



## **“THE EU'S FREE TRADE AGREEMENT WITH CANADA AND ITS INTELLECTUAL PROPERTY RIGHTS PROVISIONS”**

- The EU has a real interest in better protecting its brands and products on the Canadian market. Many EU products rely heavily on innovation, creativity, quality, and brand exclusivity and these constitute some of our main comparative advantages on the world market. A failure to protect and enforce this intellectual property in a fair and measured way harms the legitimate value added of many European products and services. EU growth and jobs are at stake when the EU's ideas, brands and products are infringed.
- The EU's trade negotiations with Canada covered some aspects of the policy environment for trade. Like all modern trade negotiations, the EU-Canada Comprehensive and Economic Trade Agreement (CETA) negotiations aim to reduce tariffs, remove non-tariff barriers and grant companies better effective access to each other's' markets. This means looking at the rules that affect trade, such as the protection and enforcement of intellectual property rights. If European companies want to do business in Canada; they need to rely on the protection of their patents, trademarks, designs, copyrights or geographical indications.
- The EU negotiated a meaningful chapter on intellectual property with Canada. The EU has long been concerned by a number of infringements of intellectual property rights in Canada. To improve the situation, the EU sought to enhance the level of protection in several areas:
  - a. Copyright. An effective and up to date copyright regime is essential to protect original creative material, such as music, dramatic and literary works. The EU wants to ensure that the EU artistic material under copyright is properly protected in Canada, just as Canadian material is protected in the EU.
  - b. Products originating in a particular region, known as geographical indications. For example, EU producers of genuine "Prosciutto di Parma" have not been able to export their product under the original name to Canada because of the use of the trademark "Parma" in Canada. The reputation for quality or authenticity for such products is intimately linked to its geographical origin and so the EU would like to better protect such products on the Canadian market.
  - c. Current Canadian legislation in the pharmaceutical sector lags behind that of most other developed countries. This situation creates a disadvantage for EU research based pharmaceutical industry operating in Canada, is detrimental to

economic growth, the creation of jobs and creation of new drugs. Equally important, but often overlooked is the fact that a level playing field between the EU and Canada will ensure a fairer and more favourable competitive environment for the important European generics industry, which will no longer be disadvantaged vis-à-vis its Canadian counterparts. Specific safeguards are being negotiated to ensure that any new provisions will not affect trade of pharmaceutical products with developing and least developed countries;

### **Factsheet**

- The EU wants to raise the level of protection and enforcement of intellectual property rights for its products in Canada to a comparable level to that of the EU. The EU is not aiming to go beyond rules that are already applied in the EU and in its Member States. Nothing in the EU-Canada FTA will contradict or add to the intellectual property rules that are already being applied in the EU and its Member States. The intellectual property provisions of the CETA will also be fully respectful of the rules agreed by the World Trade Organisation.
- The text under negotiation reflects the fact that the Anti-Counterfeiting Trade Agreement (ACTA) has been rejected by the European Parliament. Since both the EU and Canada negotiated ACTA, earlier drafts of the EU-Canada intellectual property chapter bore similarities to ACTA in the section on the enforcement of intellectual property rights. But since ACTA has not become part of the "EU rulebook", this is reflected in the current negotiations with Canada.
- Hence, the current text of the EU-Canada FTA is very different from ACTA, especially for those ACTA sections that created most uncertainty and debate:
  - a. Internet provisions: The ACTA provisions on the liability of internet service providers (ACTA articles 27.3 and 27.4) are not part of the current EU-Canada trade negotiations. The EU is proposing rules based on the EU's E-Commerce Directive from 2000. As has been the case on the EU market for over a decade, this does not require the introduction of any general monitoring requirements nor any three-strike mechanism.
  - b. Criminal enforcement: The legally binding ACTA provisions on criminal sanctions have been entirely removed from the CETA text.

The final text will be discussed and debated in the normal democratic process, and the Member States and the European Parliament routinely received updates and the EU's text proposals for all chapters, including the chapter on IPR. Once the negotiators have finished their work, the text will be presented to the European Council and the European Parliament for their approval. Nothing is introduced "through the back door".