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# CETA implementation

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SMEs and regions  
in focus

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## IN-DEPTH ANALYSIS

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The bulk of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) has applied provisionally since 21 September 2017. This in-depth analysis on the first two years of CETA implementation was carried out by the European Parliamentary Research Service (EPRS) at the request of a member of the European Committee of the Regions in the framework of the cooperation agreement between the Committee and the European Parliament.

The aim of the analysis is to chart the state of play of CETA's ratification procedures, the agreement's key objectives, the controversies surrounding it, and the initial results stemming from provisional application, with a focus on regions and small and medium-sized enterprises (SMEs). It is important to note that it is too early to evaluate the economic and societal impacts of CETA. That will be the task of the ex-post evaluation usually carried out by the European Commission five years after the start of provisional application.

By providing an overview of the early results of CETA implementation two years on, this analysis seeks to help inform the forthcoming deliberations and opinions of the Committee and the wider trade policy community on both CETA and other free trade agreements between the EU and partner countries.

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## Executive summary

The Comprehensive Economic and Trade Agreement (CETA) between the European Union (EU) and Canada cuts over 98 % of tariff lines, and tackles significant non-tariff barriers to trade. Most of CETA has been provisionally applied since 21 September 2017, which means that companies can already make use of the bulk of the tariff cuts (98 %) and reduced non-tariff barriers, with the exception of certain provisions, relating mostly to investment, that fall under shared competence between the EU and its Member States. A set of joint EU-Canada committees and sectoral groups govern CETA's implementation, seek to facilitate trade, and aim to ensure that both parties are informed about each other's reforms.

CETA has still to be approved by each of the Member States, before the EU can complete its ratification process. Academic debate persists about the conditions for termination of provisional application should a Member State object to an international 'mixed' agreement. At the time of writing, 13 Member States had ratified CETA. Some regions play a role in national ratification processes, and in Belgium regional parliaments are involved.

The main point of debate, which nearly jeopardised the signature of CETA, relates to the resolution of investment disputes between investors and states. In order to alleviate civil society concerns, the EU decided to shift away from arbitration under an investor-state dispute settlement (ISDS) mechanism towards an investment court system (ICS), first introduced under CETA. Other concerns around CETA centre on sustainability, environment and climate. An independent committee set up by France to evaluate these issues criticised a lack of ambition, but crucially noted that the right to regulate was safeguarded under CETA. The feared influx of agricultural goods into the EU market has not materialised, and the EU has maintained and widened its trade surplus with Canada over the past two years.

In the two full years since CETA has been provisionally in force, both total bilateral trade and EU exports to Canada have increased year on year. The EU's main exports to Canada include machinery, vehicles and parts, pharmaceuticals, chemical products, transport equipment, minerals, and agricultural products. Meanwhile, trade in services represents over a third of EU trade with Canada. CETA also includes provisions that pave the way for mutual recognition of professional qualifications, with the first mutual recognition agreement in the pipeline for the architectural sector. However, European companies are not making full use of CETA, either because of a lack of awareness of the preferential regime or because of the administrative burden associated with the rules of origin. The preference utilisation rate is fairly low, although data exists only for 2018, the first full calendar year of CETA provisional application, and it is difficult to compare preference utilisation across different agreements.

Preference utilisation can be particularly problematic for small and medium-sized enterprises (SMEs). This may prove critical considering the important role that SMEs play in EU-Canada trade, accounting for approximately 86 % of all EU enterprises exporting to Canada, and 25 % in terms of the value of exports. This is clearly reflected in CETA, where a number of specialised provisions bring greater focus to smaller enterprises, thereby reinforcing the potential for further benefits from the agreement as a whole. These include provisions on electronic commerce, investment and the adoption by the CETA Joint Committee of a recommendation on SMEs, to oversee actions aimed at enhancing the profile and awareness of the agreement and its specific rules for SMEs. Data availability remains a constraint when it comes to assessing impacts on SMEs, but anecdotal accounts suggest that CETA has opened up many new opportunities for European SMEs to export to Canada.

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# 1. CETA: state of play

## 1.1. Introduction and timeline

The Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada is a free trade agreement that cuts tariffs and facilitates exports of both goods and services.

For both parties CETA represents an opportunity to increase trade in goods, services and investment between two highly developed Western economies. From the perspective of the EU, a key motivation was to improve market access to Canada and increase the competitiveness of EU companies seeking to export to Canada vis-à-vis US firms, which had had preferential treatment under the North American Free Trade Agreement (NAFTA) since 1996. For Canada, which has a significant economic dependency on the US trade and business cycle, CETA also represented an opportunity to diversify trade in addition to gaining market shares in the EU.<sup>1</sup>

CETA aims to secure these benefits by removing 98 % of tariffs applied on trade between the EU and Canada, as well as improving market access for EU service suppliers, taking steps to achieve mutual recognition of qualifications, and upholding EU standards as well as geographical indications, among other things.

CETA timeline:

- May 2009 to September 2014: CETA was negotiated over the course of about five years on the basis of a mandate agreed in the Council.
- 30 October 2016: CETA was signed by the EU and Canada.
- 7 September 2017: Belgium requested an opinion from the Court of Justice of the EU (CJEU) on the compatibility of CETA's Investment Court System (ICS) with EU law.
- 15 February 2017: the European Parliament gave its consent to CETA.
- 21 September 2017: CETA entered provisionally into force.
- 30 April 2019: the CJEU deemed the ICS provisions to be compatible with EU law (Opinion 1/17).

## 1.2. Procedural aspects

### 1.2.1. Provisional application

The run-up to the signature of CETA was a complicated process owing to controversies relating to its investment dispute resolution provisions. Since September 2017, most of CETA has been applied provisionally.<sup>2</sup> In practice, this means that CETA provisions are implemented so that companies can already make use of the bulk of the tariff cuts (98 %) and the reduced non-tariff barriers afforded by the agreement. The scope of provisional application does not include, notably, investment protection, portfolio investment, investment dispute resolution, financial services provisions concerning portfolio investment and resolution of investment disputes between investors and states.<sup>3</sup> Provisional application will cease and CETA will enter fully and definitively into force after all

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<sup>1</sup> R. MacLaren, Talking Economics: [Presentation on the Canada-European Union Free Trade Agreement: the need for trade diversity](#), 2009.

<sup>2</sup> [Council decision on the provisional application of CETA](#), 28 October 2016.

<sup>3</sup> For full list, see [Answer given by Ms Malmström on behalf of the Commission](#), 26 January 2017.

national ratification procedures have been concluded, and both parties – the EU and Canada – have ratified the agreement.

The exclusion of the aforementioned areas from provisional application and the requirement for the Member States to ratify arise from the agreement's legal basis. CETA is a mixed agreement because it includes provisions that pertain to both EU exclusive competence (e.g. tariffs and trade) and competences shared with Member States (e.g. portfolio investment and investment dispute settlement).<sup>4</sup> In Opinion 2/15 on the EU-Singapore free trade agreement (FTA), the Court of Justice of the EU (CJEU) clarified that portfolio investment and investment dispute settlement are shared competences.<sup>5</sup> This has led to the practice of splitting of trade and investment agreements in the EU (e.g. with Singapore, Vietnam and Japan).

Commentators have debated whether an individual Member State's refusal or inability to ratify a mixed agreement should require the EU to withdraw provisional application.<sup>6</sup> The EU Treaties do not specify the scope, duration or conditions for the end of provisional application.<sup>7</sup> According to the Vienna Convention on the Law of Treaties, which regulates treaties between states, the provisional application of a treaty or a part of a treaty shall be terminated if that State notifies of its intention 'not to become a party to the treaty'.<sup>8</sup> This raises the question of whether the European Commission would have to terminate provisional application if a Member State government signalled that it intended to reject the treaty following a negative vote by a Member State parliament, or if a Member State constitutional court ruled the agreement to be unconstitutional. Therefore, the European Parliament,<sup>9</sup> and, separately, German NGOs in a letter to Commissioner Cecilia Malmström in December 2016,<sup>10</sup> decided to ask the Commission to clarify whether a failure to ratify by a single Member State could discontinue the provisional application of CETA. The Commission replied that:<sup>11</sup>

*If the ratification of CETA fails permanently and definitively because of a ruling of a constitutional court, or following the completion of other constitutional processes and formal notification by the government of the concerned state, provisional application must be and will be terminated. The necessary steps will be taken in accordance with EU procedures.*

In addition, while an individual Member State can trigger the process to end provisional application, ultimately a decision of the EU institutions is needed to reverse an earlier decision of the EU to start provisional application. The Commission would first have to make a proposal, which would then need to be approved by the Council in line with the same voting rules that were used to adopt a decision on provisional application, i.e. qualified majority voting.

<sup>4</sup> J. Titievskaia, [EU trade policy: Frequently asked questions](#), EPRS, European Parliament, October 2019.

<sup>5</sup> [Opinion 2/15](#) of the CJEU on EU-Singapore FTA

<sup>6</sup> A. Suse and J. Wouters, [The provisional application of EU's mixed trade and investment agreements](#), Leuven Centre for Global Governance Studies and the Institute for International Law, Working Paper No. 201, May 2018.

<sup>7</sup> D. Kleimann and G. Kübek, [The Signing, Provisional Application, and Conclusion of Trade and Investment Agreements in the EU: The Case of CETA and Opinion 2/15](#), EUI Working Paper, 2016.

<sup>8</sup> [Vienna Convention on the law of treaties](#), 23 May 1969.

<sup>9</sup> Parliamentary questions, [CETA: provisional application of a mixed agreement](#), November 2016.

<sup>10</sup> [Letter](#) to Commissioner for Trade Cecilia Malmström from German NGOs, 20 December 2016.

