



CETA AND THE EUROPEAN OPPOSITION TO CLONING

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INTRODUCTION

Even though CETA preemptively enters into force on 21 September 2017, EU member state parliaments still have the right and responsibility to cancel or ratify the EU's trade deal with Canada. In order to do so, member state parliaments must first confront a series of critical questions regarding CETA, including its implications for the future of European food and agriculture. One such question relates to imports of food derived from cloned animals into European supermarkets.

CETA undermines governments' ability to create 'trade restrictive' regulations (see Briefing Paper 1 for more information). This leaves labelling and traceability requirements on the trading of genetic material of clones, or meat from their offspring, susceptible to challenge. Yet consumers on both sides of the Atlantic want their governments to develop stronger rules on cloning, mandatory labelling and effective traceability systems for food derived from cloned animals and their offspring. Given Canada's success in dismantling country of origin labelling (COOL) for meat sold in the US (see Briefing Paper 2), creating and strengthening much-needed laws on labelling and traceability of clones and their offspring may become extremely difficult after CETA.

Canada, the US and Mexico are members of the North American Free Trade Agreement (NAFTA). NAFTA created porous borders between the US and Canada – particularly with regards to the meat and live animal trades. While the US requires no labelling of products derived from clones, both Canada and the EU currently have similar regulations on foods from animal clones. Both designate them as 'novel foods'. To date, such foods have

not been approved for entry into the consumer market in either region, and require official approval before being allowed for sale.

However, both Canada and the EU lack systems for detecting the presence of cloned material in imported animal products. They also lack domestic mechanisms to distinguish between conventional animals and cloned ones, including their genetic material and their offspring. This is despite strong support from European citizens and the European Parliament for mandatory labelling and tracing of clones and their offspring.

Farm animals are typically cloned to create optimal traits for breeding. Genetic material from clones is mostly used for breeding cows or pigs, but the technique is also used on other animals including goats, sheep and horses. Studies on cloning reveal that 73 percent of pregnant cows and 35 percent of pregnant sows suffer miscarriages, while 13 percent of calves and 16 percent of piglets are stillborn—leading to tremendous suffering of the animals.¹

Fifteen key countries that use cloning techniques also export animal products or genetic material to the EU (Argentina, Australia, Botswana, Brazil, Canada, Chile, China, Japan, Namibia, New Zealand, Norway, Paraguay, Uruguay, United States and Switzerland).² Hundred percent of imported pig sperm/egg and 98 percent of imported bovine sperm/egg to the EU come from the US and Canada.³ According to the European Commission's impact assessment on cloning, "Milk and meat from the offspring or descendants of cloned bovine animals have entered the food chain in the US and may have done so in Argentina; these are the products most likely to

continue to enter human food chains in the near future.”⁴ Commercial cloning of pigs is also “becoming more common” in the US.⁵

Through CETA, the EU will become further integrated with the Canadian (and consequently North American) meat industry. The lack of mandatory US labelling laws on cloning, combined with the frequent trading of live cattle, pigs, genetic material and other animal products between the US and Canada, make the presence of cloned material and clone offspring in the Canadian meat and dairy supply highly likely.

“Currently...it is impossible to draw sufficiently reliable and comprehensive data on the imports of sperm from cloned bulls and their usage in European cattle breeding programmes... Consequently, products from the offspring of cloned bulls can be placed unnoticed on the EU market and seriously limit or remove choices for farmers, food producers and consumers.”⁶

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CETA will lead to closer integration of the Canadian and European markets. This is likely to contribute to an increase of clone-derived products in European food supplies, without consumers knowing. At the same time, CETA will create a roadblock to efforts to trace, label and/or stop the import of foods or genetic material derived from clones or their offspring into the EU.

Domestic efforts to adopt regulations to track and distinguish cloned animals and their offspring from other animals may also be obstructed, because such regulations could be considered trade restrictive for the North American meat industry. Rather than upholding consumer concerns, the deal is likely to lead to more uncertainty about the presence of clone-derived animal products in European supermarkets. While the European Parliament’s resolution on the US/EU trade deal (TTIP) recognised that the EU and US have significantly different rules on cloning for farming purposes, and called on the EU not to negotiate on these issues, it failed to establish such red lines in the negotiations with Canada. The CETA text does not exempt cloning regulations from its deregulatory provisions. In failing to address this issue, the European Commission, Council and Parliament did not recognise the significance of the integrated structure of meat and animal trade between the US and Canada. As a result, they have further opened the European market to foods and other products derived through clone technology. Member state parliaments should not make the same mistake, and should say no to CETA.

