Lessons from CETA: Its implications for future EU Free Trade Agreements

Edward Yencken
The University of Melbourne, Australia
yenckene@unimelb.edu.au

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Abstract

The Comprehensive Economic and Trade Agreement (CETA) represents a watershed in Free Trade Agreements (FTA) negotiated by the EU with a major developed third country in Canada. Importantly, it provides an indication of how the EU will be likely to approach future FTA negotiations. This paper will analyse two FTAs, one currently under negotiation in the form of the Transatlantic Trade and Investment Partnership (TTIP), and one for which negotiations are opening soon in 2016 with regard to an EU-Australia FTA. It will argue that CETA could give an important insight into how contentious issues in bilateral negotiations such as human rights and foreign investment are likely to be addressed. For example CETA negotiations were completed despite Canada's objections to the inclusion of an operative human rights clause in the accompanying Strategic Partnership Agreement (SPA). Such an approach indicates that despite EU rhetoric with regard to issues such as human rights it is likely to display at least some degree of flexibility with regard to finalising negotiation for future FTAs. It furthermore gives an indication as to likelihood of possible compromises in the EU's negotiations with the US with regard to the inclusion of an Investor State Dispute Settlement (ISDS) provision similarly to CETA. In relation to an Australian FTA there also appears some potential for compromise in contentious areas such as the human rights clause. This paper will therefore argue that a clear divergence is increasingly becoming apparent between the EU's rhetoric on FTAs as compared to the compromises it is willing to make during the negotiation process.

Introduction

Since 2006 the EU has negotiated a number of what have been termed 'new generation' FTAs. Specifically the European Commission sought to negotiate 'new competitiveness-driven FTAs' as part of the 2006 Global Europe Strategy that were seen as needing 'to be comprehensive and ambitious in coverage, aiming at the highest possible degree of trade liberalisation'. After the publication of this document major agreements have been signed with countries such as Colombia, Peru, South Korea, Singapore and Vietnam. Negotiations also opened with a number of other countries including Canada with who negotiations opened on 6 May 2009 on an FTA that was later to become CETA. These negotiations represented the 'third try in forty years' to complete an FTA (Johnson, 2014, p. 479). The significance of any future agreement can be seen by the fact that it was seen to be the EU's most comprehensive economic agreement with a highly industrialised country. Canada's status as a highly industrialised country with close historical connections to the EU and major EU member states would also bring to attention the issue of the inclusion of a human rights clause as had been included with other states as part of the new generation FTAs. Since 1995 specifically it has been the policy of the EU to include commitments to democratic principles and human rights in agreements between the EU and third countries. In addition to human rights ISDS has increasingly become a feature of EU FTA negotiations with CETA in particular being seen as being 'innovative' with regard to its inclusion in an agreement with a highly developed country (European Commission, 2015a). A major objective of this paper nevertheless is to analyse the extent to which the EU, in the context of negotiating CETA, has been willing to sacrifice core objectives in relation to human rights and ISDS in order to secure the completion of the agreement.

As the two largest economies in the world, a free trade agreement between the EU and the US would likely be the most significant development in the liberalisation of world trade since the conclusion of the Uruguay Round of the GATT in 1994. Specifically the European Parliament (Bierbrauer, 2014) has noted that 'while CETA is the most comprehensive and ambitious agreement negotiated by the EU, its value pales in comparison to that of the potential EU-US TTIP'. The potential ramifications of TTIP are also apparent when considering the precedent that has been set by the completion of CETA negotiations in 2014. As the Commission (2015b) stated CETA is a landmark agreement and the lessons learned during the CETA talks will certainly inspire the EU negotiators working with the US'. In

conjunction with the precedent set by CETA this paper will also consider how past differences over human rights and the inclusion of ISDS provisions in FTAs have impacted on TTIP negotiations. Importantly, it is also necessary to examine whether the future completion of TTIP could represent a further undermining of the EU's stated objectives with respect to human rights and ISDS.

As Mike Adams, Nicolas Brown and Ron Wickes (2013, p. 316) have previously argued 'Australia and the European Union have purposely looked past each other in the rush for FTAs. Both are busy with their own crowded trade agenda, have constrained resources and must set negotiating priorities'. This situation gradually began to change over the past few years with the EU and Australia formally announcing that negotiations for an FTA would begin in 2016. Similarly to the US and Canada, Australia enjoys a close relationship with the EU not withstanding some disagreements regarding EU agricultural policy and Australia's rejection of a treaty level Framework Agreement in 1997 due to the inclusion of an operative human rights clause. This issue has since been resolved with the signing of a treaty level agreement in 2015 supposedly with the inclusion of such a clause. As this agreement has not been published CETA in particular, could provide some indication as to how disagreements over the inclusion of a human rights clause were resolved. Similarly, TTIP could indicate how ISDS could potentially emerge as an issue in an EU-Australia FTA particularly given its recent emergence as an issue in the Trans Pacific Partnership (TPP). Perhaps most significantly EU-Australia FTA negotiations could serve as a further example of the EU being willing to flexible with respect to its aspirations on issues such as human rights and ISDS.

CETA as a Model for Future EU FTAs?

The Human Rights Clause

Human Rights in EU-Canada Relations

At first glance the EU and Canada would appear likely to have a substantial amount in common when it comes to human rights issues. 'From the EU perspective, Canada can be viewed as a non-threatening transatlantic partner. There is an assumption that Canada and the EU share similar principles and values in a kind of benign approach to foreign policy'

(Alegre, 2008). The European External Action Service (EEAS) (2015) also notes that 'as the EU and Canada share common goals in international fora and work closely together to promote and defend democratic principles; human rights; the rule of law; and good governance around the world'. Similarly, the Canadian government (2013) suggested that both parties 'share a common history, common values and, most importantly, have common hopes for the future. We work closely together to promote democracy, peace and security, respect for human rights, the rule of law and effective multilateral institutions'. Specific expression of these shared values and goals are found in a number of bilateral agreements prior to the commencement of negotiations for CETA. An example was the 2004 EU-Canada Partnership Agenda which stressed desire to continue working on 'joint approaches on issues such as sustainable development, human rights, humanitarian assistance and peacekeeping'

Despite a history of cooperation on human rights, a number of issues have occasionally distracted from broader EU-Canada relations. The recently defeated Conservative Harper government of 2006-15 was the subject of some EU criticism. As Alegre (2008) argues 'Canada was a like-minded country with which the EU agreed on human rights issues' but under the Harper government the Canadian position changed so that 'the active promotion and protection of human rights… slipped down the agenda. An example of this is the fact that recently Canada has not even taken up the issue of the death penalty concerning its own nationals sentenced to death in the US'. Ultimately nevertheless such tensions should not serve to undermine the extent of the commonality of norms and values on human rights at the core of the EU-Canada relationship throughout much of their history.

