

# Assessing the costs and benefits of a closer **EU - Canada** economic partnership

**A Joint Study by  
the European Commission and the Government of Canada**



Canada

European Union



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# INTRODUCTION AND EXECUTIVE SUMMARY

## Introduction and Purpose of the Study

*The well-being and prosperity of the European Union (EU) and Canada depend on healthy international trade and investment relationships and on the ability of Europeans and Canadians to succeed in all areas of global commerce. The EU and Canada – among the most prosperous economies in the world – are heavily dependent on international trade. The EU is the world’s largest exporter of goods and services, while one in five Canadian jobs is estimated to be linked to trade. Their openness to the global economy is a key factor underlying this prosperity, as international trade policy now strongly contributes to growth and creation of jobs at home. This openness can be measured in many ways, including trade in goods, trade in services, the movement of capital and labour and technology flows.*

*International trade, foreign investment and the movement of labour internationally have grown tremendously over the past decades. This growth has been facilitated by many factors including reductions in formal barriers to trade and investment, the opening up of many countries to the global economy and their accession to the World Trade Organisation (WTO), a steep decline in transportation costs, and technological innovations that have reduced the costs associated with communicating and managing at long distances. Like many other economies, those of both the EU and Canada have experienced significant increases in regional and global integration.*

*While the global marketplace is becoming increasingly integrated, points of friction remain that inhibit the free flow of goods, services, capital and labour. The surge in international activities and the spread and intensification of global supply chains across borders has made cooperation among governments in a wide range of areas more important than ever. To achieve competitiveness on a global scale, consideration must be given – in addition to reducing tariff and non-tariff barriers on the movements of goods and services – to the movement of capital and labour across international borders and enhanced cooperation in a wide range of economic-related areas. While traditional trade and investment liberalisation is key to enhancing prosperity, further gains could be made by enhancing cooperation in additional areas such as science and technology, energy and the environment.*

*In today’s international marketplace, businesses must be able to develop and tap into global supply chains to maintain or enhance competitiveness. Although much focus has been placed on cost savings associated with the deployment of global sourcing strategies, there are other significant*

*benefits as well. With the movement of relatively lower value-added production to low-cost jurisdictions, companies are better able to focus on core competencies to create higher value goods and services, and enhance competitiveness and prosperity. In the case of the EU and Canada, these core competencies are in large part characterised as high value-added and innovative activities.*

*To reinforce the ability of EU and Canadian companies to leverage their core competencies, the environment within which they operate must be as productive as possible. The enhanced productivity and competitiveness that directly flows from trade and investment liberalisation would, therefore, allow EU and Canadian firms to better compete in the global marketplace.*

*The EU-Canada bilateral economic relationship is robust and wide-ranging. It has existed in one form or another for many decades and remains strong both in terms of bilateral trade and of investment. The EU and Canada remain important trade and investment partners. In recent years, the relative importance of the EU in Canada's trade has increased. The value of Canadian trade with the EU has grown, although Canada's relative position in EU trade has decreased slightly. Nevertheless, when compared with the EU's trading relationships with countries such as India and South Korea, the EU-Canada relationship appears under-traded. An important facet of the overall economic relationship, and indicative of its true depth, are the two-way investment levels. The EU is Canada's second largest investment partner after the United States, and Canada ranks as the EU's fourth largest (after the United States, Switzerland and Japan).*

*Nevertheless, as good as it is, the EU-Canada economic relationship is capable of further improvement. Barriers remain in certain areas which mean that it is prevented from reaching its full potential. To this end, key private sector representatives in both the EU and Canada see considerable potential for further enhancing this relationship.*

*It was in this context that EU and Canadian Leaders made the decision at the 2007 EU-Canada Summit to jointly undertake a study to examine and assess the costs and benefits of a closer economic partnership.*

### ***The Joint Study***

*At their annual Summit in Berlin on 4 June 2007, Leaders agreed to cooperate on a study "to examine and assess the costs and benefits of a closer economic partnership." They further committed to review the joint study at the 2008 EU-Canada Summit in Montreal on 17 October 2008 with a view to "pursuing balanced and closer future EU-Canada economic integration." In 2007, Leaders also agreed to intensify work on regulatory cooperation and to open negotiations toward a comprehensive Air Services Agreement. In addition, they welcomed the agreement reached on a bilateral European Community-Canada Air Safety Agreement, and confirmed that it should be signed as soon as possible.*

*The purpose of this study as described in the 2007 Summit statement is to examine the existing barriers, especially non-tariff, to the flow of goods, services and capital, and to estimate the potential costs and benefits of removing such barriers. The study would also identify how such a partnership could complement ongoing efforts to enhance bilateral cooperation in areas such as science and technology, energy and the environment.*

*This broad-based and forward-looking analysis was designed to provide EU and Canadian Leaders with as comprehensive and up-to-date a picture as possible of the potential costs and benefits of closer economic partnership, to allow for informed policy decision-making on future bilateral economic cooperation. In addition to examining potential gains from removing factors affecting the free flow of goods, services and capital, consideration is given to areas such as labour mobility, government procurement, intellectual property rights, telecommunications services and electronic commerce, as well as to the potential benefits of enhanced collaboration in a wide range of related fields from regulatory cooperation to transportation.*

## **Executive Summary**

As indicated in the Introduction above, EU and Canadian Leaders agreed at their annual Summit in 2007, to cooperate on a study “to examine and assess the costs and benefits of a closer economic partnership”. The present document constitutes that study. Its form and content have been agreed on jointly between the European Commission and the Government of Canada, which have jointly shared the work involved in drafting both its analytical and descriptive elements.

Serving as a backdrop to the analysis, Part 1 provides an overview of the current state of bilateral economic relations between the EU and Canada. It describes existing bilateral cooperation mechanisms, including between the EU and Canada, between Canada and the EU Member States, and between the Canadian provinces and territories and the Member States, referencing cooperation in multilateral fora. It also outlines the process of economic policy-making in both the EU and Canada, and includes a synopsis of the EU’s and Canada’s economic relationships with third parties.

The analysis of factors affecting EU-Canada trade and investment forms Part 2 of the study, and is the area in which dedicated economic modelling has been undertaken. This quantitative analysis estimates the potential economic effects of the full removal of tariffs on bilateral trade in goods, a partial reduction of the cost of non-tariff barriers on trade in goods, and a partial liberalisation of bilateral trade in services. A fundamental assumption of the quantitative analysis is that there will be a successful outcome of the ongoing Doha Round, in which both non-agricultural and agricultural tariffs will be reduced by a substantial margin. (The lack of recent progress in the multilateral Doha talks may create some uncertainty as to the prospect of such an outcome, at least in the short term.) In addition and equally important, qualitative analysis of the factors affecting the flow of goods, services and capital between the EU and Canada supplements the quantitative assessment. Special attention is also paid to the areas of labour mobility, government procurement, intellectual property, telecommunications services and electronic commerce.

The analysis in the study goes beyond the traditional assessments of the impacts of reductions in tariff and non-tariff barriers by also examining, in Part 3, the breadth of existing bilateral cooperation in a wide variety of fields affecting the economic relationship (which range from science and technology, transportation or customs to investment promotion), indicating areas

where cooperation could be enhanced. It offers forward-looking analysis that not only indicates areas in which the EU-Canada economic relationship as a whole could be enhanced, but also specific ideas as to how it could be improved.

Part 4 summarises the results of each of the two consultations undertaken in the EU and Canada to gather the views of the European and Canadian private sectors. EU and Canadian respondents provided their thoughts both on the current status of the EU-Canada bilateral trade and investment relationship and on ways in which that relationship could be enhanced.

Finally, the key findings of the study are summarised in Part 5. The study does not provide policy recommendations, which are the prerogative of the policy-makers of the EU and Canada respectively. Nevertheless, it does offer insight into the potential benefits of a closer EU-Canada economic partnership and identifies possible areas where the EU and Canada could continue to enhance their bilateral cooperation.

## **1. Overview of Bilateral Economic Relations**

The bilateral EU-Canada economic relationship described in Part 1 of the study is wide-ranging, long-standing and, for the most part, well-functioning. The relationship as such dates back to 1959, though individual EU Member States' relations with Canada or with individual Canadian provinces, formal or informal, date back many centuries. The EU is Canada's second most important trading partner for goods and services, while Canada is the EU's 11<sup>th</sup> most important goods trading partner. The investment relationship is even stronger: the EU is Canada's second most important investment partner and Canada the EU's fourth most important investment partner.

In the years since the formal establishment of EU-Canada bilateral trade and economic collaboration through the 1976 Framework Agreement for Commercial and Economic Cooperation, a number of sectoral agreements have been concluded, and others are under negotiation. The Framework Agreement created a structure for ongoing dialogue, with a Joint Cooperation Committee to review annually the breadth of trade and economic cooperation activities.

As a backdrop to the EU-Canada economic relationship, the study explains how economic policy is developed in both the EU and Canada. Policy-making in the EU and Canada is complex and multi-level, involving EU and Member State competences in the EU, and the federal and provincial/territorial jurisdictions in Canada. It is also useful to place the EU-Canada relationship in the more global context of the EU's and Canada's overall trade policy agendas. As such, Canada's and the EU's economic relationships with third parties are outlined. Where possible, a brief analysis is offered on the impact of certain trade agreements concluded with other partners.

Finally, Part 1 examines the trade and production structures of both the EU and Canada, along with the economic trends from 2002 to 2007. The key economic indicators for Canada and the EU are outlined, including growth rates, per capita gross domestic product (GDP) levels and inflation rates, as are bilateral trade patterns and the respective positions of the EU and Canada in each other's trade partner rankings. From 2002-2007, the relative importance of the EU in

Canada's trade has increased. While Canada's relative position in EU goods trade has decreased slightly, the value of Canadian trade with the EU has grown in absolute terms. Nevertheless, the relationship appears to be significantly under-traded, particularly when compared with the EU's trade relationships with countries such as India and South Korea. At the same time, bilateral trade in services, focused primarily on the cross-border supply of business services, reached close to €20 billion in 2007. Two-way investment levels also increased over the reference period in absolute terms and by higher rates than each other's investment in the United States.

## **2. Analysis of Factors Affecting EU-Canada Trade and Investment**

The analysis of factors affecting EU-Canada trade and investment presented in Part 2 of this study shows firstly that most tariffs on goods traded the most between the EU and Canada are low. The eight most important sectors for Canada's exports to the EU comprise 80% of Canada's total goods exports to the EU, and 78.1% of EU goods exports to Canada.<sup>1</sup> Of these important sectors, only processed foods face substantial tariff protection. European exporters face a tariff of more than 30% into Canada, and Canadian exporters face a 17% tariff into Europe. Tariffs on most other top-traded products are below 3%. Tariffs are generally low in the remaining sectors, but there are some tariff peaks: the EU, for example, applies most favoured nation (MFN) tariffs as high as 23% on a number of fish and seafood products, while Canada maintains applied tariffs on footwear as high as 20% and on textiles and apparel as high as 18%.

Notwithstanding the overall low level of tariffs applying to EU-Canada trade, the private sector reported that, in some cases, even low tariffs can serve as barriers to trade and put firms at a competitive disadvantage. Overall, eliminating tariffs will bring significant gains to both the EU and Canada. Nevertheless, in certain highly-protected sectors, there are costs involved in the form of reduced output.

The study reviews a sample of non-tariff measures identified by stakeholders as inhibiting trade in both the Canadian and EU policy frameworks, such as different regulatory approaches to common socio-economic goals. The review demonstrates there may be room to improve the design or implementation of regulatory frameworks to achieve legitimate regulatory objectives in a less trade-inhibiting fashion. As such, for the purposes of this study, a notional cost reduction of 2% is adopted to represent the estimated realistic cost savings, supported by anecdotal evidence based on a sample of regulations identified as having trade-inhibiting effects and economic assessments of the trade-deepening effect of regional economic integration agreements. Since significant trade cost savings are unlikely to be realised in commodity trade, the cost reduction is limited to non-commodity processed goods.

The measuring of barriers to the trade in services is far more complicated than for goods. It requires the use of statistical methods to estimate the tariff equivalents of services sector barriers that are necessarily subject to limitations in the available data and underlying assumptions. The

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<sup>1</sup> The eight most important sectors for Canadian exports to the EU are: chemicals, transport equipment, metals, minerals, machinery and equipment, electronic equipment, paper products, and processed foods. The eight most important sectors for EU exports to Canada are: machinery and equipment, chemicals, motor vehicles and parts, transport equipment, petroleum, beverages and tobacco, processed foods, and metal products.

study recognises these limitations. The independent consultants who undertook the modelling estimate the barriers to services trade into the EU as representing 18-42% and into Canada as representing 24-52% of additional trade costs. In other words, the barriers to the trade in services are estimated to be significantly higher than those to the trade in goods.

Although it is realistic to expect that tariffs on most goods could be eliminated or significantly reduced, it is not realistic to expect that all factors affecting trade in services can be removed. To assess the extent of service barriers that can potentially be removed through any new EU-Canada trade and investment liberalisation, the study assumes the same expansion in services trade and derived cost savings as has been estimated to have taken place in intra-EU liberalisation. Such an approach provides a good indication of the upper bound of what would be attainable in transatlantic services trade liberalisation.

The study estimates that services trade inside the EU is approximately 35% higher than would otherwise be expected in the absence of the EU's moves towards a single market. This higher intra-EU services trade volume serves as the benchmark for a realistic estimation of the maximum potential for further transatlantic service sector integration. To achieve the same expansion in EU-Canada services trade, it is estimated that the cost of trade in services would have to be reduced by between 2% and 10%. Removing these trade costs constitutes a realistic potential for gains from a liberalisation of bilateral trade in services.

In addition to liberalising trade in goods and services, this study examines the issues of labour mobility, government procurement, intellectual property, telecommunications services and electronic commerce. Qualitative analyses suggest that expanded opportunities for both EU and Canadian companies could result from enhanced collaboration in such areas and from the removal of existing barriers to trade and investment.

The study uses a computable general equilibrium model to estimate the gains from bilateral trade liberalisation between the EU and Canada. Subject to the inherent limits of such models and the assumptions made, the overall results indicate that liberalisation of trade in goods and services will bring benefits to the EU and to Canada.

The annual real income gain by the year 2014, compared to the baseline scenario,<sup>2</sup> would be approximately €11.6 billion for the EU (representing 0.08% of EU GDP<sup>3</sup>), and approximately €8.2 billion for Canada (representing 0.77% of Canadian GDP). Total EU exports to Canada go up by 24.3% or €17 billion by 2014 while Canadian bilateral exports to the EU go up by 20.6% or €8.6 billion by 2014.

Liberalisation of trade in services contributes substantially to the GDP gains (50% of the total gains for the EU, and 45.5% of the gains for Canada); more limited but still significant gains derive from the elimination of tariffs on bilaterally-traded goods (25% of the total for the EU and 33.3% for Canada). The remaining gains are due to a reduction in the trade costs of non-tariff barriers.

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<sup>2</sup> This scenario includes assumed tariff reductions resulting from successful Doha negotiations.

<sup>3</sup> Increase in 2014 GDP at 2007 prices.

These figures relate to the impact of removing readily-quantifiable factors affecting EU-Canada trade. They do not take into account other less-readily-quantifiable areas that provide additional potential for gains. As such, these figures should be interpreted as a lower bound to the potential gains from an EU-Canada agreement.

### **3. Existing Bilateral and Potential Future Cooperation**

To complement the analysis of the factors affecting the flow of goods, services and capital between the EU and Canada, the study also examines a wide range of ongoing cooperation in other related areas. The study identifies several key economic and economic-related areas in which close EU-Canada cooperation exists, be it multilaterally, at the EU-Canada level, between EU Member States and Canada, or between Canadian provinces and territories and EU Member States or sub-national European partners. The areas examined include science and technology, energy, the environment, regulatory cooperation, transportation, customs cooperation and trade facilitation, employment and social affairs, the movement of people, education and training, investment promotion, competition policy, taxation, and fisheries.

The study points to specific areas or activities through which existing cooperation could be deepened at all levels. This cooperation, in turn, would enhance the overall bilateral economic relationship (be it directly or indirectly), by helping to improve the productivity of the EU and Canadian economies and the competitiveness of EU and Canadian businesses in the global marketplace. This forward-looking analysis demonstrates that there is significant potential to enhance the EU-Canada economic relationship on several levels, in addition to the more traditional trade and investment areas addressed in Part 2. The study also reveals that there are a number of important issues which fall, in whole or in part, under more than one jurisdiction or competence, e.g. provinces/territories in Canada, Member States in the EU. In order to further advance the EU-Canada relationship, this will need to be addressed in the future. The list of potential areas for future cooperation is extensive, albeit by no means exhaustive, with proposals of varying scope – from cooperation between a small number of experts to more wide-ranging initiatives.

For example, several proposals are put forward in the three areas singled out in the 2007 EU-Canada Summit declaration: science and technology, energy and the environment. As the EU and Canada are key sources of new technologies, cooperation in these areas is important to improving innovative capacity and economic competitiveness. The study suggests there is scope for further enhancing science and technology cooperation through collaboration on a common research agenda. It proposes a renewed focus on “flagship cooperation projects” in key strategic areas like energy and the environment, where joint EU-Canada research is valuable in helping address pressing global issues. The study also sees potential for increased EU-Canada collaboration involving the private sector in applied research and development and commercialisation. Furthermore, the EU-Canada 2008 High-Level Dialogues on Energy and the Environment have identified several areas which would benefit from future discussion and cooperation, ranging from world energy relations and security issues, to climate change and biodiversity.

Further examples of potential future cooperation are identified in Part 3. These include, among others, enhanced regulatory cooperation; a comprehensive air services agreement; a supply chain

security agreement including container security; an expansion of networks of arrangements on social security matters; the establishment of a degree equivalency system with the possible introduction of a diploma supplement; EU encouragement of increased business links and investment promotion through chambers of commerce in Canada; continued cooperation under the 1999 Competition Cooperation Agreement; continued cooperation under double taxation conventions; and continued close cooperation in the Northwest Atlantic Fisheries Organisation.

#### **4. Private Sector Views**

In the context of this study, the EU and Canada separately sought the views of their respective private sectors on the status of the EU-Canada trade and investment relationship and on ways in which the relationship could be enhanced. (European and Canadian respondents together have also publicly expressed their support for an enhanced relationship.)

There was a general consensus among EU respondents that enhanced economic cooperation between Canada and the EU was desirable. Most responses mirrored sector-specific interests. Respondents noted the need to remove tariff peaks and onerous non-tariff barriers to trade, as well as to enhance regulatory cooperation. In addition, EU respondents underlined their interest in increased investment opportunities in Canada. Government procurement by Canadian authorities at all levels was deemed to offer great business opportunities for European exporters and investors. Finally, most EU respondents noted that any form of enhanced EU-Canada economic cooperation should include all levels of government in Canada.

Canadian respondents noted that the bilateral relationship with the EU has not reached its full potential and that there exist significant opportunities to improve trade and investment. Canadian respondents were clear in their support for a comprehensive trade and investment agreement between Canada and the EU, which they believe will strongly aid in increasing economic flows. They also believe the EU and Canada should work more closely on regulatory cooperation. Like the EU respondents, Canadians saw important potential with improved labour mobility and mutual recognition of professional qualifications. The development of the two-way economic relationship supports the economic values of both parties, enhancing their competitiveness and prosperity, including by increasing transatlantic global value chains.

#### **5. Key Findings**

The key findings of the study form Part 5. The summary includes not only the essence of the primarily descriptive parts of the study, such as the status of the EU-Canada bilateral economic relationship in Part 1 and the views of the EU and Canadian private sectors in Part 4, but more particularly the analytical and forward-looking findings resulting from the analysis of the factors affecting the flow of goods, services and capital, notably the economic modelling results, and from the analysis of those economic or economic-related areas in which future cooperation could be broadened or deepened and the overall economic relationship thereby enhanced. As noted above, while the study does not provide policy recommendations, it does offer insight into the potential costs and benefits of a closer EU-Canada economic partnership, together with possible areas where the EU and Canada could continue to enhance their bilateral cooperation.

# **PART 1: OVERVIEW OF BILATERAL ECONOMIC RELATIONS**

## **1.1 The Current State of the EU-Canada Bilateral Economic Relationship**

Economic relations between Europe and Canada are longstanding. They can be traced back at least a millennium to when the Vikings “discovered” and settled temporarily in parts of Newfoundland. However, the relationship of the European Union (EU) with Canada dates back only 49 years to 1959, when an Agreement was concluded between the Government of Canada and the European Atomic Energy Community (Euratom) for cooperation in the peaceful uses of atomic energy. The agreement is Euratom’s oldest international agreement. Bilateral cooperation in nuclear energy continues to be active.

The formal relationship between the EU and Canada in trade and economic cooperation more generally dates back to 1976 and the bilateral Framework Agreement for Commercial and Economic Cooperation. It marks the EU’s oldest formal relationship of this type with any industrialised country and the EU’s first cooperation agreement with an industrialised country. The main innovation of the Framework Agreement was to create a structure for dialogue with the establishment of a Joint Cooperation Committee (JCC) that meets annually “to promote and keep under review the various commercial and economic cooperation activities” envisaged by both Parties. The JCC can also establish sub-committees in order to assist it “in the performance of its tasks”. Currently the only sub-committee of the JCC in operation is the Trade and Investment Sub-Committee (TISC) that meets twice-yearly to discuss a range of bilateral and multilateral trade and investment issues.

Since the 1976 Framework Agreement, the EU and Canada have concluded a number of sectoral agreements, including the Agreements on Science and Technology (1996), Higher Education and Training (1995, 2000), Customs Cooperation (1998), Mutual Recognition (1998), Veterinary Equivalency (1998), Competition Cooperation (1999) and on Wine and Spirits (2004).<sup>4</sup> Many of these Agreements have established their own joint committees that meet periodically to oversee their proper functioning. How often these joint committees meet is decided upon by both Parties: certain joint committees, such as the ones established under the Veterinary Agreement and the Wine and Spirits Agreement, meet face-to-face on an annual basis, whereas others, such as the ones established under the Customs Cooperation Agreement

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<sup>4</sup> Lists of all EU-Canada agreements, together with agreements/treaties/memoranda of understanding etc. signed between EU-Member States and Canada, or Member States and provinces/territories, are available at [ec.europa.eu/trade/issues/bilateral/countries/canada/index\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/countries/canada/index_en.htm).

and the Competition Agreement, have not formally met for some time. The deliberations of these joint committees are usually briefly reported to the next meeting of the TISC and in more detail to the annual JCC.

In addition, a number of bilateral agreements have been concluded to settle various trade issues. These include the Agreement on Trade in Alcoholic Beverages (1989), amended by the 2004 Wines and Spirits Agreement; the Agreement settling a World Trade Organisation (WTO) dispute on the trade description of certain scallops (1996); and various Agreements concerning the conclusion of General Agreement on Tariffs and Trade (GATT) Art. XXIV: 6 negotiations, due to successive EU enlargements. There is also the 1997 Agreement on International Humane Trapping Standards signed by the European Community, Canada and Russia.

In addition to these agreements, in 2004 a bilateral Framework on Regulatory Cooperation and Transparency was agreed with the aim to “enhance regulatory compatibility and convergence”. This Framework established a bilateral Regulatory Cooperation Committee to oversee and review the implementation of this Framework. To further guide the work of the Committee, both Parties also endorsed a Regulatory Cooperation Roadmap of sectoral initiatives at the EU-Canada Summit in June 2007 that included the following sectors: chemicals, electronic waste, organic production, pesticides, radiation-emitting devices, chemical contaminants in food and food allergen labelling. Other sectors can be added to the roadmap by mutual agreement.

A number of high level bilateral “dialogues” or “consultations” have also been established for various sectors, at which the appropriate senior officials meet annually to discuss a range of bilateral and multilateral issues of common interest. Such dialogues have been established in fisheries, the environment and energy.

Formal economic relations between EU Member States and Canada go back much further than EU-Canada relations, long before the European Coal and Steel Community (ECSC) came into force in 1952 and even before Canada became a sovereign nation state in 1867. Excluding various peace treaties, the oldest bilateral economic agreement still in force with an EU Member State that concerns Canada is the 1654 Treaty of Peace and Commerce between Great Britain and Sweden. Since then there have been over 400 agreements between individual EU Member States and Canada covering a broad range of economic issues.

The Member States with the most extensive bilateral economic relationship with Canada are the United Kingdom and France, reflecting strong historical ties. However, virtually all EU Member States have bilateral agreements with Canada in areas of economic cooperation. A rough breakdown of the types of bilateral agreements is as follows:

- Most Member States have bilateral agreements with Canada in the areas of social security, the avoidance of double taxation and prevention of fiscal evasion, and audio-visual co-production;

- Many Member States have bilateral agreements with Canada in the area of air transport; Some Member States have bilateral agreements with Canada in the areas of the peaceful uses of nuclear energy, fishing relations and financial matters; and
- A small number of Member States have bilateral agreements with Canada in the areas maritime transport (particularly the tonnage measurement of merchant ships), science and technology cooperation, the treatment of companies, promotion and reciprocal protection of investments, exchange of postal money orders, mutual assistance in customs matters, trade-marks and economic and industrial cooperation.

Several Canadian provinces and territories have formal relationships with certain EU Member States or regions within individual Member States. Perhaps not surprisingly, Québec has the most extensive formal economic relationship, with France. The range of agreements, Memoranda of Understanding and cooperation projects is wide, with the most common concerning cultural and social security arrangements and industrial, technological and scientific cooperation arrangements or projects.

## 1.2 Economic Policy-Making in the EU and Canada

### Policy-making in the EU

#### Institutional Setting

The countries that make up the EU (its Member States) are independent sovereign nations, but they pool their sovereignty in order to gain a strength and world influence none of them could have on its own. In practice, this means that the Member States delegate some of their decision-making powers to European institutions they have created, so that decisions on specific matters of joint interest can be made at EU level. The most important institutions and players as far as economic policy-making in the EU is concerned are described below.

There are three main decision-making institutions in the EU:

- the Council of the European Union (representing national governments);
- the European Parliament (representing the citizens); and
- the European Commission (a body independent of EU governments that upholds the collective European interest).

Whilst not legally an institution of the EU, the European Council, which gathers the heads of state or government of the Member States and the President of the European Commission, defines the general political guidelines of the EU. Its conclusions represent a major impetus in defining the general political guidelines of the EU.

The Council of the European Union, normally referred to as the Council (but also the Council of Ministers), is the EU's main decision-making body. Each EU Member State takes a turn in holding the Council Presidency for a six-month period. The Council is a single body, meeting in one of nine different configurations depending on the subjects under discussion. It takes decisions by a vote of Ministers from the Member States. There are three types of votes, which depend upon the Treaty provisions for the subject being dealt with: simple majority (for procedural decisions); qualified majority (a weighted voting system based on the populations of Member States, used for many decisions concerning the internal market, economic affairs and trade) and unanimity (for foreign policy, defence, judicial and police cooperation, and taxation).<sup>5</sup> In a great majority of cases, the Council takes decisions on a proposal from the European Commission and in association with the European Parliament, either through the consultation procedure (e.g. in the areas of agriculture, judicial and police cooperation, and taxation) or through co-decision (e.g. the internal market).

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<sup>5</sup> The total number of votes in the Council is 345 divided among the Member States as follows: Germany, France, Italy and the United Kingdom (29), Spain and Poland (27), Romania (14), Netherlands (13), Belgium, Czech Republic, Greece, Hungary and Portugal (12), Austria, Bulgaria and Sweden (10), Denmark, Ireland, Lithuania, Slovakia and Finland (7), Estonia, Cyprus, Latvia, Luxembourg and Slovenia (4) and Malta (3). A minimum of 255 votes out of 345 (73.9%) is required to reach a qualified majority. In addition, a majority of Member States (in some cases two thirds) must approve the decision, and any Member State may ask for confirmation that the votes cast in favour represent at least 62% of the EU's total population.

The European Commission is the executive body of the EU and comprises 27 members – one national each from the Member States – appointed for a five-year term by agreement between the Member States (subject to approval by the European Parliament). The Commission has the principal power of initiative. With some exceptions, the Council cannot legislate in the economic area unless there is a proposal from the Commission.<sup>6</sup> The Commission is also entrusted with the implementation of decisions made by the Council, monitoring countries' compliance with EU law, and initiating legal action against non-compliant countries.

The European Parliament is the directly elected body that represents the EU's citizens. It exercises political supervision over the EU's activities and takes part in the legislative process. Under the 'cooperation' procedure, the European Parliament can give its opinion on draft directives and regulations proposed by the European Commission. Under the 'assent' procedure, the European Parliament must give its assent to international agreements negotiated by the Commission and to any proposed enlargement of the EU. Under the 'co-decision' procedure, the Parliament is put on an equal footing with the Council when legislating in a number of fields such as the internal market, environment and consumer protection. The European Parliament also shares, with the Council, equal responsibility for adopting the EU budget.

The European System of Central Banks comprises the European Central Bank (ECB) and the national central banks (NCBs) of the 27 EU Member States. The 15 countries that have (so far) adopted the Euro collectively make up the 'Euro area' and their central banks, together with the European Central Bank, make up what is called the 'Eurosystème'.<sup>7</sup> The ECB, working closely with the national central banks, prepares and implements the decisions taken by the Eurosystème's decision-making bodies – the Governing Council, the Executive Board and the General Council. One of the ECB's main tasks is to maintain price stability in the Euro area. This is widely taken to mean inflation rate of 2% or below.

### **Policy-making and Surveillance**

Economic policy is set at EU level if the policy falls under community competence. For example, matters pertaining to the internal market (i.e. the free movement of capital, labour, goods and services within the EU) are a community competence. Legislation on internal market issues is for the most part enacted by the Council on the basis of qualified majority, the principal exception being matters pertaining to taxation. Similarly, trade policies are generally set at EU level and monetary policy is set at the Euro-area level by the ECB. On the other hand, fiscal policy remains largely a matter for the individual Member States, subject to overall Treaty restrictions for Member States not to run too high government deficits or debt levels. Nevertheless, the economic performance of Member States is monitored and discussed at EU level.

On the basis of various reports by the Commission, economic and budgetary developments in Member States are monitored, and policies coordinated, at EU level. This multilateral surveillance also includes a check that economic policies are consistent with the EU's roadmap,

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<sup>6</sup> One exception, for example, is that an agreement on a formal exchange rate system with a non-EU country may also be made on the basis of a recommendation from the ECB.

<sup>7</sup> Austria, Belgium, Cyprus, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Spain.

the Lisbon agenda, for growth and jobs. Also, as of 1997, labour market policies are explicitly recognised as a matter of common concern and procedures set out for their surveillance (except to the extent that such policies fall under the internal market programme). The Open Method of Coordination, set up at the March 2000 Lisbon European Council, provides the framework for this surveillance through political coordination without legal constraints. Member States agree to identify and promote their most effective policies with the aim of learning from each other's experiences.

Policies affecting external trade are matters of European Community competence and subject to the decision making process described above. Article 133 of the European Community Treaty sets out the scope, instruments and decision-making procedures for EU trade policy-making. The Commission conducts trade negotiations on behalf of the EU, on the basis of a mandate from the Council and with any agreements to be ratified by the Council. These agreements are concluded by qualified majority, except when the agreement includes provisions for which unanimity is required. In addition, agreements concerning the harmonisation of cultural services, education services, social services and health services continue to be the subject of responsibility shared with the Member States. The institutional framework for the making of commercial policy has evolved over time as the scope of what constitutes trade policy has increased to incorporate domestic regulations and non-tariff issues.

Overall, fiscal policy in the EU remains almost entirely the prerogative of individual countries, although there is an EU budget of about 1% of EU gross domestic product (GDP), devoted principally to the Common Agricultural Policy (CAP) and the EU's structural funds. Spending policies are established within multi-year frameworks, the present one covering 2007-2013, and deficit financing is prohibited. Harmonisation of value-added taxes and excise duties (in the form of minimum rates) is also established at EU level.

### **The Future**

In December 2007, EU Leaders signed the Lisbon Treaty, which aims to reform the EU's governing institutions and its decision-making processes so as to allow it to operate more effectively. Ratification of the Treaty has been completed by a number of the EU's Member States. Among the reforms addressed by the Treaty are those relating to the voting system operating in economic and trade policy-making, whereby the current, and complex, weighted voting formula will be simplified. National parliaments will also be given somewhat greater authority to challenge draft EU legislation, and reform of the EU's governing institutions in general, such as the reduction in the number of EU Commissioners, aims to streamline the decision-making processes within the EU as a whole. The Treaty also provides for a strengthened role for the European Parliament, which will have new powers with regard *inter alia* to international agreements. The Treaty will not, however, alter the fundamental roles of the European Commission or the Council of Ministers in formulating or approving the EU's common external trade policy. Although the Council is entitled to approve or reject trade agreements negotiated by the Commission by majority voting, in practice the Council seeks consensus in this area. Regardless of the changes foreseen in the Treaty to EU voting procedures, the expectation is that it will continue to do so. Given the need for all Member States to ratify the Treaty, the future of the above proposed reforms was uncertain at the time of the publication of this study.

## **Policy-making in Canada**

### **Institutional Setting**

Canada is an independent sovereign state comprised of ten provinces and three territories. As a constitutional monarchy and a parliamentary democracy, the system of government is democratic, with the Constitution and Rule of Law as its supreme authority. The Government acts in the name of the Crown, but derives its authority from the Canadian people. Canada's parliamentary system stems from the British "Westminster" model.

Parliament is Canada's legislature and consists of three parts: the Crown, the Senate and the House of Commons. It is the federal institution with the power to make laws, to raise taxes and to authorise government spending. Canada's legislature is "bicameral" with an appointed Senate and an elected House of Commons (often described as the "upper" and "lower" houses). Together, the legislative and executive branches of the Government create the laws in Canada. Proposed government legislation (a bill) is introduced in one of the two chambers (usually the House of Commons) by a Minister and is debated and voted on in both Chambers. The bill is subjected to a detailed process of review, debate, examination and amendment through both chambers before it is ready to receive final approval. Each bill must receive royal assent by the Governor General, Canada's Head of State and representative of the British monarchy, before becoming a law. Over the course of time, the role of the Governor General has become more symbolic than functional.

The House of Commons, or lower house, is the elected assembly of the Parliament of Canada. Its 308 members are elected by Canadian voters, having received the highest number of votes cast in his or her electoral district or riding. The House of Commons is the main decision-making body of Parliament, although the Senate has the power to modify or block bills. The Senate, or upper house, is composed of 105 Senators appointed by the Governor General, on the advice of the Prime Minister, to represent Canada's provinces and territories.

Canada is a federal state: decision-making is shared among the federal, provincial and territorial governments. While the division of powers is outlined in the Constitution, federal-provincial-territorial financial relations and joint policy-making mechanisms have strongly shaped Canadian federalism in practice.

The provinces are autonomous within the powers given them by the Constitution, but the territories are constitutionally subordinate to the federal government. However, in practice, the powers of the territories are increasingly similar to those of the provinces. Each province has considerable political and economic significance in its own right and can in many ways be considered a separate political system with its own full complement of government institutions.

Each province is headed by a Lieutenant Governor, who is appointed by the federal Prime Minister and who represents the Queen. The effective head of provincial governments is the Premier (the provincial equivalent of the Prime Minister), along with their cabinet. The provincial cabinet typically sets priorities, decides how much money to raise and spend, and how to do so, determines policies, gives direction for the preparation of legislation and oversees

departmental administration. The provincial legislatures are the elected representatives of the people, usually at four-year intervals. Each provincial legislature has only one chamber that is very similar to the House of Commons and transacts its business in much the same way. All bills must go through three readings and receive Royal Assent by the Lieutenant Governor. Provincial cabinets, legislatures and bureaucracies regularly interact with their federal counterparts and do so on the basis of autonomy and equality.

### **Policy-making**

Canadian economic policy is set by both levels of government depending on the issue.

By virtue of the *Constitution Act of 1867*, everything not mentioned as belonging to the provincial legislatures comes under the national Parliament. The national Parliament has power “to make laws for the peace, order and good government of Canada” except for “subjects assigned exclusively to the legislatures of the provinces”, which include natural resources, property and civil rights, and social security.<sup>8</sup> As well, there are several areas of shared jurisdiction such as immigration.

According to the Constitution, the regulation of trade and commerce – which Canadian courts have interpreted to mean inter-provincial and international trade and commerce – falls under the exclusive power of the federal government. Trade between provinces is characterised by the Agreement on Internal Trade, which was signed by the provinces and territories in 1994 to reduce barriers to the free movement of people and commodities across the country.<sup>9</sup>

Fiscal policy in Canada is the prerogative of both levels of government. The combination of federal grants, direct taxes and other revenues (e.g. taxes on natural resources) allows the provinces significant spending power. Whereas the provinces are limited to direct taxes only, the federal government has the power to levy any type of tax. Both levels of government coordinate personal and corporate income tax through federal-provincial taxation agreements. Both levels of government may also issue their own government bonds.

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<sup>8</sup> The provinces have power over social security, with the exception of employment insurance, which is the exclusive power of the federal government, and pensions, which is shared between the two levels of government.

<sup>9</sup> The consolidated version of the Agreement on Internal Trade (May 2007) is available at [www.ait-aci.ca/index\\_en/ait.htm](http://www.ait-aci.ca/index_en/ait.htm).

### **1.3 Economic Relationships with Third Parties**

*The well-being and prosperity of the EU and Canada depend on a healthy international trade and investment and on the ability of Europeans and Canadians to succeed in international commerce in all its facets. In today's globalised world, international trade policy is strongly contributing to the creation of growth and jobs at home. Canada is a trading nation, with one in five Canadian jobs directly linked to trade. The EU is the world's largest exporter of goods and services. While multilateral negotiations remain the priority, both the EU and Canada are embarking on ambitious trade and investment agendas to seek additional bilateral and regional agreements.*

*In October 2006, the EU released its new trade strategy, Global Europe, Competing in the World.<sup>10</sup> It states that the EU's trade policy must become an integral part of its wider approach to economic reform and competitiveness, and sets out a series of initiatives to ensure its trade policies are adapted to the competitive challenges of the future. It identifies a need to open markets, create new opportunities for trade and ensure European companies are able to compete fairly in those markets.*

*Similarly, the Global Commerce Strategy, part of Advantage Canada, is the Government of Canada's plan for helping Canadian companies meet the demands of an increasingly complex and competitive global economy, and build even greater prosperity for the future.<sup>11</sup> It focuses on three interrelated priorities (objectives): reinforcing Canada's North American advantage by facilitating greater exchanges between Canada and the rest of the world; deepening Canadian access to global markets and networks, through a renewed international negotiations agenda; and better connecting Canadian companies to global opportunities.*

*Both the EU and Canada have, therefore, been active in recent years in deepening trade relationships both regionally and globally. This section of the study will look at the EU's and Canada's respective economic relations with third parties. An overview of the EU-Canada economic relationship is provided in section 1.1 above.*

#### **European Union**

Trade has always been an important cornerstone of the EU and a motor of European integration. The EU's most comprehensive and important trade and investment agreement is the Treaty establishing the EU, which over the years has created and expanded a Customs, Economic and Monetary Union among its 27 Member States. From a trade perspective, four basic principles lie at the heart of the EU – the freedom of movement of goods, capital (investment), services and

<sup>10</sup> Available at [trade.ec.europa.eu/doclib/docs/2006/october/tradoc\\_130376.pdf](http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc_130376.pdf).

<sup>11</sup> *Advantage Canada*, released in November 2006, is the Government of Canada's national strategy for building fiscal, tax, education, infrastructure and entrepreneurial advantages at home. Available at [www.fin.gc.ca/ec2006/plan/pltoce.html](http://www.fin.gc.ca/ec2006/plan/pltoce.html).

labour. The integration of the EU market has brought important economic gains throughout the EU and has been the topic of countless academic texts.

The EU has concluded bilateral, bi-regional or plurilateral preferential trade and investment agreements with a large number of third parties, some of which later became EU members. The EU is now embarking on an ambitious trade agenda and is currently in negotiations with several new partners. These can be broadly divided into three categories: agreements within Europe and with close geographical neighbours; agreements with African, Caribbean and Pacific countries;<sup>12</sup> and “traditional” trade agreements. The removal of trade barriers in a preferential manner has provided important benefits for the EU and its trading partners in terms of gains in income and production.

A very close trade and economic relationship has also been established with the European Free Trade Association (EFTA) countries. In the 1970s, a series of trade agreements were signed with the then seven EFTA countries, three of which subsequently became EU Member States. The European Economic Area Agreement, negotiated in 1992 and which came into force in 1994, allows three of the now four EFTA countries (Norway, Iceland and Liechtenstein) to participate in the EU Internal Market, while not assuming the full responsibilities of EU membership.<sup>13</sup>

Customs Unions (for industrial products only) were created with Andorra (1991) and Turkey (1995). The agreement with Turkey foresees the establishment of an FTA in the services area, as well as comprehensive negotiations on government procurement in due course. Following the dissolution of Yugoslavia, Stabilisation and Association Agreements (SAAs), which focus on developing regional cooperation through the creation of a free trade area and political dialogue, were signed with three non-EU Eastern European countries (Former Yugoslav Republic of Macedonia, Croatia and Albania). The EU is currently negotiating SAAs with Bosnia and Herzegovina and Montenegro, and has offered to enter into negotiations with Serbia. These SAAs are seen as a precursor to eventual EU membership, should these countries wish to join.

As part of the EU’s neighbourhood policy, the Euro-Mediterranean Partnership was launched at the 1995 Barcelona conference between the EU and its ten Mediterranean partners. It involves extending free trade across the Mediterranean region through a network of bilateral agreements between the EU and individual Mediterranean states, together with free trade agreements (FTAs) between the partners themselves. Within the past decade, the EU has concluded Association Agreements with Algeria, Egypt, Israel, Jordan, Lebanon and Morocco. In addition to fostering greater overall stability in the region, the Association Agreements represent a key step in the move toward the eventual goal of establishing a Euro-Mediterranean Free Trade Area by 2010. Also within the neighbourhood policy framework, following Ukraine’s accession to the World Trade Organisation (WTO) on 5 February 2008, the EU launched negotiations toward an EU-Ukraine FTA, which aims to increase market access, improve convergence of regulatory standards and improve access for investment in both directions.

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<sup>12</sup> It should also be noted that the EU adopted its “Everything But Arms” initiative towards all Least Developed Countries in 2001, which grants duty-free, quota-free access to all imports (except weapons) from these countries.

<sup>13</sup> Switzerland is not part of the EEA. Switzerland and the EU have separate bilateral agreements (signed June 1999).

The EU is currently engaged in negotiations aimed at establishing Economic Partnership Agreements (EPAs) with the 78 African, Caribbean and Pacific (ACP) states that were signatories to the EU-ACP Cotonou Agreement. At the time of this writing, a full EPA has been initialled with the 15 Cariforum countries,<sup>14</sup> focusing on regional development and covering liberalisation of both goods and services, with provisions on a wide range of trade-related areas. Interim Agreements have also been initialled with a further 19 ACP states, covering liberalisation of goods. Negotiations for comprehensive EPAs with these states will continue throughout 2008. In all cases, the EU has offered to remove all remaining tariffs and quotas for ACP exports (with a transition phase for rice and sugar). Liberalisation in ACP countries will take place over many years and will exclude the most sensitive ACP goods. South Africa remains a member of the ACP group, although certain qualifications apply. The 1999 Trade, Development and Cooperation Agreement seeks to create a free trade area in goods between South Africa and the EU, but allows for a 12-year asymmetric transitional period.<sup>15</sup> Trade flows between South Africa and the EU have increased considerably since the signing of the agreement.

The EU has signed FTAs with Mexico (1997) and Chile (2002). The EU-Mexico FTA – the EU's first transatlantic FTA – is very comprehensive, covering goods, services, procurement, competition, intellectual property rights, investment and related payments, and provides for a rapid tariff dismantling process. Industrial goods are now fully liberalised, and agricultural products will be substantially liberalised by 2010.<sup>16</sup> The FTA also foresees future negotiations on the liberalisation of services trade. The agreement has been of undoubted benefit to both parties: trade flows within the FTA have grown by over 25% since the EU-Mexico FTA entered into force, with Mexican exports to the EU growing by some 20% and EU exports to Mexico growing by close to 30%.

