



The ratification of CETA in EU member states

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Summary

- * *The Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (EU) requires ratification in all EU member states. Ongoing political contestation of the agreement complicates the ratification process, but some member-state governments have found ways to secure ratification even in challenging political environments.*

Background/Challenges

- CETA was concluded in October 2016. The agreement was approved by the EU's legislative institutions—Council of the EU and European Parliament—in 2016 and by the Canadian House of Commons in 2017. Most of the agreement has been applied on a provisional basis since September 21, 2017.
- According to EU law, CETA is a mixed trade agreement, meaning that it exceeds the scope of the EU's Common Commercial Policy and includes provisions that fall under member-state competence (mostly in the area of investment). Because of this, CETA cannot fully enter into force until it has been ratified by all 27 member states, following their domestic legal rules.
- Trade statistics published by the European Commission and Global Affairs Canada show an increase in bilateral goods and services trade since the beginning of CETA's provisional application. Nevertheless, the ratification of the agreement has remained contentious in some EU member states.
- As of August 2023, 17 of 27 member states have completed the domestic ratification process. A failure of ratification in just one member state could put the future of the agreement in doubt. For this reason, it is important to examine how member-state governments, especially in states where CETA has been contested, have managed the ratification process.

KEY FINDINGS

- ◇ There is a clear connection between the extent of CETA's *politicization* in a specific member state—the degree to which the agreement has been politically salient and contested in domestic public debates—and the progress in that member state's ratification process.
- ◇ According to a recently published analysis (Hurrelmann & Wendler 2023), politicization of CETA was *limited* in 15 member states. Of these, 12 have seen relatively swift and uncomplicated ratification processes: Croatia, Czechia, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia, and Sweden. The same applied to the United Kingdom, which ratified CETA, but left the EU in 2020. The only states where politicization was limited, but ratification has not been initiated, are Hungary, Poland, and Slovenia.
- ◇ Of the 12 EU member states where CETA has been *more strongly politicized*, only five have completed the ratification. In these cases, the chances of ratification depend on two factors: (a) whether CETA supporters in the government have sufficient parliamentary majorities to push through ratification despite opposition, and (b) if this is not the case, whether they invest political capital to devise a pro-CETA discourse that can form a basis for negotiating ratification with critical veto players.
- ◇ The first of these constellations—ratification that was *pushed through* against opposition—could be observed in Luxembourg and Spain. Here, ratification was approved with narrow but reliable government majorities; the mainstream opposition party abstained in both cases. A similar scenario could play out in Greece, but here the government, despite declaring its support for CETA, has not yet initiated the ratification process.



KEY FINDINGS (continued)

- ◇ The second constellation—ratification that must be *negotiated with veto players*—characterizes the remainder of EU member states. Relevant veto players in this constellation may be junior partners in a government coalition (such as the Green Party in Germany) as well as parties that hold the balance of power in a minority government or in an upper house where the government lacks a majority.
- ◇ Of the nine EU member states in this group, only three have completed CETA ratification: Austria, Germany, and the Netherlands. In these cases, governments managed to win over CETA critics inside the government coalition (Austria, Germany) or in the upper house (Netherlands) by devising a *political discourse in defence of the agreement* that presented it as a measure to protect widely embraced domestic political norms, such as high labour standards or a preference for multilateral foreign policies. This allowed previous critics of CETA to claim that their concerns had been taken seriously and addressed (at least in part).
- ◇ The example of Austria, Germany, and the Netherlands shows that even governments that are dependent on domestic veto players can make progress on CETA ratification if they spend political capital on attempts to develop a political discourse that provides a basis for accommodating CETA's parliamentary critics. However, such government discourse is *not sufficient* to secure ratification. It must be accompanied by negotiations, outside of the public eye, to win the support of CETA critics in veto player positions.
- ◇ CETA supporters in some of the countries that have yet to ratify the agreement—including Belgium, Bulgaria, Cyprus, France, Ireland, and Italy—face *challenging political environments*, including intra-government divisions on the agreement or governments that do not have clear parliamentary majorities. In these constellations, swift progress on CETA ratification is not to be expected. CETA likely faces a prolonged period of provisional application. It cannot be ruled out that CETA will never fully enter into force.

Policy Implications

- After six years of provisional application, and despite a positive trade performance, ongoing contestation in some EU member states has prevented CETA's full ratification. This is a problem not so much because some provisions (on investment and financial services) are excluded from provisional application, but because it undermines trust in the agreement. Should a member state inform the EU that ratification has irrevocably failed, CETA is unlikely to unravel completely. But the result would be a period of legal ambiguity and economic uncertainty.
- The ratification problems damage the EU's reputation as a global trade actor. Member-state governments therefore have an incentive to push for ratification even if faced with opposition. Going forward, the European Commission is trying to avoid further mixed trade agreements, but this will not always be possible, for instance, if protections for investors are key EU priorities.
- Canadian governmental and trade actors will have to accept that CETA remains a provisional agreement for the time being. On a positive note, it is clear that every year of provisional application creates economic gains that make CETA's wholesale demise more and more unlikely.

Further Reading

Hurrelmann, A. and Wendler, F. 2023. "How does politicisation affect the ratification of mixed EU trade agreements? The case of CETA", *Journal of European Public Policy*, DOI: 10.1080/13501763.2023.2202196.



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