

CETA ratification process: Recent developments

On 28 October 2016, the Council decided to sign the EU-Canada Comprehensive Economic and Trade Agreement (CETA), and on 15 February 2017 the European Parliament gave its consent to the agreement's conclusion. As CETA is a mixed agreement, the EU Member States are currently in the process of ratifying it in accordance with their constitutional requirements. Only after all have done so, can the Council adopt a decision to conclude CETA, after which the agreement will enter into force.

State of ratification

Only two EU Member States have ratified CETA so far: Latvia on 23 February 2017 and Denmark on 1 June 2017. Finland and Lithuania are reportedly [aiming](#) to follow suit as soon as possible. That means that 26 Member States have still to [ratify](#) CETA. In the case of Belgium, the agreement will also have to be ratified by [regional parliaments](#). The entire EU ratification process could still take several years, provided that any political and legal complications are successfully overcome (ultimately strengthening CETA's legitimacy).

Canada is currently finalising its ratification process. The relevant implementing legislation received [Royal Assent](#) on 16 May 2017. Once necessary regulatory amendments have been made and the federal government considers that obligations under CETA can be honoured at domestic level, Canada's Cabinet will [authorise](#) a minister to sign an 'Instrument of Ratification'. Once that is done, written notification will be sent to the EU certifying that Canada has completed the process. No official sources indicate that this is the case as yet.

Potential complications

A significant legal test may arise in the form of a request for an opinion of the EU Court of Justice on CETA's compatibility with EU law. This request is likely to be submitted by Belgium, as this was one of the commitments in the [statement](#) agreed with the then Walloon government to resolve the crisis that was sparked last year when the latter [withheld](#) its support for [CETA's planned signature](#). If Belgium (or another Member State) submits a request, the Court will likely have to address several contentious legal issues, including the [compatibility](#) of CETA's new [Investment Court System](#) with the principle of autonomy of the EU legal order.

France and Germany could also present challenges for CETA's ratification. First, in his campaign, the newly elected French President Emmanuel Macron [promised](#) to set up an expert committee in the first three months of his presidency to review CETA's environmental and health impacts. This committee has yet to be formed. Second, the French Constitutional Council is currently [assessing](#) CETA's compatibility with national law. Its judgment is expected in the summer. CETA is also the subject of a legal review by the Federal Constitutional Court in Germany. Whereas last year the court cleared the way for Germany to sign CETA by [refusing](#) to issue an interim order [prohibiting](#) the German government from doing so, it has still to render a final decision in the principal proceedings. It is expected to do this in the coming months.

Finally, referenda (both binding and consultative) cannot be ruled out in Member States that allow them. Activists in [Austria](#) and [the Netherlands](#) have already been laying the groundwork. A referendum resulting in a 'no' vote would place not only the respective government but also CETA in a precarious position.

Provisional application

[Mixed agreements](#) are typically applied on a provisional basis pending Member States' ratification. For CETA, this can be done at the earliest one month after the parties have notified each other of the completion of their relevant internal procedures. While the Council [adopted](#) a decision last year on provisional application of CETA, Canada is still in the final stages of doing so. It is therefore likely that it will be a little longer before provisional application can take effect, although both sides are eager for this to happen. CETA's provisional application would [cover](#) most of its provisions, except for a few which mainly concern investment.