<sup>11</sup> Parliamentary questions – CETA: provisional application of a mixed agreement, [Answer given by Ms Malmström on behalf of the Commission](#), March 2017.



### 1.2.2. National ratification processes

A 'mixed' trade and investment agreement such as CETA has to be ratified by both the EU and the Member States to enter fully into force. Each Member State has its own national ratification rules for international agreements.<sup>12</sup> As in some countries this means both national and regional parliaments must vote, the procedure can be very lengthy. For instance, the EU-South Korea FTA (also a mixed agreement) was provisionally applied for over four years, from July 2011 to October 2015. In the context of CETA, additional delay may also have arisen from Member States choosing to wait for CJEU Opinion 1/17 on the compatibility of the ICS with the EU acquis. The positive opinion was widely considered to redeem CETA in its current legal form and pave the way for its ratification.<sup>13</sup> In the case of CETA, Member States need only ratify the part of the agreement that falls under shared competences. However in practice, when ratifying, Member States parliaments sometimes link the vote to the full agreement.

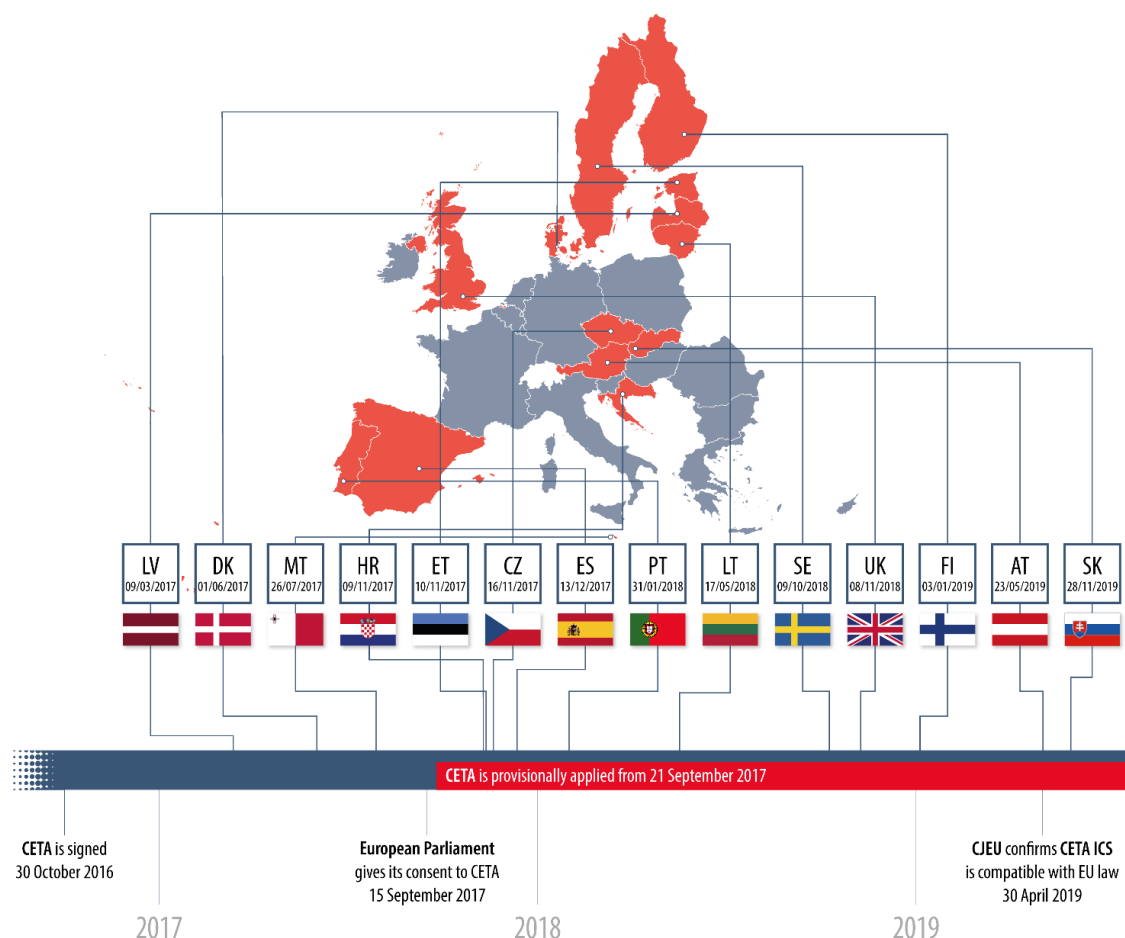
As of November 2019, 14 Member States had notified the European Council of completion of **national ratification procedures** for CETA (see Figure 1). These Member States are Austria, Croatia, Czechia, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Portugal, Spain, Sweden, and the United Kingdom.

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<sup>12</sup> K. Grosek and G. Sabbati, [Ratification of international agreements by EU Member States](#), EPRS, European Parliament, 2016.

<sup>13</sup> R. Harte, [CETA ratification process: Latest developments](#), EPRS, European Parliament 2017.

Figure 1 – Member States that have ratified CETA as of November 2019



Data source: [Council website – Ratification Details for CETA](#). Graphic by Samy Chahri, EPRS.

The specific rules governing the national ratification process are provided at the level of each Member State.<sup>14</sup> In unicameral systems such as Bulgaria, Cyprus, Hungary, Greece, Luxembourg, and Slovakia, national parliaments are involved in ratifying CETA. In bicameral Member States such as France, Italy, the Netherlands, Poland and Romania, both chambers are involved. In France, the Assemblée Nationale has approved CETA's ratification, paving the way for the next steps in the procedure.<sup>15</sup>

A referendum on the ratification of mixed international agreements is expressly allowed in about half of the Member States.<sup>16</sup> In 2016, a non-binding national referendum in the Netherlands rejected the Association Agreement (AA) with Ukraine. In 2017, the agreement was nevertheless ratified at EU level, with a commitment by the Netherlands not to participate in any form of military cooperation under Article 10 of the AA.

<sup>14</sup> A. Eschbach, [The ratification process in EU Member States](#), 2016.

<sup>15</sup> Parliamentary questions - CETA, [Answer given by Ms Malmström on behalf of the European Commission](#), September 2019.

<sup>16</sup> European Parliament, [National Parliaments Background Briefing: Procedures of ratification of mixed agreements](#), November 2016.

In Belgium, **regional parliaments** play a key role in the ratification procedure. The approval of the federal Kamer/Chambre can only be given after all the competent parliaments have given their consent to the mixed agreement. Depending on the substance of the agreement, the following parliaments can be involved in Belgium:

- at federal level, the bicameral House of Representatives (**Kamer/Chambre**), with the Senate not holding ratification powers;
- at regional level, **Flanders**, **Wallonia**, and **Brussels-Capital**. Note that the Flemish Parliament encompasses representation of the Flemish Community, and the Flemish Community Commission, together with the Flanders region;
- at the communities level, the **French-speaking community in Brussels**, the **German-speaking community**, **Walloon-Brussels Federation** and the **Joint Common Community Commission in Brussels**.

Regional representatives in Germany, Italy, Spain, Austria and Portugal mainly play a role in ratification through their seats in second chambers. Finally, a decision of the national government is required to give legal effect to the parliamentary vote.<sup>17</sup>

## 2. CETA objectives and controversies

CETA is the EU's first comprehensive economic agreement with a highly industrialised Western economy, and is one of the most ambitious EU trade agreements yet. The overarching objective of CETA is to increase bilateral trade and investment and contribute to growth.<sup>18</sup> To achieve these objectives, CETA removes 98 % of tariff lines of duties on goods, except for on a few sensitive agricultural products. CETA also regulates trade in services and investment. CETA's 30 chapters cover numerous other issues, such as rules of origin, customs and trade facilitation, subsidies, intellectual property rights, regulatory cooperation, sustainable development, competition policy and public procurement.

### 2.1. Investment dispute resolution

The debate that nearly jeopardised the signature of CETA centred on the provision relating to the protection of investments, in particular those connected with the settlement of disputes between states and investors.<sup>19</sup> Investment protection treaties have historically been concluded with states where investors expected sudden policy reversals, regulatory volatility or corrupt governance practices. Businesses favoured international arbitration because of doubts over the impartiality of a host state's national judicial system vis-a-vis foreign investors, and a desire to outsource disputes to a more neutral third-party mechanism. The EU seeks to establish a broad investment protection framework throughout its trade agreements, and therefore the provisions were included in CETA as well. In 2011, the Member States approved a modification to the negotiating mandate with Canada to cover investment.<sup>20</sup>

The inclusion of investment protection provisions, including investment dispute resolution, between two developed trade partners, with strong judiciaries and a tradition of rule of law,

<sup>17</sup> D. Kleimann and G. Kübek, [The Signing, Provisional Application, and Conclusion of Trade and Investment Agreements in the EU: The Case of CETA and Opinion 2/15](#), EUI Working Paper, 2016.

<sup>18</sup> European Commission, CETA – Summary of the final negotiating results, February 2016.

<sup>19</sup> CETA, Chapter 8 on Investment, Section F on Resolution of investment disputes between investors and states.

<sup>20</sup> Council of the EU, [Modification to negotiating directives for an economic integration agreement with Canada](#), 2011.

generated concerns among civil society actors. Questions were raised as to whether CETA was privileging corporate interests over states' supremacy by enabling corporations to arbitrate against states under the investor state dispute settlement system (ISDS), thereby infringing governments' rights to regulate. Other arguments focused on the investment relationship between the EU and Canada, which was already significant to begin with, even in the absence of an EU-Canada investment protection regime.<sup>21</sup> There were however eight bilateral investment treaties in force between Canada and some of the newer EU Member States that have been replaced by the ICS under CETA.<sup>22</sup> In 2018, Canada was a top investor in the EU, and a top destination for EU investment, both alongside Switzerland, without the provisional application of investment dispute resolution provisions.<sup>23</sup> This raised the question as to whether an investment protection and investment dispute resolution mechanism was necessary, and whether it would serve to increase bilateral investment. An alternative provision would have been that investor-state disputes be settled in domestic courts. On the other hand, procedural provisions for dispute settlement would provide investors with more certainty and an expedited way of receiving compensation in the event of policy reversals, as with any commercial contract. This debate prompted Belgium's request for a CJEU opinion.

