

Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

CANADA

This report, prepared for the ninth Trade Policy Review of Canada, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Canada on its trade policies and practices.

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CONTENTS

SUMMARY	<i>Page</i> ix
I. ECONOMIC ENVIRONMENT	1
(1) MAIN FEATURES OF THE ECONOMY	1
(2) ECONOMIC DEVELOPMENTS	3
(3) TRADE AND INVESTMENT PATTERNS	7
II. TRADE AND INVESTMENT REGIME	10
(1) GENERAL FRAMEWORK	10
(2) INVESTMENT REGIME	13
(i) Investment Canada Act	14
(ii) Foreign investment limitations by sector	17
(iii) Investment promotion	17
(iv) International agreements containing investment provisions	17
(3) PARTICIPATION IN THE WTO	18
(4) PREFERENTIAL TRADE RELATIONS	20
(5) AID FOR TRADE	20
III. TRADE POLICIES AND PRACTICES BY MEASURE	23
(1) INTRODUCTION	23
(2) MEASURES DIRECTLY AFFECTING IMPORTS	24
(i) Procedures	24
(ii) Rules of origin	27
(iii) Customs valuation	28
(iv) Tariffs	29
(v) Other duties and charges affecting imports	35
(vi) Import controls and licensing	40
(vii) Contingency measures	43
(viii) Technical regulations, conformity assessment, and standards	46
(ix) Sanitary and phytosanitary measures	50
(3) MEASURES DIRECTLY AFFECTING EXPORTS	55
(i) Procedures	55
(ii) Export taxes, charges and levies	56
(iii) Export controls and licensing	57
(iv) Export finance, insurance, and guarantees	59
(v) Export promotion and marketing assistance	64
(vi) Other measures affecting exports	66
(4) MEASURES AFFECTING PRODUCTION AND TRADE	68
(i) Incentives and other assistance to business	68
(ii) Government procurement	71
(iii) State-trading, state-owned companies, and privatization	79
(iv) Competition policy and price controls	81
(v) Intellectual property rights	87

	<i>Page</i>
IV. TRADE POLICIES BY SECTOR	94
(1) INTRODUCTION	94
(2) AGRICULTURE AND FISHERIES	95
(i) Border measures	96
(ii) Domestic programmes	97
(iii) Export measures	101
(iv) Evolution of support and protection	101
(v) Selected commodities	103
(vi) Fisheries	107
(3) MINING AND ENERGY	108
(i) Institutional and legal framework	109
(ii) Natural gas	111
(iii) Oil	112
(iv) Electricity	113
(v) Renewable energy	114
(4) MANUFACTURING	116
(i) Overview	116
(ii) Automotive industry	118
(iii) Aircraft	120
(iv) Textiles and clothing	121
(v) Shipbuilding	122
(5) TELECOMMUNICATIONS, BROADCASTING AND POSTAL SERVICES	123
(i) Telecommunications	123
(ii) Broadcasting	128
(iii) Postal services	129
(6) FINANCIAL SERVICES	130
(i) Overview	130
(ii) Regulatory framework	134
(iii) Banking services	137
(iv) Insurance services	138
(v) Securities	140
(7) TRANSPORT SERVICES	140
(i) Air transport	140
(ii) Maritime transport	144
(8) PROFESSIONAL SERVICES	148
(i) Legal services	148
(ii) Accounting services	151
(iii) Architectural and engineering services	152
REFERENCES	155
APPENDIX TABLES	159

CHARTS

	<i>Page</i>
I. ECONOMIC ENVIRONMENT	
I.1 Canada's Economic Action Plan, 2009/10-2010/11	3
I.2 Canadian provinces' tax rates on new business investment, 2006-12	7
III. TRADE POLICIES AND PRACTICES BY MEASURE	
III.1 Frequency distribution of MFN tariff rates, 2010	31
III.2 Tariff escalation by ISIC 2-digit industry, 2010	33
III.3 Canada's business volumes by industry and geographic markets, 2006-09	63
III.4 Full Time Equivalents (FTE) by region and by business line, 2009/10	65
IV. TRADE POLICIES BY SECTOR	
IV.1 Canadian tariff relief on machinery, equipment and industrial inputs	117

