Ratification of The Canada-EU Free Trade Deal: Current Status, Next Steps, and Important Implications for Canadian and EU Companies

February 16, 2017

On Wednesday, February 15, 2017, the European Parliament voted in favour of ratifying the Canada-EU Comprehensive and Economic Trade Agreement (CETA). When it enters into force, the CETA will be the most modern and comprehensive regional trade agreement in existence. Its provisions constitute a distillation of the best practices and the lessons learned from more than three decades of free trade agreements, cross-border trade in goods and services, and foreign direct investment. The Agreement will create a new free trade zone that encompasses the twenty-eight Member States of the European Union and the ten provinces and three territories of Canada. Under the CETA, Canada will become the only G7 nation to have guaranteed preferential access to the world's two largest economies: the United States and the European Union. When it enters into force, the CETA will modify the conditions of competition between Canada, the European Union, and third countries, and this has important implications for companies supplying goods and services in the Canadian and EU markets.

In Canada, Bill C-30 is the proposed legislation currently before Parliament to implement Canada's commitments under the CETA at the federal level. On Tuesday February 14, 2017, the bill was passed in the House of Commons and referred to the Senate. Once the bill receives Royal Assent and becomes law, the implementation process will continue with amendments to federal regulatory regimes. At the same time, the provincial and territorial legislatures will implement the CETA provisions falling within their exclusive subject matter jurisdictions. In particular, provincial and territorial statutes, regulations, and directives, and municipal by-laws relating to government procurement will need to be amended, as applicable, in order to ensure consistency with Canada's commitments under CETA Chapter Nineteen (Government Procurement) and the associated annexes and schedules. The CETA provides unprecedented market access commitments to EU firms bidding on contracts owned by municipal governments and provincial government entities for the supply of construction services, goods, and other services, including a "national treatment" obligation and minimum standards for public procurement processes. These commitments apply to government procurements for which the value equals or exceeds the applicable monetary thresholds (e.g., for construction services procured at all levels of government, the threshold is 5 million Special Drawing Rights (SDR), which is approximately CAD$8.85 million at the current exchange rate).

To the extent that they have not already started to do so, companies producing materials, parts/components, and finished goods for Canadian and EU markets will need to carefully consider the new market access opportunities and the implications for trade flows and supply chains under the CETA. When the CETA enters into force, most existing tariffs will be eliminated immediately, while many others will be phased out on an annual basis over 4 to 8 years. These changes will modify the competitive opportunities in Canadian and EU markets, representing opportunities to some companies and risks to others. For example, the elimination of tariffs on input materials – for example, food ingredients – produced in Canada will create new competitive supply sources for EU food processors and food preparation companies. This will translate into new export opportunities for Canadian companies, new supply chain opportunities for EU companies, and potential risks to existing suppliers in the EU common market. The same is true in the opposite direction, with opportunities and risks arising for Canadian companies.

It is generally expected that the CETA will enter into force sometime between April and June 2017. Companies throughout the CETA free trade region will be poised to begin taking advantage of the benefits and the new conditions of competition from Day One.

By

Jeffrey S. Thomas

Expertise

International Trade & Investment

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749