

# Climate or TTIP make your choice!

Trade liberalization policies and the extension of investors' rights strengthened the international division of production systems, gave predominance to investors' rights over environmental law and democracy, and ignored climate requirements.

By directing economic development towards exports and external competitiveness at all costs, these policies make our economies and our societies ultra-dependent on fossil fuels imports and exports, and provide to economic actors instruments that are preventing the implementation of genuine policies able to achieve the energy transition.

The ongoing negotiations between the European Union and the United States (TTIP) and between the EU and Canada (CETA) promote an energy model which is not sustainable, is heavily depending on mining, fossil fuels processing and transportation infrastructure. It destroys any ambition to control climate change.

Satisfying the interests of transnational corporations acting in the industrial and energy sectors, the expansion of free trade and private investment protection contradicts sobriety requirements, relocation of production systems, development of renewable energy and cooperation between citizens, consumers and communities to share and distribute existing resources.

Concluding agreements as important as TTIP and CETA will almost nullify the hopes to build "more enjoyable, friendlier, united, just and human societies to live in"<sup>1</sup>. Fighting CETA and TTIP is therefore also about fighting global warming because it's about preserving the ability to implement real practices and policies aiming at the ecological and social transition.

Document coordinated by Maxime Combes and Amélie Canonne

Written by Maxime Combes and Amélie Canonne

Translated by Amélie Canonne and Lucile Falgouty

Attac France & Aitec

21 ter rue Voltaire

75011 Paris

<http://france.attac.org>

<http://aitec.reseau-ipam.org>



## **TTIP and CETA liberalize the transatlantic energy market**

With the pretext of ensuring its “energy security” and its supply of fossil fuels, the EU seeks to liberalize transatlantic trade and investment in energy and raw materials. The negotiation mandate<sup>2</sup> given to the European Commission by the Member States – which does not mention climate challenges – is clear: the Commission has to “ensure an open, transparent and predictable trade environment in terms of energy, and to ensure a full and sustainable access to raw materials.” The former EU Trade Commissioner, Karel De Gucht, had explicitly confirmed it: he wanted to “allow European companies to import raw materials and energy resources from the United States.” The documents leaked in the US medias last May and July<sup>3</sup> undoubtedly proved it: the EU wants an end to US restrictions on natural gas and crude oil exports. A series of provisions even plans to facilitate investments, and to grant prospecting, exploration and production licenses of hydrocarbons to foreign companies from both sides of the Atlantic.

## **TTIP and CETA encourage the exploitation of shale gas/oil and tar sands**

France and Germany have explicitly supported this approach, arguing, due to the diplomatic crisis with Moscow, that the urgency justifies replacing Russian gas by new import sources, but vowing that the operation would not trigger the increase of gas imports. If the EU's expectations are accepted during the negotiation, the North American oil and gas industry will be encouraged to expand oil extraction from tar sands towards the north-east of Canada, and to use hydraulic fracking to increase production of shale oil. Whereas these are two of the most polluting and devastating sources of hydrocarbons that are known on the planet, both for the environment and the surrounding population. Moreover, in order to be transported to the other side of the Atlantic, gas and oil would require huge investments – hundreds of billions of dollars – to build new pipelines, refineries and liquefaction and regasification plants on both sides of the ocean.

## **Yet, shale gas is not a bridge fuel to low carbon future**

Most of the time, European and US politicians hide themselves behind arguments explaining that shale gas produce less greenhouse gas emissions than oil or coal when burned. It would therefore be possible to make it a “bridge fuel to low carbon future” while progressively giving up coal. Yet this argument is unacceptable for three reasons. Studies<sup>4</sup> show that the full production cycle of shale gas – from extraction to combustion – would potentially produce more greenhouse gas emissions than coal, especially if it is dedicated to export, which requires liquefaction (for transport) and regasification. Given the climate requirements firmly set out by the IPCC, and as the EU asserts that it is at the forefront of the fight against climate change, is it still acceptable to agree to substituting one fossil energy for another? The emergency is instead to reduce the net consumption of all fossil fuels whatsoever. Lastly, these heavy investments in shale oil production, used for projects refused by people, will not be allocated to policies targeting the energy transition.

