

## What Will Be the Impact of the Transatlantic Trade Agreements (CETA and TTIP) On Labelling Rules?

- **The Comprehensive Economic and Trade Agreement, or CETA, between the EU and Canada** was concluded in September 2014, amended in February 2016 and is currently going through the ratification process. It could come into force in 2017.

- **The Transatlantic Trade and Investment Partnership (known as TTIP or TAFTA) between the EU and the United States** is still being negotiated.

*The scope of these transatlantic agreements is unprecedented in the history of European trade. These are the first agreements negotiated by the EU with partners from among the world's leading economic powers; and the range of issues covered by the proposed agreements is unique. In addition to customs duties and the opening up of markets, these trade discussions are now also focusing on non-tariff barriers, i.e. on the protection standards that apply in Europe and the on the other side of the Atlantic.*

**Labelling rules are designed to provide consumers (retail and wholesale) with a raft of information about a product they intend to buy. This includes details about the product's composition; its origins; the conditions under which it was produced; and details about a product's quality. In trade negotiations labelling rules are sometimes viewed as non-tariff barriers to trade, in other words as obstacles to exporting to third countries.**

### **What is the Current Situation?**

In France origin labelling is only mandatory for a handful of products used in the production of food<sup>1</sup>. Efforts to further strengthen this rule are proving tough, despite often heated debates in both the French and European parliaments. In response to the horse meat scandal, for example, France had to obtain a derogation from EU law in order to be able to carry out a two-year experiment (from 01 January 2017) which will mean labels on ready meals must indicate the origin of ingredients (for meat and dairy products)<sup>2</sup>.

*"More than 90% of Europeans believe that it is important to have origin labelling where the product is a processed food."* (European Commission report, 2013)

In trade negotiations labelling rules are often seen as technical obstacles to trade and can lead to conflict between negotiating partners. At the end of 2015, following a dispute with Canada and Mexico, the United States had to abandon its mandatory origin labelling rule covering pork and beef even though the rule enjoyed considerable support among the general public and producers<sup>3</sup>. The WTO effectively gave neighbouring countries the right to impose commercial penalties on the United States to the tune of one billion dollars a year if the law was not repealed, thus demonstrating its discriminatory stance where imports are concerned.

Lobby groups from the American food processing industry also battled ferociously against this law. And there is nothing at this point to stop them from launching a similar attack against current European food labelling laws or from trying to dissuade EU member states from going further with the rules. Quite the contrary, in fact, as the proposed future agreements could place two legal instruments at their disposal to do this. These are the proposed mechanisms known respectively as Regulatory Cooperation; and Investor State Dispute Settlement.

1 This covers: unprocessed fruits and vegetables, beef, pork, poultry, mutton and lamb; fishery products; honey and olive oil.

2 The thresholds above which it will be required to declare products' origins are still being determined; and this requirement does not cover all ingredients, notably butter, cream, cheese or powdered milk.

3 This rule, adopted in 2002 and further strengthened in 2008, also covered fish, goat, lamb, poultry and other perishable goods sold in the United States.

## What Might Change as a Result of CETA?

As part of the CETA agreement, the EU and Canada have committed to limiting labelling rules as much as possible. Only those with what are described as '*legitimate objectives*' will survive, and they must be as unrestrictive as possible to trade. Legitimate objectives include: "*national security; the prevention of practices that could create an erroneous impression; the protection of public health and public safety; the protection of the life and health of animals; the protection of plants and the environment*"<sup>4</sup>. So can origin labelling be described as a '*legitimate objective*'? This question will no doubt be the subject of lively debate.

## What Might Change as a Result of TTIP?

The EU is taking the same approach to TTIP as it is to CETA<sup>5</sup>:

*"Compulsory marking requirements, while continuing to provide the necessary information to the user or consumer as well as to public authorities regarding compliance of products with specific requirements, should be limited as far as possible to what is essential and to what is the least trade restrictive to achieve the legitimate objective pursued."* Moreover, the EU is insisting that European producers be able to use a 'Made in the EU' label if origin labelling rules apply in partner countries.

### Focus on the Textiles Sector

In the textiles sector, American labelling rules are more demanding. Labels must include information on the composition of a textile product (as is the case in Europe), but they must also include information on country of origin; product care advice; and details of the producer/importer. Canada also has mandatory origin labelling rules. So shouldn't trade negotiations also allow us in Europe to adopt our partners' standards if these are more exacting than our own? Why hasn't the EU taken this opportunity to promote better labelling rules within its own Internal Market?

## Challenges Facing Labelling Regarding Product Characteristics and Quality

There could also be an impact on the rules governing consumer information in other sectors where there are different national collective preferences. According to a German association of entrepreneurs campaigning for a sustainable economy<sup>6</sup>, Germany for example, could - as a result of the negotiations currently underway - decide not to introduce legislation requiring GMO-labelling of genetically modified animal feed which is fed to animals destined for human consumption.

