemicals represent health or environmental concerns; most members represent industries.[78]

An RCC initiative to harmonise meat inspection, certification and processing to be "more coherent, streamlined and less cumbersome", has adopted a work plan directly from the North American meat lobby: "to the greatest extent possible, implement the Canadian Meat Council (CMC) and the North American Meat Institute (NAMI) proposal to streamline export requirements".[79] The industry-written meat plan is one of several RCC initiatives that aims at "simplification" in order to "reduce or eliminate certain inspection activities, certifications and administrative procedures concerning food safety".[80]

Details are not available on the RCC website, which provides limited information about either the committee's process or the substance of its decisions.[81] This lack of transparency, coupled with a heavy reliance on industry policy proposals, should raise red flags about the Regulatory Cooperation Forum established in CETA, which appears to be modeled on the RCC.[82]

The Canadian government, allied with agribusiness, is already acting to undermine food safety through CETA's regulatory cooperation measures. The Canadian meat industry and other industry groups have long advocated for CETA and for international regulatory cooperation, and they are clear about their intended goal: to get around, either directly or indirectly, EU standards that prevent the sale of Canadian products in EU markets or those that add to the cost of production.[83]

Industry groups have explicitly sought to adopt the NAFTA model in CETA. As Perrin Beatty, president and CEO of the Canadian Chamber of Commerce put it: "government can provide the leadership to remove these hurdles. Through initiatives like the Canada-US Regulatory Cooperation Council, by building regulatory cooperation measures into trade agreements and by providing industry with dashboards to evaluate progress, we can make Canadian companies more competitive."[84] There are strong parallels between NAFTA's RCC and the Regulatory Cooperation Forum established in CETA, including an open door for industry participation in working groups.[85]

Canadian industry is not waiting for CETA's ratification to advance its deregulatory agenda. While welcoming the trade deal with the EU, Canadian agribusiness has made clear its objection to the continued existence of stricter EU food safety standards, saying they are inconsistent with CETA and a problem that must be resolved. Soy Canada, "the national association uniting all groups driving the Canadian soybean industry", has complained that the EU is delaying approving GMO soy products, with Executive Director Jim Everson stating that EU "commitments made in CETA negotiations are not being honoured".[86]

The Canadian meat producing, packing and processing industries have complained of 'technical barriers' that remain in place even after CETA's signing, which prevent export of their products to the EU.[87] Ron Davidson of the Canadian Meat Council has said that it won't be possible to take advantage of the import quotas in CETA unless "technical negotiations regarding microbial treatments and the equivalence of our meat inspection systems" are resolved in Canada's favour.[88] In parliamentary hearings, the Canadian Cattlemen's Association conditioned its support of CETA implementing legislation with a demand for 'a commitment from the government of Canada to develop and fully fund a comprehensive strategy utilising technical, advocacy and political skills to achieve the elimination of the remaining non-tariff barriers to Canadian beef'.[89]

The Canadian government appears anxious to make that commitment. Canadian Agriculture Minister Lawrence MacCauley says he has already raised the complaints about the ban on chemical washes with EU officials and that talks are ongoing.[90] Reportedly, Canada has plans to submit official applications to the EU to have two antimicrobial products approved for carcass treatment.[91]

Because so many of the EU's food standards are far more protective than Canadian regulations – including limitations on GMOs and cloning, food labelling, restrictions on growth promotion drugs and on antimicrobial chemical washes, animal welfare protections and pesticide exposure limits – they are at significant risk of being 'harmonised' downward, or challenged as an unfair restraint on trade.

Unless the parliaments of EU member states act now to block CETA ratification, we can expect Canada to use CETA's new regulatory cooperation tools to respond to agribusiness demands to attack stricter EU food standards, and to effectively halt efforts to strengthen protections on both sides of the Atlantic.

## ENDNOTES

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**For more information:**

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# HOW CETA CAN ENDANGER COUNTRY OF ORIGIN LABELLING (COOL)

## EXECUTIVE SUMMARY

Even though CETA is preemptively entering into force, EU member state parliaments have the responsibility of cancelling or ratifying the EU's trade deal with Canada. In order to do so, they must confront a series of critical questions regarding CETA, including on the future of European food and agriculture. One such question relates to the labelling of meats sold in European supermarkets.

The so-called 'free' trade rules rooted in the World Trade Organisation (WTO) and expanded in CETA pose a serious threat to the goal of creating a consumer and farmer-friendly EU labelling scheme for meat and dairy products sold in Europe. Such country of origin labelling laws (COOL) allow consumers to know where certain foods originated. In a world with highly globalised supply chains, an animal could have been born in one country, fattened in another, and slaughtered in yet another before it ends up on the dinner plate as beef or pork.

