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Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

CANADA

Revision

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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Document WT/TPR/G/246 contains the policy statement submitted by Canada.

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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.