TABLES

I. ECONOMIC ENVIRONMENT	
I.1 Selected macroeconomic indicators, 2005-10	1
I.2 Canada's balance of international payments, 2005-10	4
I.3 Major measures affecting Canada's tax base, 2006-10	6
II. TRADE AND INVESTMENT REGIME	
II.1 CDSR lifecycle approach to regulatory development, 2007	12
II.2 Investment Canada Act: Summary of review requirements	16
II.3 Canada's participation in investment-related agreements, 2010	18
II.4 Summary profile of Canada's WTO participation	19
III. TRADE POLICIES AND PRACTICES BY MEASURE	
III.1 Timeframes for submission of pre-arrival information by mode	25
III.2 CBSA trade facilitation and border security programmes	26
III.3 Structure of applied MFN tariff in Canada, 2006 and 2010	32
III.4 Tariff lines where applied rates exceed bound rates, 2010	33
III.5 Tariff remissions, 2007-10	35
III.6 GST/HST and Provincial Sales Tax Rates, January 2011	36
III.7 Products subject to excise duties under the Excise Act, 2001	37
III.8 Selected provincial tax rates, January 2011	38
III.9 Products subject to import licensing requirements, 2011	42
III.10 Initiated anti-dumping investigations, 1 July 2006 to 30 June 2010	44
III.11 Initiated countervailing investigations, 1 July 2006 to 30 June 2010	46
III.12 SPS measures notified by Canada, 2007-10	52
III.13 Timeframes for reporting exports, 2011	55
III.14 EDC finance, insurance, and guarantee programmes, 2010	61
III.15 Amounts disbursed under TCS programmes, 2006/07-2009/10	66
III.16 Programmes notified to the WTO, 2006/07-07/08	69
III.17 Selected tax credits and deductions from corporate income tax, 2006 and 2010	70
III.18 Business Development Bank of Canada support, 2006-10	71

	<i>Page</i>
III.19 Value of government procurement in Canada, 2004-10	72
III.20 Agreements covering government procurement	74
III.21 Federal government procurement bidding processes	77
III.22 Key features of notified state-trading enterprises	79
III.23 Federal Crown corporations, 31 July 2010	80
III.24 Amendments to Canada's Competition Act, 2009	83
III.25 Competition Act enforcement, 31 March 2007-31 March 2010	85
III.26 Agreements/arrangements covering competition issues, December 2010	86
III.27 National IPR legislation and international agreements	88
 IV. TRADE POLICIES BY SECTOR	
IV.1 Evolution of Canadian support and protection, 2006-09	100
IV.2 Federal and provincial government support in the agriculture and agri-food sector	102
IV.3 Indicators for selected agricultural commodities, 2006-09	103
IV.4 Selected indicators of the Canadian mining and energy industries, 2008-09	109
IV.5 Selected indicators of the Canadian automotive industry	118
IV.6 Assistance for the automobile industry, as at 21 February 2010	119
IV.7 Selected indicators of the Canadian textiles and apparel industries	121
IV.8 Canadian's extraordinary financing framework, 2008-10	130
IV.9 Market share for selected operations in Canada, 2006-10	132
IV.10 Financial institutions operating in Canada, 2006 and 2010	133
IV.11 Approvals granted for selected operations in Canada, 2009-10	136
IV.12 Incorporation requirements under federal legislation, 2011	137
IV.13 Main areas of scheduled flight activity, 2009	141
IV.14 Domestic market share of the main Canadian airlines (offered seat kilometres), 2007-10	141
IV.15 Canadian-registered fleet by type, 2007-09	145

APPENDIX TABLES

I. ECONOMIC ENVIRONMENT	
AI.1 Merchandise exports and re-exports by group of products, 2005-10	161
AI.2 Merchandise imports by group of products, 2005-10	163
AI.3 Merchandise exports by trading partner, 2005-10	165
AI.4 Merchandise imports by trading partner, 2005-10	167
AI.5 International trade in services by category, 2005-10	169
AI.6 Service exports by trading partner, 2005-09	170
AI.7 Service imports by trading partner, 2005-09	171
AI.8 Canada's international investment position, 2005-09	172
 II. TRADE AND INVESTMENT REGIME	
AII.1 Constitutional division of legislative authority between federal government and provinces	173
AII.2 Selected foreign ownership restrictions by sector, 2010	174
AII.3 Involvement in the WTO dispute settlement mechanism, 2007-10	175
AII.4 Notifications to the WTO, January 2006 to October 2010	177

