

How and Why the CETA will be Relevant to Businesses in the Czech Republic

Overview of the EU-Canada
*Comprehensive Economic and
Trade Agreement (CETA)*

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Outline

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1. Introduction and Context
2. Market Access Support for EU Businesses in Canada under CETA (2016/EuropeAid/DH/SER/137-941)
3. CETA Implementation in Canada – road map
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Introduction – Who is BLG?

- BLG is Canada's largest national, full-service law firm, with expertise in all corporate & commercial, litigation, and IPR sectors.
- Five offices across Canada (Vancouver, Calgary, Toronto, Ottawa, Montreal), covering business clients and governments in all provinces and territories.
- Our trade group covers all aspects of international trade, including WTO and RTA dispute settlement, trade remedies, export controls, and customs compliance matters.

Introduction – Overview of the CETA

- Once it enters into force, the CETA will be the most comprehensive and modern regional trade agreement (RTA) in existence.
- The CETA will create a free trade region or ‘zone’ that encompasses (i) the ten provinces and three territories of Canada, and (ii) the twenty-eight Member States of the European Union.

Introduction – Overview of the CETA

- The scope of CETA coverage is comprehensive:
 - promotes liberalized **trade in goods**;
 - promotes liberalized **trade in services**; and
 - promotes and protects **foreign direct investments**; while
 - safeguarding domestic environmental protection standards, labour standards, and other measures.

Introduction – Overview of the CETA

- Once the CETA enters into force, Canada will be the only G-7 country to have guaranteed preferential access to the world's two largest economies: the United States and the European Union.
- The future of negotiations relating to the ***Transatlantic Trade and Investment Partnership (TTIP)*** between the United States and the European Union is currently uncertain.
- The CETA may therefore create opportunities for:
 - (i) Canadian subsidiaries of EU companies that wish to trade in the US market; and
 - (ii) Canadian subsidiaries of US companies that wish to trade in EU markets.

Introduction – Overview of the CETA

- The CETA must be read as a whole text.
- Chapter provisions set out highly liberalized rights and commitments – i.e., open and unrestricted market access, subject to the general exceptions under Chapter 28.
- **HOWEVER**, Canada, the EU, and each of the EU Member States establish specific ‘reservations’ in Annexes I and II that allow them to adopt or maintain trade-restrictive measures in certain market sectors.

Introduction – Overview of the CETA

- For EU businesses, the key is to navigate the provisions setting forth the market access concessions, rights, commitments, reservations, and limitations of the CETA in order to:
 - Identify the benefits and advantages that will open up new routes to Canadian markets, new supply chain possibilities, and other opportunities; and
 - Identify and adapt to the risks created by the new conditions of competition under the CETA in the European Union and Canada.

Market Access Support for EU Businesses in Canada under CETA

DEVELOPMENT
Solutions



and

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OBJECTIVES:

- Supplying EU businesses with practical, actionable market access information covering all CETA chapters; and
- Identifying sectors where trade barriers persist notwithstanding CETA.

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Market Access Support for EU Businesses in Canada under CETA

- Three main reports will be made available to the public through an online communications platform:
 1. Road Map of CETA Implementation;
 2. Barrier Report (ongoing restrictions to trade); and
 3. Comprehensive Study Report on Actual Market Access Opportunities for EU Businesses.
- Plus:
 1. *Ad hoc* legal / business analyses responding to market access priorities;
 2. Database of key contacts in Canada.

CETA Implementation in Canada

- International law and Canada's domestic laws are separate and independent systems.
- Canada must take steps to amend its domestic laws, regulations, and policies in order to implement the negotiated outcomes of the CETA.
- Where there is flexibility in the text of the CETA (i.e., purposeful ambiguity), the amendments will generally be implemented using an interpretation that favours Canadian interests.

CETA Implementation in Canada

ROAD MAP:

1. CENTRAL (Federal) Implementation

a) Legislative process in the Parliament of Canada: Bill C-30 (*CETA Implementation Act*)

- House of Commons (three readings);
- Senate (three readings);  (* *we are here*)
- Royal Assent – Bill C-30 becomes law.

b) Central (Federal) Regulatory Process

- May formally begin immediately after Bill C-30 receives royal assent.

