



IP NEGOTIATIONS : COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT (CETA) CANADA-EU

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Committed to resisting protectionist pressures in challenging economic times, Canada and the European Union (EU) are negotiating toward a Comprehensive Economic and Trade Agreement (CETA).

Amongst several subjects (including market access in goods, rules of origin, customs procedures, regulatory cooperation, trade defence instruments, trade remedies, investment and services, financial services, telecoms and electronic commerce and sustainable development), some aspects of intellectual property are also covered.

The objectives of the chapter on intellectual property are to:

- facilitate the production and commercialization of innovative and creative products and the provision of services between Europe and Canada; and
- achieve an adequate and effective level of protection and enforcement of intellectual property rights.

The IP issues include copyright, trademarks (well-known trademarks, fair-use), geographical indications (which are not yet recognized in Canada), designs, trade secrets and patents.

With respect to patents, significant issues are related to pharmaceutical patents. At this time, Canada;

- does not offer a patent term extension (up to 5 years) beyond the 20-year term of the patent, as in Europe and the US, to compensate for delays in the regulatory approval process for a new drug,
- does not allow the innovators to appeal a court decision about the entrance of a generic on the market, but the opposite is allowed: the generic may challenge a negative decision, and

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- does not offer more than 8 years (up to 10) of data protection, whether there is a patent or not.

The European Union has put these items on their agenda for discussion.

The sixth round of negotiations was completed in January 2011. Two further rounds of negotiations have been scheduled for April and July 2011, in Ottawa and Brussels respectively. The aim is now to conclude in 2011. However, as federal elections have been held this spring in Canada, there is a risk that these negotiations will be suspended.

Furthermore, François Painchaud commented on these EU and Canada trade talks in the April 2011 issue of LES Viewpoints. The article is available at http://newsletter.robic.ca/documents/Francois_Painchaud_LES_Viewpoints_April%20_2011.pdf