	<i>Page</i>
III. TRADE POLICIES AND PRACTICES BY MEASURE	
AIII.1 Summary analysis of MFN tariff, 2010	179
AIII.2 Tariff averages for preferential agreements in force as of February 2007	181
AIII.3 Tariff averages for preferential agreements implemented since February 2007	183
AIII.4 Non-reciprocal tariff preferences granted by Canada	185
AIII.5 Canadian participation in conformity assessment agreements, 2011	186
AIII.6 Laws, regulations, agreements and policies directly affecting government procurement in Canada	187
AIII.7 Main tariff lines where AVEs could not be estimated, 2010	189
AIII.8 Main provincial and territorial tax credit programmes, 2010	193
IV. TRADE POLICIES BY SECTOR	
AIV.1 MFN tariff quotas, fill rates, and their respective administration methods, 2008 and 2009	195
AIV.2 Main new or modified federal agricultural programmes, 2007-10	200
AIV.3 Provincial/Territorial Marketing Boards with powers to conduct price pooling or single desk selling	203
AIV.4 Electricity regulation in the Canadian provinces and territories	204
AIV.5 Selected Federal Government Support Schemes for renewable energy	206
AIV.6 MFN tariff by ISIC Rev.2 classification, 2010	208

SUMMARY

1. Since its last review in 2007, Canada has taken steps to further improve the productivity and competitiveness of its economy, including through unilateral trade liberalization. There are some exceptions to Canada's generally open trade and investment regimes, notably in agriculture and cultural sectors. The domestic market remains fragmented by, *inter alia*, barriers to internal trade and regulatory complexity, despite the implementation of an Agreement on Internal Trade between the Federal and sub-federal governments. Moreover, the Federal and provincial governments are still involved in economic (including commercial) activities, particularly through Crown corporations, marketing boards, and foreign investment reviews.

2. Driven by a strong and dynamic services sector (almost 80% of GDP), as well as rich endowments in natural resources, the Canadian economy is quite diversified. The manufacturing sector still contributes about 12% to GDP.

3. Thanks in part to its strong macroeconomic fundamentals, Canada has weathered the global recession well, without resorting to trade measures to further protect domestic production. The large stimulus package under the Economic Action Plan has also played its part. The total value of stimulus measures in 2009/10 and 2010/11 amounted to approximately Can\$60 billion, with resources mainly targeted at infrastructure investments, and support for industries and communities. The auto industry was one of the main beneficiaries. An additional Can\$200 billion was committed to Canada's financial system, but not fully drawn upon. The economy experienced a relatively brief recession (three quarters), although merchandise exports were particularly affected. By June 2010, the economy had virtually recovered the losses of GDP and employment experienced during the recession.

4. The Federal Government's long term economic strategy, Advantage Canada, sets out its priorities in developing a stronger, more dynamic and globally competitive economy by creating various tax, regulatory, infrastructure and other economic advantages. A Global Commerce Strategy has also been developed to expand Canadian access to global markets through trade and investment. The strategy has prompted the Government to pursue more vigorously trade, investment, and air services agreements. Since its last TPR, new FTAs have entered into force with Peru and the European Free Trade Association (EFTA); Canada has signed FTAs with Colombia, Jordan and Panama, and negotiations with several other countries and groupings, including the European Union, are underway. While Canada has affirmed that it sees the WTO as the cornerstone of its trade policy, its considerably expanded FTA agenda marks a departure with its past practice.

5. Canada's regime for oversight and control of foreign direct investment (FDI) remains relatively complex, involving a net benefit test for major acquisitions of Canadian companies as well as sector-specific FDI restrictions in telecommunications, fishing, mining, air transport, cultural businesses, book publishing and distribution, periodical publishing, broadcasting, and film distribution. There has been some liberalization of the FDI regime over the review period: foreign ownership restrictions on Canadian satellite carriers have been removed; the general threshold that applies to investors from WTO Members for the net benefit review of direct acquisitions is to be increased to Can\$1 billion (from Can\$299 million in 2010); and a Can\$5 million review threshold for transport services, financial services, and uranium production has been eliminated. On the other hand, new provisions in Canada's Investment Act enable the Minister of Industry to review any proposed or existing foreign investment on national security grounds; this creates uncertainty for investors.