The EU-Chile Association Agreement entered into force in 2003, creating a free trade area in goods, services and government procurement, and introducing provisions for the liberalisation of investment and capital flows, protection of intellectual property rights, and a binding dispute settlement mechanism. Trade between the EU and Chile had been increasing steadily in the decade before the agreement, but has more than doubled in value since, now reaching over €8 billion. Chilean exports to the EU have tripled in value, while EU exports to Chile have increased in value by some 25%.

As a regional grouping, the EU has tended to negotiate preferential trade agreements with other regional trade groups, where the group has established an FTA or customs union and the countries concerned are willing to negotiate as a group. In this light, the EU is pursuing bi-regional Association Agreements, which include free trade, with the Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) and with the countries of the Andean Community (Bolivia, Colombia, Ecuador and Peru).<sup>17</sup> Negotiations toward an Association Agreement with Mercosur (Argentina, Brazil, Paraguay and Uruguay) were put on hold in October 2004 and have yet to resume. In addition, negotiations were re-launched in 2002

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<sup>14</sup> Cariforum includes the 14 members of CARICOM along with the Dominican Republic.

<sup>15</sup> By the end of the transitional period, 95% of South African exports to the EU and 86% of EU exports to South Africa will receive duty-free treatment.

<sup>16</sup> For the EU, the EU-Mexico FTA is the second to be notified under article XXIV of the GATT and the first agreement to be notified under Article V of GATS.

<sup>17</sup> A second round of negotiations with the Central American countries was held in February 2008; a third negotiating round was held with the Andean Community in April 2008.

with countries of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates) for an FTA covering market access for goods and services, common rules and disciplines on intellectual property rights, competition, dispute settlement and rules of origin. In May 2007, negotiations were launched for an FTA with the ten Association of South-East Asian Nations (ASEAN) countries.

In 2007, the EU launched negotiations for bilateral FTAs with South Korea (in May) and India (in June). The EU-Korea FTA is expected to focus on trade in goods and services, while the EU-India FTA is expected to cover trade in goods and services as well as investment. In both negotiations, special attention is being paid to non-tariff barriers and to rules and regulations relating to intellectual property rights, competition, government procurement and transparency. Macroeconomic modelling showed that the EU stands to make important gains, particularly in services trade, if it is successful in concluding an FTA with South Korea.<sup>18</sup> Additional recent bilateral trade initiatives include the launch of formal negotiations in January 2007 toward a Partnership and Cooperation Agreement (PCA) with China, which covers a wide range of policy issues including trade and investment. The EU is also looking to negotiate a new PCA with Russia.

## **Canada**

Canada has reinvigorated its regional and bilateral trade and investment agenda in line with the government's resolve to ensure that Canadian business can compete in world markets. FTAs help level the playing field for Canada vis-à-vis competitors that have agreements with markets of interest, and also help to secure Canadian investments. They offer enhanced market access for a broad range of Canadian goods and services, encourage Canadian businesses to expand into foreign markets, and increase living standards by creating jobs in Canada.

The North American Free Trade Agreement (NAFTA), between Canada the United States and Mexico, entered into force on 1 January 1994, with full implementation on 1 January 2008. Now in its 15<sup>th</sup> year, NAFTA has made all three partners more competitive and has contributed to significant increases in trade and investment flows between Canada, the US and Mexico and has helped lay a strong foundation for economic growth in North America. It allows producers and service providers to better realise their potential by operating a larger, more integrated market. Total merchandise trade between Canada and the US has more than doubled between 1993 and 2007, while trade between Mexico and the US has more than quadrupled.<sup>19</sup>

Canada's first European FTA was signed with the EFTA countries (Iceland, Liechtenstein, Norway and Switzerland) on 26 January 2008 in Davos, Switzerland. Ratification and implementation are expected in 2009. In particular, the FTA will bring direct commercial benefits from the elimination of duties on all non-agricultural goods and the elimination or reduction of tariffs on selected agricultural exports.

<sup>18</sup> Copenhagen Economics and J. F. Francois, "Economic Impact of a Potential Free Trade Agreement (FTA) between the European Union and South Korea," March 2007. Two different macroeconomic scenarios show total gains for the EU and Korea ranging from 26-46%.

<sup>19</sup> Since 1993, Canada's trade in merchandise with its NAFTA partners reached C\$598.4 billion in 2007.

In line with Canada's re-engagement in the Americas, Canada has also been pursuing FTAs with many of its Latin American and Caribbean neighbours. Canada has signed FTAs with Chile (5 July 1997), Costa Rica (1 November 2002) and Peru (29 May 2008), and on 7 June 2008 announced the conclusion of negotiations with Colombia. Since the entry into force of the Canada-Chile FTA, two-way merchandise trade in goods has more than tripled, growing from C\$718 million in 1997 to C\$2.43 billion in 2007. Between 2006 and 2007 alone, Canadian exports to Chile increased by 62%. Bilateral trade in services reached C\$164 million in 2005 (the latest year for which statistics are available) and Canadian investments in Chile were C\$5.17 billion in 2006.

In June 2007, Canada announced the launch of FTA negotiations with the Dominican Republic, and the first full round of negotiations was held in December 2007. Negotiations with CARICOM<sup>20</sup> were launched in July of the same year towards a comprehensive and modern trade agreement that would cover issues besides trade in goods, services and investment, taking into account (in particular) different levels of development and trade-related capacity challenges. Canada continues to be committed to concluding FTA negotiations with the Central American (CA4) countries of El Salvador, Honduras, Nicaragua and Guatemala, which were launched in November 2001. Canada is also exploring the possibility of FTA negotiations with Panama.

In Asia, Canada launched negotiations toward a comprehensive FTA with South Korea in 2005, with the most recent round of negotiation being held in March 2008. Canada is seeking an ambitious and high-quality FTA with South Korea that provides real market access opportunities for Canadian exporters, including Canadian automotive manufacturers. Macroeconomic modelling suggests that, if the FTA had been fully in place in 2005, Canadian goods exports to South Korea might have been 56% higher, and Canadian GDP C\$1.6 billion greater. There is a real potential for gains in various sectors including agriculture and agri-food, fisheries, forestry and other natural resources, machinery and equipment, and financial and professional services. Canada is also committed to concluding FTA negotiations with Singapore, launched in 2001.

Canada also recently published a Joint Study with Japan, which was launched at the signing of the Economic Framework in November 2005. Released in October 2007, the study highlighted that, despite the positive economic relations, more could be done to strengthen bilateral commercial ties. It identified a number of initiatives – such as enhanced cooperation on food safety and continued efforts toward a double taxation agreement – that would promote future bilateral economic relations. The positive assessment of the study, coupled with the long history of cooperation between Canada and Japan, suggests potential value in a bilateral FTA.

In the Middle East, Canada signed an FTA with Israel in January 1997. In the decade since the agreement was signed, bilateral trade between both countries has increased significantly. FTA negotiations were launched with Jordan in February 2008 and concluded in August. The Canada-Jordan FTA could generate increased export opportunities in a variety of sectors including manufacturing, agriculture and forest products.

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<sup>20</sup> CARICOM includes: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

In addition to the active FTA agenda, Canada is pursuing Foreign Investment Promotion and Protection Agreements (FIPAs). It has implemented FIPAs with 23 countries, including Ukraine (1995), Philippines (1996), Ecuador (1997), Egypt (1997), Thailand (1998) and Lebanon (1999).<sup>21</sup> In addition, it has recently concluded negotiations with India and Jordan. Canada continues efforts on FIPA negotiations with China, Indonesia, Kuwait, Madagascar, Mongolia, Tanzania and Vietnam. A number of exploratory discussions are underway with countries in North and sub-Saharan Africa, the Middle East and Asia. Canada is also looking at the possibility of re-engaging Russia in negotiations to upgrade the existing bilateral FIPA. As well, Canada is actively pursuing other trade-related agreements including in the areas of air services,<sup>22</sup> science and technology<sup>23</sup> and regulatory cooperation.

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<sup>21</sup> For a complete list, please visit [www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/fipa\\_list.aspx?lang=en](http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/fipa_list.aspx?lang=en).

<sup>22</sup> In 2006, Canada introduced a new international air policy titled Blue Sky to modernise its approach to international air transportation (available at [www.tc.gc.ca/pol/en/ace/consultations/bluesky.htm](http://www.tc.gc.ca/pol/en/ace/consultations/bluesky.htm)). Since January 2007, Canada has successfully negotiated new air agreements or updated existing agreements with several countries, including Japan, the US, Kuwait, Jordan, Iceland and New Zealand (see [www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/facts-air-eclair.aspx?lang=en](http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/facts-air-eclair.aspx?lang=en)). Canada has concluded bilateral air agreements with more than 75 foreign countries and territories – a full list of is available at [www.cta-otc.gc.ca/air-aerien/agreements/main\\_e.html#2](http://www.cta-otc.gc.ca/air-aerien/agreements/main_e.html#2).

<sup>23</sup> In the area of science and technology, new agreements are in place with China and India; other agreements are in place with the EU (discussed in Part 3), Japan, Germany, France, South Korea and Israel. The complete list of science and technology agreements is available at [www.infoexport.gc.ca/science/agreements-en.htm](http://www.infoexport.gc.ca/science/agreements-en.htm).

## 1.4 Analysis of Trade and Production Structures in the EU and Canada

*The following section undertakes an analysis of the overarching trends in the EU-Canada economic relationship from 2002-2007 which is to serve as context for the analysis of factors affecting EU-Canada trade and investment in Part 2 of this study. This chapter gives an overview of the European and Canadian economies, their production structures and the trade and investment relationship. The key economic indicators for the EU and Canada are outlined, including growth rates, per capita gross domestic product (GDP) levels and inflation rates, as are bilateral trade patterns and the respective positions of the EU and Canada in each other's trade partner rankings.*

*The EU and Canada are close trading partners. Europe is the second largest partner for Canada, while Canada, in 2007, was the 11<sup>th</sup> most important trading partner for the EU. While the relative importance of the EU in Canada's trade has increased, Canada's relative position in EU trade has decreased. In absolute terms, however, the value of Canadian trade with the EU has grown. The relationship appears to be significantly under-traded, particularly when compared with the EU's trade relationships with India and South Korea. Bilateral trade in services is focused primarily on the cross-border supply of business services. Two-way investment levels – an important facet of the overall economic relationship – also increased over the reference period in absolute terms by higher rates than each other's investment in the United States.*

### Main Indicators for the EU

The European Union (EU27) has followed a stable growth path from 2002 through 2006, averaging 2.3% annually. Growth was strongest towards the end of the period, with relatively high growth rates estimated for 2007 and 2008. At the same time, European GDP per capita was €23,800 in 2006, compared to a much higher value for Canada at €31,200 per capita. Inflation has been very stable over this period, averaging 2.3% annually. The EU's current account balance vis-à-vis the rest of the world has deteriorated significantly over this period. At the beginning of the decade, EU Member States had an overall current account surplus of €20 billion, which dropped to a deficit of €76 billion by 2006 (see Table 1.1).

### EU Production Structure

A baseline 'snapshot' of the EU production structure shows that the most important contributors to value-added are the service sectors. The production of services accounts for 74% of total value-added in the EU in 2007. For Europe, public production is the largest with 22% of total production. The private production of services is also dominated by the trade services and business services, as is the case for Canada, accounting for 13% and 12% of total value-added (see Table 1.2).

**Table 1.1 Key Economic Indicators, European Union, 2002-2008**

Item	<i>Estimate</i>						
	2002	2003	2004	2005	2006	2007	2008
Population, millions of persons	484	486	487	490	492	493	495
Gross domestic product, current prices, billions of €	9,920	10,096	10,590	11,048	11,636	12,094	12,848
Gross domestic product per capita, current prices, thousands of €	20.5	20.8	21.8	22.6	23.8	24.6	26.1
Gross domestic product, constant prices, annual % change	1.4%	1.5%	2.7%	2.0%	3.2%	3.0%	2.5%
Inflation, average consumer prices, annual % change	2.5%	2.2%	2.3%	2.3%	2.3%	2.3%	2.3%
Current account balance, % of gross domestic product	0.2%	0.2%	0.5%	-0.2%	-0.7%	-1.0%	-1.2%
Current account balance, billions of €	20.2	18.5	50.6	-24.1	-75.9	-122.1	-158.8

*Note: Figures for 2007 and 2008 are estimates. Composite data cover the current 27 EU members for all years. Values converted into Euro using ECB annual average exchange rate for 2002 through 2007. European Union defined as the 27 Member States as of 2007 used for all years.*

*Source: IMF World Economic Outlook Database, October 2007 and ECB Statistical Data Warehouse*

The EU skill intensities in business services are slightly higher at 0.6 than Canada's rate, and the sector uses more skilled labour to unskilled labour, measured in value-added contribution. However, the capital intensity in business services is at 2.1, meaning that for every €1 spent on labour costs, €2 are invested in capital.

For manufacturing, the most dominant sector is chemicals accounting for 3.5% of total production, while machinery and equipment as well as motor vehicles and parts and processed food account for 3% of value-added production. Compared to Canada, the resource extraction sectors (oil and gas) have very small share of total value-added, only accounting for 0.1%.

The manufacturing sectors also show low skill intensity in production, as well as overall low capital intensity. Overall, measured in value-added terms, the non-service sectors use twice as much unskilled labour as skilled labour.

### **EU Goods Trade Pattern**

According to EU statistics, the EU's total world goods trade amounted to €2.5 trillion in 2006. Trade with the United States accounted for 18% of this figure, while trade with China accounted for 11%. Total EU exports goods to Canada were €27 billion in 2006 and imports from Canada were valued at €20 billion. In 2006, the EU had a trade surplus vis-à-vis Canada of nearly €7 billion and an import coverage of 134%, meaning that export value is 34% higher than import value. The trade surplus corresponded to 15% of total trade between EU and Canada in 2006 (see Table 1.3). In 2007, Canada was Europe's 11<sup>th</sup> most important trading partner.

**Table 1.2 Production Structure in the EU, Baseline 2007**

Sector	Skill Intensity, Larger than one is skill intensive	Capital Intensity, Larger than one is capital intensive	Size of Sector: Share of total value- added
Chemical	0.6	0.6	3.5%
Machinery and equipment	0.6	0.3	3.3%
Processed foods	0.3	0.9	2.9%
Motor vehicles and parts	0.4	0.4	2.0%
Paper products	0.4	0.5	1.7%
Metal products	0.3	0.4	1.6%
Electronic equipment	0.6	0.4	1.6%
Mineral products nec*	0.3	0.7	1.1%
Manufactures nec	0.3	0.7	1.1%
Beverages and tobacco	0.3	1.7	0.9%
Other agriculture ———   20 % share of total	0.1	0.3	0.9%
Wood products	0.2	0.6	0.7%
Ferrous metals	0.3	0.4	0.6%
Textiles	0.3	0.4	0.5%
Wearing apparel	0.2	0.5	0.5%
Vegetables	0.1	0.3	0.5%
Transport equipment nec	0.4	0.4	0.4%
Metals nec	0.3	0.5	0.4%
Fishing	0.1	0.8	0.3%
Leather products	0.2	0.5	0.2%
Cereal grains nec	0.1	0.3	0.2%
Forestry	0.1	2.0	0.2%
Minerals nec	0.4	0.9	0.2%
Oil	1.4	6.5	0.1%
Oil seeds	0.1	0.3	0.1%
Petroleum	1.0	3.1	0.1%
Coal	0.3	0.3	0.1%
Gas	1.7	15.5	0.1%
Total agriculture and manufacture	0.4	0.5	25.7%
Public production	1.3	0.5	22.4%
Trade	0.4	0.9	13.1%
Business services nec	1.1	2.1	12.0%
Recr. and other services	1.1	1.3	7.9%
Construction	0.3	0.7	6.0%
Air transport	0.4	0.8	4.8%
Financial services nec	1.1	0.7	3.2%
Communication	1.1	1.1	2.5%
Electricity	1.3	1.5	1.5%
Insurance	1.1	0.7	1.0%
Total services	0.8	0.9	74.3%

*Note: Ratios are calculated in terms of value-added of skilled labour relative to value-added of unskilled labour. Capital to labour ratio is relative to the total labour input. Sorted after size of value-added. The horizontal line signifies 20% share of total value-added. \* Not elsewhere classified*

*Source: GTAP version 7, projected to 2007*

**Table 1.3 The EU's Main Goods Trade Partners 2006, billions of €**

Country	GDP	Exports (fob)	Imports (cif)	Trade Balance	Total Trade Value
1 United States	10,509	268.86	177.88	90.99	446.74
2 China (excluding Hong Kong)	2,106	63.59	194.27	-130.68	257.86
3 Russian Federation	975	72.41	140.63	-68.23	213.04
4 Switzerland	309	87.00	71.51	15.49	158.51
5 Japan	3,478	44.75	77.26	-32.51	122.01
6 Norway	267	38.44	79.19	-40.74	117.63
7 Turkey	384	49.82	41.65	8.17	91.47
8 South Korea	707	22.83	39.09	-16.26	61.92
9 India	696	24.27	22.57	1.70	46.84
10 Canada	1,120	26.62	19.83	6.79	46.45
Rest of World	–	458.61	486.32	-27.72	944.93
Total World	–	1157.20	1350.20	-193.00	2,507.40

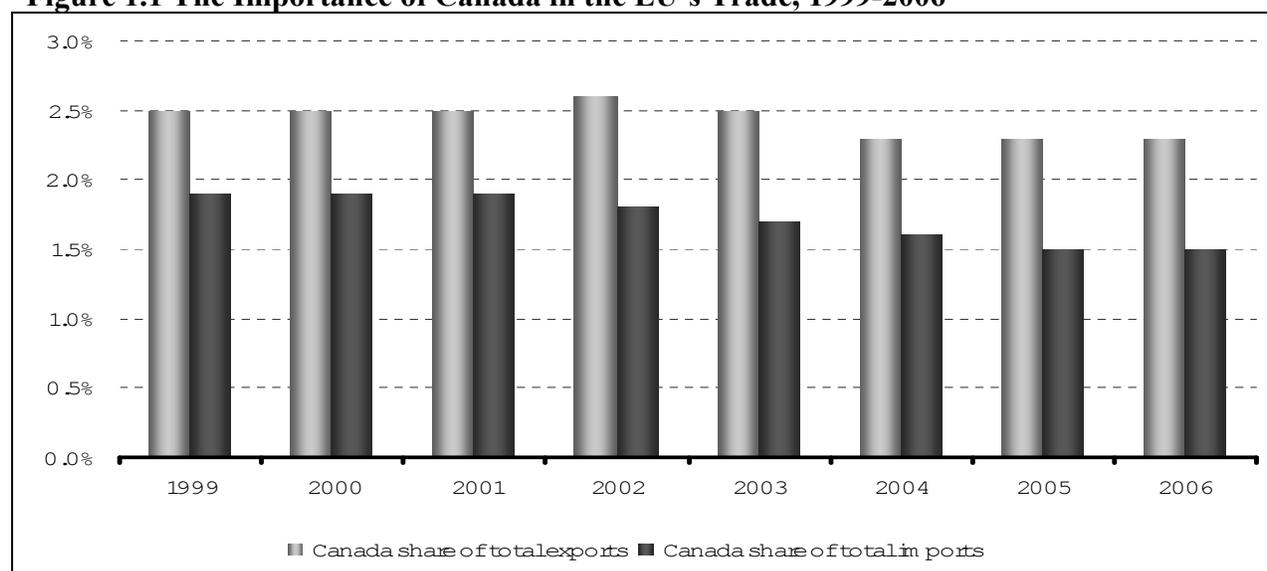
*Note: Countries are ranked by total trade value. GDP is measured in current prices, billions of Euros. Values converted into Euro using ECB annual average exchange rate for 2006.*

*Source: Eurostat, IMF World Economic Outlook Database, October 2007 and ECB Statistical Data Warehouse.*

Looking at Table 1.3, it appears that the EU-Canada trade relationship is significantly under-traded. For example, total trade between EU and Canada is almost the same size as total trade between the EU and India, even though the Canadian economy is one and a half times larger than the Indian economy. The EU-Canada trade relationship appears even more under-traded when comparing with South Korea. Canada's GDP is also one and a half times larger than South Korea's, yet EU's trade with Canada is 25% lower than EU trade with South Korea.

The EU has become a more important trading partner for Canada, while Canada's relative importance as a trading partner for Europe has slightly diminished over the last five to seven years. Even though trade with Canada has increased, the share of the EU's total exports to Canada has declined slightly from 2.5% in 1999 to 2.2% as has the Canadian market share in EU imports from 2% to 1.5% in 2006 (see Figure 1.1).

**Figure 1.1 The Importance of Canada in the EU's Trade, 1999-2006**



*Note: The data includes all 27 Member States for all years. Source: Eurostat ComExt database*

Breaking down exports from the EU to Canada by sector reveals a somewhat stable development in the most important export sectors, except for exports of petroleum, which increased three and a half-fold from 2002 to 2007 and represented the fifth largest export commodity in 2007 (see Table 1.4).

The largest manufacturing sectors in Europe, chemicals and machinery and equipment, are also the largest exports to Canada. These sectors accounted each for 22% of total manufacturing exports in 2007. They are followed by motor vehicles and parts and transport equipment, which accounted for 10.8% and 8.1% respectively.

**Table 1.4 Export of Manufactures from the EU to Canada, millions of €**

Sector	Value in 2007, millions of €	Share in 2007	2002	2003	2004	2005	2006	2007
Machinery and equipment	5,761	22.5%	100	98	96	105	118	116
Chemical	5,619	22.0%	100	108	107	118	134	141
Motor vehicles and parts	2,764	10.8%	100	107	110	125	149	142
Transport equipment nec*	2,067	8.1%	100	76	78	78	65	66
Petroleum	1,133	4.4%	100	128	225	327	400	447
Beverages and tobacco	1,024	4.0%	100	101	102	111	133	137
Processed foods	821	3.2%	100	95	96	100	110	112
Metal products	783	3.1%	100	94	105	120	145	152
-----   80% of total   -----								
Ferrous metals	768	3.0%	100	81	113	135	136	110
Oil	709	2.8%	100	61	55	59	118	71
Electronic equipment	706	2.8%	100	91	85	74	74	66
Manufactures nec	513	2.0%	100	85	76	78	101	89
Paper products	455	1.8%	100	94	86	87	88	77
Mineral products nec	397	1.6%	100	92	97	92	96	104
Wood products	392	1.5%	100	96	102	107	105	94
Textiles	346	1.4%	100	96	98	88	91	89
Metals nec	343	1.3%	100	104	176	222	211	196
Wearing apparel	308	1.2%	100	98	94	102	114	123
Leather products	269	1.1%	100	79	74	69	69	68
Other agriculture	165	0.6%	100	94	97	105	114	113
Minerals nec	152	0.6%	100	82	99	106	166	139
Vegetables	61	0.2%	100	94	93	95	92	84
Fishing	6	0.0%	100	105	78	79	97	105
Coal	4	0.0%	100	98	75	25	139	150
Forestry	2	0.0%	100	73	54	66	119	138
Cereal grains nec	1	0.0%	100	103	6	4	7	9
Oil seeds	1	0.0%	100	73	103	43	116	83
Gas**	–	–	–	–	–	–	–	–

*Note: Bilateral trade volume, sorted by value of exports in millions of €. Trade seen from the point of view of the European Union, i.e. the numbers are measured as free on board. Index values 2002=100. The product classification is aggregated from HS codes to GTAP sectors. \* Not elsewhere classified \*\* Values for Gas not available*

*Source: Eurostat ComExt database*

## Main Indicators for Canada

From 2002 to 2007, Canada experienced stable growth, with an average annual real growth rate of 2.7%, peaking in 2004 and 2005 at 3.1%. Over the same period, Canada has kept a surplus on the current account vis-à-vis the rest of the world of close to 2% of its GDP. There was a temporary dip in real growth and a smaller surplus on the current account in 2003. However, the current account balance significantly improved the following year, which was also reflected in the real growth rate (see Table 1.5).

**Table 1.5 Key Economic Indicators, Canada, 2002-2008**

Item	<i>Estimate</i>						
	2002	2003	2004	2005	2006	2007	2008
Population, millions of persons	31	32	32	32	33	33	33
Gross domestic product, current prices, billions of €	777	767	798	911	1,016	1,043	1,076
Gross domestic product per capita, current prices, thousands of €	24.8	24.3	25.0	28.3	31.2	31.7	33.3
Gross domestic product, constant prices, annual % change	2.9%	1.9%	3.1%	3.1%	2.8%	2.7%	1.3%
Inflation, average consumer prices, annual % change	2.3%	2.7%	1.8%	2.2%	2.0%	2.1%	1.6%
Current account balance, % of gross domestic product	1.7%	1.2%	2.3%	2.0%	1.6%	0.9%	-0.9%
Current account balance, billions of €	13.3	9.3	18.0	18.5	16.6	9.7	-10.2

*Note: Data for 2008 is an estimate from the IMF. Values converted into Euro using ECB annual average exchange rate for 2002 through 2007.*

*Source: IMF World Economic Outlook Database, April 2008 and ECB Statistical Data Warehouse*

## Canadian Production Structure

Like the EU, a baseline ‘snapshot’ of the Canadian production structure shows that services are the most important contributors to value-added sectors. These account for three quarters of total production (74%), with public services production accounting for 27%. Trade services and business services rank second and third, accounting for 13% and 12% respectively. Gas production, motor vehicles and parts, as well as chemicals are Canada’s largest manufacturing sectors, each accounting for 2% to 4% of total value-added.

In terms of skill intensities, public production has the highest ratio of value-added between skilled and unskilled at 1.7. Many of the other service sectors in the Canadian economy are also skill intensive in their production, lying in the range of intensities of 0.3 to 0.6. That said, the second most important service sector, trade services, has a value-added ratio of 0.2, which means that for every €1 spent on skilled labour, €5 was spent on unskilled labour. Capital intensity is low for service production, except for electricity that has a capital intensity of 2.9. This reflects the large investments in power plants for energy generation.

**Table 1.6 Production Structure in Canada, Baseline 2007**

Sector	Skill Intensity, Larger than one is skill intensive	Capital Intensity, Larger than one is capital intensive	Size of Sector: Share of total value- added
Gas	0.4	5.1	3.6%
Motor vehicles and parts	0.4	1.0	2.2%
Chemical	0.6	1.0	2.2%
Oil	0.4	6.7	2.1%
Paper products	0.4	0.5	2.1%
Machinery and equipment	0.6	0.4	1.9%
Processed foods	0.2	0.9	1.8%
Wood products	0.2	0.7	1.4%
Metal products	0.3	0.4	1.2%
Forestry	0.1	0.5	0.8%
Minerals nec*	0.4	1.5	0.7%
_____   20 % share of total	<hr/>		
Transport equipment nec	0.4	0.8	0.7%
Mineral products nec	0.2	0.8	0.6%
Other agriculture	0.1	1.0	0.6%
Metals nec	0.2	0.9	0.6%
Electronic equipment	0.6	0.2	0.6%
Beverages and tobacco	0.2	2.1	0.6%
Ferrous metals	0.2	0.4	0.5%
Manufactures nec	0.3	0.5	0.5%
Cereal grains nec	0.1	1.0	0.3%
Textiles	0.1	0.5	0.3%
Wearing apparel	0.2	0.4	0.2%
Coal	0.4	0.8	0.2%
Oil seeds	0.1	1.0	0.2%
Vegetables	0.1	1.0	0.2%
Fishing	0.1	0.7	0.1%
Petroleum	0.4	1.5	0.1%
Leather products	0.2	0.3	0.0%
Total agriculture and manufacture	0.3	0.8	26.2%
Public production	1.7	0.5	27.4%
Trade	0.2	0.3	13.3%
Business services nec	0.6	0.6	11.8%
Construction	0.2	0.2	5.8%
Financial services nec	0.6	0.5	4.6%
Air transport	0.2	0.5	3.0%
Communication	0.6	0.9	2.9%
Electricity	0.3	2.9	2.0%
Recr. and other services	0.6	0.4	1.8%
Insurance	0.6	0.9	1.1%
Total services	0.7	0.5	73.8%

*Note: Ratios are calculated in terms of value-added of skilled labour relative to value-added of unskilled labour. Capital to labour ratio is relative to the total labour input. Sorted after size of value-added. The horizontal line signifies 20% share of total value-added. \* Not elsewhere classified*

*Source: GTAP version 7, projected to 2007.*

Out of the manufacturing sectors, the most important sectors are *gas, motor vehicles and parts, chemical, oil, and paper products*. These sectors account for 12% of total value-added in Canada, but 47% out of total manufacturing and agriculture value-added. The *gas* and *oil* producing sectors have the highest capital intensities, while all the manufacturing sectors use more unskilled labour relative to skilled labour measured in value-added (see Table 1.7).

### **Canadian Goods Trade Pattern**

Canada's main trading partner is the United States, with a total goods trade volume of €390 billion, or 68% of Canada's total goods foreign trade. Canada's trade with the US is six times the volume of trade with the EU, its second largest partner (see Table 1.7).

**Table 1.7 Canada's Main Goods Trade Partners 2007, billions of €**

	Country	GDP (2006)	Exports (fob)	Imports (fob)	Trade Balance	Total Trade Value
1	United States	10,509	240.71	149.60	91.11	390.31
2	European Union	11,636	24.20	33.53	-9.33	57.74
3	China	2,106	6.30	26.00	-19.70	32.30
4	Japan	3,478	6.22	10.49	-4.27	16.70
5	Mexico	669	3.36	11.65	-8.29	15.01
6	Norway	267	2.50	3.62	-1.12	6.12
7	South Korea	707	2.04	3.64	-1.60	5.68
8	Algeria	91	0.34	3.44	-3.10	3.78
9	Taiwan (Taipei)	290	1.03	2.65	-1.61	3.68
10	Brazil	850	1.03	2.27	-1.24	3.30
	Rest of World	–	17.54	29.20	-11.66	46.74
	Total World	–	305.27	276.09	29.18	581.36

*Note: Countries are ranked by total trade value. GDP is measured in current prices, billions of €. Values converted into Euro using ECB annual average exchange rate for 2006 and 2007.*

*Source: Government of Canada Trade Data Online, IMF World Economic Outlook Database, October 2007 and ECB Statistical Data Warehouse.*

According to Canadian statistics, the EU accounted for a total goods trade volume of €58 billion in 2007. The trade relation with Europe is almost twice as strong as with China, where total trade amounted to €32 billion. Like most other countries, Canada's trade with China has increased dramatically and China has become Canada's third largest trading partner. Trade with China is now double the size of trade with Canada's fourth largest trading partner, Japan. The country in fifth place is Mexico, Canada's other North American Free Trade Agreement (NAFTA) partner, with a trade volume with Canada of €15 billion.

Canadian goods trade with the EU showed a trade deficit of more than €9 billion in 2007. In fact, Canada has a trade deficit with most other countries, but these deficits are counterbalanced by the large surplus from the trade with the United States, resulting in an overall trade surplus with the rest of the world of almost €30 billion in 2007.

The importance of trade with the EU has increased over recent years, both as the share of EU products in total Canadian imports, and as the share of exports to Europe out of total Canadian exports. In 1999, Canada bought 10% of its imported goods from Europe. This share increased to

**Table 1.8 Exports from Canada to the EU, millions of €**

Sector	Value in 2007	Share in 2007	2002	2003	2004	2005	2006	2007
Chemical	3,615	15.7%	100	132	138	161	222	330
Transport equipment nec*	3,141	13.7%	100	76	62	74	89	85
Metals nec	2,944	12.8%	100	127	165	132	175	335
Minerals nec	2,692	11.7%	100	154	166	165	180	220
Machinery and equipment	2,464	10.7%	100	89	89	97	104	107
Electronic equipment	1,507	6.6%	100	91	94	103	122	100
Paper products	1,308	5.7%	100	89	86	83	71	74
Processed foods	707	3.1%	100	95	95	106	123	126
———   80% of total	<hr/>							
Coal	667	2.9%	100	82	117	198	221	225
Wood products	508	2.2%	100	90	87	88	98	116
Cereal grains nec	479	2.1%	100	191	191	130	145	208
Manufactures nec	429	1.9%	100	68	60	90	84	90
Ferrous metals	426	1.9%	100	102	111	146	149	250
Oil seeds	411	1.8%	100	100	99	104	101	175
Motor vehicles and parts	376	1.6%	100	95	102	111	119	119
Metal products	279	1.2%	100	83	83	89	95	115
Petroleum	244	1.1%	100	94	210	161	104	136
Vegetables	189	0.8%	100	91	155	151	147	114
Other agriculture	127	0.6%	100	108	105	117	323	197
Mineral products nec	100	0.4%	100	121	129	119	148	168
Fishing	88	0.4%	100	92	93	97	93	99
Wearing apparel	78	0.3%	100	96	123	98	103	105
Textiles	73	0.3%	100	80	87	82	94	84
Oil**	38	0.2%	—	—	—	—	—	—
Beverages and tobacco	29	0.1%	100	80	104	104	113	108
Forestry	27	0.1%	100	90	72	66	69	113
Leather products	12	0.1%	100	65	66	86	132	82
Gas***	—	—	—	—	—	—	—	—

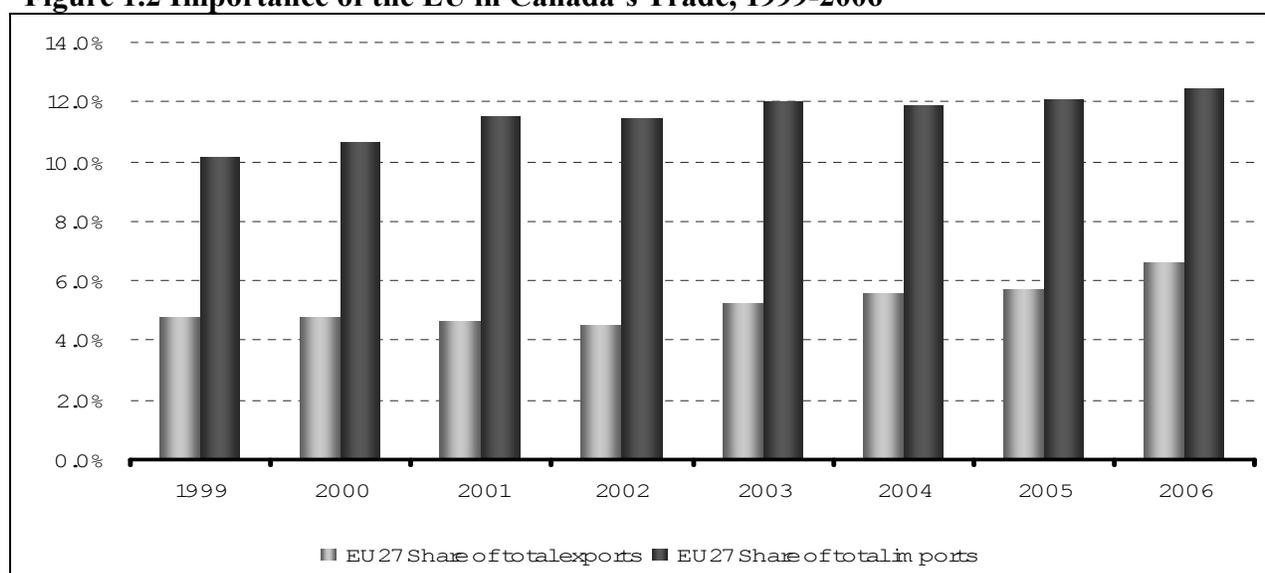
*Note: Bilateral trade volume, sorted by value of exports in millions of euro. Trade seen from the point of view of the European Union, i.e. the numbers are cost including freight. Index: 2002=100. The product classification is aggregated from HS codes section I-XXI to GTAP sectors. \* Not elsewhere classified \*\* Values of Oil only available for 2007. \*\*\* Values for Gas not available.*

*Source: Eurostat ComExt database.*

about 12% in 2003, and has since remained stable. The share of total exports to the EU has increased steadily from around 5% of total exports in 2003 to over 6% in 2006 (see Figure 1.2).

Breaking down the growth of Canada's bilateral trade with the EU into sectors shows significant differences in growth rates over time. The chemical sector is the most important sector, accounting for almost 16% of imported goods from Canada to the EU (see Table 1.8). Canada's chemical exports to the EU more than tripled over the period, largely attributable to growth in exports of natural uranium. The transport equipment and metals sectors also account for a large share of imported goods from Canada to the EU, 14% and 13% respectively. Metals exports tripled, driven by significant increases in exports of iron ores, nickel and aluminium. Conversely, while transport equipment exports from Canada to the EU remain significant, they have dropped 15% from 2002 to 2007, seen mainly in decreased exports of aircraft.

**Figure 1.2 Importance of the EU in Canada's Trade, 1999-2006**



Note: The data include all 27 EU countries for all years.

Source: Government of Canada, Trade Data Online.

### EU-Canada Trade in Services

According to European statistics, in 2007, two-way services trade amounted to €20.5 billion. The EU is Canada's second largest partner for trade in services. The pattern for trade in services between the EU and Canada is dominated by cross-border trade in *commercial services*. These services account for the largest export volume for both exports from Canada to Europe and vice versa (see Table 1.9).

The EU exported €11.1 billion in commercial services in 2007 to Canada. In addition to transport and travel services, other business services, insurance and financial services are among the largest export sectors. Canada exported €9.3 billion in commercial services to the EU in 2007. After travel, the largest segments of Canada's cross-border services exports to the EU are with respect to other business services and transportation. However, royalties and licence fees and construction services also represent a significant proportion of Canada's services exports.

### Foreign Direct Investment in the EU and Canada

The EU and Canada are significant investment partners. The EU is Canada's second largest source of foreign direct investment (FDI) while Canada is the EU's fourth largest source of FDI into the EU. Both economies have large inflows and outflows of FDI. Based on the aggregate indicator of FDI stock as a percentage of GDP, the EU appears to both receive and originate slightly more FDI than Canada. The most important component of the EU-Canada investment relationship are foreign affiliate sales, which is defined as the sale of goods in a foreign country through the establishment of a commercial presence in that country.

**Table 1.9 EU27-Canada Bilateral Trade in Services 2007, millions of €**

Sector	EU27 Exports to Canada	Share of commercial service trade (EU to Canada)	EU27 Imports from Canada	Share of commercial service trade (Canada to EU)
Services	11,249.0	--	9,481.7	--
Transportation	3,221.5	28.9%	2,127.4	22.8%
Travel	3,085.6	27.7%	3,225.3	34.6%
Communications services	194.0	1.7%	144.9	1.6%
Construction services	207.7	1.9%	358.5	3.8%
Insurance services	620.7	5.6%	289.5	3.1%
Financial services	876.6	7.9%	184.4	2.0%
Computer & information services	393.6	3.5%	306.3	3.3%
Royalties & license fees	436.8	3.9%	378.1	4.1%
Other business services	2,043.7	18.3%	2,221.3	23.8%
Personal, cultural & recreational services	58.2	0.5%	66.8	0.7%
Government services, n.i.e.*	97.4	0.9%	163.1	1.8%
Services not allocated	13.3	0.1%	15.9	0.2%
Commercial services (excluding government services, n.i.e.)	11,151.6	100.0%	9,318.6	100.0%

\*Not included elsewhere. Source: Eurostat (NewCronos), provisional value

**Table 1.10 EU27 Foreign Direct Investment, 2002-2006, billions of €**

Direction	Type	2002	2003	2004	2005	2006	FDI to GDP ratio 2006
Inward	Stock	1,242.9	1,455.5	1,732.5	1,823.2	2,057.3	0.18
	Flow	123.4	122.3	58.3	127.0	168.9	
Outward	Stock	1,901.6	2,007.3	2,199.9	2,435.2	2,706.2	0.23
	Flow	133.7	134.1	142.3	234.5	275.0	

Note: Before 2004, data are based on EU25; after 2004, data are based on EU27.

Source: Eurostat.

Total stock of inward FDI to the EU27 was €2.1 trillion in 2006 according to Eurostat estimates. The ratio of inward FDI to GDP in EU27 was 0.18 (see Table 1.10).

Europe's foreign direct investment stock in other countries of the world (outward FDI) amounts to €2.76 trillion (ratio of 0.23 to GDP), which is a half trillion larger than the inward FDI Europe is receiving from other countries. Thus, the EU is a net FDI exporter to the rest of the world.<sup>24</sup>

Canada's total stock of inward FDI is, of course, much smaller than the EU stock, at an estimated US\$385 billion in 2006. This is a ratio of 0.30 to Canadian GDP for the same year. Like the EU, Canada is also a net exporter of FDI, and outward FDI amounts to US\$449 billion, representing a ratio of 0.35 to GDP (see Table 1.11).

The trend in the last five years (2002-2006) shows that while Canada's total FDI (both outward and inward) remained stable or experienced a slight decline relative to GDP, Europe's FDI intensity increased (both inward and outward) over the same period (see Figure 1.3).

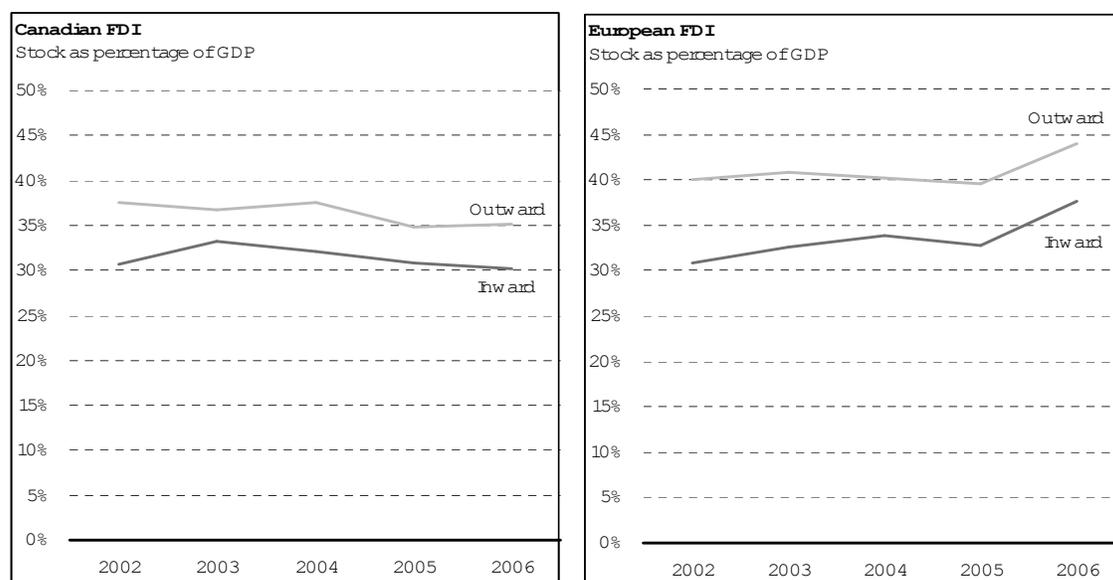
<sup>24</sup> Bilateral FDI flows and bilateral foreign ownership data are not available.

**Table 1.11 Canada's Foreign Direct Investment, 2002-2006, billions of US \$**

Direction	Type	2002	2003	2004	2005	2006	FDI to GDP ratio 2006
Inward	Stock	225.9	289.1	318.6	350.0	385.2	0.30
	Flow	22.2	7.5	-0.4	28.9	69.0	
Outward	Stock	275.7	319.0	373.0	394.7	449.0	0.35
	Flow	26.8	22.9	43.7	33.5	45.2	

Source: UNCTAD, FDI database and IMF World Economic Outlook Database, October 2007.