WHAT IS CLONING AND WHY IS IT BAD FOR FARM ANIMALS?

Cloning is a practice primarily used for the animal breeding sector and involves the use of biotechnology and embryo transfer into surrogate mothers. It is used in the meat and dairy industry to create identical animals with ideal traits for meat and dairy production. The offspring of clones can be integrated into the meat and dairy supply chain. Genetic material from clones is mostly used for breeding cows or pigs, but the technique is also used to breed goats, sheep and horses.

Cloning is associated with several animal welfare and ethical concerns. Cloning leads to high rates of deformities in cloned cattle, sheep and fish – both before and after birth.⁷ These include problems with breathing, the bladder, the heart and kidneys, and increased susceptibility to infectious diseases.⁸ Since surrogate mother animals (those carrying the clone) frequently miscarry,⁹ numerous embryos

must be implanted into one animal.¹⁰ Studies on cloning reveal that 73 percent of pregnant cows and 35 percent of pregnant sows suffer miscarriages, while 13 percent of calves and 16 percent of piglets are stillborn.¹¹ Clone abnormalities and large offspring contribute to difficult births and neonatal deaths more frequently than conventional animals.¹² The surrogate mother animals often endure tremendous pain, with severe health problems that can lead to death.¹³

The European Food Safety Agency’s (EFSA) most recent statement, in 2012, reiterated that there are uncertainties in the risk assessment of cloned animals with regards to food safety because of limited studies, small sample sizes and the lack of a uniform approach.¹⁴ In addition, they cited negative effects on the health and welfare of a significant proportion of clones.



Both European and Canadian consumers have serious concerns about animal cloning. Eighty-four percent of Europeans surveyed had concerns about the long-term environmental effects of cloning, and two-thirds believed that there are ethical grounds for rejecting animal cloning.¹⁵ Eighty-three percent said they wanted foods derived from clone offspring to be labelled, if they were to become available in grocery stores.¹⁶ A 2013 poll from the Angus Reid Institute, a prominent Canadian public opinion research organisation, found that only 26 percent of Canadians believe cloning animals is morally acceptable.¹⁷

How do European consumers know if their food imports include material derived from clones and their offspring?

Consumers currently have no way of knowing. The EU lacks essential systems and regulations for tracing and labelling clone-derived food imports.¹⁸ It also lacks effective mechanisms to differentiate between clones, their offspring and conventional animals.¹⁹ Moreover, EU labelling laws do not require that meat products include the animals' ancestry information, and thus do not facilitate the labelling of meat from clone offspring.²⁰ Effective clone labelling laws would necessitate a system that traces animal products back to the individual animals used to produce them. **Such a system does not yet exist in the EU.** Consumers, therefore, currently cannot know whether their food was derived from clone offspring.

SUMMARY OF CURRENT CLONING REGULATIONS IN THE EU, CANADA AND THE US

Canada and the EU currently have similar regulations on foods from animal clones. Both designate them as 'novel foods'. To date, such foods have not been approved for entry into the consumer market in either region, and require official approval before being allowed for sale.²⁸

CANADIAN REGULATIONS

The Canadian Food Inspection Agency (CFIA) is responsible for assessing food products derived through animal biotechnology, including cloned animals. Under Canada's food and drug regulations, products entailing cloning must undergo a pre-market assessment to determine whether there are health and safety concerns.²⁹ Should a product derived from clones be approved by Health Canada (the federal department responsible for controlling and regulating food products to ensure food safety), it can require mandatory labelling if it deems there are health or safety concerns.³⁰ In the absence of these concerns, voluntary labelling is permitted, as long as the claim is not misleading or deceptive.³¹ To date, no foods derived from clones have been approved for release into the Canadian market.

EU REGULATIONS

Proposed amendments to the EU's Novel Food regulations in 2008 led to a rigorous debate on cloning in the EU.³² Since then, tensions have lingered between the European Council and the Parliament on this issue. A proposal to strengthen and enact regulations specifically on cloning was tabled by the Commission and strengthened by the Parliament, which voted to ban all food containing cloned material, including that from the descendants of clones.³³ Member states could not agree on how strong the ban should be, and thus the proposal was stalled in the Council.

Until a cloning-specific legislation is enacted, foods derived from animal clones fall under the scope of the Novel Foods Regulation (2015/2283)



adopted in 2015.³⁴ Under this Regulation, foods derived from animal clones are not banned, but simply subject to a pre-market authorisation for novel foods. Moreover clone-derived products require no special labelling, and are subject to the same set of rules that apply to all other foods in the EU under the food information regulations.