There is broad and strong support among consumers, independent family farmers and the European Parliament for labelling of meat products. COOL addresses consumers' demands to know where their food comes from, and can help to assure consumers that incidents like the 2013 EU horsemeat scandal are not repeated.

The EU currently has COOL regulations for fresh cuts of beef, pork, poultry, sheep and goat meat, but not for processed meat. The European Parliament and some EU member states have proposed expanding the scope of labelling to include processed foods, but have been met with resistance from the meat industry and the European Commission. The fact that the EU COOL laws currently exclude dairy and processed meat, and is limited to meat from cattle, pigs, poultry, goats and sheep shows that there is still much need for improvement in the EU's country of origin labelling scheme.

In fact, due to popular demand, France began a two-year trial in January 2017 to expand COOL to processed foods containing more than 8 percent meat or more than 50 percent milk. Any such products must now specify where the livestock was born, raised and slaughtered. European agribusiness has opposed this move, saying it fragments the EU common market. Yet Italy, Portugal, Lithuania, Romania, Greece, Finland and Spain are also moving forward with more stringent COOL provisions for products such as meat and dairy and extending COOL to non-animal products such as wheat in pasta. If these initiatives are successful, they could lead to an EU-wide adoption of COOL for meat and milk in processed foods.

Regrettably, CETA is likely to stand in the way of these popular and needed improvements to meat labelling in Europe. This is because even basic country of origin labelling of fresh meat, let alone expanding labelling to processed foods, is under pressure from transnational meat processing giants such as JBS and Cargill. These global companies dominate the meat industry in Canada, the US, Brazil and Mexico, and have spent years lobbying the Canadian and US governments to get COOL repealed in the US.[1]

On behalf of these giants, Canada used the dispute settlement system of the WTO to help repeal a US law very similar to current EU rules, which required companies to indicate each country where an animal had been born,

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raised and slaughtered.[2] In 2015, the WTO ruled in favour of Canada against the US, contending that the US labelling scheme was unfair to Canadian pork and beef producers. Using the WTO judgement as an excuse, the US Congress voted to repeal the law in its entirety, including for poultry, even though the WTO ruling was limited to beef and pork. The WTO ruling helped achieve what the industry had been unable to accomplish after five years of lobbying – a repeal of US country of origin labelling of meats.

The global meat industry views COOL as a barrier to expanding meat sales.[3] With CETA granting Canada greater access to the EU market, it will increase agribusiness incentives to undermine existing EU COOL legislation, and will certainly stand in the way of expanding labelling to processed meats and dairy products. CETA will expand the EU's quotas for Canadian pork and beef imports by 12-14 times the current levels.[4] The successful WTO challenge of US COOL law suggests that Canada may now be more than willing, on behalf of its agribusiness interests, to bring a case against the EU's even more comprehensive labelling scheme at the WTO. The European Parliament's recommendation to expand COOL to processed meats, as well as efforts by France, Italy and others to expand COOL to processed foods that include meat and dairy or to pasta, are thus vulnerable to such challenges.

Moreover, CETA will add another forum for challenging COOL rules, the Investor Court System. The President of Cereals Canada, Cam Dahl, had hinted at legal action even before Italy approved COOL for pasta, stating that: "from an ideal perspective, I hope Italy doesn't take this final step and officially move forward… But we can't assume that that is going to happen, so we do have to prepare, whether that's WTO action, or whether there are measures under the Canada-EU trade agreement. We have to prepare for that."[5] This means that after CETA comes into force, initiatives such as France or Italy's could be permanently derailed, let alone be expanded to an EU-wide level.

The Investor Court System empowers foreign investors – including meat-processing corporations – to directly sue


the EU and member states (and seek compensation) for regulations that they claim reduce profits or discriminate against non-EU corporations that have invested in the EU. CETA empowers the Canadian meat industry to initiate such challenges. CETA's chapter on regulatory cooperation promotes the harmonisation of regulations between Canada and the EU. With Canada lacking adequate COOL for meats, the EU's COOL regulations are particularly vulnerable to being harmonised to weak Canadian standards.

