The canada—European union comprehensive economic and trade agreement (CETA) is expected to offer canadian and European union (EU) business people freer ability to work temporarily (from 90 days to 3 years) in each other’s markets.

If implemented transparently and predictably, this has the potential to boost Canada’s traded services and address existing barriers such as widely varying definitions, long processing times, and spousal visas.

To take full advantage, professional associations should begin now—even before the deal is finalized—to negotiate mutual recognition agreements with EU counterparts.
Executive Summary

When an agreement in principle for the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (EU) was announced in October 2013, it was widely heralded as an unprecedentedly broad pact covering the full range of flows that make up 21st century commerce. The deal encompasses not only goods but also services, people, ideas and investments, as well as regulatory standards and other provisions.

As the global economy becomes increasingly integrated, and companies have offices, clients, and activities in multiple countries, moving workers easily and reliably across borders is increasingly important to Canadian businesses. The dimensions of CETA that remove barriers to labour mobility are therefore important for Canadian trade and investment, especially traded services.

This briefing provides a primer on three main topics:

- how the broad outlines of CETA’s labour mobility provisions promise improved commercial prospects for Canadian businesses currently or potentially trading with the EU;
- what is currently known—and the larger terrain of “unknowns”—concerning the details of CETA’s labour mobility provisions;
- what Canadian business and government leaders should do to prepare before those provisions are finalized and come into effect.

The labour mobility issues treated under CETA fall into two general categories: gaining temporary entry and permission to work in another country, and getting recognition of professional and technical qualifications to be able to practise abroad. On both fronts, the most
important consideration for businesses is that rules be transparent (clearly and thoroughly defined) and predictable (consistently enforced and extending over the long term).

Complaints by Canadian businesses about the current difficulties of sending workers to EU countries show the need for CETA's reforms. These complaints include the challenge of finding reliable information about visa and work permit requirements; problems created by widely varying definitions and terminology; and long processing times. Problems concerning spousal visas, double taxation, and withholding taxes are also often noted.

Improved labour mobility could facilitate traded services and goods from Canada to the EU, as well as facilitate greater Canadian direct investments. It could boost Canadian sales in the European Union market, and may also make it easier for Canadian businesses to use the EU as a platform to sell to other parts of the world such as Asia.

Only the outlines of CETA's labour mobility provisions have been announced thus far. Among the known elements is that, for the first time, the EU has agreed to use a “negative list” of services categories excluded, rather than a “positive list” specifying services covered, as was used in North American Free Trade Agreement (NAFTA). Covered categories of workers are corporate transfer employees, investment-related visitors, contract and independent service providers, and short-term business visitors, with varying durations of stay. Some short-term entry for workers’ spouses will be permitted. The deal will also include a framework for professional groups to negotiate mutual recognition agreements (MRAs) with the EU.

Until the technical negotiations and implementation of CETA are finalized in a couple of years, many elements of the deal affecting labour mobility remain unclear. Some important details remain to be seen, such as:

- Which kinds of specialized occupations and professions will be covered?
- Will Canada's professional associations have the interest and capacity to negotiate mutual recognition agreements with the EU?
- Will spousal entry and work permit rules make relocation family-friendly?
• Will visa and work permit issues be made transparent and consistent across all EU member states?
• Will border officials be trained to apply CETA labour mobility rules consistently?

While the deal is finalized and implemented, businesses must prepare to reap the benefits of freer worker entry into the EU. Federal and provincial governments should take steps to ensure that the deal ends up holding the best promise for success. There is also much that business can do to shape a policy environment conducive to Canada–EU trade.

Governments should:
• educate professional associations about the benefits of negotiating MRAs with the EU, and facilitate such negotiations as needed;
• educate business in how to prepare to take advantage of CETA;
• closely examine the successes and lessons learned from the Quebec-France labour mobility agreement;
• take stock of how NAFTA has fallen short in promoting labour mobility;
• negotiate a final CETA text that enables workers and their spouses to enter and work in EU countries easily and reliably.

Business should:
• encourage professional associations to negotiate MRAs;
• encourage government to support and consult with business groups and professional associations;
• keep the pressure on government to negotiate a final CETA text that enables workers and their spouses to enter EU countries easily and reliably.