To address some of these concerns, the EU replaced the controversial investor-state dispute settlement (ISDS) with a new investment court system (ICS) that features permanent independent judges appointed in advance by the EU and Canada, an appeals mechanism and transparent proceedings.<sup>24</sup> In April 2019, the CJEU ruled in its final Opinion 1/17 that ICS provisions under CETA are compatible with the EU Treaties, further alleviating concerns.

Investment protection, portfolio investment, and investment dispute resolution are excluded from provisional application. Therefore, the ICS is not (yet) in force under CETA. Only foreign direct investment provisions are in force during provisional application.<sup>25</sup> Member States also raised concerns about the consequences of the narrower scope of CETA provisional application, namely that this could discourage or delay Canadian investment into the EU, in turn impacting job creation.<sup>26</sup>

The ICS needs to be operational as soon as all of the CETA provisions enter into force following the completion of the ratification procedures. Therefore, on 11 October 2019, the Commission transmitted to the Council four procedural proposals for Council decisions on the ICS in CETA:

- rules setting out the functioning of the Appellate Tribunal;
- a code of conduct for members of the ICS;
- rules for mediation; and
- rules for binding interpretations to be adopted by the CETA Joint Committee.

If the multilateral investment court (MIC) negotiations are concluded successfully and the MIC is set up, the parties will shift to the multilateral approach, replacing the ICS, as envisaged under CETA.

<sup>21</sup> WTO, [Canada Trade Policy Review](#), April 2019.

<sup>22</sup> See CETA [Annex 30-A](#), a list of bilateral investment treaties between Canada and Member States of the EU (Croatia, Czechia, Hungary, Latvia, Malta, Poland, Romania and Slovakia).

<sup>23</sup> Eurostat, [EU Foreign Direct Investment flows in 2018](#).

<sup>24</sup> In turn, the ICS paves the way towards progress on the establishment of a multilateral investment court (MIC), which the European Commission is negotiating under the auspices of the United Nations Commission on International Trade Law (UNCITRAL). See: Legislative train schedule: [Multilateral Investment Court](#), EPRS, European Parliament, 2019.

<sup>25</sup> [Council decision on the provisional application of CETA](#), 2016.

<sup>26</sup> Non-paper for the Trade Policy Committee: [Analysing the impact of exclusions from provisional application of CETA](#), 2016.

However, certain authorities are not fully convinced about these investment protection provisions even in their reformed state. In the Netherlands, the ratification process has been initiated in the Dutch Parliament, with early signs that the process may be difficult due to the scepticism of left-leaning parties over the ICS.<sup>27</sup>

## 2.2. Sustainability, environment and climate

One fear of opponents is that CETA could lead to the erosion of the EU's high environmental standards. Responding to widespread concerns, France set up a committee of independent experts to evaluate the potential environmental and health impacts of CETA.<sup>28</sup> The committee submitted its report in September 2017. It included criticism of a lack of ambition with regard to the environmental commitments.<sup>29</sup> As a counter-argument, commentators took the view that signing an agreement with a like-minded partner country will not jeopardise the EU's existing sustainability commitments. However, if the investment dispute resolution mechanism envisaged under CETA enters into force, disagreements over environmental concerns with regards to investment disputes might arise not so much between like-minded state actors in EU and Canada, but between the private and the public sector, i.e. companies and state or regional authorities.

CETA includes a trade and sustainable development (TSD) chapter, a labour chapter and an environment chapter. The TSD chapter includes commitments on labour and the environment as well as provisions for cooperation and promotion of sustainable development (e.g. via corporate social responsibility); and it sets up a joint civil society forum. The second meeting of the Civil Society Forum took place on 12 November 2019. The EU and Canada have implemented the TSD provisions in practice by working to increase awareness and cooperation, for instance by organising a conference on climate action in the context of CETA (January 2019)<sup>30</sup> and a workshop on trade and gender (April 2019). The chapters on labour and the environment have their own dispute resolution mechanism, envisaging the creation of a panel of experts and consultation with civil society, but no possibility of the removal of tariff preferences in the event of violations of labour or environmental commitments.<sup>31</sup>

In September 2018, the CETA Joint Committee reaffirmed both parties' commitment to effectively implement the Paris Agreement, by issuing a Joint Recommendation on Trade, Climate Action and the Paris Agreement.<sup>32</sup> The recommendation seeks to 'meet the aims of the Paris Agreement ... and to limit the temperature increase to 1.5 °C above pre-industrial levels'.<sup>33</sup> While a reaffirmation does not become a binding commitment in the context of CETA, it can set important principles and provide a context for EU-Canada cooperation in this area. Importantly, the recommendation refers to the Paris Agreement (which had not yet entered into force when CETA was signed) as one of the multilateral environmental agreements that the parties are to implement effectively following specific provisions of CETA's chapter on trade and environment.

<sup>27</sup> S. Alonso, [Is er nog een toekomst voor het CETA-verdrag?](#), NRC, 2019.

<sup>28</sup> French government, ['France will ensure CETA's compliance with European standards on health and the environment'](#), 22 September 2017.

<sup>29</sup> Commission indépendante, [L'impact de l'Accord Économique et Commercial Global entre l'Union européenne et le Canada \(AECG/CETA\) sur l'environnement, le climat et la santé](#), 7 September 2017.

<sup>30</sup> [CETA: Taking Action for Trade and Climate event](#) (video), January 2019.

<sup>31</sup> Non-paper of the Commission services, [Feedback and way forward on improving the implementation and enforcement of TSD chapters in EU FTAs](#), 2018.

<sup>32</sup> IISD, [CETA Joint Committee adopts recommendation on trade, climate action and the Paris Agreement](#), October 2018.

<sup>33</sup> Recommendation of the CETA Joint Committee on [trade, climate and the Paris Agreement](#), September 2018.

## 2.3. Public services and public procurement

Some commentators have claimed that CETA would not provide effective protection for **public services** because it would limit governments' ability to regulate public services, and because of its negative list approach to services, which means that unless a reservation is explicitly introduced, trade in services is liberalised.<sup>34</sup> However, CETA has a general public services carve-out, meaning it does not cover services supplied in the exercise of government authority or audiovisual services in the EU and cultural industries in Canada, public procurement, subsidies, and air services (with some exceptions) as set out in Articles 8.2 and 9.2.

To an extent, CETA has opened up government procurement markets, which was more of an offensive interest for the EU. The government procurement chapter allows EU and Canadian businesses equal opportunities to bid in each other's tenders after specified thresholds at national, regional, provincial and even local level. Canada has committed to set up a **one-stop shop for procurement notices** ('single point of access' site) by 2022; the work is on-going and might be inspired by the EU's 'Tenders Electronic Daily' system.<sup>35</sup>

## 2.4. Precautionary principle

Civil society organisations also raised concerns about the future of the precautionary principle, considered central to the EU regulatory system, following the conclusion of CETA with Canada, where the precautionary principle does not always constitute a guiding principle of regulation. For instance, standards relating to the use of pesticides, growth-activating antibiotics and hormones in agricultural production differ between the EU and Canada.<sup>36</sup> However, as pointed out in the report by the French committee of experts set up to investigate the implications of CETA, the precautionary principle remains safeguarded under CETA under the provisions on the 'right to regulate' (even if the term precautionary principle itself is absent from the treaty text).<sup>37</sup> Nevertheless, the Commission did issue a declaration in respect of the protection of the precautionary principle in CETA.<sup>38</sup> The declaration confirmed the right of the EU and its Member States to apply their fundamental principles governing regulatory activities, referring to principles in the treaties, and confirmed that nothing in CETA prevented the application of the precautionary principle. Since provisional application of CETA began, action has been taken at Member State level to ensure that the implementation of the agreement guarantees sanitary and environmental norms. In France, where concerns were particularly pronounced, a national action plan has been prepared for the implementation of CETA in line with the preservation of European principles.<sup>39</sup>

## 2.5. Agriculture

One of the main negotiating objectives for the EU with Canada, as with many other trade partners, was to achieve market opening for agricultural exports. Since liberalisation would have to take place

<sup>34</sup> L. Puccio, G. Sabbati and W. Schoellmann, [CETA and public services](#), EPRS, February 2017.

<sup>35</sup> Global Affairs Canada, [Report - Meeting of the Committee on Government Procurement](#), 15 March 2018, Brussels.

<sup>36</sup> France Culture, [Deux ans après la mise en place du CETA: quelles conséquences pour les agriculteurs?](#) October 2019.

<sup>37</sup> Commission indépendante, [L'impact de l'Accord Économique et Commercial Global entre l'Union européenne et le Canada \(AECG/CETA\) sur l'environnement, le climat et la santé](#), September 2017.

<sup>38</sup> Statements in the Council minutes, [Commission Declaration in respect of the protection of the precautionary principle in CETA](#), October 2016.

<sup>39</sup> DG Trésor, [CETA – Tableau de suivi du plan d'action du Gouvernement](#), April 2019.

on a largely reciprocal basis, concerns were raised about a potential influx of Canadian agricultural products into the EU market (such as beef, dairy produce and pork) following tariff cuts under CETA.

