

EU-Canada CETA negotiations
Round IV, Brussels, 5-20 July 2010

Round IV of the negotiations for the EU-Canada Comprehensive Economic and Trade Agreement (CETA) negotiations took place in Brussels 12-16 July. However negotiations started already on 5 July with Services and Investments and on 19 and 20 July the parties discussed Government Procurement.

Overall the atmosphere has been very good and there is a general feeling that an agreement could be possible in mid 2011 provided there is good will, focused work and maintained political pressure.

The objectives set in advance of the Round had been to

- 1) Elaborate a joint plan of the group's negotiating work until the end of the year; stress in particular where the group expects to stand in December.
- 2) Follow-up on the objectives of Round III: (a) Where possible, close chapters; (b) Identify chapters that can be closed, but for specific provisions that cannot be agreed to for external reasons, e.g., linkages to other chapters, these chapters can be temporarily "parked". (c) Identify specific issues that cannot be resolved within a negotiating group that should be reviewed by Chiefs. (d) Continue working on signalling flexibilities and working on structures for offers.
- 3) Institutional structure of CETA: Discuss the functions that should be covered by Committees in all areas and include conclusions in the joint report (the aim was not to discuss which of the possible future CETA-Committees will cover the proposed functions or activities).

The problematic issues in all chapters are now well defined. There were constructive exchanges both at the level of the groups and of the chief negotiators to identify solutions or avenues for solutions - most groups managed to cover ground and to move forward. The TDI and Competition Policy chapters can be considered as closed with one remaining item still open in each, both related to the outcome in other areas.

Canadian Provinces were again well represented. To note in particular that the economically most important Province - Ontario - now seems to be well engaged in the process and very active in representing its offensive interests.

In preparation for Round V (Ottawa, 19-23 October) inter-sessional work will be undertaken with the aim of further advancing a jointly agreed text.

The outcome of the Round in the various negotiation areas is summarised below:

Tariffs: The exchange of improved offers as well as line-by-line negotiations will take place at a later stage in the process, once the framework is clear in the other market access areas (services and investment / GP) and in the disciplines to which the tariff discussions are linked (for instance Rules of Origin).

On agricultural tariffs, the delegations discussed linkages to other areas of the negotiations, but did not discuss the underlying sensitivities and the potential for flexibilities in the next tariff offer on a product-by-product basis. Art 4.1(a)

National Treatment and Market Access: The delegations proceeded with discussions on a number of outstanding elements of the consolidated text, although further discussion will be needed on their eventual placement within the text of the agreement.

Customs and Trade Facilitation: It was possible to agree on the majority of the Articles and a revised consolidated text. The provision on "Fees and Charges" was kept bracketed due to a complete redraft of the text that needs to be checked internally before agreement.

Art 4.3

The Parties discussed their respective approaches in the area of "Advance Rulings" and discovered that there are divergences in their systems. Both Parties need to reflect on this provision.

Rules of Origin: Given that the European and the Canadian approaches substantially differ and need to be reconciled, RoO came out as one of the more complex areas of the negotiations. Given these circumstances, good progress was made. So far the discussion of specific rules focussed on sectors where preferential origin is defined by change of tariff heading or sub-heading. Rules based on value-added have not been negotiated in detail.

Art 4.1(a)

They informed that only at the end of the negotiations and provided that they have a satisfactory result in market access and RoO they will be in a position as to submit a proposal.

Technical Barriers to Trade: The delegations made good progress but there are a number of outstanding issues related mainly to Incorporation of the TBT Agreement, Definition of an international standard, Recognition in the EU of Canadian certification, Access by Canada to the ESOs' processes and, Bilateral notifications.

Regulatory cooperation: The delegations could almost agree on a text but a number minor differences remain.

Sanitary and Phytosanitary measures: Both sides continued to exchange information on their respective systems. A key point of difference between the EU and Canada is the question of the creation of an SPS committee and its coverage, taking into account that sanitary issues are already covered by a Veterinary Agreement.