Introduction
Some of Canada's strongest trade growth lies not only in the natural resource or manufacturing sectors that grab daily news headlines, but in the much less visible realm of service exports. From 2001 to 2011,
the fastest-growing Canadian export sector was not mining or oil but financial services—in fact, services represent 40 per cent of Canada’s trade if full supply chains are taken into account.¹

While global communications technology makes it easier to sell services remotely, not all of this service trade is carried out by workers within Canada. Having workers physically present on-site abroad remains important for a range of service exports (from independent professionals to large firms) and for exporting manufacturers. As the global economy becomes increasingly integrated and companies have offices, clients, and activities in multiple countries, moving workers easily and reliably across borders is increasingly important to Canadian businesses. For all of these reasons, international trade agreements that remove barriers to labour mobility are important for Canadian exports and, by extension, for Canadian economic growth in general.

When the Canada–EU Comprehensive Economic and Trade Agreement (CETA) in principle was announced in October 2013, it was widely heralded on both sides as an unprecedentedly broad pact covering the full range of flows that make up 21st century commerce. The deal encompasses not only goods but also services, people, ideas and investments, as well as regulatory standards and other provisions.

In comparison with previous free trade agreements that covered labour mobility, CETA breaks new ground in several respects. It is the first agreement in which the EU has agreed to liberalize trade in services through a “negative list” of services specifically excluded, as opposed to a “positive list” specifying services covered. It is also the first time in Canadian trade history that the provinces and territories have participated in negotiations since key areas fall under their jurisdiction, and they will have to implement newly agreed-on provisions.

¹ Goldfarb, “Canada’s Growing but ‘Invisible’ Trade: Services.”
Yet while those facts are clear, much remains unclear about CETA and the implications of its labour-mobility provisions for Canadian exporters. In the first instance, some of the confusion may be conceptual: how does easier access for Canadian workers into European countries matter for Canada’s various areas of trade with the EU?

More fundamentally, though, this lack of clarity is largely related to the limited level of detail announced thus far. Technical negotiations for CETA are ongoing, and the agreement won’t be finalized for another two years or so. Until more information is made publicly available, and the agreement comes into effect, how should Canadian businesses understand the potential labour mobility implications of CETA and prepare to respond to them?

This briefing provides a primer on three main topics:

- how the broad outlines of CETA’s labour mobility provisions promise improved commercial prospects for Canadian businesses currently or potentially trading with the EU;
- what is currently known—and the larger terrain of the “unknowns”—with respect to the details of CETA’s labour mobility provisions;
- what Canadian business and government leaders should do to prepare before those provisions are finalized and come into effect.

The focus of this briefing is on the potential for CETA to increase the outward flow of Canadian workers to the EU to facilitate commerce. It touches only briefly on the economic implications for Canada resulting from inward flows of EU nationals to work temporarily in this country.

**Yes, EU Workers Will Cross the Sea Too**

A Canada–EU agreement on labour mobility will work both ways, of course, making it easier for EU workers to come temporarily into Canada, as well for Canadians to work abroad. At the intra-corporate level, it promises to facilitate travel by EU nationals back and forth between European Union companies in Canada and their corporate headquarters, which could ensure that EU foreign
direct investment is retained and perhaps increased. In turn, this could also give Canadian firms greater access to European inputs, capital, expertise, and technology. While the implications of that inward flow of EU workers are also uncertain, there is reason to be optimistic about its net benefits for Canada. Given existing skills shortages in Canada, it seems likely that Canadian businesses stand to benefit from easier access to European professionals and skilled tradespeople for filling temporary work needs. Because Canada and the EU are at similar levels of economic development, the arrangement is likely to promote the two-way movement of highly skilled workers at high wages.

How Does Labour Mobility Fit into Canada’s International Commerce?

Labour mobility issues cover a spectrum of factors enabling people to work temporarily in another country or impeding them from doing so. The various dimensions of labour mobility, as treated in CETA, were laid out in a 2008 scoping study jointly carried out by Canada and the EU:

In the context of this study, labour mobility refers exclusively to the movement of business persons across borders to work on a temporary basis. This encompasses issues at the border such as authorization requirements for temporary entry, work permits and labour market tests, as well as behind-the-border issues such as licensing or accreditation. These are key determinants to the ease with which business people can enter to perform business activities related to investment and the trade of services and goods.2

The labour-mobility issues under CETA fall into two general categories:

• gaining temporary entry and permission to work in another country;
• getting recognition of professional and technical qualifications to be able to practise these licensed/regulated occupations in another country.