**Figure 1.3 Trend Total FDI for the EU and Canada, 2002-2006**

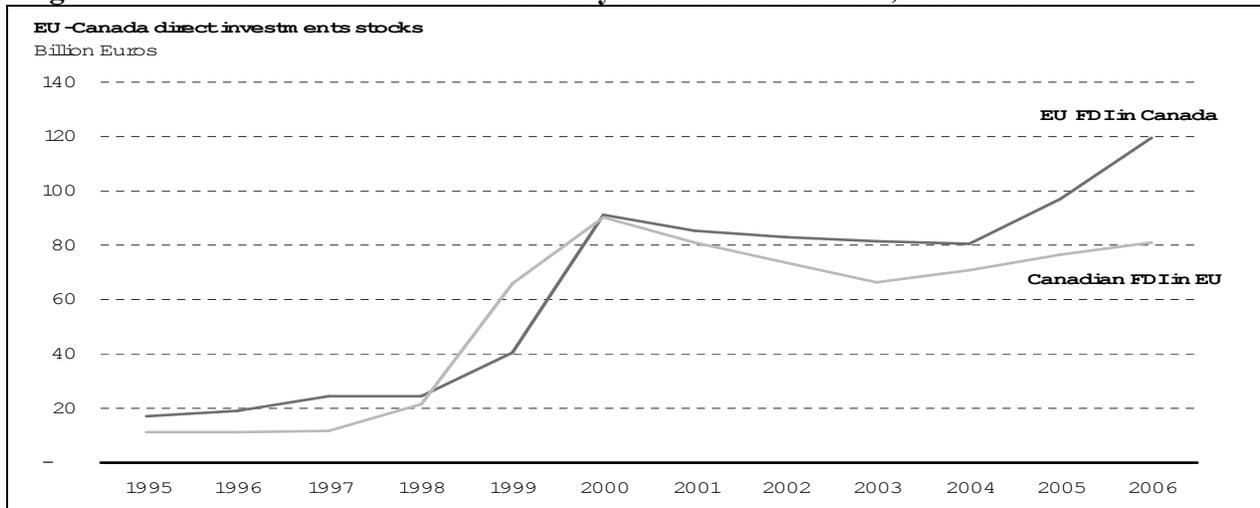


Source: UNCTAD, FDI database and IMF World Economic Outlook Database, October 2007.

Looking at the FDI stocks held by European investors in Canada, and at the stock held by Canadian investors in the EU, both increased rapidly and almost in parallel between 1997 and 2000. By the turn of the century, there was almost parity in the FDI stocks held by each partner in the EU-Canada relationship. In 2000, Canadian investors held an FDI stock in the EU of €90 billion and EU investors held a stock worth €91 billion in Canada.

FDI reduced in both directions between 2000 and 2004, reflecting the overall global slowdown in investment, primarily as a result of the 2001 internet bubble burst and the 11 September terrorist attacks on the United States. Canada's stock of FDI in the EU declined more than the EU's stock in Canada, and by the end of 2006, the Canadian FDI stock in Europe had not recovered enough to reach the same level it was at in 2000. By the end of 2006, Canada's stock in the EU was approximately €80 billion. EU investments in Canada did not decline as rapidly between 2000 and 2004, and EU's FDI growth picked up at a faster pace. This decline partially reflected the strengthening of the Canadian dollar against both the Euro and the pound sterling, as the dollar's strong performance had a negative effect on the valuation of stock of Canadian direct investment abroad (CDIA). The EU's investments in Canada increased the stock in 2005 and 2006 to reach a record level of €120 billion by the end of 2006 (see Figure 1.4).

**Figure 1.4 Trend in Bilateral FDI Stocks by the EU and Canada, 1995-2006**

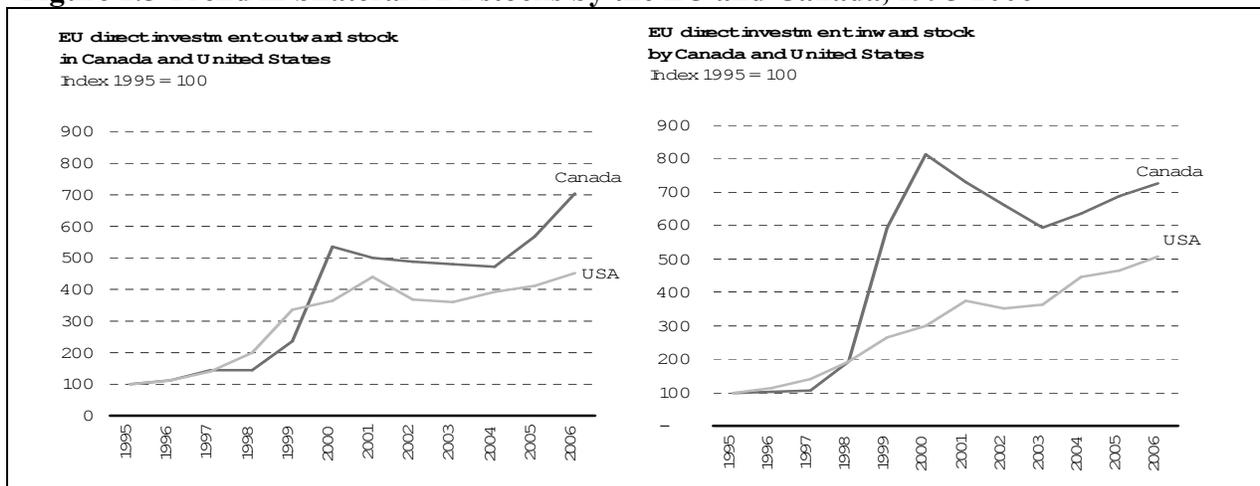


Source: Eurostat.

Comparisons with the trends in investment between the EU and the US during the same period show that, even though FDI from Canada to the EU did not match the pace of EU investments in Canada, the EU-Canada investment relationship performed better through the boom-and-crisis period than the EU-US investment relationship.

By the end of 2006, the EU’s investments in Canada had increased by a factor of seven since 1995,<sup>25</sup> while the EU’s investments in the US “only” increased by a factor of 4.5 during the same period.<sup>26</sup> Canadian investment statistics demonstrate a similar trend. Canada’s investments in the EU increased by more than a factor of seven,<sup>27</sup> while investments from the US increased by a factor of five<sup>28</sup> (see Figure 1.5).

**Figure 1.5 Trend in bilateral FDI stocks by the EU and Canada, 1995-2006**



Source: Eurostat

<sup>25</sup> Index is equal to 702 where 1995 is 100.

<sup>26</sup> Index is equal to 451 where 1995 is 100.

<sup>27</sup> Index is equal to 726 where 1995 is 100.

<sup>28</sup> Index is equal to 506 where 1995 is 100.

## **PART 2: ANALYSIS OF FACTORS AFFECTING EU-CANADA TRADE AND INVESTMENT**

*This section of the study focuses on the factors in the EU-Canada economic relationship that affect trade in goods and services and investment and examines potential benefits that could result from enhancing the relationship in these areas. It first provides a comparison of relevant literature regarding the EU-Canada economic relationship. While others have analysed barriers to investment and trade in goods, no report has adopted a scope as wide as this study. In particular, there is a clear absence of discussion in the field of services liberalisation. This analysis is followed by an overview of tariff barriers, non-tariff measures in goods trade, and barriers that affect services trade and investment.*

*The study provides a quantitative evaluation of liberalising barriers to trade in goods and services between the EU and Canada based on simulations with a Computable General Equilibrium (CGE) model. As all models have their limitations, this section of the study also identifies further areas for bilateral expansion beyond the model's scope. The study describes the current situation in the key areas for trade facilitation or liberalisation such as labour mobility, government procurement, intellectual property rights, telecommunications services and electronic commerce, and considers potential opportunities in some of these areas.*

*This section demonstrates that there is scope for deepening the EU-Canada economic relationship and that bilateral trade and investment flows have not reached their full potential. It is clear that there are barriers in place that stunt the bilateral economic relationship. As will be outlined below in more detail, the model shows there would be gains in gross domestic product (GDP) from liberalising goods and services along the lines of €11.6 billion for the EU and approximately €8.2 billion for Canada by the year 2014, compared to the baseline scenario (i.e. a scenario which assumes a successful outcome to the Doha trade negotiations). Liberalisation of trade in services contributes substantially to these gains, though the impact of the elimination of tariffs on bilaterally-traded goods is still significant. The remaining gains are due to a reduction in costs imposed on trade in goods by non-tariff barriers. These figures do not take into account less-readily-quantifiable areas that provide additional potential for gains. As such, these figures should be interpreted as a lower bound to the potential gains from an EU-Canada agreement.*

*As it would be impossible to capture all factors affecting the flow of goods, services, capital and labour between the EU and Canada in this study, key examples have been highlighted. These examples help describe factors related to tariffs, non-tariff measures, services, investment, and other issues such as labour mobility that affect the EU-Canada relationship. The economic modelling results provide a macroeconomic overview of the potential effects of the elimination of such barriers.*

## 2.1 Review of Previous Similar Studies

A number of previous studies have examined the potential impacts of EU-Canada trade and investment liberalisation in recent years. This current study briefly reviews a small number of similar studies on EU-Canada and US-EU issues, with a focus on Canada and the European Union: Prospects for a Free Trade Agreement by Sarisoy Guerin and Napoli (2008),<sup>29</sup> Lost Over the Atlantic? The Canada-EU Trade and Investment Relationship by Lemaire and Cai (2006),<sup>30</sup> Canada-European Union Trade and Investment Relations: the Impact of Tariff Elimination by Cameron and Loukine (2001),<sup>31</sup> and Facilitating Trade and Investment Between Canada and the EU: A Strategy for Moving Forward by the Conference Board of Canada and MGK Trade Consultants (1998) (hereafter “MGK study”),<sup>32</sup> and the Study on Foreign Direct Investment and Foreign Affiliate Trade between the European Union and Canada by Ghémar et al. (2005).<sup>33</sup> A significant gap in the literature is that no attempt to quantify the impact of services trade liberalisation had been undertaken: this document will go further in this area than previous reports. The impact of restrictions on investment has only been studied in qualitative terms.

Overall, the existing studies suggest that liberalisation would lead to mutual gains for the EU and Canada, particularly in value-added sectors such as transportation equipment, and machinery and equipment. These studies note that both the EU and Canada would also benefit from the removal of non-tariff barriers to trade and barriers to investment. The findings of these studies are summarised in the following section with respect to tariff barriers, non-tariff barriers, trade in services and investment.

### **Tariff Barriers**

Cameron and Loukine, in their 2001 study, explore expected gains of tariff liberalisation, using four scenarios. The first assumes that all merchandise tariffs are eliminated except agriculture and processed foods between Canada and the then 15 Member States of the EU (EU15), and the second assumes that all merchandise tariffs were eliminated, including the aforementioned sectors. The third and fourth scenarios are the first and second scenarios with the then EU candidate Member States added. The study finds that the benefits of a potential FTA are substantial. Both Canada and the EU would experience significant gains as a result of reduced tariffs. The net welfare gain to Canada varies between US\$163 million and US\$236 million, while the EU’s gain is between US\$282 million and US\$768 million (approximately three times

<sup>29</sup> Selen Sarisoy Guerin and Chris Napoli, “Canada and the European Union: Prospects for a Free Trade Agreement,” Centre for European Policy Studies (CEPS) Working Document No. 298, July 2008.

<sup>30</sup> Dan Lemaire and Wenguo Cai, *Lost over the Atlantic? The Canada-EU Trade and Investment Relationship* (Ottawa: Conference Board of Canada, 2006).

<sup>31</sup> Richard A. Cameron and Konstantin Loukine, *Canada-European Union Trade and Investment Relations: The Impact of Tariff Elimination* (Ottawa: DFAIT, 2001).

<sup>32</sup> Conference Board of Canada and MGK International Trade Consultants, *Facilitating Trade and Investment Between Canada and the EU: A Strategy for Moving Forward* (Ottawa/United Kingdom: Conference Board of Canada/MGK International, May 1998).

<sup>33</sup> Katelyne Ghémar et al., *Study on Foreign Direct Investment and Foreign Affiliate Trade between the European Union and Canada* (Brussels: Market Access Information and Analysis, 2005).

larger than that of Canada). As a percentage of GDP, Canada's gains would be roughly four times larger than European gains. EU exports to Canada averaged over all scenarios would rise by approximately 34%, or US\$7 billion dollars a year, while Canadian exports to the EU averaged over all scenarios would increase between 11.2% and 15.5%, or between US\$2.4 and US\$3.4 billion annually.<sup>34</sup>

Sarisoy Guerin and Napoli argue that there is significant potential for economic gains from an EU-Canada FTA. The patterns and levels of protection between the EU and Canada today are similar to those that existed between the US and Canada prior to the entry into force of the Canada-US FTA in 1989. The evolution of trade between the US and Canada since the FTA offers a good illustration of how trade might increase after an EU-Canada FTA. In the five years following the Canada-US FTA, trade doubled for goods where there was a greater than 5% reduction in tariffs, while trade in goods that were already tariff-free increased by 40%.<sup>35</sup>

In their examination of regional trade, Sarisoy Guerin and Napoli find that the North American Free Trade Agreement (NAFTA) diverted some Canadian trade to the US at the expense of the EU. They argue that a potential FTA could level the EU's playing field with the US and increase the competitiveness of European firms in the Canadian market, although the US would continue to enjoy considerable advantage, not least geographical proximity. For Canada, an EU-Canada FTA would be welfare-improving. Further, they argue that, in an increasingly diverse international currency market, it would be in the interest of Canadian exporters to diversify their export base, as this could help to make Canadian firms more resilient to US business cycles.<sup>36</sup>

Lemaire and Cai find that the removal of tariff barriers could lead to an increase in bilateral trade of nearly \$6 billion annually. The report outlines the results of the 2002 Conference Board of Canada survey, in which a significant portion of EU respondents noted that Canadian tariffs are a significant issue, particularly for trade in foodstuffs, textiles, footwear, electrical products and recreational boats. Canadian respondents echoed this sentiment, with over 50% of Canadian exporters identifying tariffs as a significant barrier to trade with the EU.<sup>37</sup>

The MGK study presents an in-depth analysis of the tariff barriers that impeded trade when it was written, based on inventories of barriers provided by the EU Member States and the Government of Canada, which ranged from EU tariffs on paper products to Canadian tariffs on plastic products. The study notes that as a resource-based economy and major agricultural exporter, barriers encountered by Canadian exporters tended to be listed in these sectors. In contrast, the EU's list of barriers tended to cover a wider range of products. Much of the analysis remains relevant, as many of the issues enumerated remain in place, such as tariffs on textile or electrical products. The study concludes that mutually beneficial tariff reductions could be achieved bilaterally.<sup>38</sup>

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<sup>34</sup> Cameron and Loukine, *op cit*, p. i.

<sup>35</sup> Sarisoy Guerin and Napoli, *op cit*.

<sup>36</sup> *Ibid*.

<sup>37</sup> Lemaire and Cai, *op cit*, p. 17.

<sup>38</sup> Conference Board of Canada and MGK International Trade Consultants, *op cit*, pp. 16-17, 32.

Cameron and Loukine further find that industrial sectors in both the EU and Canada stand to gain the most from a potential FTA. For the EU, exports to Canada would grow primarily in the high-tech, high value-added sectors, such as transportation equipment, and machinery and equipment. Canadian exports to the EU would grow also in transportation equipment and machinery and equipment, as would exports of textiles. Canada would also realise moderate export growth in iron and steel, chemicals and other manufacturing.<sup>39</sup>

This is particularly significant for Canada when placed beside one of the key conclusions of Lemaire and Cai that, at present, the majority of Canadian exports to the EU are at the “entry point” of the supply chain, such as raw materials or semi-finished goods like steel plate. This research suggests that an FTA could change the composition of Canadian exports to the EU and encourage a more diverse range of goods traded at different stages of the supply chain.

### **Non-tariff Barriers for Goods**

Lemaire and Cai also show that both EU and Canadian businesses find non-tariff barriers (NTBs) to be a significant impediment to EU-Canada trade and investment. They point out there is overlap in the problems identified by both EU and Canadian respondents, who concentrated, in particular, on standards-related measures. This suggests there may be an opportunity for the mutually beneficial removal of such barriers.

Lemaire and Cai argue that while European exporters found Canada generally open to trade, certain barriers were identified including those relevant for foodstuffs and technical standards. With regard to foodstuffs, EU respondents cited quotas (supply-managed products), sanitary approvals, differences in standards, provincial marketing of wines and spirits, and labelling and packaging requirements as key barriers to the free flow of goods between the EU and Canada. EU respondents also noted that a lack of transparency regarding technical and safety standards caused a significant barrier to trade in industrial products.<sup>40</sup>

Lemaire and Cai report that two-thirds of Canadian exporters surveyed had faced regulatory barriers to trade with Europe, citing problems in obtaining certification as a key issue. Other barriers included labelling and packaging requirements, and health and safety standards. Canadian exporters also identified specific NTBs relating to agricultural trade as a further contributing factor to Canada’s trade deficit in this sector. Most barriers identified were sanitary and phytosanitary measures, such as the EU’s ban on hormone-treated beef and its approval process for genetically-modified organisms. Lemaire and Cai note that despite Member States’ move towards a single, internal market, barriers and differences continue to exist, such as differing customs systems (different automated systems, differing levels of value-added tax, border inspections for required licenses in certain Member States, differing certificates of origin).<sup>41</sup>

The studies examined do not quantify relative levels of subsidy, or attempt to calculate gains to be found by eliminating them. Lemaire and Cai do identify subsidies under the Common Agricultural Policy as a significant barrier to Canadian agricultural trade.

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<sup>39</sup> Cameron and Loukine, op cit, pp. 43, 45.

<sup>40</sup> Lemaire and Cai, op cit, p. 17.

<sup>41</sup> Ibid.

## **Barriers to Services Trade**

The literature on EU-Canada trade in services is very limited. However, there is some relevant literature on United States-EU services trade. In particular, Hamilton and Quinlan demonstrate that United States service providers overwhelmingly choose to invest directly in European markets rather than export services. The authors conclude that deepened EU-US trade in services would enhance the global competitiveness of both parties.<sup>42</sup> It can be assumed that similar results would be found in the EU-Canada context.

The MGK study points out that the importance of two-way services trade is growing in the EU-Canada relationship. It reports that the EU listed the air transport services sector, restrictions on cross-border supply of direct insurance and the telecommunications sector as areas where there exist impediments to exporting into Canada. The Canadian list included telecommunications as an EU sector with significant barriers.<sup>43</sup>

Lemaire and Cai single out a few issues that affect EU-Canada services trade, specifically the difficulty experienced in trying to obtain visas for temporary workers and intra-company transfers, even at the executive level, and the recognition of professional qualifications.<sup>44</sup>

## **Investment**

The EU and Canada are significant investment partners: both parties have significant amounts of Foreign Direct Investment (FDI) in each other's economies. Lemaire and Cai state that affiliate sales have mirrored FDI growth and now constitute an important source of revenue for Canadian firms and a form of trade diversification for EU and Canadian companies. The authors, pointing to the fact that Canadian firms sell more in Europe than they export to Europe, conclude that the investment relationship has outperformed the trade relationship.<sup>45</sup> Hamilton and Quinlan describe a similar pattern in EU-US relationship, concluding that investment is the driving force of bilateral trade.

The single most comprehensive analysis of EU-Canada investment barriers was prepared by Ghémar et al. The authors emphasise that although transatlantic investment is strong, there are considerable areas that could be improved upon. There are many factors affecting the two-way relationship beyond regulatory barriers and requirements, such as divergent business attitudes, language issues, costs and lack of infrastructure.<sup>46</sup>

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<sup>42</sup> Daniel S. Hamilton and Joseph P. Quinlan, *Deep Integration: How Transatlantic Markets are Leading Globalization* (Brussels: Centre for European Policy Studies, 2005), p. vii.

<sup>43</sup> Conference Board of Canada and MGK International Trade Consultants, op cit, pp. 10-11,19.

<sup>44</sup> Lemaire and Cai, op cit, p. 18.

<sup>45</sup> Ibid., pp. i-ii.

<sup>46</sup> Ghémar et al., op cit, p. 9.

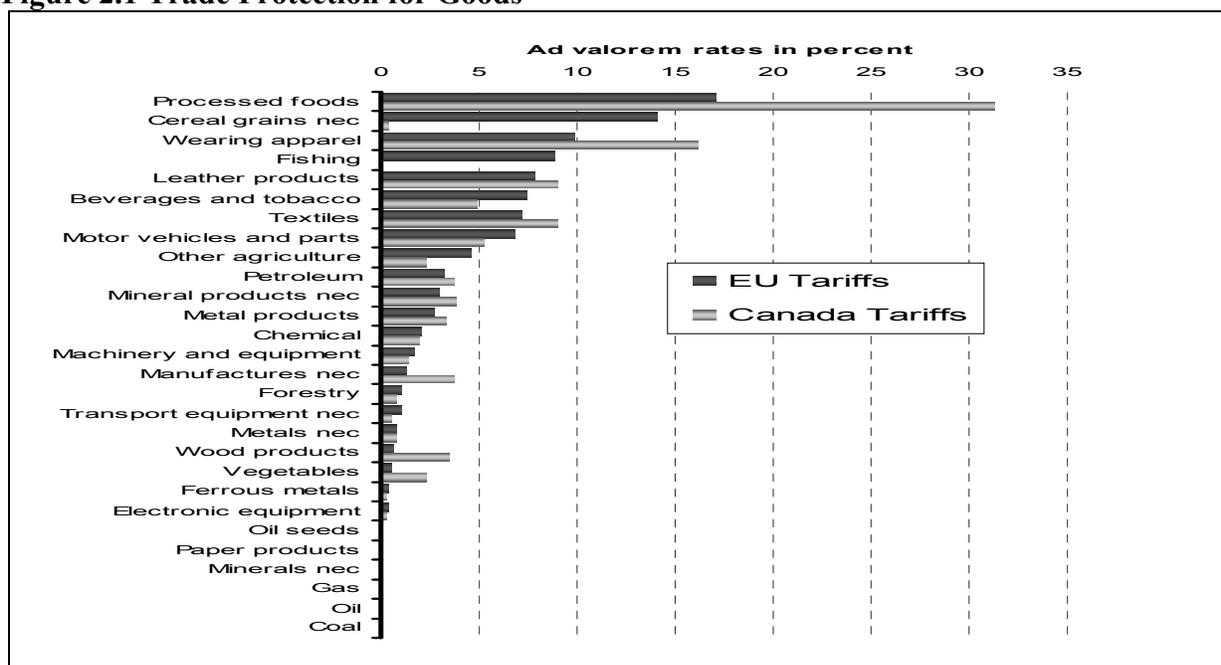
## 2.2 Overview of Factors Affecting EU-Canada Trade and Investment

### 2.2.1 Tariffs and Tariff-rate Quotas in Goods

The tariffs facing goods traded between the EU and Canada are on average low, principally as a result of the progressive lowering of tariffs at the multilateral level. On a trade-weighted basis, Canadian goods faced an average tariff of 2.2% in 2007 entering the EU market while EU goods faced a comparable tariff of 3.5% in the Canadian market (see Figure 2.1). However, a number of sectors still face significant levels of tariff protection, including a number of agriculture and food sectors, textiles and clothing and the automotive sector.

The trade data reveals that there is a negative correlation between tariff rates and the volume of goods traded for the EU and Canada (which is reflected in the low trade-weighted tariffs). This is apparent given that, out of the EU and Canada's eight largest exports (see Table 2.1), only processed foods face substantial tariff protection. It should be noted that the EU's top eight sectors make up 78% of total exports to Canada and similarly Canada's top eight sectors make up 80% of total exports total to the EU.

**Figure 2.1 Trade Protection for Goods**



Note: The data on tariffs are taken from the WTO's integrated database, with supplemental information from the World Bank's recent assessment of detailed pre- and post-Uruguay Round tariff schedules and from the UNCTAD/World Bank WITS dataset. Tariff information has been concorded to the sectors used in the model  
Source: GTAP version 7

**Table 2.1 Most Important Sectors for EU-Canada Trade**

The EU's Most Important Export Sectors to Canada		Canada's Most Important Export Sectors to the EU	
<i>Sector</i>	<i>Share</i>	<i>Sector</i>	<i>Share</i>
Metal products	3.10%	Processed foods	3.10%
Processed foods	3.20%	Paper products	5.70%
Beverages and tobacco	4.00%	Electronic equipment	6.60%
Petroleum	4.40%	Machinery and equipment	10.70%
Transport equipment nec	8.10%	Minerals nec	11.70%
Motor vehicles and parts	10.80%	Metals nec	12.80%
Chemical	22.00%	Transport equipment nec	13.70%
Machinery and equipment	22.50%	Chemical	15.70%
Sum of 8 sector shares	78.10%	Sum of 8 sector shares	80.00%

\* *Not elsewhere classified.*

While it is impossible to look at all tariff barriers in detail due to the breadth of the analysis in this study, an illustrative list of tariff barriers identified by stakeholders as impeding market access is presented in Table 2.2. In addition, the study examines some particular tariff barriers to market access for EU and Canadian exports in greater detail (see examples below).

#### *Example of Tariff Barriers Affecting EU Market Access into Canada: Agricultural Products*

Canada's average tariff rate on agricultural goods is 21.9%. Within this average are a number of tariff peaks which can inhibit or – in the most extreme cases – effectively prohibit trade. For example, with an average most favoured nation (MFN)<sup>47</sup> out-of-quota tariff rate on dairy products of 251.3% (and a peak of 313.6%), the EU's exports of some such products to Canada are nil. The tariff quota set for cheese imports is 20,412 tonnes (of which the EU supplies 66% of the quota volume). Out-of-quota tariffs on cheeses are 245.6%, which greatly inhibit the export of EU cheeses to Canada, despite consumer demand. A similar situation exists with regard to over quota exports of butter. Another example is Canadian MFN tariff rates on cereals and products of the milling industry, which, while averaging 9.5%, have tariff peaks of 95.2%. In addition, in some cases EU exports to Canada are disadvantaged where lower tariffs or duty-free access is granted to competitor suppliers with preferential trade agreements.

#### *Example of Tariff Barriers Affecting Canadian Market Access into the EU: Fish and Seafood*

The EU's applied MFN tariffs on fish and seafood products are high (averaging 12.5%) restricting Canada's market access, especially on processed products, where other major suppliers, such as Norway, Iceland, Morocco, and Chile, face lower tariffs due to preferential agreements. The EU maintains autonomous tariff rate quotas (ATRQs), which provide lower tariff rates for specific volumes of fish and seafood products of export interest to Canada, such as shrimp, cod, Pacific hake and herring. For example, the MFN duty is 20% for shrimp, but the

<sup>47</sup> Most Favoured Nation treatment (GATT Article I, GATS Article II and TRIPS Article 4), refers to the practice of non-discrimination between one's trading partners. See [www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact2\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm).

ATRQ allows imports of up to 20,000 tonnes of shrimp at a reduced duty of 6%. Although the ATRQ volumes are generally significant, the ATRQ for herring is set at a level usually filled by other countries before the Canadian fishery season starts. Moreover, the ATRQs are restricted to imports for further processing, as opposed to direct sale in the finished format, which remain subject to high tariffs. Finally, these ATRQs are set to expire on 31 December 2009, creating uncertainty for exporters. Given the temporary nature of these ATRQs, a more permanent market access solution would be preferable to Canadian exporters and would contribute to meeting the growing demand for seafood in the EU.

**Table 2.2 Examples of EU and Canadian Tariff Barriers**

<b>AFFECTING EU MARKET ACCESS INTO CANADA</b>	
Agricultural Products	Canada maintains tariff quotas with high over-quota duties on imports of dairy, poultry, egg, beef, wheat, barley and margarine products, averaging 159.1%.
Electrical Products	Canada maintains applied tariffs on household electrical products such as coffee makers, kettles, ovens, fryers, oil-filled radiators, fan heaters, de-humidifiers, air purifiers and blenders, averaging 3.4%.
Textiles, Apparel and Footwear	Canada maintains applied tariffs on textiles, apparel and footwear, averaging 6.2%, 16.3% and 13.5% respectively.
Shipbuilding	Canada maintains applied tariffs on ships, shipbuilding and recreational boats, averaging 12.5%.
Automobiles	Canada maintains applied tariffs on automobiles of 6.1% and auto parts, averaging 3.2%.
<b>AFFECTING CANADIAN MARKET ACCESS INTO THE EU</b>	
Agricultural Products	The EU maintains tariff quotas, and sometimes multiple quotas with varied tariff line coverage and in-quota duties for a single product, with high over-quota duties on beef, pork, wheat and oats (averaging 37.5% for pork and as high as 407.8% for beef). The EU maintains applied tariffs on fruits/vegetables (averaging 31.8%), and operates an entry price system for 15 products where tariffs are determined by import season and a product's minimum import price.
Processed Foods	The EU maintains applied tariffs on processed foods, which are determined using a matrix calculated based on the specific content of dairy, wheat and sugar ingredients.
Fish and Seafood	The EU maintains applied tariffs on a number of fish and seafood products averaging 12.5%.
Wood Products	EU maintains applied tariffs on softwood plywood (7-10%), particleboard/OSB and fibreboard (7%), and manufactured buildings (2.7%).
Aluminium Products	The EU maintains applied tariffs on semi-fabricated and fabricated aluminium (7.5%) and raw aluminium (3%).
Textiles, Apparel and Footwear	The EU maintains applied tariffs on textiles, apparel and footwear averaging 9.4%.
Automobiles	The EU maintains applied tariffs on automobiles and auto parts of 10%.

## *Tariff Levels and Assumptions*

In considering the scope for gains from bilateral EU-Canada trade liberalisation, the economic modelling simulations in Section 2.3 below help investigate whether trade shares are low in sectors with high tariffs due to the high tariffs themselves or for other reasons. The tariff liberalisation scenario used in the simulations assumes a successful conclusion to the WTO Doha Round of multilateral trade negotiations.

Developing an assumption for the post-Doha tariff rates for all countries is a large and complex undertaking. The present study uses an available data set on post-Doha tariffs developed by an independent research institute.<sup>48</sup> The specific Doha scenario in this data set was based on the state of the Doha Round negotiations in early 2008, following the submission in February of the draft texts by the chairs of the WTO Agricultural and Non-Agricultural Market Access (NAMA) negotiating groups<sup>49</sup> and incorporated compromise assumptions with respect to issues where a range of options remained under negotiation, such as the coefficient for the Swiss formula for tariff reductions in non-agricultural goods sector.

Table 2.3 provides the trade-weighted tariffs affecting bilateral EU-Canada trade, aggregated to the sectors in the computable general equilibrium (CGE) simulations, as they were in 2004 (the base year for the GTAP database) and as they would be in the post-Doha dataset. Although the successful conclusion and implementation of the tariffs proposed in the Doha Round would reduce current tariff protection by a significant margin,<sup>50</sup> there would remain considerable scope to enhance EU-Canada bilateral trade through further bilateral liberalisation. Moreover, should EU-Canada trade liberalisation take place in a pre-Doha scenario, the predicted effects would be significantly higher.

Even low tariffs have been shown to have a significant impact on trade, as demonstrated in the economic modelling in Part 2.3 of this study as well as in past experience. Tariffs at or below 3% can still constitute a competitive disadvantage and divert trade. In some cases, they simply act as a tax on intra-firm or intra-industry trade. This weakens supply chain efficiencies and the competitiveness of firms, as tariffs can be equivalent to up to one half of industry profit margins. The patterns and levels of protections between the EU and Canada today are similar to those that existed between the US and Canada before the Canada-US free trade agreement (CUSFTA) entered into force in 1989. While trade in goods that were already tariff-free increased by 40% over the five years following the agreement, trade in goods that saw tariff reductions in excess of 5% doubled.<sup>51</sup>

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<sup>48</sup> Johann Heinrich von Thünen Institut (vTI) Bundesforschungsinstitut für Ländliche Räume, Wald und Fischerei, Institut für Marktanalyse und Agrarhandelspolitik (MA) – Braunschweig.

<sup>49</sup> “Revised Draft Modalities for Agriculture” (8 February 2008, [www.wto.org/english/tratop\\_e/agric\\_e/chair\\_texts08\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/chair_texts08_e.htm)); and “Draft Modalities for Non-Agricultural Market Access” (8 February 2008, [www.wto.org/english/tratop\\_e/markacc\\_e/markacc\\_chair\\_texts07\\_e.htm](http://www.wto.org/english/tratop_e/markacc_e/markacc_chair_texts07_e.htm)).

<sup>50</sup> These tariff figures take into account tariff-rate quotas (TRQs) where applicable.

<sup>51</sup> Sarisoy Guerin and Napoli, op cit.

**Table 2.3 Trade-weighted Import Tariffs Before and After Doha, %**

	EU import protection against Canada		Canadian import protection against EU	
	2004 baseline	Post-Doha scenario	2004 baseline	Post-Doha scenario
Agriculture	6.6	5.9	2.3	1.7
Fishing	8.9	4.1	0.0	0.0
Coal	0.0	0.0	0.0	0.0
Oil	0.0	0.0	0.0	0.0
Gas	0.0	0.0	2.5	0.0
Minerals nec*	0.0	0.0	0.1	0.1
Processed foods	15.6	8.1	32.5	28.5
Beverages and tobacco	7.4	4.1	4.8	3.4
Textiles	7.2	3.8	9.0	4.3
Wearing apparel	9.9	4.2	16.2	5.3
Leather products	7.9	3.6	8.9	4.1
Wood products	0.7	0.5	3.5	2.3
Paper products, publishing	0.0	0.0	0.0	0.0
Petroleum, coal products	3.2	2.7	3.7	3.6
Chemical, rubber, plastic products	2.1	1.3	1.9	1.4
Mineral products nec	2.9	1.9	3.9	2.3
Ferrous metals	0.4	0.3	0.3	0.2
Metals nec	0.7	0.4	0.8	0.7
Metal products	2.7	1.8	3.4	2.5
Motor vehicles and parts	6.8	3.5	5.3	3.2
Transport equipment nec	1.0	0.9	0.9	0.2
Electronic equipment	0.4	0.2	0.3	0.2
Machinery and equipment nec	1.7	1.4	1.3	1.2
Manufactures nec	1.3	0.9	3.7	2.2
Average tariffs for all sectors combined	2.2		3.5	

*Note: Calculations of Post-Doha scenario are sourced from Johann Heinrich von Thünen Institut (vTI) Bundesforschungsinstitut für Ländliche Räume, Wald und Fischerei, Institut für Marktanalyse und Agrarhandelspolitik (MA) – Braunschweig. \* Not elsewhere classified*

## **2.2.2 Non-tariff Measures Affecting Goods Trade**

Advanced industrial economies have developed a vast number of regulatory measures that establish terms and conditions for the production and sale of goods and services. The wide acceptance of regulations and standards and associated testing and certification procedures is of vital importance to the efficient functioning of markets. Even in the absence of government regulation, industries develop such frameworks of their own accord to reduce the costs of doing business and to foster market development.

Furthermore, regulations are used to address instances of market imperfections or to advance non-economic objectives. For example, the production or consumption of a good can create negative externalities, meaning that a cost is imposed upon an individual other than the consumer. An often-cited example is the exhaust from motor vehicles, which is detrimental to

pedestrians' health, yet there is no way to compensate them directly for this harm. Therefore, public policy intervenes to require reduced emission levels from motor vehicles.

Regulatory divergences can have an important impact on a bilateral relationship, as they may inhibit or even eliminate outright trade of a particular good or service. Moreover, differences in technical regulations add costs for producers and exporters that can effectively hamper trade. Non-tariff measures that can act as barriers to EU-Canada trade include sanitary and phytosanitary (SPS) standards;<sup>52</sup> customs rules and procedures; variances in implementation of legislation between Member States in the EU and provinces and territories in Canada; fees for product certifications and validations; processing delays for product certifications; duplicative testing; and certification and import requirements.

Private sector stakeholders continually raise the importance of non-tariff measures as barriers to EU-Canada trade and investment. Regulatory cooperation (discussed in more detail in Part 3) is a useful mechanism to allow economic partners to discuss regulations and their potential impacts prior to their implementation. EU-Canada regulatory cooperation operates within the 2004 voluntary Framework on Regulatory Cooperation and Transparency, which is implemented by the EU-Canada Roadmap for Regulatory Cooperation adopted at the June 2007 EU-Canada Summit in Berlin.

As with tariff issues, it is impossible to outline in detail all non-tariff measures that affect bilateral EU-Canada trade. However, by way of example, a number of current non-tariff barriers, or measures perceived as actual or potential non-tariff barriers, are presented in Table 2.4. Two of examples are also outlined in further detail to provide a better sense of the impact of such regulations on the bilateral relationship.

*Example of a Non-tariff Measure Raised by EU Stakeholders as Affecting, or Having the Potential to Affect, EU Market Access into Canada: Compositional Standards for Cheese*

In December 2007, Canada published the final amendments to its *Food and Drug Regulations* and *Dairy Products Regulations* on compositional standards for cheese. The new standards, as established in the amendments and which will come into force on 14 December 2008, are perceived by EU exporters as creating unnecessary obstacles to trade. As indicated in the Regulatory Impact Analysis Statement attached to the Regulation, the new standards are expected to lead to higher returns for Canadian milk producers. EU exporters also believe the list of milk and milk products allowed under the amendments is restrictive and is likely to jeopardise future technological developments.

Of particular concern to EU exporters are the new licensing requirements, introduced under the amendments and to be developed through 2008, which they believe will occasion not only an unnecessary burden and additional costs for importers but also appears to be discriminatory in that importers of cheeses will need to meet licensing requirements that will not apply to the producers of domestic cheeses. One EU exporter, basing calculations on 2007 export levels, has

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<sup>52</sup> Sanitary and phytosanitary measures or regulations are implemented by governments to protect human, animal and plant life and health, and to help ensure that food is safe for consumption. See [www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm4\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm).

estimated that the new certification requirements could cost the company tens of thousands of Canadian dollars for testing requirements and could generate the need for over 2,000 certificates to be issued. In addition, the amendments, and in particular the provisions as regards the casein content of the milk and total protein content of cheese ratios and their definitions, appear to EU stakeholders not to be measurable and therefore not enforceable.

*Example of a Non-tariff Measure Raised by Canadian Stakeholders as Affecting, or Having the Potential to Affect, Canadian Market Access into the EU: Chemicals*

Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) is the EU’s new chemical regulation (EC 1907/2006). The stated goals and methods of REACH are similar to those of the *Canadian Environmental Protection Act*. Canadian and European Commission regulators have established a regulatory cooperation initiative as part of the EU-Canada Regulatory Cooperation Roadmap to assist both sides in the implementation of their respective chemicals regimes. Canadian stakeholders are concerned that REACH will undoubtedly impact on trade in ways that cannot be easily anticipated, as industries follow the path of least resistance in complying with REACH provisions and in modifying their use of chemical substances in response to consumer pressure once full documentation on chemical content is available. The EU’s impact assessment concluded that the one-off costs of registration were sufficiently high that they could make lower volume substances (under 100 tonnes) unprofitable and subject to withdrawal from the market. Furthermore, they anticipate that low-volume exports to the EU – particularly by small and medium-sized enterprises – are liable to be shut down. Major producers affected by the REACH program will be required to make business decisions, on a case-by-case basis, to determine if it remains viable for them to continue transatlantic trade in chemicals in a REACH environment.

**Table 2.4 Examples of EU and Canadian Measures Cited by Stakeholders as Actual or Potential Non-tariff Barriers**

<p><b>AFFECTING EU MARKET ACCESS INTO CANADA</b></p>	<ul style="list-style-type: none"> <li>– The backlog in the approval process for new veterinary drugs, and difficulties accessing appeal provisions have created delays and additional expense for EU exporters</li> <li>– Government control in some provinces of the alcoholic beverage sector, which – through promotion of local wine and drinks – adversely affects the EU wine and spirits industry</li> <li>– Delays in the processing of food additives submissions, in particular with regard to soft drinks containing caffeine</li> </ul>
<p><b>AFFECTING CANADIAN MARKET ACCESS INTO THE EU</b></p>	<ul style="list-style-type: none"> <li>– EU regulations on beef, including the growth hormones ban, have adversely impacted Canada’s exports of beef to the EU</li> <li>– Delays in the approval system for genetically modified organisms (GMOs), along with traceability and labelling requirements for GMOs</li> <li>– Proposed classifying of nickel compounds as dangerous substances would adversely impact Canada’s exports of nickel to the EU</li> </ul>

A review of non-tariff measures in both the EU and Canadian policy frameworks identified by stakeholders as inhibiting trade suggests there may also be room to improve the design or implementation of regulatory frameworks so as to achieve legitimate regulatory objectives in a less trade-inhibiting fashion. Possible areas could include: improved regulatory approval processes and fee schedules; different regulatory approaches to common socio-economic goals; or improved timelines for processing applications for regulatory approvals.

There is very little information on the extent to which these measures constitute barriers that are amenable to reduction through liberalisation and trade facilitation measures. There are also complex issues to be addressed in any attempt to quantify the impact of these measures on trade flows (see Box 2.1).

Reflecting the difficulties of answering the questions in Box 2.1, even regulatory impact assessments of individual regulations that consider potential trade effects often decline to provide specific quantifications. Given the vast number of pertinent regulations affecting goods trade, it is not feasible to use a bottom-up approach that adds up the trade impacts on a product-by-product basis.

### **Box 2.1 Quantifying Non-tariff Barriers**

Key questions to be answered to reliably quantify the trade-distorting effects of specific non-tariff barriers (NTBs) in the context of an economic modelling exercise include:

- Is the NTB amenable to treatment in a bilateral context and, if so, does the impact of liberalisation apply generally to all trade partners or preferentially to the bilateral trade partner?
- Does the NTB affect a commercial flow that is represented in the model – in particular, does it impact on cross-border trade or on non-represented flows such as sales by foreign affiliates or sales achieved through the licensing of production to entities in the trade partner’s jurisdiction?
- Do potential facilitative measures accelerate a process for opening up markets, affecting the transition path to the new equilibrium (not captured in CGE modelling) but not the end point (which is the salient measure for CGE calculations)? If so, can the impact of the measure still be captured through an estimate of, say, higher transient income flows on capital endowments?
- Do the facilitative measures lower ongoing trade costs and, therefore, affect existing trade flows (i.e. do they expand trade at the “intensive margin”, which is captured in the CGE model) or do they primarily affect the sunk costs of market entry, thereby expanding trade at the “extensive margin” (which is not in principle represented)?
- Do the facilitative measures impact only on specific sectors that have been identified by stakeholders or do they impact on a wider set of products (i.e. are there spillover benefits from the sector specifically addressed to other sectors)?

For the purposes of economic modelling, a notional cost reduction of 2% is adopted to represent the cost savings that appears to be realisable. This number is supported by anecdotal evidence of a sample of regulations identified as having trade-inhibiting effects; and economic assessments of the trade-deepening effect of regional economic integration agreements. Since significant trade cost savings are unlikely to be realised in commodity trade, the cost reduction is limited to non-commodity processed goods.

### **2.2.3 Factors Affecting Cross-border Trade in Services**

Trade in services is a key component of the EU and Canada's economic activities. The EU is the world's largest services exporter with nearly 30% of the world's total share of services exports. The EU is Canada's second largest partner for trade in services with two-way trade amounting to €20.5 billion in 2007.

The difficulty of quantifying trade in services is that there is little to measure, with the exception of money that is transferred between the provider and recipient of a service. As services are becoming increasingly integrated in the production of more complex goods, it is difficult to establish how to document and measure this economic activity. Furthermore, restrictions in trade in services are rarely located at the border. In many cases, trade impediments arise from the regulation of services provision by national and sub-national governments. In this sense, the challenge in developing effective trade policy that contributes to increased trade in services lies in reconciling the removal of impediments to trade, while preserving the required policy space that allows the EU and Canada to regulate the provision of services to meet legitimate public policy objectives.

The General Agreement on Trade in Services (GATS) came into force in 1995 and provided the first framework of rules governing international trade in services. The GATS defines four modes in which services are supplied:

1. *Cross-border supply*, where services are supplied from one country to another (e.g. international telephone calls).
2. *Consumption abroad*, where consumers from one country make use of a service in another country (e.g. tourism).
3. *Commercial presence*, where a company based in a given country sets up subsidiaries or branches to provide services in another country (e.g. an insurance company setting up operations in another country).
4. *Presence of natural person*, where individuals travel from their own country to supply services in another (e.g. construction workers). (This is officially known as the "movement of natural persons".)

