

TTIP, CETA, ISDS and CLIMATE CHANGE

The impact of “Free Trade Agreements” such as TTIP and CETA on climate change

This is a reduced-font-size version of a poster display produced by Dr Henry Adams of ‘**STOP TTIP** South Lakes’ and shown at the SGR conference on 4th October 2014. SGR: Scientists for Global Responsibility www.sgr.org.uk/

TTIP – Transatlantic Trade and Investment Partnership EU-US (under negotiation, with CETA paving the way)
CETA – Comprehensive Economic and Trade Agreement EU-Canada (text completed but unpublished, unsigned as yet)
ISDS – Investor-to-State Dispute Settlement mechanism (a clause in both the above, unless removed)

If the TTIP and CETA are signed up to by the US and EU member states without substantial changes, they would result not only in:

A: significantly increased carbon emissions, but also

B: the straightjacketing of our democratic ability to implement legislation, regulations or policy to limit carbon emissions in ways that might reduce business profits.

And as Susan George of TNI (Transnational Institute) said: "TTIP will promote unrestricted access to raw materials", i.e. it will “liberalize” extractive industries such as for tar sands, coal and shale gas from regulatory and other constraints. (This echoes with Baroness Kramer’s announcement to Parliament in June for the Infrastructure Bill: “put the principle of maximising economic recovery of petroleum in the UK into statute”.)

A: TTIP and CETA will significantly increase carbon emissions, and in a variety of ways:

1. Increase in de-regulated trade, resource extraction and consumption promoted by TTIP and CETA is likely to increase carbon emissions as would be expected: “In respect of greenhouse gas emissions, the Commission states that its preferred outcome from **TTIP will add an extra 11 million metric tons of CO₂** to the atmosphere, challenging the EU’s own emission reduction commitments under the Kyoto Protocol.” [my bolding]. I here quote War on Want’s Director John Hilary referring to an EU Commission ‘Impact Assessment Report’¹ This only refers to the added emissions that the Commission acknowledge (though effectively ignore).
2. [Oil Change International estimate](#) that the proposed lifting of the US ban on export of US crude oil (e.g. US fracked oil) could increase production of US oil equivalent to **4.4 billion tons CO₂** (over 2015 to 2050). The “free trade” ideology of the TTIP increases pressure for this ban to be lifted (together with European concerns of oil supply insecurity).
3. Also there are the added emissions from potential export of **US shale gas as LNG to Europe**, also under pressure from TTIP negotiations (combined with the threat of reduced supply from Russia to Europe). The EU Commission is pressing for increased US to EU trade in fossil fuels especially crude oil and fracked gas (the world already gets US coal). **US LNG has an extra double-dose of associated emissions, on top of natural gas at its best.** These are from: (i) extra fugitive emissions of methane due in part to inadequate US regulations on fracking, and (ii) liquefying any source of methane gas is energy intensive (and thus carbon-intensive within the LNG scenario).
4. TTIP and CETA negotiations also facilitate the de-regulated “free trade” of high life-cycle-emissions bitumen-oil and fuel products from the **Alberta tar sands**. This would massively increase Big Oil’s incentives to get tar sands oil piped to the Atlantic and Mexican Gulf (and hence Europe), and the 3 times expansion of the tar sands they desire. The added carbon emissions of this “carbon bomb” would be disastrous: 706 million tonnes of CO₂ per year by 2035 (420 million pa by 2020) from tripling production from 1.5 to 4.5 million barrels a day by 2035². Oil Change International has published estimates of the huge amount of carbon emissions that the Keystone XL

¹ Section 5.8.1 of ‘Impact Assessment Report on the future of EU-US trade relations’, Strasbourg: European Commission, 12 March 2013.

² p.12 of ‘Point of No Return’ Greenpeace report 2013 <http://www.greenpeace.org/international/Global/international/publications/climate/2013/PointOfNoReturn.pdf>

tar sands pipeline from Alberta to the Mexican Gulf would add if completed in full. And that is just one of the proposed pipelines from land-locked Alberta to the coast. The proposed 'Energy East' pipeline is to the Atlantic.

