

July 2019

EXPORTING TO CANADA: EASY AND PREDICTABLE WITHIN THE FRAMEWORK OF CETA

In recent years, the European Commission concluded comprehensive trade agreements with various key export markets that provide significant new opportunities for EU businesses

The implementation status and benefits of the EU-Canada Comprehensive Economic and Trade Agreement (“CETA”) merit the attention of all ambitious EU enterprises, who are recommended to address the steps set out below well in advance of their exports.

ODC, the Awerian & Alluris networks boutique business law firm in Brussels, can assist all EU businesses, irrespective of their set, with legal advice and the preparation of applications for advance rulings on origin and tariff classification.

1. Implementation Status

In general, CETA entered into force on 21 September 2017 but on a provisional basis, meaning that most of the agreement currently applies with the exception of certain provisions

related mainly to investment. CETA will only take full and definitive effect following its ratification by each EU Member State, which requires the

approval of all national and relevant regional parliaments and which entails that an ultimate rejection remains a possibility.

2. Main Benefits

The EU and Canada are key trading partners, with EU exports of goods and services increasing to, respectively, €41.3 billion and €23.1 billion in 2018. Expectations are that CETA will further expand this relationship by facilitating cross-border trade and foreign direct investment, while it could also act as a gateway for EU trade with Asia, Mexico and the United States.

In terms of specific benefits, the following are aspects of the agreement that provide distinct opportunities for EU businesses:

- **Tariff elimination:** Chapter 2 of CETA eliminates, upon the provisional entry into force or gradually, tariffs on 98% of products amounting to approximately €590 million in saved duties per year;
- **Government procurement:** Chapter 19 of CETA provides the best access ever offered to foreign companies to bids on Canada’s federal, provincial and municipal public procurement contracts;
- **Intellectual property (“IP”):** Chapter 20 of CETA will reduce counterfeit trade by improving IP protection in Canada for both EU individuals and companies; and
- **Services liberalization:** Chapters 9-11 of CETA open Canada’s services market by offering better conditions for suppliers, greater mobility for employees, and a framework for the mutual recognition of professional qualifications.



Maarten Vanderhaeghe
Counsel

Office address:

Culliganlaan 1A
1831 Diegem
(Brussels)

Dir. Tel:

+32 (0) 2 711 40 34

E-mail:

mvanderhaeghe@odc.law

3. Exportation Process

First, EU businesses exporting to Canada within the framework of CETA should **apply for a Registered Exporter (“REX”) number** for any shipments over €6000. Exporters must hereby, after obtaining an Economic Operator Registration and Identification (“EORI”) number to move goods in or out of the EU, fill out a simplified REX application and send the completed form to the relevant national customs office.

As a second step, EU businesses must **fill out an origin declaration** according to the rules in CETA’s Protocol on Rules of Origin and Origin Procedures.¹ In this regard, we recommend that exporters pay particular attention to the following provisions:

- **Article 4** listing products to be considered wholly obtained within a party and setting out conditions for the vessel or factory ship of some of those products;
- **Article 5** setting out product-specific conditions to have undergone sufficient production for origin-purposes;
- **Article 6** setting out rules on tolerance of products as originating even if they contain non-originating materials that have not undergone sufficient production; and
- **Article 7** listing operations that add limited value and are therefore considered insufficient production to confer origin on a product.

Third, EU businesses should **consider the standards requirements** under CETA’s Protocol on Mutual Acceptance of the Results of Conformity Assessment,² which provides that Canada shall accept, for certain product categories,³ the conformity assessment with Canadian requirements by EU-accredited Conformity Assessment Bodies.

Last, EU businesses should **check the applicable tariffs** for their products with the Canadian Border Services Agency (“CSA”) and under the schedules in Annex 2-A of CETA.⁴

4. Our recommendation

We recommend that exporters conduct the above mentioned checks well in advance of the actual exports and seek the benefits and predictability offered by advance rulings for origin and tariff classification.

Canada is now ‘open for EU business’ ; prepare now to take advantage of this mature market for your exports. Do not hesitate to contact us for legal assistance and advance ruling requests.

www.odc.law | www.awerian.law

¹ The full text of the Protocol on Rules of Origin and Origin Procedures is available at <http://data.consilium.europa.eu/doc/document/ST-10973-2016-ADD-6/en/pdf>.

² The full text of the Protocol on Mutual Acceptance of the Results of Conformity Assessment is available at

<http://data.consilium.europa.eu/doc/document/ST-10973-2016-ADD-7/en/pdf>.

³ The specific product categories are listed in Annex 1 to the Protocol.

⁴ The full text of Annex 2-A is available at <http://data.consilium.europa.eu/doc/document/ST-10973-2016-ADD-1/en/pdf>.