These modes are important for understanding the way in which services trade is carried out and for imposing disciplines for the liberalisation of trade. International mobility of production factors is often needed for services trade to take place. For example, Mode 3 of services trade, establishing commercial presence in a country, usually involves the movement of capital in the form of foreign direct investment (FDI). Factors affecting FDI are discussed in more detail below. Movement of labour (Mode 4) tends to also raise sensitive issues of immigration and/or

the right of foreign nationals to work.<sup>53</sup> This is further discussed in the Labour Mobility section of this study (Section 2.4.1).

Common barriers to trade in services include barriers to commercial establishment (foreign ownership caps), restrictions on types of commercial presence and number/type of services that can be provided, and discriminatory treatment advantaging domestic companies over foreign ones, such as through registration or nationality requirements.<sup>54</sup> While it is impossible to look at all factors affecting trade in services, it is nevertheless useful to discuss a selection of these issues to better understand their potential impact on the bilateral relationship (see Table 2.5) below. The study specifically examines two issues affecting bilateral services trade.

#### *Example of a Service Issue Affecting EU Trade into Canada: Financial Services*

Various restrictions in Canada's financial services sector continue to affect the further development of the EU's trade in the sector. For example, in the field of securities, the absence of an integrated national approach to securities regulation means that securities firms have to meet the requirements of 13 bodies if they want to do business in Canada. Separate laws and separate sets of fees apply for each of Canada's provinces and territories, with no mutual recognition agreements existing between them. The obvious inefficiency of the situation is well-recognised in Canada, but, until addressed, continues to act as a major practical restriction for EU securities firms. More generally, beyond the specific position on securities, Canada's own Competition Policy Panel Report, published in June 2008, recognised that "allowing greater international competition... would benefit both the financial services sector and the public interest in competitive and efficient markets."

#### *Example of a Service Issue Affecting Canadian Trade into the EU: Architectural and Engineering Services*

Both the European Communities and Canada are seeking increased access in the architectural, engineering and integrated engineering sector in the context of the WTO GATS negotiations. The difficulty with exporting these services is that, while designs and plans are portable, their provision also requires familiarity with local conditions, cultures and needs, as well as on-site visits and consultations. Unimpeded access for architects and engineers and the ability to establish a local presence are very important. Professionals are often required to temporarily enter foreign countries or establish a local presence; large firms often serve foreign markets by establishing temporary or affiliate offices. Service providers tend to face additional "behind-the-border" barriers due to complex domestic regulations, such as recognition of professional credentials, licensing and qualification requirements, and procedures preventing foreign professionals from providing their services. The EU is one of Canada's priority markets for the sector. Canada is seeking improved commitments through the elimination of barriers that Canadian architectural and engineering service providers currently face, such as citizenship requirements and restrictions related to establishment of commercial legal entities and foreign investment. Canada is also pursuing improved commitments for the temporary entry of architects and engineers as services providers in foreign markets.

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<sup>53</sup> Zhiqi Chen and Lawrence Schembri, "Measuring the Barriers to Trade in Services: Literature and Methodologies", in *Trade Policy Research 2002* (Ottawa: DFAIT, 2002), [www.international.gc.ca/eet/pdf/17-en.pdf](http://www.international.gc.ca/eet/pdf/17-en.pdf).

<sup>54</sup> See [trade.ec.europa.eu/doclib/docs/2006/november/tradoc\\_131003.pdf](http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc_131003.pdf).

**Table 2.5 Examples of EU and Canadian Services Issues**

<b>AFFECTING EU MARKET ACCESS INTO CANADA</b>	
<b>Sectoral Issues</b>	
Telecommunications Services	Canada is one of the few remaining OECD countries to have foreign ownership restrictions for telecommunications operators (firms must be Canadian-owned and controlled corporations). EU presence in the sector is thereby limited to involvement in the resale of telecommunication services and the provision of satellite services.
Financial Services and Securities Trading	Various restrictions apply limiting the ability of EU financial services companies from further development in the Canadian market. Securities trading is affected by the lack of a single securities regulator (each province and territory has its own regulator), resulting in inefficiencies
<b>Cross-cutting Issues</b>	
Labour Mobility (Including Intra-provincial Labour Mobility)	Administrative procedures (delays in obtaining work permits) are cited by the EU private sector as an important issue affecting trade in services with Canada. Labour mobility barriers within Canada (between provinces) negatively affect services trade in a number of sectors, including financial services.
<b>AFFECTING CANADIAN MARKET ACCESS INTO THE EU</b>	
<b>Sectoral Issues</b>	
Architectural, Engineering & Integrated Engineering Services	The EU represents a very large market for architectural and engineering services and Canada is seeking further liberalisation from EU Member States without bound Mode 1 commitments.
Environmental Services	While several EU Member States have open regimes for environmental services, many are still hesitant to provide full market access for the cross-border trade of these services. Given that the Canadian industry is comprised of many small- and medium-sized enterprises, which often do not establish commercial presence in the territory where they are exporting, barriers to cross-border trade can be a significant impediment.
<b>Cross-cutting Issues</b>	
Labour Mobility	Stakeholders in both Canada and the EU have cited barriers to labour mobility that have direct consequences for trade in services. These barriers include impediments to entry such as administrative procedures and lack of transparency and harmonisation between EU Member States. More information is provided in the labour mobility section of the study.

Quantifying the impact of trade liberalisation for services is much more difficult than is the case for goods. While a comprehensive dataset is available for tariff barriers for goods trade, a similar database on the barriers to services trade does not exist. Moreover, given the fact that barriers to services trade typically are part and parcel of broader regulatory frameworks governing the delivery of services in a given jurisdiction, the extent to which liberalising measures can reduce the trade-inhibiting aspects of these regulations is at the present time effectively impossible to measure directly. This is true even in instances where the trade-inhibiting factor can be traced to a specific regulation or component of a regulatory framework, as the impact on trade costs of a change in the regulation must be inferred indirectly from the pattern of trade flows. Therefore, both the height of barriers to services trade and the extent to which their reduction is feasible must be inferred indirectly through econometric analysis.

Reflecting these difficulties, this study indirectly approaches the question of what might be attainable for the EU and Canada, drawing on the impact of intra-EU liberalisation on intra-EU services flows. While the internal EU process of liberalisation of services trade remains incomplete, the current extent to which the EU Member States have been able to liberalise services provides a benchmark of what might be feasible (or at least represents an upper bound for what might be feasible) in a transatlantic context.

To determine the impact of intra-EU liberalisation on bilateral services flows amongst EU Member States, a range of factors that have been shown to impact on the intensity of bilateral trading relationships must be taken into account. As is now conventional in the economic literature, the gravity modelling approach has been adopted. Gravity models take into account the size of the respective economies of the trading partners, the distance between the countries, and other factors that affect the cost of doing business such as the absence of a common border or linguistic differentiation. By including a variable to capture the effect of two trading partners being part of a free trade arrangement, such as within the EU, the extent to which such membership intensifies trade can then be directly estimated.

The present study draws on the results of a gravity model developed by J. Francois et al.<sup>55</sup> According to their estimates, services trade is, in the aggregate, around 35% higher within the EU than would otherwise be expected in the absence of the EU's single market. For individual services sectors, the effect of the common market (the "EU effect") varies. The "EU effect" can be used to derive the extent to which the costs of providing services within the EU have been reduced through the implementation of the single market, taking into account the extent to which consumers switch among services providers based on lower prices.

These cost reductions, estimated to be on the order of 2-10% depending on the service sector, are applied to quantify the potential impact of services trade liberalisation in an EU-Canada context. Due to data limitations, direct estimates were not available for all sectors (trade, other finance, insurance and consumer services). For these sectors, estimates for the aggregate services trade were then used. The specific services trade cost reduction estimates are set out in Table 2.6.

J. Francois et al. estimate that the barriers to services trade into Canada amount to 24-52% of additional trade costs. Barriers into the EU are estimated to range from 18-42% additional trade costs. The extent of liberalisation that is assumed for this study is, therefore, only a relatively small fraction of the total.

Even with limited reductions to barriers, a significant portion of the potential economic gains from EU-Canada trade liberalisation could be made in the area of services, as will be discussed below. Services are a key component of global value chains as they help promote value-added activities in each other's markets. In particular, the EU is home to globally competitive service

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<sup>55</sup> See J. Francois, B. Hoekman and J. Woerz, "Does Gravity Apply to Non-Tangibles: Gravity Estimates of Trade and FDI Openness in Services," plenary paper, European Trade Study Group meetings, Athens, September 2007; J. Francois, O. Pindyuk and J. Woerz, "International Transactions in Services: Data on International Trade and FDI in the Service Sectors," Institute for International and Development Economics, 2008; J. Francois and G. Wignarajan, "Economic Implications of Asian Integration," *Global Economy Journal*, 2008.

providers whose activities account for a significant portion of its GDP. It has traditionally been a key services partner with Canada.

**Table 2.6 Services Trade Cost Reduction Estimates**

Services Sector	Trade Cost Savings (%)	Total Trade Cost Estimates	
		EU Exports to Canada (%)	Canadian Exports to the EU (%)
Utilities	5.82	52.4	37.0
Construction services	10.21	47.0	19.0
Trade	6.27	52.4	37.0
Transportation	9.09	48.6	28.1
Communication and information services	4.21	40.4	18.4
Other finance	6.27	29.4	42.3
Insurance	6.27	27.3	35.8
Other business services	2.08	50.3	34.9
Consumer services	6.27	24.3	27.6
Public services	3.81	33.8	18.3

## 2.2.4 Factors Affecting Foreign Investment

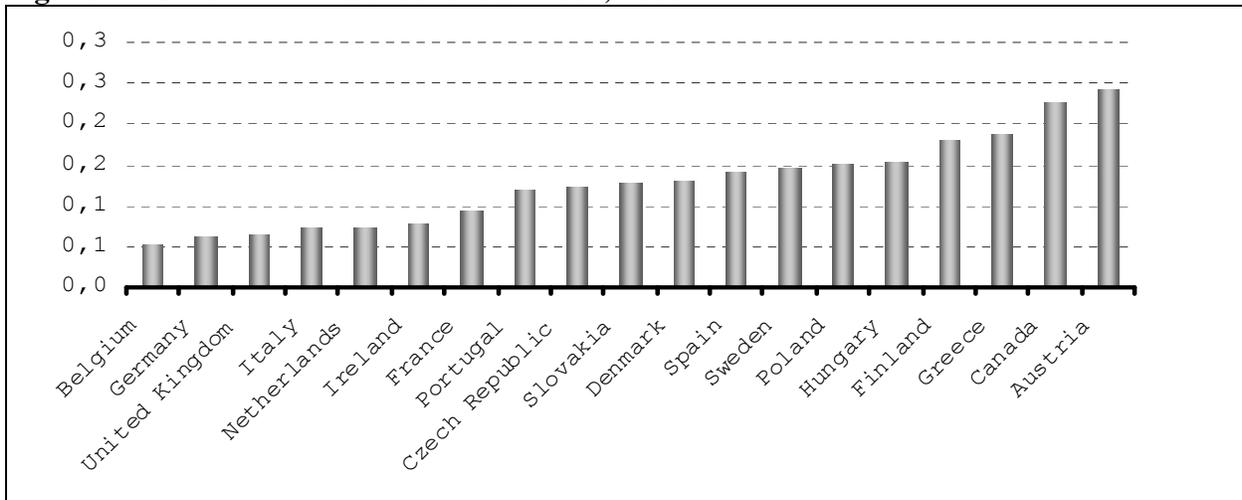
In today's world, international commerce goes beyond cross-border trade in goods and services. Driven by technological change, the deregulation of industries, and liberalisation of trade and investment rules, global foreign direct investment (FDI)<sup>56</sup> outflows have grown exponentially over the last 25 years, reaching US\$1.2 trillion in 2006. This development has been one of the key drivers of globalisation as foreign investment has facilitated links between companies, global value chains and new economic opportunities, thereby enhancing competitiveness and increasing the flow of goods and services between markets.

Investment activities classified as FDI include the establishment of a commercial presence abroad, defined by the World Trade Organisation (WTO) as "Mode 3". Foreign affiliate sales globally rival the volume of cross-border trade in goods and considerably outstrip trade in services. Commercial presence is especially important for services trade, as the delivery of the service often includes direct interaction between the supplier and the purchaser. A foreign commercial presence is also important for the provision of goods in many scenarios, such as vehicles, where after-sales service support is needed.

Global value chains play an increasingly important role in the context of the modern global economy. As such, international commerce very frequently involves extensive intra-firm trade in goods and services within multinational corporations. This is also combined with international sourcing of components and services, and the international movement of business executives and technical experts.

<sup>56</sup> FDI refers to investments made in another country that involve either the initial investment establishing the relationship or subsequent capital transactions between the two countries. As a general rule, to be a direct investor, the foreign investor must acquire at least 10% of the capital of a company in the other country. See Fourth OECD Benchmark Definition of Foreign Direct Investment (2008), [www.oecd.org/dataoecd/26/50/40193734.pdf](http://www.oecd.org/dataoecd/26/50/40193734.pdf).

**Figure 2.2 OECD FDI Restrictiveness Index, 2006**



Note: Index scale of 0-1 from least to most restrictive. Based on regulatory development as of April 2006.  
 Source: OECD FDI Regulatory Restrictiveness Index (2006), [www.oecd.org/dataoecd/4/36/37818075.pdf](http://www.oecd.org/dataoecd/4/36/37818075.pdf).

There are a number of factors that can sometimes act to impede flows of FDI. These range from specific and formal regulatory restrictions limiting foreign investment in particular economic activities to the impact that more general regulatory frameworks can have on the investment environment. In the same manner, there are a number of ways in which the impact of these factors is measured. The Organisation for Economic Cooperation and Development (OECD) has focused on the issue of measuring the impact of foreign investment restrictions.

According to this index, Canada has one of the highest FDI restrictiveness coefficients among OECD countries. The low restrictions recorded for EU Member States largely reflect the absence of formal barriers to intra-EU FDI and, only to a lesser extent, openness *vis-à-vis* non-EU countries. While aggregate figures for the EU27 are not available because the measure of restrictiveness is based on national legislation, a simple average of EU countries is lower than Canada.

The sector breakdown of the OECD FDI regulatory restrictiveness index demonstrates that finance, telecommunications, transport and electricity are generally the most restricted sectors, while tourism, construction, manufacturing and distribution are the least restrictive sectors. Business services are generally ranked around the average restrictiveness for the OECD countries, but within business services, legal services and accounting services are measured as the most restricted sub-sectors. This holds for most EU Member States as well as Canada.

With respect to individual EU Member States, some sectors in some countries remain very restricted according to the OECD index. The OECD has, for example, assigned a value of 1.00 to the legal sector in Denmark and Estonia, meaning these sectors are virtually closed for FDI. The same holds true for the electricity sectors in Greece, Ireland and Latvia, while air transport is “closed” in Portugal.

For Canada, the highest FDI restrictiveness is in air transport, with a score of 0.675 compared to Canada's overall average of 0.228. Telecommunications comes second highest with a score of 0.525.

It is important to understand that the OECD methodology has its limitations. Indeed, it has been recognised by its authors as presenting only a partial picture of the investment environment. It covers only statutory deviations from national treatment, and does not consider actual stringency of enforcement or application. It does not consider non-polity institutional or informal restrictions, such as the nature of corporate governance, and policies that indirectly impinge on FDI, notably economic and social regulations. Furthermore, as it is based on country reporting of information, it tends to be biased against countries that are more transparent than others.

A different analysis, in *Foreign Investment Review Regimes: How Canada Stacks Up*, points out that the OECD index does not take into account barriers to investment posed by state-owned enterprises and semi-private government enterprises, or special government rights.<sup>57</sup> Despite the fact that these conditions can cause significant barriers to investment and are more prevalent in continental Europe than in Canada, their impact is not measured in the OECD index. The study also points out that a number of other investment restrictiveness surveys produce different results. It mentions that the 2006 Economist Intelligence Unit rating places Canada fourth in the world as a place to do business in its annual business environment rankings, which includes investment opportunities as one of its key criteria.<sup>58</sup>

The Canadian Competition Panel criticised the perception that Canada is closed to FDI, stating that this:

“... is not supported by the facts, and the Panel rejects it. Although Canada's global share of foreign direct investment (FDI) has fallen, Canada's total stock of inbound FDI as a proportion of gross domestic product is relatively high among industrialised countries, being more than twice the level in the US and over 12 times the level in Japan. A recent Conference Board of Canada report indicates that, when the actual practices regarding foreign investment are taken into account, the impact of Canadian government intervention is not materially different from that of other industrialised countries.”<sup>59</sup>

While these analyses can present useful contributions to our understanding of foreign investment, it is important to focus on the full picture.

In terms of more general measures of the regulation of relevance for firms, Canada performs just as well as some of the best performing EU members. Measured by the World Bank “ease of doing business” index, Canada ranks seventh worldwide, and in Europe, only Denmark (ranked

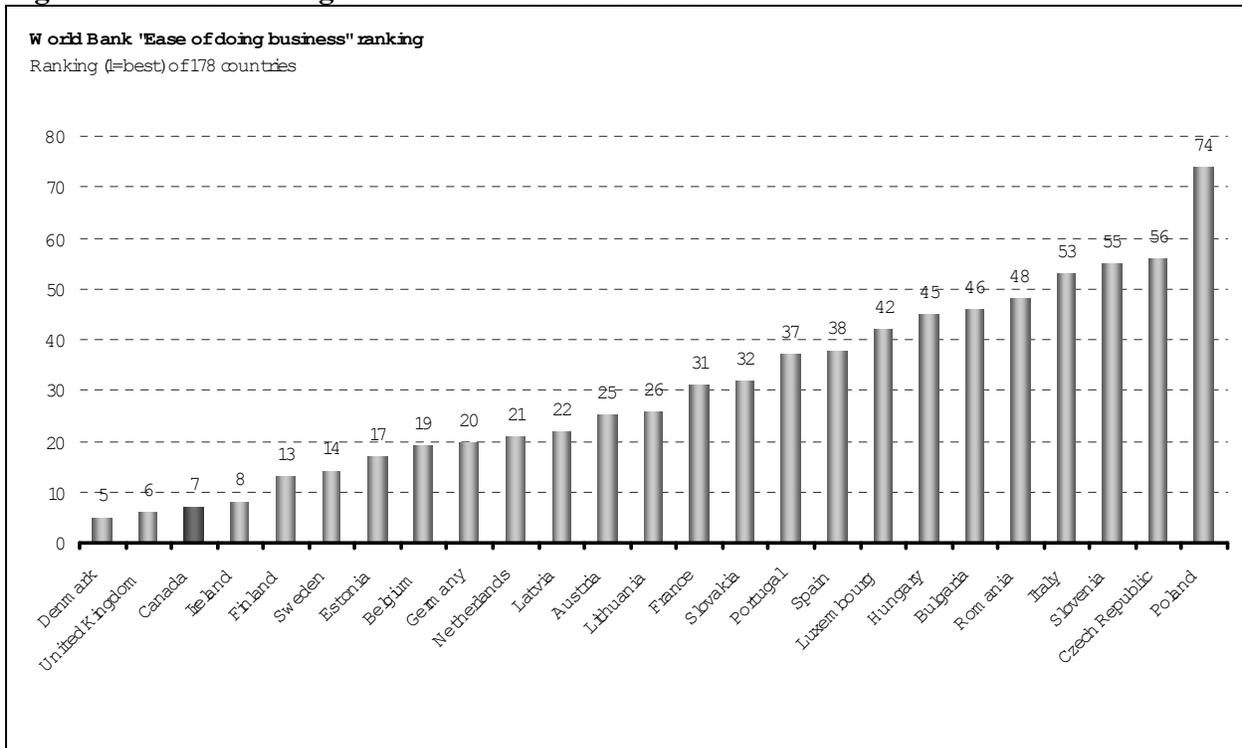
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<sup>57</sup> Andrea Mandel-Campbell, *Foreign Investment Review Regimes: How Canada Stacks Up* (Ottawa: Conference Board of Canada, 2008).

<sup>58</sup> Economist Intelligence Unit, “Outpacing America” [online], 29 October 2007, [www.economist.com/markets/rankings/displaystory.cfm?story\\_id=10050677](http://www.economist.com/markets/rankings/displaystory.cfm?story_id=10050677).

<sup>59</sup> Competition Review Panel, *Compete to Win* (Ottawa: Government of Canada, 2008), p.30. The report is available at [www.ic.gc.ca/epic/site/cprp-gepmc.nsf/en/Home](http://www.ic.gc.ca/epic/site/cprp-gepmc.nsf/en/Home).

**Figure 2.3 Ease of doing business in EU and Canada**



Note: The diagram shows the ranking from best (number 1) to worst (number 178). Singapore tops the list, and is ranked as the best country in terms of “ease of doing business.”

Source: World Bank, Ease of Doing Business Index, 2007.

fifth) and United Kingdom (ranked sixth) perform better than Canada.<sup>60</sup> The World Bank list is topped by Singapore followed by New Zealand, United States and Hong Kong (see Figure 2.3).

Investing in the Canadian market offers EU investors access to the North American (NAFTA) market with some 447 million consumers, simple and straightforward procedures and an attractive business climate. The EU market offers Canadian investors an enlarged market with some 493 million consumers and zones with different production costs and investment climates. Although transatlantic investment is strong, there remain many factors affecting the bilateral relationship, from regulatory requirements and infrastructure costs to divergent business attitudes and language issues.

EU firms investing in Canada can face problems in obtaining visas and work and residency permits, especially for intra-company transfers and temporary entry of service providers. EU investors in Canada have noted that measures affecting foreign investment exist in some sectors, such as telecommunications, banking, energy and culture, which can include ownership regulations and citizenship or residency requirements for managers. For example, Canadian legislation governing the telecommunications sector mandates that facilities-based telecommunications suppliers must be controlled in fact by Canadians, 80% of the members of the board of directors must be Canadian and that Canadians must own, directly or indirectly, 53.3% of

<sup>60</sup> The overall “ease of doing business” ranking is a result of the countries rankings on ten sub-indices, including the ease of starting a business, dealing with contracts and getting credit. See [www.doingbusiness.org/economyrankings/](http://www.doingbusiness.org/economyrankings/).

the companies' voting shares. These restrictions affect the entry of EU telecommunications operators that are wary of investing in Canada. Complexities due to federal and provincial/territorial regulations in certain sectors (e.g. pharmaceuticals, energy, culture and transportation) can also affect EU investment in Canada.

Investment is a shared competence between the EU and the Member States. The division of this competence varies from sector to sector based on whether the EU has issued regulations. The policies of individual Member States can have a more significant impact on Canadian firms than EU-level policies.

Canadian companies continue to face obstacles to investing in the EU. These can include variances in taxes and social contributions between Member States, as well as in bilateral tax treaties between the individual Member States and Canada. Strict social laws, especially relating to hiring and firing of workers, can serve as barriers to the expansion and re-organisation of companies. Canadian investors can also face problems in obtaining visas and work and residency permits, as well as difficulties in moving a workforce from one Member State to another. Import controls and a lack of regulatory transparency in certain sectors (e.g. telecommunications or pharmaceuticals) can also affect Canadian investment in the EU.

Quantification of the impact of liberalisation of FDI is still at an early stage of development. At present there are insuperable difficulties in quantifying the height of barriers to FDI embodied in national economic regulatory frameworks and in determining the extent to which such barriers can be reduced through further liberalisation. Accordingly, an explicit quantification of the impact of investment liberalisation is not attempted in the present study. However, as noted by the private sector in Part 4 of this study, there appears to be considerable room for liberalisation of FDI in an EU-Canada context.

## 2.3 Evaluation of the Impact of Removing Barriers

### 2.3.1 The Modelling Framework

*The quantitative analysis of EU-Canada trade and investment liberalisation is conducted using a computable general equilibrium (CGE) model of global world trade. CGE models help answer what-if questions by simulating equilibriums on markets under different assumptions. The equilibrium for the model before the policy change is the “baseline”; the equilibrium after the policy change is the “scenario”. The effect of the policy change can then be quantified as the difference between the two.*

*It is important to understand that both the baseline and the scenario represent snapshots of the economy in the same year – as it would be in the baseline data if no policy change was implemented and as it would be if the proposed policy change was implemented in 2007 and given sufficient time to fully digest all long-run adjustments. In the present study we assume that a period of seven years, i.e. from 2007 to 2014, is sufficiently long. This approach ensures that all other factors impacting on the economy, such as macroeconomic fluctuations, exchange rate shifts and technological developments, are the same for both the baseline and the scenario, thus isolating the effects of the policy change.*

#### **Technical Background on the Modelling Framework**

The CGE model employed is a multi-region, multi-sector, global CGE model developed by Copenhagen Economics, based on Francois, van Meijl and van Tongeren (2005).<sup>61</sup> The modelling framework is similar to the model used in a recent study of the potential of a free trade agreement between the EU and South Korea.<sup>62</sup>

Sectors are linked through intermediate input coefficients (based on national social accounts data) and compete for factor inputs (i.e. labour and capital) in factor markets. The model provides a number of options as regards assumptions about the behaviour of markets. Individual sectors can be modelled as operating under conditions of perfect or imperfect competition. The total supply of factor inputs also can be kept constant (this is often characterised as reflecting the impacts of a policy change in the short run) or allowed to respond to changes in the returns to factors (i.e. to changes in wage rates<sup>63</sup> and/or the rate of return to capital<sup>64</sup>) and/or to changes in income. In particular, a change in the level of income can be allowed to flow through into commensurate changes in savings and investment, therefore changing the supply of capital to the economy; this is often characterised as reflecting the impacts of a policy change in the longer run.

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<sup>61</sup> J. Francois, H. van Meijl and F. van Tongeren, “The Doha Round and Developing Countries,” *Economic Policy*, 2005.

<sup>62</sup> Copenhagen Economics and Joe Francois, *Economic Impact of a Potential Free Trade Agreement (FTA) between the European Union and South Korea*, March 2007.

<sup>63</sup> This is referred to as “labour market closure” in the technical literature.

<sup>64</sup> This is referred to as “steady state closure” in the technical literature.

The difference between the “short-run” or “static” impacts from the “long-run” impacts is often referred to as reflecting “dynamic” effects. The short-run effects reflect the pure efficiency gains from the policy change being modelled. In other words, they provide an answer to the question of how much an economy stands to gain from a more efficient allocation of productive labour and capital in a liberalised economic environment. However, some of the income gains from trade liberalisation are likely to flow into savings and investment, expanding productive capacity. Moreover, trade and investment liberalisation not only prompts a reorganisation of the allocation of labour and capital, it also changes the returns to labour (i.e. wages) and capital. These changes in the returns to labour and capital can be expected to affect their supply and, therefore, the productive capacity of the economy. In CGE model simulations, the dynamic gains tend to be large compared to the static gains.

International trade can be modelled on two alternative bases: first, the conventional Armington assumption – i.e., that products are differentiated by country/region of origin and are thus imperfect substitutes with the degree of substitutability described by the elasticity<sup>65</sup> of substitution (also known as the “Armington parameter”) – and second, under conditions of monopolistic competition. In markets with monopolistic competition, firms compete directly through product differentiation. Intermediate and final consumers benefit not only from lower prices after trade liberalisation, but also from increased product variety. For downstream firms this can mean enhanced productivity as they have access to a better mix of intermediate inputs. For consumers, it also means a potential for greater real purchasing power. Variety effects can also lead to synergies, with increased productivity for both parties following from increased trade.

The way international trade is incorporated in the model also explicitly involves trading costs. These costs reflect the transaction costs involved in international trade, which in turn reflect factors such as language barriers, as well as the costs related to international movement of goods and related logistic services.<sup>66</sup> In the model, these costs can be reflected in two alternative ways: as composite services purchased from a global trade services sector or as deadweight costs.

The model also allows the representation of other frictions to trade such as costs related to customs procedures and other administrative “burdens” related to importing and exporting. This can be used to capture higher costs when producing for export markets, due to regulatory barriers or non-tariff barriers (NTBs) that do not generate rents (or where the rents are dissipated through rent-seeking). Such barriers increase the costs of international exchanges above those caused by tariffs. In a sense, these costs are analogous to shipping costs. They require the use of real resources to meet regulatory requirements, complete procedures, modify products for different markets and the like. Unlike shipping costs, they are not a necessary part of the production and delivery process, but rather are an added or discretionary burden of costs added by government.

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<sup>65</sup> Elasticities measure the responsiveness of a given economic variable, such as import demand, to a change in another economic variable, such as the price of imports. Demand for goods and services that are necessities or that lack good substitutes tends to be inelastic – meaning little change in the quantity demanded for even significant changes in price; conversely, demand for goods and services that are optional or for which there are good substitutes tends to be highly elastic, meaning that small price changes lead to large changes in quantities demanded.

<sup>66</sup> These costs are the source of the difference between the value of goods measured just prior to shipment from the country of export (“free on board” or fob) and their value measured when entering the importing country (“cost, insurance and freight” or cif). This difference is referred to as the cif/fob margin.

Therefore, on the policy side, the model offers the option to implement tariff reductions, export tax and subsidy reduction, trade quota expansion, input subsidies, output subsidies, and reductions in trade costs stemming from various sources.

The economics of the welfare effects of tariffs are relatively straightforward, while those for NTBs are less so. In general, the reduction of cost-raising trade barriers results in greater gains from trade liberalisation compared to tariff reductions that have comparable impacts on the price of traded goods. This reflects the fact that tariffs represent a transfer of income. Accordingly, they contribute to national income in the country or region collecting the tariffs and, therefore, expand economic welfare commensurately with the reduction in economic welfare in the country/region paying the tariffs. As such, the efficiency gains from tariff liberalisation stem from the reallocation of productive resources across sectors.

By contrast, a reduction of trade costs results in equivalent efficiency gains, in addition to any gains in efficiency from the reallocation of productive resources. At the same time, the distribution of welfare impacts across countries or regions from reducing trade costs depends, as in the case of terms of trade effects, on relative supply and demand elasticities. Nevertheless, regardless of their national allocation, global welfare effects will be bigger from trade cost reductions than from comparable tariff reductions.

In this study, we report the results from simulations that adopt a short-run (fixed capital stock) closure and a long-run macroeconomic closure under which the induced increases in the capital stock expand productive capacity.

## **Dataset**

The database for the model is based on the Global Trade Analysis Project (GTAP) dataset, version 7p5, which is benchmarked to 2004. This data set is projected to 2007, and 2014. This follows from a combination of updated GTAP7p5 data, revisions to various national tables to reflect more current data (for example the energy sector output data in Canada), and revisions to protection data based on detailed tariff line data from the World Trade Organisation (WTO) and United Nations Conference on Trade and Development (UNCTAD), and including estimates of current bound rates, commitments to future bound rates based on the current draft Doha text (subject to occasional revision), and also reflecting Centre d'études prospectives et d'informations internationales (CEPII) data on trade preferences.

The projection of the baseline to 2014 means that we evaluate the likely effects of further EU-Canada liberalisation, relative to a hypothetical future baseline year, reflecting the economic structures in year 2014. The baseline projection to 2014 reflects the recent changes in higher oil and food prices – changes that are driven to a large extent by the projected increase in demand as emerging economies, dominated by India and China, enter the world economy. According to these projections, real oil prices will increase by 82% from 2004 to 2014 and real grain prices will increase by 68%.

**Table 2.7 Baseline GDP and Growth Projections**

	Nominal GDP 2004, billion €	Nominal GDP 2007, billion €	Projected annual growth 2007-2014, average %
Canada	716	1,028	2.68
European Union	9,424	12,150	2.55
Rest of World	19,914	25,871	4.45

Note: Projections are based on average of most-recent and near term forecasts.

Source: IMF and the OECD

Furthermore, for the chosen sectors, some are assumed to exhibit increasing returns to scale. Scale elasticities, based on average mark-up estimates, are reported in Table 2.8.<sup>67</sup>

### 2.3.2 The Simulation Results

#### Box 2.2 Policy Scenario Used in the Simulation

The quantitative estimates are based on a simulation that involves:

- (a) full elimination of goods trade protection as captured in the GTAP database, updated as described above, for all industrial and agricultural sectors (including elimination of all tariffs and tariff-rate quotas); notably, no exception is made for “sensitive sectors”, notwithstanding that trade and investment liberalisation initiatives often contain provisions that exempt certain such sectors from liberalisation or circumscribe the applicable extent of liberalisation;
- (b) a reduction of trade costs generated by non-tariff measures by an amount equivalent to 2% of the value of trade in non-commodity goods sectors;<sup>68</sup> and
- (c) a reduction of trade costs in EU-Canada cross-border services trade by an amount equivalent to that estimated to have been achieved in respect of services trade amongst EU Member States, which is assumed for the purposes here to represent a realistic ceiling on what is achievable in a transatlantic context.<sup>69</sup>

<sup>67</sup> The starting point for these elasticities is estimated price-cost mark-ups from the OECD (1996); see Oliveira Joaquim Martins, Stephano Scarpetta and Dirk Pilat, “Mark-up Pricing, Market Structure and the Business Cycle”, OECD Economic Studies No. 27, 1996. These provide estimates of mark-ups, based on methods pioneered by Hall (1988) and Roeger (1995); see Robert E. Hall, “The Relation between Price and Marginal Cost in U.S. Industry,” *Journal of Political Economy*, vol. 96(5), October 1988, pp. 921-47; and Werner Roeger, “Can Imperfect Competition Explain the Difference between Primal and Dual Productivity Measures? Estimates for U.S. Manufacturing,” *Journal of Political Economy*, vol. 103, no. 2, 1995, pp. 316-330. We have supplemented these with price-cost mark-ups estimates, given our theoretical structure, from the set of GTAP Armington elasticities, and also from estimates reported in Antweiler and Trefler (2002); see Werner Antweiler and Daniel Trefler, “Increasing Returns and All That: A View from Trade,” *American Economic Review*, vol. 92(1), March 2002, pp. 93-119.

<sup>68</sup> See discussion in Section 2.2.2.

<sup>69</sup> See discussion in Section 2.2.3.

**Table 2.8 Market Structure, and Trade and Substitution Elasticities**

Sector	Trade substitution elasticity	Value Added Substitution Elasticity	Market Structure
Agriculture	4.97	0.23	Armington
Fishing	2.50	0.20	Armington
Coal	6.10	0.20	Armington
Oil	10.40	0.20	Armington
Gas	34.40	0.20	Armington
Minerals nec*	1.80	0.20	Armington
Processed foods	8.83	1.04	Monopolistic Competition**
Beverages & tobacco products	10.91	1.12	Monopolistic Competition
Textiles	7.50	1.26	Monopolistic Competition
Wearing apparel	7.40	1.26	Monopolistic Competition
Leather products	8.10	1.26	Monopolistic Competition
Wood products	6.80	1.26	Monopolistic Competition
Paper products, publishing	5.90	1.26	Monopolistic Competition
Petroleum, coal products	4.20	1.26	Monopolistic Competition
Chemical, rubber, plastic products	6.60	1.26	Monopolistic Competition
Mineral products nec	6.85	1.26	Monopolistic Competition
Ferrous metals	6.85	1.26	Monopolistic Competition
Metals nec	8.40	1.26	Monopolistic Competition
Metal products	7.50	1.26	Monopolistic Competition
Motor vehicles & parts	9.85	1.26	Monopolistic Competition
Transport equipment nec	9.85	1.26	Monopolistic Competition
Electronic equipment	9.85	1.26	Monopolistic Competition
Machinery & equipment nec	8.10	1.26	Monopolistic Competition
Manufactures nec	9.33	1.26	Monopolistic Competition
Utilities	3.91	1.26	Armington
Construction	7.20	1.40	Monopolistic Competition
Trade	7.20	1.68	Monopolistic Competition
Transportation	3.39	1.68	Armington
Communication	7.20	1.26	Monopolistic Competition
Business services	3.86	1.26	Monopolistic Competition
Other services	4.22	1.26	Armington

\* Not elsewhere classified \*\* i.e. a limited degree of competition

Source: GTAP database

The simulation results quantify the potential economic impacts of liberalisation and facilitation of trade and investment between the EU and Canada, including the impacts on trade flows by sector, on the overall level of economic output and on economic welfare.

## **Impacts on the Level of Economic Activity and Economic Welfare**

The level of economic activity, as measured by the volume of gross domestic product (GDP), in both economies, compared to the baseline scenario without liberalisation, rises by a comparable amount in absolute terms, consistent with the measured gains in national incomes. This simulation estimates this increase to be approximately €11.6 billion annually by 2014 in the EU and €8.2 billion annually by 2014 in Canada. In percentage terms, the increase is substantially greater for Canada (0.77% of GDP) than for the EU (0.08% of GDP) (see Table 2.9). These measured GDP gains are broadly consistent with the empirical evidence concerning the effect of expanded trade on economic growth.<sup>70</sup>

**Table 2.9 GDP Gains and Percentage Changes in GDP**

	Total	Tariff reductions	Services trade liberalisation	NTBs in goods
GDP gains (€ million)				
European Union	11,594	2,899	5,797	2,899
Canada	8,161	2,720	3,709	1,731
% changes				
European Union	0.08	0.03	0.04	0.02
Canada	0.77	0.27	0.35	0.15

Liberalisation of trade in services contributes substantially to these gains (50% of the total gains for the EU, and 45.5% of the gains for Canada); more limited but still significant gains derive from the elimination of tariffs on bilaterally-traded goods (25% of the total for the EU and 33.3% for Canada). The remaining gains are due to a reduction in the trade costs of non-tariff barriers.

Another commonly used measure of the economic impact of trade and investment policy changes is known as “equivalent variation”. This is the lump-sum amount of income that would have to be paid to households in a given economy to leave them as well off *without* the policy change as they would be *with* it. In the case of EU-Canada trade and investment liberalisation and facilitation the income gain for households calculated in this manner is equal to €8.4 billion for Canada, and €10.5 billion for the EU. The income benefits to both economies are roughly equivalent in absolute terms, although on a per capita basis they are obviously of far greater significance to the average Canadian household.

As shown in the Table 2.10 below, the largest contribution to these income gains for both the EU and Canada comes from services trade liberalisation, although tariff elimination and reduction of non-tariff barriers to goods trade also make sizeable contributions.

<sup>70</sup> Empirical analysis of the relationship between expanded trade and economic activity suggests that annual GDP gains amount to about 20% of the measured increase in openness to trade as proxied by the sum of exports and imports divided by GDP. These GDP gains reflect the adoption of improved production methods in response to competitive pressures, the exit of less efficient firms, scale and network economics, reduced mark-up margins, more intensive use of imported inputs, and greater variety in the menu of available goods and services, and so forth. See, for example, Dean DeRosa and John Gilbert, “Estimates from Gravity and CGE Models,” Chapter 8 in Gary Clyde Hufbauer and Richard E. Baldwin, *The Shape of a Swiss-U.S. Free Trade Agreement* (Washington, D.C.: Petersen Institute, 2006), p. 238.

**Table 2.10 National Income Effects (Equivalent Variation in Millions of Euros)**

	Total	Tariff reductions	Services trade liberalisation	NTBs in goods
European Union	10,539	3,433	4,889	2,218
Canada	8,364	2,861	3,801	1,702

The national income effects can also be broken down into static efficiency gains and dynamic gains due to induced increases in productive capacity. As shown in the panel below, the larger part of the income gains from EU-Canada trade and investment liberalisation and facilitation are driven by the increase in productive resources,<sup>71</sup> or the dynamic effects.

**Table 2.11 National Income Effects – Short- and Long-run (Equivalent Variation in Millions of Euros)**

	short-run (static gains)	long-run (dynamic gains) (by 2014)
European Union	2,527	10,539
Canada	4,100	8,364

The dominant role of dynamic effects is broadly consistent with the current understanding of how businesses organise themselves in a globalised economy. As noted earlier, in recent decades, the business model of choice has become increasingly based on the global value chain. This concept involves decentralised production: the various functions of a business are distributed globally to the locations where they are most efficiently carried out, with coordination from head office facilitated by the tremendous gains in efficiency of communications and transportation services. Amongst other considerations, the availability of a wide range of production inputs – both goods and services – at attractive prices improves the prospects of any particular location to attract investment. The improved access to lower-cost production inputs fostered by EU-Canada trade and investment liberalisation and facilitation, thus, makes *both* jurisdictions more competitive in the global contest for limited amounts of direct investment, a contest in which rising economic powers such as China and India are increasingly successful. The dynamic effects of trade and investment policy would be expected to be the most important and this is, in fact, what the simulation results suggest.

It is important to observe that the impacts reported above are measured as the increases in incomes accruing over the course of a single year; this is consistent with the use of annual data to generate the estimates. These gains, however, come largely from people and firms in both the EU and Canada “working smarter” because the international distribution of work between the two economies has been reorganised to better align with their respective capabilities. Therefore, this benefit is persistent and the gains accumulate, expanding consumption, wealth, fiscal resources and so on, year after year.

<sup>71</sup> In the simulation, the supply of labour remains fixed; the supply of capital is however allowed to adjust to the higher rates of return implied by trade and investment liberalisation and facilitation. The main source of dynamic gains, however, is the flow of higher incomes into savings and investment.

## **Trade Impacts**

In the context of EU-Canada trade and investment liberalisation, the simulation results suggest that two-way bilateral trade (as measured by exports of goods and services) could potentially expand by €25.7 billion compared to a baseline level of €112.0 billion, or by over 22.9%. Of this amount, €18.6 billion would be accounted for by an expansion of two-way goods trade and €7.0 billion by two-way cross-border services trade.

Reflecting the overall higher level of tariff protection in Canada for goods, and the higher initial level of EU exports to Canada, the EU's bilateral goods export gain is substantially larger, at €12.2 billion (or 36.6%) compared to Canada's bilateral goods export gain of €6.3 billion (or 24.3%).

In services trade, EU bilateral cross-border exports expand by €4.8 billion (or 13.1%) and Canada's by €2.2 billion (or 14.2%). The larger EU trade gain in absolute terms reflects the larger initial level of EU services exports to Canada, as the extent of reduction of services trade costs in both jurisdictions is, given the methodology, the same in the simulation (which is reflected in the similarity of the percentage trade gains for the EU and Canada).

From the perspective of global trade performance, the impact of EU-Canada trade and investment liberalisation and facilitation is of greater significance to Canada's economy, which is natural given the greater size of the EU's economy compared to Canada's. Nevertheless, both economies would see their two-way trade with the world expand, increasing their "openness". By the same token, Canada stands to gain significantly in terms of increased incomes, efficiency and economic dynamism, notwithstanding the projected widening of the bilateral trade deficit with the EU. The EU would experience similar gains, but on a smaller scale, given the much larger size of its economy.

## ***Sectoral Trade Impacts***

The potential sectoral impacts of EU-Canada trade liberalisation and facilitation are considered next. A few cautionary notes are in order in this regard.

First, CGE models have the crucial capability to capture inter-sectoral supply chain linkages (such as the supply of business services to the automotive sector) through the input-output frameworks embedded in the model dataset, as well as the inter-sectoral reallocation of labour and capital in line with comparative advantage (often referred to as "general equilibrium" effects). At the same time, as noted above, much of the action in response to trade and investment policy change happens at the firm level, which puts CGE models at a disadvantage since they reflect firm-level effects (including behaviour conditioned by industrial structure) at only a very abstract level.

In a similar vein, CGE models cannot anticipate the future reshaping of the international industrial landscape due to macroeconomic trends, exchange rate shifts, technological change and the evolution of individual countries' comparative advantage in response to the countless policy changes affecting investment, education and economic policy frameworks that are constantly being made worldwide. The impact of a program of trade and investment liberalisation and investment on the EU and Canadian economies thus cannot take into account how well any specific industry in either jurisdiction will adapt a decade or two hence – the time frame over which a timely program of EU-

Canada trade liberalisation and facilitation would take place – to the world that has been re-shaped by the impact of a vast number of developments as yet unforeseen. As such, caution should thus be used when interpreting the sectoral results of CGE model simulations in a forward-looking sense.

The sectoral trade impacts in the simulation are shaped by the initial level of protection with which domestic industries are sheltered or face in the partner jurisdiction, the extent to which trade costs due to non-tariff measures are lowered, and the extent to which a particular industry benefits from lower input prices due to liberalisation in other sectors.