5. The above are just some of the ways by which TTIP and CETA will increase carbon emissions. And there are also more insidious ways in which "free trade" and "free market" ideologies inherently suppress regulatory action against climate change, as expressed well in Naomi Klein's new book 'This Changes Everything'.

B: The straightjacketing of our democratic ability to curb carbon emissions via democratic regulatory processes:

This will be in 2 main ways, but first here's how regulation gets re-framed:

Climate legislation (and other regulations) that impact on the activities of big business is regarded by TTIP, CETA and its proponents as one of a wide variety of potential "**barriers to trade and investment**", potentially "**discriminatory**" and "**burdensome**"³ to business, and a potential for "**expropriation**" of future profits that could mean liability for compensation by the tax-payer (using "free trade"-speak and re-framing).

And here are the 2 main ways:

- (i) The chilling effect of the **ISDS** on new regulations. The **Investor-to-State Dispute Settlement** mechanism would enable transnational or foreign corporations such as oil, gas and fracking companies to sue signatory nations if any new regulations might reduce their future profits. And using a corporate-friendly secret tribunal system so avoiding national legal and court systems.

A Canadian fracking company is currently using NAFTA's ISDS to sue Canada for loss of future profits due to Quebec putting a moratorium on fracking via democratic processes (NAFTA is the North American Free Trade Agreement). Fracking companies such as Chevron or Halliburton could threaten to sue the UK if UK is a signatory to TTIP with the ISDS text still in place. The impact of fracking on carbon emissions is summarized within a recent SGR/CIEH report⁴.

- (ii) By putting in place a US-EU "**regulatory co-operation council**" via which the US trade reps and big business interests such as oil and gas corporations, can influence any future proposals for new EU climate regulations, and at an early stage before any democratic access by our representatives and NGOs. Thus any new climate legislation proposals are likely to be "killed at birth" or made into ineffective shams (as has now happened to EU's Fuel Quality Directive).

Our government is ignoring evidence that TTIP (and CETA) negotiations have **already** damaged our ability to tackle climate change by democratic or regulatory processes:

(note how the following is evidence for just how powerful oil interests are, and will be with regards (ii) above)

The effectiveness of EU's important climate legislation in its **Fuel Quality Directive** has been seriously reduced and cut short during the TTIP negotiations, as if being used as a mere "bargaining chip": After years of lobbying

³ '[Cut EU red tape: Report from the Business Taskforce](#)' - GOV.UK.htm Report: Dept for BIS and No.10 Downing Street, 24feb14 update: See section C.4: I quote: 'C.4 – Costly new reporting requirements on the oil industry: Fuel Quality Directive: "Proposed reporting rules under the Fuel Quality Directive would make the refining industry less competitive" – a large oil company: Problem: The oil industry is concerned that additional reporting, necessary to calculate greenhouse gas emissions from fuel, could be costly for UK refineries, and require sharing of commercial data.' ... 'Recommendation: The European Commission is currently developing a revised proposal on reporting requirements for greenhouse gas emissions from fuels. It should ensure that any methodology minimises any additional reporting burden on business.' The report is a business charter for deregulation that also includes other business desires to reduce or remove "burdensome" environment-related reporting regulations.

⁴ '[Shale Gas and Fracking: Examining the evidence](#)' Gwen Harrison, Stuart Parkinson and Gary McFarlane, July 2014, SGR & CIEH. <http://www.sgr.org.uk/resources/shale-gas-and-fracking>

of the EU by the oil industry and Canada's Conservative Harper government, the European Commission gave way to pressure from the US trade representative pushing for oil interests such as Chevron. The FQD has now been terminated from 2020 before even being fully implemented in an effective form to reduce transport fuel emissions.