2 European Commission and Government of Canada, Assessing the Costs and Benefits.
On both of these fronts, the paramount need for businesses is that rules be both transparent (clearly and thoroughly defined) and predictable (consistently enforced and extending over the long term).

**What Existing Labour Mobility Problems Does CETA Address?**

Currently, the EU’s Schengen Agreement sets visa requirements for Canadian business workers seeking entry into most EU member states for stays of less than three to six months, and some member states also require a work permit. Entry criteria include justifying the business purpose for an intended stay, as well as proof of sufficient means for subsistence and return to Canada. After spending three months in the Schengen area, a business worker must leave for three months before being granted another three-month entry period. Rules relating to temporary entry for work purposes are determined by the laws and procedures of individual EU member states.

Under the status quo, Canadian businesses groups complain of the challenge of finding reliable information on visa and work permit requirements, of problems created by widely varying definitions and terminology, and of long processing times. Trade in services is also being hampered by problems concerning spousal visas, double taxation, and withholding taxes. For all of these reasons, businesses are looking forward to a new Canada–EU trade regime that makes intra-corporate transfers easier and boosts their potential to conduct trade in global markets.

Many of the labour mobility “wins” from CETA will come from making it easier for Canadians to supply the EU with services—one of the commercial areas expected to benefit from CETA’s trade liberalization. A Canada–EU joint government study evaluating the impact of a

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4 Email correspondence by Jason Langrish (Canada Europe Roundtable) as cited in Goldfarb and Thériault, *Canada’s “Missing” Trade With the European Union*. 

Find this and other Conference Board research at www.e-library.ca
potential agreement found that Canada’s GDP would grow by almost 1 per cent annually, and that nearly half this boost would come from freer trade in services.\(^5\)

Canadian services exports to the EU stood at about $14 billion in 2012, much of it in areas such as financial, legal and architectural services, research and development, engineering and technology.\(^6\) The agreement will enable Canadian businesses to provide services to European Union clients on an equal footing with EU firms in most service sectors (i.e., except for the specifically excluded ones). Some of the services sold will involve Canadian workers going abroad to perform those services on EU soil—the “sweet spot” where CETA’s labour mobility provisions will likely have the greatest impact.

While improved labour mobility will matter greatly to promoting traded services from Canada to the EU, other commercial sectors also stand to benefit. If CETA succeeds in making it easier for Canadians to work overseas, this will affect trade in goods since sales should grow if Canadian workers can travel to supply required installation, training, and maintenance services. It may also be more attractive for Canadians to maintain and grow their direct investments (such as bank branches, offices, factories) in the EU market, knowing that they can easily move Canadian workers there on a temporary basis. This, in turn, could boost sales of services and products within the EU. It may also make it easier for Canadian businesses to use the European Union as a platform to other parts of the world (such as Asia) that can be better served from the EU.

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\(^6\) Canada, *Technical Summary.*
Exhibit 1
The “Sweet Spot” of CETA’s Labour Mobility Opportunities

Canadian workers temporarily inside the EU maintaining and growing Canadian affiliate operations

Canadian workers temporarily inside the EU providing services

Canadian workers temporarily inside the EU providing service supporting traded goods

Source: The Conference Board of Canada.
How is Labour Mobility Involved in Traded Services?

According to the World Trade Organization’s (WTO) Definition of Services Trade and Modes of Supply—which applies to the 1995 General Agreement on Trade in Services (GATS) accord—four categories of services exist. They vary according to where the supplier and consumer are located at the time of transaction:

- Mode 1 (cross-border trade) involves the cross-border trade of services via communication channels such as computers or mail (e.g., Canada supplies an EU-user with online training or architectural drawings).
- Mode 2 (consumption abroad) involves the supply of services domestically to visiting foreigners (e.g., Canada supplies accommodation or education to EU tourists or students inside Canada).
- Mode 3 (commercial presence) involves an EU-located affiliate, subsidiary or office of a Canadian-owned company (e.g., Canada operates a bank, hotel group or construction company in the European Union).
- Mode 4 (movement of natural persons) involves a Canadian going to the EU to provide a service as an independent worker (e.g., a consultant) or employee of a service provider (e.g., a construction company).7

The labour mobility provisions of CETA apply most directly to the last two of these modes of service. They could boost trade flows via mode 3 by enabling easier intra-corporate transfers.