CETA Negotiations: Confronting different expectations regarding the human rights clause

Accompanying the negotiations for CETA was the EU-Canada SPA. The need for such an agreement to accompany CETA derives for trade negotiations having 'to qualify international trade in terms of global social, environmental and human rights commitments' (European Parliament, 2008). Regarding human rights all 'third generation FTAs have, since the implementation of the Treaty on the European Union in 1993, included 'conditionality clauses' as a means to further the EU's normative values of democracy, human rights and rule of law' (Garcia, 2013, p. 526). The inclusion of such clauses was intended to promote such values in developing countries but was also to be included, for the sake of consistency, in all FTAs negotiated by the EU. In the case of Canada, however, this desire to include a

conditionality clause appeared likely to conflict with the Conservative Harper government's desire 'to pursue political relationships in tandem with economic interests even where political interests or values may not align' (Weston, 2012). Specifically a spokesperson for Minister for Foreign Affairs John Baird would note that the government had 'been very clear, the Strategic Partnership Agreement is completely separate from the CETA'.

Throughout much of the duration of the negotiations of CETA and the accompanying SPA, the EU and its institutions showed little inclination that it would change its attitude towards the human rights clause. As late as 2013 the European Parliament (2013) would note that 'the shared values of democracy and the protection of human rights should form a core part of any agreement between the two parties aiming to provide a framework for that relationship'. Regarding specifics the Parliament would further argue the need for 'reciprocal conditionality and political clauses on human rights and democracy… regardless of the state of protection of human rights in those countries'. This approach effectively underlines the belief that irrespective of the EU's lack of concern regarding human rights abuse issues in Canada, it believed that it needed to adopt a consistent approach to how it negotiated FTAs with all third countries. Specifically Manfred Auster (Blanchfield, 2013), of the EU's Delegation to Canada, suggested that while 'we are completely sure that Canada, like ourselves, is promoting human rights' there was a need, however, to 'not create a precedent' through the non-inclusion of a human rights clause in the SPA. Given that these remarks were delivered more than four years after the commencement of negotiations, this indicated the extent to which human rights had become a major hindrance to the signing of CETA and the SPA.

Concluding CETA: Weakening or strengthening the EU's human rights agenda

After a significant delay, negotiations for the SPA and CETA were completed in August 2014. The completion of negotiations inferred that a solution had been found that was amenable to both the EU and Canada regarding the human rights clause. This solution is likely to be derived from the precedent established by the Partnership and Cooperation Agreement (PCA) signed between the EU and Singapore as a means to also complete negotiations on an FTA. In the case of the EU-Singapore PCA a 'side letter' was signed 'which sets out that, at the time of signature, neither party are aware, based on objectively

available information, of any of each other's domestic laws, or their application, which could lead to the invocation of the non-execution mechanism' (UK Parliament, 2014). In the actual SPA itself, it was noted that only 'a particularly serious and substantial violation of the obligations' would see the agreement and CETA suspended. These violations were suggested to be in the nature of 'a coup d'État or grave crimes that threaten the peace, security and well-being of the international community'.

The completion of CETA and the SPA while substantial developments have served as a effective weakening of human rights provisions in major agreements signed by the EU with third countries. As Thomas Renard (2015) states, that while Canada presents only 'minor problems regarding these specific issues, the inclusion of these clauses is less directed to them than to other countries. It serves as a precedent for possible future agreements with more challenging partners, such as China or India'. Indeed, regarding the FTAs signed with South Korea (2011) and Singapore (2013), Maria Garcia and Annick Masselot (2015, p. 248) argue that 'the strong conditionality' that has been evident with other third countries 'is absent in the case of the FTAs and PCAs that the EU is negotiating with Asian states'. A similar argument could also be made regarding Canada given that only a coup or major international security incident would see the suspension of either CETA or the SPA. Substantial questions would then appear to be apparent regarding the EU's future ability to therefore include a substantive human rights clause in any FTA signed with a third country.

ISDS and CETA

ISDS: Why the controversy?

As defined by the European Commission (2013b) 'ISDS is a procedural mechanism provided for in international agreements on investment. Countries sign such agreements in order to set out ground rules when foreign companies invest on their territory. ISDS allows an investor from one country to bring a case directly against the country in which they have invested before an arbitration tribunal'. Since 2009 when the Commission gained the competency regarding negotiating on investment agreements for the EU as a whole it has aimed to utilise ISDS as an 'effective way of enforcing the obligations our trading partners agree towards our investors when they sign investment agreements with the EU' (European Commission, 2013b). From the EU's perspective ISDS was always likely to be something of great interest

when negotiations for CETA began. A Commission (2011) report on ISDS during initial CETA negotiations suggested that 'the conflicting costs and benefits of such a mechanism make it doubtful that its [ISDS] inclusion in CETA would create a net/overall (economic, social and environmental) sustainability benefit for the EU and/or Canada'. This suggested that during initial negotiations the EU was not overly concerned about the ISDS issue.

Canada in contrast to the EU has had a much longer history of negotiating FTAs with ISDS clauses. The most notable of these agreements was the North American Free Trade Agreement (NAFTA). This agreement saw a number of ISDS provisions included. These provisions, however, have in total seen Canada face '35 challenges, 23 of these in the last ten years' with Canada being 'sued more times than Mexico under NAFTA'. Moreover, 'at a global level it has been involved in more ISDS cases than any other developed country. Canada has already lost or settled seven claims, paid out damages totalling over CA$170 million' (Tienhaara, 2015). Given this experience, Canada would obviously have reasons to be hesitant signing another major FTA with ISDS provisions. This was noted by Meri Koivusalo, Scott Sinclair and Ronald Labonte (2011) who criticised CETA and the potential for 'substantive protections for foreign investors' with these protections potentiality including 'an extremely broad definition of investment, right of establishment, and compensation for direct and indirect expropriation'. In particular concern was expressed regarding any ISDS provisions undermining 'the scope and measures that can be applied as part of public policies, health systems governance and health protection' (Koivusalo, Sinclair, & Labonte, 2011). As a consequence, the role of ISDS was always likely to be a major issue in CETA negotiations.