Bearing in mind the general caveats outlined above, the sectoral impacts that emerge from the simulation conform in broad outline to *a priori* expectations. Considering first only industrial and services sectors, while the industrial trade gains are larger than services gains for both the EU and Canada, the EU gains are proportionately greater in its area of major comparative advantage, services and Canada’s proportionately greater in its area, industrial goods.

**Table 2.12 Export Gains for the EU and Canada, Industrial Goods and Services (in Millions of Euros)**

	Canadian Exports to EU27			EU27 Exports to Canada		
	Base values	% changes	Value changes	Base values	% changes	Value changes
Total industrial goods and services	38,879	16.5%	6,427	68,165	16.8%	11,474
Industrial goods	23,426	18.1%	4,233	31,390	21.2%	6,644
Services	15,453	14.2%	2,194	36,775	13.1%	4,829
Shares of total industrial goods and services						
Industrial goods	60.3%		65.8%	46.1%		57.9%
Services	39.7%		34.1%	54.0%		42.1%

Table 2.13 details the individual bilateral sectoral trade impacts from EU-Canada trade and investment liberalisation and facilitation. Overall, for the EU the leading sectors in terms of the increase in value of exports are processed foods, chemicals, machinery and equipment, and transportation services. Strong gains are also made in value terms in business services, motor vehicles and parts, domestic trade, insurance and consumer services. For Canada, the leading sectors are processed foods, primary agriculture, metals, transportation services, transport equipment and machinery and equipment. Chemical products, business services, motor vehicles and parts and electronic equipment are other sectors that make solid bilateral export gains. It is noteworthy that a number of sectors are among the leaders in terms of bilateral trade gains for both the EU and Canada.

Decomposing the sectoral trade impacts according to trade policy instruments (tariff reductions, services trade liberalisation and reduction of goods sector NTBs) reveals that for services, the main source of trade impacts is from services sector liberalisation. However, for a number of goods sectors, important contributions to trade gains also come from services sector liberalisation and from reduction of non-tariff barriers in addition to the impacts from tariff elimination (including importantly the automotive<sup>72</sup> and several metals sectors).

<sup>72</sup> The predicted impact on Canadian motor vehicle and parts exports may be overstated, as it does not fully account for the highly-integrated nature of the North American automotive industry, nor the high degree of intra-firm services trade. While the simulation attempts to address the potential barrier to Canadian preferential market access created by the high value content rules of origin generally adopted by the EU (e.g. under the Chile-European Community

**Table 2.13 Change in Bilateral Exports (value) – 2014 Baseline (in Millions of 2007 Euros)**

	Canadian Exports to EU27			EU27 Exports to Canada		
	Base values	% changes	Value changes	Base values	% changes	Value changes
Primary agriculture	1,892	41.8	791	365	6.3	23
Processed foods	963	141.7	1,365	1,708	326.2	5,571
Forestry	60	3.7	2	4	1.5	0
Fishing	146	16.1	23	68	-9.2	-6
Coal	809	-0.1	-1	13	1.0	0
Oil	27	-0.8	0	1,861	1.4	26
Gas	2,897	-0.3	-8	0	0.9	0
Minerals	3,670	-2.1	-77	135	6.8	9
Beverages & tobacco	66	17.8	12	1,095	14.7	161
Textiles	156	73.6	115	532	70.2	373
Wearing apparel	158	60.0	95	430	62.5	269
Leather products	16	33.3	5	464	32.8	152
Wood products	433	16.7	72	764	30.7	235
Paper products, publishing	1,655	9.8	161	889	8.9	79
Petroleum, coal products	1,005	60.2	605	487	73.8	359
Chemical products	1,610	34.5	555	6,923	28.1	1,948
Mineral products	119	19.7	23	625	22.2	138
Ferrous metals	242	18.1	44	914	15.3	140
Metals	2,935	29.3	861	288	19.4	56
Metal products	228	26.7	61	856	31.6	271
Motor vehicles & parts	885	28.8	255	3,453	18.3	631
Transport equipment	2,563	23.1	592	2,332	7.9	183
Electronic equipment	931	22.9	213	631	15.5	98
Machinery & equipment	2,558	22.7	580	7,798	16.9	1,319
Other manufactures	256	16.9	43	830	24.4	203
Total goods	26,281	24.3	6,389	33,463	36.6	12,239
Utilities	337	19.8	67	313	17.3	54
Construction	66	45.7	30	257	42.9	110
Domestic trade	1,047	19.9	208	3,170	21.0	665
Transportation	3,487	23.6	823	5,591	20.1	1,122
Comm. & info. Services	1,135	10.3	117	1,523	9.6	146
Financial services	666	14.9	99	2,886	15.1	437
Insurance	1,167	18.1	211	3,397	18.6	632
Other business services	5,350	5.8	311	14,263	6.3	903
Consumer services	1,214	17.2	209	4,008	14.2	569
Public services	985	12.1	119	1,368	14.0	192
Total services	15,453	14.2	2,194	36,775	13.1	4,829
<b>TOTAL EXPORTS</b>	<b>41,735</b>	<b>20.6</b>	<b>8,583</b>	<b>70,238</b>	<b>24.3</b>	<b>17,068</b>

agreement, the value of non-originating materials cannot exceed 40% of the export price), this may not sufficiently factor in the highly integrated nature of the North American automotive industry, in particular for motor vehicles. In addition, the model predicts that half of gains in the Canadian auto sector would come from transatlantic services trade liberalisation. However, services purchased by Canadian vehicle assemblers are primarily intra-firm, and EU-Canada services liberalisation might not affect intra-firm transactions between foreign parent companies (e.g. United States, Japan) and their Canadian subsidiaries.

### ***Sectoral Output Impacts***

The tables below provide the detailed impacts of EU-Canada trade liberalisation and facilitation on EU and Canadian sectoral output (Tables 2.14 and 2.15, respectively), with the impacts decomposed by trade policy instruments (tariff reductions, services trade liberalisation and reduction of goods sector NTBs).

Several observations may be made on these figures. First, in percentage terms the impacts on Canadian sectors are consistently larger than on EU sectors, a simple reflection of the relative sizes of the two economies.

Second, the Canadian sectors experiencing the largest output gains in percentage terms are industrial sectors, such as metals, transport equipment, and electronic equipment. Several Canadian service sectors, including business services and communications and information services, experience small percentage output increases. The EU industrial sectors with the largest output gains in percentage terms are processed foods, leather and apparel products, beverages and tobacco products, and chemical products. The EU services sectors all expand with the insurance services taking the lead. This is consistent with the strong global performance of EU services sectors.

For goods sectors, tariff elimination accounts for a significant portion of sectoral output changes but those goods sectors that draw heavily on services as inputs are also affected significantly by service sector liberalisation, which reduces their input costs. In services, however, own-sector liberalisation (i.e. liberalisation within the sector itself) is consistently the most important factor driving output change. That being said, for many Canadian service sectors, the negative impacts of own-sector liberalisation are mitigated by liberalisation in goods sectors.

It should be noted that the ultimate impact on sectoral output cannot be simply inferred from the change in bilateral trade in that sector. The effects of the trade policy changes on the cost competitiveness of the sector can strengthen it in global terms (e.g. in competing with third country imports in the domestic market as well as in exports to third country markets).

Finally, both positive and negative impact figures must be understood as being gradually realised due to phase-in of the relevant policy changes. Moreover, these changes come on top of other trends and developments affecting the particular sectors. Sectors that are expanding for other reasons may, therefore, expand somewhat faster or somewhat slower because of the policy change, while declining sectors may experience a slowdown or acceleration in the rate of decline.

**Table 2.14 Percentage Change (%) in EU Output (Quantity Index) – 2014 Baseline – Long-run Impacts\***

	Tariff reductions	Services trade liberalisation	NTBs in goods	Total change
Primary agriculture	0.0	0.0	0.0	0.0
Processed foods	0.0	0.5	0.0	0.6
Forestry	0.0	0.0	0.0	0.0
Fishing	0.0	0.0	0.0	0.0
Coal	0.0	0.0	0.0	0.0
Oil	0.0	0.0	0.0	0.0
Gas	0.0	0.0	0.0	0.0
Minerals	0.0	0.0	0.0	0.0
Beverages & tobacco	0.0	0.1	0.0	0.1
Textiles	0.0	0.1	-0.1	0.1
Wearing apparel	0.0	0.1	0.0	0.1
Leather products	0.1	0.2	0.0	0.3
Wood products	0.0	0.0	0.0	0.1
Paper products, publishing	0.0	0.0	0.0	0.0
Petroleum, coal products	0.0	0.0	0.0	0.1
Chemical products	0.1	0.0	0.0	0.1
Mineral products	0.0	0.0	0.0	0.1
Ferrous metals	0.0	-0.1	0.0	-0.1
Metals	-0.4	-0.2	-0.1	-0.7
Metal products	0.0	0.0	0.0	0.0
Motor vehicles & parts	0.0	0.0	0.0	0.0
Transport equipment	-0.1	-0.3	-0.1	-0.4
Electronic equipment	0.0	-0.2	0.0	-0.2
Machinery & equipment	0.0	-0.1	0.0	-0.1
Other manufactures	0.0	0.0	0.0	0.0
Utilities	0.0	0.0	0.0	0.0
Construction	0.0	0.0	0.0	0.1
Domestic trade	0.0	0.0	0.0	0.1
Transportation	0.0	0.0	0.0	0.1
Comm. & info. services	0.0	0.0	0.0	0.0
Financial services	0.0	0.0	0.1	0.1
Insurance	0.0	0.0	0.1	0.1
Other business services	0.0	0.0	0.0	0.1
Consumer services	0.0	0.0	0.0	0.1
Public services	0.0	0.0	0.0	0.1

\* Rounding off of figures may result in a slight discrepancy in the total.

**Table 2.15 Percentage Change (%) in Canadian Output (Quantity Index) – 2014 Baseline – Long-run Impacts**

	Tariff reductions	Services trade liberalisation	NTBs in goods	Total change
Primary agriculture	0.2	0.0	0.0	0.2
Processed foods	-6.0	0.0	-0.1	-6.0
Forestry	-0.1	0.0	-0.2	-0.2
Fishing	-0.2	0.0	0.0	-0.2
Coal	0.0	0.0	0.0	0.0
Oil	0.0	0.0	0.0	0.0
Gas	0.0	0.0	0.0	0.0
Minerals	0.4	0.3	0.6	1.3
Beverages & tobacco	-0.5	0.2	-0.5	-0.8
Textiles	1.4	0.1	0.0	1.5
Wearing apparel	2.8	-0.1	0.5	3.1
Leather products	-2.8	0.2	-2.2	-4.9
Wood products	-0.1	0.0	-0.4	-0.5
Paper products, publishing	-0.2	0.3	0.1	0.2
Petroleum, coal products	0.4	0.2	0.2	0.8
Chemical products	0.4	1.2	-1.0	0.6
Mineral products	-0.1	0.4	-0.4	-0.1
Ferrous metals	1.4	1.4	-1.0	1.8
Metals	3.2	1.7	6.1	11.0
Metal products	0.4	0.7	-0.4	0.7
Motor vehicles & parts	2.8	2.7	-0.3	5.2
Transport equipment	3.0	0.9	3.5	7.3
Electronic equipment	1.0	0.8	3.8	5.6
Machinery & equipment	1.2	0.5	0.1	1.8
Other manufactures	-0.1	0.3	-0.3	-0.2
Utilities	0.3	0.3	0.4	1.0
Construction	0.2	0.3	0.2	0.7
Domestic trade	0.2	0.1	0.1	0.3
Transportation	0.0	-0.4	0.0	-0.4
Comm. & info services	0.1	0.0	0.0	0.1
Financial services	0.1	-0.3	0.0	-0.2
Insurance	0.2	-1.5	-0.1	-1.4
Other business services	0.2	-0.1	0.0	0.1
Consumer services	0.2	-0.6	0.0	-0.4
Public services	0.1	0.2	0.1	0.4

## **2.4 Additional Factors Affecting EU-Canada Trade and Investment**

*To complement the analysis in sections 2.1, 2.2 and 2.3, the study looks at a handful of areas that are less quantifiable in an attempt to capture in more detail some of the additional factors that affect the EU-Canada relationship. In particular, the study focuses on labour mobility, government procurement, electronic commerce, intellectual property rights and telecommunications services. The analysis suggest that expanded opportunities for both EU and Canadian companies could result from enhanced collaboration in some such areas, in addition to the removal of existing barriers to trade and investment.*

### **2.4.1 Labour Mobility**

*Globalisation and increasing international economic interdependence have resulted in large cross-border flows of workers. In response, governments are increasingly developing policies to facilitate the entry of skilled professionals in order to efficiently manage labour markets and boost economic competitiveness and labour productivity. A significant component of the bilateral economic activity between the EU and Canada involves the movement of people across the Atlantic. For instance, in 2006, some 27,000 workers entered Canada from EU Member States, in particular France, Germany, Ireland and the United Kingdom, representing 24% of Canada's total temporary foreign workers.<sup>73</sup>*

*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 authorisation 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.*

#### **The Benefits of Labour Mobility**

Temporary entry is one of the key modes of supply for services trade and is mostly prevalent in sectors such as legal services, engineering and integrated engineering services, architectural services, management consulting services, energy services and environmental services. When one discusses labour mobility, ultimately reference to service providers is made. The global services market as a whole has been growing steadily – in terms of gross domestic product (GDP), trade, investment and, therefore, employment. Furthermore, services are on balance more knowledge-intensive than other sectors and, as such, employ proportionately many more well-educated workers than other industries. In Canada, workers originating from the EU are primarily professionals (40%) or technical and skilled technicians (34%).

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<sup>73</sup> Comparable data is not collected by the EU for Canada.

The European Commission has stated that labour mobility “will prove crucial to satisfying current and future labour market needs and thus ensure economic sustainability and growth.”<sup>74</sup> It should be recognised that market conditions such as labour shortages are present and even increasing in both the EU and Canada.<sup>75</sup> Temporary labour mobility, particularly in complementary rather than competing economies, can help to alleviate the skills shortages being faced in both economies. Labour mobility also allows factors of production to be allocated more efficiently in both the sending and receiving country and thus leads to mutually beneficial welfare gains. As such, it can address not only labour shortages but also can ease labour market pressure in cases where the domestic labour market is unable to absorb its supply of skilled labour.

A well planned and managed temporary entry regime between the EU and Canada could allow the two economies to harness complementarities in their labour markets. It could build greater economic efficiency and productivity via quicker growth in human capital (for example by avoiding redundancies in innovation) and more efficient allocation of skills. The temporary movement of workers could introduce flexibility into labour markets, along with greater geographic and functional mobility.

A number of studies examining both temporary and permanent movement of workers have found evidence of a positive correlation between labour mobility and trade. A 2002 World Trade Organisation (WTO) study, which examined only Mode 4 temporary entry of natural persons, found a positive relationship between increases in Mode 4 flows and increases in exports.<sup>76</sup> These results support theories proposing that trade and movement of workers are complementary, positively-associated variables, rather than substituting variables. In an interdependent world, mobile temporary workers serve as intermediaries and information conduits, transmitting knowledge of business opportunities, contacts, cultural nuances, laws and business practices, which lowers transaction costs and facilitates more efficient trade and investment. They also bring preferences for goods produced in their home countries, which can stimulate home country exports.<sup>77</sup> A 2004 WTO study termed these trade stimulating effects of the temporary movement of business persons as “preference effects”, “information effects”, which reduce matching and network searching costs, and “contract enforcement effects”.<sup>78</sup>

Labour mobility not only boosts competitiveness through interdependent and specialised value chains and increased trade in goods; it also has a positive impact on investment between sending and receiving countries through corporate investment and individual entrepreneurship. By

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<sup>74</sup> European Commission, *Communication from the Commission – Policy Plan for Legal Migration*, 21 December 2005, Section 1.2.

<sup>75</sup> OECD, Working Party of the Trade Committee, “Service Providers on the Move: A Closer Look at Labour Mobility and the GATS,” TD/TC/WP(2001)26/FINAL, 20 February 2002, p. 13.

<sup>76</sup> Marion Jansen and Roberta Piermartini, “The Impact of Mode 4 on Trade in Goods and Services,” WTO Economic Research and Statistics Division, Staff Working Paper ERSD-2004-07, November 2004, p. 13. For additional information on the different services Modes, please see sub-section on Factors Affecting Trade in Services above.

<sup>77</sup> See for example: L. Alan Winters, “The Economic Implications of Liberalising Mode 4 Trade,” Paper prepared for the Joint WTO-World Bank Symposium on ‘The Movement of Natural Persons (Mode 4) under the GATS’, WTO, Geneva, 11-12 April 2002, pp. 5-6; and Theodora Xenogiani, “Migration Policy and its Interactions with Aid, Trade, and Foreign Direct Investment Policies: A Background Paper,” Working Paper No. 249, OECD Development Centre, June 2006, pp. 34-35.

<sup>78</sup> WTO, *World Trade Report 2004: Exploring the Linkage between Domestic Policy Environment and International Trade* (2004), p. 50.

examining foreign direct investment (FDI) and the temporary movement of people, the WTO found that a 10% increase in temporary movement correlated to an 8% increase of inflows and 7.1% of outflows of FDI.<sup>79</sup> Economic theory suggests this correlation is due in part to the diffusion of knowledge of market opportunities (information effects) and business laws and practices (contract enforcement effects), which can lead to entrepreneurship growth in both the host and home countries. On a corporate scale, companies investing in new markets prefer to bring key personnel with them to set up the venture in order to impart company culture, standards and practices. Even after establishment, specific personnel may be required for special projects.

The increased human flows with the movement of temporary workers create various networks linking individuals, firms and economies. For the host country, mobility of highly skilled workers can offer greater innovation capacity and increased stocks of human capital. The exchange of peoples can facilitate the transfer of new skills, ideas, information, technology and networks that can boost economic activity. The importance of accumulating human capital through labour mobility policies has been recognised at the EU and Member State levels, and has led to the reorientation of many Member States' migration policies.<sup>80</sup> These changes help address the private sector's need for a transparent and predictable environment in which to conduct business with respect to labour mobility.

There is a range of viable options available to governments to facilitate labour mobility. These instruments can vary in their complexity and degree of liberalisation, from relatively simple exercises such as improving transparency through websites or harmonisation of domestic regulations to more complex models such as creating a working group to monitor and discuss temporary entry issues, or to liberalising entry by negotiating substantive provisions on temporary entry in the context of a comprehensive trade agreement.

### **EU Domestic Regulations**

The rules regarding the entry of a Canadian business person into most EU Member States for stays of less than a three- to six-month period are governed by the Schengen *acquis*<sup>81</sup> with respect to requirements relating to visas. A Member State may, in addition, require a work permit. Entry is conditioned upon the following criteria: possession of a valid travel document; justification of the business purpose and conditions of the intended stay; proof of sufficient means of subsistence for the duration of stay, as well as for the return to the country of origin; the absence of an alert

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<sup>79</sup> Jansen and Piermartini, op cit, p. 17.

<sup>80</sup> Rainer Münz et al., "What are the migrants' contributions to employment and growth? A European approach," HWWI Migration Research Group, January 2007, p. 14.

<sup>81</sup> Once a business person has spent three months in the Schengen area, he/she must leave the area for three months in order to be granted entry anew for another three months. It is important to note that although Denmark has signed the Schengen Agreement, it can choose within the EU framework whether or not to apply any new decision taken under the agreement. The UK and Ireland have not signed up to the Schengen Convention and, therefore, decide on their involvement on a case by case basis, such as requesting to apply some of the Schengen provisions on police and judicial cooperation in criminal matters. See [eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:239:0001:0473:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:239:0001:0473:EN:PDF).

on the Schengen Information System; and the determination that no threat to public policy, internal security, public health or the international relations of any Member State exists.<sup>82</sup>

The rules relating to the temporary entry of third-country nationals into the EU are determined by the laws of the individual Member States. Therefore, a foreign temporary worker must review the laws of the Member State that he or she wishes enter. Each Member State has diverse legal instruments and national procedures. Among the reported difficulties in determining the requirements for admission is the lack of transparency and datedness of the information publicly available in many Member States, together with the fact that definitions and terminology vary greatly between the Member States.

### ***Intra-EU Mobility***

By Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, the EU consolidated and modernised the Community law on regulated professions.<sup>83</sup> The law took effect 20 October 2007, the deadline for each Member State to transpose the new law into their national legislation. This Directive applies to all Member State nationals wishing to practise a regulated profession in a Member State other than that in which they obtained their professional qualifications, on either a self-employed or employed basis.

The new directive maintains the three main systems of recognition:

1. Directive 2005/36/EC grants automatic recognition of the professional titles of doctors, dentists, nurses, midwives, pharmacists, veterinary surgeons and architects on the basis of harmonised minimum training requirements laid down in that directive.
2. The Directive provides for a similar automatic recognition approach for various activities of craft, commerce and industry sectors listed in one of its annexes. In contrast to the first system, this approach is based on the recognition of consecutive periods of experience and skills (and not just on the possession of formal qualifications or diplomas).
3. The Directive provides for general rules applying to all other regulated professions and situations not covered by the above-mentioned systems. Under these rules, called “general system”, access to a profession shall be granted to a professional who is fully qualified for the profession in question in another Member State. However, if the duration or the content of training of a migrant differs substantially from those required in the host Member State, compensatory measures can be imposed on the migrant, i.e. either an adaptation period or an aptitude test.

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<sup>82</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code); eur-lex.europa.eu/smartapi/cgi/sga\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\_doc=Regulation&an\_doc=2006&nu\_doc=562.

<sup>83</sup> See eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF; Corrigendum to Directive 2005/36/EC, eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:271:0018:0019:EN:PDF. The new law abrogates 15 prior Directives covering all recognition rules, except for those applicable to lawyers, activities in the field of toxic substances, and commercial agents.

The Directive provides for various rules on third country qualifications held by EU citizens. Each Member State may permit Member State nationals holding third country qualifications to pursue a regulated profession in accordance with its rules. However, in case of those professions for which EU law provides for minimum training conditions, the recognition shall respect these conditions. Third country qualifications are considered to be equivalent to EU qualifications only if the holder has three years of professional experience in the Member State which has recognised these qualifications. Such qualifications are subject to the general system of the Directive (see above) when a second recognition in an EU Member State is requested.

Under certain conditions, third country nationals can benefit from EU law on the recognition of professional qualifications, for instance if they have the status of a long term resident under Directive 2003/109/EC or if they are family members of an EU citizen within the meaning of Directive 2004/38/EC. Both directives provide for equal treatment with EU nationals which means that once they obtained their first recognition in one EU Member State (on the basis of a bilateral agreement or other) and once they have worked in this EU Member State for three years, their third country professional qualification is considered equivalent to a qualification emanating from the EU. If a third country worker then leaves this EU Member State of first entry, the second Member State where he moves has to apply the system of recognition of professional qualifications as laid down in Directive 2005/36/EC to this “third country qualification”.

The most important innovation of the Directive is the new regime to facilitate the provision of services, namely the right of a national of one Member State to pursue his or her profession on a *temporary and occasional basis* in another Member State without having to apply for recognition of qualifications.<sup>84</sup> Pursuant to these rules, a Member State shall not, as a matter of principle, restrict, for any reason relating to professional qualifications, the free provision of services in the Member State if the service provider legally exercises the same profession in another Member State.

However, the professional is subject to the rules and regulations of the host Member State that are directly connected to professional qualifications, such as malpractice and disciplinary provisions (Article 5, section 3). In addition, the first time the service is to be provided, the host Member State may require that the professional inform the host Member State in advance of the details of insurance coverage for professional liability (Article 7, section 1). The professional may also be required to submit the following documents: proof of nationality; an attestation that the professional is legally entitled to practice in the original Member State; evidence of professional qualifications; proof that the professional has practised this profession for at least two years during the previous ten years if the original Member State does not regulate this profession; and, for professions in the security sector, evidence of no criminal convictions (Article 7, section 2). Exceptionally, a prior check of qualifications is allowed in case of regulated professions having public health or safety implications.

The new Directive also provides for closer administrative cooperation and collaboration between the competent authorities of the Member States.

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<sup>84</sup> Whether the service is temporary and occasional is to be determined on case by case basis, with particular attention to the duration, frequency, regularity and continuity of the service being provided. Directive 2005/36/EC, Article 5, section 2.

## **Canadian Domestic Regulations**

The federal government's Temporary Foreign Worker Program (TFWP) allows eligible foreign workers to work in Canada for an authorised period of time if employers can demonstrate that they are unable to find suitable Canadians or permanent residents to fill the jobs and that the entry of these workers will not have a negative impact on the Canadian labour market. This is assessed through the implementation of a labour market opinion. In 2007, over 120,000 foreign workers entered Canada to work temporarily in jobs that help Canadian employers address skill shortages, or meet program or international trade commitments.

There are a number of instances where a work permit is not required, and hence no labour market opinion is necessary. For example, business visitors do not need work permits in order to come to Canada to engage in international business activities without directly entering the Canadian labour market. Other categories of workers who do not require a work permit include: foreign representatives and their family members, military personnel, foreign government officers, students working on campus, performing artists, athletes and coaches, news reporters, public speakers, convention organisers, clergy, judges and referees, examiners and evaluators, expert witnesses or investigators, healthcare students, civil aviation inspectors, accident or incident investigators, crew members, and emergency service providers.

The Government of Canada works with officials from the provinces and territories to ensure that the TFWP is responsive to regional skills and labour shortages while preserving program integrity. Officials from the provinces and territories also play a critical role in the development of labour market opinions through the provision of provincial and territorial labour market data, including information on wages, skills and labour shortages, and provincial and territorial labour standards.

The Government of Canada also works with Canadian employers and industry associations to better understand the current and emerging needs of the labour market. These stakeholders also provide the Government of Canada with information on how the TFWP could be improved.

## ***Inter-provincial Labour Mobility***

Although encouraging progress has been achieved, inter-provincial barriers to labour mobility in Canada continue to exist. These barriers are usually based on provincial and territorial differences in licensing and qualifications recognition policies which can hinder the inter-provincial labour movement in regulated occupations across the country, affecting Canadian and internationally trained workers.

While the Government of Canada provides federal presence and leadership to improve inter-provincial labour mobility, each province and territory has responsibility for the regulation of occupations (professions and trades). For many occupations, provincial and territorial government have delegated the authority to regulate to regulatory bodies. There are over 440 occupational regulatory bodies in Canada, representing millions of workers in more than 100 different occupations.

The Agreement on Internal Trade (AIT) provides the basis for moving forward on improving labour mobility. Federal, provincial and territorial governments signed the AIT in 1994, with the objective of improving the flow of workers, investments, goods and services across Canada. The federal, provincial and territorial governments recently committed to full labour mobility for workers within Canada by 1 April 2009.

## **Stakeholders**

Stakeholders in both the EU and Canada have expressed a clear interest in improving the facilitation of their business persons in each other's markets as well as in foreign markets. In particular, members of the business community, crown corporations, non-governmental organisations and the general public have expressed concerns over long processing times and difficulty obtaining relevant information on specific types of visas or work permits required or indeed if work permits are required at all. A number of organisations and groups have expressed a sense of urgency to advance this component of the EU-Canada relationship including the European Services Forum, BUSINESSEUROPE (Europe's leading business association), the Canadian Council of Chief Executives (CCCE), the Canadian Chamber of Commerce (CCC) and the Canada Europe Roundtable for Business (CERT).<sup>85</sup>

The European Services Forum has stressed that the movement of natural persons via Mode 4, i.e. moving skilled business personnel within a company (intra-corporate transferees) and temporary entry for clients should be addressed more directly in the General Agreement on Trade in Services (GATS) negotiations. BUSINESSEUROPE would like to see a stronger economic relationship between the EU and Canada, including an agreement facilitating the temporary admission of key business personnel and service suppliers and progress toward mutual recognition of professional qualifications.<sup>86</sup>

CEPLIS has noted a keen interest in labour mobility with Canada. The barriers to entry into Canada that CEPLIS would like to see removed are: reduction in administrative burdens for short-term contracts; and a review of the immigration system to better reflect shortages in the market for highly skilled workers.<sup>87</sup> Furthermore, CEPLIS would be favourable to improving recognition of professional qualifications in bilateral negotiations.

CCCE and CERT, speaking on behalf of their membership at large, have continually advocated for improved labour mobility so that measures are taken to ensure mobility of skilled personnel and service providers as well as mutual recognition of professional qualifications.<sup>88</sup> These

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<sup>85</sup> BUSINESSEUROPE is Europe's largest business association ([www.businessseurope.eu](http://www.businessseurope.eu)). CEPLIS, the only inter-professional association representing the liberal professionals at the EU-level, is an agreed organisation of the European Economic and Social Committee ([www.ceplis.org](http://www.ceplis.org)). CCCE is a not-for-profit, non-partisan organisation composed of the CEOs of Canada's leading enterprises ([www.ceocouncil.ca](http://www.ceocouncil.ca)). CCC's 170,000 members reflect a strong, diverse network from all sectors and all regions of Canada ([www.chamber.ca](http://www.chamber.ca)). CERT is the leading association dedicated to creating business opportunities between Canada and the EU ([www.canada-europe.org](http://www.canada-europe.org)).

<sup>86</sup> See [trade.ec.europa.eu/doclib/docs/2008/february/tradoc\\_137984.pdf](http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137984.pdf) and the joint letter written by BUSINESSEUROPE and CCCE on 15 May 2007 to Prime Minister Harper, Chancellor Merkel and President Barroso in preparation for the June 2007 EU-Canada Summit in Berlin (available at [www.businessseurope.eu](http://www.businessseurope.eu)).

<sup>87</sup> David Anciaux, Policy Officer, CEPLIS (14 March 2008).

<sup>88</sup> See [www.ceocouncil.ca/publications/pdf/test\\_ef8e56ca29ae7c73e9a0fd2449ad39cf/Business\\_Leaders\\_Strongly\\_Endorse\\_Transatlantic\\_Economic\\_Partnership\\_Joint\\_News\\_Release\\_July\\_17\\_2008.pdf](http://www.ceocouncil.ca/publications/pdf/test_ef8e56ca29ae7c73e9a0fd2449ad39cf/Business_Leaders_Strongly_Endorse_Transatlantic_Economic_Partnership_Joint_News_Release_July_17_2008.pdf).

associations as well as others have expressed that improved labour mobility should be one of the EU and Canada's top priorities in the liberalisation of the bilateral relationship.

In the context of the Government of Canada's private sector industry consultations on the GATS negotiations, several services sectors were highlighted as being priorities for Canadian business in the EU market. These sectors include professional services, distribution services, environmental services, and logistics services. Moreover, temporary entry was specifically identified as a key mode of supply for many of these sectors, particularly professional services and environmental services, and a priority interest for Canadians doing business with EU Member States. Most of the comments received from Canadian stakeholders relate to long processing times and difficulty obtaining relevant information on specific types of visas or a work permit required or indeed if a work permit is required at all.

## **Multilateral and Bilateral Labour Mobility Commitments**

### ***Multilateral Commitments***

Both the EU and Canada have taken obligations on the temporary entry of business persons in the context of their trade agreements at the multilateral (WTO), regional and bilateral levels. The EU and Canada are signatories to the GATS at the WTO and as such enjoy the facilitated access for temporary entry each party has committed to under the GATS (Mode 4). As temporary entry is one of four modes of supply for the provision of services, it is considered an integral element of the GATS negotiations.

In the context of the GATS, the European Community's current commitments provide coverage for intra-corporate transferees, business visitors and contract service suppliers (employees of an enterprise person) for identified sectors. The European Community does not require compliance with a labour market test prior to entry. Canada has taken commitments for three broad categories: business visitors, intra-corporate transferees, and professionals (both contract service suppliers and independent professionals).

During the Doha Round, the European Community's initial and revised offers reflect some liberalisation for the movement of business persons. First, the European Community has offered commitments for independent professionals. It also expanded the number of sectors covered by its commitments on contract services suppliers. The commitments for professionals are subject to the application of a numerical ceiling, which is yet to be determined. Further improvements in the European Community offer include expanding coverage of intra-corporate transferees to graduate trainees. In all these cases, EU and national working conditions, minimum wage requirements, and any collective wage agreements continue to apply.

Canada has tabled two offers, which reflect several improvements in Mode 4. In its initial offer, Canada modified its commitments on professionals to differentiate between contract service suppliers (employees of an enterprise person) and independent professionals (self-employed professionals). It has offered to increase the length of stay for business visitors, executives, managers and professionals. Canada is also offering to facilitate the temporary entry of after-sales and after-lease service providers in the business visitor category and has added senior

computer specialists to the professional category. Canada has also added a new category which facilitates the entry of spouses and common-law partners of intra-corporate transferees and professionals.

Canada's revised offer includes a new category of intra-corporate transferees, which will facilitate the temporary entry of individuals coming to Canada for career development purposes. In addition, Canada has broadened its commitments for senior computer specialists to include the wider category of information communications technology professionals. Furthermore, Canada has removed limits on the number of senior computer specialists permitted to enter the country to work on a given project. Canada has also added management consultants to the list of professions covered.

### ***Bilateral and Regional Agreements***

To date, Canada has used two different approaches in its bilateral and regional free trade agreements (FTAs). On the one hand, Canada has negotiated agreements which have included a comprehensive, reciprocal stand-alone chapter on the temporary entry of business persons. On the other hand, it has negotiated agreements whereby the temporary entry chapter is simply hortatory in nature, reaffirming each Party's existing GATS commitments.

In the bilateral or regional trade agreements where Canada has taken a comprehensive approach to temporary entry, such as in the North American Free Trade Agreement (NAFTA) and the Canada-Chile Free Trade Agreement (CCFTA), Canada's commitments are substantially more liberal in terms of scope and coverage than the commitments it has taken in the GATS. The intra-company transferee and professional categories are comparable to the GATS categories; however the coverage of the professional category is substantially broader in its bilateral trade agreements compared to the GATS. In both the NAFTA and CCFTA, Canada has listed 64 professions to be covered by the agreements.

The EU has used a different methodology from Canada in its bilateral and regional trade agreements with respect to trade in services, namely a positive list approach, which is the same methodology used in the GATS. As such, its commitments on temporary entry in the bilateral and regional context are consistent with what it has committed to in the GATS with respect to scope and structure.

### **Foreign Credential Recognition**

The shift to knowledge-based economies means an ever-increasing demand in both the EU and Canada for well-educated and skilled workforces. As noted above, foreign credential recognition is a key behind-the-border issue affecting the ease with which business people can enter a country to perform business activities, be they related to investment or to trade in goods and services.

### ***Foreign Credential Recognition in the EU***

The regulation of professions is the competence of individual EU Member States, apart from the professions of doctor, dentist, nurse responsible for general care, midwife, pharmacist, veterinary surgeon and architect, for which EU law provides for minimum training requirements. Accordingly, foreign qualifications need to be recognised in each Member State by the competent national authorities. Also, third country nationals wishing to work in the EU need to be recognised by each Member State according to its national rules and procedures.

The recognition of foreign diplomas and the assessment of foreign diploma certificates for third-country workers are subject to different procedures in different Member States. In at least one Member State, the recognition of diplomas and certificates depends upon the existence of an international agreement with the worker's country of origin, while in other Member States, there is no difference between foreign qualification recognition of third country workers and those of nationals.

### ***Foreign Credential Recognition in Canada***

A multitude of players are involved in the assessment of skills and credentials to recognise, certify, register and/or license applicants. Few professional bodies or employers have systematic approaches to assessing or recognising foreign credentials. Requirements and procedures vary by jurisdiction.

Shared jurisdictional responsibilities have implications for the assessment of foreign credentials. The federal government's role is situated within its responsibilities for the immigration system, labour market policies, and for providing leadership and national tools to strengthen the economic union, addressing issues that span provincial and territorial jurisdictions. Provincial and territorial governments have jurisdiction over the regulation of skilled trades and most professions, and have delegated authority to provincial regulatory bodies to regulate most professions, including determining their licensing and certification requirements. For non-regulated occupations, recognition of credentials is left to employers' discretion.

Canada addresses foreign credential recognition issues through four principal initiatives: Citizenship and Immigration Canada's Foreign Credential Referral Office (FCRO); Human Resources and Social Development Canada's Foreign Credential Recognition (FCR) Program; Health Canada's Internationally Educated Health Professionals Initiative (IEHPI); and the Government of Canada Going to Canada Immigration Portal. Additionally, Canada operates the Canadian Information Centre for International Credentials (CICIC), a unit of the Council of Ministers of Education – Canada (CMEC),<sup>89</sup> which assists individuals, employers, professionals and organisations with issues related to foreign credential recognition.

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<sup>89</sup> More information on these programs can be found at [www.credentials.gc.ca](http://www.credentials.gc.ca) and [www.cmec.ca](http://www.cmec.ca).

## **Mutual Recognition Agreements**

International mutual recognition agreements (MRAs) govern professional recognition between two or more countries. In theory, mutual recognition covers the various components of professional qualifications, including professional education through diplomas or degrees, professional experience, formal licensing and certification requirements, examinations and membership in a professional association. In an international trade context, MRAs are aimed at facilitating the mutual recognition of foreign credentials and experience with the aim of making international trade commitments for the movement of professionals more meaningful.

In the Canadian context, the recognition and licensing of professionals is the sole responsibility of provincial and territorial governments and self-regulated professional associations. The Government of Canada can only encourage and support the negotiation of MRAs between professional bodies through the development of appropriate frameworks and provisions contained in its international trade agreements. Canada's current approach toward mutual recognition in its existing FTAs (NAFTA, Canada-Chile FTA) and ongoing FTA negotiations entails the inclusion of non-binding and voluntary guidelines, which provide practical guidance for professional bodies entering into MRA negotiations. This framework is valuable in encouraging professional bodies to undertake negotiations with their respective counterparts in order to build on the increased market access made available to service suppliers through the implementation of the FTA.

Canada's professional bodies, particularly those with strong export orientation, are strong supporters of discussions on recognition in the context of international trade negotiations. In the context of ongoing negotiations, the Government of Canada frequently consults with national professional associations regarding their potential interests in discussing recognition-based initiatives with their counterparts in certain countries or regions. Nevertheless, it is ultimately up to the professional bodies to decide what is in their interest and whether to proceed with negotiating an MRA.

In Canada, most international MRAs are signed by the national professional associations on behalf of the provincial and territorial regulatory bodies. The ratification and implementation process of the MRA is then dependent on the provinces and territories accepting and adopting the agreement and applying the principles to their licensing functions. Some provincial and territorial bodies have also signed separate recognition agreements with professional bodies in other countries where a national agreement has not been implemented, for example, with professional bodies in individual US states.

Canadian and European professional associations have been very active in negotiating of MRAs (including reciprocal agreements, common understandings) in a number of professions including accountants, architects, engineers, speech pathologists, geoscientists, chiropractors and information systems professionals.

## 2.4.2 Government Procurement

*Governments at all levels strive to improve efficiency in public purchasing. One common way is to use open tendering mechanisms inviting suppliers to submit competitive bids for public procurement of goods, services or public works. A further step in enhancing efficiency is to open up the market for public procurement to foreign suppliers.*

*Foreign access to public procurement is exempted from the general rules of the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS).<sup>90</sup> Instead, a number of World Trade Organisation (WTO) member countries have signed a plurilateral agreement that extends the principles of the GATT (non-discrimination, national treatment and transparency) to specific areas of public procurement. This is the WTO Agreement on Government Procurement (GPA) to which both the EU and Canada are signatories and it provides the framework governing access to each other's procurement markets in the absence of a more comprehensive bilateral agreement.<sup>91</sup>*

### **The Size of the Market for Government Procurement**

All over the world, national governments procure goods and services. The markets for these goods and services represent a significant proportion of national incomes. There is some uncertainty over the value of government procurement of goods and services in both the EU and Canada. The best measure of the scope of government procurement is data on the value and number of contracts awarded. Nevertheless, in many instances, the evaluation of public procurement markets involves an analysis of national accounts or entities' financial statements.

According to estimates from the European Commission, the European procurement market is the largest in the world.<sup>92</sup> Public purchasing by the EU's 27 Member States and the main EU institutions (in terms of procurement), the European Commission and the Council of the EU, amounts to some 16% of gross domestic product (GDP) (or €1,700 billion). A significant share of this total EU value falls within the scope of the detailed public procurement regime regulated by European Commission Directives.

The WTO Trade Policy Review for the EU mentions that according to Eurostat data, procurement advertised in the *Official Journal*, represented between 2.5% and 3.6% of GDP between 2001 and 2004 (or €287.7 billion).<sup>93</sup> In 2005, procurement advertised in the *Official Journal*, represented around €320 billion (or 2.9% of EU GDP).

The WTO Trade Policy Review for Canada mentions that according to the Treasury Board Secretariat of Canada the estimated annual value of contract awards by federal government departments and agencies was C\$19 billion in 2004 (or 1.5% of Canadian GDP). The Treasury Board of Canada Secretariat reported that the estimated annual value of contracts awarded by

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<sup>90</sup> GATT Article III:8(a), GATS Article XIII:1

<sup>91</sup> Procurement issues were discussed in the context of the Trade and Investment Enhancement Agreement (TIEA) negotiations but were put on hold when negotiations were suspended in 2006.

<sup>92</sup> These estimates include procurement by central, sub-central and utilities entities.

<sup>93</sup> Eurostat, "Public procurement advertised in the Official Journal", 2006, available at [epp.eurostat.ec.europa.eu](http://epp.eurostat.ec.europa.eu).

federal departments and agencies was C\$15 billion for 2005 (or 1.1% of GDP).<sup>94</sup> This estimate includes neither sub-federal procurement nor that of other procurement entities, the value of which is generally understood to be well in excess of federal procurement values.<sup>95</sup>

### **The International Framework for Public Procurement**

This section summarises the international rules that apply between the EU and Canada, i.e. the GPA. The main components of the GPA under WTO are:

- No discrimination between foreign and domestic suppliers for covered procurement.
- Offsets (measures affecting trade balances or to promote local development, etc.) are prohibited.<sup>96</sup>
- GPA members have different products and entities which are covered at different thresholds.
- Open tendering and transparency are the norm.
- Independent bid challenge mechanism for suppliers.

The countries within the GPA have committed to treat foreign and domestic suppliers equally when a government procurement contract is above certain threshold levels and included within their mutual commitments. That is, if the procurement is covered by these commitments, then foreign suppliers and their goods and services should have the same opportunities and treatment when bidding for these contracts. There are, however, a number of cases of exclusion for the individual parties, as indicated below.

The GPA does not automatically apply to all government procurement of the Parties. Rather, the scope of *coverage* of the Agreement is determined by each country in five Annexes and the so-called General Notes as follows:<sup>97</sup>

- Annex 1 containing a list or description of central government entities subject to the obligations of the Agreement;
- Annex 2 containing sub-central government entities;
- Annex 3 containing all other entities that procure in accordance with the provisions of the Agreement (such as public utilities for the EU);

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<sup>94</sup> Treasury Board of Canada Secretariat data for 2005 available at [www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/con\\_data/siglist\\_e.asp](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/con_data/siglist_e.asp); Statistics Canada information for both the 2004 and 2005 figures available at [www40.statcan.ca/101/cst01/econ04.htm](http://www40.statcan.ca/101/cst01/econ04.htm).

<sup>95</sup> MARCAN provides links to websites that may publish tender notices for procurement opportunities within the Canadian public sector, as well as statistics on government contracting. See [www.marcan.net/index\\_en/procure.htm](http://www.marcan.net/index_en/procure.htm).

<sup>96</sup> Except as transitional measures by developing countries.

<sup>97</sup> Note that procurement of defence-related equipment is excluded from the scope of the GPA.

- Annexes 4 and 5 specifying services and construction services covered by the Agreement (a positive list approach);
- Coverage of all goods procurement subject to specified exemptions (negative list approach);
- Coverage is based on the principle of reciprocity.

### **EU and Canadian Commitments under the GPA**

In their commitments to the GPA, the EU and Canada have made different choices regarding the procuring entities to be covered and the sectors that they have been willing to offer in the GPA.

#### ***Coverage of the GPA for the EU and Canada***

Under the WTO GPA signatories are free to exclude specific entities, goods, services and construction services of their choice. Table 2.16 below summarises the coverage for the EU and Canada.