How CETA Makes It Easier for Canadians to Work Abroad

The limited details of the provisions in CETA that are known to date can be found in the Technical Summary of Final Negotiated Outcomes, which the federal government released when it announced the agreement in October 2013. The “Labour Mobility” section is less than one page of the 26-page document.8

7 Adapted from World Trade Organization, GATS Training Module.
8 Canada, Technical Summary, 13.
With respect to the recognition of professional qualifications, the Technical Summary notes that CETA contains “substantive and binding provisions on licensing and qualification, as well as the mutual recognition of professional qualifications.” The process of recognizing foreign qualifications will be “streamlined” by CETA’s provision of “a detailed framework so that regulators or professional organizations may negotiate mutual-recognition agreements.”

The temporary entry provisions described in the Technical Summary are somewhat more detailed. They include:

- **Who will be covered**
  - intra-corporate transferees;
  - investors and business visitors for investment purposes;
  - contract service suppliers and independent professionals—including a broad range of professionals, and “limited coverage of technologists”—with a contract length of 12 months or less;
  - short-term business visitors, including after-sales and after-lease services;
  - contract service suppliers and independent professionals covered by reciprocal commitments taken on a sector and member-state basis.

- **How long they will be able to stay**
  - The principle of a minimal-duration stay generally applies equally to both Canada and the EU (i.e., the principle that workers stay for no longer than the time period required to complete a specific engagement);
  - Intra-corporate transferees (senior personnel and specialists) may stay for the lesser of three years or the length of a contract;
  - Contract service suppliers, independent professionals, intra-corporate transferees (graduate trainees), and investors may stay the lesser of one year or length of a contract;
  - Short-term business visitors (including for investment purposes) may stay 90 days within any six-month period.
Can their spouse come too?
- Spouses of intra-corporate transferees, contract service suppliers, and independent professionals will be granted some as-yet unspecified temporary entry provisions.

How CETA Reflects Lessons From Previous Trade Agreements

Several previous trade agreements involving Canadian federal or provincial governments are noteworthy for their bearing on the development of CETA and its prospects for fostering labour mobility.

The Quebec-France agreement recognizing professional qualifications

The shape that professional credential recognition seems to be taking in CETA has been influenced by the 2008 Québec-France Agreement on the Mutual Recognition of Professional Qualifications, which was the first agreement of its kind between Europe and North America. Covering professions, functions, and regulated trades in Quebec and France, the agreement has seen about 100 occupational authorities enter into negotiations toward mutual recognition agreements (MRAs).

As of April 2014, 81 professional and trade categories, ranging from bricklayers and bakers to agronomists and insurance agents, were covered by MRAs.

The successful implementation and negotiation of the Quebec-France agreement seems to have resulted in Quebec leading the push for similar issues to be covered in a broader Canada–EU deal. According to a recent article by former Quebec premier Pierre-Marc Johnson and two other co-authors close to the CETA negotiations, Quebec played a key role in ensuring that professional credential recognition was

9 Quebec, Québec-France Agreement.
10 Email correspondence with Quebec Ministry of Economic Development.
included in the agreement. Quebec successfully lobbied for CETA to incorporate a framework “that will allow professional organizations from either side to initiate mutual recognition agreements.”

**NAFTA**

Entering into force in 1994 with the aim of facilitating trade between Canada, the United States, and Mexico, NAFTA contains labour-mobility provisions for 63 professional categories in Chapter 16 (“Temporary Entry for Business Persons”). Its TN visa program enables business visitors, traders and investors, intra-company transferees, and professionals to work temporarily in other NAFTA countries without specific work permits. It is intended to make crossing the borders for business purposes more efficient and predictable.

Despite some success in fostering cross-border trade in services, NAFTA is often criticized for its limited coverage and cumbersome procedures. Since it used a “positive list” approach for specifying all professional categories to be covered, the list of occupations agreed on as of 1994 has become outdated in the decades since. Many skills that are now in demand (e.g., computer software engineers, financial analysts, and IT professionals) did not exist back then, and NAFTA’s list has not been updated to meet evolving business demands. As well, it has no provisions for categories of skilled labour that do not require a university degree. Furthermore, as a 2013 Conference Board of Canada briefing found, the agreement “has been unable to deliver on promises of mutual recognition for regulated trades and professions,” with very few professions having agreed to cross-North America-wide credential recognition.