Initial expectations regarding ISDS and CETA

As established by Alexandre Gauthier and Michael Holden (2010) one of the challenges that initially faced CETA negotiators was 'that Canada and the EU have used different approaches to dispute settlement in their previous trade agreements'. Specifically 'Canada has tended to separate its dispute-settlement mechanisms by type of dispute', as was the case with NAFTA which has three chapters that contain provisions on dispute settlement'. In contrast, the 2009 EU-South Korea FTA 'included only one chapter on dispute settlement, covering all disputes related to the agreement' (Gauthier & Holden, 2010). In addition the European Parliament also sought to advance an alternative ISDS approach. Specifically the

European Parliament argued that 'given the highly developed legal systems of Canada and the EU, a state-to-state dispute settlement mechanism and the use of local judicial remedies are the most appropriate tools to address investment disputes'.

ISDS and how to best accommodate it within CETA remained a major issue throughout the duration of negotiations. These concerns no longer necessarily related to how to best approach the issue, as both parties agreed to the inclusion of ISDS provisions, but what these provisions would actually entail. Specifically the NGO Council of Canadians (2013) argued that 'excessive corporate protections, built into thousands of investment treaties and free trade agreements, serve no social or economic purpose'. This statement further noted that 'CETA will include a screen for financial policy… but there is no screen for precautionary environmental, public health or resource conservation'. From an EU perspective similar concerns were also expressed. Specifically the Parliament's (2011) resolution called on the 'Commission to ensure that a potential investor-to-state dispute settlement mechanism does not inhibit future legislation in sensitive policy areas, such as environmental legislation'. Statements of this nature indicate how ISDS was able to remain as one the major obstacles in the completion of CETA negotiations.

CETA Concluded: Implications regarding ISDS

The supposed completion of negotiations for CETA in 2014 and the resolution of the ISDS issue not only have significant repercussions for the agreement itself but also for other major FTAs being signed by the EU around the world. The significance of the agreement was noted by the Parliament (Bierbrauer, 2014) which stated that 'CETA is one of the first EU agreements which not only facilitates market-access for foreign direct investment in the other market, but also includes rules to protect investments. If a dispute between an investor and government reaches arbitration, CETA will ensure the proceedings are fully transparent'. In addition, the Commission would also seek to promote the significance of the agreement. This significance was seen particularly to involve 'clearer and more precise investment protection standards, i.e. the rules, as set out in CETA, that arbitration tribunals will apply' and 'new and clearer rules on the conduct of procedures in arbitration tribunals' (European Commission, 2014). As a result CETA was seen to provide a new framework for managing the traditionally sensitive area of ISDS. Its significance was also reflected on by the Parliament which noted that CETA is 'the first agreement to have been negotiated with a

sound chapter on investment protection, including ISDS' and that 'ISDS is only permitted when an investor can prove that there has been a breach of one of the limited investment protection obligations… which has resulted in loss or damage' (Bierbrauer, 2014). Positive sentiments of this nature would therefore suggest that many of the previous criticisms associated with ISDS with CETA had been resolved.

Despite the conclusion of CETA, ISDS continues to remain an ongoing issue of concern. This particularly derives from suggestions of public unease over the EU's decision to include major ISDS provisions in an agreement as significant as CETA. This criticism has recently led to German Economy Minister Sigmar Gabriel (Brown, 2014) stating that 'it is completely clear that we reject these investment protection agreements'. Arguments of this nature have led to the possibility of CETA negotiations being reopened despite suggestions that the Trudeau government and key figures in the Commission and Parliament are satisfied with the current ISDS arrangements (Von Der Burchard, 2015). In addition, it is also important to note that much of the attention that ISDS provisions have received in relation to CETA have been linked to ongoing TTIP negotiations. Specifically questions have again been raised as to whether 'including an ISDS scheme in the EU/Canada pact' is indicative of the Commission's unwillingness 'to take into account critical and massive public feedback on similar plans for TTIP' (European Consumer Organisation, 2014). Consequently, despite the supposed completion of negotiations ISDS has the potential to delay the implementation of CETA.

TTIP: Potential constraints to the completion of the world's largest FTA

ISDS: The most likely obstacle to TTIP?

ISDS Emerges in TTIP

Occurring almost simultaneously to the completion of CETA, 'TTIP negotiations 'have attracted a significant interest from the public and civil society organizations, with much of the attention focusing on the provisions on investment protection and ISDS' (European Commission, 2015c). As discussed previously, much of the attention that was previously

focused on ISDS in the context of CETA has now been directed towards TTIP. An example was the decision of the Commission to open public consultations on the issue of ISDS largely as a response to criticism of its inclusion in CETA (Quick, 2015). This focus has continued since TTIP negotiations began in 2013 when the Commission (2013a) stated a desire 'to include in the agreement guarantees of protection against expropriation, a rule of free transfer of funds, of fair and equitable treatment, and of a level playing field for the EU companies investing in the US'. This negotiating mandate also included a commitment to 'investment protection, including investor-to-state dispute settlement' with the inclusion of 'relevant safeguards are included to avoid any abuse of the system and to safeguard the right to regulate'. As a result, there was at least some attempt from the outset of negotiations to assuage concerns over the inclusion of ISDS provisions.

In comparison to the EU, and indeed Canada, the position of the US on ISDS is that 'based on our more than two decades of experience with ISDS under U.S. agreements… we believe that providing a neutral international forum to resolve investment disputes under international law mitigates conflicts and protects our citizens' (Office of the US Trade Representative, 2015). In terms of the US's experience of ISDS this has undoubtedly been influenced by two major FTAs in the form of NAFTA and the 2015 TPP in conjunction with other arguably less significant agreements with Chile, Peru, Singapore, and Vietnam. NAFTA, in contrast to Canada, has seen the US win 11 and lose no cases under ISDS provisions (Freeman, 2015). More recently, regarding the TPP it has been suggested that it 'will have state-of-the-art protections. It will recognize the inherent right to regulate and to preserve the flexibility of the TPP Parties to protect legitimate public welfare objectives' (Office of the US Trade Representative, 2015). These assertions, however, have been questioned particularly by certain US politicians such as Senator Elizabeth Warren (2015) who argued that ISDS 'would undermine U.S. sovereignty and 'would allow foreign companies to challenge U.S. laws — and potentially to pick up huge payouts from taxpayers — without ever stepping foot in a U.S. court'. This then provides the pretext for understanding why the inclusion of ISDS provisions in TTIP was likely to be the subject of some debate.