## CONSUMERS AND FAMILY FARMERS OVERWHELMINGLY SUPPORT COOL

Consumers in the EU show overwhelming support for origin labelling, particularly for animal products. Eighty-eight percent of EU citizens consider it necessary to label the origin of meat,[8] while 71 percent believe that knowing the origin of food is important.[9] Austrian, French, Polish and Swedish consumers in particular, show high interest in knowing the origin of their food. Eighty-three percent of Swedes and 93 percent of Austrians want country of origin labelling of meat.[10] Food safety, quality, environmental impact and ethical concerns are key reasons consumers want to know food origin.[11]

Even though Canada lacks a similar labelling system, Canadian consumers have become increasingly interested in COOL and support a traceability system.[12] In 2010, 50 percent of consumers indicated that country of origin was a driver of food choice.[13] COOL has received continued,

## WHAT IS COOL AND WHY IS IT IMPORTANT?

**Country of origin labelling (COOL) laws allow consumers to know where their food comes from. In the EU, the law requires that companies label fresh meat from cattle, pigs, poultry, goats and sheep to indicate where an animal was born, raised (fattened) and slaughtered.[6] COOL allows consumers to distinguish the kind of a life the animal had before it became food: born and raised on one farm? Or shipped en masse across borders as part of an industrial supply chain and pieced together from different animals? COOL, therefore, enhances transparency and provides important information to consumers about the origin of their food.[7] It also allows local producers, farmers and ranchers who raise their own animals to showcase that they are not part of an industrial, agribusiness-driven supply chain.**

strong support from civil society groups including farm, rural, labour, environmental and consumer organisations.[14]

European family farmers and local producers believe they benefit from origin labelling because they receive a higher price for well-known, quality products.[15] Similarly, Canada's National Farmers Union has stated that COOL can 'meet the information needs of consumers, help build diversified local markets, reduce food miles, and move our meat system toward increased social, economic and environmental sustainability.'[16]

Many EU member states are responding to this consumer interest, while European agribusiness opposes it. A new pilot regulation in France, effective from January 2017 for a period of two years, requires COOL for meat and milk in processed foods – those that contain at least 8 percent meat or 50 percent milk. [17] Any such products must now specify where the livestock was born, raised and slaughtered. European agribusiness has opposed this move, stating that it undermines the EU common market.

Italy, Portugal, Lithuania, Romania, Greece, Finland and Spain are also moving forward with more stringent COOL provisions.[18] For instance, Italy's rule requires 'country of milking' as well as 'country of processing' for dairy products such as mozzarella.[19] Portugal is also pursuing COOL for dairy products.[20] If these initiatives are successful, they could lead to an EU-wide adoption of COOL for meat and milk in processed foods.

CETA is likely to stand in the way of this progress, given strong opposition to labelling by both Canadian and European agribusiness. The agribusiness lobby group FoodDrink Europe has tried to appeal to consumers by making an argument based on affordability and availability: 'the meat used in processed foods often comes from different EU and/or non-EU countries; these countries might frequently change in order to ensure an affordable price, a steady quality and constant availability to consumers all over Europe and beyond.'[21]

## CETA BRINGS GLOBAL AGRIBUSINESS THROUGH THE BACKDOOR

CETA also opens the door to the US meat industry with all of its market share and clout. The Canadian meat industry has become an integrated North American market due to the North American Free Trade Agreement (NAFTA). A large number of cattle and pigs are transported across the US-Canadian and Mexican border as part of an industrial meat

## THE COSTS OF DOING BUSINESS WITH JBS

**Headquartered in Brazil, JBS is the largest meat processor in the world. Propped up by the Brazilian National Development Bank (BNDES), JBS rose to the top through a series of rapid mergers and acquisitions over the last decade. In 2017, JBS's controlling shareholders Josely and Wesley Batista reportedly admitted in front of Brazilian special prosecutors that they paid bribes to nearly 1,900 politicians (including the current and past Brazilian presidents) to acquire companies worth up to twenty billion USD in assets.[24]**

**The extent of this corruption came to light as JBS was trying to recover from a food safety scandal related to meat exports. In March 2017, it was reported that investigators uncovered bribes paid to food safety inspectors that allowed exports of tainted meat products – including practices such as adding chemicals to meat to conceal rotting odour, adding pigs' heads to sausages, and adding cardboard to processed poultry as filler – to Europe and elsewhere.[25] As a response the EU, China and other countries invoked temporary bans on Brazilian meat imports, which have now been revoked.[26]**

**As part of its acquisition spree, JBS acquired Moy Park in 2015 – Northern Ireland's largest employer and the supplier of nearly a quarter of the chicken consumed in Western Europe. It is now being reported that Moy Park will be sold to another giant meat processing corporation – potentially US-based Tyson, or China-based WH Group, or another major meat corporation[27] – in order for JBS to raise the funds to pay 3.2 billion USD in fines.[28] This may be the world's largest 'leniency' fine a corporation has had to pay to avoid being charged for criminal activity, according to Brazilian prosecutors.[29]**

