

Will Liberals have to reopen CETA talks to get a deal done?

By BJ Siekierski | Dec 10, 2015 3:24 pm |

Overshadowed in Canada by the conclusion of the Trans-Pacific Partnership negotiations, European opposition to the investment chapter in the Canada-EU Comprehensive and Economic Trade Agreement (CETA) continues to jeopardize the deal's ratification.

While Trade Minister Chrystia Freeland remains optimistic she'll fulfill her **mandate letter** instruction to implement the agreement, it's less clear whether she and the Liberals are willing to reopen negotiations to do so. They may not have a choice.

Speaking at a CETA workshop in the European Parliament on Wednesday, Canada's chief negotiator — Steve Verheul — conceded that though it was possible the investment **chapter could be reopened** — addressing a sustained groundswell of European opposition to its investor-state dispute settlement (ISDS) provisions — it would be risky.

“I am going to be exploring potential paths forward on this issue, but I should flag that we do have concerns about reopening any part of the negotiations,” he said. “We are concerned that whenever that happens you can unravel a very careful balance that was struck.”

In that regard, his assessment was less absolute than outgoing EU Trade Commissioner Karel De Gucht's last fall.

“If the negotiations are reopened, the deal is dead,” De Gucht said then.

De Gucht's successor, Cecilia Malmström, has tried in recent months to appease opponents of ISDS, which allows government regulations and policies to be challenged outside of domestic courts, **by mandating** a public investment court system.

That was more with an eye to the ongoing, unpopular EU-U.S. Transatlantic Trade and Investment Partnership (TTIP) talks than the concluded CETA, but the 150,000 protesters who took to the streets in Berlin in October didn't distinguish between the two, according to *Politico*.

Last November, Freeland's predecessor, Ed Fast, said the agreement was "negotiated within existing mandates given to negotiators from both sides", implying the Harper government wasn't willing to go back to the negotiating table — or that they'd only do so in exchange for additional European concessions.

Freeland and the Liberals may not have that luxury.

On Wednesday afternoon, when asked about the possibility of reopening the investment chapter, she said she'd probably have more to say on the subject after meeting with EU Trade Commissioner Malmström at the WTO Ministerial in Kenya next week.

"We are very excited about CETA. As you know from my mandate letter, I am mandated to conclude this historic, important agreement," Freeland said. "The Prime Minister already, in his meetings with European leaders, has consistently brought up CETA. And in each one of those meetings, he has heard strong support for CETA from the leaders of the major European countries," she added.

"We are keen to get it done. What we are hearing from our European partners is that they are keen to get it done, too," Freeland said, adding that she'd spoken with Malmström by phone.

"This will be my first face-to-face conversation. I'm very hopeful that that conversation will give us a strong, positive path forward. And I really think we can get this done. There's so much good will on both sides."