EU trade policy ‘close to death’ if Canada deal fails

Fears grow that Brussels is losing control of one of its core competencies.

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One of the EU’s most senior officials has warned that the bloc’s trade policy will be “close to death” if it cannot ratify a landmark agreement with Canada.

The alarm sounded by Jean-Luc Demarty, director-general for trade, is a sign of growing concern in Brussels that the European Commission is losing control over one of its core competencies in the face of surging public opposition to free trade.

In a frustrating blow to the Commission, the member countries last month wrested the approval process for the trade deal with Canada away from Brussels. The accord will now require approval in Europe’s 38 national and regional parliaments, raising the specter of delays and even vetoes in assemblies ranging from Wallonia to Romania.

Demarty delivered his stark warning at the EU’s trade policy committee ahead of the summer break, according to people present at the confidential meeting.

Notes from the July 15 meeting, seen by POLITICO on Monday, showed that Demarty warned that EU trade policy would have a “big credibility problem” if it could not ratify the deal. He then added that it would be “close to death.”

Two other diplomats confirmed the remarks and added that this was now typical of Demarty’s tone on the subject. One observed that Demarty seemed “helpless.”

Traditionally, trade has been the blue-riband portfolio in Brussels, with national governments surrendering all of their powers to negotiate trade deals and impose tariffs to the Commission. But Brussels suffered a significant setback on July 5 when

France and Germany unexpectedly insisted that a trade deal with Canada would have to be ratified by the EU's 38 national and regional assemblies.

That has left the Commission scrambling to rescue the deal and preserve its status as the biggest force in global trade. The Commission's Plan B is to bring the accord into force on a provisional basis, before the tortuous approval process in national parliaments. This would require a qualified majority among member countries at Council level before the end of October.

Demarty stressed there was a risk that Ottawa would not sign the Comprehensive Economic and Trade Agreement at the EU-Canada summit on October 27 if the EU fails to agree on a provisional application. Canadian officials had no immediate comment.

Asked about the director-general's remarks, a Commission spokesperson said: "The European Commission doesn't comment on leaks," but added that "refraining from a meaningful provisional application would be a loss for EU citizens and companies, who would be deprived of years of export opportunities and job creation."

Most diplomats expect the Canadian deal to win the qualified majority required for provisional application at the Council. Big member states such as Germany, France, Britain, Italy and Spain said they were strong supporters, according to notes from the meeting last month.

But diplomats are sharply divided about the implications of any parliament in a member country voting against the deal. The Commission argues that the deal can continue to be implemented indefinitely in the legal gray zone of provisional application, even if a few countries voted against. But diplomats from some member countries disagree and argue that political opposition in even one parliament could torpedo the whole deal.

The toughest argument in Brussels concerns how much of the deal can be implemented provisionally. Several states say that the parts of the deal related to investment should be sliced out of the provisional application and left entirely to the discretion of parliaments.

Investment has become one of the most contentious fields in trade negotiations, with European officials fearing that Canada will set the tone for a framework allowing investors to sue governments in a far larger deal with the US.

In a preliminary policy document obtained by POLITICO, the Commission said that it recognized that the investment protection clause, which grants foreign investors special rights to sue governments, is a hot topic in some EU states and could be carved out from a provisional application. However, it urged those countries not to restrict the deal any further.

But the Commission stressed that excluding other investment clauses on market access and equal treatment for investors "would lead to a considerably lesser scope of provisional application as compared to all recent [trade deals]."

It added that this "would considerably discourage Canadian investment in the EU since it would be seen as a less favorable treatment than that granted to other [trade] partners of the EU." In return, this could "have a clear impact on job creation in the EU."

The Commission document also reacts to objections raised by France and Austria, which want to exclude transport services from the provisional application of CETA, according to the July 15 notes.

Transport services should not be carved out, Brussels argues, since the EU stands "to benefit from the important commitments made by Canada in this sector, especially as regards to maritime transport."