

Canada's fresh push for EU trade deal

Both sides want to resolve the investor court issue without reopening the deal.

By

HANS VON DER BURCHARD

12/9/15, 10:46 PM CET

Canada's new government is pushing the EU to move faster on a delayed trade deal, including a potential compromise on the key sticking point holding the deal up.

Canada's chief trade negotiator Steve Verheul, in Brussels this week, brought a clear message: Ottawa's new liberal government is "strongly supportive" of the deal, but wants to avoid any further delays.

"We want to move towards implementation as quick as possible," Verheul told reporters Wednesday, adding this would be a "top priority" for new International Trade Minister Chrystia Freeland, who was appointed just four weeks ago.

Canada is open to compromise on the EU's demands for an international court on investment protection, if it doesn't take too much time.

Although Ottawa and Brussels [concluded](#) their negotiations on the deal back in September 2014, controversy over the so-called investor state dispute settlement (ISDS) mechanism [has stalled](#) efforts to ratify and implement the agreement since then.

NGOs and left-wing politicians argue the long-used system for protecting the investments of foreign investors would undermine national governments' legislation and their right to regulate.

The launch of EU-U.S. negotiations on the much bigger Transatlantic Trade and Investment Partnership, or TTIP, in 2013 drew increasing attention to the ISDS

topic. A public consultation on investment protection by the European Commission, [published](#) in January, showed a huge majority of European citizens reject ISDS.

In a move to appease skeptics, EU Trade Commissioner Cecilia Malmström proposed to [reform the entire system](#) by transforming it into an international trade court with independent judges, more transparency and an appeal mechanism.

But as she presented her plan, aimed to be established in TTIP and all future trade deals, in September, the Canadian negotiations had already been closed for a year.

It's turned into a huge headache for Malmström and her trade negotiators, as many MEPs now say they would not ratify any trade agreement that goes below these standards.

“It is true that our recent proposal, which we have sent to the U.S., goes further than the CETA [the Canadian trade deal] text,” Malmström said to the European Parliament’s International Trade Committee Wednesday, but added “neither Europe nor Canada” would have an interest in reopening the agreement.

Instead, there would be a chance to do some “fine-tuning” and “targeted improvements” during the so-called legal scrubbing, an expert review process that is normally intended to only remove language ambiguities and other inconsistencies.

Such changes “will be crucial for this house and several member states” to get approval for ratification, Malmström admitted.

With the new liberal government in power, there is hope for more flexibility to amend the agreement via legal scrubbing, while not officially reopening it.

“We’re prepared to work with the EU to work in the direction of an international court for investment disputes,” Canadian negotiator Verheul said. “But if the EU is going to press us to adopt an appellate mechanism that would certainly involve quite a bit of further discussion ... We recognize that’s a longer-term exercise.”

Such further hold-ups are what Ottawa wants to avert.

The target, Verheul said, is to get final details sorted out fast to launch the treaty’s ratification in late spring next year. The deal needs to win the approval of the

Council and get a green light from the European Parliament, plus most likely all 28 national parliaments. That could push final passage to 2017 or further.

The business side is also pushing for acceleration.

There might be “some flexibility on ISDS as long as it is reasonable,” said Jason Langrish, president of the Canada Europe Roundtable for Business. More important, however, is to “see some results,” Langrish, who represents companies from both sides, added.

The European Parliament’s biggest political group is arguing the EU shouldn’t require changes to the deal at all costs.

“Our political group is ready to ratify CETA as it stands right now,” Daniel Caspary, a leading trade parliamentarian from the European People’s Party, said.

“The agreement already includes a reformed and improved investment protection system with more transparency and clearer legal definitions, so it has nothing to do with the old ISDS system that is often criticized.”