6. A major development in Canada's import regime over the review period has been the elimination of customs duties on 1,374 tariff lines (manufacturing inputs, and machinery and equipment), in order to boost the competitiveness and productivity of the Canadian manufacturing sector. This initiative has been launched as the sector continues to struggle due to, *inter alia*, enhanced global competition, partly related to the appreciation of the Canadian dollar. As a result of unilateral liberalization, Canada's simple average applied MFN tariff decreased from 6.5% in 2006 to 5.4% in 2010. However, tariffs remain very high on certain agricultural products, particularly dairy products with MFN out-of-quota tariffs averaging 237.3%, and tariff escalation is present in certain industries.

7. There has been a drop in the number of contingency measures, nearly half of which still affect steel products. Over the review period, Canada imposed 10 definitive anti-dumping and 6 definitive countervailing duties. It has never imposed any safeguard measures. While import licensing requirements have remained largely unchanged, public consultations are ongoing with a view to expanding SPS-related licensing to a range of food products and ingredients. This new regulatory initiative comes amidst the modernization of Canada's food safety legislation and procedures within the framework of the Food and Consumer Safety Action Plan. Various specific trade concerns have been raised by WTO Members in the SPS and TBT committees, notably with respect to cheese and tobacco.

8. A key feature of the Canadian economy, from a regulatory perspective, is the constitutional division of authority between the Federal Government and Canada's ten provinces and three territories. While the federal government has formal responsibility for international trade, there are several areas where provinces and territories have regulatory autonomy. These include agriculture; natural resources; electricity;

investment; government procurement; food safety; technical regulations; taxation; and services. The Agreement on Internal Trade (AIT) seeks to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services and investment within Canada. There have been various amendments to the AIT over the review period, amongst others, to enhance labour mobility; clarify which investment incentives are to be avoided; reduce discriminatory SPS and TBT measures; and strengthen dispute settlement procedures. Most provinces have now harmonized their respective sales tax with the federal General Sales Tax.

9. The 2007 Cabinet Directive on Streamlining Regulation marks a new initiative of regulatory reform. The Directive promotes a "life-cycle" approach to new or amended regulations to ensure that they remain useful. A similar approach has already been used for statutes governing federally regulated financial institutions, which lapse every five years, for review and updating as necessary. The new Directive also commits regulatory agencies to applying cost-benefit analysis as part of the regulatory impact analysis statement (RIAS), and making the greatest possible use of international standards. Further efforts are being made to improve the Canadian business environment by reducing unnecessary regulations (Red Tape Reduction Commission).

10. The competition regime has been further improved over the review period. However, a number of areas are still exempt from the Competition Act. State-owned enterprises (Crown corporations), both at the federal and sub-federal levels, have monopolies or exclusive rights over certain economic activities, including the importation and sale of alcoholic beverages, the marketing and sale of certain freshwater fish and fish products, and the provision of certain types of mandatory insurance. Some state-owned enterprises are exempt from federal and/or provincial taxes, regardless of the nature (commercial or non-commercial) of their

activities. The mandatory "single-desk" selling system of the Canadian Wheat Board, a state-trading enterprise, remains unchanged.

11. A bilateral agreement with the United States has opened up, for the first time, sub-federal procurement opportunities in Canada to suppliers from the United States. The provincial procurement commitments have been implemented through the WTO Agreement on Government Procurement (GPA) and offered to other GPA members on the basis of mutually acceptable concessions. Under its "Buy Canada" policy, the Federal Government has launched a procurement programme for Canadian navy and coast guard ships, estimated at over Can\$30 billion during the next 30 years. In the area of intellectual property rights, Canada has, *inter alia*, taken steps to strengthen copyright protection. The price review process for patented medicines has also been improved.