European agricultural producers in certain Member States, in particular France, were concerned about the increased competition that could take place following trade liberalisation for the agri-food sector under CETA. Ultimately, CETA dismantled 92.2 % of EU tariff lines for agriculture (shifting up to 93.8 % within seven years of entry into force), allowing better access for Canadian producers. In turn, Canada agreed to eliminate 90.9 % of its agricultural tariff lines (eliminating up to 91.7 % after seven years), which is only slightly less than the liberalisation commitments made by the EU. Whilst the EU was seen as conceding comparatively more market access to Canada, the proportional impact on a larger player such as the EU is lighter than for a market the size of Canada. In the first two years of provisional application the EU has recorded a trade surplus with Canada on agricultural products.

CETA also established a comprehensive geographical indications (GIs) regime that affords better protection to EU producers of traditional food and drink products,<sup>40</sup> which can be considered a positive achievement for the EU. Wines and spirits GIs were already protected under the 2003 wines and spirits agreement on oenological practices and GIs, and today alcoholic beverages make up 40 % of EU agricultural exports to Canada. However, even after the provisional application of CETA, stakeholders consider that non-tariff-barriers to trade have persisted at the provincial level in Canada for wines and spirits.

The EU also obtained more market access for certain dairy products with CETA, and the successful utilisation of the cheese tariff rate quota was flagged as a major gain in 2017 and in 2018; take-up for 2019 suggests that the quota will once again be fully utilised.<sup>41</sup> However, the EU has formally requested that Canada conduct a review of CETA cheese tariff rate quota management and this was discussed in the September 2019 CETA Agriculture Committee.<sup>42</sup>

The Commission also indicates in its 2017 implementation report of FTAs that certain sanitary and phytosanitary (SPS) issues have improved. More specifically, Canada authorised seven Member States to export processed animal protein, and approved two harmonised EU export certificates (porcine blood and rendered products of non-animal origin). However several issues relating to export certificates and recognition of labelling requirements remain for the CETA committees to resolve.

## 3. CETA implementation

### 3.1. Governance mechanisms

CETA includes a number of administrative and institutional provisions that seek to secure the implementation and smooth governance of the agreement. In practice, the EU and Canada have set up co-chairs and contact points for the various committees, agreed on timelines for the committee meetings and dialogues, and established rules of procedure.<sup>43</sup>

<sup>40</sup> European Commission, [Report on the Implementation of FTAs in 2018](#), October 2019.

<sup>41</sup> *ibid.*

<sup>42</sup> CETA Agriculture Committee, [Agenda](#), September 2019.

<sup>43</sup> Discussion Paper, [CETA implementation](#), European Commission, 2018.



On 26 September 2018, the CETA Joint Committee, co-chaired by the EU Trade Commissioner and Canada's Minister for International Trade, held its first meeting, adopting rules of procedure, and establishing a list of arbitrators and the panel of experts for CETA chapters relating to labour and the environment.<sup>44</sup> Important recommendations were made on climate, gender and SMEs. On climate, the parties reiterated their commitment to the Paris Agreement, which had not yet entered into force at the time of the signing of CETA.

CETA's institutional structure is operational and the various CETA committees have convened to review the implementation of a range of topics such as trade in goods, agriculture, wines and spirits, pharmaceuticals, geographical indications (GIs), sanitary and phytosanitary measures (SPS), customs cooperation, government procurement, services and investment, financial services, and trade and sustainable development. Meetings take place in either Brussels or Ottawa, or via video conference. At these sessions, the two sides discuss specific trade irritants, update each other on reforms and internal procedures, and share information to facilitate cooperation in technical areas. In addition, two forums bringing together a range of stakeholders, the Civil Society Forum and the Regulatory Cooperation Forum, have been organised. All meeting schedules, agendas and meeting reports for these committees are made public on the Commission's website.

## 3.2. Initial economic results on CETA implementation

According to Eurostat, from 2017 to 2018, the EU's exports to Canada increased in terms of value (from €37.7 to 41.4 billion) while Canadian exports to the EU decreased slightly (from €31.5 to 31 billion).<sup>45</sup> In 2018, total bilateral trade between the EU and Canada was about €72 billion, which represents a 4.5 % increase on 2017.<sup>46</sup>

As of November 2019, it is too early to draw any conclusions about the economic impacts of CETA, which has only been provisionally applied since September 2017. Moreover, as with all trade agreements, it is difficult to isolate the effect of CETA from other factors influencing trade within the time period such as economic growth, technological developments, or trade diversion effects. EU exports to Canada were already on the rise before the provisional application of CETA. The following section aims to outline the structural make-up of EU-Canada trade, but should not be used to make conclusive judgements about the impact of CETA on the trade relationship.

### 3.2.1. EU-Canada trade in goods

In 2018, the first full calendar year of CETA implementation, bilateral trade in goods increased by 10.3 % between EU and Canada.<sup>47</sup> In September 2018, the European Commission published an initial analysis of the first year of provisional application of CETA.<sup>48</sup> According to the Commission, overall, EU exports to Canada increased by 7 % year on year from October 2017 to June 2018. The highest proportional increases in the very first months of CETA application (from October 2017 to June 2018) were for exports of machinery and mechanical appliances, pharmaceuticals, furniture, perfumes/cosmetics, footwear and clothing. Similarly, exports in specific agricultural products had

<sup>44</sup> [CETA – Meetings and Documents](#), European Commission.

<sup>45</sup> Eurostat, [Imports, exports and trade balance in goods between the EU and Canada](#), 2008-2018.

<sup>46</sup> European Commission, [Report on the Implementation of FTAs 2018](#), October 2019.

<sup>47</sup> European Commission, [EU trade agreements: delivering new opportunities in time of global economic uncertainties](#), October 2019.

<sup>48</sup> European Commission, [One year on EU-Canada trade agreement delivers positive results](#), 20 September 2018.



increased in the first months of CETA application, in particular for fruit and nuts, chocolate, sparkling wine, and whisky.<sup>49</sup>

In 2018, EU exports to Canada continued to grow by 15 %. Bilateral trade totalled €72 billion in 2018, a 4.5 % increase year on year from 2017.<sup>50</sup> Export growth was particularly marked in chemicals (23 % increase compared to 2017), machinery and appliances (10 % increase), and agriculture and food (4 % increase).

Table 1 – EU exports to Canada, 2016-2018

Top sectors by HS* section	2016 (€ million)	2017 (€ million)	2018 (€ million)	Increase in 2018 year on year
Machinery and mechanical appliances (XVI)	8.319	8.779	9.628	+9.7 %
Products of chemical or allied industries (VI)	5.890	6.529	8.044	+23.2 %
Transport equipment (XVII)	6.603	7.063	7.284	+3.1 %
Mineral products (V)	2.475	2.594	3.165	+22 %
Foodstuffs, beverages, tobacco (IV)	2.434	2.578	2.668	+3.5 %

Data source: [European Commission factsheet](#).

\* harmonised system

The sustainability impact assessment (SIA) carried out on CETA in 2011 estimated that there would be 0.02 % long-term growth in gross domestic product (GDP) stemming from CETA.<sup>51</sup> In a 2017 study by the Finnish governmental VATT institute of economic research, the expected economic impact of CETA was estimated at a 0.03 % increase in GDP in the EU-27 (excluding the UK) using Global Trade Analysis Project (GTAP) computational general equilibrium modelling.<sup>52</sup>

### 3.2.2. Impact on trade in services

According to Eurostat, bilateral EU-Canada services trade in 2017 totalled €34.9 billion and in 2018 €38.5 billion. The EU showed a services trade surplus vis-a-vis Canada (of €8.453 billion in 2017, and €7.827 billion in 2018), and services represent over a third of total trade between the EU and Canada. The largest EU services sector exports to Canada in terms of value related to **travel, transport, 'other' business services** (e.g. R&D, management consulting), telecommunications and computer services, and financial services.<sup>53</sup>

<sup>49</sup> European Commission, [Report on the Implementation of FTAs 2017](#), October 2018.

<sup>50</sup> European Commission, [Report on the Implementation of FTAs 2018](#), October 2019.

<sup>51</sup> C. Kirkpatrick, S. Raihan, A. Bleser, D. Prud'homme, K. Mayrand, J.-F. Morin, L. Hinojosa and M. Williams, [A Trade SIA to the Negotiation of the Comprehensive Economic and Trade Agreement \(CETA\) between EU and Canada](#), June 2011.

<sup>52</sup> S. Tamminen, J. Niemi and K. Nilsson Hakala, [The expected economic impacts of the EU-Canada Comprehensive Economic and Trade Agreement in Finland](#), VATT, 2017.

<sup>53</sup> Eurostat,

CETA also includes provisions that can pave the way for the mutual recognition of professional qualifications. The first mutual recognition agreement (MRA) that is in the pipeline under Chapter 11 of CETA is for the architectural sector. The MRA would facilitate the mobility of architects both in the jurisdictions of Canadian provinces and EU Member States, which is not a simple task given the differences in regulation. For instance, variations in the number of years required in the field of architecture to qualify vary somewhat, both between EU Member States, and within Canada, between Québec and other provinces.<sup>54</sup> The conclusion of an MRA in the context of CETA would, therefore, be a considerable achievement.

### 3.2.3. Preference utilisation

Trade agreements such as CETA either decrease or abolish tariffs for goods. To prevent fraud and ensure that only eligible countries benefit from the preferential trade agreement, rules of origin have been established to determine the '**economic nationality**' of a given product. However, it is up to companies to prepare the necessary customs paperwork to ensure that they can enjoy the preferential tariff rates afforded by CETA. The procedures involved can be cumbersome, in particular for SMEs, which means that far from all of the companies that are eligible for a preferential regime actually make use of it.