Confronting ISDS in TTIP Negotiations

From the perspective of the EU a key development in TTIP negotiations was the Commission's (2015a) decision during 2014 'to hold a public consultation on investment protection and ISDS in TTIP, in order to gather views from the public on how the EU could develop further its approach'. As Reinhard Quick (2015, p. 200) notes the Commission chose to suspend negotiations and launch consultations on ISDS as a means to 'show a way on how to reform ISDS not only procedurally but also substantially, so as to ensure that ISDS does not constitute a threat to sovereign non-discriminatory decision-making'. Importantly, however, the decision to suspend negotiations was also driven by debates surrounding ISDS in CETA and the implications that it could have for TTIP. Specifically in a report the Commission (2015c) would note that submissions as part of consultations on ISDS 'reflect a wide-spread opposition' to ISDS, with the ISDS mechanism beings 'perceived as a threat to democracy and public finance or to public policies'. Importantly, however, concerns regarding ISDS in TTIP continued to be expressed in the US. Specifically the US's House Financial Services Committee in a letter to the Obama administration noted that 'we were very disappointed to learn that the Administration is pushing to include ISDS mechanism in TTIP that would bind our financial policies to even broader obligations than past agreements' (Waters, Clay, Ellison, & Grijalva, 2014). As a result, ISDS appears as the issue most likely to prolong TTIP negotiations.

The Commission's consultations on ISDS and its role within TTIP were finalised in January 2015 with the publication of a report. More than 97 per cent of respondents agreed with non-governmental organisations that ISDS should not be included in TTIP (European Commission, 2015c). Specifically, the report recommended four improvements to the EU's approach namely: i) the protection of the right to regulate; ii) the establishment and functioning of arbitral tribunals; iii) the review of ISDS decisions through an appellate mechanism; iv) the relationship between domestic judicial systems and ISDS' (European Commission, 2015a). Perhaps the most significant development was the proposal for the creation of a new Investment Court System. This proposal will involve fully qualified judges, transparent proceedings, with cases being decided on the basis of clear rules. According to the Commission (European Commission, 2015d), 'with this new system, we protect the governments' right to regulate, and ensure that investment disputes will be adjudicated in full accordance with the rule of law'. Bernd Lange (2015b), Chairman of the

Parliament's Trade Committee, specifically has argued that 'the newly adopted ICS-proposal… is not only an important step forward in addressing these institutional deficiencies of the existing dispute settlement system but it is also an important first building block towards a public International Investment Court'. Sentiments of this nature then demonstrate how the Commission proposals were then designed to provide a clear pretext for the resumption of TTIP negotiations in a new climate that aimed to more effectively address public concerns.

The future of ISDS in TTIP: The most likely outcomes

With the Commission's consultations and proposals during 2015 regarding ISDS in TTIP the stage has been set for negotiations to resume. In response, however, criticism of ISDS and its role in TTIP remained. Specifically Matthias Fekl (Barbière, 2015), the French Secretary of State for Foreign Trade, said that he would "never allow private tribunals in the pay of multinational companies to dictate the policies of sovereign states, particularly in certain domains like health and the environment". Nevertheless, and particularly in the second half of 2015, there has been momentum towards the resumption of TTIP negotiations on ISDS. A major event was the Parliament voting yes on a non-binding resolution in favour of TTIP negotiations with ISDS provisions. Specifically Bernd Lange (2015b) suggested that the previous ISDS provisions had been 'thrown in the dustbin of history' while offering support for TTIP negotiations. Subsequently, EU Trade Commissioner Cecilia Malmström (2015b) stated that 'we have now a proposal on the table that I believe responds to concerns expressed by the European Parliament, Member States and many social partners and other actors in Europe too. It a system that the public can trust'. Indeed, at the member state level the German government, despite expressing scepticism as recently as early 2015, is now firmly in support of an agreement with revised ISDS provisions (Kimball, 2015). Consequently, at appears that a united EU position on ISDS within TTIP may be becoming apparent, notwithstanding the need to ensure US support for the inclusion of any new provisions in negotiations.

Despite the apparent lessening of tensions over the role of ISDS in TTIP, questions remain as to whether it is likely to be included in a finalised agreement. Quick (2015, p. 209) specifically argues that by not including ISDS in TTIP this 'would amount to burying one's head in the sand' as 'the shortcomings of ISDS' would be ignored in favour of signing a

weaker agreement. Furthermore, 'since the US is negotiating the TPP which will have an ISDS chapter, Asian investors would be better protected by the US than European ones' (Quick, 2015, p. 209). As previously noted, however, the ISDS provisions in the TPP are also the subject of significant debate. This then provides the pretext for understanding why ISDS is likely to remain a key area of contestation in TTIP negotiations. As recently as September Matthias Fekl (White, 2015) threatened that 'France is examining all its options, including abandoning the negotiations all together'. These concerns reflect the reality that ISDS remains, from an EU perspective, a particularly sensitive political issue. Ultimately therefore on the issue of it appears as if the EU will have to decide to what extent it is willing to let such concerns dictate its overall approach to TTIP negotiations. The example of CETA suggests that the EU may be willing to ignore popular sentiment in order to complete what it sees an economic agreement of significant importance.

Human Rights: Bridging the gap between EU and US expectations

TTIP and Human Rights: The story so far

Both the EU and the US have a history of using trade and development assistance as a means to discourage human rights violations in relations with third countries. Despite this commitment there have been disagreements over human rights with perhaps the most notable issue being capital punishment. As the EU's Delegation to the US (2015) states, 'consistent with its global stance in seeking a moratorium on the death penalty, the EU supports the many Americans working toward that goal in their own country'. In addition to the death penalty, the EU has also expressed concern about the US's non-participation in the International Criminal Court (ICC) and its practice of rendition in operating secret jails in Eastern Europe. The European Parliament (2012) specifically has 'condemned the US-led CIA rendition and secret detention programme involving multiple human rights violations, including unlawful and arbitrary detention, torture and other ill-treatment'. These issues in EU-US, despite the overall commonality on most issues, have the potential to see human rights become an obstacle to the completion of TTIP.

