

Canada-EU trade talks tee up tough political choices

Patent, agriculture and procurement decisions on agenda for Brussels meeting

By Janyce McGregor, [CBC News](#) Posted: Nov 17, 2012

Trade negotiations next week between Canada and the European Union will reach a point familiar to anyone who's purchased a new car.

In the beginning, potential buyers sit at a salesperson's desk talking over prices and features. Then, at a critical point in the negotiation, the salesperson steps away to speak to the manager.

After months of consultations and counter-offers, the front-line negotiators on the Canada-Europe free trade talks have gone as far as they can go.

Next Thursday in Brussels, it's time to take things upstairs, where political bosses will make the ultimate call on the Comprehensive Economic Trade Agreement (CETA.)

Negotiators for both sides are busy in Ottawa and Brussels narrowing the issues to the final few, which appear to include [intellectual property rights \(patents\) for pharmaceuticals](#), unprecedented movement on agriculture commodities and ambitious government procurement measures.

After those ministerial talks, the EU wants to take the details to the equivalent of its cabinet: the next meeting of its foreign affairs council on Nov. 29.

Canada, too, will need approval from as high up as the Prime Minister's Office for some of the tough choices it may have to make. Provinces and territories have been weighing in throughout the process.

"Only ministers can make political compromises," said Kurt Hübner

from the University of British Columbia's Institute for European Studies.

Precedent setting

"[The CETA deal with Canada] will be Europe's first free trade deal with a developed country," Hübner points out. "From a political or symbolic perspective it's very important."

After a decade of near-stagnation on the trade front, Europe is looking to generate momentum with Canada's CETA as it begins even bigger talks with the U.S.

With the Obama administration re-elected, work on an American deal can kick off as planned, with a report out next month set to recommend negotiations.

Canada "opens the back door" to the U.S. market, Hübner suggests.

But if the EU can't reach a deal with Canada, it's going to be hard-pressed to get the Americans to engage.

"The EU is in a state of disarray," former Canadian negotiator and veteran international trade lawyer Lawrence Herman says.

Europe's fiscal and monetary issues have "led to a dissipation of political will to push through this deal," he observes.

"They need to show that notwithstanding their internal issues, they can still negotiate a trade deal with Canada," Herman says. "At the end of the day, ministers have to decide."

Risk vs. reward

Canada has a lot at stake too. It's counting on CETA to make what Herman characterizes as a "quantum leap into the big league" — moving beyond its recent bilateral deals with small economies and showing the world that it's willing and able to make a big international trade play.

"If it crashes, that's a serious setback for [Harper's] agenda," Herman says. "A lot of eggs have been put in this basket."

Canada wants — perhaps needs — to get a deal without sacrificing the things it holds dear: cultural industries, [supply-managed agriculture sectors](#), and other regionally distinct interests.

Canada joined the Trans-Pacific Partnership talks this fall. Should contentious issues like these hold back or outright kill off CETA, it will be very hard to get the other Pacific countries to take Canada's negotiating positions seriously.

On the other hand, if Canada can make a deal with the European Union while [protecting something contentious like its farm marketing boards](#), it sets a template for future talks.

Agriculture commodities were saved for the end of the negotiations, and could still theoretically be pulled from the deal.

However, "the EU is not considering [carving] out complex issues," writes Maurizio Cellini, who heads the economic, commercial and trade section at the European Union's office in Ottawa.

Agriculture groups also don't expect that to happen. They feel Canada's on the verge of its first major agricultural trade deal in two decades.

"Canada is one of the few countries that includes its agriculture minister in trade negotiations," Herman notes.

Supply management to remain

Despite early rumours that [Canada's farm marketing boards could be up for negotiation](#), Canada's chief negotiator Steve Verheul told the Commons trade committee last June that supply management will remain under this agreement.

Verheul is not doing interviews now, with his department saying, "It wouldn't be appropriate for him to speak publicly at this late stage."

Preserving supply management doesn't mean tariffs or import quotas can't be adjusted in the dairy, egg and poultry sectors that are supply managed in Canada.

"The dairy industry has been protected for too long," Herman says. But beyond that, "there could be a cross-sectoral tradeoff," Herman suggests, meaning another type of tariff reduction or improved market access for European goods and services could be negotiated in exchange for the market access Canada wants for its non-supply managed sectors, like beef or pork.

Would Europe, which has argued for years that it deserves more access to the still-growing Canadian cheese market in particular, agree to that?

"There will be no beef without dairy. It's almost a foregone conclusion," EU Ambassador to Canada Matthias Brinkmann told reporters in April.

Canadian advocates are circling their wagons, warning about thousands of jobs and billions of dollars of economic activity in supply managed sectors.

Last Sunday, a coalition representing 400 different farmer, labour, business and civil society groups met in Montreal. They're calling on the federal government to reject any concessions on tariffs or quotas, arguing Canada would be offering plenty if it agreed to EU demands for "geographic indicators," like the exclusive right to call a European cheese "parmesan" or "feta."

Procurement prospects

Despite Europe's well-known lobbying on the agriculture file, the major economic gains it's hoping for lie elsewhere.

"[Agriculture commodities] were never a top-tier issue in these talks. The Europeans have a closed market as well," Herman says.

"The breaking point [for Europe] is public procurement," observes Hübner, speaking about one of CETA's most ambitious moves: the opening up of government procurement right down to the municipal level.

Thresholds consistent with other interprovincial and international standards will exempt most smaller municipalities from the rules. The

main targets are large, multi-million dollar contracts (in excess of \$8.5 million) for fixed assets and infrastructure, as well as contracts to purchase goods and services above \$320,000.

Municipalities will need to learn how to tender their major deals internationally. They will, however, still be able to impose conditions like their own environmental standards or local labour requirements.

The inclusion of effective thresholds reflects lessons learned from the Trade, Investment and Labour Mobility Agreement that started among provinces in Western Canada. Without thresholds, too many small, local contracts are subject to too many rules.

At Canada's request, the negotiations have used a "negative list" approach the Europeans were unaccustomed to — similar to the Buy America agreement negotiated with the United States, provinces and territories each proposed their own exemptions, including water, a certain percentage of transit spending or other concerns.

But it's not only European access to Canadian contracts – the deal works both ways. Canadian firms with expertise in areas such as wastewater treatment are developing world-class technology that could now be marketed to Europe's public sector.

Although the agreement is negotiated by the federal government, municipalities, which are entities of the provinces, will be bound by the deal.

A dispute resolution mechanism is part of the agreement, similar to but not exactly like the "Chapter 11" mechanism in the North American Free Trade Agreement. To avoid the federal government being financially liable for decisions made at other levels of government, some kind of federal-provincial (and ergo, municipal) agreement may accompany the ratification process.

Cue the final countdown?

"[Next week's] ministerial talks will tell us whether this is achievable by the end of the year," Herman says, pointing out that things get harder the longer they drag on.

As earlier deadlines for the talks have come and gone, some in the business community have disengaged, he says, rather than continuing to sell the merits of the deal.

"Our guide for finalizing any agreement will be the quality of its content, not any calendar date," international trade department spokeswoman Caitlin Workman told CBC News earlier this month.

"[CETA] could still collapse," says Herman. "That's not my prediction."

"We came close to losing the original Canada-U.S. Free Trade Agreement because some of the issues seemed unbridgeable," he recalls, harkening back to negotiator [Simon Reisman's dramatic stepping away from the table](#) in the heat of those negotiations.

"I'm reasonably optimistic this deal can be done," Herman says.

Neither side can afford to drive off the lot with a lemon. But both Canada and the European Union need a new vehicle to drive their international trade.