**Even if JBS sells Moy Park, it will continue to have a physical presence in Europe through its Italian subsidiary, Rigamonti (selling meat products).[30] It could thus avail itself of CETA's provisions from both Europe and Canada.**

**And yet, who is paying for JBS's crimes? Currently, it is the beef producers that sell to the company. Cattle prices paid to producers have had their biggest decline in twenty years since news of the JBS scandal broke.[31] In addition, JBS's meteoric rise has resulted in serious environmental and social costs.[32]**


supply chain.[22] NAFTA, which came into force in 1994, led to a dramatically restructured meat production in Canada, the US and Mexico.

The closure of small family farms, already underway in the 1980s, accelerated. Markets became much more integrated and specialised with animals being born in one country, raised in another and possibly slaughtered in another. The number of animals per farm increased dramatically while prices paid to farmers per kilogramme of meat dropped, as farms became part of the supply chains of a few very powerful corporations that dictated the price.

Today, two transnational corporations – Brazil's JBS and US giant Cargill – control 90 percent of beef processing in Canada,[23] and thus determine prices paid to producers. They are also two of the four largest corporations that control much of the beef and pork slaughter in the US. These transnational corporations are responsible for the movement of animals back and forth across the US-Canada border.

Their practices are increasingly raising public concern, with JBS receiving much international attention this year due to rampant food safety and bribery scandals (See box "Cost of Doing Business with JBS"). Information about Cargill remains secret because of its status as a private entity with no public shareholders. CETA will only serve to increase these corporations' global clout and the lack of transparency around their operations and lobbying activities.

Both of these corporations have a physical presence in Europe, and thus CETA empowers them to use the Investor Court System to challenge EU regulations such as COOL. Moreover, CETA gives them a special seat at the table to target regulatory barriers that impede their access to the EU market or reduce profits (see Briefing Paper 1 for more detail).

Given that JBS and Cargill exert significant control over the meat market in the US and Canada, it is no surprise that both the Canadian and US meat lobbies publicly supported the defeat of US COOL. The US meat industry spent over five million USD per year between 2009 and 2012 on lobbying for US revisions to COOL legislation.[33] Two hundred and fifty large companies and trade associations (e.g. Kraft, General Mills, Cargill and the National Pork Producers Council) also lobbied the US House of Representatives to weaken COOL.[34]

Meanwhile, the industry-backed Canadian Cattlemen's Association (CCA) was instrumental in initiating the WTO challenge. It called the initial WTO judgement 'an important victory for Canadian cattle producers' and supported 'Canada's right to retaliate'.[35] The Canadian Pork Council (CPC), the pork industry's mouthpiece, publicly supported the WTO ruling that COOL was discriminatory because it required record-keeping and segregation of Canadian livestock.[36] The North American Meat Institute, the largest trade association representing meat industry interests in the US, also supported the WTO ruling that COOL violated US trade commitments.[37]

## DIFFERENCES BETWEEN EU AND CANADIAN REGULATIONS

### EU COOL REGULATIONS

The EU first developed COOL regulations for beef in response to the bovine spongiform encephalopathy (BSE) crisis – known as 'mad cow disease'. Effective in January 2002, it required labelling of where the cattle were born, raised and slaughtered at each stage of marketing.[38] In 2014, in response to the horsemeat scandal of 2013, the EU passed legislation to expand COOL to the meat of pigs, sheep, goats and poultry (but, ironically perhaps, not horse).[39] The scandal had led to consumer outrage when DNA from horses and pigs was found in beef samples in the UK and Ireland.[40] In one Tesco supermarket, 29 percent of one beef burger was found to be horsemeat.[41] The regulation also mandated the Commission to submit a series of reports to the European Parliament and Council exploring the possibility of expanding COOL to other foods (e.g. other types of meat, meat as an ingredient, even milk).

In February 2015, the European Parliament tabled a resolution urging the European Commission to issue legislative proposals to make COOL mandatory for meat in processed foods.[42] In May 2016, it adopted a resolution that called on the Commission to implement mandatory COOL for all kinds of dairy and meat products, and to consider extending COOL to other single-ingredient foods. It once again urged the Commission to submit legislative proposals for mandatory COOL for meat in processed foods.[43]

In response, the Commission upheld its position that the best approach is voluntary labelling for meat as an ingredient and for lightly processed dairy and meat products.[44] Current EU legislation therefore continues to require COOL only for unprocessed (fresh) beef, pork, poultry, goat and sheep meat.

