

Canada and the EU conclude CETA technical negotiations

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Nine months after reaching an [agreement in principle](#) on the Comprehensive Economic and Trade Agreement with the European Union, government of Canada officials announced the end of technical negotiations on Tuesday afternoon.

“Today, Canada and the European Union are pleased to announce that officials have reached a complete text, allowing translation and final legal review to commence. As per their involvement throughout the process, Canada’s provinces and territories have received the complete text and have been comprehensively briefed on its content as well as on next steps,” a government release said.

“Planning has also begun for a September Canada-EU Summit that will be hosted in Canada.”

The agreement, a government official said, contains 42 chapters and runs to over 1,500 pages. It has not been made public, and at the moment it’s not clear when that will happen.

The legal review, translation, and approval, are expected to take up to two years.

Included in the agreement are clear breakdowns for tariff reductions on various agriculture quotas on goods like beef and pork. Under the agreement-in-principle, Canadian beef producers had been promised 50,000 tonnes of new quota, while pork producers would be entitled to 80,000 tonnes of new access.

Canadian officials, though, were concerned Canadian producers would be unable to fill those promised quotas given the European Union's strict rules on agriculture exports — for instance, accepting only hormone-free beef.

As a result, they successfully negotiated the right to “underfill” those quotas. European customers will be forced to accept Canadian meat products on a first-come-first-served basis if industry finds the promised quotas aren't being filled.

On the agriculture front, Canada has also negotiated side agreements under the deal outlining special rules for imports of goods that may challenge European phytosanitary rules — like genetically-modified canola or hormones used in red meat production.

The EU also has agreed to waive export subsidies on goods coming to Canada, a concern that had been raised by Canadian dairy farmers worried their markets would be flooded with subsidized cheese imports.

In early May, EU Trade Commissioner Karel De Gucht

said the technical talks had been more difficult than originally foreseen and that there were three or four “thorny” issues left to sort out.

The government official said on Tuesday that the very last issues had to do with services and investment reservations — the protections each side would be allowed to maintain — with the final issues closed last week involving maritime transport and financial services.

Another of the thorny issues, however — the application of investor-state dispute settlement (ISDS) — has gotten quite a bit of attention lately, with a German newspaper reporting on July 26 that the German government was prepared to reject the agreement if ISDS was included.

That position, which came from an anonymous source in Brussels, was refuted a few days later by the German government. And a government official confirmed Tuesday that the agreement will contain ISDS.

In fact, that issue had been settled months ago, they said. “The approach to investor-state dispute settlement is quite a bit different than earlier forms of investor-state dispute settlement — either in NAFTA or through many bilateral investment treaties,” they followed.

It will include clearer guidance for arbitration panels on how they make decisions and interpret specific provisions of the agreement; hearings will be open; documents will be

made available; the public will be allowed to make submissions; and there will be an early dismissal mechanism for frivolous claims.

Given Canada's concerns about an ongoing NAFTA Chapter 11 case related to the invalidation of Eli Lilly's pharmaceutical patents for olanzapine and atomoxetine, the Canadian official also said there are a number of elements intended to specifically guide arbitration panels when it comes to pharmaceutical issues.

"We did agree to a declaration that relates to investor-state dispute settlement when it comes to pharmaceutical products, and we have made it clear in that joint declaration with the EU that investor-state disputes are not to be used as an appeal mechanism for decisions made in domestic courts," they explained.

"We have undertaken to review three years after the entry into force, at the request of either party, how investor-state dispute settlement is working with respect to the pharmaceutical area. And we would be prepared to make changes if necessary. We've also talked about parties possibly issuing binding interpretations if we find that arbitration panels may be drifting away from what our intention has been."