Note: Chevron is an official advisor to the U.S. trade representative, is reported to be responsible for 3.52% of the total global carbon emissions since 1751, [has used ISDS to sue Ecuador, and is pushing for a strongly pro-corporate ISDS in TTIP](#)⁵. Furthermore, Chevron is pursuing fracking aggressively in Europe, with scant regard for local democracy or human rights.

The FQD – Fuel Quality Directive - and how it is hit by “free trade” ideology and oil interests

During the TTIP and CETA negotiations the EU Commission has agreed to cut short and dilute one of the most important pieces of EU climate legislation – the Fuel Quality Directive, which aims to reduce imports into the EU of the most highly emitting transport fuel feed-stocks, in an attempt to reduce the carbon intensity of transport fuel in the EU by a modest 6% by 2020. [Transport and Environment \(T&E\) state](#): "Transport is almost entirely dependent on oil: it emits [31% of the EU's total CO2 emissions](#) and will become the biggest source of climate-changing emissions soon after 2020." Refers to the pdf: '[EU energy in figures - statistical pocketbook 2014](#)'.

The reason given by the oil interests over a number of years, echoed by UK DfT, is that the FQD, if it separates oil feedstocks into just a few categories of differing average life-cycle carbon emissions, will be **discriminatory** against tar sands sources, and because Canada's tar sands are the main current tar sands being exploited, then that's discriminating against Canada and oil companies refining and trading their tar sands products. More recently the US trade representative and oil industry "put the boot in" to the FQD during the TTIP negotiations by insisting that the FQD is discriminatory against US oil refiners of tar sands crude and (like Canada) threatened a challenge involving the WTO. Note: the term 'discriminatory' is part of both the ISDS and FTAs / BITs as having primacy as a complaint: Here it is having primacy over tackling climate change by regulations that affect trade and investment. Being 'discriminatory' is considered by neoliberal "free trade" ideology as more of a "sin" than ecocide, or killing people with cancer-producing pollution, or of trying to rapidly expand one of the world's worst carbon-emitting projects by 3 times (the tar sands industry plan). What's more – the coalition government agree that avoiding being 'discriminatory' has primacy over urgent tackling of climate change via this means [refs: replies by DfT ministers to my letters to them re the FQD (via Tim Farron MP), and [my rebuttal to a former DfT Minister](#)⁶. The LibDem MP Norman Baker, when a DfT minister, agreed that the FQD proposal was 'discriminatory' and that it should not be implemented until all oil sources had been individually assessed. My/our response: this would take years before it could be implemented, risking a win to the tar sands industry, and there was no reason why the FQD proposal could not become that sophisticated when the data became available. Events have proved me right and Norman wrong.]

17dec14 Conservative MEPs supported the Commission's tar sands friendly proposal for the FQD in a plenary vote.

ACTION: So what can we do to stop TTIP and CETA and remove the ISDS?

I hope this leaflet written by Dr Brian Woodward for [STOP TTIP South Lakes](#) will give you some ideas: www.bit.ly/TTIPleaflet (pdf) It also provides a brief summary of TTIP and CETA and their threats.

Please download, print and give or deliver to friends, relations, colleagues, neighbours...

Also please write to your MP, MEPs and Vince Cable (Secretary of State for Dept for Business, Innovation and Skills)

If you live or work in South Lakes or the Westmorland and Lonsdale constituency and would like to help do more - do join the STOP TTIP South Lakes group - by emailing the url at the end of the leaflet.

The text above for the poster display was produced by Dr Henry Adams (Consultant Ecologist, Kendal, and member of STOP TTIP South Lakes), on 3rd October 2014 for the SGR conference on 4th October, then tweaked for this document.