12. A large array of measures and institutions at the national and provincial/territorial level support Canadian businesses. In 2010, over 440 programmes provided financial support to Canadian companies; around one-quarter of these may help companies to boost export sales. In addition, there are well over one hundred programmes in support of Canada's agriculture and agri-food sector. A range of trade finance and related support services are offered by state-owned enterprises, including Export Development Canada, the Canadian Commercial Corporation, and the Business Development Bank of Canada. While they operate on commercial principles, their risk tolerance may exceed that of private sector institutions.

13. Various tax breaks, some exclusively targeted at Canadian-controlled companies, are available to assist businesses. Customs tariff remissions may be provided on an ad hoc basis. Provincial sales tax and fuel tax exemptions or rebates are available to encourage certain commercial activities. Excise tax reductions or exemptions are

available to producers of locally produced beer and wine. Federal and provincial incentives are available in areas such as film and TV production; investment; research and development; mineral exploration; and renewable energy.

14. Canada is a major producer of minerals and metals; it is the world's second largest producer of hydroelectric energy, third largest producer of natural gas, and sixth largest producer of oil. Over the review period, the Federal Government has streamlined the federal regulatory process for large natural resource projects by opening a Major Projects Management Office, which acts as a single window into the federal regulatory and approval system. The Federal and some provincial Governments have launched a number of new or successor programmes to support the generation of renewable energies. The measures include price, tax and R&D incentives, as well as minimum renewable fuel content rules. Ontario's Feed-in-Tariff programme also includes local content requirements.

15. In the market for mobile telephone services, the Government has opened the door for more competition by setting aside radio spectrum for new market entrants. This step was taken as a result of concerns about relatively high prices and comparatively low penetration of wireless services in Canada, possibly due to weak competition in this market segment. Canada has also initiated public consultations on its remaining FDI restrictions on facilities-based telecom carriers intended to foster more competition.

16. Canada's federal regime on financial services has been strengthened in response to the global financial turmoil. Provinces and territories still retain considerable regulatory authority in their respective jurisdictions, particularly with respect to securities trading and insurance. A new framework for federal incorporation of cooperative credit institutions is likely to give rise to further consolidation of the Canadian financial services market. The

federal regime on insurance services has been clarified; foreign insurers no longer need federal approval to insure Canadian risks from a head office or a branch outside Canada. A framework for federal incorporation of providers of marine insurance has also been put in place; as of 1 January 2010, foreign insurers are no longer allowed to "insure in Canada" marine risks without prior authorization from the Office of the Superintendent of Financial Institutions.

17. The Federal Government has also taken steps to strengthen the competitiveness of the Canadian maritime industry by eliminating a 25% tariff on imported ships; and assisting investments in Canadian port infrastructure within the framework of the Economic Action Plan and other initiatives. The Government has launched new programmes in support of research and development by the aircraft industry. Under its "Blue Sky" policy of 2006, the Federal Government has negotiated bilateral air services agreements with over 50 countries. Canada's most comprehensive air transport agreement was signed with the European Union in 2009.

18. Canada has a dualistic agricultural sector as a matter of policy. It is a leading exporter of commodities, such as wheat, coarse grains, oilseeds (and related products), pork, beef and live cattle, which generally receive little government assistance and protection. This contrasts with mainly inward-looking "supply-managed" subsectors (dairy and poultry, and related products), which are shielded from market forces through tariff quotas (with very high out-of-quota tariffs), export subsidies, production quotas, and other measures.

19. At the core of Canada's new agricultural policy framework (Growing Forward), adopted since its last Review, is a suite of new or modified "business risk management" programmes which provide Canadian agricultural producers with a complex income safety net; AgriStability's payments partially compensate for farm income losses; AgriInvest subsidizes savings by farmers; AgriInsurance subsidizes crop insurance; and AgriRecovery provides ad hoc financial assistance in the event of natural disasters. Some of these programmes overlap with provincial programmes.

20. Overall, Canada has made substantial progress over the past two decades in reforming its agricultural sector, as producers have become less dependent on border measures, and government support as a source of revenue. This trend has continued in 2007-09, mainly because of higher world market prices for agricultural commodities. However, under the Growing Forward framework, the supply management system remains a pillar of Canadian agricultural policy. There is scope for reform of Canada's highly protected dairy and other supply-managed subsectors to make them more market-oriented.