IMPACT FROM THE LACK OF US REGULATIONS

In contrast to the EU and Canada, there is no pre-market health and safety assessment process required for clones in the US, nor are there systems in place for labelling, monitoring or tracking cloned animals and products,³⁵ so it is difficult to identify where cloned animals or their offspring (and products derived from both) are in the US food supply or exports.³⁶ This limits importers' ability for oversight and monitoring of US imports of cloned material.

Like Canada, the European Commission has not yet received any application for clone-derived foods under the Novel Food Regulation, and so no foods derived from cloned animals have been approved for sale in Europe.³⁷ However, it is possible that food derived from clone offspring may have entered the consumer food chain due to imports of meat/dairy products, live animals and genetic materials for breeding that originated in the United States.³⁸

CETA will likely increase the entry of clone-derived material into the EU, while severely restricting governments' ability to strengthen current regulations and adopt more restrictive regulations on cloning. This is because CETA further integrates the European agricultural market with that of North America, thereby increasing the likelihood that clone-derived materials originating in the US are imported into the EU via Canada. Canada's experience under NAFTA provides a cautionary lesson. Livestock and meat may cross the US and Canadian border (at least once) before becoming food sold to consumers,³⁹ making it difficult to identify the origin and flow of products.

In 2015, the US exported live cattle to over 20 countries, but the largest portion of exports (53 percent) went to Canada, with Mexico as the second largest (28 percent).⁴⁰ In 2016, the US exported 37,292 live cattle and calves and 2,561 live swine to Canada.⁴¹ CETA increases quotas for duty-free meat imports from Canada to the EU to 75,000 tons for hormone-free pork and 45,840 tons for hormone-free beef over a six-year transition period.⁴² The probability of clone-derived products entering the EU market will increase.

Additionally, Canada has inadequate traceability systems for cloning, making it difficult for European regulators to know which Canadian imports have clone-derived material. The Canadian Cattle Identification Agency and the Canadian Pork Council have mandatory traceability systems for cattle and pigs to ensure traceback to their farms (in the event of a food safety or herd health issue),⁴³ including for live animals imported from the US. However, the lack of labelling requirements in the US prevents Canadians from knowing which animals are derived from cloning. According to experts, "It will be difficult, if not impossible, for Canadian regulators to halt the movement of these cloned animals, their progeny and their products across the Canada-US border...it is impossible to identify them without a reliable traceability system in place, which fails to exist in either Canada or the US."⁴⁴

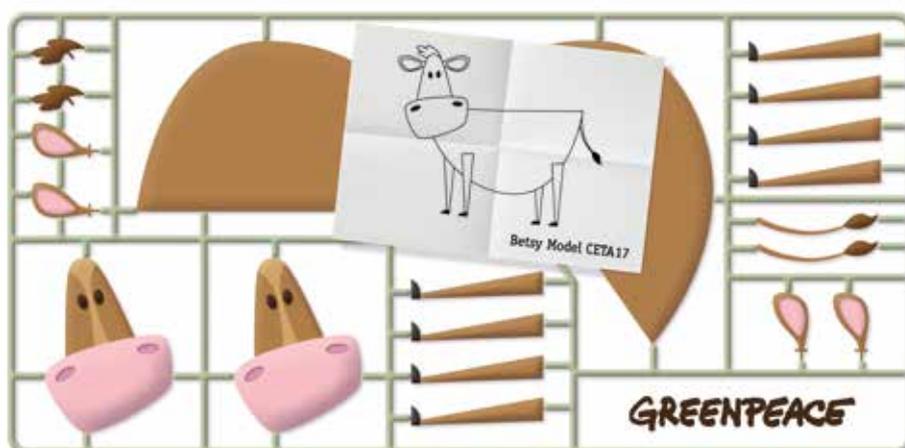
New legislation may be considered an unjustified barrier to trade under CETA's Technical Barriers to Trade chapter (CETA, chapter 4).⁴⁵ This is despite the European Parliament and others having identified the need for a system of mandatory registration and labelling of clones and clone offspring to enhance transparency and traceability.