### CANADA HAS LIMITED COOL REGULATIONS

Canada's COOL legislation is limited to certain imported pre-packaged goods, including meat and dairy products. Not only are few products labelled, but Canadian rules are weak, requiring merely that the country of origin be stated, rather than a breakdown of where an animal was born, fattened and slaughtered, as is required by EU regulations and the now-repealed US COOL.[45]

### WHY CETA IS A THREAT TO THE EU'S COOL

CETA hands agribusiness new incentives to challenge current and proposed labelling standards. With quotas for duty-free meat imports from Canada to the EU increasing over a six-year transition period to 75,000 tonnes for hormone-free pork and 45,840 tonnes for hormone-free beef,[46] agribusiness will seek to ensure that COOL rules do not undermine this opportunity for increased market share. The successful WTO challenge of US COOL suggests that Canada may be more than willing, on behalf of its agribusiness interests, to bring a case against the EU's even more comprehensive meat origin labelling scheme. CETA hands agribusiness more powerful tools to challenge these policies. The Canadian government, which expects better market access once CETA comes into force, has also already highlighted concerns about COOL regulations proposed by EU member states.[47] CETA's regulatory cooperation provisions, which promote harmonising standards between the EU and Canada to be as similar as possible, would make it difficult to strengthen or expand COOL to processed meats, milk or other products or types of meat.

Given Canada's weak labelling requirements and the already strong opposition from agribusiness, CETA's regulatory harmonisation mechanisms – described in Briefing Paper 1 – will empower Canadian agribusiness to intervene at the early stages of developing such rules. Experience under NAFTA shows that regulatory cooperation efforts, even when voluntary and not detailed in the text of a trade agreement, help weaken public interest regulations, and have a chilling effect on the adoption of new regulations (see Briefing Paper 1). CETA's investment chapter empowers foreign investors (including meat processing corporations) to sue governments directly through the Investor Court System. CETA enables these transnational corporations to directly challenge domestic laws, policies or regulations on the basis of alleged discrimination or loss of potential profits, and to receive compensation.[48] This means that the Canadian meat industry could sue EU member states should they choose to expand COOL regulations, arguing that such requirements are discriminatory against foreign producers, or create 'barriers' to trade. In addition, Canada's wheat industry could challenge Italy's proposal to expand country of origin labelling to pasta – and it could do so directly through the Investor Court System, rather than relying on the Canadian government to press its case.

### CONCLUSION: THE THREAT IS REAL

From Finland to Greece, member states across the EU are moving towards better origin labelling of various food products just as CETA is entering into force. French consumers are demanding mandatory origin labelling of processed meat, stating: 'consumers want clear information on the origin of products. Farmers and cooperatives are also willing to make the origin of their products more visible.'[49]

Meanwhile, Canada's government and industry are objecting to improved labelling standards, and are already exploring potential challenges. In February 2017, Canadian Agriculture Minister Laurence MacAulay and Canadian wheat exporters raised concerns about Italy's proposed mandatory COOL for pasta, complaining that Italy's proposal would discourage the use of Canadian durum, as Italian pasta makers would segregate supplies by country.[50]

The Italian government nonetheless approved country of origin labelling for pasta in July 2017 – prior to the end of the European Commission's comment period on the proposal. In response, the President of Cereals Canada asked: 'are there legal options together with the Italian industry that we could pursue to have an injunction put in place? I don't know if that's possible, but that's something we're looking at.'[51]

Canada has already successfully used the WTO to repeal COOL legislation in the US on behalf of agribusiness interests. Now, motivated by an interest in taking advantage of increased export opportunities opened up by CETA, Canada and its transnational corporations can also use CETA's many provisions, including regulatory harmonisation and the Investor Court System, to challenge both the EU's current country of origin labelling system, and ongoing efforts to expand it.

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**For more information:**

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# CETA AND THE EUROPEAN OPPOSITION TO CLONING



## INTRODUCTION

Even though CETA preemptively enters into force on 21 September 2017, EU member state parliaments still have the right and responsibility to cancel or ratify the EU's trade deal with Canada. In order to do so, member state parliaments must first confront a series of critical questions regarding CETA, including its implications for the future of European food and agriculture. One such question relates to imports of food derived from cloned animals into European supermarkets.

CETA undermines governments' ability to create 'trade restrictive' regulations (see Briefing Paper 1 for more information). This leaves labelling and traceability requirements on the trading of genetic material of clones, or meat from their offspring, susceptible to challenge. Yet consumers on both sides of the Atlantic want their governments to develop stronger rules on cloning, mandatory labelling and effective traceability systems for food derived from cloned animals and their offspring. Given Canada's success in dismantling country of origin labelling (COOL) for meat sold in the US (see Briefing Paper 2), creating and strengthening much-needed laws on labelling and traceability of clones and their offspring may become extremely difficult after CETA.