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⁵ http://www.foeeurope.org/sites/default/files/foee_factsheet_isds_oct13.pdf

⁶ <http://www.dragonfly1.plus.com/CommentsOnNormanBakerStatementInLibDemVoiceReFQDcollatedbyHenryAdams.pdf>

Further information on this topic:

STOP TTIP South Lakes website: www.bit.ly/STOP-TTIP-South-Lakes

On my website and via the above website:

- (i) Link to my briefing for Tim Farron MP on TTIP, CETA, the ISDS and impacts on legislation on climate change: www.bit.ly/FTAbriefTimFarron - now with Dept BIS (via Tim Farron MP) for responses to specific numbered points. Starts with a concise summary of what needs to be done regarding TTIP, CETA and the ISDS.
- (ii) The climate section in my website on "Free Trade Agreements" www.bit.ly/FTAthreats is a resource with links to useful references. Direct link to section: www.dragonfly1.plus.com/FTA_threats.html#ClimateChange

Further reading:

15sep14 '[Why the EU-US trade agreement could be bad for the climate](#)' Sam Lowe Friends of the Earth

3sep14 '[The EU's drive for free energy trade in the TTIP endangers action on climate change](#)' - Llana Solomon - EnergyPost.eu

17jul14 '[New Report: Trade Talks Threaten to Undermine EU Climate Policy and Bring Tar Sands to Europe](#)' - Llana Solomon - Director, Responsible Trade Program, Sierra Club.

Excellent briefing: '[Dirty deals - How trade talks threaten to undermine EU climate policies and bring tar sands to Europe JULY 2014](#)' [FoEE web-page pdf download](#) - Friends of the Earth Europe. My response to the title: they *already* have started the undermining, and tar sands import to EU has *already* started to increase.

['U.S. Accused of Forcing EU to Accept Tar Sands Oil'](#) Carey L. Biron, 17jul14, Inter Press Service.htm

19may14 **Leaked evidence that TTIP will hold back action on climate change:** In summary TTIP will "Expand fossil fuel exports from the U.S. to the EU, and therefore increase fracking and mining in the U.S.; Limit the ability of governments to set the terms of their energy policy; and Restrict the development of local renewable energy programs." - Sierra Club (USA).

Stop TTIP (uk) / Linda Kaucher's take: '[TTIP: Climate Change / The Fuel Quality Directive](#)' in their website www.stopttip.net

Excellent 4 minute video: '[NO FRACKING WAY: How the EU-US trade deal risks expanding fracking in Europe and the US](#)' <http://vimeo.com/88146142> - also excellent on the **ISDS**.

Relevance to the SGR conference

Conference title: '[Living within environmental limits: From science to practice](#)'

Venue: Halton Mill, Halton, Lancaster, UK; Saturday 4 October

The topic of this document and poster display was particularly relevant to the first of the main presentations:

['The case for urgent and radical carbon emission reductions'](#) – by Dr Maria Sharmina, Tyndall Centre for Climate Change Research, University of Manchester. Dr Sharmina is currently working on a systematic review of global energy scenarios drawing out the implications of emission reduction policies for future trade.

I have appended below a summary of her presentation.

The continuing failure to reduce emissions globally has left us with little chance of staying below 2°C, a 'dangerous climate change' threshold. We are currently on a 4-6°C trajectory, and potential impacts associated with 4-6°C temperature increases imply that such futures are practically unliveable. To make a fair contribution to staying below 2°C, wealthier parts of the world (with the UK amongst them) would need to reduce their carbon emissions by about 10% per year, starting immediately. These are unprecedented reduction rates. The urgency and scale of the challenge suggests that the supply side alone (e.g., renewables and nuclear) will not be sufficient to meet the 2°C constraint. A combination of supply- and demand-side measures is the only way to start rapidly reducing emissions in the short term.

This presentation will discuss the challenge of major reductions in carbon emissions and suggest options for addressing them, with a focus on the UK.

Dr Maria Sharmina is part of the 'Shipping in Changing Climates' project funded by the EPSRC's Energy Programme. She is currently working on a systematic review of global energy scenarios drawing out the implications of emission reduction policies for future trade. She is also building an understanding of the modelling tools developed both at University College London and at the University of Manchester for assessing the emissions associated with international trade.