If in spite of these hurdles, stronger regulations on clones and their offspring are enacted after CETA is ratified across the EU, they could also be subject to the Investor Court System. CETA's investment chapter empowers foreign investors (including meat processing corporations) to sue governments directly through the Investor Court System. It enables Canadian corporations to directly challenge EU and member state domestic laws, policies or regulations on the basis of alleged discrimination or loss of potential profits, and to receive compensation.⁴⁶

CONCLUSION

Labelling and traceability requirements in the trading of genetic material of clones, or meat from their offspring, are susceptible to challenge on these grounds. Yet consumers on both sides of the Atlantic want their governments to develop stronger rules on cloning, with mandatory labelling and effective traceability systems for food derived from cloned animals and their offspring. The European Parliament's resolution on TTIP recognised that the EU and US have significantly different rules on cloning for farming purposes, and called on the EU not to negotiate on these issues.⁴⁷

However, the Parliament failed to establish similar red lines with Canada. CETA does not exempt cloning regulations from its deregulatory provisions. The European Commission, Council and Parliament have all failed to acknowledge the integrated structure of meat and animal trade in north America between the US and Canada, and as a consequence have further opened the European market up to foods and other products derived through clone technology. Member state parliaments should not make the same mistake, and should say no to CETA.



ENDNOTES

- 1 Broom, D.M., and R.D. Kirkden. "Welfare of Genetically Modified and Cloned Animals Used for Food." Surrey: Compassion in World Farming (CIWF), November 2012. https://www.ciwf.org.uk/media/4237869/welfare_of_genetically_modified_and_cloned_animals_used_in_food.pdf
- 2 European Commission (EC). "Commission Staff Working Document: Impact Assessment. Accompanying the document: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the cloning of animals of the bovine, porcine, ovine, caprine and equine species kept and reproduced for farming purposes, and Proposal for a COUNCIL DIRECTIVE on the placing on the market of food from animal clones." Brussels: 18 December 2013. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013SC0519&qid=1415613126137&from=EN> (accessed August 31).
- 3 Ibid, pg. 21.
- 4 Ibid.
- 5 Ibid.
- 6 Brendel, Frank, and Christoph, Then. "Breeding material from cloned bulls in the US imported into the EU – and related current gaps in regulation: Transparency and freedom of choice put at risk by the CETA free trade agreement." Munich: Testbiotech, February 2017, P.4. https://www.testbiotech.org/sites/default/files/Testbiotech_cloned%20bulls%20and%20CETA.pdf (accessed August 31).
- 7 European Food Safety Authority (EFSA). "Cloning." <http://www.efsa.europa.eu/en/topics/topic/cloning> (accessed April 11, 2017).
- 8 EFSA. "Cloning." 2017.
- 9 Recent studies on cloning reveal that 73% of pregnant cows suffer miscarriages and 13% of calves are stillborn. Only 78% of the calves that were born survived to weaning age. Sixteen percent of piglets born through cloning are stillborn; while 35% of pig pregnancies end in miscarriages. See Broom & Kirkden. "Welfare of Genetically Modified and Cloned Animals Used for Food." 2012.
- 10 Broom & Kirkden. "Welfare of Genetically Modified and Cloned Animals Used for Food." 2012.
- 11 Broom, D.M., and R.D. Kirkden. "Welfare of Genetically Modified and Cloned Animals Used for Food." Surrey: Compassion in World Farming (CIWF), November 2012. https://www.ciwf.org.uk/media/4237869/welfare_of_genetically_modified_and_cloned_animals_used_in_food.pdf
- 12 EFSA. "Cloning." 2017.
- 13 The European Consumer Organisation (BEUC). "EU consumers have little appetite for cloning." European Parliament Hearing on Animal Cloning for Food Supply, February 23, 2015. http://www.europarl.europa.eu/meetdocs/2014_2019/documents/cj14/dv/beuc_/beuc_en.pdf
- 14 EFSA. "Cloning." 2017.
- 15 BEUC. "EU consumers have little appetite for cloning." 2015.
- 16 Ibid.
- 17 Angus Reid Public Opinion. "Americans More Morally Conservative Than Canadians and Britons." Vancouver, 2013. http://angusreidglobal.com/wp-content/uploads/2013/01/2013.01.31_Morality.pdf
- 18 European Commission. "Study on the labelling of products from cloned animals and their offspring." Final report by the European Commission. Brussels, November 2015. https://ec.europa.eu/food/sites/food/files/animals/docs/aw_other_aspects_cloning_study201511_summary.pdf
- 19 Broom, D.M., and R.D. Kirkden. "Welfare of Genetically Modified and Cloned Animals Used for Food." Surrey: Compassion in World Farming (CIWF), November 2012. https://www.ciwf.org.uk/media/4237869/welfare_of_genetically_modified_and_cloned_animals_used_in_food.pdf
- 20 European Commission. "Study on the labelling of products from cloned animals and their offspring." Final report by the European Commission. Brussels, November 2015. https://ec.europa.eu/food/sites/food/files/animals/docs/aw_other_aspects_cloning_study201511_summary.pdf
- 28 European Commission. "Other aspects of animal welfare: Cloning." Last modified April 7, 2017. https://ec.europa.eu/food/animals/welfare/other_aspects/cloning_en (accessed May 3). Canadian Food Inspection Agency (CFIA). "Animal Biotechnology – Roles and Responsibilities of the Government of Canada." Last updated March 31, 2015. <http://www.inspection.gc.ca/animals/animal-biotechnology/roles-and-responsibilities/eng/1334783323017/1375568214394> (accessed April 7, 2017).
- 29 CFIA. "Animal Biotechnology." 2015.
- 30 CFIA. "Labelling of Genetically Engineered Foods in Canada." Last updated July 23, 2015. <http://www.inspection.gc.ca/food/labelling/food-labelling-for-industry/method-of-production-claims/genetically-engineered-foods/eng/1333373177199/1333373638071> (accessed April 7, 2017).
- 31 Ibid.
- 32 European Commission. "Novel Food: Legislation." Last updated April 7, 2017. https://ec.europa.eu/food/safety/novel_food/legislation_en (accessed April 7).
- 33 Ibid.
- 34 European Parliament and the Council. "Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No. 1169/2011." <https://publications.europa.eu/en/publication-detail/-/publication/d2e5f917-9fd7-11e5-8781-01aa75ed71a1/language-en>
- 35 See Food and Drug Administration (FDA). "Risk Management Plan for Clones and Their Progeny." January 15, 2008. <https://www.fda.gov/AnimalVeterinary/SafetyHealth/AnimalCloning/u/cm055490.htm>. See also FDA "Guidance for Industry 179: Use of Animal Clones and Clone Progeny for Human Food and Animal Feed." U.S. Department of Health and Human Services, FDA, Center for Veterinary Medicine, January 15, 2008. <https://www.fda.gov/downloads/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/UCM052469.pdf>
- 36 Directorate General for Internal Policies, Policy Department A: Economic and Scientific Policy. "ENVI Relevant Legislative Areas of the EU-US Trade and Investment Partnership Negotiations (TTIP)." Study for the ENVI Committee. 2014. [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536293/IPOL_STU\(2014\)536293_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536293/IPOL_STU(2014)536293_EN.pdf)
- 37 European Commission. "Other aspects of animal welfare: Cloning." 2017.
- 38 European Commission. "Study on the labelling of products from cloned animals and their offspring." 2015.