Canada, the US and Mexico are members of the North American Free Trade Agreement (NAFTA). NAFTA created porous borders between the US and Canada – particularly with regards to the meat and live animal trades. While the US requires no labelling of products derived from clones, both Canada and the EU currently have similar regulations on foods from animal clones. Both designate them as 'novel foods'. To date, such foods have not been approved for entry into the consumer market in either region, and require official approval before being allowed for sale.

However, both Canada and the EU lack systems for detecting the presence of cloned material in imported animal products. They also lack domestic mechanisms to distinguish between conventional animals and cloned ones, including their genetic material and their offspring. This is despite strong support from European citizens and the European Parliament for mandatory labelling and tracing of clones and their offspring.

Farm animals are typically cloned to create optimal traits for breeding. Genetic material from clones is mostly used for breeding cows or pigs, but the technique is also used on other animals including goats, sheep and horses. Studies on cloning reveal that 73 percent of pregnant cows and 35 percent of pregnant sows suffer miscarriages, while 13 percent of calves and 16 percent of piglets are stillborn—leading to tremendous suffering of the animals.[1]

Fifteen key countries that use cloning techniques also export animal products or genetic material to the EU (Argentina, Australia, Botswana, Brazil, Canada, Chile, China, Japan, Namibia, New Zealand, Norway, Paraguay, Uruguay, United States and Switzerland).[2] Hundred percent of imported pig sperm/egg and 98 percent of imported bovine sperm/egg to the EU come from the US and Canada.[3] According to the European Commission's impact assessment on cloning, "Milk and meat from the offspring or descendants of cloned bovine animals have entered the food chain in the US and may have done so in Argentina; these are the products most likely to

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continue to enter human food chains in the near future."[4] Commercial cloning of pigs is also "becoming more common" in the US.[5]

Through CETA, the EU will become further integrated with the Canadian (and consequently North American) meat industry. The lack of mandatory US labelling laws on cloning, combined with the frequent trading of live cattle, pigs, genetic material and other animal products between the US and Canada, make the presence of cloned material and clone offspring in the Canadian meat and dairy supply highly likely.

**"Currently…it is impossible to draw sufficiently reliable and comprehensive data on the imports of sperm from cloned bulls and their usage in European cattle breeding programmes… Consequently, products from the offspring of cloned bulls can be placed unnoticed on the EU market and seriously limit or remove choices for farmers, food producers and consumers." [6]**

**FRANK BRENDEL AND CHRISTOPH THEN,**
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CETA will lead to closer integration of the Canadian and European markets. This is likely to contribute to an increase of clone-derived products in European food supplies, without consumers knowing. At the same time, CETA will create a roadblock to efforts to trace, label and/or stop the import of foods or genetic material derived from clones or their offspring into the EU.

Domestic efforts to adopt regulations to track and distinguish cloned animals and their offspring from other animals may also be obstructed, because such regulations could be considered trade restrictive for the North American meat industry. Rather than upholding consumer concerns, the deal is likely to lead to more uncertainty about the presence of clone-derived animal products in European supermarkets. While the European Parliament's resolution on the US/EU trade deal (TTIP) recognised that the EU and US have significantly different rules on cloning for farming purposes, and called on the EU not to negotiate on these issues, it failed to establish such red lines in the negotiations with Canada. The CETA text does not exempt cloning regulations from its deregulatory provisions. In failing to address this issue, the European Commission, Council and Parliament did not recognise the significance of the integrated structure of meat and animal trade between the US and Canada. As a result, they have further opened the European market to foods and other products derived through clone technology. Member state parliaments should not make the same mistake, and should say no to CETA.

## WHAT IS CLONING AND WHY IS IT BAD FOR FARM ANIMALS?

**Cloning is a practice primarily used for the animal breeding sector and involves the use of biotechnology and embryo transfer into surrogate mothers. It is used in the meat and dairy industry to create identical animals with ideal traits for meat and dairy production. The offspring of clones can be integrated into the meat and dairy supply chain. Genetic material from clones is mostly used for breeding cows or pigs, but the technique is also used to breed goats, sheep and horses.**

