

Investment chapter delays legal scrubbing of EU-Canada trade agreement

BRUSSELS, Dec. 10 (Xinhua) -- The legal scrubbing process of the EU-Canada free trade agreement, known as the Comprehensive Economic and Trade Agreement (CETA), has been delayed as the two sides are disputing the full inclusion of the Investment Court System (ICS), it was reported Wednesday.

Trade Commissioner of the European Union Cecilia Malmstrom said in the European Parliament that CETA provisions on investment were state-of-the-art and that the EU was aiming for some fine-tuning to make it equivalent to its approach as laid out in the ICS proposal.

CETA would eliminate most tariffs on European exports, including high tariffs on clothing and footwear, open Canada's procurement market to EU firms, protect 145 European geographical indications and make it easier for services companies to do business in Canada, according to the EU.

However, the CETA deal was sealed in early August 2014, earlier than the reform process of this year. Therefore, the commissioner said improvements will be crucial for the European Parliament and several EU member states to look favorably on the whole CETA package.

Malmstrom stressed investment protection is the area where most concerns have been raised. She said the EU wants "a deal that encourages investment but that also protects fully our ability to make public policy in the interest of people."

"My intention is firm: either immediately, or by using the review clauses, we will bring CETA up to the new EU standard," she said.

But Steve Verheul, Canada's chief negotiator for CETA, has ruled out the full inclusion of the ICS in the EU-Canada free trade agreement.

Addressing a group of journalists on Wednesday, he said Canada was ready to accommodate certain elements of the EU proposal but made clear that the full inclusion of the ICS was out of the question as it would go beyond what is traditionally considered as legal scrubbing.

"We have reached the balanced agreement that was supported by our leaders and I think that we have to be very cautious about revisiting things that have been agreed and endorsed," he added.

Ottawa is reluctant to commit to a proposal that is likely to be modified during negotiations with the United States, Verheul explained.

"The ICS is a proposal the EU is making in its negotiations with another trading partner -- the United States. To ask us to sign up to a proposal that we know might end up in a quite different place, if a final agreement is reached, would be a bit unfair," Verheul argued.

"We do not want our investors to be in a different situation than other investors inside the EU market. We have no interest in being put at a disadvantage," he added.

Verheul made clear that Canada wants to move towards ratification as soon as possible. Due to internal EU discussions on the reform of the investor to state dispute settlement (ISDS) system, the conclusion of the legal scrubbing of the text has been delayed.

"One of our bigger concerns is that whatever might happen on the investment front we do not want it to further delay the move towards implementation of CETA," Verheul said.

He estimated that the legal scrubbing could be concluded within 2-3 weeks, provided the EU does not insist on the full inclusion of the ICS in the agreement.

"All options are on the table," Verheul said, noting that the EU is not likely, however, to conclude the legal scrubbing until all boxes, including the investment chapter, are ticked.

On the timeline, Verheul added that provided the legal scrubbing is concluded within next 2-3 weeks, the agreement could be send for ratification by the Council and the European Parliament in late spring or early summer.

He noted that the approval process in Canada is less complex and is expected to be fairly easy, given the political support for the agreement both in the parliament and the new government.