39 Zahniser, Steven, Sahar Angadjivand, Tom Hertz, Lindsay Kuberka, and Alexandra Santos. "NAFTA at 20: North America's Free-Trade Area and Its Impact on Agriculture." A Report from United States Department of Agriculture Economic Research Service, February 2015. <https://www.ers.usda.gov/publications/pub-details/?pubid=40486>

40 United States Department of Agriculture Economic Research Service (USDA ERS). "Overview of the United States Cattle Industry." Report released by the National Agricultural Statistics Service (NASS), Agricultural Statistics Board, United States Department of Agriculture, June 24, 2016. <http://usda.mannlib.cornell.edu/usda/current/USCatSup/USCatSup-06-24-2016.pdf>

41 United States Department of Agriculture Economic Research Service (USDA ERS). "Foreign Agricultural Trade of the United States: Calendar Year." Last updated April 17, 2017. <https://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-fatus/calendar-year/> (accessed April 27).

42 Thomsen, Berit. "CETA's threat to agricultural markets and food quality." in Making Sense of CETA: An analysis of the final text of the Canada-European Union Comprehensive Economic and Trade Agreement, edited by Hadrian Mertins-Kirkwood, Scott Sinclair, Stuart Trew, Laura Große, Peter Fuchs, Anna Schüler, Ines Koburger. Berlin and Ottawa: PowerShift and CCPA, 2016.

43 Canadian Cattle Identification Agency. "Annual Report 2016." http://www.canadaid.com/documents/Annual_Report_2016_online.pdf

44 Brunk, Conrad G., and Sarah Annette Hartley. Designer animals: mapping the issues in animal biotechnology. Toronto: University of Toronto Press, 2012. p. 247.

45 Brendel & Then. "Breeding material from cloned bulls in the US imported into the EU." 2017.

46 Van Harten, Gus. "The EU-Canada Joint Interpretive Declaration/ Instrument on CETA." Osgoode Legal Studies Research Paper No. 6/2017. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2850281

47 European Parliament. European Parliament Resolution of 8 July 2015 containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) (2014/2228(INI)). Strasbourg. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0252+0+DOC+XML+V0/EN>

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