Another major weakness of the labour-mobility provisions in Chapter 16 of NAFTA is the complex and ambiguous nature of its regulations governing work permits. This complexity has produced

11 Johnson, Muzzi, and Bastien, “The Voice of Quebec,” 564.

12 Dawson, *U.S. Workers May Hold the Key.*
endless headaches at the border. Border officials may lack adequate training and comprehension of the occupational classes they are asked to adjudicate, and are notorious for rendering inconsistent decisions that allow or bar entry to would-be business travellers. According to analysts of Canada-U.S. labour mobility, “[o]ne of the greatest frustrations for employers is the unpredictability in adjudication by both Canadian and U.S. border personnel.”

### The Agreement on Internal Trade (AIT) and The New West Partnership Trade Agreement (NWPTA)

Within Canada, there is some precedent of free-trade agreements that aim to boost labour mobility among provinces. The Agreement on Internal Trade, signed in 1995, aimed to reduce barriers to the free movement of persons, goods, services, and investment within Canada. Amendments to the AIT in 2009 aimed to achieve full labour mobility across Canada for regulated professions. In theory, this means that, under CETA, a European in a regulated profession could work anywhere in Canada.

The New West Partnership Trade Agreement (NWPTA), which came into effect in 2010, integrates the economies of Alberta, British Columbia, and Saskatchewan in the areas of trade, investment, and labour mobility. It extends the previously existing 2008 Trade, Investment and Labour Mobility Agreement (TILMA) between British Columbia and Alberta. Like its predecessor, the NWPTA aims to boost labour mobility between provinces by enabling certified (i.e., regulated) workers to move to another province without the need for additional examinations or training to practise their occupation. The agreement both obligates governments to remove barriers to the free movement of workers and requires provincial regulatory authorities to recognize each other’s skilled trade and professional qualifications.

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13 Shotwell, Yewdell, and Cryne, “Barriers to Cross-Border Labour Mobility.”
14 New West Partnership Trade Agreement, Professional or Skilled Tradesperson.
The economic benefits of these labour mobility provisions are touted to be their effectiveness in getting skilled workers onto the job faster and providing employers with skilled labour and professionals. Measuring to what extent that economic promise has been realized is very difficult, however, due to the paucity of data. Furthermore, as an international agreement, CETA goes far beyond the NWPTA in covering border entry and residency permits as well as professional credential recognition.

The Ins and Outs of Professional Recognition Agreements Under CETA

Professional associations are in the driver’s seat
Because Canada’s provinces and territories (not the federal government) have responsibility for regulating professions and trades, the professional qualifications dimension of the labour mobility provisions will be one of the trickiest elements of CETA to implement. Within Canada, the federal government has limited power to influence interprovincial labour mobility since it cannot directly pull the strings of occupational regulation. Not only does that power rest with the 12 provinces and territories, in many cases it has been delegated to professional associations. The result is a mind-boggling complexity. As the 2008 Canada–EU joint study noted, there exist “over 440 occupational regulatory bodies in Canada, representing millions of workers in more than 100 different occupations.”

Hence, Ottawa is not in the driver’s seat when it comes to securing uptake of professional recognition provisions in CETA, or any other international agreement. All the federal government can do is “encourage and support the negotiation of MRAs between professional bodies through the development of appropriate frameworks and provisions

European Commission and Government of Canada, Assessing the Costs and Benefits.
contained in its international trade agreements.” 16 In NAFTA and other free trade agreements previously negotiated, the federal government included voluntary guidelines giving practical guidance for professional associations to enter into mutual recognition agreements. Beyond that, however, it is entirely up to professional bodies to decide whether to take up the opportunity. Once an MRA for a profession is negotiated, it is then up to the provinces and territories to accept and adopt the agreement as part of its licensing activities.

