

CETA's Implications for Sustainable Development and Environmental Protection in Canada

CETA Implementation: The Next Steps
Dalhousie University

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Canadian
Environmental Law
Association
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Agenda

1. Investment Court System

- Canada's experience
- The “right to regulate”
- The creation of a “legitimate expectation”

2. Trade and Environment Chapter

3. Climate Change

4. Trade and Sustainable Development Chapter

Closing Remarks

I. Investment Court System

Canada's Experience

“The primary purpose of investment treaties is to give new rights and protections to foreign investors. On the other hand, they do not create actionable responsibilities for foreign investors.”

- Gus Van Harten (2015)

I. Investment Court System

The ‘Right to Regulate’

“Provisions of this Agreement preserve the right of the Parties to regulate within their territories and the Parties' flexibility to achieve legitimate policy objectives, such as public health, safety, environment, public morals”

- CETA, Preamble

I. Investment Court System

Creation of a ‘Legitimate Expectation’

“a Tribunal may take into account whether a Party ... created a legitimate expectation, and upon which the investor relied in deciding to make ... the covered investment, but that the Party subsequently frustrated.”

- *CETA, Article 8.10.4*

II. Trade and the Environment

Chapter 24

“environmental law means a law, including a statutory or regulatory provision, or other legally binding measure of a Party, the purpose of which is the protection of the environment, including the prevention of a danger to human life or health from environmental impacts”

- *CETA, Article 24.1*

III. Climate Change

Chapter 24

“The Parties shall, consistent with their international obligations, pay special attention to facilitating the removal of obstacles to trade or investment in goods and services of particular relevance for climate change”

CETA, Article 24.9

IV. Trade and Sustainable Development

Chapter 22

“The Parties recall the Rio Declaration on Environment and Development of 1992, the Agenda 21 on Environment and Development of 1992, the Johannesburg Declaration on Sustainable Development of 2002 ...”

- *CETA, Article 22.1*

Thank you!

For more information:

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