

# **Assessment of Environmental Risks of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union**

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(Summary)

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On 26 September 2014, after nearly five years of negotiations, the European Commission published the complete text of the "Comprehensive Economic and Trade Agreement" (CETA) between Canada and the European Union (EC 2014a). While the verdict is still out, according to various assessments, e.g. that of the Council of the European Union, it is seen as mixed agreement. Hereafter, respective ratification must occur: on the European side, the European Parliament, the European Council and all member states (in the case of Germany, the German parliament and the Federal Council), and on the Canadian side, aside from its parliament, all its provinces as well (DNR 2014; Mayer 2014). In 2013 Canada was the EU's 12th most important trading partner, with EU exports exceeding EU imports. The EU's merchandise exports notably comprised agricultural products (9.5%) fish products (0.2%) and industrial products (90.3%). With respect to merchandise imports, the corresponding shares were 7.1%, 1.4% and 91.5% (EC 2014B).

With the CETA agreement, 98% of the existing EU import tariffs are to be immediately eliminated upon entering into force, and 99% after seven years of entering into force. Tariffs on industrial products would be immediately reduced by 99.3%, and eliminated by 100% after seven years. Concerning forestry products, current tariffs (1.2% on average and 10% at maximum) would be removed completely. Tariffs on chemical and plastic products, which currently average 4.9%, would also be immediately removed.

EU tariffs on fish and seafood would be eliminated by 95.5% upon entry into force. However, during a transitional period, quotas may remain on select products, and Canadian products may be granted preferential treatment as opposed to Canadian products processed with imported ingredients. In agriculture, 93.6% of all duties would be abolished with the agreement entering into force, while transitional periods or quotas would remain for a number of products (GC 2013).

In addition to the reduction of tariffs, the agreement contains other far-reaching provisions. These include the principle of national treatment, market access regulation – e.g. a general ban on import and export restrictions (ch. 3), rules of origin (ch. 4), subsidy rules (ch. 9), the removal of technical barriers (ch. 6) and rules governing the mutual acceptance of the results of conformity assessments (ch. 27). Yet the facilitation of trade in goods is only one part of the agreement. The trade in services (ch. 11), including financial services (ch. 15), is to be liberalized, and labor mobility (ch. 12) would be boosted. Moreover, the agreement contains provisions affecting competition policy (ch. 19), state enterprises (ch. 20), as well as public procurement (ch. 21).

While the agreement also features various protections and rights, these are accorded different weights and differing warranty and enforcement mechanisms. On the one hand, the sanitary and phytosanitary measures (SPS) based on existing agreements (ch. 7), and the chapters

concerning sustainable development (ch. 23), the relationship between trade and the environment (ch. 25) as well as between trade and labor standards (ch. 24) are relatively weak. Conversely, the commercial rights concerning the protection of intellectual property, such as the protection of geographical indications and copyrights (ch. 22), as well as investment protection (ch. 10), which includes the especially controversial investor-to-state dispute settlement procedures, are significantly more robust.

Two other chapters are dedicated not only to the regime of the agreement itself, but also concern other or future rules and standards: the chapter on cooperation in regulatory matters (ch. 26) and the chapter on the institutionalization of bilateral dialogue and cooperation in select areas (ch. 29).

Due to its comprehensive nature and the close trade relations between Canada and the United States under the North American Free Trade Agreement (NAFTA), the CETA agreement is widely regarded as a template for the currently negotiated transatlantic agreement between the EU and the USA (TTIP).

This paper essentially focuses on the environmental and conservation-specific risks of CETA. To this end, we outline the agreement's regulatory reach – which could possibly affect the current and future quality of environmental standards specifically in terms of the investor-to-state dispute settlement mechanisms in the context of investment protection, the types of institutionalized regulatory cooperation and the horizontal provisions in the sustainability and the environment chapters.

Thereafter, the possible effects of the CETA agreement on specific matters of environmental and nature protection will be discussed, taking into account the cross-cutting areas previously treated. Finally, to the extent possible given the current state of negotiations and their confidentiality, the paper will examine the degree to which CETA already constitutes a precursor to TTIP, or whether significant deviation ought to be expected.