How will CETA be relevant?
While the federal government’s non-capacity to steer or implement MRAs also applies to CETA, of course, this international agreement is novel in its intimate involvement of the provinces and territories in negotiating the framework. In the words of the Canadian government, it “will be the first of Canada’s free trade agreements to include substantive and binding provisions on the mutual recognition of professional qualifications—the outcome of close collaboration between regulators, the provinces and territories, and the federal government.” 17

The “substantive and binding” terminology here has not yet been clarified; presumably it applies to the bodies negotiating the CETA agreement as a whole. Other aspects of CETA’s binding dimension are also obscure: as the Canadian Bar Association recently noted, “exactly how such agreements will be included within CETA, and if they will subject to the CETA dispute resolution mechanism, remains unclear.” 18

In any case, choosing to negotiate a mutual recognition agreement within CETA remains entirely voluntary for professional organizations; no level of government can compel them to do so.

16 Ibid.
17 Canada, Agreement Overview.
18 Sosnow and Stephenson, “Services, Investment and CETA.”
It’s hard to phone the EU

Canadian observers expect that the first professional standards bodies to pursue Canada–EU recognition under CETA will be groups such as engineers, lawyers, and architects, followed by other professions down the road. Many Canadian professional groups—accountants, for instance—have considerable experience already in negotiating international recognition agreements with their counterparts in other countries, and are interested in seeing what further opportunities for business growth CETA might present.

At the same time, however, the prospect of negotiating an MRA under CETA is daunting to contemplate. In the words of one representative of a major Canadian professional group, “Who do you call on the phone to start negotiating with the EU?” While Canada’s architects and engineers have begun talks with the EU, other professional groups—even ones already experienced in negotiating bilateral international recognition agreements—may blanch at the complexity of dealing with 28 countries at once. Variances within the professional licensing regimes of EU member states mean that any MRA must accommodate those too. These realities leave plenty of room for Canada’s federal government to play a useful role in educating Canada’s professional associations and perhaps in facilitating negotiations.

A potential domestic upside

Finally, it should be kept in mind that CETA might be beneficial for the less than fully harmonized patchwork of provincial credential recognition that currently exists within Canada. Despite the 2009 update to the Intergovernmental Trade Agreement—aimed at fully ensuring national labour mobility for workers in regulated occupations—gaps and delays in implementation persist, as evidenced by the ongoing signing of regional trade agreements, such as the NWPTA, between various provinces. CETA could give Canada the push it needs to actually
create a single Canadian market. Provinces would “have to harmonize or mutually recognize laws, rules, standards and procedures, not only with Europe but also with each other.”

The “known unknowns” about CETA and labour mobility

While it’s possible that elements of the final text could come as a total surprise to CETA-watchers in Canada, the concerns of knowledgeable observers deal with areas of the agreement that are obviously vague in the Technical Summary.

First, despite assurances that the “negative list” approach of the professional recognition provisions is more ambitious than any other trade agreement to date, it is unknown specifically which kinds of specialized knowledge and professions will fall under the CETA umbrella. It also remains to be specified who counts as a technologist and what limited range of such specialties will be covered under CETA’s temporary entry provisions.

Second, the specifics of the framework under which professional groups can negotiate MRAs have not been revealed, so their actual suitability and usefulness in practise is still unknown.

Third, it remains to be seen how spouses will be treated under the CETA temporary entry rules, and thus how family-friendly the agreement will be. Even if spouses are permitted to enter the EU along with a CETA-qualified worker, it is unclear if they will be allowed to work there and under what restrictions if so. Since spousal and family issues are major reasons why employees decline intra-company foreign assignments, the detailing of these rules will affect CETA’s actual impact in encouraging labour mobility.

Finally, it is unclear how CETA will deal with the practical aspects of immigration and work permit issues, since such policies vary among EU states. For example, given current variations in the rules of EU member

states concerning whether foreign workers must leave the country to renew an expiring work permit, how will the agreement establish one common rule to render working in the European Union efficient and predictable for Canadians? One benefit of CETA is intended to be its provision of EU-wide rules for workers’ entry—but presumably this can come to pass only if the European Union tackles the formidable task of harmonizing border entry rules across its member states.

Implementation: “The devil is in the details”

Even after Ottawa and the EU have signed on to the terms of a final agreement, of course, much depends on how the implementation unfolds. Some of the requirements of a successful implementation have already been noted: for instance, keeping the agreement updated as business demands and labour categories change will require follow-through on commitments for CETA to be reviewed regularly. And, as noted above, ensuring that all the EU parties to the deal adapt their visa systems to make entry seamless and uniform will be no small challenge.

