

# **Regulatory cooperation in CETA and its implications**

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# Introduction

- Tariffs fell dramatically in the mid-1990s, are 2.7% today on average (World Bank).
  - Has been an enormous increase in world trade over several decades
  - Economic analyses now generally show very small benefits (e.g. TTIP, CETA)
- From 1990s, major emphasis on putting constraints ('disciplines') on domestic regulations
  - Two approaches: (1) trade agreements; (2) 'good regulatory practice' via OECD. Sometimes combined, as in TTIP, CETA
  - Has given rise to huge controversy, from chicken washed with chlorine to very large increases in the price of pharmaceuticals, to the collapse of the General Agreement of Trade in Services (GATS)
- Trade agreements are international treaties => override domestic laws → sensitive democracy issues
- Canada: very close to USA in regulatory approaches generally, though not always: 72% of exports to US, 9% to EU.

# What regulations are

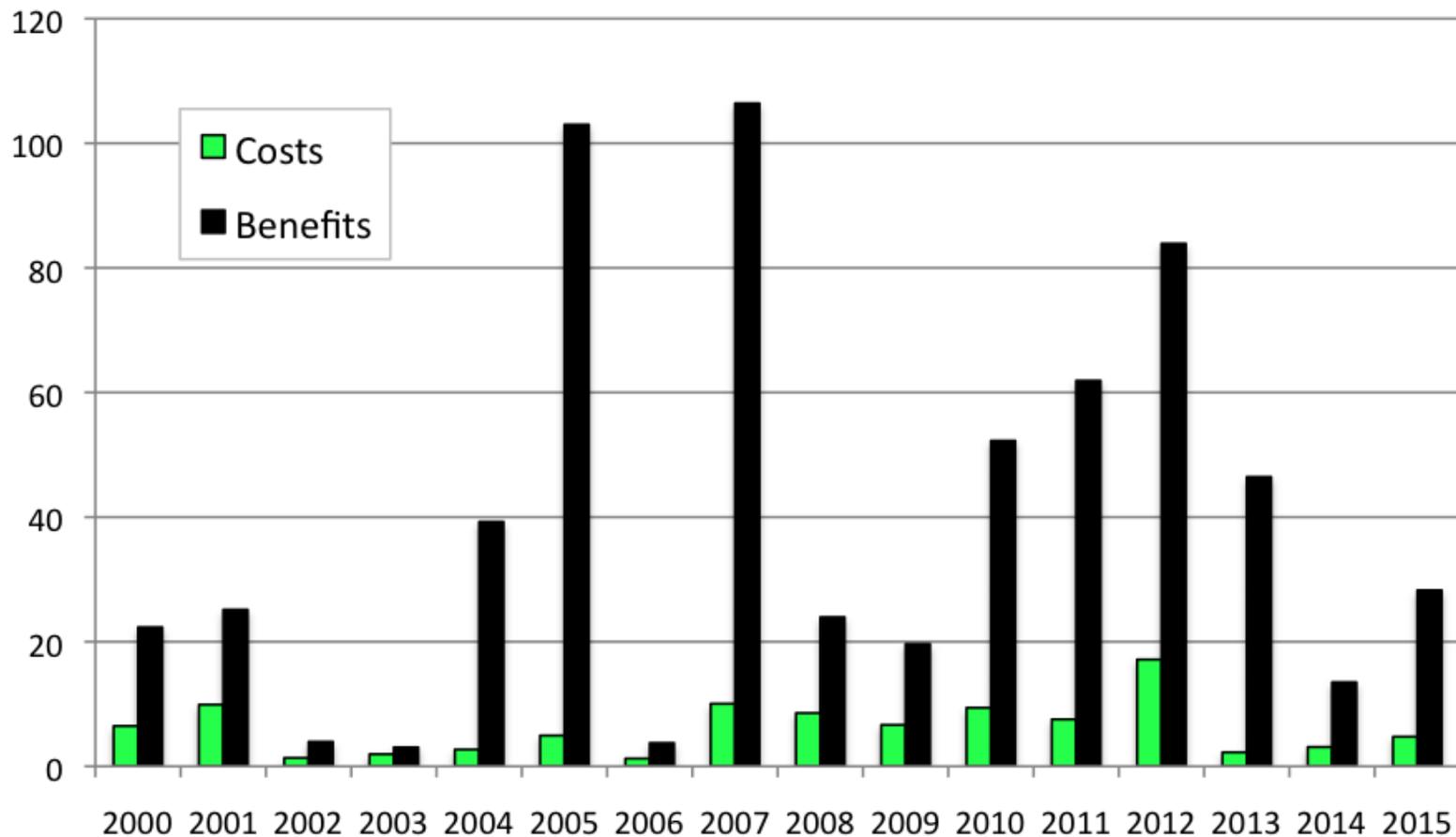
- Just red tape with zero benefits?
- The costs vs. benefits of regulations – economic assessment (Slide)
  - Yet the focus is often on the costs (the green bars)
- Regulations include:

Consumer product safety	Regulation of the financial system
Transport safety	Clean water
Environmental protection	Food safety
Addressing climate change	Protection from toxic chemicals
Health and safety at work	Public health regulations (e.g. protection from disease)
Consumer protection in general	Employment rights protection
And a host of other things ...	

## Benefits vs. Costs of Regulations

Billion 2001  
dollars

### Total Annual Benefits and Cost of Regulations Reviewed by OIRA, 2000-2015



Source: OIRA Annual Report to Congress on the Benefits and Costs of Federal Regulations 2010, tables 1-3, B-1; draft 2016 report table 1-4

# CETA Regulatory Cooperation (1)

- Covers a vast area: almost all parts of CETA: goods and services, trade and investment
- Objectives of regulatory cooperation in CETA (crucial importance):
  - ‘Prevent and eliminate unnecessary barriers to trade’
    - Famous ‘necessity test’: must choose the least trade-restrictive measure while fulfilling the regulatory objective. But in practice (WTO dispute settlement cases), the first is fulfilled and often the second is not. Led to the collapse of the GATS.
  - Competitiveness, innovation
  - Good regulatory practices
  - Human, animal and plant health and safety, and protection of environment
    - However: essentially by exchanging information and analyses
- In practice, the formal ‘right to regulate’ is constrained by, e.g. necessity test – well recognised in international trade law literature.

## CETA Regulatory Cooperation (2: Processes)

- Done through: recognition of equivalence of other side's regulations, mutual recognition of each others' regulations, or harmonisation (for future regulations)
- However, a major issue: transparency and democratic control.
  - These, and public debate, are vital for good quality regulation in the public interest.
- Two sharply different approaches in CETA:
  - 1) The importance of transparency, public access to information, and public participation is emphasised, and a joint Civil Society Forum with 'a balanced representation of interests'
    - But only where there is no enforcement or penalties (labour, environment)
  - 2) The rest – the vast bulk of CETA where there is enforcement – complete absence of basic democratic features, with one minor exception:
    - Publication of agendas or reports of meetings, lists of participants in meetings, openness of meetings to the public, availability of documents, and representativeness of those invited to participate in meetings
    - With the limited exception of possible consultation – insufficient

# Likely outcomes

- Regulatory cooperation appears likely in practice to be dominated by large business, especially those implanted on both sides of Atlantic
  - Because of its objectives, business's likely role in the key sectoral committees, and the general practice in EU and Canada of looking to business on regulatory and trade issues (TTIP: 111 out of 119 consultations were with business)
- Precautionary principle under threat:
  - No mention of it in regulatory cooperation
  - Canada following US, and pursuing EU at WTO e.g. on beef growth hormones.
- More steps for regulators with already reduced resources (Eur Commission, agencies)
- Democratic problems:
  - Takes place upstream of most normal EU regulatory processes
  - Absence of democratic features in regulatory cooperation in CETA

## Does not appear to make economic sense overall

- Joint EU-Canada impact study results: miniscule benefit is 0.08% of GDP
  - Equivalent of one cup of coffee every three months per person in the EU in disposable income
  - Other studies: one cup of coffee every 10 months to 1 year
- Potential loss of some existing benefits from regulations (see slide of costs and benefits ratio)
- But especially future regulatory challenges in a changing world
  - An absolutely crucial issue

For further elaboration, see the paper on which much of this is based:

[http://www.akeuropa.eu/en/publication-full.html?doc\\_id=422&vID=37](http://www.akeuropa.eu/en/publication-full.html?doc_id=422&vID=37)

Thank you