**Table 2.16 Coverage of the GPA According to Parties**

<b>Parties</b>	<b>Date of entry into force/accession</b>	<b>Annex I: Central</b>	<b>Annex II: Sub-central</b>	<b>Annex III: “Other Entities”</b>
Canada	1 January 1996	YES	NO*	NO*
EU	1 January 1996**	YES	YES	YES

\* According to the General Notes by Canada, “The offer by Canada, with respect to goods and services (including construction) in Annexes 2 and 3, is subject to negotiation of mutually acceptable commitments (including thresholds) with other Parties, with initial commitments to be specified on or before 15 April 1994 and specific commitments to be confirmed within 18 months after the conclusion of the new Government Procurement Agreement.” To date, no such commitments have been made.

\*\* Signed by EU15, ten new members on 1 May 2004 and another two new members on 1 January 2007.

Source: WTO Secretariat, Parties’ Appendix I Annexes, [www.wto.org/english/tratop\\_e/gproc\\_e/appendices\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/appendices_e.htm).

Under the GPA, the EU and Canada have both offered a broad coverage of central entities (departments, ministries and agencies for each of the EU Member States; departments and agencies for Canada), as well as a broad range of goods, professional and construction services. As seen from Table 2.16 above, Canada has not included commitments for sub-central (provinces and territories) entities or for other entities (Crown Corporations, whether federal or provincial). Whilst the EU has included commitments in both these areas to other GPA members, it does not – on the basis of reciprocity – extend access to procurement by such entities to Canada.<sup>98</sup>

In addition, Canada excluded a number of goods or construction services from the scope of the GPA. Whilst the EU has included commitments in both these areas, it does not – on the basis of reciprocity – extend access to procurement by such entities to Canada. Box 2.3 summarises Canada’s and the EU’s main exemptions from coverage with respect to each other.

<sup>98</sup> See [ec.europa.eu/trade/issues/sectoral/gov\\_proc/pr100403\\_en.htm](http://ec.europa.eu/trade/issues/sectoral/gov_proc/pr100403_en.htm).

The result is that a major part of the public procurement markets estimated in section 2 is excluded in the EU-Canada context, i.e. is not subject to market access or national treatment commitments. Therefore, evidence points to the fact that only a fraction of available coverage is subject to commitments between the EU and Canada, and that there is an opportunity for the mutual improvement of government procurement commitments. According to European Commission estimates, only some 10% of procurement in the EU and Canada is subject to any commitment between the two Parties in the GPA.

### **Box 2.3 Goods, Construction and Services Excluded in the GPA for the EU and/or Canada**

The following goods and services are excluded in the GPA for the EU and Canada:

- goods, services and construction services below the thresholds set out in the GPA (EU, Canada)
- goods, services and construction services purchased by sub-federal entities (Canada\*)
- goods, services and construction services purchased by Canada's Crown Corporations (federal and provincial) (Canada\*\*)
- goods of a military nature (EU, Canada)
- goods, services and construction related to international aid and joint projects (EU, Canada)
- shipbuilding and ship repair (Canada\*)
- urban rail and transportation (EU, Canada)
- transportation services (Canada\*)
- dredging (Canada\*)
- some communications equipment (Canada\*)
- information technology equipment (Canada\*)
- research and development (EU, Canada)
- utilities services (Canada\*)
- education, health and social services (EU\*\*\*)
- printing, advertising and public opinion research services (Canada\*)

\* Whilst the EU has included commitments in this area, it does not, on the basis of reciprocity, extend access to Canada.

\*\* As a result, the EU has excluded goods, services and construction services in the utilities.

\*\*\* Whilst Canada has included commitments in this area, it does not, on the basis of reciprocity, extend access to the EU.

## **Economic Benefits**

The major economic effects from any agreement regarding government procurement between the EU and Canada would stem from extending the current commitments to cover sub-central and other procuring entities (“utilities” in the EU, Crown Corporations in Canada). This would result in a formal and binding opening of the relevant markets in the EU and Canada. Further opening of markets through issues related to other exceptions in specific sectors could also be addressed.

What economic benefits could result from such changes? The internal EU opening of its procurement market may serve as case in point.

The EU procurement market is one of the biggest markets in the world, which is open to competition, not only from suppliers within Europe, but also from GPA Members’ suppliers (with the exceptions mentioned). This has delivered results. An impact assessment of the increased intra-EU competition for foreign procurement resulting from the EU’s procurement directives<sup>99</sup> is estimated to have delivered price reductions of around 30%, according to European Commission studies.<sup>100</sup>

The EU has already experienced improvements in the effectiveness of public procurement through increased foreign competition, both within Europe and from outside Europe. Granting additional access to Canada, by allowing Canadian suppliers to have equal access to all annexes of the GPA will be beneficial to the EU. However, the additional competitive pressure from such an inclusion may not be extremely significant given the degree of competition already prevailing.

On the other hand, since Canada has limited its legal commitments in the WTO GPA to the federal level only, an inclusion of sub-central procurement and other procurement entities could imply, in turn, greater competition in Canada. Given that suppliers in the EU represent an important segment of world suppliers, an increase to the Canadian market on their part could result in price reductions of the order of magnitude attained from the intra-EU exercise.

In addition to the overall price effects of increased access to procurement markets (which accrue to governments), should the EU and Canada be prepared to make legally binding commitments to one another, the confidence and interest of suppliers with respect to these markets could increase. EU and Canadian companies could witness expanded opportunities as a result.

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<sup>99</sup> Directives 92/50, 93/36, 93/37, 93/38 as amended by 97/52 and 98/4.

<sup>100</sup> See European Commission “A report on the functioning of public procurement markets in the EU: Benefits from the application of the EU directives and challenges for the future,” 3 February 2004.

### 2.4.3 Intellectual Property Rights

*The domestic protection and cross-border enforcement of intellectual property rights (IPR) are becoming increasingly important as developed countries enhance their trade and investment relations in the burgeoning knowledge and information economies. This is particularly true for the EU and Canada, which have both emerged as world leaders in various knowledge-intensive and technology-based industries, such as automotive and communications technologies in the case of Canada, and pharmaceuticals and aerospace technology in the case of the EU. Moreover, with both the EU and Canada engaged in the development of their respective creative and consumer goods sectors, in areas such as movies, music, literature, food, beverages and fashion, IPR protection is playing an increasingly important role, as these products move up the value chain from standard commodity-like products to exclusive experience-oriented products.*

*The EU and Canada have two of the most robust IP protection regimes in the world, and the impact on the bilateral relationship is generally positive in terms of increased bilateral investment and innovation. They also cooperate in various multilateral fora relating to IP, such as their joint participation in the ongoing negotiation of the Anti-Counterfeiting Trade Agreement, as well as through their respective IP-related bodies (the European Patent and Trademarks Office, IP Offices of individual Member States and the Canadian Intellectual Property Office).*

*The present text focuses on IPR issues in the EU-Canada trade relationship that are particularly relevant to the business environment and bilateral relationship. Summarised below is the economic rationale for IPR, their international legal framework, and the current context regarding the protection of IPR in the EU and Canada.*

#### **The Role of Intellectual Property Rights**

The economic rationale for IPR is to provide for increased competition and market protection of entrepreneurial talent. IPR is generally considered as an essential instrument to promote investment, creativity, employment and technological progress; in short, for the development of competitiveness. The challenge for national as well as international IPR rules is to strike the right balance to encourage firms and individuals to innovate and invest in new ideas while ensuring that markets remain competitive and that future innovation is not impeded.

IPR can be broadly divided into two categories:

1. IPR with the purpose of promoting *innovation and creativity* (e.g. patents, copyright and industrial designs); and
2. IPR with the purpose of *informing* consumers (e.g. trademarks and geographical indications).

The first category (e.g. patents, copyrights and industrial designs) encourages creators to disclose and distribute their work, knowing that it will be protected against imitators and allowing them to be remunerated for their creative effort and investment. The second category (e.g. trademarks

and geographical indications) serves the purpose of providing consumers with credible signals of the quality of a good or service.

### **The International Legal Framework for Intellectual Property Rights**

A basic framework of international law exists for all four main areas of IP protection – patents, copyright, trademarks, and industrial design – in the form of the World Trade Organisation (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the United Nations World Intellectual Property Rights Organisation (WIPO) Convention and its 24 Treaties. Both the EU and Canada accept the basic principles embodied in this framework. A number of other international fora also have a role to play in IP protection, including the G8, the Organisation for Economic Cooperation and Development (OECD), the World Customs Organisation and Interpol.

There are no broad bilateral IPR agreements between the EU and Canada; however, the Agreement between the European Community and Canada on Trade in Wine and Spirit Drinks, which came into force on 1 June 2004, does include IP provisions. IP protection in the EU and Canada, as in all advanced economies, reflects the international agreements that establish basic standards for IP protection. Among these, the TRIPS Agreement and the WIPO Treaties are most relevant.

#### ***The WTO TRIPS Agreement***

Both the European Community and Canada are signatories to the TRIPS Agreement, which was signed in 1994. TRIPS establishes minimum levels of protection that each government has to offer to the IP of fellow WTO members. Each country may impose additional protection. Moreover, governments are allowed to reduce short-term costs through various exceptions, for example to tackle public health problems.

The TRIPS Agreement is based on two basic principles: national treatment and most favoured nation treatment. The national treatment principle condemns discrimination between foreign and national holders of IPR. Most favoured nation treatment requires equal treatment for nationals of all trading partners in the WTO.

Other broad issues covered by the TRIPS Agreement are: standards, enforcement and dispute settlement. *Standards* are imposed as a set of minimum requirements for protection of intellectual property to be provided by each member. *Enforcement* principles are agreed upon in order for the Agreement to be effective, and the Agreement outlines the procedures and remedies available such that right-holders can enforce their rights. Finally, the TRIPS Agreement also has procedures regarding *dispute settlement*.

Individual countries are allowed to provide more extensive protection for IPR than required by the TRIPS minimum standards.<sup>101</sup> Furthermore, Members are free to determine the appropriate method of implementing the provisions of the Agreement within their own legal system. Because of the differences in the legal systems, it is not surprising that, even with an international agreement like TRIPS, there are unresolved issues. Unresolved issues in the TRIPS Agreement

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<sup>101</sup> Trade-Related Aspects of Intellectual Property Rights (TRIPS), Part I, Art. 1.1.

currently include proposals related to an amendment to introduce a new patent disclosure requirement for the source or origin of genetic resources and/or traditional knowledge, and geographical indications issues (the multilateral register for wines and spirits, and extending the “enhanced level of protection” beyond wines and spirits).

### ***The WIPO Treaties***

WIPO is a specialised agency of the United Nations. It is dedicated to developing a balanced and accessible international IP system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.

Established in 1970 following the entry into force of the 1967 WIPO Convention, WIPO carries out a wide variety of tasks related to IPR protection, including assistance to Member States and organisations to develop IP policies, working with members to develop international IP law, running global registration systems for trademarks, industrial designs and appellations of origin and a filing system for patents, delivery of dispute resolution services, and providing a forum for informed debate and the exchange of expertise on IP.

There are 24 treaties administered by WIPO and the WIPO Convention, covering IP protection (such as the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works), global registration systems (such as the Patent Cooperation Treaty), and classification systems (such as the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks). Both the European Community (including its Member States) and the Government of Canada are signatories to most of the 24 treaties administered by WIPO.

WIPO’s Members engage and meet regularly during the annual WIPO General Assembly, as well as at Assemblies of the various unions (e.g. the Patent Cooperation Treaty Union Assembly, the Madrid Union Assembly), to determine the strategic direction and priorities of the Organisation. In addition, WIPO’s various committees, such as the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), and the Committee on Development and Intellectual Property (CDIP), deal with a number of specialised IP issues of interest to developing and developed countries alike.

### **Current EU-Canada Intellectual Property Rights Context**

There are four main areas of IP: copyright, patents, trademarks and geographical indications, and enforcement.

#### ***(a) Copyright and the Digital Age***

Copyright and related rights provide an incentive for the creation of and investment in new works and other protected matter and their exploitation, thereby contributing to improved competitiveness, employment and innovation. With the issue of copyright protection playing an increasingly prominent role in the digital age, with the emergence of the Internet and other digital technologies as media for the dissemination and sharing of information, both the EU and

Canada have made significant efforts to adapt their respective regulatory frameworks to allow copyright owners and users to exploit these opportunities to their full potential, while at the same time striving to provide adequate protection of copyright-protected material.

With their signatures in 1997, both the EU and Canada signalled a commitment to the principles embodied in the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), also referred to as the WIPO Internet Treaties, which establish international standards of copyright protection in the digitally-networked environment. The WIPO Internet Treaties were concluded in 1996 under the auspices of WIPO and came into force in early 2002. Neither the EU nor Canada has yet ratified these treaties.

Building upon existing international frameworks found in the Berne and Rome Conventions, these Treaties set out provisions for a new exclusive right in favour of copyright owners, specifically authors, producers of sound recordings and performers of audio works, to make their works available online to the public and to prohibit the circumvention of copyright protection and prohibit tampering with rights management information.

## **European Union**

Significant work has been done among EU Member States in adjusting copyright legislation to the digital age. The issue of harmonising the substantive copyright law to reduce *internal* European barriers to trade and to adjust the framework to new forms of exploitation has been extensively addressed. EU copyright and related rights legislation is now made up of a series of Directives which were adopted over a period of more than ten years, starting in 1991. At present, copyright is governed by six sector-specific directives: 91/250 Computer Programmes, 92/100 Rental/Lending Rights, 93/83 Satellite and Cable, 93/98 Term of Protection, 96/09 Legal Protection of Databases and 2001/84 Artists Resale Right. Apart from directives specifically related to copyright, the issue of Internet or intermediary service provider liability is addressed in Directive 2000/31 on Electronic commerce. Two more recent directives, the Information Society (2001/29) and Enforcement (2004/48) Directives, are horizontal measures that apply to all categories of copyright. The Enforcement Directive aims to provide EU IPR-holders with a level playing field when their IPR is being infringed.

The EU may be increasing the term for sound recordings and performances fixed on sound recordings (from 50 years in most instances to 95 years). The EU uses the rule of the shorter term with respect to Canadian copyright works and subject matter covered by related rights. This is allowed, for copyright works, under the Berne Convention and, for subject matter covered by related rights, by the Rome Convention, the TRIPS Agreement and the WPPT. Canadian copyright works are protected for life plus 50 years in the EU even though the EU grants life plus 70 years for European Economic Area works.

The WIPO Internet Treaty ratification process is currently under way in the European Community. To date, all EU countries have passed legislation necessary to implement the Treaties and several have already ratified. It is expected that the remaining EU countries will announce block ratification of the Treaties shortly.

## Canada

The Government of Canada is currently undertaking a process of copyright reform. Issues related to the WCT and the WPPT have been under discussion since the WIPO Internet Treaties were negotiated. In 2002, the government issued a report on the provisions and operation of the *Copyright Act*, highlighting on the list of outstanding issues the need to address “new issues that have emerged primarily as a result of the development of the Internet and other digital technologies.”<sup>102</sup> In June 2005, the Government of Canada introduced a bill to amend the *Copyright Act*. The bill was intended to fulfil the government’s commitment to address short-term copyright reform issues and to update the *Copyright Act* to meet the challenges and opportunities of the internet. However, the bill’s journey through Canada’s legislative process ended when Parliament was dissolved as a result of an election call.

In the Speech from the Throne on 16 October 2007, the Government of Canada indicated its commitment to “improve the protection of cultural and intellectual property rights in Canada, including copyright reform.” On 12 June 2008, the government introduced Bill C-61, *An Act to amend the Copyright Act*. As well as creating a number of new exceptions for personal use, the bill contains prohibitions on the unauthorised circumvention of technological protection measures (TPMs or digital locks). It also clarifies issues relating to Internet Service Provider (ISP) liability, through the establishment of a “Notice and Notice” regime for ISPs. These reforms will bring the *Act* in line with advances in digital technology and current international standards, implementing many of the rights and obligations found in the WIPO Internet Treaties. As Bill C-61 is about updating Canada’s copyright legislation, it does not propose ratification of the WIPO Internet Treaties, which would only be considered after further work has been completed.

### ***(b) Patent Protection***

EU Member States and Canada have patent regimes that fully implement their respective international obligations. Furthermore, Canada, EU Member States, the European Patent Office (EPO) and the European Commission are all members of WIPO Group B+ that is working to further patent law harmonisation. That said, patent rights are granted, administered and enforced differently in the EU and Canada.

## European Union

In the EU, patent rights continue to fall under the jurisdiction of the Member States. While a “European Patent” can be obtained through the EPO under the European Patent Convention (EPC), to which all EU Member States belong, the EPC only serves the purpose of rationalising the patent granting procedure. After grant, the European bundle patent issued by the EPO falls into patents conferring only national protection. Like national patents, they leave intact the territorial limits of property rights within the EU. Efforts are underway by the EU to establish a Community patent system. A unitary Community patent would provide a uniform supranational patent for the entire Internal Market. It would provide protection that would traverse the national

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<sup>102</sup> See Industry Canada, Supporting Culture and Innovation: Report on the Provisions and Operation of the Copyright Act, Copyright Act - Section 92 Report, October 2002. Available at [strategis.ic.gc.ca/pics/rp/ection92eng.pdf](http://strategis.ic.gc.ca/pics/rp/ection92eng.pdf).

borders of the Member States, embracing and covering the entire EU. In conjunction with the work on the Community patent, the EU is working on an architecture for an EU patent jurisdiction, which would include courts of first instance, a central court of appeal, a registry and sub-registry and an advisory committee for the appointment of judges.

## **Canada**

In Canada, patent protection is an issue dealt with under the federal jurisdiction, and the legislative provisions are set out in the *Patent Act*. While Industry Canada is responsible for the development of patent policy, the Canadian Intellectual Property Office (CIPO) is responsible for administering the *Patent Act*. Patent rights are private rights and right-holders can enforce patents granted by CIPO's Commissioner of Patents throughout all of Canada. In order to enforce patent rights, the right-holder must take legal action through the courts and, while patents are under federal jurisdiction, this action can be taken in either Provincial or Federal Court depending on the circumstances of the case.

### ***(c) Trademarks***

Broadly, trademarks prevent all third parties, who do not have the trademark owner's consent, from using in the course of trade the same or similar signs for identical or related goods and/or services as those protected by the trademark.

As with other forms of IP, the TRIPS Agreement provides for minimum standards for trademark protection. In particular, it defines what types of signs must be eligible for protection as trademarks, and what the minimum rights conferred on their owners must be. Marks that have become well-known in a particular country enjoy additional protection. Both the EU and Canada comply with their TRIPS commitments with regard to trademarks. Furthermore, both the EU and Canada were present during negotiations of the Singapore Treaty on Trademarks, in which members agreed to common standards with regards to procedural aspects of trademark registration and licensing (an agreement not yet ratified). In addition, the EU and Canada have both been actively engaged in discussions within the Standing Committee on Trademarks, Geographical Indications and Industrial Designs (SCT) at WIPO.

## **European Union**

The Community Trademark (CTM) system consists of one single registration procedure that grants to its owner an exclusive right in the 27 Member States of the EU. The CTM system leaves the national trademark systems of Member States unaffected. Business enterprises are free to file national trademark applications, a CTM application or both. The large numbers of national trademarks already existing and registered in the Member States remain valid.

The main legal provisions regarding the Community trademark are contained in three Community regulations: Council Regulation No. 40/94, usually referred to as "the Basic Regulation"; Commission Regulation No. 2868/95, usually referred to as the "Implementing Regulation"; and Commission Regulation No. 2869/95, usually referred to as the "Fees Regulation". In addition to

these three Regulations, the Commission adopted Regulation No. 216/96 laying down the rules of procedure of the Boards of Appeal.

The EU, as with many nations, is a party to the Madrid Protocol (having joined in 2004), which allows nationals of the countries who are members of the Agreement to protect their trademarks in any or all of the other Member States (the Protocol improves on the basic features of the Madrid Agreement Concerning the International Registration of Marks, signed in 1891).

## **Canada**

In Canada, trademark protection is obtained through use. Unregistered, or common law trademarks are protected mainly through the civil laws of the individual provinces and territories. The *Trade-Marks Act* is the federal statute that provides the framework for registered trademarks in Canada. Registration of a trademark gives the owner the exclusive right to its use throughout Canada.

Currently, Canada is not a member of either the Madrid Agreement or the Madrid Protocol. While Canada is not a member of the Trademark Law Treaty, nor the Singapore Treaty on Trademarks, it did actively participate in the negotiations for the latter. Canadian officials are currently assessing the merits of these international treaties. EU right-holders have claimed that, should Canada decide to join the Madrid Protocol, this could considerably facilitate their access to extended trademark protection.

### ***(d) Geographical Indications***

Geographical indications (GIs) under the TRIPS Agreement are “indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographic origin.” In other words, there must be a link between what the good is like and where it is produced. This link informs consumers of a certain quality or characteristic of the good, which may then be factored into their purchasing decision.

The TRIPS Agreement provides for a basic level of protection that all WTO members have to incorporate in their laws and make available to foreign GI producers. This protection consists of the prohibition of any presentation or designation of a good in a way that misleads the consumer as to its geographical origin, or constitutes an act of unfair competition. Wine and spirit GIs benefit from an additional level of protection. The TRIPS Agreement provides for the prohibition of the use of GIs on wines or spirits not originating in the place indicated, even if used in translation, or indicating the true origin of the goods or with expressions such as “type”, “kind”, etc. Hence wine and spirit GI producers do not need to prove consumer deception when defending their rights.

The TRIPS Agreement also provides for exceptions to GI protection. For example, a member may decide not to protect a name when it has become a common (or “generic”) term. Another example relates to exceptions to trademarks previously used in good faith.

Moreover, the TRIPS Agreement allows some room for flexibility in implementing the Agreement in the national legal systems. According to the WTO:

Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.

Given the above, GI protection systems deviate widely internationally. Some countries and regions such as the European Community have *sui generis* systems for the registration of GIs. Other countries, such as Canada, provide for the registration of GIs through the trademark system either through certification marks or collective marks or both.

The main practical differences between the *sui generis* approach and the trademark approach for protecting GIs is that the public element of the GI is emphasised under the *sui generis* type of protection. This includes concepts such as cultural heritage and involves the government to a significant extent in the protection and enforcement of the GI. In contrast, certification mark and collective mark registration systems emphasise the responsibility of the owner and user of the GI that is registered as a trademark.

## **European Union**

In 1992, the EU created a GI *sui generis* system encompassing Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI). A PDO covers the term used to describe foodstuffs which are produced, processed and prepared in a given geographical area using recognised know-how. In the case of the PGI, the geographical link must occur in at least one of the stages of production, processing or preparation. In Europe, GIs and trademarks are seen as complementary. Many products bear both a GI, indicating the geographical origin of the good, and a trademark identifying the company responsible for its production.

Eight EU Member States have adopted the WIPO Lisbon Agreement on Protection of Appellations of Origin and their international registration. There are now a total of 26 Members (Canada is not a member). The aim of the Agreement is to provide for the protection of appellations of origin, that is the “geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors.”

## **Canada**

Canada protects GIs by several means. For goods and services in general, an effective means of protection is provided through certification marks, under Canada’s *Trade-Marks Act*. Additional protection for GIs for wines and spirits is provided under the *Trade-Marks Act* in compliance with the requirements of Article 23 of the TRIPS Agreement.

Canada uses its regime for certification marks under its federal *Trade-Marks Act* to fulfill the obligations of Article 22 of the TRIPS Agreement. A certification mark is a type of trademark used for the purpose of distinguishing goods and services that are of a defined standard from those that are not. The defined standards may relate to, *inter alia*, the quality of goods or services,

and/or the area within which the goods have been produced or services performed, i.e. the geographical origin of the goods or services.

Some well-known names of goods produced in the EU and recognised there as GIs are currently registered as certification marks in Canada (e.g. ‘Stilton Cheese’, ‘Parmigiano Reggiano’ and ‘Mozzarella di Bufala Campana’).

### **WTO Negotiations**

The EU and Canada have diverging views with regard to GIs. Regarding negotiations for a multilateral register for wines and spirits, the European Community has submitted a proposal for a mandatory registry with legal effects. On the other hand, Canada and several others have submitted a “joint proposal” that calls for a voluntary registry with no legal effect. Furthermore, the European Community, along with a number of other countries, favours negotiating extending the higher level of protection, currently given to wines and spirits, to other products. Canada is among the countries opposing the move, and the debate has included the question of whether the Doha Declaration provides a mandate for negotiations.

Outside of WTO negotiations, the EU has criticised Canada on related issues. In particular, the EU has raised concerns that an EU GI for ‘Prosciutto di Parma’ cannot be used in Canada due to the prior Canadian-owned trademark for ‘Parma’. Furthermore, Canada has expressed the view that negative impacts on producers have occurred within the EU as a result of its GI regime, and that these would be indicative of potential ramifications of the European Community’s WTO proposals.<sup>103</sup>

### **Bilateral Agreements**

In parallel to international instruments, bilateral agreements are used to enhance GI protection. The specific Wine and Spirits Agreement between EU and Canada was signed in September 2003. In this Agreement, Canada agreed to phase out certain generic names in return for concessions designed to make it easier for Canadian wines and spirits to gain access to the European market. Since the implementation of the Agreement, certain EU stakeholders have questioned the protection in Canada of the GI ‘Irish Cream Liqueur’.

### **Enforcement of Intellectual Property Rights**

The value of IPR is limited if it is not possible to enforce these rights, and there is a growing concern about the widespread infringements of such rights.

It takes a strong commitment at government level and efficient administrative and judicial authorities to provide for the adequate enforcement of IPR. Over the last decade, parties have made considerable legislative efforts to improve the IP enforcement regime. However, it is essential not to neglect the implementation of such legislation by police, administration, customs

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<sup>103</sup> For example, under the EU regulations, the term ‘feta’ is a protected designation of origin for Greece. A 2005 European Court of Justice ruling required all EU Member States other than Greece to stop using the term by October 2007.

and courts. However, piracy and counterfeiting are big business for criminal organisations and undermine entire sectors – including the most creative and competitive sectors – of knowledge-based economies. The OECD estimates infringements of intellectual property at more than €150 billion per year (higher than the gross domestic products of more than 150 countries).

Without efficient enforcement of IPR, the property of the most innovative and quality-driven companies is threatened. Authorities should be given the incentive to act and to provide right-holders with mechanisms that work quickly and effectively.

Enforcement challenges have been identified by Canadian stakeholders in EU Member States such as Greece, Italy, and Romania.

The issue of IPR enforcement also was raised in Canada's 2007 Trade Policy Review, and EU industry has reported that court, customs and police enforcement mechanisms can be difficult to activate. Under current privacy legislation, Canadian authorities are legally prevented from sharing details about suspected IPR-infringing shipments with private right-holders. Information can only be shared with right-holders who have obtained a court order in advance of that shipment, making it difficult for them to effectively enforce their rights.

In the EU, around 80% of all fake goods arrested are seized at the border. In 2007, EU customs seized more than 80 million fake objects, in 43,000 customs actions among the EU Member States. In Canada, in the course of one year, approximately 1,000 shipments of suspected fake and counterfeit goods are identified by the Canadian Border Services Agency (CBSA), many of which are referred to the Royal Canadian Mounted Police (RCMP) for possible criminal investigation. The *Customs Act* only provides the CBSA with the authority to detain goods that are controlled, regulated or prohibited goods under an Act of Parliament. However, the detention provisions would not extend to suspected counterfeit or pirated goods, as the importation of these goods is not presently an offence in Canada under any Act of Parliament, and border service officers do not have *ex officio* powers to detain counterfeit and pirated goods. However, suspected counterfeit or pirated goods may be detained if the right-holder obtains a court order in advance of the shipment. In Canada, domestic IP enforcement actions are therefore carried out by the RCMP, which undertook approximately 400 seizures of counterfeit and pirated goods in Canada in the last year, including an April 2008 seizure of over 2.2 million counterfeit pills.

Canada is studying options to enhance the enforcement of IPR, to address the challenges posed by organised crime and the trends surrounding commercial-scale counterfeiting and piracy.

The EU and Canada are engaged in various international fora on IP issues and share a common goal – to find a global solution to the global problem of counterfeiting and piracy. Cooperative efforts are underway at the WTO at the Dispute Settlement Body, through participation as third parties in a case examining Chinese measures affecting the protection and enforcement of IPR. The EU and Canada are also engaging developed and emerging economies in dialogues on IP through the G8's Heiligendamm Process, Interpol, the World Customs Organisation, the ongoing negotiation of the Anti-Counterfeiting Trade Agreement and WIPO.

## **2.4.4 Telecommunications Services**

*Telecommunications services are not only important economic drivers in their own right; they are also key enablers of trade and development. Technological change is spurring innovation in the telecommunications sector, which is increasing efficiency in the sector itself, and allowing for trade in new service sectors and economic growth.*

*Telecommunications services are vital infrastructure services, but are extremely capital intensive to establish. Governments have historically been heavily involved in establishing, supporting, and regulating what were seen as natural monopolies. By the 1980s, however, there was growing recognition that competition in the telecommunications sector increases innovation and growth, and the policy focus of regulators in many industrialised countries, including Canada and those of the EU, shifted to liberalisation.*

*The technical nature of the telecommunications sector, and its legacy of state-owned monopolies, creates many issues related to competition, competition policy, and commercial arrangements and technical matters. There are many cross-border issues and linkages, be it billing systems, privacy, spectrum allocation, security, and in some instances, licensing. Many of these matters are handled by the telecom regulatory authorities.*

*The EU and Canada have opened their telecommunications services markets gradually since the early 1990s through a series of regulatory and legislative adjustments. At this stage, a large proportion of their respective national markets are open to competition. The conclusion of a successful liberalisation process will mean that regulatory interventions in the sector can be significantly reduced or, where appropriate, come to an end.*

### **Bilateral and Multilateral Agreements**

The EU and Canada have both taken commitments in the telecommunications sector under the General Agreement on Trade in Services (GATS). Both the EU and Canada have essential bound domestic regimes in telecommunications in GATS.

There are currently no bilateral agreements between the EU and Canada that are specifically related to the telecommunications services sector. However, the EU Member States and Canada have treaty obligations related to telecommunications services under a range of agreements negotiated within the International Telecommunication Union. These multilateral agreements have bilateral implications, be they matters related to spectrum allocation and use, satellite orbital locations, standards or other telecommunications matters.

The EU-Canada Framework for Regulatory Cooperation and Transparency, a voluntary arrangement, has been utilised by both parties for a range of telecommunications sector activities over many years.

## **European Union**

### ***Regulatory Structure***

The regulatory process for telecommunications in the EU reflects the wider process of economic integration in Europe. The EU regulatory framework for electronic communications is, to a large extent, developed by the European Commission and agreed to by the European Parliament and the Council of the EU. The regulatory framework for electronic communications is comprised of a package of legal instruments (Directives) that are based on elements of liberalisation, harmonisation, competition, and public service.<sup>104</sup> European Directives are transposed by the Member States of the EU into national law.

### ***Evolution of Telecommunications Regulation in the EU***

The first phase of European Community policy-making started in 1984, and sought to develop common standards and specifications, shared research programmes between operators and industry, special programmes for the least-developed regions using Structural Funds, and initial common European positions for international telecommunications negotiations. Starting in 1987, the policy focus shifted to liberalisation. The 1990 Framework Directive complemented the liberalisation directive by establishing the principle of Open Network Provision and essentially harmonising open access to public telecoms networks. The liberalisation of all telecommunications services and networks was completed by 1 January 1998. The 1998 framework was designed to manage the transition from monopoly to competition, including directives on interconnection and licensing, and was accompanied by comprehensive guidelines on the application of European Community competition law in the new business environment.

In 2002, the EU adopted a new regulatory framework for electronic communications networks and services, covering all forms of fixed and wireless telecoms, data transmission and broadcasting.<sup>105</sup> The framework was developed in order to address issues relating to rapidly changing technology, convergence, and the new challenges of truly liberalised markets.

The year 2002 also saw the establishment of the European Regulators Group (ERG) for electronic communications networks and services. The ERG was set up by the European Commission to provide a suitable mechanism for encouraging cooperation and coordination between it and national regulatory authorities, in order to promote the development of the internal market for electronic communications networks and services. Composed of the heads of the relevant national authorities, the ERG acts as an interface between them and the European Commission in order to advise and assist the Commission in consolidating the internal market for electronic communications networks and services. In addition, the ERG seeks to achieve consistent application, in all Member States, of the regulatory framework of electronic communications set by the European Commission.

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<sup>104</sup> The package of legal instruments can be found at [ec.europa.eu/information\\_society/policy/ecomms/current/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomms/current/index_en.htm).

<sup>105</sup> The regulation of the content carried by such services is dealt with under separate rules (see [ec.europa.eu/avpolicy/reg/index\\_en.htm](http://ec.europa.eu/avpolicy/reg/index_en.htm)).

Transposition of the regulatory framework into the national law of the 27 Member States was completed in 2007 with the adoption of primary legislation by Bulgaria and Romania.<sup>106</sup>

However, in 2007, the European Commission acknowledged that in order to realise the full potential of the internal market, more consistency of application across the EU and strengthening of the framework in some areas were needed.<sup>107</sup> In November 2007, the Commission submitted a proposal to the European Parliament and the Council of the EU that it believes will allow it and national regulators to refocus efforts on markets where competition is not yet effective.

The November 2007 proposal for the review of the regulatory framework for electronic communications focuses on four key areas: competition, better regulation, strengthening the internal market and consumer protection. In order to encourage competition, *ex-ante* regulation in those markets where competition is not yet effective will be maintained. The reform will also give national regulators, under certain conditions, the possibility of introducing functional separation between the services and infrastructure divisions of an operator.

The European Commission has removed *ex-ante* regulation from 11 of the 18 markets or sub-sectors, including both retail (from operators to consumers) and wholesale (between telecoms operators) markets. The Commission's proposals also seek to enable the telecoms sector to make better use of radio spectrum, so to ensure those industries dependent on spectrum can reap the maximum economic benefits of this vital and scarce resource.

The telecoms sector in Europe remains to some extent fragmented on national lines, largely because of regulatory inconsistency. Operators seek certainty in the regulatory approach throughout the EU, and so lack of consistency has been a major barrier to their investment outside their home Member States. The 2007 proposal recommends that a new European Telecom Market Authority be established. This new body will build on the combined expertise of National Regulators – which each have the knowledge of their own national markets – under the clear responsibility of the European Commission.

Existing EU legislation ensures that all citizens have a basic set of rights, including access to a telephone/internet connection and protection of personal data, as well as specific rights for people with disabilities to be able to gain access to telecoms services. The proposal builds on these rights by obliging operators to publish information on prices, facilitate transfer of customers from one service provider to another, and improve access to telecoms services for people with disabilities. In addition, the proposal would increase EU efforts to combat spam, spyware and related malicious uses of the telecoms system. The aforementioned Authority will include a Chief Network Security Officer who will coordinate the Authority's security-related activities and will work with national regulators to identify and respond to threats to European telecoms networks.

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<sup>106</sup> See also the annual report on the implementation of the regulatory framework in the EU, "Towards a Single European Telecoms Market – 13<sup>th</sup> Progress Report," March 2008, [ec.europa.eu/information\\_society/policy/ecomm/library/communications\\_reports/annualreports/13th/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomm/library/communications_reports/annualreports/13th/index_en.htm).

<sup>107</sup> European Commission Communication, "European Electronic Communications Regulation and Markets", COM(2007)155, 29 March 2007.

## ***Regulatory Limitations and Barriers to Competition***

The EU has offered, with a few individual-Member level exceptions, full commitments in telecoms in GATS. Remaining limitations reflect domestic regimes, and include commercial presence market access limitations in Finland (residency requirement for 50% of founders and board of directors as well as the managing director), France (non-EU national or juridical persons may not directly hold more than 20% of the shares or voting rights), Poland (foreign capital and voting rights limited to 49% for telecoms services providers using cable television and radio networks and for public cellular mobile telephone services and networks), Slovenia (foreign participation may not exceed 99%), as well as national treatment limitations for cross-border services in Cyprus and Malta.

The proposal by the European Commission on the review of the regulatory framework for electronic communications aims to strengthen an open, liberalised market that encourages competition and thus trade. Indeed, effective market regulation permitting access to the incumbent's infrastructure has been demonstrated to encourage competition, and decisive regulatory action has clearly been important. However, the European Commission has identified inconsistency of application of the regulatory framework across the EU as a barrier to the realisation of the full potential of the internal market.

Enforcing effective implementation of the regulatory framework for electronic communications is a priority for the European Commission. It opens infringement proceedings under Article 226 of the EU Treaty if it believes a Member State has failed to fulfil its obligations following from the regulatory framework. Member States have to notify all transposition measures on time and if they fail to do so the Commission has to launch infringement proceedings. These will also be launched if Member States fail to implement the regulatory framework correctly.

Amongst the issues addressed for incorrect implementation were problems concerning the availability of the single European emergency number, the independence and impartiality of several National Regulatory Authorities and the length of the appeals process.

More flexible and liberal management of radio spectrum has been undertaken by a number of Member States. However, diverging approaches related to spectrum management among Member States remain. Recent research shows that effective spectrum management across all Member States could generate up to 0.1% GDP growth.<sup>108</sup>

In view of the transition from analogue to digital terrestrial television ("digital switchover"), expected to be completed across the EU Member States, additional spectrum capacity for new and enlarged services is expected to bring more competition in the market.

At EU level, a framework for a coordinated selection and authorisation of mobile satellite system operators to provide pan-European services has been developed. In August 2007, a Proposal for a decision on the selection and authorisation of systems providing mobile satellite services was

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<sup>108</sup> Benchmarking Impacts of EU Policy – Options for Economically Efficient Management of Radio Spectrum, SCF Associates, December 2006.

adopted by the European Commission to create a legal basis for pan-European selection and authorisation of Mobile Satellite Services (MSS) operators throughout Europe.

The 2007 EU roaming regulation introduces the “Eurotariff”, which sets limits on the prices mobile operators can charge for mobile calls made or received while abroad in an EU Member State. Euro-tariff rates will gradually decrease from 2007 to 2009.

## **Canada**

### ***Regulatory Structure***

Industry Canada, the government department headed by the Minister of Industry, has responsibility for telecommunications policy and international submarine cable licensing under the *Telecommunications Act*, as well as responsibility for spectrum policy and management under the *Radiocommunication Act*.<sup>109</sup> Industry Canada allocates the spectrum with a view to advancing public policy objectives, preventing harmful interference and enforcing international obligations.

The Canadian Radio-television and Telecommunications Commission (CRTC), an independent federal agency with quasi-judicial status, is responsible for the regulation and supervision of telecommunications and broadcasting services, including cable television and satellite services, in Canada. Its institutional structure and powers are outlined in the *CRTC Act*, the *Broadcasting Act*<sup>110</sup> and, as described below, the *Telecommunications Act*.

### ***Evolution of Telecommunications Regulation in Canada***

Competition has been introduced gradually to the Canadian telecommunications service market over a number of years through policy and regulatory initiatives by the federal government and its regulator, the CRTC. The process started in 1979 with the end of the telephone companies’ monopoly on private lines interconnected with the public switched telephone network. This was soon followed by similar liberalisation in 1980 of the market which provides telephones and other customer premises equipment. In the 1980s, competition was allowed in the resale of certain telecommunications services. In 1984, the government established a more competitive industry structure in the mobile cellular telephone market, through its licensing of two providers in each region of the country.

The pace of liberalisation accelerated in the 1990s. In 1992, the market for public long distance voice services was opened to competition. The *Telecommunications Act*, which passed into law in 1993, provided the legislative framework for future initiatives to introduce competition in the telecommunications market. In 1998, the CRTC opened the facilities-based international telecommunications market to competition and established a new regulatory framework for all international services.

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<sup>109</sup> The *Telecommunications Act* is available at [laws.justice.gc.ca/en/showtdm/cs/T-3.4](http://laws.justice.gc.ca/en/showtdm/cs/T-3.4); the *Radiocommunication Act* at [laws.justice.gc.ca/en/showtdm/cs/R-2](http://laws.justice.gc.ca/en/showtdm/cs/R-2).

<sup>110</sup> The *CRTC Act* is available at [laws.justice.gc.ca/en/showtdm/cs/C-22](http://laws.justice.gc.ca/en/showtdm/cs/C-22); the *Broadcasting Act* at [laws.justice.gc.ca/en/showtdm/cs/B-9.01](http://laws.justice.gc.ca/en/showtdm/cs/B-9.01).

In March 2006, an independent panel of experts commissioned by the government to review Canada's telecommunications policy and regulatory framework released its final report. The report included 127 recommendations to modernise Canada's telecommunication regime, including a stronger reliance on market forces and a proposal to amend the restrictions on foreign direct investment (FDI) in the sector.

In 2007, Canada initiated a panel to review competition matters, including FDI restrictions in telecommunications. In its report to the Minister of Industry in June 2008, the panel recommended amendments to the foreign investment restrictions in telecommunications. The government is considering the recommendation.

Canada's policy agenda in the telecommunications sector aims to decrease regulatory burden and make regulation more efficient and effective through increased reliance on market forces. Thus, the *Telecommunications Act* (1993) requires that the regulator forbear from economic regulation where it deems there is sufficient competition to protect the interests of users. More recently, the Government of Canada issued a Policy Direction to the CRTC, which came into force in December 2006. The Policy Direction specifies that the regulator must rely on market forces to the maximum extent possible. In keeping with Canada's overall approach in the telecommunications sector, the Policy Direction will be applied in a non-discriminatory way, as has all other regulation, and is intended to spur further competition between providers, regardless of national origin.

As part of its ongoing policy approach towards increased liberalisation, in November 2006, the CRTC commenced a review of the regulatory frameworks surrounding mandated access to wholesale services, which provide competitor access to incumbent networks at regulated wholesale rates,<sup>111</sup> and of the definition of essential service. The 3 March 2008 decision retains mandated access for some services and redefines the concept of an essential service for competitors.

Canada's Spectrum Policy Framework, published in June 2007, sets as the government's primary goal to maximise the economic and social benefits that Canadians derive from the use of the radio frequency spectrum resource. A portion of the spectrum auctioned off for Advanced Wireless Services (AWS) in 2008 was set aside for new entrants.

In December 2007, the CRTC granted conditional approval to a new telecommunications consumer agency, established to provide customers with effective recourse when they are unable to resolve a disagreement with their service provider about an unregulated telecoms service. Although established by the telecoms service providers, the consumer agency is structured in a way that will ensure its independence from the industry. All Canadian service providers and resellers whose annual Canadian telecommunications service revenues exceed C\$10 million are required to become members of the agency.

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<sup>111</sup> Telecom Public Notice CRTC 2006-14.

### ***Regulatory Limitations and Barriers to Competition***

Canada maintains limitations on foreign investment in facilities-based telecommunications, as well as limits on competition in the Northern Territories.

Canada's *Telecommunications Act* requires that telecommunications common carriers (or facilities-based service providers) be Canadian controlled and limits foreign direct investment to 20% of the voting shares. The limit on the voting shares for holding companies is 33⅓%. The maximum investment by foreign entities in an operating company is 46.7% (i.e. 20% of the operating company and 26.7% of the holding company (33⅓% of the remaining 80%)). Such carriers must be controlled, in fact, by Canadians. Canada allows up to 100% foreign ownership of service providers of basic telecommunications supplied on a resale basis. Moreover, there are no restrictions on the providers of enhanced telecommunications or data services.

Given the longstanding movement towards liberalisation of the sector, 90% of telecommunications revenues in Canada are generated from deregulated markets. This percentage will continue to increase as further regulatory reviews are completed. The mobile telecommunications sector has always been deregulated in Canada, and competition has been introduced in all local telephone markets except in the northern territories. Long-distance telephony is also deregulated. Moreover, Canada, contrary to Europe, has an extensive cable television infrastructure and this cable sector provides competitive telecommunications services in most regions. The CRTC has a well established interconnection regime for both cable and telephone infrastructure which facilitates competitive service entry and provision by domestic and international service providers.