The European Commission's implementation reports on FTAs for the calendar years 2017 and 2018 study the utilisation of trade preferences afforded by CETA for specific sectors. **Preference utilisation rates (PURs)** indicate the extent to which Canadian importers are using the trade preferences for which they are eligible in the EU, and vice versa. Utilisation rates are collected by the importing country.

Under CETA, duties on 91 % of agricultural tariff lines (i.e. duties for individual types of agricultural product) have been cut, theoretically opening up significant market opportunities for EU agri-food exporters. The utilisation of the cheese quota represents a success story in terms of preference utilisation. However, for 2018, the first year a PUR has been made available for Canada, it stood at **37 %**, meaning that just over one-third of the preferences EU exporters were eligible for were used that year according to the Canadian authorities' estimations.<sup>55</sup> Canadian importers seem to be faring slightly better at using the CETA preferences with a PUR of 49.6 % in 2018 (up from 28.7 % in 2017, when CETA had been in force for only three full months). In addition, Canada gave the EU a CETA quota of 824 384 kg for cheese in 2017; it was used up by EU cheese exporters at 92.9 %, according to Global Affairs Canada. In 2018, the CETA cheese quota was nearly completely filled (96.4 %), an even better result than in 2017, and uptakes in 2019 indicate that the EU will once again use the quota in full. This is a positive result for EU exporters.

One explanation for the **relatively low utilisation rate under CETA** that has been posited is that there is insufficient information provided about the opportunities under FTAs across the EU or that there are excessive bureaucratic hurdles (namely complex rules of origin or effort required to prove preferential origin),<sup>56</sup> leading to mediocre levels of familiarity with preferential trade regimes. In addition, preference utilisation for 2018 should increase in the future, in view of the fact that, under CETA, preferential tariffs can be claimed retroactively (for a period of up to three years). More specifically, the utilisation rate should be increased in future by improving preference utilisation on the EU's exports of **cars and spare parts** for which tariff dismantling is **gradually being phased in**;

<sup>54</sup> Office des professions Québec, [Content of CETA and comments on the draft MRA](#), April 2018.

<sup>55</sup> European Commission, [Annex 2: Preference utilisation rates on EU exports](#), October 2019.

<sup>56</sup> DIHK, [Concept Paper for Modern Trade Agreements – Increasing Utilisation of Preferential Customs Tariffs](#), October 2019.

for this segment, which represents over two fifths of eligible EU exports, preference utilisation rates stood at only 10 % in 2018. Cars and spare parts excluded, the average preference utilisation rate on EU exports to Canada is in the order of 55 %.

### 3.2.4. Regional implications

In order to gain a better understanding of the underlying dynamics from the regional perspective, CoR and Eurochambres carried out a **joint survey on the implementation of trade agreements** in October 2019. A total of 136 respondents answered on behalf of local businesses, including representatives of regional organisations (regions, provinces, Länder, federated states) and also of chambers of commerce and private business associations.<sup>57</sup> The highest number of respondents were from Spain (21), followed by Germany (17), Bulgaria (15), Belgium (13), and Greece (11). In terms of most attractive trade agreements offering the highest trade potential, CETA was ranked second after the EU-Switzerland trade arrangement. Representatives also tended to be more familiar with CETA than with other FTAs such as those with Ukraine, Georgia, Moldova and the Andean Community. The representatives based their answers mostly on their experience of direct interaction with companies, but also on their experience of workshops, training sessions and business to business matchmaking events.

Over two thirds of respondents considered the benefits stemming from the **reduction or abolition of tariffs** to be high. The majority of representatives believed that improved market access for service providers and easier access to intermediate goods afforded moderate or high benefits, but about a tenth of respondents in both cases considered that the potential benefits would be minor. Representatives were evenly divided on the positive impact resulting from increased FDI in their region from trade agreements, with almost a third considering the benefits high, a third considering them moderate, and a third minor. This could be explained by the variation of scope of the EU trade agreements surveyed.

The overwhelmingly most popular solution for improving the use of trade agreements across EU regions was for **chambers of commerce to provide more information** (92). In general, participants in the survey felt that their governments were not doing enough to implement trade agreements in the region. On the other hand, about a half of the respondents considered that the negative effects on regions and businesses stemming from international competitive pressures were somewhat mitigated. A considerable number of respondents was not aware of either the European Commission DG Trade website (25) or the European Commission Market Access Database for exports or the Export Helpdesk for imports (22). The majority considered them to be effective but not easy to use (37).

With specifically regard to CETA, a great majority either strongly agreed or agreed that businesses had **insufficient practical information** on how to use the trade agreement. The **complexity of rules of origin** (RoOs) was considered a problem for the utilisation of trade preferences under CETA by a total of 89 representatives, who either agreed or strongly agreed that RoOs were a problem. For the sake of comparison, RoOs appeared more problematic in the context of the more recent EU-Japan agreement (101 agreed or strongly agreed). Similarly cultural and language barriers were considered to be more important obstacles to EU-Japan trade, than under CETA. This finding is inconsistent with the expected benefits of the 'Registered Exporter' (REX) instrument envisaged in

<sup>57</sup> An online survey conducted by CoR-Eurochambres on implementation of trade agreements across EU Member States and regions, October 2019 (unpublished).

the context of CETA<sup>58</sup> as well as for the EU-Japan Economic Partnership Agreement (EPA), which is aimed at simplifying certification of origin for goods on the basis of the principle of self-certification.

When it comes to **public procurement**, the majority of respondents considered the benefits moderate (56) or high (39) under trade agreements in general. Regional representatives were even more positive about the potential opportunities offered by government procurement under trade agreements. While CETA includes substantive provisions for transparency and access to information, the majority of respondents felt that businesses in their region faced difficulties in accessing information and participating in tenders in Canada. The result was slightly higher for the EU-Japan EPA, and lower for the more long-standing EU-South Korea FTA, suggesting time plays a part in using opportunities under FTAs. In addition, public procurement largely takes place at the level of the provinces in Canada, which could be a complicating factor for European bidders.

## 4. SMEs in trade and regional trade agreements: Evidence from past experience and implications for CETA

### 4.1. SMEs and exports

Small and medium-sized enterprises (SMEs) play a critical role in the European economy. According to the European Commission, in 2017 they accounted for 99.8 % of the 24.5 million non-financial enterprises in the EU, and employed nearly 95 million employees – i.e. two-thirds of employment – in non-financial sectors.<sup>59</sup> Furthermore, SMEs generate 57 cents for every euro of value added produced in the European economy.

Despite their smaller size and resource limitations, many SMEs are very innovative, operating in niche sectors and in activities often characterised by a global footprint. However, owing to a number of constraints SMEs typically find it difficult to succeed at growing and most critically at expanding their activities beyond borders.

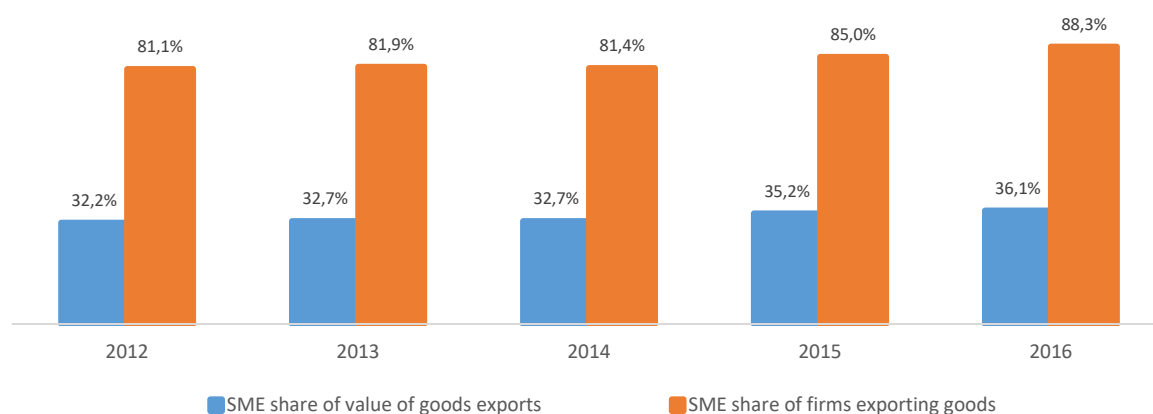
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<sup>58</sup> European Commission, [CETA – Guidance on the Rules of Origin](#), September 2019.

<sup>59</sup> European Commission, [Annual Report on European SMEs 2017/2018](#), November 2018.

In 2016, SMEs represented 88.3 % of all goods exporting enterprises in the EU. This share is non negligible and appears to have grown since 2012, underscoring also the strong recovery observed among EU SMEs since the outbreak of the crisis.

Figure 2 – Share of SME exports in total EU-28 exports 2012-2016



Data source: [European Commission](#), 2018.

However, in terms of value of exports the share of SMEs in total EU exports is somewhat lower. According to the latest available data, 36.1 % of the value of all goods exports undertaken by enterprises in the EU-28 came from SMEs.<sup>60</sup> Moreover, the bulk of SMEs' exporting activities takes place primarily within the single market. Evidence from the Eurobarometer survey indicates that the EU is the main destination for goods or services for four fifths of SMEs that export.<sup>61</sup> SMEs' exporting activities are also highly concentrated, with six Member States<sup>62</sup> accounting for more than two thirds of total EU SME exports.

<sup>60</sup> *ibid.*

<sup>61</sup> Flash Eurobarometer 42, [Internationalisation of Small and Medium-sized Enterprises](#), October 2015.

<sup>62</sup> These countries are Belgium, Germany, Spain, Italy, the Netherlands and the UK.

