



A ‘progressive’ trade and investment partnership?

Gabriel Siles-Brügge

Department of Politics and International Studies
University of Warwick, UK



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‘Progressive’ trade policy in the shadow of Trump

‘We are looking to work with likeminded partners to shape globalisation, so it works for everyone.

When others are looking to build walls,
we are ready to build bridges.’

**Cecilia Malmström, EU Trade Commissioner,
21 September 2017**



Mr Trudeau flatters Brussels...

‘With CETA, together we have built something. Something important. Especially at this moment, on your continent and mine.’

**Addressing the European Parliament
plenary during its debate on CETA’s
ratification, 15 February 2017**



Old wine in new bottles?

► Overview of presentation

- The origins of current talk of ‘progressive’ trade policy: the politicisation of EU-Canada trade and investment talks
- Deep dive on reform of investor protection (key ‘progressive’ element of EU-Canada relationship)
 - Shifting discourse/similar substance
- Upholding ‘shared values’?



The politicisation of CETA

- ▶ **Timeline of the negotiations**
- ▶ **Early (less successful) attempts by Canadian civil society organisations (CSOs) to politicise talks**
- ▶ **‘Spill-over’ from TTIP key to success of European CSOs**



The CSO strategy

▶ Polysemic ‘injustice frame’

- ‘Corporate rule’
 - Ambiguities allow for both sovereignty- and EU-law based critiques of ISDS
- Taps into anti-establishment/politics mood

▶ Unites ‘rejectionist’ and ‘reformist’ NGOs



Shift in official discourse...

- ▶ **European Commission moves from economistic arguments to co-opting injustice frame**
 - ‘New’, ‘democratic’ Investment Court System (ICS)
 - ‘Trade for All’ strategy (2015)
 - CSOs associated with illiberal ‘backlash against globalisation’ (Trump/Brexit)
- ▶ **Key Social Democratic constituency in European Parliament/Germany happy**

...but similar substance

- ▶ **Investment Court System (ICS) (Ch. 8 of CETA): key features of regime of investment treaty arbitration remain**
 - Standards of investor protection
 - Roster of arbitrators

- ▶ **Not as significant a shift in position as claimed**
 - Already agreed a roster (under certain circumstances) and tweaks to investor protection in earlier CETA texts from 2013 (see European Commission [2013](#))

Upholding ‘shared values’?

- ▶ **Key ‘progressive’ element of CETA crafted to win over domestic (EU) veto players (MEPs/Member States)**
 - Trump/Brexit helpful (exogenous) events
- ▶ **CETA: environmental/social policy provisions subordinate to trade and investment liberalisation objective**
 - ‘Regulatory chill’ during the negotiations
- ▶ **Continued regulatory divergence between the EU and Canada**
 - Sensitive issue of ‘precautionary principle’
- ▶ **Progressive partnership overstated?**