Another open question is whether, and in what ways, Canadian and EU governments might actively induce professional bodies to begin negotiations under the CETA umbrella or to bring existing agreements with EU countries under it. Without government intervention and support, not all professional groups will have the interest or capacity to head down such a path. Given the large number of professional groups in Quebec that have or are currently negotiating professional recognition agreements with their counterparts in France, Canada’s federal government would do well to analyze what factors have supported the success of such negotiations and what lessons it can learn from that precedent.

A major issue for the success of CETA’s temporary work provisions concerns the decision-making of border officials when would-be workers seek entry into the EU or Canada. The ample anecdotal evidence of inconsistent NAFTA entry decisions rendered by officials at the Canada-U.S. border suggests that such problems might be even more complex with CETA given the multiplicity of languages and borders involved in
the EU. Without well-trained border officials offering efficient and predictable entry according to an EU-wide harmonized system of rules, Canadian businesses and professionals may be leery of taking up labour mobility opportunities under the new agreement. This will be an important item for Canadian negotiators to address before the CETA deal is finalized and during its implementation.

At a more general level, another issue to watch for is whether the sign-on by provinces to the final agreement goes as smoothly as anticipated. Reversals may occur even though the provinces were consulted during the preliminary CETA negotiations and have given verbal agreements that they will endorse the final outcomes. Unless an assent mechanism is implemented to formalize provincial consent—perhaps in the form of legislative assent—provinces might back out of implementing CETA commitments without incurring any cost.20 For that reason, the federal government may want to consider putting in place some kind of formal provincial sign-on.

**Forecasting wins and losses**

Canadian experts are leery about forecasting specific outcomes for CETA as a whole, much less specifically for its labour mobility provisions. Given that, two things seem fairly clear in the win-loss reckoning. First, any overall wins from the labour mobility provisions are likely to be intermingled with the other economic factors influenced by CETA, and will therefore be difficult to identify distinctly.

Experts agree, however, that it’s unlikely Canada will experience big losses from CETA’s labour mobility provisions. Contrary to first-glance fears that might arise, the agreement is not a mechanism for unemployed Europeans to flood the Canadian labour market and take jobs, or vice versa. Unless there are known labour shortages in Canada, it makes no sense for Europeans to come here in search of temporary professional work. Given that skilled and professional labour shortages do exist in

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20 This point is made in Fafard, “Why Did It Take So Long?”
Canada and the EU, however, “temporary labour mobility, particularly in complementary rather than competing economies, can help to alleviate the skills shortages being faced in both economies.”

It’s also worth stepping back from the immediate impacts of CETA to consider its geopolitical setting against the backdrop of rising economic power in Asia. One perspective holds that Europe and North America will need to join forces economically during the coming decades to counter China’s growing influence on global trade—and, by striking a deal with the EU first, Canada is well positioned to influence a future EU-NAFTA trade alliance. From another perspective, CETA opens Canada’s trade opportunities to a huge European market—and potentially beyond it to Asia—at a time when Canadian trade has stagnated due to our reliance on the relatively slow-growth U.S. market. And the deal's labour mobility provisions could help Canada focus on building its services trade with Asia, which is less visible than our natural resources trade but holds significant long-term growth potential.

**Beyond watchful waiting**
As of June 2014, CETA had not been concluded, with the EU and Canada still unable to resolve a handful of issues. Once there is a final deal, the text will need to go through a legal “scrub,” be translated into 24 EU languages, and be ratified by the European Parliament and the Council of Ministers. This process is expected to take about two years.

In any case, once there is a final agreement, it must be endorsed by the Parliament of Canada, though not in any official way by the provinces and territories unless otherwise announced. And on both ends of the deal, as the Canadian Chamber of Commerce has noted, “provinces and member states will likely need to adjust their current laws and regulations before the agreement can go into effect.”

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22 A point made by Jason Langrish, as quoted in Shufelt, “Free Trade: Why Canada Needs Europe.”

23 Canadian Chamber of Commerce, *So What’s in the Canada–EU Trade Agreement?*
In the interim, Canadian businesses should be doing more than just watchful waiting. As recent history shows, a lack of speed has already cost Canada in its trade with Europe. A 2010 analysis of Canada–EU trade levels by The Conference Board of Canada found a notable gap in the momentum of services trade between the two sides:

Canadian businesses are not taking advantage of opportunities to grow their services activities in Europe to anywhere near the same degree that Europeans are doing so in Canada. European businesses are active and expanding services sales here, while Canadian companies are merely keeping their services trade expansion stable.24

That finding suggests that Canadian business needs to make a concerted effort to ensure that CETA increases sales of both goods and services for Canadian businesses.

