

Canada and European Union Agree to Comprehensive Economic and Trade Agreement

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Canada and the European Union (EU) reached an important milestone on August 5, 2014, by agreeing to a draft trade agreement (CETA) now undergoing legal review. This brings Canada one step closer to a historic agreement that would significantly reduce tariffs on goods and services exported to the European market. Canada would access the largest economic block in the world with significantly reduces tariffs while the EU would gain easier access to the North American market via Canada. Once implemented, the agreement is expected to initially increase bilateral trade by 20% and boost Canada's economy by \$12 billion annually. The tentative date of implementation is 2016, if there are no further hick-ups in negotiations.

Eliminating Tariffs

CETA will open up the EU market to Canadian businesses by eliminating about 98% of all EU tariff lines. 100% of non-agricultural tariff lines and close to 94% of agricultural tariff lines would be eliminated. While almost all tariff lines would be eliminated immediately once CETA comes into force, 1% of tariffs would be eliminated over a period of up to 7 years. Certain tariffs would be subject to a phase out period, for example tariffs relating to fish and seafood products, grains, and passenger vehicles. CETA also provides protection against other kinds of restrictive trade measures that could be applied to reduce or nullify market access gains through the elimination of tariffs, including ensuring equal treatment between the parties by providing "national treatment" on goods in each respective market.

Made in Canada Requirements

CETA also provides clear rules to determine which goods are considered "made in Canada" and eligible for preferential tariff treatment, including production requirements to meet this standard. In addition to rules of origin, CETA aims to streamline exporting procedures and reduce red tape at borders. Provisions including simplifying and automating border procedures and providing an

impartial and transparent system for addressing complaints about customs rulings and decisions.

Regulatory Requirements

CETA also proposes to streamline regulatory requirements between the EU and Canada. Provisions include mutual recognition of technical regulations in each respective market and acceptance of test results on products by each respective certification body. This would reduce administrative costs and allow for coherent product launches in both markets. Parties from each market would also be able to participate in the development of technical regulations.

Trade Remedies

With regards to trade remedies implemented by governments to protect domestic industries against unfair pricing and unfair government subsidies practices, CETA reflects WTO rules that require a country to undertake a fair and transparent investigation to determine whether unfair trade is taking place before a country imposes a trade remedy. If a trade remedy is implemented, a country must do so only in a fair and transparent manner by disclosing all essential facts under consideration and allowing parties to fully defend themselves.

Investments, Industries and Services

CETA's investment rules set out how investors and their investment must be treated by the host country. There are commitments to treat investors and investments fairly, equitably and no less favourably than domestic or foreign investors. The process that investors follow for compensation is called an "investor-to-state dispute settlement" (ISDS) and would involve an independent arbitral panel hearing facts and opining on the merits of an investor's claim. This is a point of contention and there are rumours Germany is pushing back on CETA because of the mechanism of this ISDS.

CETA would also apply to services. However, certain services said to be fundamental to our social fabric would be excluded, for example health care and public education. A corollary to its applicability to services, CETA seeks to streamline the development of agreements between Canadian and EU regulatory bodies for the recognition of professional qualifications and for a greater mobility of skilled labour. This is the first time a free trade agreement signed by Canada would include substantial provisions on the mutual recognition of professional qualifications.

Government Procurement

One key benefit to Canadian companies will be access to opportunities in the lucrative EU government procurement market. CETA would only apply to high-value procurement contracts in order to ensure that governments can continue to use procurement to support local development, especially for small and medium-sized enterprises. The threshold-value for procurement contracts in CETA will range from \$205,000 to \$7.8 million for the 2012-2013 biannual cycle, comparable with Canada's thresholds in the WTO. Canada has also agreed to broad inclusion at its federal, provincial and municipal levels, which will help procurement processes to be carried out in an open and transparent manner to ensure greater competition

for public works projects. Important exceptions are set out in CETA's government procurement rules for sensitive industries including culture, aboriginal affairs and defence.

Intellectual Property

CETA echoes the recent *Copyright Modernization Act*, which supports advances in technology and international standards and brings Canada in line with the World Intellectual Property Organization Internet Treaties. Geographical indications provide exclusive rights for a product based on its geographical origin in cases where origin is considered to confer a particular quality or character to the product, such as *terroir* products or geographical indications for wines and spirits in Europe.

Dispute Resolution

The aim of the CETA dispute resolution provisions is to provide improved, expedient and affordable settlement processes. The proposed state-to-state dispute settlement provisions set out rules to deal with trade disputes based on the WTO Dispute Settlement Understanding model, but include certain improvements such as a more robust voluntary mediation mechanism when compared to Canada's previous trade agreements, a more streamlined and expeditious process when parties chose arbitration, and an accelerated arbitration procedure for cases requiring urgent resolution, for example in the case of perishable or seasonal products.

Sustainable Development, Labour and Environment

Rather unique to the CETA is the emphasis on practices to promote economic, social and environmental objectives. It includes a framework to facilitate cooperation at various levels and establishes shared commitments to promote trade in a way that contributes to the objectives of sustainable development. CETA would also create a forum for civil society organizations to discuss the sustainable development aspects of trade relations between Canada and the EU.

CETA ensures that national laws and policies provide protection for the fundamental principles and rights at work, including the right to freedom of association and collective bargaining, the abolition of child labour, the elimination of forced or compulsory labour, and protection against discrimination. CETA establishes civil society advisory groups to provide views and advice on any matter related to the Agreement's provisions on labour and creates a mechanism through which the public can raise concerns about labour issues related to these provisions. CETA also encourages cooperation between the parties with regards to labour issues, including through information exchanges and international forums.

CETA also includes environmental provisions and aims to enforce strict environmental laws and compliance with environmental standards. CETA recognizes the importance of managing forests, fisheries and aquaculture in a sustainable way and also includes commitments to cooperate on trade-related environmental issues of common interest, such as climate change and conservation, and the sustainable use of natural resources.

The Next Steps

CETA is an ambitious endeavour that has reached another milestone. However, as legal review commences, negotiations will undoubtedly lead to changes to the current CETA. Already, rumours that Germany will not support the current CETA because of the investor-state dispute settlement provision illustrate the potential pushback ahead. Several special interest groups have also been vocal about losing preferential treatment in their national markets. However, if and when implemented, CETA would benefit consumers in both markets by increasing trade, competition, ideas and innovation between both markets.