With the commencement of TTIP negotiations there were obvious questions as to the role of any accompanying human rights clause. Recently the European Parliament (2015a) affirmed its commitment to ensuring that TTIP 'guarantees full respect for EU fundamental rights

standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries'. In addition, it has been suggested that similarly to the EU-Japan FTA negotiations, the European Parliament may seek to use TTIP negotiations as a means by which to try to overturn the use of the death penalty (Studdart, 2014). Such an issue is indicative also of the way the US has established a different tradition when it comes to negotiating bilateral FTAs. While the US seeks to place emphasis on human rights in the context of FTA negotiations unlike the EU there is 'no tradition of subjecting its agreements to broad human rights clauses, let alone clauses that are enforceable by means of sanctions' (Bartels, 2015, p. 90). Consequently, the EU is faced with the situation whereby it is trying to negotiate a major bilateral agreement with 'provisions on social standards with another state that also has its own tradition of negotiating provisions of this type' (Bartels, 2015, p. 90).

Towards the Resolution of Human Rights in TTIP

The issue of a human rights clause in TTIP remains an ongoing concern. As Bartels (2015, p. 90) reaffirms, 'the EU has for many years developed a consistent policy of conditioning its FTAs in compliance with human rights norms. This is likely to prove a stumbling block in TTIP negotiations'. While in relation to agreements with Singapore and Canada the EU has appeared to be willing to be somewhat flexible on the issue of a human rights clause, recent statements indicate that such flexibility may no longer be present in relation to TTIP negotiations. As recently as June 2015 Cecilia Malmström (2015a) noted the continuation of using 'strategic bilateral trade agreements like the Transatlantic Trade and Investment Partnership as a vehicle to support those EU values that we share with the US - like democracy, open markets, the rule of law, and respect for the individual'. While such a statement may in itself not indicate that the insertion of a human rights clause is a 'deal breaker' for the completion of TTIP, it does indicate the Commission's awareness of concern of the human rights issue. In particular, this can be seen in part as a response to the Parliament's affirmation of the need for a human rights clause to be included in order for the agreement to be passed.

With TTIP negotiations ongoing it is hard to ascertain as to what is likely outcome regarding the role of human rights and a human rights clause in the final agreement should they be

successfully completed. Bartels (2015, p. 90) has argued firstly, 'it is currently impossible to know what will emerge on this point from the negotiations, but given the EU's stated policy concerning human rights clauses it would be remarkable and significant if the EU gave this up in this instance'. It is likely, however that precedent was set with the completion of CETA negotiations with Canada. As the NGO European Digital Rights (EDRi) (2015) argues the consolidated text published on September 2014 of CETA 'refers only to the importance of Human Rights in the preamble and occasionally refers to them, with no apparent real applicability by any of the Parties to the agreement'. Instead EDRi suggests that 'any trade agreement should contain a binding, enforceable and suspensive Human Rights clause to promote and ensure their respect'. This clause should also include 'a mechanism establishing a periodic human rights impacts assessment, to be conducted jointly by the US Congress and the European Parliament'. As EDRi itself suggests nevertheless the example set by CETA negotiations is likely to provide the most likely model for the completion of TTIP. Consequently, similar concerns to that that were associated with the limitations of the human rights clause that accompanied CETA are again be directed toward the EU and the extent to which it is willing to compromise on what is supposedly a core aspect of its foreign policy.

The EU-Australia FTA: The next FTA in line for the EU?

Human Rights Clauses in EU-Australia Relations

Australia's Trepidation Regarding the Human Rights Clause: The 1997 and 2011-2015 Framework Agreement negotiations

The EU and Australia historically have significant commonalities when it comes to human rights issues. An example is the 2008 Partnership Framework and its emphasis on a 'shared commitment to the respect for and promotion of human rights, fundamental freedoms, democracy and the rule of law'. Despite expressing such shared values Australia and the EU do have a history of disagreement on the subject of including an operative human rights clause in a treaty level bilateral agreement. This was evident in 1997 when 'the existence of operative human rights and nonfulfillment provisions' were viewed by Australia as 'inappropriate in an agreement on trade and co-operation' (Miller, 1997). As a result of Australia abandoning negotiations for a treaty level agreement there has little prospect of FTA negotiations being able to commence. While in the subsequent decade a number of

significant and broad-based bilateral agreements were signed they were non-binding, non-treaty based political declarations with no recourse to financial resources. It was not until 2011 that this situation would change with the opening of negotiations for a new treaty level Framework Agreement. This agreement, however, was not intended, at the time, to precede FTA negotiations.

The commencement of Framework Agreement negotiations, despite previous assertions, did provide the first step towards FTA negotiations being able to occur in the future. It has been questioned, however, why Australia chose to focus 'its negotiating efforts on concluding a framework treaty, given the importance of the EU as a trading partner for Australia and given the fact that the policy authority of the EU's institutions is focused on international trade' (Kenyon & van der Eng, 2013, p. 226). Comparison was specifically made to 'the approach taken by Canada to focus its negotiating efforts on concluding a comprehensive trade pact with the EU', in conjunction with 'a framework treaty' (Kenyon & van der Eng, 2013, p. 226). The decision to not negotiate on both agreements simultaneously, however, may have been wise given that the issue of the human rights clause again emerged in negotiations for the Framework Agreement. Former Australian Defence Minister and EU Ambassador to the EU Brendan Nelson (2013) specifically criticised the need 'to link existing agreements and future agreements to noncompliance provisions on human rights and the rule of law'. Nelson labelled these provisions as 'nonsense' bringing into question again whether Australia would ever sign a Framework Agreement, let alone an FTA, with the EU (Yencken, 2015, p. 437).

The Resolution of the Human Rights Clause Issue: Implications for FTA negotiations

After four years of negotiations an announcement was made in 2015 that negotiations for the Framework Agreement had been completed. This announcement came after a lengthy period where limited reference to the status of the agreement was made public by either the EU or Australia. The exact nature of how the human rights clause issue was resolved remains unknown as the contents of the agreement have not been released publically. This nevertheless leads to speculation that the issue may have been resolved in a manner similar to that with the Canada SPA and its commitment to only suspend that and other agreements in the event of 'grave crimes that threaten the peace, security and well-being of the international community'. In addition, there is also the possibility of the inclusion of a side letter in the

agreement, in a manner similar to the Singapore PCA, that states that both parties are 'not aware, based on objectively available information, of any of each other's domestic laws, or their application, which could lead to the invocation of the non-execution mechanism' (Council of the EU, 2014). As a result while negotiations for the Framework Agreement may have been completed, the question nevertheless remains as to the extent to which the EU has been willing to compromise on its stated commitment to include substantive operative human rights clauses in the PCAs that it signs with third countries.