**Cloning is associated with several animal welfare and ethical concerns. Cloning leads to high rates of deformities in cloned cattle, sheep and fish – both before and after birth.[7] These include problems with breathing, the bladder, the heart and kidneys, and increased susceptibility to infectious diseases.[8] Since surrogate mother animals (those carrying the clone) frequently miscarry,[9] numerous embryos must be implanted into one animal.[10] Studies on cloning reveal that 73 percent of pregnant cows and 35 percent of pregnant sows suffer miscarriages, while 13 percent of calves and 16 percent of piglets are stillborn.[11] Clone abnormalities and large offspring contribute to difficult births and neonatal deaths more frequently than conventional animals.[12] The surrogate mother animals often endure tremendous pain, with severe health problems that can lead to death.[13]**

**The European Food Safety Agency's (EFSA) most recent statement, in 2012, reiterated that there are uncertainties in the risk assessment of cloned animals with regards to food safety because of limited studies, small sample sizes and the lack of a uniform approach.[14] In addition, they cited negative effects on the health and welfare of a significant proportion of clones.**


**Both European and Canadian consumers have serious concerns about animal cloning. Eighty-four percent of Europeans surveyed had concerns about the long-term environmental effects of cloning, and two-thirds believed that there are ethical grounds for rejecting animal cloning.[15] Eighty-three percent said they wanted foods derived from clone offspring to be labelled, if they were to become available in grocery stores.[16] A 2013 poll from the Angus Reid Institute, a prominent Canadian public opinion research organisation, found that only 26 percent of Canadians believe cloning animals is morally acceptable.[17]**

**How do European consumers know if their food imports inclde material derived from clones and their offspring?**

Consumers currently have no way of knowing. The EU lacks essential systems and regulations for tracing and labelling clone-derived food imports.[18] It also lacks effective mechanisms to differentiate between clones, their offspring and conventional animals.[19] Moreover, EU labelling laws do not require that meat products include the animals' ancestry information, and thus do not facilitate the labelling of meat from clone offspring.[20] Effective clone labelling laws would necessitate a system that traces animal products back to the individual animals used to produce them. **Such a system does not yet exist in the EU.** Consumers, therefore, currently cannot know whether their food was derived from clone offspring.

## SUMMARY OF CURRENT CLONING REGULATIONS IN THE EU, CANADA AND THE US

**Canada and the EU currently have similar regulations on foods from animal clones. Both designate them as 'novel foods'. To date, such foods have not been approved for entry into the consumer market in either region, and require official approval before being allowed for sale.[28]**

### CANADIAN REGULATIONS

**The Canadian Food Inspection Agency (CFIA) is responsible for assessing food products derived through animal biotechnology, including cloned animals. Under Canada's food and drug regulations, products entailing cloning must undergo a pre-market assessment to determine whether there are health and safety concerns.[29] Should a product derived from clones be approved by Health Canada (the federal department responsible for controlling and regulating food products to ensure food safety), it can require mandatory labelling if it deems there are health or safety concerns.[30] In the absence of these concerns, voluntary labelling is permitted, as long as the claim is not misleading or deceptive.[31] To date, no foods derived from clones have been approved for release into the Canadian market.**

### EU REGULATIONS

**Proposed amendments to the EU's Novel Food regulations in 2008 led to a rigorous debate on cloning in the EU.[32] Since then, tensions have lingered between the European Council and the Parliament on this issue. A proposal to strengthen and enact regulations specifically on cloning was tabled by the Commission and strengthened by the Parliament, which voted to ban all food containing cloned material, including that from the descendants of clones.[33] Member states could not agree on how strong the ban should be, and thus the proposal was stalled in the Council.**

**Until a cloning-specific legislation is enacted, foods derived from animal clones fall under the scope of the Novel Foods Regulation (2015/2283) adopted in 2015.[34] Under this Regulation, foods derived from animal clones are not banned, but simply subject to a pre-market authorisation for novel foods. Moreover clone-derived products require no special labelling, and are subject to the same set of rules that apply to all other foods in the EU under the food information regulations.**

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### IMPACT FROM THE LACK OF US REGULATIONS

**In contrast to the EU and Canada, there is no pre-market health and safety assessment process required for clones in the US, nor are there systems in place for labelling, monitoring or tracking cloned animals and products,[35] so it is difficult to identify where cloned animals or their offspring (and products derived from both) are in the US food supply or exports.[36] This limits importers' ability for oversight and monitoring of US imports of cloned material.**

**Like Canada, the European Commission has not yet received any application for clone-derived foods under the Novel Food Regulation, and so no foods derived from cloned animals have been approved for sale in Europe.[37] However, it is possible that food derived from clone offspring may have entered the consumer food chain due to imports of meat/dairy products, live animals and genetic materials for breeding that originated in the United States.[38]**

**CETA will likely increase the entry of clone-derived material into the EU, while severely restricting governments' ability to strengthen current regulations and adopt more restrictive regulations on cloning.** This is because CETA further integrates the European agricultural market with that of North America, thereby increasing the likelihood that clone-derived materials originating in the US are imported into the EU via Canada. Canada's experience under NAFTA provides a cautionary lesson. Livestock and meat may cross the US and Canadian border (at least once) before becoming food sold to consumers,[39] making it difficult to identify the origin and flow of products.

