

Canada-EU CETA Investment Arbitration Tribunal Is An Opportunity For Canadians

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On February 29, 2016, the Honourable Chrystia Freeland, Minister of International Trade, and Cecilia Malmström, European Commissioner for Trade, announced that the legal review of the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) English text has been completed. More interesting, they announced changes to the Investment Chapter and the establishment of a permanent investment arbitration tribunal to hear investment disputes.

Fifteen individuals will be appointed by Canada and the European Union (EU) to constitute a tribunal for the purpose of deciding investment disputes. Disputes will be decided by a division of the tribunal comprising three randomly selected members of the tribunal.

The permanent list of individuals is particularly interesting because Canada has rosters of panelists for NAFTA disputes (pursuant to Chapter 11 (Investment), Chapter 19 (Bi-National Panels) and Chapter 20 (State-to-State disputes)). The *Members of Panels (NAFTA) Regulations* (SOR/94-117) has not been updated since 1995. The *Members of Committees and Special Committees (NAFTA) Regulations* (SOR/94-225) has not been updated in about 15 years. Other lists of Canadians with trade experience have not been updated in years.

The development of a new list of Canadian lawyers with experience in trade matters, especially investment treaties and arbitrations, is welcome. There are many smart Canadian lawyers who do not receive the same opportunities as Washington DC trade lawyers. The new Canada-EU CETA tribunal may level the playing field as US lawyers may not make Canada's list.

For the most recent text of the [Canada-EU CETA](#).



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