## **TTIP and CETA are already sabotaging the fight against climate change!**

With TTIP and CETA, standards designed to regulate and/or reduce imports and use of fossil fuels are not welcome anymore. They are perceived as regulatory burdens to be eradicated. Late September 2014, the European Commission and Canada announced the completion of their trade negotiations. A few days later, the European Union renounced<sup>5</sup> to restrict import of oil derived from tar sands. No coincidence there, on the contrary : to achieve this result, Stephen Harper, the Canadian Prime Minister, with his allies among the transnational oil companies, multiplied diplomatic pressures<sup>6</sup> for months towards European policy makers. They ensured that the European Directive on fuel quality would not specifically penalize companies producing, selling and/or using Canadian crude oil. Since then, the French government considered that this CETA agreement was a “good agreement” and, November 2, the day of the IPCC's presentation of its work synthesis, French President François Hollande visited the Alberta province to encourage French investments in tar sands... The EU and France are pushing Canada deeper in its deplorable approach: Ottawa has already announced its exit from the Kyoto Protocol and renounced to meet its emissions reduction targets. As for the United States, their recent non-binding announcement (reduction of 26-28% of their emissions by 2025 compared to the 2005 level) is much less remarkable once brought back to the level of 1990 and to an annual figure: - 0.43%. One understands better the weakness of this goal when appreciating the boom of exploitation and trade of shale oil /gas inside the country and towards Europe.

## TAFTA will increase emissions of greenhouse gases

The impact study ordered by the European Commission acknowledges that further liberalization of transatlantic trade would generate an increase in greenhouse gas emissions effects, from 4000 to 11000 tons of CO2 per year.

Isn't this increase, even if relatively limited, detrimental to the climate requirements that necessitating the implementation of policies to drastically reduce greenhouse gas emissions? But rather than investing in programs targeting energy sobriety and efficiency, capable of leading the European economy towards a post-fossil era, TTIP helps to maintain and enhance a strong dependence on fossil fuels in Europe, which is already of 60% for gas and 85% for oil.

More generally, trade agreements contribute to increasing global trade at the expense of policies relocating circuits of production and consumption. The EU expects, in this case, TTIP and CETA to be part of a comprehensive economic project, under which the proliferation of "new-age" trade agreements will help raising its 28 members to the ranks of the world leading exporters.

Thus, while the contribution of trade in goods to climate imbalances is estimated around 10% of global emissions, increasing steadily, the EU rushes headlong forward.

## Investors rights against climate

By prioritizing commercial law over ecological requirements, and by keeping on extending investors' rights against public authorities, trade and investment liberalization policies substantially undermine the prospect of binding policies on the activities of extractive transnational companies, which could set up the ecological transition. The controversial investor-State dispute settlement mechanism weakens a series of existing environmental regulations in the European Union, in its member states and at the local level, and will have a chilling effect over future legislation.

This type of provision, included in CETA and expected in TTIP, allowed the company Lone Pine Resources Canada to challenge the moratorium decided by the Quebec province on fracking<sup>7</sup>. It is also through this provision, already existing in a number of bilateral investment treaties, that the Canadian company Gabriel Resources is threatening to sue Romania as the country considers listening to people from the Rosia Montana community and could restrict the operation of the local gold mine.

No State or public body is however allowed to sue a private company which did not comply with the existing public environmental regulation. Transnational corporations are the only ones enjoying the constraint and sanction capacity provided by the international investment regime as codified in CETA and likely in TTIP.

Engaging in effective policies and legislation to permanently halt climate disruptions therefore requires, at least, to accept a certain hierarchy in emergencies and legitimacy, and to submit the international trade and investment law to the international human rights and environment law.

## Trade law versus energy transition

Organizing the energy transition requires promoting renewable energy across the territories, through a logic of cooperation and by sharing knowledge and expertise, which implies support and management methods involving local communities, consumers and SMEs or cooperatives. Yet these free trade agreements will reduce significantly the ability of states and local communities to support these changes. According to the final text of the EU-Canada agreement, which largely prefigure the content of TTIP, public authorities – states, regions, municipalities, or the EU as such... – can neither adopt nor maintain regulations imposing a minimum local content regarding its production and/or its consumption to a company investing in their territories ; they cannot either demand to this company to operate in partnership with a local or national entrepreneur, nor compel the same company to transfer its expertise locally, particularly by opening the intellectual property rights it owns over the technology or over the process.

