

CETA at the Canada-EU Summit: Photo-ops and election strategy

The outgoing president of the European Commission may not have many more chances to go on first-class transatlantic flights and enjoy media attention. Thus José Manuel Barroso was probably happy to accept the invitation of Prime Minister Stephen Harper for a publicity event in Ottawa on Sept. 26. So was PM Harper, who is assiduously building up his reputation as an internationally experienced leader for the upcoming elections.

The whole event this week is supposed to be about CETA, the Canada-European Union Comprehensive Economic and Trade Agreement. Already a year ago both politicians met in Brussels and announced publicly that an agreement in principle had been reached. Since then, negotiations continued in the background and so did the so-called legal scrubbing. If one expects that this week's meeting may culminate in a ceremonial signing of the agreement, then one is in for a disappointment.

Last week the final text of CETA and the very comprehensive annexes—all together some 1,500 pages—were sent to EU member states. Some of them already used the preliminary text to order legal assessments.

At the forefront of this exercise was Germany, arguably a critical actor to the fate of CETA. Last weekend, Germany's minister for the economy and vice-chancellor, Sigmar Gabriel, had a hard time convincing his Social Democratic Party representatives that the current EU negotiations with the United States about a Transatlantic Trade and Investment Partnership should be continued. This was only possible because he could present a joint paper with the German Federation of Labour (DGB) that laid out that TTIP would only make progress if any kind of investor-state arbitration was totally excluded. This spells trouble for CETA.

It is only fair to see CETA as a model for TTIP. In reverse this means that what applies for TTIP should also apply for CETA. CETA includes an investment chapter that comes with an investor-state dispute mechanism, and thus should be rejected.

In such a situation it helps that political logic is not identical to pure logic. Sigmar Gabriel's ministry already ordered two legal expert opinions on CETA that were published a few days ago. One assessment made the point that the investment chapter in CETA actually should not be seen as undermining, in this case, German laws and policy space of governments. In other words, it should be seen as a drastically shrunk version of previous agreements.

The other analysis makes the strong case that CETA is a so-called mixed agreement. Mixed agreements cover topics that are not covered by the negotiations mandate of the Commission. As such, it is not enough that CETA gets past the Council of the European Union and the European Parliament; it needs to pass

national parliaments.

Is this the end of CETA? Not necessarily so. At this point it only means that CETA will need more time to materialize. And it means that the political debate about CETA needs a restart, if only to properly deal with the many concerns of the public.

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