SMEs' untapped export potential is the result of internal and external barriers posed not only by their smaller scale, but also by market failures. The OECD emphasises that limited firm resources and lack of requisite managerial knowledge about internationalisation remain among the most critical constraints on SMEs expansion of activities in foreign markets.<sup>63</sup> As regards resource limitations, the most critical involve a shortage of working capital to finance exports and a lack of funds to fuel investment for internationalisation, as well as restrictions in related physical resources. The latter include an inability to generate excess production over and above what the domestic market requires in order to trigger exporting activities and the difficulty in developing new or adapting existing products to meet foreign demand. Owing to their size and market imperfections, SMEs also have access to limited information in identifying, selecting, and contacting international markets and partners. They also face significant human resource barriers such as lack of managerial time, skills and knowledge with regard to internationalisation.

### How do SMEs internationalise?

The internationalisation of SMEs can take various forms.

Direct trade is where SMEs export intermediate or finished products directly to their customers. SMEs can export directly if they are able to reach foreign consumers or other enterprises abroad.

SMEs can also engage in indirect exporting of intermediate goods. By linking upstream to larger firms in their own country, SMEs can provide specialised inputs and supplies that then feed production of final export goods. This gives SMEs an indirect opportunity to overcome trade-related costs and barriers to internationalisation, and to become exporters through larger enterprises.

According to the [paper](#) prepared for the G20 in 2016, direct exporters are more likely to be SMEs that produce high value-added parts and components, or SMEs that are at the forefront of technology. At the same time, SMEs specialising in goods and services driven mainly by cost-based competitive advantage, would be more likely to participate indirectly, as suppliers to the export sector.

Beyond direct and indirect exporting, SMEs may internationalise their activities by being the recipients of foreign direct investment (inward FDI) or, in fact, by investing abroad themselves (outward FDI). They may also engage in cross-border R&D and innovation collaborations with other SMEs or with larger firms. Finally, SMEs may expand their activities beyond borders through the licencing or franchising of their products or services.

Sources: [Global and regional value chains Opportunities for European SMEs' internationalisation and growth](#), EPRS, 2018, and P. Muller et al, [Annual Report on European SMEs 2017/2018: Special Background Document on the internationalisation of SMEs 2018](#)

The above are but a few of the internal and external limitations that SMEs face in the context of their internationalisation. They illustrate, however, the disproportionate impact that the trade-related policy framework can have on SMEs, relative to larger enterprises, in their ability to succeed in growing activities beyond borders.

High tariff barriers artificially inflate prices in destination markets thereby distorting SMEs' ability to match competitors' offerings in foreign markets. Additional difficulties associated with meeting high, inconsistent and often discriminatory country-specific standards for imported goods can further undermine SMEs' competitive position in foreign markets. These can include stringent industrial and environmental protection regulations, sanitary and phytosanitary requirements and conformity assessment procedures. The costs associated with adapting production and marketing procedures to meet regulations and standards in destination markets can deter SMEs from attempting internationalisation. Equally, high administrative costs relating to customs, such as

<sup>63</sup> OECD, [Glossary for Barriers to SME Access to International Markets](#), 2019.

divergent interpretations of customs valuation rules, incorrect tariff classifications to importers and delays in customs clearance procedures can have an uneven negative impact on the cost of exports relative to firm size.

In view of the above, trade agreements, and in particular regional trade agreements (RTAs) – treaties between two or more governments (e.g. between the EU and Canada, or the EU and Japan, etc.) – can be especially beneficial to SMEs by lowering cross border barriers and minimising trade-related costs both directly and indirectly.

The removal of tariffs and quotas, featuring on the top of the agenda of any RTA can have a direct and immediate positive impact by lowering the costs for SMEs as related to pricing in foreign markets, negotiating with partners abroad and managing cash flows in the context of exporting efforts. The scope and scale of these benefits will depend largely on the extent to which EU enterprises actually make use of these trade preferences to obtain tariff reductions for their products. As shown also in the CoR-Eurochambres survey on the implementation of trade agreements, insufficient trade expertise and resources among SMEs to profit from trade agreements remains among the main concerns – with over a half of respondents confirming this point.<sup>64</sup> Utilisation rates generally vary and the importance of facilitating SMEs' understanding of the necessary requirements for exporting at preferential duty is increasingly being recognised.<sup>65</sup>

Looking beyond the border, the lowering of non-tariff barriers, achieved in the context of an RTA can have disproportionately positive impacts on SMEs relative to larger enterprises that, in turn, can more easily absorb external regulatory costs. To this end, simplification of customs procedures, such as advance rulings and customs valuations, improved transparency in trade-related domestic regulation, as well as facilitation through easier licencing and certification rules can all lower the burden of behind-the-border barriers, thereby enhancing the ability of SMEs to engage in trade.

Trade agreements, however, can go even further by addressing regulatory matters that can be critical for smaller enterprises. For example, protection of intellectual property rights, as well as specialised issues related to geographical indication (GI) and/or protected designation of origin (PDO) can be particularly important for small and micro enterprises.<sup>66</sup> Such intangible assets can play a key role in determining whether young micro firms and start-ups decide to internationalise and indeed succeed, and therefore relevant provisions in RTAs that address and protect such matters can make a big difference to the process of internationalisation.

<sup>64</sup> Online survey conducted by CoR-Eurochambres on implementation of trade agreements across EU Member States and regions, October 2019 (unpublished).

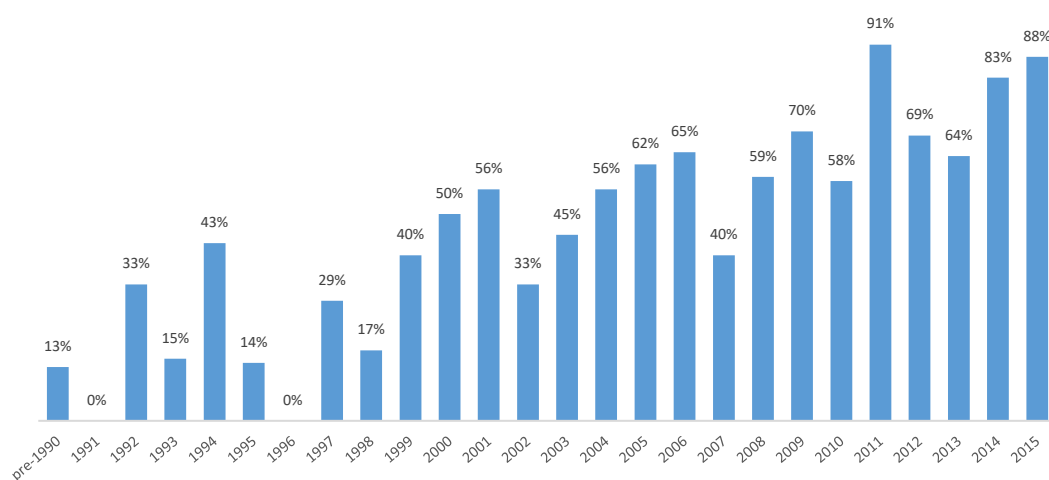
<sup>65</sup> L. Nilsson and N. Preillon, [EU Exports, Preferences Utilisation and Duty Savings by Member State, Sector and Partner Country](#), 2018.

<sup>66</sup> European Commission, [Annual Report on European SMEs 2017/2018](#), November 2018.



These observations have resulted in more and more RTAs including explicit provisions on SMEs. According to a recent comprehensive review by the World Trade Organization (WTO) of all RTAs notified to the organisation between 1957 and 2016, the number of agreements with explicit SME-related provisions has increased steadily since the late 1990s and early 2000s.<sup>67</sup> By and large this reflects broader changes in the policy agenda at both regional and multilateral levels, whereby facilitating SMEs' integration in international trade has become increasingly prevalent. As illustrated in Figure 3, there has been an upward trend in the share of RTAs that incorporate SME-related provisions in recent years to the point where provisions on SMEs appear to have been included in nearly 80 % of the RTAs that entered into force over the period from 2011 to 2015.

Figure 3 – Evolution of regional trade agreements with provisions explicitly mentioning SMEs (% of agreements with SME-related provisions) – not cumulative



Data source: [WTO](#).

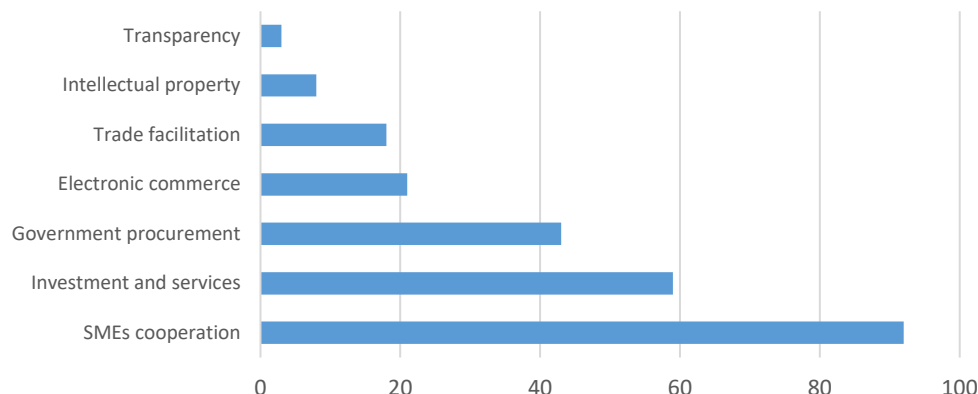
Nevertheless, SME-related provisions vary substantially across RTAs, not only in their structure and emphasis in agreements, but also in the scope, language and legal commitments. Nevertheless, according to an overview published by the WTO of all RTAs that include explicit provisions on SMEs, a number common traits do exist.

