

Federal Government Seeks Comments on CETA Implementation Regulations

July 14, 2017

On July 14, 2017, the Canadian federal government published a series of proposed regulations implementing certain aspects of the *Comprehensive Economic and Trade Agreement* ("CETA") between Canada and the European Union (the "EU") in the Canadian legal framework (the "Proposed Regulations").

The objective of the Proposed Regulations is to ensure that CETA is ready to be provisionally applied as of September 21, 2017, as was jointly announced by Canada and the EU on July 8, 2017. This article highlights some of the key points of the Proposed Regulations.

1. **Federal Government Procurement:** the Proposed Regulations would include references to CETA in the *Canadian International Trade Tribunal Procurement Inquiry Regulations* to allow the Canadian International Trade Tribunal to resolve complaints and disputes relating to federal procurements covered under Chapter 19 of CETA.
2. **Intellectual Property Rights under the *Patent Act*:** the Proposed Regulations would significantly modify the regime governing patent litigation by replacing the existing summary procedure with a full right of action that includes an appeal right, and would create an additional period of protection for certain drugs.
3. **Export Quotas:** the Proposed Regulations would modify Canada's regulatory regime concerning the administration of export quotas, with the aim of bringing greater clarity to the export permit procedures.
4. **Preferential Treatment for EU Goods:** the Proposed Regulations would identify the EU countries and territories that may benefit from CETA for the purpose of several Canadian federal statutes (including the *Customs Tariff*), extend entitlement to CETA preferential tariff to goods that originate from EU member states and related territories (such as the Canary Islands, French Guiana or Gibraltar), and implement certain rules of origin to determine which goods may qualify for preferential tariff treatment in Canada under CETA.
5. **Investment:** the Proposed Regulations would amend the *Investment Canada Regulations* to increase the threshold for review of acquisitions by investors from CETA countries (and certain other countries with whom Canada has free trade agreements) to \$1.5 billion in enterprise value.
6. **Coasting Trade Services:** the Proposed Regulations would clarify which territory is considered to be part of the EU and list international registers for the

purposes of the application of the *Coasting Trade Act*, with the aim of providing certainty as to who may benefit from the liberalization of the Canadian maritime coasting trade regime set out in CETA.

The period for comments on the Proposed Regulations will end on July 29, 2017. This public review and comment period was shortened to 15 days (compared to the standard 30-day period for proposed regulations and the 75-day period for "new and changed technical regulations that may affect international trade" prescribed by the *Cabinet Directive on Regulatory Management*) to account for the tight timeline before the provisional implementation of CETA.

We will continue to monitor the implementation of CETA and to report from time to time on the process. In the meantime, should you have any questions about CETA or its implications for your business, please contact Pascal de Guise, Pierre Permingeat or Olivier V. Nguyen at the contact information below, or your BLG lawyer.

By

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