Canada has always had privately-owned regional companies and now has competitive national providers of telecommunications services with their own infrastructure. There are, therefore, two major competitive infrastructures platforms in Canada (telephone and cable) and numerous competitive telephone providers, some of whom use satellite infrastructures.

## 2.4.5 Electronic Commerce

*The EU and Canada are world leaders in the adoption, use and development of electronic commerce – a new way of doing business rather than a new sector in and of itself. It includes both transactions between businesses and between businesses and consumers, and plays a substantial role in all aspects of the international goods and services value chains.*

### **The EU and Electronic Commerce**<sup>112</sup>

On 18 April 1997, the European Commission published the “European Initiative on Electronic Commerce”, which establishes specific, detailed objectives to encourage the vigorous growth of electronic commerce in Europe. In this initiative, the items identified as essential to the successful development of electronic commerce are building trust and confidence in order to encourage business and consumer use of electronic commerce, as well as ensuring full access to the single market by both making sure that Member States have not adopted divergent national legislation and establishing a coherent regulatory framework at EU level.

The Initiative also identified several legal issues that needed to be addressed: the identification of the competent Member State and which law is applicable in cases of dispute; the identification of applicable provisions in the field of commercial communications (advertising, direct marketing, etc.); the legal recognition of electronic contracts; adapting of accounting and audit rules; and the reliability of electronic payment systems. The regulatory framework must also ensure data security and privacy through the use of encryption, establish appropriate protection for intellectual property rights and conditional access services, and ensure a clear and neutral tax environment.

### ***Legal Framework Applicable to Electronic Commerce***

#### ***(a) Community Framework for Electronic Signatures***

The main objective of the 1999/93/EC Directive is to facilitate the use of electronic signatures and contribute to their legal recognition within the Member States. The main provision of the Directive states that an advanced electronic signature, based on a qualified certificate and created with a secure signature creation device, satisfies the same legal requirements as a handwritten signature and is admissible as evidence in legal proceedings.

The Directive also creates a Community framework for the use of electronic signatures. Member States must ensure that mutual recognition of electronic signatures is applied. As of 2006, all EU Member States had implemented the general principles of that Directive.

#### ***(b) Directive on Electronic Commerce: Legal Aspects***

In June 2000, the EU issued the Directive on Electronic Commerce (2000/31/EC), which is designed to improve the legal security of electronic commerce and increase consumer confidence

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<sup>112</sup> More information on EU activity with regard to electronic communications policies and regulatory framework is available at [ec.europa.eu/information\\_society/index\\_en.htm](http://ec.europa.eu/information_society/index_en.htm).

in Internet transactions. To that end, it set up a stable legal framework by making information society services subject to the principles of the single market (free circulation and freedom of establishment) and introduced a limited number of harmonised measures.

The approach taken is intended to avoid over-regulation, and was based on a desire to remove disparities in Member States' case law in order to encourage consumer and business confidence.

The Directive covers all information society services as well as the following online sectors and activities: newspapers, databases, financial services, professional services (solicitors, doctors, accountants, real estate agents), entertainment services, direct marketing, and advertising and Internet access services. The directive applies solely to service providers established in the EU, but seeks to avoid incompatibilities with legal trends in other parts of the world. It focuses on important principles such as transparency and the application of the national legislation of the Member State where the provider is established. It also defines the rules governing commercial communications, spamming, online contracts and liability of intermediaries.

As of 2003, the Directive has been shown to have had a positive effect on electronic commerce in the EU and to have generally been transposed satisfactorily in all Member States.

An Expert Group on electronic commerce was established in 2005, with the objective of enhancing and facilitating administrative cooperation between Member States and between Member States and the Commission, and to discuss problems with the application of the Directive as well as emerging issues in the area of electronic commerce. This Group has met once a year since its inception, the latest meeting having taken place in February 2008.

#### *(c) Directive on Privacy and Electronic Communications*

In July 2002, the Directive on Privacy and Electronic Communications (2002/58/EC), commonly known as the "ePrivacy Directive", was issued to protect the privacy and personal data of natural persons (and the legitimate interests of legal persons) when using communications services. The Directive contains provisions crucial to ensuring that users can trust the services and technologies they use for communicating electronically, in particular, on: the confidentiality of communications, the security of electronic communication services and networks and the prohibition of spam and spyware and the installation of cookies. The ePrivacy Directive is implemented by all EU 27 Member States.

#### *(d) Value Added Tax: Special Arrangements Applicable to Services Supplied Electronically*

The Directive on Value Added Tax and special arrangements applicable to services supplied electronically creates a level playing-field for EU businesses with regard to the indirect taxation of electronic commerce. The Directive also aims to make compliance for non-EU businesses as easy and straightforward as possible. These measures have had the effect of modernising the value added tax place-of-supply rules for services by including the electronic commerce sector. The application of the Directive has been extended to December 2008.

## ***Policies, Initiatives and Strategies Relating to Electronic Commerce***

### ***(a) Spam***

In January 2004, in its Communication on unsolicited commercial communications, otherwise known as “spam, “ (COM2004 28 final), the European Commission listed different types of action that Member States, industry and consumers should take to fight spam. It states that all stakeholders (Member States and competent authorities, consumer and user associations, businesses, etc.) should take an active role in prevention, consumer awareness-raising and dealing with complaints.

The Communication also suggests technical and self-regulatory action for industry. These measures relate to areas such as contractual arrangements, codes of conduct, acceptable marketing practices, labels, alternative dispute resolution mechanisms and technical solutions, such as filtering and server security.

In 2006, the Commission presented a Communication (COM2006 688 final) to deal with developments in spam, and threats such as spyware and malicious software. The Communication took stock of efforts made to fight these threats and identified further actions that could be taken, including: strengthening Community law, law enforcement, cooperation within and between Member States, political and economic dialogue with third countries, industry initiatives and research and development activities. Furthermore, it noted that there were still obstacles to the effective implementation of the ePrivacy Directive in most Member States, and that close cooperation should be put in place at the national level between the competent authorities, network operators and Internet Service Providers, in order to promote the exchange of information and technical expertise and encourage the pursuit of online malpractices.

### ***(b) Privacy***

In 2007, the Commission published a Communication to improve the level of privacy and data protection in the Union. It now intends to identify requirements of the technologies that reinforce privacy protection and to continue to promote their development (notably through research and technological development projects and large-scale pilot demonstrations) and use by industry and public authorities. To ensure that the appropriate standards are met in terms of personal-data protection through technologies reinforcing privacy protection, the EU agreed to consider the standardisation and coordination of national technical rules regarding security measures applicable to data processing. Moreover, the Commission decided that it would carry out awareness-raising actions for consumers and study the viability of a European system for privacy-protection seals.

### ***(c) Information Society and Technologies Strategy***

In 2005, the Commission launched the i2010 initiative as its strategic framework, laying out broad policy guidelines for the information society and the media. The initiative proposed three priority goals for Europe’s information society and media policies to achieve by 2010: creating a single European information space; strengthening innovation and investment in information and

communication technologies (ICT) research; and achieving an inclusive information and media society.

The objective with regard to innovation and investment in research outlines the main objective with regard to electronic commerce: defining electronic commerce policies aimed at removing technological, organisational and legal barriers to ICT adoption with a focus on small-and medium-sized enterprises.

The mid-term review of i2010, released on 18 April 2008, showed that i2010 is starting to deliver. It confirmed the important contribution of information society and media policies to the achievement of the Lisbon goals. As of 2007, most Member States consider ICT development as one of the main achievements in their structural reform programmes. By the beginning of 2008, more than 50% of all Europeans were regular Internet users; 80% had broadband connections and 60% of public services in the EU were fully available online. In spite of progress and policy commitments, some areas deserve further attention, however: the performance of the EU in ICT research and innovation falls short of expectations, as does the migration towards very high-speed networks, which should be the infrastructure for the future Internet connections can be slow in the EU; and there are still significant gaps in the single market for ICT, including full integration of users' rights and expectations. The mid-term review put forward specific proposals for i2010 to be re-oriented in order to further promote competitiveness and ICT take-up in Europe.

In 2006, in the framework of i2010, the Commission updated its strategy for a secure information society, to take into account the current state of threats and to determine what additional steps should be taken (e.g. on critical information infrastructure protection, on trusted computing and on electronic identify management). A secure information society must be based on enhanced network and information security. Achieving this requires the development of a widespread culture of security. To this end, the Commission proposed a dynamic and integrated approach involving all stakeholders and based on dialogue, partnership and empowerment. Given the complementary roles of the public and private sectors in creating a culture of security, policy initiatives in this field must be based on an open and inclusive multi-stakeholder dialogue.

The security strategy emphasises the positive virtue of technological diversity as an integral component of security, as well as the importance of openness and interoperability.<sup>113</sup> It also highlights the strategic importance of European industry being both a demanding user and a competitive supplier of network and information security products and services

The Commission made use of the expertise of the European Network and Information Security Agency (ENISA) to examine the viability of a European information-sharing and alert system and to work on a security data collection framework.

### ***International Activities***

The European Commission is collaborating with, and is involved in, the work surrounding the information society being carried out by the World Trade Organisation (WTO), the International

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<sup>113</sup> See [ec.europa.eu/information\\_society/policy/nis](http://ec.europa.eu/information_society/policy/nis) for further details.

Telecommunication Union (ITU), the United Nations Commission on International Trade Law (UNCITRAL) and the Organisation for Economic Cooperation and Development (OECD). The EU also plays an active role in the London Action Plan to Expand Cross-Border Public-Private Anti-Spam Cooperation and the Contact Network of Spam Enforcement Authorities (CNSA), which promotes the exchange of best practices and cooperates in matters involving cross-border application of the law.

In addition, the European Commission holds annual dialogues, workshops, and discussions on the regulatory framework for electronic communications as well as information and communications technologies research policy with third countries, including the United States, Japan, Australia, Canada and South Korea.

### **Canada and Electronic Commerce**<sup>114</sup>

The Canadian government promotes Internet use and has successfully adopted Government On-line. Its main objectives are to build trust in the digital economy, clarify the rules of the domestic and international marketplaces, remove barriers to the use of electronic commerce in conjunction with the private sector, and benchmark both firm-level and national performance in the digital economy. Industry Canada is the department of Canada's federal government mandated to promote the development and implementation of electronic commerce.

#### ***Legal Framework Applicable to Electronic Commerce***

##### ***(a) Uniform Electronic Commerce Act***

The *Uniform Electronic Commerce Act* was adopted by the Uniform Law Conference of Canada on 30 September 1999. The Act sets forth rules of functional equivalence between paper documents and electronic documents, and specifies that these rules apply when the parties to a transaction have agreed, explicitly or implicitly, to use electronic documents. It establishes rules on particular types of communications, such as the formation and operation of contracts, the effect of the use of automated transactions, the correction of errors related to computer transactions, and the presumed or deemed times and places of the sending and receipt of computer messages. It also regulates the carriage of goods.

##### ***(b) Personal Information Protection and Electronic Documents Act***

The Canadian Government aims to clarify marketplace rules through policies in the areas of privacy protection, online security and appropriate Internet content. In addition, it supports the development of other legal and regulatory frameworks for electronic commerce in Canada, including those related to consumer protection.<sup>115</sup>

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<sup>114</sup> More information about Canadian initiatives in electronic commerce can be found at [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/home](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/home).

<sup>115</sup> For more information, see [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00086e.html#Protection](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00086e.html#Protection).

On 1 January 2001, the *Personal Information Protection and Electronic Documents Act* (PIPEDA),<sup>116</sup> Canada's federal privacy statute, came into force. PIPEDA applies to all personal information collected, used or disclosed by private sector organisations engaged in commercial activities. The Act provides that organisations must obtain a person's consent before collecting, using or disclosing personal information about that person; that organisations are obliged to protect personal information by adopting appropriate security measures according to the degree of sensitivity of the information; and that individuals may have access to personal information about them that is held by an organisation and have it corrected if required.

PIPEDA is mandated to be reviewed by Parliament every five years. In its response to the May 2007 report tabled by the Parliamentary Committee that conducted the review, the Government committed to a series of amendments that aim to improve clarity and certainty with respect to the requirements of PIPEDA, as well as to assist individuals in better protecting themselves against identity theft and other harms. Priority is being given to an amendment that, in data breach situations, will require organisations to notify affected individuals and to report to the Privacy Commissioner.

### ***Policies and Initiatives Relating to Electronic Commerce***

#### *(a) Canadian Policy on Cryptography*

Canada's policy on the use of cryptography for the conduct of electronic commerce strives to balance the needs of business, human rights and privacy, public safety and law enforcement, and national security interests.<sup>117</sup> This policy also forms the basis for Canada's work internationally within the Wassenaar Arrangement<sup>118</sup> and other international fora, to establish guidelines for the export of cryptographic products and services, and on the development of authentication and accreditation services by the private sector.

#### *(b) Electronic Authentication*

In May 2004, Canada published the *Principles for Electronic Authentication – A Canadian Framework*.<sup>119</sup> The Principles represent a public-private sector accord on how electronic authentication services should be designed, developed and deployed in Canada, and are intended to be a useful source of information and benchmarks against which services offered in the marketplace can be evaluated.

In 2006, Industry Canada convened the Authentication Principles Working Group to assess the extent to which it was necessary to update the Principles, to adapt them to technological progress made, to evolution of the markets (national and international) and to new pressures relating to government policies.

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<sup>116</sup> For the full act, visit [lois.justice.gc.ca/en/P-8.6/index.html](http://lois.justice.gc.ca/en/P-8.6/index.html).

<sup>117</sup> For more information on Canada's Policy on Cryptography, visit [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00118e.html](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00118e.html).

<sup>118</sup> See [www.wassenaar.org](http://www.wassenaar.org).

<sup>119</sup> Industry Canada, *Principles for Electronic Authentication: A Canadian Framework*, 2004, available at [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/h\\_gv00240e.html](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/h_gv00240e.html). For more information on electronic authentication, visit [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/h\\_gv00090e.html](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/h_gv00090e.html).

### *(c) Spam*

Following discussions and consultations with key stakeholders from industry and consumer protection agencies to identify possible means of reducing the volume of spam, Industry Canada developed a six-point action plan, calling on government, industry, business and consumers to work together on the following initiatives:

- Improving application and enforcement of existing laws, such as the Personal Information Protection and Electronic Documents Act, and regulatory measures;
- Reviewing existing laws to identify any legislative or regulatory gaps;
- Improving network management practices and industry codes of practice;
- Using technology to validate legitimate commercial communications;
- Enhancing consumer education and awareness; and
- Promoting an international framework to fight spam.

In May 2005, the Canadian Task Force on Spam published a report titled *Stopping Spam: Creating a Stronger, Safer Internet*.<sup>120</sup> The report contains a number of recommendations including stricter law enforcement, public education, industry best practices, international collaboration and legislation.

### ***International Activities***

Canada supports the worldwide growth of electronic commerce principles such as:

- Transparent and non-discriminatory policy, legislative and regulatory measures;
- Intergovernmental cooperation to ensure the creation of an environment conducive to uniform electronic commerce development;
- Recognition that existing WTO Agreements apply to electronic commerce as a means of doing business;
- Consistent with the Ottawa Taxation Framework Conditions developed by the Organisation for Economic Cooperation and Development, the application to electronic commerce of the principles of neutrality, efficiency, certainty and simplicity, effectiveness and fairness, and flexibility; and
- Making permanent and binding the current WTO practice of not imposing customs duties on electronic transmissions.

In addition to promoting electronic commerce through international trade agreements, Canada has signed five Joint Statements on electronic commerce with other countries or areas: the United States and Mexico, Australia, Costa Rica, the EU and the United Kingdom.<sup>121</sup> All statements recognise the potential benefits of the digital economy and emphasise a shared vision for global electronic commerce.

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<sup>120</sup> Report of the Task Force on Spam, *Stopping Spam: Creating a Stronger, Safer Internet*, May 2005, [www.ic.gc.ca/epic/site/ecic-ceac.nsf/vwapj/stopping\\_spam\\_May2005.pdf/\\$file/stopping\\_spam\\_May2005.pdf](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/vwapj/stopping_spam_May2005.pdf/$file/stopping_spam_May2005.pdf).

<sup>121</sup> The joint statements are available at [www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00179e.html](http://www.ic.gc.ca/epic/site/ecic-ceac.nsf/en/gv00179e.html).

## **EU-Canada Relations Relating to Electronic Commerce**

The EU and Canada share a vision for the development of a global information society and recognise the need for an international environment that supports the growth of electronic commerce and maximises social potential for citizens. Both are working to expand electronic commerce, while securing user trust, consistent international rules and consumer security and protection. They hold bilateral consultations on the subject in the context of a Joint Statement on Electronic Commerce signed in December 1999, which was followed by a Work Plan in 2000.

In this Statement, both parties, together with the private sector, civil society and the competent international organisations, agree they will endeavour to:

- Promote confidence as regards the world market, ensuring that structures and mechanisms of protection address issues such as privacy, security and consumer protection;
- Guarantee that the relevant legal and commercial structures apply to electronic operations and do not unduly hinder the opportunities presented by electronic commerce;
- Promote the growth of high-quality infrastructure and services in the information sector, as well as access to that infrastructure and its services, through effective competition;
- Maximise the socio-economic advantages generated by the advent of a digital economy and a global information society;
- Promote cultural and linguistic diversity of the information society by providing for greater access to cultural heritage and its content, such as audio-visual services; and
- Stimulate the expansion and dissemination of the information society through government practices such as online access to public information, electronic procurement and promotion of open and interoperable systems.

To further strengthen collaboration, a Joint Statement on cooperation in the field of Anti-Spam Policies and Strategies was signed in 2005. Areas of cooperation include: exchanging relevant information; encouraging the adoption of effective anti-spam technologies and network management practices through industry codes of practice; supporting marketers in adopting spam-free marketing techniques; identifying and promoting user practices and behaviours that can effectively control and limit spam; supporting public information and awareness campaigns; and, finally, cooperating in the context of international fora.

The EU and Canada believe that establishing legislative structures governing the privacy and protection of personal information is a key element of an electronic commerce strategy. At the international level, the EU and Canada support an approach based on establishing standards to complement existing national structures. For example, in 1995, the EU passed the Data Protection Directive (95/46/EC) aimed at protecting personal information and harmonising privacy laws among its Member States.<sup>122</sup> The Directive established rules to ensure that personal data may be transferred only to those countries outside the EU that provide an equivalent level of protection. In December 2001, the European Commission ruled that Canada's Personal Information Protection and Electronic Documents Act (PIPEDA) met the Directive's rigorous

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<sup>122</sup> See [ec.europa.eu/justice\\_home/fsj/privacy/](http://ec.europa.eu/justice_home/fsj/privacy/).

standards for the protection of personal data. This decision has allowed for the continued flow of personal information between the EU and Canada.

The EU and Canada agreed on the need to develop policies to facilitate the use of authentication technologies and to implement secure electronic commerce activities. In this regard, they are discussing various possible technological options as regards authentication. They are also analysing mechanisms to improve international cooperation to combat illegal activity and prompt users to exercise control themselves on potentially dangerous content.

The EU and Canada believe that measures to provide consumers with a means to exercise choice, settle grievances and have lawful recourse to the resolution of disputes in an electronic environment (including online dispute settlement schemes) are central to the orderly development of electronic commerce. Consequently, they discuss approaches to increase consumer confidence, protection and education.

Given the acknowledged need for collaboration with the private sector and civil society in the development of global electronic commerce, the EU and Canada endeavour to include stakeholder interests in these activities. Particular attention is given to the facilitation of self-regulatory and co-regulatory approaches within appropriate or regulatory frameworks.

The EU and Canada also recognise the importance of business partnerships to the growth of global electronic commerce, and continue to support the collaboration by European and Canadian private sectors through broader cooperation initiatives, in particular in the area of research and development in information and communications technologies.

Finally, the EU and Canada will continue to make use of multilateral fora to pursue shared objectives for a global information society. In this regard, EU and Canada will especially:

- Continue to collaborate to establish frameworks within the OECD on taxation, consumer and privacy issues;
- Collaborate on WIPO initiatives related to intellectual property and electronic commerce;
- Cooperate in the ongoing development of Internet governance, in particular by contributing to the work of the Internet Corporation for Assigned Names and Numbers (ICANN); and
- Work actively to further the WTO Work Program on Electronic Commerce with a view to reaching consensus on what is needed to realise the potential contribution of electronic commerce to all WTO Members and to achieving a comprehensive review of the implications of electronic commerce and its means of delivery for the application of WTO agreements and future negotiations, agreeing as they do that electronic commerce falls within the existing body of trade rules.

Through the Joint Statement, the EU and Canada have worked effectively together and continue to do so to achieve the shared objectives they have set.

## **PART 3: EXISTING AND POTENTIAL BILATERAL COOPERATION IN OTHER AREAS**

*In agreeing to undertake this study to assess the costs and benefits of a closer economic partnership, the EU and Canada also undertook to identify how such a partnership could complement ongoing bilateral cooperation in areas such as science and technology, energy and the environment. As such, the analysis in the study goes beyond the traditional assessments of the impacts of reductions in tariff and non-tariff barriers by also examining existing bilateral cooperation in a wide variety of fields and indicating areas where cooperation could be enhanced.*

*In order to present a broad picture of bilateral cooperation, attention is paid to the roles of various levels of government in both the EU and Canada as well as to the activities of non-governmental actors. This section offers forward-looking analysis that not only indicates areas in which the EU-Canada economic relationship as a whole could be enhanced, but also specific ideas as to how it could be improved. The areas examined include: science and technology, energy, the environment, regulatory cooperation, transportation, customs cooperation and trade facilitation, employment and social affairs, movement of people, education and training, investment promotion, competition policy, and fisheries.*

*The analysis in this section will demonstrate that there is significant potential to enhance the EU-Canada economic relationship on several levels, in addition to the more traditional trade and investment areas already addressed in Part 2. It will also reveal that there are a number of important issues which fall, in whole or in part, under more than one jurisdiction or competence, e.g. provinces/territories in Canada, Member States in the EU. In order to further advance the EU-Canada relationship, this will need to be addressed in the future. The list of potential areas for future cooperation is extensive, albeit by no means exhaustive, with proposals of varying scope – from cooperation between a small number of experts to more wide-ranging initiatives.*

## **3.1 Science and Technology**

### **Existing EU-Canada Cooperation in Science and Technology**

#### ***Canada-European Community Science and Technology Agreement***

An *Agreement for Scientific and Technological Cooperation between Canada and the European Community* has been in place since 1996 to formally facilitate cooperation in areas of mutual interest and benefit on a self-funded basis. The Joint Science and Technology Cooperation Committee (JSTCC) is the governing body for this agreement. It meets approximately every 12 months to review joint collaboration and establish goals for the next year. The last meeting was held in Brussels in February 2008. Nuclear energy research and development cooperation is covered by a separate agreement between Canada and EURATOM. The scope of EU-Canada cooperation in science and technology is broad and covers the different sectors of research: space; nano-technologies; information communications technologies; energy, including renewable energy; life sciences; agriculture, including food quality and safety; health, including new vaccines, epidemics and ageing; climate change/environment, including the northern dimension.

#### ***Bilateral Agreements and Cooperation***

Considerable policy dialogue and research collaboration also occurs bilaterally between EU Member States and Canada. There are bilateral science and technology agreements between Canada and France (1965), Germany (1971) and Belgium (1971), and there is also a Declaration of Intent with Spain (2007). Furthermore, there are numerous interlinkages occurring at the sub-national level, notably research collaboration activities between EU Member States and Canadian provinces and territories, as well as between European regions and Canadian provinces and territories.

#### ***Canadian Participation in the EU Research Framework Programme (FP)***

The EU and Canada are each other's second leading research industrialised partner and their level of collaboration is growing. Canada's participation in the Framework Programme began in FP4 with the signing of the Science and Technology Cooperation Agreement. The Framework Programme is now fully open to the participation of entities established in a third country, but only those established in International Cooperation Partner Countries (ICPC) are normally eligible for funding. Funding can also be granted to an entity established in an industrialised country such as Canada but under stricter conditions (e.g. when funding is essential for carrying out the research project). In addition, some specific initiatives are targeted to countries with formal science and technology agreements or to ICPC. Canadian participation in the Framework Programs has grown consistently since it began participating in FP4, with 70 collaborative projects in FP4 (1992-1998); approximately 80 projects in FP5 (1998-2002); and 119 projects in FP6 (2002-2006).

For FP6, Canada ranked second amongst industrialised third countries after the United States in terms of number of projects. Altogether Canada ranked eighth in terms of third country participation in FP6, notably after the US and BRICs (Brazil, Russia, India and China). Canadians also took on the role of expert evaluators for proposals with 454 Canadian experts registered under FP6. In terms of funding, the total value of the projects was €600 million, including €16 million in contributions to the projects by Canadian institutions and which saw Canadian researchers receiving €3.4 million directly from the EU. Programme participation was distributed across all thematic and horizontal areas.

In FP7 (2007-2013), about 280 proposals involving Canadians had been submitted by mid-May 2008, out of which 57 were selected for funding. The main topics of interest are information and communications technology (ICT), food/agriculture/biotechnology and health, but Canadians were also successful in research infrastructures; nano-technologies and space; and transport, including aeronautics.

Regarding researchers' mobility, Canada represented about 10% of the participation in International Fellowships under FP6. Incoming and Outgoing fellowships were roughly balanced in numbers, with a few more fellows coming to Europe (34) than going to Canada (26). This picture (balanced incoming and outgoing fellowships) continues in the first calls of FP7. Canada has a strong presence in projects under the EU Framework Programme; however, both sides recognise that there is still greater potential for further and strengthened cooperation in science and technology between the EU and Canada. Recent and important collaborative initiatives include: ERA-Can, IST-EC, IDEAL-IST, and twinning of research calls between the Directorate-General for Research (DG RTD) and Agriculture and Agri-Food Canada (AAFC).

### ***2007 EU-Canada Summit***

The 2007 EU-Canada Summit provided further impetus for EU-Canada joint research through its focus on three “baskets” of deliverables (peace and security, economic partnership and climate change and energy). The European Commission and Canada committed to actively work together to explore synergies in the areas of energy and the environment (including climate change) through the establishment of High-Level dialogues (to be discussed below).

### **Potential Future EU-Canada Science and Technology Cooperation**

#### ***2007 EU-Canada Summit Follow-Up: Environment and Energy***

There is scope for further enhancing EU-Canada science and technology cooperation and fully exploiting the potential of this dynamic area. The focus needs to be on a more common research agenda and on “flagship cooperation projects” in key strategic areas such as those, namely environment and energy, which Leaders highlighted during the 2007 Summit.

In the context of implementation of the Summit declaration and in order to work together to address pressing global issues for which joint EU-Canada research is crucial, the EU and Canada could step up cooperation on environmental issues such as climate change, energy efficiency, hydrogen and fuel cells, renewable energy sources including bio-fuels, and related questions,

whilst continuing cooperation in other important areas such as space, information and communications technologies and life sciences, including biotechnology and health.

More particularly, on the environment, joint research initiatives could be envisaged to further assess climate change impacts as well as developing new technologies contributing to significantly reduce greenhouse gas emissions. Other areas of collaborative efforts could target the Arctic marine environment and chemicals management. On energy, both sides have expressed interest in broadening and deepening the scope of research collaboration on energy efficiency (buildings, transportation), on renewable energy (ocean, solar, intelligent grid, second and third generation bio-fuels including fuel standards), and on cross-cutting energy and environment issues (clean coal, carbon capture and sequestration pilot projects).

Finally, strong existing cooperation in the fields of ICT (on mobile and wireless, optoelectronics and photonics, and interfaces and eLearning research) and agriculture and biotechnology (twinning of complementary projects on bio-products) could be pursued further.

### ***Commercialisation of New Technologies and Private Sector Involvement***

Both the EU and Canada recognise that increased efforts in applied research, in close collaboration with industry, and the commercialisation of new technologies are essential to bolster the economic prosperity of both regions. The EU and Canada are moving in this direction as evidenced by the Canadian *Global Innovation Strategy* currently being developed by Canada's Department of Foreign Affairs and International Trade and by EU efforts to implement pan-European programming in these areas.

There are a number of existing and new opportunities for EU-Canada collaboration with a focus on private sector involvement in applied research and development and commercialisation. Possible pan-European programmes for consideration include: Competitiveness and Innovation Framework Programme (CIP), EUREKA, FP6 ERA-NET Scheme and FP7 Joint Technology Initiatives (JTIs).

### ***Practical Measures to Enhance EU-Canada Science and Technology Cooperation***

A number of possible options could be explored on both sides in order to further develop collaborative relationships between the EU and Canada consistent with this direction. These could include the following:

#### ***(a) Benchmarking and Mapping of Excellence***

It would be extremely useful to:

- Compare the governance of the two research systems with a view to engaging in an *exercise* of benchmarking, so as to have the two systems better understand how science and technology priorities are determined and how a more consistent approach to joint initiatives can be delivered.

- Improve knowledge of “who’s who” in the EU and Canada. Such a mapping of excellence and competencies would be an asset to further enhanced cooperation. This exercise could *initially* tackle the EU and Canadian federal level, and could eventually include the EU Member States as well as Canadian provinces and territories.
- Improve knowledge of the actual level of cooperation between the EU and Canada, including the European participation in the different Canadian programmes. There is a clear need *to* improve reporting on the level of European participation in Canadian-funded projects (including those funded by provincial agencies) and Canadian participation in European-funded projects.

*(b) Dedicated Canadian Funding for Collaboration with the EU*

Currently Canada has no dedicated source of funds to foster science and technology collaboration with the EU. This has been identified as a major barrier to the facilitation of EU-Canada collaboration, and Foreign Affairs and International Trade Canada is in the process of seeking funding from the Government of Canada to address this issue. If approved, earmarked funding would be targeted to new EU-Canada initiatives, such as coordinated calls, consistent with the new Global Innovation Strategy.

*(c) Greater Role for Canadian Provinces within the Canadian Science and Technology Governance Structure*

Canada’s science and technology governance structure is characterised by a high degree of diversity and is organised around a number of key players, including industry, governments (both federal and provincial and territorial) and universities and colleges. Policy design and implementation is a shared competence between the federal and the provincial and territorial governments.

Canada’s provincial and territorial governments seek national and international partnerships and investment in science, research and technology, in parallel as well as in partnership with the Canadian federal government. The provinces and territories provide most of the basic physical infrastructure and operating costs for education and for research in Canada’s universities and teaching hospitals. Recognising the economic potential of research and development clusters, many provincial and territorial governments have joined forces with the federal government to start venture funds, incubators and research facilities at the local level (e.g. the MaRS Discovery District in Toronto). Both the Alberta Research Council and the Alberta Heritage Fund are particularly active in this context, given their significant availability of funds. Several other provinces have also created innovative programmes to support scientific and technological development.

Given the importance of provinces and territories in the Canadian science and technology context, mechanisms to increase their indirect participation in Canada’s cooperation dialogue with the EU could be identified and developed, without impinging on the steering role of the Canadian federal level.

*(d) National Contact Points in Canada*

Collaboration is particularly strong in areas where Canada has National Contact Points (NCPs): ICT and Agriculture. In FP6, Canada had the second-highest level of third country participation in ICT projects (ten times the US participation on a per capita basis). AAFC has recently begun “twinning” projects with those underway in Europe in the area of bio-fuels. The success of Canadian NCPs in promoting research collaboration confirmed the strategic approach, in seeking to encourage the nomination of NCPs in other thematic areas.

In the light of this, the number of NCPs could be increased in order to reflect the new priority areas of research (environment and energy) as well as to cover more effectively the Canadian territory. In addition, Canada could have a designated NCP coordinator. The role of a National Coordinator would be to assist collaboration, where appropriate, between NCPs and encourage the creation of new NCPs.

*(e) Reduction of Institutional and Administrative Hurdles*

One of the factors limiting increased cooperation is of institutional and administrative nature. These challenges affect participation in EU and Canadian programmes. A number of actions could be envisaged in order to address these obstacles:

- *Agree* to continue twinning of complementary programmes/projects in other areas and make coordinated calls for proposals in the priority areas identified (environment, energy);
- *Create/promote* opportunities for Canadian peer reviewers to take part in the evaluation of research proposals in Europe, and vice-versa; and
- *Address* intellectual property issues in the context of the design and implementation of joint research activities, particularly in the area of coordinated calls.

*(f) Enhanced Networking*

Face-to-face networking and meetings, such as through international conferences and sessions, have also been identified as an excellent way for researchers to find partners for international collaboration. Two examples of mechanisms to foster this are COST (European Cooperation in the Field of Scientific and Technical Research) and Canada’s Going Global Science and Technology Program.

## 3.2 Energy

*The EU and Canada are both significant actors in the global energy scene. Canada ranks fifth globally in overall energy production and is the world's leading producer and exporter of uranium. Canada is also one of the world's largest producers and exporters of natural gas and is a global leader in hydroelectricity and petroleum production.*

*The EU holds approximately 0.6% of the world's proven oil reserves, 2% of the world's proven natural gas reserves, 4% of proven coal reserves, and 18% of the world's electricity generating capacity. The EU is a net importer of energy. EU Member States import oil predominantly from Russia, Norway, Africa and the Middle East. The EU accounts for 17% of the world's total energy consumption (in comparison, the United States accounts for 23%). The EU's dominant fuel is oil, accounting for 40% of total EU energy consumption, followed by natural gas at 24%, nuclear at 14%, coal at 13%, hydroelectric power at 4% and other "renewables" (geothermal, biomass, solar and wind) at 2%.*

*The EU and Canada have a strong trade and investment relationship in energy. Uranium (C\$3.4 billion<sup>123</sup>), is Canada's largest export to the region, and comprised over 9% of total Canadian exports. Canada also exported C\$714 million-worth of coal. Crude petroleum (C\$5.1 billion) was the EU's largest export to Canada, and accounted for 10% of total EU exports. Light petroleum exports totalled C\$1.8 billion, and ranked as Canada's third largest import product. Canada's total stock of direct investment in the energy and metallic minerals industry in the EU was C\$39.2 billion, 32% of total global Canadian investment in this industry. EU foreign direct investment in Canada in the sector was C\$27.1 billion, 22% of global EU investment.*

### **Energy Policy**

The EU plays an important role in setting the direction of energy policy, particularly in the competition, environment and security areas. The EU is currently formulating legislative packages on climate change and competitiveness, which will form the basis for its future energy policy. In 2007, the EU committed itself to a set of ambitious climate change targets by 2020. These include a reduction of greenhouse gas emissions by 20% compared to 1990 levels; to have renewable sources provide 20% of its energy supply; and to have bio-fuels make up 10% of EU transport petrol and diesel consumption. The EU also sees the development of new energy technologies as a way to support both its climate change and energy security objectives. The Seventh Framework Programme (FP7) covers the period 2007-2013 and dedicates €2.35 billion to non-nuclear energy research.

Canada's energy policy is based on the principles of allowing competitive markets to determine supply, demand, prices and trade, and making targeted interventions to achieve policy objectives that the market cannot meet on its own. In Canada, the direct ownership, management and

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<sup>123</sup> Trade statistics are for 2007 while investment figures are for 2006.

regulation of most natural resources, including energy, fall under provincial jurisdiction. Issues of inter-provincial, national or international concern (such as offshore oil and gas exploration, uranium exploration, nuclear power and science and technology) fall under the jurisdiction of the federal government.

Canada and EU Member States enjoy a number of important bilateral, commercial energy relationships. The UK, for example, is a major supplier of Canada's oil imports, a market for Canada's exports of uranium (as is France), energy services and equipment, and both a source of inward investment in Canada's energy industry and a destination for Canadian investment abroad. Companies in other Member States such as France and Germany are also investors in Canadian markets, and are either partners or competitors in a range of energy industries, including nuclear and renewable energy.

Commercial energy relations between EU Member States and Canada are based on a long history of close economic and political cooperation, common political and economic institutions, and are driven overwhelmingly by market-based actors. The international framework established by the World Trade Organisation (WTO) helps provide for effective markets in energy goods and services between the EU and Canada through international trade provisions.

### **Existing EU-Canada Cooperation in Energy**

The EU and Canada face mutual energy challenges, including energy security and the interaction of energy and climate change. They therefore have important mutual interests in discussions about the responses to these challenges. EU and Canadian Leaders recognised these interests at their Berlin Summit in June 2007, acknowledging that tackling climate change and ensuring clean, secure and affordable supplies of energy were central, interlinked global challenges. As a result, agreement was reached at the Summit to create an EU-Canada High-Level Dialogue on Energy, intended to build further on the excellent existing active contacts in the International Energy Agency (IEA) and the G8.

This High-Level Dialogue on Energy announced in Berlin is the first formal mechanism for energy discussions between the EU and Canada. Senior officials representing the EU and Canada will meet annually to discuss issues of mutual interest, including domestic and global energy policy developments, energy security, energy efficiency, cooperation with third countries (with a specific focus on developing countries) and renewable energy. Opportunities for collaboration in energy science and technology will be an important element of the initial discussions. The Dialogue will also take into account the strategic elements on climate change being developed in the existing High-Level Dialogue on Environment (discussed below). The High-Level Dialogue on Energy will report on its discussions to Leaders at future Summits.

There is a long-standing relationship between the EU and Canada in the area of nuclear energy. Canada is the leading supplier of natural uranium to the EU for electricity generation. The Euratom-Canada Agreement on Cooperation in the Peaceful Uses of Atomic Energy, which entered into force on 18 November 1959, is the oldest bilateral agreement between the EU and Canada. Over its lifetime, the agreement has been amended four times via exchanges of letters, and supplemented in 1998 by a further agreement in the field of nuclear research. The EU and Canada also participate in the Generation IV International Forum, which is a multinational

research initiative to develop the next generation of nuclear energy systems to provide competitively-priced and reliable energy in a safe and sustainable way.

Cooperation on energy science and technology is an important element in overall EU-Canada energy relations. These activities will be in line with the EU-Canada Agreement for Scientific and Technical Cooperation which entered into force in 1996. The Agreement established a formal basis for research cooperation, enabling Canadians and Europeans to participate in one another's research programmes. Cooperation occurs on a self-funded basis (where Canadians are supported by Canadian funds and Europeans through European programmes). The Agreement is overseen by the Joint Science and Technology Cooperation Committee.

### ***Multilateral Cooperation***

Energy is also a major issue in discussions of the G8; commitments on 'climate change, energy efficiency and energy security' were among the outcomes of the 2007 Summit in Heiligendamm, Germany. (France, Germany, Italy and the UK are members of the G8, and the European Commission also has a seat at the table.) The G8 is therefore an important forum both for discussion of the shared energy challenges facing its members, as well as with the non-member 'outreach' countries: Brazil, China, India, Mexico and South Africa.

### ***Cooperation between EU Member States and Canada, including the Provinces and Territories***

The majority of Canada's government-to-government energy relationships with the EU are carried out either bilaterally with individual Member States, or through multilateral organisations such as the IEA. Eighteen of the 27 EU Member States are also members of the IEA, including all Canada's major bilateral energy partners in the EU. The IEA provides a forum for Canada to hold energy policy discussions with EU Member States, for example through its regular reviews of the energy policies of IEA members. Canada also participates with EU Member States in the IEA's energy science and technology activities through its Implementing Agreements.

Canada's provinces and territories pursue their own international engagements, including on energy issues. A number of provinces are represented by missions in EU countries that are significant economic or cultural partners. Energy is also an element in a number of the relationships between Canadian provinces and territories and EU Member States. Energy companies based in the EU are investors in the oil and gas industries of British Columbia and Alberta, and companies based in the Canadian oil patch invest in the North Sea, shared by the UK, the Netherlands and Norway. Because of its uranium resources, Saskatchewan has relationships with major export markets in the EU. Provinces and territories also pursue relationships with EU Member States on issues of broad mutual interest, for example energy science and technology, renewable energy and energy efficiency.

### ***Non-governmental Cooperation***

The Canada Europe Roundtable for Business (CERT) is the leading business association dedicated to creating business opportunities between the EU and Canada. In 2004, the CERT launched an Energy Roundtable to facilitate private-sector investment and growth in Canadian

energy markets. Annual conferences address the strategic considerations that are driving investments in energy, infrastructure, labour and new technologies. The 2007 conference focused on Canada's nuclear industry.

### **Potential Future EU-Canada Cooperation in Energy**

#### ***2008 EU-Canada High-Level Dialogue on Energy***

At their Summit in June 2007, the Prime Minister of Canada, Stephen Harper, the then European Council President, Angela Merkel, together with the European Commission President, José Manuel Barroso, affirmed the importance of energy in EU-Canada relations, and established the EU-Canada High-Level Dialogue on Energy.

The first meeting of the High-Level Dialogue took place on 26 June 2008 in Ottawa. The dialogue consisted of a discussion on energy policy and the potential for cooperation, in particular in science and technology. Participants identified current energy policy directions; discussed the geopolitical aspects of world energy relations and energy security issues, as well as international investment trends; and identified where collaborative opportunities existed.

In particular, participants agreed:

- there was clear scope for increased cooperation on topics of mutual interest in multilateral fora (e.g. G8 and the IEA) and in sharing best practices on initiatives to promote energy efficiency and renewable energy; and
- to focus their joint science and technology efforts on three key sectors: clean coal and carbon capture and storage, bio-energy, and distributed generation and smart electricity networks. Collaborative energy projects may fall under three categories: research and development, demonstration and socio-economic research.

The results of the discussions at the High-Level Dialogue will provide input into the October 2008 EU-Canada Summit.

### **3.3 Environment**

*Both the EU and Canada share the view that a sustainable environment and a sustainable economy are key to the well-being of their respective societies. Both are active players on sustainable development issues (including their environmental, social and economic aspects), domestically and internationally, and recognise the important contribution that trade and investment policy can play in the development of those objectives.*

*In the EU, the division of competence in the field of environmental policy and legislation, both externally and internally, is shared between the Community and the Member States. Community policy on the environment contributes to the pursuit of the following objectives: the preservation, protection and improvement of the quality of the environment; the protection of human health; the prudent and rational utilisation of natural resources, and the promotion of measures at international level to deal with regional or worldwide environmental problems. The Community has implemented a large number of directives regulating environmental protection. These cover the areas of environmental impact assessments, freshwater and marine pollution, water quality objectives, air quality standards (ranging from acid rain controls to lead emissions), waste management, control of chemicals, wildlife protection, a Community eco-label to identify environmentally superior consumer products, a voluntary eco-management and audit scheme, and financial grants for national development and implementation of Community environmental policies.*

*In Canada, the division of competence in the field of environmental policy and legislation is also shared. Under the Constitution, the federal government has the power to make laws concerning the environment and natural resources under its authority over the following subject matters: federal public property, trade and commerce, revenue generation through taxation, navigation and shipping, seacoast and inland fisheries, First Nations and lands reserved for First Nations, criminal law, extra-provincial works and undertakings, which includes the regulation of pipelines and other means of interprovincial transportation, and works for the general advantage of Canada. The provinces have constitutional authority to make laws concerning the environment and natural resources under their powers over the following subject matters: management and sale of provincial public lands including the timber and wood thereon, local works and undertakings, property and civil rights in the province and local or private matters, penalties for violating provincial law, and management of natural resources. This includes the right to make laws in relation to the development, conservation and management of non-renewable natural resources and forestry resources in the province.*

#### **Existing EU-Canada Cooperation in the Area of the Environment**

##### ***High-Level Dialogue on Environment***

EU-Canada environmental relations were launched in 1975 with the signing of an exchange of letters on environmental cooperation. The purpose was and is to facilitate exchanges of environmental information and expertise in areas of common interest such as the evaluation of

risks to human health and the environment from pollution; the establishment of quality objectives in dealing with environmental pollution, particularly in the areas of water pollution; and protection of the natural environment.

The established mechanism for policy consultations is the High-Level Dialogue on Environment. High-level consultations on environmental policy were held until 1983, restarted in 1991 and now take place on a regular basis every 18 months. The consultations are intended to cover a broad range of domestic and international environmental issues of common interest, to exchange views on respective approaches, and to identify possible areas for future cooperation.

The 2008 Dialogue was hosted by Environment Canada on 13 February 2008. In addition to areas of longstanding cooperation, this year's meeting provided an opportunity for discussion of respective international and domestic actions to address climate change, approaches to biodiversity as well as Canadian activities in the North.