ISDS: Its potential place in an EU-Australia FTA

Learning from CETA and TTIP: ISDS in an EU-Australia FTA

With the resolution of the human rights clause issue all elements were in place for the EU to open FTA negotiations with Australia. After initial discussions in 2014 a definite commitment to open negotiations in 2016 was made in late 2015. As a result, speculation inevitably arises to what issues may feature in negotiations. Despite its controversy ISDS, however is likely to be a feature of an EU-Australia FTA as demonstrated by the recent agreements completed by both parties in the form of CETA and the TPP. From an Australian perspective ISDS has been also been feature of a number of major FTAs signed by the current government with South Korea and China. These agreements come in addition to the TPP which contains ISDS provisions. Regarding the TPP Australia is similar to Canada in that 'the economies of both countries are dominated by US investors (27% of foreign investment in Australia and nearly half in Canada)' (Tienhaara, 2015). A major difference is that 'Australia has never agreed to provide American investors with access to ISDS, whereas Canada has'. This is a notable decision given Canada's experience of being sued under ISDS a significant number of times. Australia in comparison has only been sued by Philip Morris in relation to the government's plain packaging legislation for cigarette packaging. As of the end of 2015 this case is still ongoing with Australia estimated to have spent $A50 million defending its case against Philip Morris at an international tribunal (Martin, 2015). As a result, Australia despite only having one specific negative experience with ISDS is likely to be cautious in the way it approaches the issue in FTA negotiations with the EU.

Given recent agreements signed and under negotiation it is still expected that the EU will seek to have an ISDS clause included in any EU-Australia FTA. On the subject of an FTA, EU Ambassador to Australia Sem Fabrizi (2015) noted the 'move towards Free Trade

Agreement negotiations with Australia, in recognition of Australia's interest in an FTA with the EU, but also our shared values and strong cooperation in many other areas'. Regarding ISDS the EU, according to its most recent trade strategy in which FTA negotiations with Australia were first formally raised, stressed that future 'EU bilateral agreements will begin the transformation of the old investor–state dispute settlement into a public Investment Court System composed of a Tribunal of first instance and an Appeal Tribunal operating like traditional court' (European Commission, 2015e). This indicates that despite any concerns over the inclusion of ISDS provisions in CETA and TTIP, the EU still sees reformed ISDS provisions as important components of future FTAs signed with third countries such as Australia.

A More Cautious Approach? Early indications as to the role of ISDS in EU-Australia FTA negotiations

In the most recent consultations on the EU-Australia FTA, investment has featured as one of the major issues discussed. ISDS specifically can be seen as being guided by the EU's recent experience negotiating CETA and TTIP. Similarly to these agreements the concept of an International Investment Court has been has been reaffirmed as a means to address the way ISDS has previously been incorporated into agreements in a manner 'which critics see as subject to abuse and conflicts of interest and lacking transparency (Fabrizi, 2015). A more cautious approach to ISDS nevertheless is likely to coalesce with the approach of Australia which approaches the issue 'on a case-by-case basis' where Australia has agreed 'to include ISDS in an agreement' with 'appropriate safeguards' put in place to 'protect legitimate government regulation in areas of public policy interest, such as health and the environment' (DFAT, 2015). It appears then that EU-Australia FTA could be one of the first negotiations to commence in the period subsequent to the EU's decision to hold public consultations on ISDS in view of the controversy of its inclusion in CETA and TTIP. Australia similarly is likely to want to be cautious given its involvement in the TPP and the concerns that have been raised regarding the role of ISDS in this particular agreement. Furthermore, even the EU's International Investment Court has been seen as problematic as it is still said to discriminate 'between domestic and foreign investors' according to critics such as Liina Carr (2015), Confederal Secretary of the European Trade Union Confederation. The extent therefore to which the EU and Australia are able to significantly such concerns regarding

ISDS are likely to remain unknown for some time given that FTA negotiations are only in a preliminary phase.

Conclusion

The completion of CETA negotiations in 2014 was undoubtedly of great significance for both parties involved. From the EU's perspective it was seen at the time as the most significant 'new generation' FTA singed with a high developed third country. As the paper has discussed, however, CETA is also significant in terms of the way the EU has attempted to deal with contentious issues such as human rights clauses and ISDS. Regarding the need to include an operative human rights clause, the EU has attempted to continue its insistence that such provisions be include in the accompanying SPA that was completed in conjunction with CETA. Since the publication of both agreements, however, it appears that there is only a relatively weak commitment to suspending both agreements in circumstances such as a coup d'état. To a similar extent as the human rights clause, the EU attempted to articulate a clear strategy prior to the opening of negotiations restricting ISDS breath and applicability. Subsequent to negotiations apparently being finalised in 2014, questions have remained as to ISDS and its role within CETA. A clear example was the decision of the Commission to open consultations on ISDS in 2014 due to criticism, particularly from the European Parliament, on the ISDS provisions included in CETA. These consultations resulted in submissions whereby 'almost a half of the replies contain various negative statements also against CETA, or calls to stop the agreement or calls to exclude ISDS from it' (European Commission, 2015c). The resultant delay in the finalisation of CETA is indicative of the way that the EU, on ISDS and indeed human rights, has had difficulty in effectively addressing previously outlined objectives as to how it was to approach new-generation FTA negotiations.

TTIP and EU-Australia FTA negotiations serve as useful additional examples as to continuing difficulties that the EU is likely to face in managing expectations as to how it approaches major bilateral agreements. Much of the controversy surrounding TTIP specifically it must be noted firstly has emanated from the ongoing debate surrounding ISDS and its position within CETA. Nevertheless ISDS remains an example, within the context of TTIP, of the difficulty that the EU faces particularly due to the sensitivity with which the

Parliament and civil society view the ‘issue in part because more than 300 dispute settlement cases have been brought to special arbitration tribunals by investors on the basis of existing bilateral investment agreements’ (Bierbrauer, 2014). In addition, the inclusion of operative human rights clauses has been the subject of debate in agreements accompanying TTIP and the EU-Australia FTA. While the human rights clause issue has been resolved in the case of the EU-Australia relationship, via the finalisation of negotiations on a Framework Agreement, it is likely that the EU has completed an agreement that contains a clause that is significantly weaker than has been envisaged in key EU strategy documents. With both TTIP and the EU-Australia FTA still under negotiation a key question will remain as to what extent the EU is willing to compromise on previously stated objectives in order to secure bilateral trade agreements.

Bibliography

Adams, M., Brown, N., & Wickes, R. (2013). *Trading Nation: Advancing Australia's interests in world markets.* Sydney: UNSW Press.

