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Is CETA lowering the level of  
environmental protection  
achieved at EU level?



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## Is CETA lowering the level of environmental protection achieved at EU level?

- + Cutting tariffs
- + Opening up services and encouraging investment
- + Mutual recognition of professional qualifications
- + Public procurement

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# Interpretative Declaration

- + “CETA includes comprehensive and binding commitments for the protection of workers' rights and the environment. The European Union and its Member States and Canada attach the highest priority to ensuring CETA delivers tangible outcomes in these areas, thereby maximising the benefits the agreement will bring for workers and for the environment.”

# Interpretative Declaration

- + “CETA explicitly recognises the right of Canada and of the European Union and its Member States, to set their **own environmental priorities**, to establish their **own levels of environmental protection** and to adopt or modify their relevant laws and policies accordingly, mindful of their international obligations, including those set by multilateral environmental agreements. At the same time in CETA the European Union and its Member States and Canada have **agreed not to lower levels of environmental protection in order to encourage trade or investment.** ”
- + CETA includes commitments towards the **sustainable management of forests, fisheries and aquaculture**. It also includes commitments to cooperate on trade-related environmental issues of common interest such as **climate change** where the implementation of the Paris Agreement will be an important shared responsibility for the European Union and its Member States and Canada. ”

# CHAPTER 21 REGULATORY COOPERATION

## + Article 21.2 Principles

- + The Parties are committed to ensure **high levels of protection** for human, animal and plant life or health, and the environment in accordance with the TBT Agreement, the SPS Agreement, the GATT 1994, the GATS, and this Agreement.

# Interpretative Declaration

- + Regulatory cooperation
- + “CETA provides Canada and the European Union and its Member States with a platform to facilitate cooperation between their regulatory authorities, with the objective of achieving better quality of regulation and more efficient use of administrative resources. This cooperation will be **voluntary**: regulatory authorities can cooperate on a voluntary basis but do not have an obligation to do so, or to apply the outcome of their cooperation.”

## Article 21.3

# Objectives of regulatory cooperation

The objectives of regulatory cooperation include to:

(a) contribute to the protection of human life, health or safety, animal or plant life and the environment by:

- + (i) leveraging international resources in areas such as research, pre-market review and risk analysis to address important regulatory issues of local, national and international concern; and
- + (ii) contributing to the base of information used by regulatory departments to identify, assess and manage risks;



## Article 21.3

### Objectives of regulatory cooperation

(b) build trust, deepen mutual understanding of regulatory governance and obtain from each other the benefit of expertise and perspectives in order to:

- + (iii) enhance the **efficacy** of regulations;
- + (iv) identify **alternative instruments**;
- + (v) recognise the **associated impacts of regulations**;
- + (vi) avoid **unnecessary regulatory differences**; and
- + (vii) improve regulatory implementation and compliance;

## Article 21.3

### Objectives of regulatory cooperation

(d) contribute to the improvement of **competitiveness** and efficiency of industry in a way that:

(i) **minimises administrative costs whenever possible;**

(ii) reduces duplicative regulatory requirements and consequential compliance costs whenever possible; and

## Article 21.5

### Compatibility of regulatory measures

- + With a view to enhancing convergence and compatibility between the regulatory measures of the Parties, each Party shall, when appropriate, consider the regulatory measures or initiatives of the other Party on the same or related topics. A Party is not prevented from adopting different regulatory measures or pursuing different initiatives for reasons including different institutional or legislative approaches, circumstances, values or priorities that are particular to that Party.

## CHAPTER 22- TRADE AND SUSTAINABLE DEVELOPMENT

### + Article 22.1 Context and objectives

The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, and reaffirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations.

## Article 22.1

### Context and objectives

The Parties underline the benefit of considering trade-related labour and environmental issues as part of a global approach to trade and sustainable development.

## Article 22.3 Cooperation and promotion of trade supporting sustainable development

The Parties affirm that **trade should promote sustainable development**. Accordingly, each Party shall strive to promote trade and economic flows and practices that contribute to enhancing decent work and environmental protection, including by:

- + (a) encouraging the development and use of voluntary schemes relating to the sustainable production of goods and services, such as **eco-labelling and fair trade schemes**;
- + (b) encouraging the development and use of voluntary best practices of **corporate social responsibility** by enterprises, such as those in the OECD Guidelines for Multinational Enterprises, to strengthen coherence between economic, social and environmental objectives;
- + (c) encouraging the integration of sustainability considerations in private and public **consumption decisions**;

# CHAPTER 24- TRADE AND ENVIRONMENT

## + Article 24.3 Context and objectives

The Parties stress that enhanced cooperation to protect and conserve the environment brings benefits that will:

+ (a) promote sustainable development;

## Article 24.2 Right to regulate and levels of protection

- + The Parties recognise the right of each Party to set its **environmental priorities**, to establish its **levels of environmental protection**, and to adopt or modify its laws and policies accordingly and in a manner consistent with the multilateral environmental agreements to which it is party and with this Agreement.
- + Each Party shall seek to ensure that those laws and policies provide for and encourage **high levels of environmental protection**, and shall strive to continue to improve such laws and policies and their underlying levels of protection.



**Article 24.5**  
**Upholding levels of protection**

- + 1. The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the **levels of protection** afforded in their environmental law.
- + 2. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, **its environmental law**, to encourage trade or the establishment, acquisition, expansion or retention of an investment in its territory.
- + 3. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental law to encourage trade or investment

## Article 24.8 Scientific and technical information

- + 2. The Parties acknowledge that where there are threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

## Article 24.9 Trade favouring environmental protection

- + The Parties shall, ..., pay special attention to facilitating the removal of obstacles to trade or investment in goods and services of particular relevance for climate change mitigation and in particular trade or investment in renewable energy goods and related services .

# Investment Protection

- + Reforms brought to the investor-state dispute settlement (ISDS). CETA's foreign investor protection tribunals – also known as its “Investment Court System” (ICS).
- + “CETA moves decisively away from the traditional approach of investment dispute resolution and establishes an independent, impartial and permanent investment tribunal. The members of the Tribunal will be individuals qualified for judicial office in their respective countries, and these will be appointed by the European Union and Canada for a fixed term. Cases will be heard by three randomly selected members of the Tribunal. Strict ethical rules for these individuals have been set to ensure their independence and impartiality, the absence of conflict of interest, bias or appearance of bias.”
- + + **Appeal mechanism** which will allow the correction of errors

# Investment Protection

- + Foreign investors could invoke any of their broad CETA rights to seek compensation.
- + ISDS is likely to deter the adoption of health, safety, environmental, financial security, consumer, labour, cultural, or any other measures that foreign investors oppose.
- + “CETA includes modern rules on investment that preserve the right of governments to regulate in the public interest including when such regulations affect a foreign investment, while ensuring a high level of protection for investments and providing for fair and transparent dispute resolution. CETA will not result in foreign investors being treated more favourably than domestic investors.”
- + CETA clarifies that governments may change their laws, regardless of whether this may negatively affect an investment or investor's expectations of profits. Furthermore, CETA clarifies that any compensation due to an investor will be based on an objective determination by the Tribunal and will not be greater than the loss suffered by the investor.”

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