A common feature of SME provisions is cooperation. As illustrated in Figure 4, 92 agreements out of the total have at least one cooperation provision belonging to the respective category. SME cooperation provisions can be of general nature, but they can also be quite specific. Indicative examples sometimes include provisions relating to technical barriers to trade and the promotion or facilitation of investments, including joint ventures between SMEs of the signatory countries.

<sup>67</sup> WTO, [World Trade Report, Levelling the Playing Field for SMEs](#), 2016.



Figure 4 – Main areas of SME-related provisions in RTAs (Total number of RTAs with at least one SME-related provision belonging to the respective category)



Data source: [WTO](#).

A further important area relates to government procurement. Research indicates that the majority of RTAs that have been notified to the WTO in recent years contain provisions on government procurement, whether of a detailed or a limited nature, and that these provisions are generally modelled on the WTO Government Procurement Agreement.<sup>68</sup> According to the aforementioned WTO analysis SME-related provisions on government procurement are included in 43 agreements with at least one SME-related provision. These again range in terms of coverage and scope from the recognition of the significance of SMEs' participation in public procurement to the establishment of specific committees on such matters.

Other areas where SME-related provisions are prevalent in RTAs include e-commerce, trade facilitation, intellectual property and transparency. The repeated emergence of these policy areas across RTAs is indeed in line with key areas of importance for small business, as alluded to earlier in the discussion on the changes and barriers that they face when it comes to expanding their activities beyond borders.

## 4.2. EU trade agreements, CETA and SMEs

### 4.2.1. EU trade agreements and SMEs

SME-related provisions are being included in more and more of the trade agreements signed by the EU. In line with the above discussion, this development is in part due to the recognition of the important economic function played by SMEs in Europe and of the barriers that they face in the process of internationalisation. Notwithstanding this alignment at legislative level, however, the available literature on the economic impact that EU trade agreements have on the livelihood and growth of European SMEs remains quite limited.

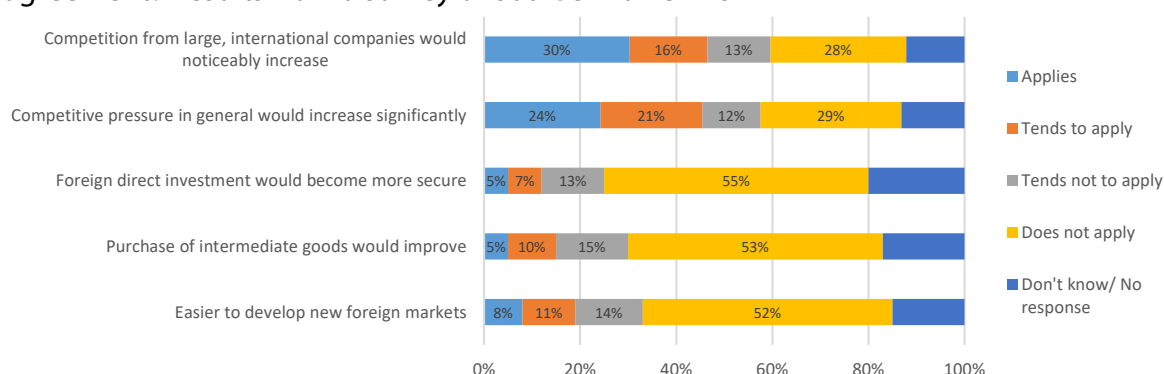
In the absence of hard ex-post evidence on the benefits of trade agreements for SMEs, many small enterprises in Europe remain sceptical about new regional trade agreements with third countries. A [recent survey](#) of German SMEs, commissioned by the German Association for SME Business (BVMW)

<sup>68</sup> R. Anderson, A. Müller and P. Pelletier, [Regional Trade Agreements & Procurement Rules: Facilitators or Hindrances?](#), EUI Working Paper RSCAS 2015/81.

and Schöpflin Stiftung, confirms this point.<sup>69</sup> The survey found that less than 20 % of SMEs taking part expected that the conclusion of a new trade agreement would lead to an improved ability to develop in new markets or the procurement of intermediate goods and services (See Figure 5).

These views varied somewhat depending on the current level of internationalisation of enterprises, with companies that already have high export shares being more optimistic about free trade agreements. Nearly half of the SMEs taking part recorded their expectation that competition from large international companies would increase noticeably as a consequence of the RTAs, while key risk areas that were highlighted by respondents included protection of intellectual property (71 %), protection against economic espionage and protection of regional product designations (61 %). Increased competitive pressure from foreign companies was also identified by the CoR-Eurochambres survey on trade implementation as a key concern for regions when new EU trade agreements come into force.<sup>70</sup>

Figure 5 – How would your company be affected by the conclusion of a new free trade agreement? Results from a survey of 800 German SMEs



Data source: German Association for Small and Medium-Sized Businesses (BVMW) and the Schöpflin Stiftung, [Is the current free-trade policy an opportunity for or threat to SMEs?](#), May 2016.

The extent to which these fears regarding the potential benefits of trade agreements for SMEs might be justified is a question that can only be addressed on the basis of extensive statistical analysis. Although the data available is too limited to allow specific trends to be identified, a preliminary analysis undertaken in the context of the European Commission's [Annual report on European SMEs 2017/2018](#) highlighted a number of interesting insights.

The analysis indicates that SMEs are on average responsible for 35 % of total direct exports to FTA partners, as compared to 25 % when it comes to exports to the rest of the world. This could suggest that regional trade agreements have facilitated trade for small enterprises. Moreover the analysis finds that the number of SMEs exporting to the FTA partners under examination increased by 4 % between 2014 and 2015, while in those same years it either decreased or remained unchanged for other parts of the world.

<sup>69</sup> German Association for Small and Medium-Sized Businesses (BVMW) and the Schöpflin Stiftung [Is the current free-trade policy an opportunity for or threat to SMEs?](#), May 2016.

<sup>70</sup> Online survey conducted by CoR-Eurochambres on implementation of trade agreements across EU Member States and regions, October 2019 (unpublished).

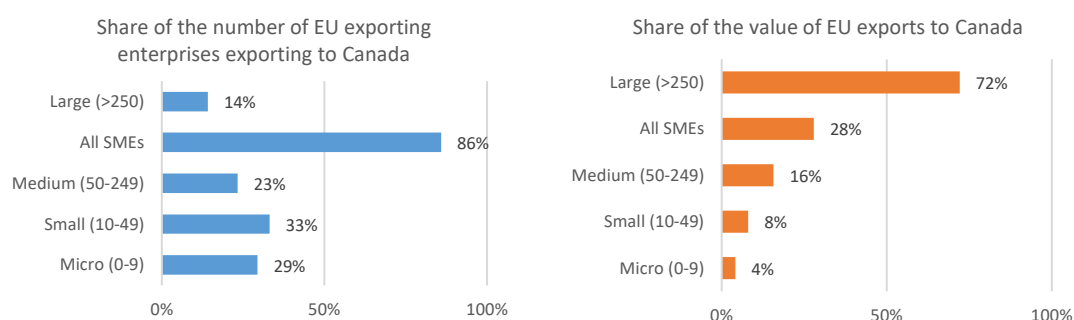
#### 4.2.2. CETA and the mainstreaming of SMEs

Both the EU and Canada place a pronounced focus on inclusiveness, transparency, labour rights, environment and SMEs in their trade policies. In Canada, the Export Diversification Strategy aims to increase overseas exports by 50 % by 2025, and improve support services for companies looking to export, in particular SMEs.<sup>71</sup>

Small and medium-sized enterprises play an important role in EU-Canada trade. While available data on bilateral trade by enterprise size classes remain largely fragmentary and cover only a few years, information compiled by Eurostat can provide some useful insights.

Figure 6 illustrates the breakdown of EU exports to Canada in 2014 for both the number of exporting enterprises and for the value of EU exports, by company size. Reflecting the general characteristics of SMEs' contribution to overall EU trade, discussed earlier, the SME share of EU exports to Canada is 86 % in terms of number of enterprises and 25 % in terms of value of exports. Some variation exists between SME categories, particularly when it comes to the value of trade, with medium-sized enterprises leading followed by small and finally micro firms.

Figure 6 – Breakdown of the number of EU exporting enterprises exporting to Canada and the value of EU exports to Canada, by company size, 2014



Source: Author's calculations based on Eurostat (\* data cover 22 EU Member States, excluding Estonia, France, Croatia, Hungary, the Netherlands and Slovenia).

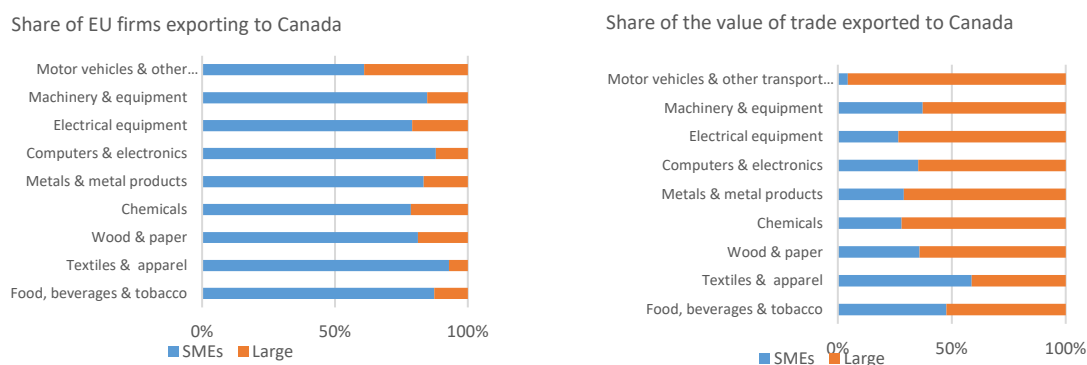
The sectoral distribution of SMEs' export shares to Canada is also illustrative. Available data on manufacturing exports (Figure 7) indicate that SME exporters tend to lead in terms of numbers in all sectors, especially in food, beverages and tobacco, and textiles and apparel, but also in computers and electronics. Meanwhile, when it comes to the value of exports to Canada, larger firms tend to dominate, with the possible exception of textiles and apparel.