Alegre, S. (2008, September). The EU's External Cooperation in Criminal Justice and Counter-terrorism: An Assessment of the Human Rights Implications with a particular focus on Cooperation with Canada. *Centre for European Policy Studies* .

Barbière, C. (2015, January 15). *France and Germany to form united front against ISDS*. Retrieved December 30, 2015, from EurActiv: http://www.euractiv.com/sections/trade-society/france-and-germany-form-united-front-against-isds-311267

Bartels, L. (2015). The Transatlantic Trade and Investment Partnership (TTIP) Negotiations between the EU and the USA: Caught between Myth and Reality? In S. Khorana (Ed.), *The EU's Approach to Social Standards and the TTIP*. Barcelona: Barcelona Centre for International Affairs.

Bierbrauer, E. (2014, October). *Negotiations on the EU-Canada Comprehensive Economic and Trade Agreement (CETA) concluded*. Retrieved December 29, 2015, from European Parliament: http://www.europarl.europa.eu/RegData/etudes/IDAN/2014/536410/EXPO_IDA(2014)536410_EN.pdf

Blanchfield, M. (2013, August 10). *EU-Canada Trade Deal Talks Hit Snag Over Human Rights Issues*. Retrieved December 30, 2015, from Huffington Post Canada: http://www.huffingtonpost.ca/2013/10/08/eu-canada-trade-deal_n_4065145.html

Brown, S. (2014, September 25). *Germany wants investment clause scrapped in EU-Canada trade deal*. Retrieved December 30, 2015, from Reuters: http://www.reuters.com/article/us-trade-eu-canada-idUSKCN0HK1DM20140925

Carr, L. (2015, December). *INTA Public hearing on Trade Relations with Australia & New Zealand, 1 December 2015*. Retrieved December 30, 2015, from European Parliament: https://polcms.secure.europarl.europa.eu/cmsdata/upload/1f0de4d2-de42-4ce0-bfc3-8f35deb4d05c/Ms%20Carr_INTA%20Hearing_AUNZ.pdf

Council of the EU. (2014, February 17). Proposal for a Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part. *The Council of the European Union*.

Delegation of the European Union to Canada. (2015, November 5). *EU-Canada Political Relations*. Retrieved December 29, 2015, from European External Action Service: http://eeas.europa.eu/delegations/canada/eu_canada/political_relations/index_en.htm

DFAT. (2015). *Investor-State Dispute Settlement*. Retrieved December 30, 2015, from Department of Foreign Affairs and Trade: http://dfat.gov.au/trade/topics/pages/isds.aspx

EU Delegation to the US. (2015, July). *Leading the Fight against Capital Punishment: EU Opposition to the Death Penalty*. Retrieved December 30, 2015, from Delegation of the European Union to the United States: http://www.euintheus.org/wp-content/uploads/2015/07/EU_MATTERS_Death_Penalty_WO12.pdf

European Commission. (2011, September 15). Sustainability Impact Assessment: EU-Canada Final Report Briefing Document. *European Commission*.

European Commission. (2013a, June 14). *Member States endorse EU-US trade and investment negotiations*. Retrieved December 30, 2015, from European Commission: http://europa.eu/rapid/press-release_MEMO-13-564_en.htm

European Commission. (2013b, October 3). *Factsheet on Investor-State Dispute Settlement*. Retrieved December 30, 2015, from European Commission: http://trade.ec.europa.eu/doclib/docs/2013/october/tradoc_151791.pdf

European Commission. (2014, September 29). *Investment Provisions in the EU-Canada Free Trade Agreement* . Retrieved December 30, 2015, from European Commission: http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151918.pdf

European Commission. (2015a, May 15). *Investment in TTIP and beyond – The path for reform*. Retrieved December 29, 2015, from European Commission: http://europa.eu/rapid/press-release_IP-15-5651_en.htm

European Commission. (2015b, November 3). *CETA: Questions and Answers*. Retrieved December 29, 2015, from European Commission: http://ec.europa.eu/trade/policy/in-focus/ceta/questions-and-answers/

European Commission. (2015c, January 13). *Report on the online consultation on investment protection and investor-to-state dispute settlement in the Transatlantic Trade and Investment Partnership Agreement*. Retrieved December 30, 2015, from European Commission: http://europa.eu/rapid/press-release_MEMO-15-3202_en.htm

European Commission. (2015d, September 16). *Commission proposes new Investment Court System for TTIP and other EU trade and investment negotiations*. Retrieved December 30, 2015, from European Commission: http://europa.eu/rapid/press-release_IP-15-5651_en.htm

European Commission. (2015e, October). Trade for all: Towards a more responsible trade and investment policy. *European Commission*.

European Consumer Organisation. (2014, June 6). *Finalised EU-Canada deal grants excessive investor rights*. Retrieved December 30, 2015, from The European

Consumber Organisation: http://www.beuc.eu/publications/beuc-web-2014-23_ceta_finalised.pdf

European Digital Rights. (2015). *TTIP and Digital Rights.* Brussels: European Digital Rights.

European Parliament. (2008, April 24). *European Parliament resolution of 22 May 2007 on Global Europe - External aspects of competitiveness*. Retrieved December 29, 2015, from European Parliament: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52007IP0196

European Parliament. (2011, June 8). *European Parliament resolution of 8 June 2011 on EU-Canada trade relations*. Retrieved December 30, 2015, from European Parliament: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0257+0+DOC+XML+V0//EN

European Parliament. (2012, September 11). Alleged transportation and illegal detention of prisoners in European countries by the CIA. *European Parliament*.

European Parliament. (2013, December 10). *Negotiations for an EU-Canada strategic partnership agreement*. Retrieved December 30, 2015, from European Parliament: http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0532&language=EN

European Parliament. (2015a, March 3). *TTIP: Trade agreements must not undermine EU data protection laws, say Civil Liberties MEPs*. Retrieved December 30, 2015, from European Parliament: http://www.europarl.europa.eu/news/en/news-room/20150330IPR39308/TTIP-Trade-agreements-must-not-undermine-EU-data-protection-laws-say-MEPs

European Parliament. (2015b, April 5). *Recommendations to the European Commission on the negotiations for TTIP*. Retrieved December 30, 2015, from European Parliament: http://www.europarl.europa.eu/RegData/commissions/juri/avis/2015/549425/JURI_AD(2015)549425_EN.pdf

Fabrizi, S. (2015, Dcemeber 9). *Ambassador Sem Fabrizi address at the National Press Club 09 December*. Retrieved December 29, 2015, from EU Delegation to Australia : http://eeas.europa.eu/delegations/australia/press_corner/speeches/09_12_15.htm

Ferrero-Waldner, B. (2005, April 14). *The International Criminal Court, Transatlantic Relations and Co-operation with Third Parties to Promote the Rule of Law*. Retrieved December 30, 2015, from European Commission: http://europa.eu/rapid/press-release_SPEECH-05-228_en.htm?locale=en

Freeman, S. (2015, January 14). *NAFTA's Chapter 11 Makes Canada Most-Sued Country Under Free Trade Tribunals*. Retrieved December 30, 2015, from The Huffington Post: http://www.huffingtonpost.ca/2015/01/14/canada-sued-investor-state-dispute-ccpa_n_6471460.html

Garcia, M. (2013). From Idealism to Realism? EU Preferential Trade Agreement Policy. *Journal of Contemporary European Research, 9*(4), 521-541.