Above all, reaping benefits from CETA will require actively seizing opportunities. Few gains will come to those who don’t take advantage of it through individual initiative. The prospect of the agreement coming into effect in two or three years should serve to galvanize mindsets and spur planning—above all, to look beyond U.S. markets to the EU. And for more incentive, businesses should take note that CETA likely provides Canada with a limited-time window to establish European trade links before a U.S.-EU trade deal is done and ratified. The U.S. and EU have already begun talks on the Transatlantic Trade and Investment Partnership (TTIP), though they are going slowly due to disagreements over regulatory and other issues.25

24 Goldfarb and Thériault, Canada’s “Missing” Trade With the European Union.
25 Deutsche Welle, Americans, Germans Disagree on Details of EU–US Free Trade Agreement.
Ottawa should assess why NAFTA’s labour mobility provisions have proven less than fully effective.

**Action Items**

Before CETA is finalized and eventually ratified, both federal and provincial governments in Canada can take important steps to ensure that the deal is written and implemented in ways that hold the greatest promise for increasing labour flows and, more generally, Canadian trade. Similarly, there is also a lot that business can do during this period—beyond envisioning and planning for business opportunities—to shape a policy environment conducive to Canada–EU trade.

**Governments should:**

- Educate professional associations about the benefits of negotiating MRAs with the EU and facilitate such negotiations as needed—federal, provincial and territorial governments have valuable roles to play in helping professional groups take advantage of opportunities provided by CETA. Since not all professional associations have the resources to initiate, or even consider, negotiating an MRA with the EU, government “coaching” and facilitation could be very useful in jump-starting the process.

- Educate business in how to prepare to take advantage of CETA—for example, Ontario’s Ministry of Economic Development has committed to offering forums that will provide businesses with information on how to realize CETA potentials; it will also offer businesses opportunities to collaborate with Ontario’s international marketing centres that promote the province’s goods and services in the EU.

- Closely examine the successes of the Quebec-France labour mobility agreement—investigating how so many Quebec occupational groups ended up entering into, and concluding, MRAs with their French counterparts would enable Ottawa to apply those lessons to promoting the negotiation of MRAs between Canadian professional groups and the EU.

- Take stock of NAFTA’s shortcomings—Ottawa should assess why NAFTA’s labour mobility provisions have proven less than fully effective, and take measures to ensure that such problems do not occur under CETA, especially concerning arbitrary and ill-informed decision-making by border officials.
• Get the fine print right—above all, federal and provincial governments must ensure that the final CETA text contains labour mobility provisions that make it easy and predictable for Canadian businesses to send workers to the European Union, and enables their spouses to easily and reliably enter and work in the EU as well. Entry rules must be transparent; provisions must be made for training border officials to adjudicate entry decisions fairly and predictably; and spousal visas and work permits must make relocation family-friendly.

**Business should:**

• Encourage professional associations to negotiate MRAs—for many businesses that want to provide professional services under CETA, it will be critical to have their employees qualified to practise professionally in the EU. The deal creates a framework for relevant professional organizations to begin negotiating mutual recognition agreements with the EU, but associations and provinces will have to make it happen. It is therefore in the interests of business to convey to professional associations the importance of negotiations being undertaken and finalized.

• Encourage government to consult and support—business voices could prove influential in encouraging federal and provincial governments to help professional associations with the daunting logistics of negotiating MRAs with the EU. Business should also make clear the value of government education and support in making companies more aware of CETA's potentials and how to take advantage of them.

• Keep the pressure on government to get the fine print right—as noted above, it will be critical that the details of the final CETA agreement promote optimal conditions for labour mobility in practise. Business should actively monitor the negotiation and implementation of the deal to ensure that governments are keeping these labour mobility issues prominent on the radar screen.

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APPENDIX A

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Other Research on Preparing for Free Trade With the EU

The Conference Board’s Global Commerce Centre is undertaking several studies in anticipation of the Canada–EU deal. In addition to this briefing on labour mobility under the CETA, the next briefing expected in the series will be:

- *Deal or No Deal: What Strategies Work for Canadian Companies in the EU Market?* (Expected summer 2014)

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