In 2015, the US exported live cattle to over 20 countries, but the largest portion of exports (53 percent) went to Canada, with Mexico as the second largest (28 percent).[40] In 2016, the US exported 37,292 live cattle and calves and 2,561 live swine to Canada.[41] CETA increases quotas for duty-free meat imports from Canada to the EU to 75,000 tons for hormone-free pork and 45,840 tons for hormone-free beef over a six-year transition period.[42] The probability of clone-derived products entering the EU market will increase.

Additionally, Canada has inadequate traceability systems for cloning, making it difficult for European regulators to know which Canadian imports have clone-derived material. The Canadian Cattle Identification Agency and the Canadian Pork Council have mandatory traceability systems for cattle and pigs to ensure traceback to their farms (in the event of a food safety or herd health issue),[43] including for live animals imported from the US. However, the lack of labelling requirements in the US prevents Canadians from knowing which animals are derived from cloning. According to experts, "It will be difficult, if not impossible, for Canadian regulators to halt the movement of these cloned animals, their progeny and their products across the Canada-US border…it is impossible to identify them without a reliable traceability system in place, which fails to exist in either Canada or the US."[44]

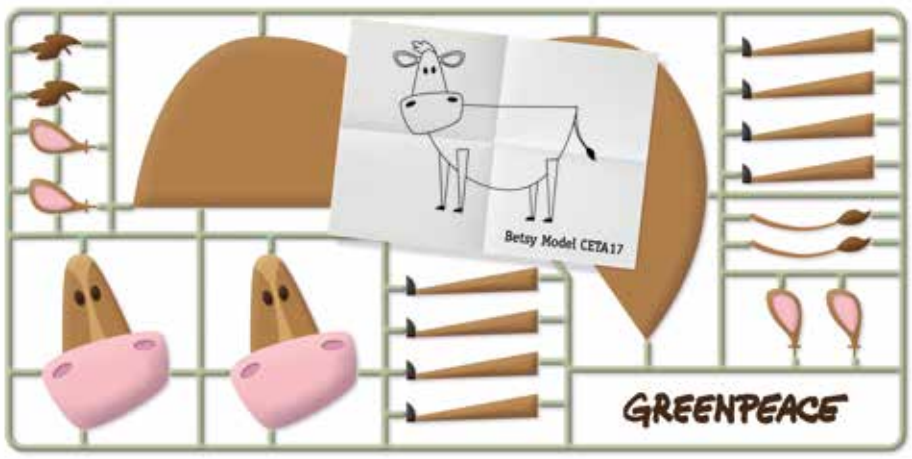
New legislation may be considered an unjustified barrier to trade under CETA's Technical Barriers to Trade chapter (CETA, chapter 4).[45] This is despite the European Parliament and others having identified the need for a system of mandatory registration and labelling of clones and clone offspring to enhance transparency and traceability.

If in spite of these hurdles, stronger regulations on clones and their offspring are enacted after CETA is ratified across the EU, they could also be subject to the Investor Court System. CETA's investment chapter empowers foreign investors (including meat processing corporations) to sue governments directly through the Investor Court System. It enables Canadian corporations to directly challenge EU and member state domestic laws, policies or regulations on the basis of alleged discrimination or loss of potential profits, and to receive compensation.[46]

## CONCLUSION

Labelling and traceability requirements in the trading of genetic material of clones, or meat from their offspring, are susceptible to challenge on these grounds. Yet consumers on both sides of the Atlantic want their governments to develop stronger rules on cloning, with mandatory labelling and effective traceability systems for food derived from cloned animals and their offspring. The European Parliament's resolution on TTIP recognised that the EU and US have significantly different rules on cloning for farming purposes, and called on the EU not to negotiate on these issues.[47]

However, the Parliament failed to establish similar red lines with Canada. CETA does not exempt cloning regulations from its deregulatory provisions. The European Commission, Council and Parliament have all failed to acknowledge the integrated structure of meat and animal trade in north America between the US and Canada, and as a consequence have further opened the European market up to foods and other products derived through clone technology. Member state parliaments should not make the same mistake, and should say no to CETA.



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**For more information:**

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