Garcia, M., & Masselot, A. (2015). EU-Asia Free Trade Agreements as tools for social norm/legislation transfer. *Asia Europe Journal, 13*(3), 241–252.

Gauthier, A., & Holden, M. (2010). *Canandian-European Union Trade Negotiations: Dispute Settlement.* Ottawa: Library of the Canadian Parliament.

Government of Canada. (2013, August 9). *Political and Security Issues*. Retrieved December 29, 2015, from Government of Canada: http://www.canadainternational.gc.ca/eu-ue/policies-politiques/pol_sec.aspx?lang=eng

Johnson, P. M. (2014). Guest Editorial: The Comprehensive Economic and Trade Agreement between Canada and the European Union. *European Foreign Affairs Review, 19*(4), 479-482.

Kenyon, D., & van der Eng, P. (2013). Defining the relationship between Australia and the European Union: is the framework treaty enough? *Australian Journal of International Affairs, 68*(2), 225-242.

Kimball, S. (2015, October 31). *German frustration builds over TTIP secrecy from US*. Retrieved December 22, 2015, from Deutsche Welle: http://www.dw.com/en/german-frustration-builds-over-ttip-secrecy-from-us/a-18819097

Koivusalo, M., Sinclair, S., & Labonte, R. (2011). *The Proposed EU-Canada Trade Agreement Raises Health Concerns in Both Canada and the European Union.* Ottawa: Canadian Centre for Policy Alternatives.

Lange, B. (2015b, July 6). *Bernd Lange on TTIP: "We have to be transparent"*. Retrieved December 30, 2015, from European Parliament: http://www.europarl.europa.eu/news/en/news-room/20150701STO72930/Bernd-Lange-on-TTIP-We-have-to-be-transparent

Lange, B. (2015b, November 11). Letter to Cecilia Malmström, Commissioner for Trade.

Malmström, C. (2015a, June 11). *An integrated EU trade and foreign policy*. Retrieved December 30, 2015, from European Commission: http://trade.ec.europa.eu/doclib/docs/2015/june/tradoc_153532.pdf

Malmström, C. (2015b, November 17). *TTIP: How it benefits social partners*. Retrieved December 30, 2015, from European Commission: http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_153968.pdf

Martin, P. (2015, July 28). Australia faces $50m legal bill in cigarette plain packaging fight with Philip Morris. *Sydney Morning Herald*.

Miller, V. (1997). *The Human Rights Clause in the EU"s External Agreements.* London: House of Commons Library.

Nelson, B. (2013, September 18). *National Press Club Address*. Retrieved November 21, 2014, from Australian War Memorial: http://www.awm.gov.au/education/talks/national-press-club-address/

Office of the US Trade Representative. (2015, March). *Investor-State Dispute Settlement*. Retrieved December 30, 2015, from Office of the United States Trade Representative: https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2015/march/investor-state-dispute-settlement-isds#

Quick, R. (2015). Why TTIP Should Have an Investment Chapter Including ISDS. *Journal of World Trade, 49*(2), 199-210.

Renard, T. (2015, June 9). *The EU's strategic partnership agreements: balancing geo-economics and geopolitics*. Retrieved December 30, 2015, from Royal Institute for International Relations: http://www.egmontinstitute.be/publication_article/eu-strategic-partnership-agreement/

Studdart, A. (2014). Europe's Trade Strategy at a TTIP-ing Point. *Global Economics Monthly, 3*(7), 1-2.

The Council of Canadians . (2013, November 25). *Stop the Corporate Giveaway! A transatlantic plea for sanity in the EU–Canada CETA negotiations*. Retrieved December 30, 2015, from The Council of Canadians : http://canadians.org/blog/stop-corporate-giveaway-transatlantic-plea-sanity-eu%E2%80%93canada-ceta-negotiations

Tienhaara, K. (2015, October 9). *Canada has an ISDS clause with the US. It has faced 35 challenges. Is this Australia's future?* Retrieved December 30, 2015, from Australian National University: http://www.anu.edu.au/news/all-news/canada-has-an-isds-clause-with-the-us-it-has-faced-35-challenges-is-this-australias

UK Parliament. (2014, March 19). EU-Singapore Partnership and Cooperation Agreement: European Scrutiny Committee . *Parliament of the United Kingdom*.

Von Der Burchard, H. (2015, December 9). *Canada's fresh push for EU trade deal*. Retrieved December 14, 2015, from Politico Europe: http://www.politico.eu/article/canada-trade-deal-ttip-ceta-malmstrom-trudeau/

Warren, E. (2015, February 2). The Trans-Pacific Partnership clause everyone should oppose. *The Washington Post*.

Waters, M., Clay, W. L., Ellison, K., & Grijalva, R. M. (2014, December 3). *Leading House Members Urge Administration to Elevate Financial Stability in Trade Talks with E.U.* Retrieved December 30, 2015, from US House Committee on Financial Services Services: Democrats:

http://democrats.financialservices.house.gov/news/documentsingle.aspx?DocumentID=398651

Weston, G. (2012, November 19). *Secret document details new Canadian foreign policy*. Retrieved December 30, 2015, from Canadian Broadcasting Corporation : http://www.cbc.ca/news/politics/secret-document-details-new-canadian-foreign-policy-1.1152385

White, S. (2015, September 29). *France threatens to pull out of TTIP negotiations*. Retrieved December 30, 2015, from EurActiv: http://www.euractiv.com/sections/trade-society/france-threatens-pull-out-ttip-negotiations-318039

Yencken, E. (2015). Like-minded partners in the Asia-Pacific region? The EU's expanding relationship with Australia. *Asia Europe Journal, 13*(4), 425-441.