The important role of SMEs in EU-Canada trade is clearly reflected in CETA, where a number of specialised provisions bring greater focus to smaller enterprises, thereby reinforcing the potential for further benefits of the agreement as a whole.

<sup>71</sup> WTO secretariat, [Trade Policy Review: Canada](#), April 2019.

More specifically, in the chapter on electronic commerce, the parties recognise the importance of making it easier for smaller enterprises to take advantage of the potential benefits offered by CETA. In the field of government procurement, the relevant CETA committee is entrusted, in part, with the role of considering the promotion of coordinated activities to facilitate access for suppliers to procurement opportunities in the territory of each party, including initiatives to facilitate access for small and medium-sized enterprises.

Figure 7 – Share of SMEs and large firms in EU manufacturing exports to Canada, 2014



Source: Author's calculations based on Eurostat (\* data cover 22 EU Member States, excluding Estonia, France, Croatia, Hungary, the Netherlands and Slovenia).

SME-related provisions are also incorporated in CETA in the chapter on investment. More specifically, the agreement seeks to reduce the financial burden during the resolution of investment disputes in cases where the investor is a small or medium-sized enterprise. According to the European Commission these provisions actually go beyond other trade agreements in facilitating and reducing the burden on SMEs in investor-state dispute settlement mechanisms.<sup>72</sup> In the context of mediation, for instance, CETA provides for a low cost option as opposed to full litigation, by encouraging parties in a dispute to solve the issue amicably within 60 days, rather than going through full litigation. It also allows parties to minimise costs by holding consultations via videoconference and by setting procedural deadlines to make proceedings faster. Finally, in a dispute settlement, successful SMEs would have no costs to cover, while supplementary rules may also be adopted by the EU and Canada to set ceilings for the costs unsuccessful SMEs would need to bear. Overall, emphasis on investment can be instrumental in SMEs' internationalisation.

Developing and implementing exporting activities may involve considerable investments, even by small companies, including the establishment of representative offices or even the acquisition of other firms in the recipient country. In the context of the above, a number of additional practical matters have also been put forward more recently by the two parties. More specifically, on 26 September 2018 the CETA Joint Committee on SMEs provided a number of recommendations to enhance the visibility and awareness of the agreement and its specific rules for SMEs including facilitating access to information over tariff schedules, product-specific rules of origin, and import requirements. To this end a database, searchable by nomenclature code, has been proposed, which could facilitate the take-up by SMEs of tariff preferences offered by CETA. This proposal addresses one of the key concerns for SMEs, as evidenced also by the CoR - Eurochambres survey, which found that over three quarters of respondents found the idea of a free online tool to help SMEs calculate

<sup>72</sup> European Commission, [How the EU-Canada Comprehensive Economic and Trade Agreement \(CETA\) benefits small and medium-sized enterprises \(SMEs\)](#), April 2019.

whether their products comply with rules of origin criteria in EU RTAs to be very helpful.<sup>73</sup> Bilateral SME contact points will pursue the effective implementation of these efforts to improve access to information.

### 4.2.3. Implications and exporters' views

Owing to the limited time period since its adoption and the consequent lack of available data, there is no ex-post impact assessment of CETA yet, let alone an analysis of its actual impact on SMEs. An ex-ante impact assessment commissioned by the European Commission in 2011, highlights a number of possible channels through which European SMEs could potentially benefit from the agreement.<sup>74</sup> For example, the report notes that SMEs could potentially benefit from the removal of onerous listing procedures in Canada's provincially run liquor boards. However, according to the 2018 implementation report by the European Commission, discriminatory practices in this area at the federal and provincial level persist.<sup>75</sup>

Anecdotal evidence from European producers suggests possible opportunities in this segment. Wine producers from France,<sup>76</sup> Spain<sup>77</sup> and elsewhere in Europe are apparently benefiting from tariff liberalisation but also the end of Canada's regional monopolies on wine retailing. Similarly, small spirit producers from Ireland<sup>78</sup> view the agreement as an opportunity to export to Canada, with less red tape, particularly at provincial level.

Beyond alcoholic beverages, anecdotal evidence from food producers across Europe suggests that CETA could generate new opportunities for small producers in this segment as well. From cheese makers in France<sup>79</sup> and the Netherlands,<sup>80</sup> to fruit producers in Poland<sup>81</sup> and associations of food producers in Italy<sup>82</sup> there is evidence of improved market access, simplification and acceleration of approval processes for exports and critical protection of geographical origin of products.

The 2011 impact assessment report also highlighted textiles, apparel and leather as sectors where major benefits could be realised for EU firms and especially SMEs, which are the driving force of activity and employment in these fields. Macro-economic modelling estimates presented in the report indicate that the removal of tariffs in Canada could stimulate gains in employment within the EU by as much as 0.1 % in the textiles sector, 0.14 % in apparel and 0.19 % in leather manufacturing.

<sup>73</sup> An online survey conducted by CoR-Eurochambres on implementation of trade agreements across EU Member States and regions, October 2019 (unpublished).

<sup>74</sup> C. Kirkpatrick, S. Raihan, A. Bleser, D. Prud'homme, K. Mayrand, J.-F. Morin, L. Hinojosa and M. Williams, [A Trade SIA Relating to the Negotiation of the Comprehensive Economic and Trade Agreement \(CETA\) between EU and Canada](#), June 2011.

<sup>75</sup> European Commission, [Report on the implementation of Free Trade Agreements](#), October 2019.

<sup>76</sup> [French wine destined for international markets](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>77</sup> [The Spanish Federation of Food and Drink Industries \(FIAB\)](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>78</sup> [The Chapel Gate Irish Whiskey Company](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>79</sup> [Maison Mons](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>80</sup> [More cheese? Yes please](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>81</sup> [Ready to reap the fruits of CETA](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

<sup>82</sup> [San Daniele Prosciutto](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

Anecdotal information confirms the potential in this sector, as evidenced by the views of a small garments producer from Sweden.<sup>83</sup>

Finally in the field of business services, owing to the high concentration of small business and the ambitious provisions agreed between the two parties, important opportunities are also likely to emerge in the context of CETA. Canada has committed to allow the posting to Canada of EU intra corporate transferees in any sector for up to three years, while the agreements also contains provisions aimed at facilitating the mobility of highly skilled professionals.<sup>84</sup> This is an important consideration for companies when making an investment decision. It could be particularly beneficial for SMEs,<sup>85</sup> as they may not otherwise be able to ensure the presence of permanent staff on the ground to supply the service directly.

## 5. Conclusions

Not only is CETA a key milestone in EU-Canada trade relations, it is also an example of an unprecedented comprehensive trade agreement between the EU and a third country. Considering the limitations posed by the relatively recent date of the provisional application of CETA, this analysis has sought to provide an initial overview of its implementation, in particular by bringing regions and SMEs into focus. In sum, the main conclusions to be drawn from this in-depth analysis are as follows:

1. Despite speculation about Member States' rejection of mixed trade agreements when completing national ratification procedures, the provisional application of CETA – i.e. *de facto* implementation – is likely to continue in the coming years.
2. Key concerns of civil society organisations in relation to CETA have not materialised.
  - a. The ICS is not (yet) in force pending ratification of CETA in Member States and at EU level, although preparatory work to ensure it is operational after full entry into force is on-going.
  - b. There has been no massive influx of Canadian agricultural products onto the EU market and EU agri-exports to Canada have been on the rise.
3. CETA has a robust set of governance mechanisms in place, with a number of committees and sectoral groups set up and working to improve the implementation of the agreement.
4. Since CETA's provisional application, bilateral EU-Canada trade has increased, although it is not clear to what extent this is due to the agreement or to outside factors.
5. The preference utilisation rate under CETA stands at 37 %, but with good potential to increase, in particular for SMEs and the auto sector.
6. SMEs are likely to benefit further if awareness is raised about the ways in which they can reap the benefits of CETA, for instance by facilitating access to information on tariff schedules, product-specific rules of origin, and import requirements (e.g. via a free online tool or database).

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<sup>83</sup> [Ethical EU-made clothes finding a home around the world](#), Extracted from European Commission's In focus Exporters' Stories website, October 2019.

<sup>84</sup> European Commission, [Guide to the Comprehensive Economic and Trade Agreement \(CETA\)](#), July 2017.

<sup>85</sup> [Spotzi](#), Extracted from the European Commission's In focus Exporters' Stories website, October 2019.

7. Regional and municipal authorities consider that CETA offers high to moderate potential for their region, and that businesses have a high to basic familiarity with CETA (however with a third still not familiar yet). However, the majority of regions believe that there is insufficient practical information about how to use CETA, and that the complexity of rules of origin and customs formalities pose problems for doing business under CETA.

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The majority of provisions of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) have been implemented since 21 September 2017, with the agreement's provisional application pending full ratification. The aim of this EPRS analysis is to chart the state of play of CETA's ratification procedures, its key objectives, remaining controversies, and the initial results stemming from two years of provisional application, with a focus on regions and small and medium-sized enterprises (SMEs). It is important to note that it is too early to evaluate the economic and social impacts of CETA. That will be the remit of the ex-post evaluation usually carried out by the European Commission five years after the start of provisional application.

By providing an overview of the early results of CETA implementation two years in, this analysis seeks to inform forthcoming deliberations on both CETA itself and other free trade agreements between the EU and various partner countries.

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