

CETA ratification process: Latest developments

Since June 2017, several significant developments have occurred in relation to the ratification process of the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada.

Provisional application

On 21 September 2017, CETA entered into force on a provisional basis. In practice, this [means](#) among other things that 98 % of Canadian duties on EU exports of goods are abolished, EU companies have improved access to Canada's procurement markets, and 143 EU geographical indications are newly protected in Canada. The few CETA parts [excluded](#) from provisional application mostly concern investment, including the new bilateral [Investment Court System](#) (ICS). The EU and Canada [signed](#) CETA on 30 October 2016 and the European Parliament subsequently gave its [consent](#) on 15 February 2017. CETA will only enter into force after all EU Member States have ratified it and the Council has formally concluded the agreement.

Seven Member States have so far ratified CETA or are at a very advanced stage of doing so. These are Latvia, Denmark, Malta, Spain, Croatia and – most recently – the [Czech Republic](#) and [Portugal](#). Canada completed its ratification of CETA earlier this year.

Belgian request for a Court of Justice opinion

Before all the remaining Member States will ratify CETA, however, the agreement first has to pass a significant legal test in the form of a request to the Court of Justice of the EU (CJEU) for an opinion on the agreement's compatibility with EU law. This request was [submitted](#) by Belgium on 6 September 2017, as was expected as part of its internal compromise last year with the Walloon region in return for the latter's support for signing CETA. Belgium has specifically asked the CJEU to rule on the compatibility of the ICS with the:

- CJEU's exclusive competence to definitively interpret EU law (principle of autonomy of EU law);
- general principle of equality and 'practical effect' requirement of EU law;
- right of access to the courts; and
- right to an independent and impartial judiciary.

Typically, it takes about 1-2 years for the CJEU to give its opinion (an example being the [Singapore opinion](#)).

The forthcoming CJEU opinion could have far-reaching consequences for Belgium and other Member States' willingness – and even their ability – to ratify CETA. A negative opinion could therefore put CETA's future in jeopardy (at least in its current form). A positive opinion, on the other hand, would strengthen CETA's legitimacy and see the legal controversy surrounding the ICS die down.

The CJEU's opinion will also be a first serious legal test for the European Commission's plans to establish a [Multilateral Investment Court](#) (MIC), for which CETA's bilateral ICS is viewed as a stepping stone.

Developments in France and Germany

CETA passed a major legal hurdle in France on 31 July 2017 when the Constitutional Council [ruled](#) that CETA complies with the French Constitution. On [8 September 2017](#), a committee of independent experts, instituted as part of a campaign promise of President Emmanuel Macron, presented its findings on CETA's environmental and public health impacts. The committee [determined](#) that CETA could be improved in the aforementioned areas and made a number of recommendations to that effect, although it should be pointed out that its report was inconclusive on some issues (such as [public services](#)).

Finally, a challenge against CETA is currently [still](#) pending before the German Federal Constitutional Court, which is expected to rule on the matter shortly.

This updates an earlier ['at a glance' note](#), published in June 2017.