Services and Investment:

Art 4.3

Investment: The EU provided Canada with a status update on exercising the new competence on investment, on its modalities discussion with the Member States, and provided an

explanation of the recently released *Communication* and proposal for a *Regulation*. It is important to note that at the moment, the Parties are very limited in the amount of progress they can make in the area of investment pending decisions on modalities, scope, as well as the EU's approach on substantive obligations.

With regard to sectors, it is worth mentioning *Financial Services* which is led on the Canadian side by Finance Canada.

Art 4.1(a)

On *Transportation*, discussions focused on transport-specific provisions in the main services text and the EU proposal on International Maritime Transport. Progress was made on vessel coverage.

Telecommunications and e-commerce For electronic commerce, the text is nearly consolidated,

Art 4.3

Regarding telecommunications, progress was made in agreeing text relating to the scope, access to and use of public telecommunication transport networks and services, interconnection, universal service, scarce resources, regulatory authority, transparency, and recourse to regulatory authorities.

Art 4.3

On *domestic regulation*, both sides agreed to continue discussing this issue with a view to developing a common understanding in terms of the scope and application of the disciplines.

Temporary Entry: Progress was made on developing a joint text, including general provisions and the definitions. Both Parties tabled revised text, notably CAN provided new text on CSS and IPs, Specialists and Length of Stay, and the EU provided new proposals on Short Term Visitors and practical equivalence. Parties took decisions relating to structure and terminology.

On *Mutual Recognition*, Canada presented its draft proposal on MRAs.

Government Procurement: Parties agreed on a work plan and exchanged further information towards greater transparency and a better understanding of their respective systems. DG MARKT organised for that purpose a full-day seminar that was attended by the federal Canadian GP negotiators and the Canadian Provinces.

Intellectual Property Rights: Discussions focussed among others on the on-going reform of *copyright-law* in Canada. This contributed to narrow-down text differences in the relevant chapter. Regarding *patents*, no progress was achieved on the respective proposals.

Art 4.3

Further exchanges were held on *geographical indications (GIs)* on the EU's approach and proposal. Both sides gained a better understanding of the challenges being faced and of the progress required in the coming months.

Monopolies and State enterprises: The parties agreed to the overall objectives of the chapter and made further progress on the understanding of each other's respective positions.

Subsidies: No progress on substance at the level of the negotiating group, [REDACTED]

[REDACTED] Art 4.1(a)

Sustainable Development: [REDACTED]

[REDACTED] Art 4.3

The difficulties surrounding the environment chapter are related to Canada's overall position on issues that have to do with natural resources (from timber to oil) and which have an impact also on the work of other groups. In particular, Canada expresses concern about the possibility that the provisions in the environment chapter might be invoked to derogate from trade disciplines and/or justify measures that restrict market access.

Dispute Settlement: After having focussed on the rules of procedure and code of conduct during the inter-sessional work, in this session the parties went back to substantive provisions, focussing in particular on choice of forum; consultations; mediation; panel composition; rules of interpretation; compliance and remedies; rules of procedure. Subject to minor textual refinements, a compromise was reached on choice of forum and there was progress on the drafting of many other articles.

Institutional matters: The chapters on Exceptions, Final Provisions, and the definition of the EU Territory were discussed as well as the EU rules on treaty making and the issues of mixed agreements and provisional application. A first exchange of views on the issue of incorporation of WTO obligations in CETA was also held.

Other Areas: Progress on all three sub heading - Science and Technology, energy and Raw materials. On S&T the EU clarified that it was not a question of replacing the existing S&T agreement between Canada and the EU through the CETA. [REDACTED] Art 4.1(a)

[REDACTED] Art 4.3

[REDACTED]. On Raw materials the EU introduced its definition of "Raw materials". Canada would need to consult further internally on the definition.