CETA Implementation in Canada

ROAD MAP:

2. SUB-CENTRAL (Provincial / Territorial) Implementation:

- a) Legislative processes in each of the provincial and territorial legislatures; followed by
- b) Regulatory Process in each of the provincial and territorial legislatures.

CETA Implementation in Canada

ROAD MAP: When will CETA enter into force?

1. **Bill C-30:** the Senate timeline is not certain...
2. **Royal Assent** – when the *CETA Implementation Act* becomes law, which permits...

(Exchange of letters setting the date of entry into force?)

3. **Federal Regulatory Process:** Will the customary 30-day public consultation period be observed?

(Provisional entry into force at the EU/Canadian Central levels?)

3. **Provincial and Territorial Implementation Processes...**

Identifying Opportunities (some examples):

- On the date when the CETA enters into force, almost all existing tariffs are eliminated immediately for “originating” goods.
- Some tariffs that are not eliminated immediately will be phased out gradually over a number of years (i.e., 4-8 years), extending protection to sensitive or protected domestic industries for a period of time.
- “Staging Categories” A, B, C, D, AV0+EP, S, and E.

Tariff Elimination on Exports to Canada

- Example 1: Autos and parts exported to Canada.
 - EU-origin motor cars (HS 8703.21-90): Staging Category D: **6.1%** customs duty phased out in 8 annual stages (**duty free** on 1st January 2024)
 - EU-origin auto components and parts (HS 8708): Staging Category A: **6%** customs duty **eliminated** on day one when the CETA enters into force.

The Protocol on the Rules of Origin and Origin Procedures

- Sets out the rules for determining when a product manufactured in the Czech Republic is “originating” so that it qualifies for preferential tariff treatment.
- “Originating” goods can be produced using materials from third countries if they undergo “sufficient production” in a CETA country.
- “Sufficient production” is generally determined through the tariff shift rules, which often involve maximum regional weight or value content thresholds.

The Protocol on the Rules of Origin and Origin Procedures

- Auto parts and components (HS heading 8708).
 - A change from any other heading; or
 - A change from within this heading, whether or not there is also a change from any other heading, provided that the value of non-originating materials of this heading does not exceed 50 per cent of the transaction value or ex-works price of the product.

The Protocol on the Rules of Origin and Origin Procedures

- Motor cars, assembled (HS heading 8708).
 - **For the first 7 years**: Production in which the value of all non-originating materials used does not exceed 50 per cent of the transaction value or ex-works price of the product.
 - **After 7 years**: this content threshold decreases to 45 per cent.
 - It further decreases to 40 per cent if and when cumulation with the United States is applied further to an EU-US RTA (i.e., TTIP).

Tariff Elimination on Imports from Canada

- Example 2: North American lobster from Canada
 - Cooked & frozen, whole (6%) or in pieces (16%).
 - Staging Category B: 4-year phase-out.
- Lobster meat is becoming increasingly popular as a seafood ingredient in processed and prepared food products (i.e., sandwiches, wraps, pasta sauces, chowder soups, frozen meals, etc.).
- A potentially competitive new supply source for CZ processed food producers and food preparation businesses?

Tariff Rate Quotas

- Limited market access is provided to certain protected agricultural products – including Canadian “supply-managed” products like cheese – through **Tariff Rate Quotas (TRQs)**.
- Preferential tariff treatment applies to the volumes imported “within quota”; prohibitive rates of duty apply to any volumes imported “over quota” or “outside quota”.
- Quota allocations are therefore highly valuable.

Tariff Rate Quotas

- The TRQs for exports of EU cheese to Canada are provided under the CETA as follows (Annex 2-A):

Direct Consumption Cheese

Year 1	2,667	MT
Year 3	8,000	MT
Year 5	13,333	MT
Year 6 (+)	16,000	MT

Industrial Cheese

Year 1	283	MT
Year 3	850	MT
Year 5	1,417	MT
Year 6 (+)	1,700	MT

TOTAL **17,700 MT**
Year 6 (+)

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THANK YOU

Questions or Comments?

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