



# Geneva WATCH

An overview of the bilateral, plurilateral and multilateral trade negotiations

Charles Akande, Editor

## Canada and the EU Completed CETA's Legal Scrubbing; Aim for Entry into Force by 2017.

**Canada and the EU announced the end of the Comprehensive Economic and Trade Agreement's (CETA) legal scrubbing on February 29<sup>th</sup>. The CETA negotiations were concluded in September 2014, but the two parties have been since working on fine-tuning the agreement, particularly the investment chapter.**

The February 29<sup>th</sup> announcement included a decision to change the controversial investor-state dispute settlement (ISDS) originally included in the agreement between the two parties. The new approach for protecting investments now features the same elements the Commission has elaborated at the end of last year (November 2015) and presented to the U.S. in the context of their bilateral free trade negotiations (TTIP) early this year.

In a nutshell, the new investments chapter will help set up a “permanent, transparent, and institutionalized dispute settlement tribunal; revise the process for the selection of tribunal members, who will adjudicate investor claims; set out more detailed commitments on ethics for all tribunal members; and agree to an appeal system,” EU Trade Commissioner, Cecilia Malmström and Canada's Minister of International Trade, Chrystia Freeland, said in a joint statement.

This modification in the investment chapter was made during the legal scrubbing to avoid giving trade critics incentive to voice their concerns over reopening a chapter that had already been agreed to, one EU official said, adding that Canada

strongly supports multilateralizing this concept of a *dispute settlement tribunal*, which the EU has also included in its FTA with Vietnam.

Most EU member states believe the CETA agreement could serve as a model for the EU's future trade negotiations, given its balanced ambition pertaining to issues such as geographical indications for agricultural products and public procurement, where Canada has accepted to open its public orders at the provincial levels.

The revised CETA agreement will now be translated into the EU's official languages and submitted to the EU's Council and Parliament for approval. Once translated, the Commission expects the EU Council to ratify the agreement in June 2016, which will allow its Parliament to do so by September or October, after which point the accord could be implemented on a provisional basis in 2017.

“When the member states have adopted it, and with the consent of the European Parliament, the CETA will be able to enter into force temporarily,” Malmström stated last week.

“We are confident that CETA will be signed in 2016 and enter into force in 2017,” Malmström and Freeland said in their joint statement.

### No ‘Mixity’?

With respect to the Mixity issue – whether the agreement has also to be ratified by Member state's national parliament to enter into force – Malmström said it will be up to the EU Council to decide at end of the day whether the accord is mixed or not.

However, sources close to the EU parliament said none of the member states is willing to use the debate around the 'mixity' to delay the CETA's implementation.

As a reminder, at the end of April 2014, previous EU Trade Commissioner, Karel De Gucht, asked the EU legal court to rule on the mixity concept and whether it

would apply to CETA. The verdict is expected this year one, an EU source said. However, the source added that the European Council could decide not to seek each member state national parliament's approbation and effectively send the deal straight to the EU Parliament for its ratification.

Geneva Watch is published by Dairy Farmers of Canada, Chicken Farmers of Canada, Egg Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers to report on the various events occurring in Geneva, particularly on the WTO negotiations on agriculture.

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