and all of its 28 member states. No wonder mining specialists are celebrating CETA as a “landmark” agreement, which could have “major implications for miners.”36

**Probably the most significant development in the Comprehensive Economic and Trade Agreement (CETA) for miners on both sides of the Atlantic is the inclusion of an investor-state provision.**

Mineral publication Mineweb

At the same time as promoting the interests of its mining sector in Europe, the Canadian government also used CETA negotiations as a way to undermine key European legislation on behalf to its oil and gas sector38. The Canadian government has worked for years on behalf of oil and gas companies operating in Canada to weaken and subvert the proposed European Fuel Quality Directive, which requires EU fuel suppliers to decrease the carbon intensity of their fuels. This directive was meant to account for the higher greenhouse gas emissions from high carbon fuels such as oil derived from the Canadian tar sands, which requires more energy than conventional oil to be extracted and processed.39

After many years of delay, the European Commission has released new measures which recognize that tar sands oil is more carbon intensive, but does not require EU companies to use a higher carbon intensity value if they import it. The result, after intensive lobbying by Canada, is a system that is not going to discourage oil companies from using and investing in the tar sands.40

**Four out of every five U.S.-owned firms operating in EU member states (41,811 firms) could gain new rights to attack European Union and EU member state policies using CETA’s ISDS mechanism.**41

**CETA: A Trojan horse for US corporations**

But CETA will not only allow Canadian businesses to sue EU governments and EU investors to file claims against Canada. Canadian subsidiaries of US-headquartered multinationals (see Image 2) will be also able to use CETA to launch investor-state challenges against European governments – even if the EU eventually excludes or limits investor-state dispute settlement within the Transatlantic

**IMAGE 2**

**SUING THROUGH CETA: SOME SUBSIDIARIES OF US-BASED COMPANIES WITH ‘SUBSTANTIAL BUSINESS INTERESTS’ IN CANADA**

- Cargill
- ConocoPhillips
- Koch
- Ford
- ConAgra Foods
- ExxonMobil
- Google
- Boeing
- Monsanto
- GM
- Dow
- Walmart
- Boeing
- Microsoft
- Mondelēz International
- Mondelez
- Coca-Cola Canada
- Imperial
- Univar
- Walmart
- Lockheed Martin
Neither the proposed procedure for the appointment of judges of the ICS nor their position meet the international requirements for the independence of courts.

Deutscher Richterbund, Germany’s largest association of judges and public prosecutors

CETA, like all recent trade agreements, reduces the space for public policy, and adds constraints for governments striving to provide services or regulate in the public interest.

While we take stock of the improvements that have been made to the investor-state provisions, we find them insufficient. [...] The changes still beg the question of why an ICS or ISDS is needed at all between countries with fully developed and effective court systems.

Joint statement of the Canadian Labour Congress (CLC) & the European Trade Union Confederation (ETUC)

The European Commission and the Canadian government have begun a misleading propaganda drive. Their strategy: to appease the public by diverting attention from the fundamental problems of the system by focusing on cosmetic reforms.

But a closer look at these "reforms" in the final CETA text (See Annex 2) shows that they will not "protect governments’ right to regulate, and ensure that investment disputes will be adjudicated in full accordance with the rule of law", as the European Commission claims. On the contrary, CETA’s investor rights are arguably even more expansive than those in agreements such as NAFTA – most notably by protecting investors’ “legitimate expectations” under the so-called “fair and equitable treatment” clause and on investor-state disputes with regard to financial services (see Annexes 1 and 2).

Neither the proposed procedure for the appointment of judges of the ICS nor their position meet the international requirements for the independence of courts.

Deutscher Richterbund, Germany’s largest association of judges and public prosecutors