The trade negotiations could also have even more worrying consequences across the EU<sup>7</sup>. At the moment it is not permitted to consume cloned animals; but if this were to become the case, such meat would have to be clearly labelled as cloned. There are however no rules governing products produced from the offspring of cloned animals - an issue that is currently being debated at European level. It is not possible to trace the presence of such products in US or Canadian exports<sup>8</sup>, as there are no mandatory rules in the US governing the sale and labelling of products produced from cloned animals; meanwhile in Canada, producers and importers of products produced using cloned animals must notify the relevant authorities; and the products require specific authorisation before they can be placed on the market - but there are no labelling rules<sup>9</sup>. At the same time as it began the negotiations on TTIP, the European Commission also therefore put forward a proposal to authorise the sale of meat and dairy products produced using the offspring of cloned animals. The European Parliament is opposed to this and is calling for such products to be treated in the same way as those produced directly from cloned animals. In an internal document, the former European Commissioner called for less strict rules, warning of trade disputes. "*A ban on food obtained*

4 Text of CETA draft agreement, article 4.2 on the technical barriers to trade: [http://eur-lex.europa.eu/resource.html?uri=cellar:1fcbd7d1-4356-11e6-9c64-01aa75ed71a1.0006.02/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:1fcbd7d1-4356-11e6-9c64-01aa75ed71a1.0006.02/DOC_2&format=PDF)

5 European Textual Proposal: Technical Barriers to Trade (TBT), Article 8.1, Marking and Labelling: [http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc\\_153025.pdf](http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153025.pdf)

6 "Transatlantic Free Trade Agreement (TTIP): Risks for Small and Medium-Sized Businesses in the Agriculture and Food Sectors", UnternehmensGrün, December 2015

7 "Selling Off the Farm", Sharon Treat and Shefali Sharma, IATP, July 2016

8 "We are eating cloned meat without even knowing it" Les Échos, 4 July 2016

9 Replies from the Canadian government to the European Commission, 30 April 2012: <https://www.asktheeu.org/fr/request/2690/response/9885/attach/6/Annex%2012.pdf>

*from the offspring of clones would be very very hard to defend (...). Besides the risk of WTO litigation, there is the risk of a more immediate backlash in our trading relations that would wreck our trade with the United States and the rest of the world.*<sup>10</sup>

### **Definition of The Rules of Origin in Trade Agreements**

The rules of origin in trade agreements aim to identify those products to which the negotiated preferential tariff conditions will apply. These conditions can vary from country to country. In the textiles sector, for example, the United States uses the so-called 'yarn forward' rule which stipulates that the materials used must be American, particularly when it comes to yarn and fabric. The EU, meanwhile, has developed an altogether less demanding approach based on the principle of 'double transformation'<sup>11</sup>. This difference in approach stems from the differing states of the textile industry in the various countries, and similarly from the differing industrial strategies in place in those countries<sup>12</sup>. Indeed it would be difficult to apply the American rules in Europe, as spinning in Europe has almost entirely disappeared.

In CETA the rules that have been retained are often close to those that already exist in the European Union. In the automotive industry, textile sector, and the sector covering fishing and certain agricultural products, Canadian exporters have obtained exemptions for a certain number of products. In the textiles sector, these exemptions will also apply to European exports. The European Apparel and Textile Confederation (Euratex) deplored the weakening of the rules for fifteen products that could benefit third countries<sup>13</sup>.

CETA also provides for an accumulation of rules of origin which in future could lead to the licensing of products of which some of the component parts were produced in third countries with which Canada and the EU have trade agreements<sup>14</sup>. The aim of this mechanism is to promote global value chains. This rule could operate with the United States once the TTIP deal has been agreed, particularly in relation to the automotive sector and certain agricultural products.

#### **What Might Be the Possible Impact on European producers?**

**→ CETA and TTIP will not prevent the voluntary origin labelling of products, but they could weaken existing rules regarding mandatory labelling and make it impossible to make further advances relating to mandatory labelling.**

**→ CETA and TTIP aim to establish rules of origin labelling for products that could benefit from negotiated preferential tariffs. The definition of these rules could change the competition conditions in some sectors depending on the level of internationalisation in the different countries that are partners to the agreement.**

The Veblen Institute strives for a sustainable society in which respect for our planet's physical limits goes hand in hand with well-being, social solidarity and an economy built upon more democratic rules than at present. In France the Institute is leading the campaign for responsibility in trade agreements. The campaign aims to analyse the effects that these agreements - currently being negotiated - could have on SMEs and local economies.

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10 Undated European Commission document: "Cloning – Non-Paper on WTO Compatibility, Trade and Agriculture Production Impacts"  
[http://www.testbiotech.org/sites/default/files/Non\\_Paper\\_EU\\_Commission\\_Cloning\\_online\\_0.pdf](http://www.testbiotech.org/sites/default/files/Non_Paper_EU_Commission_Cloning_online_0.pdf)

11 Euratex position paper on textile and clothing rules of origin in TTIP, June 2015

12 <https://atelierdesimon.com/2016/01/25/made-in-cas-du-textile-dans-le-cadre-du-ttip/>

13 Clothing concerns over EU Canada trade pact, Poorna Rodrigo, just-style.com, 2 October 2014

[http://www.just-style.com/analysis/clothing-concerns-raised-over-eu-canada-trade-pact\\_id123109.aspx](http://www.just-style.com/analysis/clothing-concerns-raised-over-eu-canada-trade-pact_id123109.aspx) (pay wall)

14 CETA: Summary of the Final Negotiating Results, European Commission, February 2016