It will also become impossible to introduce preferential subsidies for local economic actors at the expense of businesses whose activities are exclusively export-oriented. Indeed, such policy instruments are considered by trade and investment law as distortions to free competition or as restrictions towards the freedom of foreign investors. Precedents attest the actual risk for public authorities, since such measures have already been challenged and invalidated in different cases. The development program of renewable energy in Ontario (Canada) was abandoned under pressure from Japan and the European Union. The US also sued India in front of the WTO Dispute Settlement Body because of its program supporting the national solar industry, which required foreign companies to purchase solar panels to local businesses.

Yet these approaches could be key flexibilities for a local authority or a State in order to foster the deployment of renewable energy. These local and quality standards are also powerful tools to relocate jobs and activities through the promotion of local products and skills, and the use of the best available technologies.

### Global trade makes CO2 emissions invisible!

Through global trade, the emissions included in traded goods and services move from one country to another. These emissions result from the production of these goods and services, as well as from the intermediary inputs they require ; they represent, according to several studies<sup>8</sup>, nearly 28% of global CO2 emissions, whereas in 1990 this figure was only 18 %. In the long run, as global trade has grown faster than GDP, emissions that are incorporated in traded goods have been increasing faster than overall emissions: + 4.3% per year, average from 2000 to 2008, against 3.4% for global<sup>9</sup> emissions. Just as some countries export more than they import, which results in a positive trade balance, some countries, regarding emissions, are net exporters when others are net importers. The richest countries are mainly net importers. China is a net exporter of emissions, amounting to 27% of its total emissions. The tally for these imported emissions would not be meaningful if it was not completely changing how the emissions have been progressing in a large number of countries. In France, emissions have officially declined by 7% from 2000 to 2010 (- 6% for the EU). But if one takes into account the emissions included in imports and exports, CO2 footprint actually increased by 15% over the period (+ 9% for the EU). Thus, through global trade, the carbon footprint of a number of countries tends to tail off, becoming invisible and gets aggregated to other populations, generally poorer and less-emitters. Thus this is an important share of emissions generated from consumer choices in rich countries which is concealed through global trade.

### Conclusion

TTIP and CETA, and more broadly trade liberalization and investment policies, are new – institutional, legal and economic – incentives to expand transatlantic trade in fossil fuels. Dependence of European economies on fossil fuels will become even stronger and the exploitation of unconventional hydrocarbons will be encouraged on both sides of the Atlantic.

Is this perspective compatible with the French target of reducing its consumption of fossil fuels by 30% by 2030, and of dividing by four its GHG emissions by 2050 – as planned in the first article of the bill on energy transition voted during fall 2014 in France ? If François Hollande is actually convinced that the fate of humanity is at stake because of global warming, as he recently stated several times, then why not conditioning any new trade and investment agreement to its compliance with most polluting and emitting countries' climate responsibilities ?

- 1 Call “ Créons 10, 100, 1 000 Alternatiba en Europe ”  
<http://www.bizimugi.eu/fr/creons-10-100-1-000-alternatiba-en-europe/>
- 2 The EU member States finally declassified the negotiation mandate early October 2014, more than one year after having launched the negos <http://data.consilium.europa.eu/doc/document/ST-11103-2013-REV-1-DCL-1/fr/pdf>
- 3 <https://france.attac.org/se-mobiliser/le-grand-marche-transatlantique/article/avec-le-tafta-l-ue-et-les-etats>
- 4 See for instance: <http://www.springer.com/earth+sciences+and+geography/meteorology+%26+climatology?SGWID=0-10009-12-565099-0>
- 5 <http://www.bostamag.net/Carburants-polluants-une-premiere>
- 6 <http://www.amisdelaterre.org/Sables-bitumineux-une-nouvelle.html>
- 7 See <http://france.attac.org/nos-publications/notes-et-rapports-37/article/non-a-la-fracturation-hydraulique>
- 8 Les émissions importées, le passager clandestin du commerce mondial, RAC-France, April 2013  
[http://www.rac-f.org/IMG/pdf/EMISSIONS-IMPORTEES\\_RAC-Ademe-Citepa.pdf](http://www.rac-f.org/IMG/pdf/EMISSIONS-IMPORTEES_RAC-Ademe-Citepa.pdf)
- 9 Peters, Glen, Minx Jan C., Weber, Christopher L., Edenhofer, Ottmar! (2011) “Growth in emission transfers via international trade from 1990 to 2008”, in PNAS - <http://www.pnas.org/content/early/2011/04/19/1006388108.abstract>