



The EU-Canada Comprehensive Economic and Trade Agreement CETA: a legal overview from Spain



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CETA from a legal standpoint

- CETA is an **International treaty** between Canada and the EU and EU member states
 - ✓ All parties shall ratify it before it comes into force.
 - ✓ EU, Spanish Parliament and 16 other EU Members have ratified it.
- **Some sections are provisionally applicable** due to an EU Decision.
- The provision that are **not applicable until full ratification** are those related to:
 - ✓ Investment protection.
 - ✓ Portfolio investment (not direct investment).
 - ✓ Investment Court .

CETA: enforcement



▪ **Investment Court:**

- ✓ CETA will protect investments through the Investment Court System.
- ✓ Waiting for the full coming into force of the treaty.
- ✓ Such system will be public, permanent courts (not temporary), with legal professionals and judges appointed .
- ✓ Appointed by the EU and Canada with strict ethical standards and code of conduct and with transparency through public hearings duly published.
- ✓ It is consistent with EU Law (EU Court Report 1/17).

▪ **National and EU legislation**

The treaty is binding but many provisions shall be enforced through EU and national legislation.

▪ **Protection of IP**

CETA strengthens protection for Copyrights by adapting Canadian and EU regulations on protection of new technologies, patents of pharmaceutical products and intensify border controls against counterfeiting trademarks, products, intellectual property and other.

Benefits of CETA: exports



- Remove **customs** duties and non custom obstacles.

Almost 92% of European and Canadian agriculture products, processed food products, and beverages will be liberalized from customs duties. This will generate new exporting opportunities for European producers of wine and liqueurs, fruits, vegetables and cheese.

Specifically in the wine and liqueurs area CETA also eliminates certain commercial obstacles which have been until recently imposed in favor of Canadian wines for example.

- Protect traditional European food and drink products (*denominaciones de origen*)

CETA stipulates that Canada has accepted to protect 143 geographical indications (denominaciones de origen). Those are beverages and food products which identify with a particular region in the UE. The producers are usually small or medium companies with a rural background.

Benefits of CETA: goods



- Treat goods from Canada and EU as **national goods**.

According to CETA (article 2.3) both Canada and EU shall consider the goods of each other as national. No government in Canada different from the Federal Government, or no state member in the EU can give a less favorable treatment than the one accorded by such government to similar goods which are directly competitive or exchangeable from Canada or the member state in the EU respectively.

- **Evaluation certificates** of many products (electrical/electronic equipment, toys, measurement equipment , among other, **will be accepted mutually by Canada and EU**.

Subject to the CETA the evaluation entity from the EU shall test the EU equipment and the approval of such equipment shall be accepted by Canada for its export to Canada and vice versa, e.g. a toy to be exported to Canada will be evaluated in EU and such evaluation shall be accepted in Canada and the toy can be exported. This will save costs for companies avoiding double evaluation.

Benefits of CETA: **services and Public procurement**



- Open up the Canadian **services** market to EU companies, removing obstacles.

European companies will have more opportunities to provide services in Canada, such as specialized maritime services, transportation of goods in Canada, telecommunications, financial and environmental services.

- Make it easier for EU firms to bid for Canadian **public contracts**:

Canada is a fully decentralized country where the public procurement market doubles the federal government procurement. The great advantage of CETA is that it opens up to European companies public tendering for all three levels of the Canadian government (Federal, Provincial and Municipal). European companies are the first non-Canadian companies to have such advantage.

- ✓ Removing obstacles to EU companies, with certain exceptions.
- ✓ All biddings (from certain threshold) must be published in a single website: With this step CETA is providing more transparency to the procurement process, especially considering that access to information is an important hurdle in international markets for smaller companies, such advantage from CETA will benefit especially the small European companies.

Benefits of CETA: **people**



- Make it easier for **European professionals** to work in Canada.
 - ✓ No nationality of residence required to render a service.
 - ✓ Residence for 12 months for self-employed professionals.
 - ✓ Moving up to 3 years, working for the same company, with spouse and children.
 - ✓ Allow for the mutual recognition of some qualifications.

GOMEZ DE MERCADO ABOGADOS is a member of the **Canada/Spain Chamber of Commerce.**



THANK YOU

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