### ***2007 EU-Canada Summit***

The 2007 EU-Canada Summit provided further impetus for EU-Canada environmental cooperation when Leaders made "climate change and energy" one of the three areas of deliverables and committed to strengthening the High-Level Dialogue with a focus on increasing cooperation, particularly on climate change.

### ***EU-Canada Regulatory Cooperation Roadmap 2007-2008***

Environmental issues are also addressed within the framework of the Regulatory Cooperation Dialogue (see section 3.4 on Regulatory Cooperation) and the Roadmap for that Dialogue. The current Roadmap includes two environmental components.

### ***Multilateral Cooperation***

The EU and Canada both participate in the following key multilateral agreements, which also provide the basis for bilateral discussions:

- the United Nations Framework Convention on Climate Change;
- the Convention on Biological Diversity;
- the Stockholm Convention (chemicals/persistent organic pollutants);
- the Montreal Protocol (ozone layer depletion);
- the Basel Convention (trans-boundary movement of hazardous waste and their disposal);
- the G8 process (environment); and
- the Organisation for Economic Cooperation and Development (specifically the chemicals and waste groups).

### ***International Carbon Action Partnership (ICAP)***

The International Carbon Action Partnership (ICAP) was established in late 2007 as a consultative forum for countries and regions that have implemented or are actively pursuing the

implementation of carbon markets through mandatory cap and trade systems. The EU and the Canadian provinces of British Columbia and Manitoba are founding members.

### ***Cooperation between EU Member States and Canada, including the Provinces and Territories***

Agreements on environmental cooperation also exist between Canada and certain EU Member States, including France, Germany, the Netherlands and Denmark. There is also extensive cooperation, in particular, between Canada and the UK, Italy, and Sweden. These same Member States have also been engaging with Canadian provinces. The UK, for instance, is currently exploring the possibility of adopting an exchange of environmental officials with British Columbia.

### **Potential Future EU-Canada Environment Cooperation**

#### ***2007 EU-Canada Summit and 2008 EU-Canada High-Level Dialogue on the Environment: Follow-up Action Plan***

Through the EU-Canada High-Level Dialogue on the Environment, several areas have been identified that would benefit from future discussion and cooperation between experts, between High-Level Dialogue sessions. Follow-up actions from the last meeting include:

- *Climate Change – Bilateral:* provide updates on development in regulatory approaches; undertake further technical discussions on a sectoral approach to regulation; share best practices and lessons learned on carbon capture and storage; exchange information and more technical details on emissions trading, certified emissions reductions, offset systems; hold videoconferences to facilitate exchange of information ahead of major climate change meetings; further discuss the role of biodiesel and ethanol in meeting renewables mandates.
- *Climate Change – Multilateral:* continue to work actively and constructively together and with other states to advance negotiations toward a global and comprehensive post-2012 agreement; continue to work together and with other states to deliver results in global efforts to confront climate change through the G8, the Major Economies Meetings (MEM) and other complementary processes and multilateral partnerships.
- *Biodiversity:* share views ahead of the Conference of the Parties of the Convention on Biological Diversity; share information regarding direction for biodiversity under the G8; share information on respective approaches on establishment of protected areas, including designation and management of marine protected areas; priority was placed on action to meet 2010 goals of significantly reducing the rate of loss of biodiversity.
- *Chemicals and Waste:* track progress on respective regulatory agendas; encourage engagement between Canada and the European Chemicals Agency; discuss options for a transatlantic conference on chemicals.
- *Arctic and the North,* in particular Arctic marine ecosystems: further information exchanges, as required, and possible joint research projects.

- *Science and Technology*: ensure that environmental issues are adequately addressed through EU-Canada science and technology cooperation (see section on 3.1 on Science and Technology) and that there is regular contact between the Environment High-Level Dialogue and the Joint Science and Technology Cooperation Committee (JSTCC).
- *Eco-labeling and Green Procurement*: sharing experiences with the Environmental Choice Programme and EcoLogo, as well as experiences with greening government.
- *Knowledge Exchange*: in order to facilitate and strengthen these actions, the EU and Canada could explore the possibility of setting up an exchange programme allowing officials/experts from both sides to be seconded to the respective host administration for a determined period of time.

### ***Environment and Trade***

Within the Trade and Investment Enhancement Agreement (TIEA) Framework, negotiations for which have been paused since 2006, the EU and Canada recognised that sustainable development should have a prominent place in order to ensure that enhanced trade and investment benefit sustainable development. They proposed to establish a comprehensive EU-Canada dialogue on sustainable trade. Such a dialogue would not be limited to environmental issues but also cover other aspects of sustainable development such as corporate social responsibility and the social dimension.

As far as environmental issues are concerned, the proposed EU-Canada dialogue could consist of exchanges of views and information on existing or future initiatives to further promote international sustainable trade, between the EU and Canada as well as multilaterally and in the context of bilateral and regional free trade agreements pursued by the EU and Canada.

### ***International Working Group (IWG) on Environmental Performance Verification***

The IWG on Environmental Performance Verification seeks to provide the marketplace with the assurance that environmental performance claims are valid, credible and supported by quality independent test data and information. The EU and Canada, along with the US, are working to establish reciprocity among participating countries to accelerate the development and deployment of environmentally sound technologies to address common environmental challenges.

The Parties currently are working on a Letter of Intent and an annex setting out the terms and conditions of this Working Group, which will be then confirmed in accordance with their respective domestic procedures. Strengthening this partnership will provide a means to engage stakeholders and facilitate international cooperation in support of transparent, environmental performance verification and reporting.

It is anticipated that this work will lead to the development of internationally recognised environmental performance test methods through sharing of procedures and co-verifications in addressing common environmental challenges of international interest and create pathways for increased technology transfer between developed and developing countries.

## **3.4 Regulatory Cooperation**

### **Existing EU-Canada Regulatory Cooperation**

EU-Canada regulatory cooperation operates within the Framework on Regulatory Cooperation and Transparency, adopted in 2004, which has amongst its overarching objectives to offer high-level political support to the process of cooperation between policy-makers, technical experts and regulators and to support existing and encourage new cooperation between regulators by providing ideas for how this could take place. Under the Framework, regulators of the Government of Canada and the services of the European Commission are encouraged to cooperate, on a voluntary basis, as broadly as possible. The Framework itself is legally non-binding.

The aims of regulatory cooperation in the context of the Framework include regulatory governance, good regulatory practice to create better regulations, the facilitation of trade and investment, the promotion of competitiveness and enhancement of the climate for innovation. Activities within the Framework are to contribute to achieving high levels of safety for the protection of human, animal or plant life or health, the environment and consumers.

Activities under the Framework are designed to be fully consistent with any applicable domestic and international legal requirements, including rules and policies on transparency of government activities to the public at large, and to preserve the integrity of the domestic regulation development process. In addition, activities should encourage, as appropriate, cooperation on a bilateral, trilateral, plurilateral or multilateral basis, which includes taking into account work carried out in multilateral and international institutions such as the Organisation for Economic Cooperation and Development (OECD), the United Nations (UN), or other relevant international bodies involved in regulatory activities.

The Framework concerns activities related to the planning and development of regulations for such measures as are covered by the World Trade Organisation (WTO) Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures where the Government of Canada and the European Commission have jurisdiction, including the development of regulations for submission as legislative proposals. It does not, therefore, address issues which are of Member State or sub-national competence, and does not apply to the regulation of services.

Subject to this, the framework encompasses any regulations, and amendments to existing regulations, which regulators of either side believe may have significant effects on bilateral trade and investment, and/or where regulators on both sides agree that cooperation would be of mutual benefit.

The Canada-European Commission Regulatory Cooperation Committee has been established under the Framework to follow up progress. It is co-chaired by officials of Foreign Affairs and International Trade Canada and the European Commission's Directorate-General for Enterprise

and Industry and has met on average once per year since May 2005. Depending on the agenda, regulators also attend the meeting. Regulators may also hold bilateral meetings in parallel sessions, although recently the trend has been towards regulators holding their meetings according to their own requirements, as cooperation has become more firmly established.

The EU-Canada Regulatory Framework is implemented by the EU-Canada Roadmap for Regulatory Cooperation, which was adopted at the June 2007 EU-Canada Summit in Berlin. The Roadmap is updated during meetings of the Regulatory Cooperation Committee and is to be presented annually at EU-Canada Summits. The Roadmap contains sector specific agreed areas of regulatory cooperation, identifying for each sector the objective of cooperation, progress/results and next steps. In addition to these sector-specific actions, there is exchange of information and discussion on good regulatory governance. At present, this is mainly focused on impact assessment, but other areas such as risk assessment are growing in importance.

The Roadmap currently under implementation covers 2007-2008 and identifies the following sectors where a bilateral dialogue is taking place:

- Chemicals;
- Electrical and electronic equipment and waste (e-waste);
- Equivalency of organic production methods and control;
- Pharmaceuticals, including veterinary pharmaceuticals;
- Radiation-emitting devices;
- Chemical contaminants in food;
- Food allergen labelling and incident prevention;
- Tobacco control;
- Forestry products; and
- Automobiles.

The extent of progress in these sectors varies and, as the Roadmap is a living document, sectoral initiatives can be added or removed by mutual agreement at any time.

On 14 May 1998, the European Community and Canada signed a multi-sectoral Mutual Recognition Agreement (MRA) in the area of conformity assessment of regulated products covering telecommunications, radio and information technology equipment, medical devices, recreational craft, electrical safety, electro-magnetic compatibility, and good manufacturing practices for pharmaceuticals. The MRA, which entered into force on 1 November 1998, is an agreement to accept test, inspection and certification reports prepared in the exporting jurisdiction to the importing party's regulatory requirements for the sectors listed above. While

progress has been made in some of the sectors, the confidence-building exercises to advance work in other sectors has faced challenges.

The Agreement between the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products (the EU-Canada Veterinary Agreement) has been in force since 17 December 1998. This Agreement facilitates trade in live animals and animal products between the EU and Canada by establishing a mechanism for the recognition of equivalence of sanitary measures maintained by both Parties. Under the Veterinary Agreement, the EU and Canada have agreed to mutually recognise the equivalence of food safety measures for fresh and frozen pork and the animal health measures for bovine semen. This agreement is overseen by a Joint Management Committee.

### **Potential Future EU-Canada Regulatory Cooperation**

Through these existing mechanisms for regulatory cooperation, the EU and Canada have demonstrated their leadership by recognising the contribution of regulatory cooperation to increased economic competitiveness. However, there remains potential to further advance mutually beneficial regulatory cooperation. Leaders recognised this in their June 2007 joint Summit Statement in Berlin in which they agreed to "...commit to concluding a Regulatory Cooperation Agreement, addressed under the Trade and Investment Enhancement Agreement, as soon as possible."

Both sides are of the view that the inclusion of the broadest possible range of issues addressed by regulatory authorities and levels of government could maximise the benefits of regulatory cooperation.

Both sides are committed to enhancing regulatory cooperation; however, the conditions and timing have not been established.

### 3.5 Transportation

*The EU-Canada transport relationship is a mature and complex partnership that spans across several modes. As diversified, highly developed economies, the EU and Canada share enough similarities to provide a useful basis for comparing policy approaches. At the same time, there are also sufficient differences, including population density and climatic variation among others, to make the exchange of best practices meaningful and mutually beneficial. Both are diverse, open societies in which security approaches and border management have recently grown in importance and had an impact on how transport is planned and undertaken.*

*Goods trade between the EU and Canada takes place through multi-modal transportation, but the Atlantic is usually traversed using maritime transport. Canada's Gateways and Trade Corridors, in particular the Atlantic Gateway and the Ontario-Quebec Continental Gateway, including marine ports, intermodal connections, air and internal waterway components, have a strategic role in facilitating and increasing two-way trade with the EU.*

*The EU and Canada come together in the transport sector in a number of ways. The most visible cases, such as the field of air services and some of the technical requirements for civil aviation, are characterised by the negotiation and implementation of bilateral/multilateral agreements between parties. There are also a number of instances where day-to-day operational requirements bring the two together. One example of this is the cooperation between the safety authorities or between the two air traffic control services NAV CANADA and Eurocontrol, which work together to protect the health and safety of the travelling public on both sides of the Atlantic.*

*In addition, bilateral collaboration on particular policy or regulatory issues and approaches between the EU and Canada, whether at EU or Member State-level, is another important collaborative mechanism.*

*Finally, both parties share a common membership of a number of broader multilateral organisations, where a history of collaboration and like-mindedness has enabled them to work together to overcome obstacles and assist others.*

*The list of multilateral fora with a transportation dimension in which Canada and the EU and/or EU Member States sit alongside includes, but is not limited to, the United Nations (UN) and its Specialised Agencies, the G8, the North Atlantic Treaty Organisation (NATO), the Organisation for Economic Cooperation and Development (OECD), the International Transport Forum (ITF) and the Arctic Council.*

## **Existing EU-Canada Cooperation in the Area of Transportation**

### ***Bilateral Transportation Agreements in Effect or Under Negotiation – Aviation***

Canada has bilateral air services agreements with 19 EU Member States.<sup>124</sup> A Memorandum of Understanding (MOU) on air services is currently in force with Luxembourg.

The EU is the second largest international market for Canada, following the US. Canada is the fifth largest market for the EU. In 2005, traffic totalled 8.5 million one-way passenger trips between the EU and Canada, a 9% increase over 2004. The biggest markets within the EU for Canada are the United Kingdom (42% of total passenger trips), followed by Germany and France (each with 18% of passengers).

In late 2006, the Canadian government adopted a new international air policy known as “Blue Sky”. The policy calls for a more proactive approach to expanding Canada’s bilateral air transport arrangements. It proposes to pursue further liberalisation of Canada’s air transport agreements, and as a primary objective, to seek to negotiate reciprocal Open Skies-type agreements whenever it is in Canada’s overall interest to do so. Given the size and nature of the EU-Canada air transportation market and other factors such as the level of EU-Canada trade, Canada determined that the EU would be a candidate for a comprehensive aviation agreement under the Blue Sky policy. A study launched by the European Commission suggested that such an agreement would generate an additional 0.5 million passengers in its first year, and an additional 3.5 million passengers in its fifth year. Consumers were expected to benefit from comparatively lower fares, and substantial economic benefits were expected to be generated for both parties.

Following the EU-Canada Summit in June 2007, where both sides agreed to negotiate an open and comprehensive air transport agreement, the first round of negotiations took place in November 2007, in Brussels. A second round took place in February 2008 (in Ottawa), a third round in April 2008 (in Brussels), and a fourth in September 2008 (in Toronto). When concluded, an Open Skies-type agreement would open up new markets between Canada and EU Member States, establish legal certainty for operators, and would also encourage further cooperation between authorities. Furthermore, travellers and shippers could benefit from having more choices in terms of destinations, flights and routes, more direct services, and the potential for lower fares.

Though on a separate track from the air services discussions, a bilateral treaty on civil aviation safety has been negotiated between the European Community and Canada which, when entered into force, will – among other things – serve to facilitate the import, export and continued support of civil aeronautical products between EU Member States and Canada.

### ***EU-Canada Cooperative Efforts in Multilateral Transportation Fora***

The EU and Canada all participate in a large number of multilateral transportation fora. In certain instances the sharing of information and expertise is the focus of committees or working groups

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<sup>124</sup> Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Poland, Portugal, Romania, Spain, Sweden and the UK.

enabling partnerships to be established and benefit to be derived from lessons learned. Other workgroups have been mandated to establish regulations to ensure safe and secure passage of people and commodities, which ultimately facilitates trade.

### ***Cooperation between EU Member States and Canada, including the Provinces and Territories***

In addition, Canada and certain EU Member States cooperate on specific bilateral transport-related projects. One such example is Canada's cooperation with France on projects related to the development of a database which will predict the behaviours of chemicals when spilled in a marine environment and provide associated response measures. Another involves a joint effort to expand on educational tools in order to sensitise and educate the population on the dangers and response procedures regarding marine spills and hazardous and noxious substances.

With respect to rail and mass transit security, a UK-Canada partnership is planned in order to exchange information and identify possible areas of cooperation for the upcoming year.

Transport Quebec (MTQ) does not deal officially with European organisations but does cooperate with France on technical matters related to road construction and maintenance. The MTQ is also engaged in the activities of the International Road Federation, the World Road Association (PIARC) and the OECD. Currently the MTQ is cooperating with its French counterpart on research and laboratory work regarding bridges and road surfaces. This work is conducted as part of larger scientific and technical cooperation arrangement between France and Quebec, which also gives Quebec access to laboratory facilities in France.

### **Future Possibilities for EU-Canada Cooperation in Transportation**

The long-standing history of cooperation between Europe and Canada is the result of a natural evolution that started with individual partnerships with many European countries and their aviation authorities. The conclusion of a comprehensive aviation safety agreement between the EU and Canada would be an important step towards formalising Canada's relationship with the EU in the field of transportation. The Treaty would promote cost-efficiency for the aerospace industry by avoiding duplication, while maintaining the level of safety of products and services. The agreement could also facilitate completion of work underway in other areas such as recognition of pilot licensing and foreign operations, if mutually agreed.

### **3.6 Customs Cooperation and Trade Facilitation**

*Facilitating the movement of legitimate trade, whilst securing potential threats to borders, is an important component of a well functioning economic relationship and requires striking a balance between the two. Good cooperation between the customs authorities in both the EU and Canada, including in relation to information-sharing and enforcement, is a vital pre-requisite to achieving these aims.*

*In the EU, the development of a common customs regime has been an integral part of the development of the customs union which underpins the EU. Legislation is developed at EU level and enforced by Member State customs authorities, which cooperate closely with one another. In Canada, customs policy is developed, implemented and enforced at the federal level by several different government departments – such as Finance Canada through the setting of tariff rates, or Health Canada through the establishment of certain permit requirements – and the Canada Border Services Agency (CBSA).*

#### **Existing EU-Canada Cooperation in Customs and Trade Facilitation**

The EU-Canada Agreement on Customs Cooperation and Mutual Assistance in Customs Matters was signed in 1997 and entered into force in 1998. The Agreement provides the legal framework for bilateral customs cooperation and mutual administrative assistance, recognising the need for international cooperation to ensure the proper application of customs law; the prevention, investigation and combating of customs offences and the security of the international trade supply chain. The EU-Canada agreement establishes a Joint Customs Cooperation Committee, in which the EU is represented by the European Commission, and Canada by the Canadian Border Services Agency (CBSA). The Agreement includes a review clause, which provides for the possibility to expand its scope and to increase the levels of customs cooperation.

#### ***Cooperation between EU Member States and Canada***

Canada has Agreements on customs cooperation and mutual assistance with a number of EU Member States, some of which entered into force prior to the 1997 EU-Canada Agreement. The EU-Canada Agreement provides for the possibility of these bilateral agreements being maintained, stating that its provisions shall “not affect the obligations under any other agreement insofar as the provisions of the latter are incompatible with those of this Agreement.”

#### **Potential Future EU-Canada Cooperation in Customs and Trade Facilitation**

There have been a number of developments in the customs field on security matters in recent years. Both the EU and Canada have increased supply chain security, enhancing controls to help facilitate low-risk, and identify high-risk, trade. As increased control standards may make bilateral trade more cumbersome and consequently more costly, the EU and Canada have decided that the mutual recognition of control standards between the EU and Canada would be desirable, and a decision has been taken in principle to negotiate a supply chain security

agreement. An important component of this arrangement would be cooperation regarding container security. The review clause in the 1997 Agreement could be used to create the framework for closer cooperation in this area by expanding the scope of the existing Agreement. This would be fully in line with the most recent standards of the World Customs Organisation's (WCO) SAFE Framework of Standards to Secure and Facilitate Global Trade (adopted in May 2005). CBSA and the European Commission have been pursuing discussions on this issue.

Both the EU and Canada also operate pre-clearance systems for economic operators which meet the criteria for pre-clearance. Another element of an enhanced relationship could, therefore, be the mutual recognition of trade partnership programmes to enable these operators to benefit from the simplifications that these programmes offer on both sides of the Atlantic.

Customs cooperation and trade facilitation were also discussed in the context of the EU-Canada Trade and Investment Enhancement (TIEA) negotiations. There was a great deal of commonality between the EU and Canada on both issues, and both parties discussed areas for potential future cooperation. These areas could include:

- The development and sharing of best practices in modern customs techniques: risk management; simplified procedures; pre-arrival processing; post entry audit; and “single window” coordination of official controls;
- Promotion of common application of international rules, standards and guidelines in the field of customs and international trade, including simplification and harmonisation of import and export data and, where possible, use of documentation and procedures that are in line with relevant international standards of the WCO, the UN and other organisations;
- Cooperation in the field of electronic data exchange with the aim of facilitating trade (e.g. in line with the results of the G7 initiative on trade facilitation), once the EU and Canada have completed their respective electronic data interchange systems;
- Ensuring that any measure on security takes account of trade facilitation, by aiming at greater transparency, proportionality, non-discrimination, and the reduction of barriers to legitimate trade;
- Consulting the trading community on its needs with regard to the development and implementation of trade facilitation measures, noting that particular attention should be given to the interests of small and medium-sized enterprises; and
- Exchange of information and best practices regarding the Parties' technical assistance policies and programmes in the field of trade facilitation.

### **3.7 Employment and Social Affairs**

*In the EU, many employment issues and almost all social affairs matters remain the competence of Member States, with the EU's role relating mainly to coordinating policies among Member States. Nevertheless, there is a significant body of EU legislation in the employment field covering matters such as working hours, health and safety, maternity leave and anti-discrimination.*

*In Canada, there is also a division of responsibility between the federal level and the provinces and territories. For example, provinces have jurisdiction over education, health care and social services, including responsibility for the design, funding and management of their respective childcare programs; shared jurisdiction for immigration and agriculture; and increasing responsibility for the delivery of labour market programs (including those assisting people with disabilities and older workers). The federal government does, however, provide support to foster social development in Canada, through a broad array of fiscal transfers to provinces and territories such as Equalisation, the Canada Health Transfer and the Canada Social Transfer.*

#### **Existing EU-Canada Cooperation in Employment and Social Affairs**

At present, there are no formal bilateral agreements in place between the EU and Canada with respect to employment and social affairs issues, nor is there any existing structured bilateral dialogue in these areas. There is, however, an agreement that was ratified in 1996 between the EU and the Government of Canada establishing a framework for cooperation in higher education, training and youth. The EU-Canada Programme is administered jointly by Human Resources and Social Development Canada (HRSDC), in collaboration with the European Commission's Directorate-General for Education and Culture. The program is designed to:

1. promote mutual understanding between the peoples of the EU and Canada, including broader knowledge of their languages, cultures and institutions; and
2. improve the quality of human resources in the EU and Canada, by facilitating the acquisition of skills required to meet the challenges of the global knowledge-based economy.

In addition, the EU and Canada regularly exchange on issues of mutual interest and have jointly organised events to facilitate the exchange of information and experiences in the areas of employment and social affairs. One such event was the planned "EU-Canada Roundtable on Employment and Skills", which took place on 17 and 18 September 2008.

The EU and Canada also participated in the bilateral discussions on labour issues that took place at the time of the EU-Canada negotiations for a Trade and Investment Enhancement Agreement (negotiations which were suspended in 2006).

On trade and labour issues, bilateral discussions have also taken place between the European Commission and Canadian officials on the margins of International Labour Organisation (ILO) meetings in Geneva, Switzerland.

### ***Cooperation between EU Member States and Canada, including the Provinces and Territories***

Most cooperation between Canada and EU Member States takes place within the framework of the ILO, to which the EU is an observer, as well as within other international fora such as the Organisation for Economic Cooperation and Development (OECD) and the G8.

Canada has concluded Social Security Agreements with all EU Member States, with the exception of Bulgaria and Romania.<sup>125</sup> An Agreement between Canada and the Czech Republic concerning the Facilitation of Temporary Work Stays of Youth was also concluded in October 2007.

Some specific bilateral cooperation also takes place at the Canada-Member State level. For example, in 2005, representatives of Canada and France participated in meetings on the theme: “Les régulations sociales en devenir: acteurs, conflits, efficacités” (“Prospects for Regulating Social Issues: Actors, Conflicts and Effectiveness”). As a follow up, there were discussions between Canadian and French officials on possible bilateral collaboration/information exchanges on labour issues. Opportunities in this area will be further explored.

A number of arrangements (or non-legally binding instruments) exist between individual EU Member States and Canadian provinces and territories. For example, Quebec has concluded Memoranda of Understanding (“Ententes”) on social security matters with Austria, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Portugal, the Slovak Republic, Slovenia, and Sweden.

### **Potential Future Cooperation in Employment and Social Affairs**

Social security issues remain largely outside the scope of EU-Canada bilateral relations, largely as a result of the division of competencies within both entities. Nevertheless, in the context of identifying the possibilities of strengthening bilateral cooperation in employment and social affairs, EU and Canadian officials have discussed their common interest in policies ranging from equal opportunities, gender issues, migration, immigration, health and safety at work, recognition of qualifications, anticipation of skill needs, workers mobility and active ageing.<sup>126</sup>

In seeking to deepen and broaden their bilateral economic relationship, the EU and/or its Member States and Canada might wish to also give consideration to the following issues:

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<sup>125</sup> Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, UK.

<sup>126</sup> The issues of qualifications and mobility are addressed elsewhere in this study in more detail (see section 2.4.1 on Labour Mobility).

- Extending the network of bilateral social security agreements between Canada and individual EU Member States to Bulgaria and Romania.
- For those social security issues falling under provincial/territorial jurisdiction, the creation/extension of a network of arrangements between the provinces/territories and EU Member States.
- Access to healthcare in the context of labour and student mobility (i.e. of posted workers and international students).
  - For posted workers, there is currently no transatlantic portability of health insurance from the country in which they are normally employed to the country to which they have been posted. As a result either the worker or – more usually – the employer must pay for private insurance for the duration of the overseas posting in addition to its domestic social security obligations towards that worker.
  - In the case of students, six Canadian provinces and territories require international students registered in full-time courses of study to obtain private health insurance,<sup>127</sup> as do EU Member States.
- Continued accumulation (and transferability) of state pension rights in the context of labour mobility. The inability to continue to accumulate state pension rights whilst on an overseas posting or to transfer accumulated rights between an EU Member State and Canada can adversely impact a person’s decision to seek and/or take up an economic opportunity in a country in which he/she is not resident.

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<sup>127</sup> Ontario, Quebec, New Brunswick, Prince Edward Island, Yukon and Nunavut.

### 3.8 Movement of People

*Both the EU and Canada face similar challenges with respect to the effective management of the movement of each other's citizens into and out of their territories. This includes balancing the integrity of their border management systems with the desire to facilitate the movement of bona fide travellers. Failing to meet this challenge can result in lost business opportunities for travellers and/or the service providers that they are travelling to in the context of the General Agreement on Tariffs and Trade (GATT) Mode 2 service provision.<sup>128</sup> (The subject of labour mobility more generally is addressed in Part 2.4.1 of this study.)*

#### **Existing EU-Canada Cooperation in the Area of Movement of People**

The 2004 EU-Canada Partnership Agenda included a commitment to enhanced cooperation on migration issues.<sup>129</sup> Through an exchange of letters, the EU and Canada agreed in May 2007 to establish a Joint Consultation on Immigration and Asylum Issues and a Joint Visa Working Group. These bodies facilitate EU-Canada dialogue related to matters such as immigration, asylum and refugee policies; visas; the integration of immigrants and social cohesion. At the same time, both parties agreed that additional joint working groups of senior officials could be established in future to address questions of mobility of labour, trans-national migration, and other migration and integration-related matters of mutual interest. The first formal Joint Consultation took place in June 2007 and the second is tentatively scheduled for the second half of 2008.

Canadian citizens travelling for up to 90 days to the EU do not require a visa. Whilst most EU citizens are also visa-exempt for short-term travel to Canada, citizens from the EU's two newest Member States, Bulgaria and Romania, are still subject to a visa requirement. Comprehensive reviews of those Member States' visa requirements are expected to be completed by the end of 2008. Canada is committed to the objective of visa-exempt status for all EU Member States and the European Commission will continue working with the Canadian authorities to achieve that aim as soon as possible.

Canada participates once every six months in an expert-level dialogue with the EU and the US on irregular migration and false documents and on a regular basis in an expert-level EU working group on asylum issues.

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<sup>128</sup> Further elaboration on the GATS schedules of specific commitments can be found at [www.wto.org/english/tra\\_top\\_e/serv\\_e/guide1\\_e.htm](http://www.wto.org/english/tra_top_e/serv_e/guide1_e.htm).

<sup>129</sup> The 2004 Partnership Agenda is available at [ec.europa.eu/external\\_relations/canada/sum03\\_04/partnership\\_en.pdf](http://ec.europa.eu/external_relations/canada/sum03_04/partnership_en.pdf) and [www.international.gc.ca/canada-europa/EU/partnership\\_agenda-en.asp](http://www.international.gc.ca/canada-europa/EU/partnership_agenda-en.asp).

### ***Agreement on the Processing of Advance Passenger Information (API) and Passenger Name Record (PNR) Data***

An agreement between the EU and the Government of Canada on the processing of Advance Passenger Information and Passenger Name Record data entered into force on 22 March 2006. The agreement provides for passenger information to be passed on by airlines to the appropriate Canadian authorities in advance of travel, to allow any potential security threats to be examined before passengers' arrival in Canadian territory. A first joint review of the PNR agreement is scheduled to commence in 2008. The successful completion of the review will be an important factor in the potential renegotiation of commitments made under the existing EU-Canada API/PNR agreement.

### ***Cooperation between EU Member States and Canada***

Certain individual EU Member States engage with Canada in a number of multilateral fora in which information on security and migration issues of mutual interest are exchanged. These fora include the G8 Migration Experts Sub-Group (in which the European Commission also participates), the World Customs Organisation, and the Intergovernmental Consultations on Migration, Asylum and Refugees. Canada also has in place cooperative agreements with some EU Member States, information-sharing arrangements as well as pilot projects.

## **3.9 Education and Training**

*Both the Canadian and European economies rely heavily on the education and mobility of their human resources in order to maintain and advance economic growth objectives. Whilst the issues of labour mobility and the related question of professional qualifications have been recognised as being an integral part of an advanced economic relationship (both are discussed in Part 2.4.1 of this study), post-secondary education and vocational training are often overlooked.*

### **Post-secondary Education**

The current EU-Canada relationship in post-secondary (or “higher”) education has been a positive force for cross-cultural linkages and economic growth, but its potential is clearly limited by the lack of recognition of post-secondary qualifications and of individual credits by both partners. These lacunae work as a barrier to mobility, impacting on the effective use of human capital and may create indirect barriers to trade.

#### ***The European Union***

The European Commission’s work in the field of education and training rests on two pillars: policy cooperation and work with the Member States; and funding programmes. The basic principle is that Member States are in charge of their education and training, and the European Commission works together with the Member States to help achieve common goals.

The EU’s Bologna Process aims to create a European Higher Education Area by 2010, in which students can choose from a wide and transparent range of high-quality courses and benefit from smooth recognition procedures. One of the priorities of the Bologna process is the recognition of qualifications and periods of study. All across Europe, 46 countries and universities are engaged in a process of modernisation. From an EU perspective, these reforms are part of the Lisbon Strategy for Growth and Jobs, which also encompasses reinforced cooperation in vocational education and training (Copenhagen Process). To establish synergies between the Copenhagen and Bologna processes, the European Qualifications Framework for lifelong learning (EQF) was formally adopted at EU level on 23 April 2008. This is linked to, and supported by, other initiatives in the fields of transparency of qualifications (EUROPASS), credit transfer (ECTS-ECVET) and quality assurance (ENQA-ENQAVET). In the field of education, the European Commission aims to support these efforts with the help of programmes such as Erasmus, Erasmus Mundus and its cooperation programmes with industrialised countries.

#### ***Canada***

Education in Canada is under the constitutional jurisdiction of provinces and territories. Canada has, in effect, 13 distinct public higher education systems. A mechanism for cooperation and collaboration between these systems exists through the Council of Ministers of Education,

Canada (CMEC). CMEC is an intergovernmental body which serves as a means to consult and cooperate on education-related issues on a pan-Canadian basis.

Although education is a provincial responsibility, the Government of Canada provides significant support for post-secondary education through the Canada Social Transfer. The Canadian government also plays various roles in international education, for example awarding study permits to international students, promoting international exchanges and supporting Canadian students financially.

In Canada, each university or college sets its own admission requirements and its own criteria for recognising academic qualifications obtained abroad. Nevertheless, a number of provinces offer a fee-based service assessing international education documents and comparing them with Canadian educational qualifications, which some universities and colleges recognise for the purposes of admitting overseas students.

#### *Protocol on Transferability of University Credits*

In 1994, Canada's 13 provincial and territorial governments agreed to the Protocol on Transferability of University Credits. To implement the Protocol, a credit transfer working group was created with the mandate to enhance and expand credit transfer. Though their success and funding varies greatly, provinces and territories have made efforts to improve credit transfer through the creation of independent organisations dedicated to the issue.<sup>130</sup>

#### *Pan-Canadian Consortium on Admissions and Transfers*

In June 2006, Canadian credit transfer professionals from five provinces and one territory met to explore the possibility of creating a pan-Canadian association to facilitate credit transfers and student mobility. Out of this meeting came the creation of the Pan-Canadian Consortium on Admissions and Transfer (PCCAT). The purpose of the Consortium is to facilitate the implementation of policies and practices that support student mobility both within and among provinces and territories and granting of transfer credit in order to improve access to post-secondary education in Canada. The Consortium presently includes members from all ten Canadian provinces and one territory. Members come from higher education institutions, governments, agencies and associations.

#### ***Education and Training in the Context of the Recognition of Professional/Vocational Qualifications***

Where there is no mutual recognition of professional/vocational qualifications, EU residents wishing to enter Canada temporarily to provide services or in an employment context, or Canadian residents wishing to enter the EU can be asked to engage in a period of training in the host country in order to be able to carry out the economic activity for which they are qualified in

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<sup>130</sup> Specifically, the British Columbia Council on Admissions and Transfer (BCCAT), the Alberta Council on Admissions and Transfer (ACAT), the Saskatchewan Council for Admissions and Transfer (SCAT), the Maritime Provinces Higher Education Commission (MPHEC), and the College-University Consortium Council (CUCC) in Ontario.

the home country. The ability to access this training in such a way that the net benefit outweighs the overall cost can determine whether or not professionals take up a service provision opportunity or not. The duration, cost and location of such training, as well as ease of access to it – for example, are training possibilities actually available? – are all contributing factors in this evaluation, as is the question of whether the “trainee” is permitted to exercise his/her chosen profession on a provisional basis (for example, under supervision) whilst this training is undertaken.

### **Existing EU-Canada Cooperation in the Area of Education and Training**

The third EU-Canada Higher Education, Vocational Training and Youth Agreement between the Government of Canada and the European Community Establishing a Framework for Cooperation in Higher Education, Training and Youth was signed in 2006 and covers the period 2006-2013. The general objective of this Agreement includes “improve[ing] the quality of human resources in the EU and Canada, by facilitating the acquisition of skills required to meet the challenges of the global-based economy”. This eight-year agreement plans to allocate €18 million over this period. Cooperation is anticipated through joint consortium projects, joint youth activities and complementary actions, including policy-oriented measures. Canada has not matched the funding increase that has been secured by the EU for proposed activities under the Agreement.

The sole action within the Agreement currently being supported are the joint consortium projects involving EU and Canadian institutions of higher education, under the EU-Canada Transatlantic Exchange Partnerships (TEP) programme. These projects involve the mobility of students and faculty in transatlantic exchanges, including arrangements for credit recognition and transfer among participating institutions.

The Erasmus Mundus programme was adopted in 2004. It includes providing scholarships to third countries’ graduate students and academics, including Canadian ones, to follow top-quality European joint Masters courses. Partnerships with non-EU institutions in the framework of these Master courses are also supported.

Since 2004, 103 Erasmus Mundus Masters courses have been created involving universities from a wide range of countries, including from Canada, and allowing 69 Canadian students (out of a total of 6,107) and 39 Canadian academics (out of a total of 1,079) to take part in these courses. In addition, six Canadian higher education institutions participated in six “Partnership” projects (out of a total of 40 projects) and eight Canadian institutions are involved in “Attractiveness” projects (out of a total of 40 projects).

As the Erasmus Mundus programme has become a major programme for developing closer relations in the field of higher education, its second phase (to be launched in 2009) has enlarged its scope and will include the development of human resources in certain partner regions. In its new phase, the programme will fund joint European masters and doctoral programmes and will provide scholarships for European and third-country students to follow these joint programmes. It will also promote the establishment of partnerships between European and third-country higher education institutions as a basis for the exchange of students and academics with a view to enhance the international cooperation capacities of higher education institutions in third countries.

### ***Cooperation between EU Member States and Canadian Provinces and Territories***

A number of arrangements and cooperation projects exist between individual EU Member States (or in some cases, their regions) and Canadian provinces and territories. These arrangements are aimed at sustaining the development of human resources through higher education collaboration, with some advanced arrangements establishing very strong educational ties between regions of the EU and Canadian provinces and territories.

Of the educational arrangements, some – the Quebec-Catalonia Arrangement (or “Entente”) for example – guarantee the recognition of each other’s diplomas as well as special access to scholarships for student exchanges, joint research projects and faculty exchanges in specific fields of study. This type of enhanced relationship seems to greatly benefit both regions economically and culturally. The success of such initiatives heavily relies on the mutual recognition of diplomas, significantly facilitating all types of educational exchanges.

Such comprehensive educational arrangements and established cooperation between Member States/regions and Canada/provinces/territories remain relatively rare (other partnerships include France-Quebec, Luxembourg-Quebec, Baden-Württemberg-Ontario, Rhône-Alpes-Ontario, Saxony-Alberta, and Hamburg-Manitoba).

#### ***Non-governmental Cooperation***

Athabasca University is a distance-education and online university which has been a leader in articulating programs and creating pathways for learners. Athabasca University acts as a credit coordinating body and has standardised approaches to the evaluation of external learning and the provision of numerous avenues to degree completion. In evaluating external courses or programs, consideration is given to the nature of the issuing institution, the educational content, comparability of the material, characteristics and level of studies and the applicability of the work to the individual student’s educational objectives.

Campus Canada represents another example of a collaborative arrangement between institutions. Campus Canada helps to improve educational opportunities for learners. It is a national partnership of colleges, polytechnical institutes and universities that offers online and distance education specifically for working adults.

Within the EU, the European Network of Information Centres/National Academic Recognition Information Centre (ENIC/NARIC network) has been created in order to improve the academic recognition of international awards and to facilitate the integration of national education systems.

### **Potential Future EU-Canada Cooperation on Education and Training**

#### ***Post-secondary Education***

Educational establishments have the greatest role to play in improving educational linkages between the EU and Canada, but that is not to say that there is no need for governments to act. Consideration could, for example, be given to building on work that is already underway in the

context of the Bologna Process within broader Europe to establish a degree equivalency system between the EU and Canada, including the introduction of the diploma supplement in Canada.

Some of this work has been undertaken in the context of the Canada Student Loan Program (CSLP) through the pan-Canadian Designation Policy Framework, launched by federal-provincial-territorial governments in 2004. In the Framework, minimum criteria were established in order to recognise post-secondary education institutions for the purpose of federal and provincial funded student financial assistance programs. As a result, a Master Designation List of post-secondary education institutions is published and utilised by all provinces and territories participating in the CSLP. The Framework was primarily motivated by the need for recognition designated post-secondary education institutions among provinces, but it also includes designation of international institutions.

Educational establishments in the EU and Canada could also be encouraged to establish a system for the accumulation and transfer of credits between EU and Canadian post-secondary educational establishments, building on the European Credit Transfer System (ECTS) and Pan-Canadian Protocol on the Transferability of University Credits.

The EU and Canada could also consider the removal of remaining barriers to student mobility, such as facilitating student permit applications from each other's nationals, granting student work permits or addressing concerns relating to health insurance requirements for foreign students and recognition of EU-Canada institutions for national student aid funding purposes.

### ***Education and Training in the Context of the Recognition of Professional/Vocational Qualifications***

To date, cooperation between the EU and Canada has focused on educational links, rather than on training required in the context of the recognition of qualifications. The extent to which additional cooperation in this area would be desirable is closely linked to progress made on equivalency/recognition of the qualifications in question. The EU and Canada could, in the first instance, agree to try and identify what difficulties exist for service providers in this area.

### **3.10 Investment Promotion**

*Since the EU does not carry out any investment promotion activities itself – the issue being handled by individual EU Member States – EU-Canada cooperation takes place on investment promotion not at EU-Canada level but at EU Member State-Canada level.*

#### **Existing Cooperation between EU Member States and Canada on Investment Promotion**

Significant Canada-EU Member State cooperation takes place through a number of mechanisms, including Foreign Investment and Protection Agreements and activities under the Organisation for Economic Cooperation and Development.

##### ***Bilateral Investment Treaties***

A Foreign Investment Promotion and Protection Agreement (FIPA) is a bilateral reciprocal treaty aimed at protecting foreign investment through legally-binding rights and obligations. FIPAs, of which Canada has 23, are the Canadian version of what is more commonly known as a Bilateral Investment Treaty.

Canada has FIPAs with six EU Member States (the Czech Republic, Hungary, Latvia, Poland, Romania and Slovakia). Further to their accession to the EU, the six Member States were required to bring their bilateral investment treaties with Canada into conformity with EU law. Canada has been working with the Member States to finalise the respective texts.

##### ***Organisation for Economic Cooperation and Development***

As Members of the Organisation for Economic Cooperation and Development (OECD), Canada and EU Member States cooperate in a number of ways in the promotion of international investment. Through their active participation in regular meetings of the Investment Committee, key international policies and principles are discussed and promoted. In this forum they also cooperate in the promotion of open investment markets in their countries through the endorsement of investment policy instruments.

Under the Code for Liberalisation of Capital Markets and Code for the Liberalisation of Invisible Operations, OECD Members such as Canada and EU Member States make legally binding commitments to open their borders to capital flows from one another and to liberalise transactions relating to investments, on a non-discriminatory basis. Furthermore, through political commitments made under the Declaration on International Investment and Multinational Enterprises, a legally non-binding instrument, Canada and EU countries cooperate in the promotion of key international investment principles, including non-discrimination on a national treatment basis, disciplines relating to the use of incentives, avoidance of placing companies in situations of conflicting requirements and the promotion of corporate social responsibility.

Moreover, through outreach activities of the OECD Investment Committee, Canada and EU countries cooperate in outreach activities to promote open investment market principles with non-member countries.

### ***Canadian Direct Investment Abroad***

The Government of Canada does not have any particular arrangements or Memoranda of Understanding with EU Member States on Canadian Direct Investment Abroad (CDIA), nor any issues which might need resolving for which it would need to provide a cost-benefit summary.

Consultation with Canadian provinces and territories revealed no formal or informal cooperation at this level on investment promotion, apart from Ontario where informal cooperation is pursued through meetings between foreign investment agencies and the Ontario Ministry of Economic Development and Trade.

### ***Existing Non-governmental Cooperation***

Regional business or commerce groups (British Columbia Chambers of Commerce, Canadian German Chamber of Industry and Commerce Inc., Italian Chamber of Commerce in Canada, and the Swedish Canadian Chamber of Commerce) undertake investment and trade promotion activities that encourage the flow of investment from the EU to Canada. In Toronto, individual Member State Chambers of Commerce have banded together to create the EU Chamber of Commerce in Toronto (EUCOCIT), which seeks to promote the EU in the Greater Toronto Area and organises a number of events to this end. One of the main factors limiting the activity of EUCOCIT has been (insufficient) funding; the Chamber relies on contributions made by its members, contributions which would otherwise be used by these member Chambers for their own promotion activities. Member State Chambers of Commerce cooperate in a similar, but more informal way in Montreal. Consideration is also being given to establishing EU Chambers of Commerce in Vancouver and Edmonton.

### **Potential Future EU-Canada Cooperation on Investment Promotion**

Since the EU has only one office in Canada (in Ottawa), EU Chambers of Commerce – existing and future – in other parts of Canada have an important role to play in raising awareness about the EU and encouraging increased business links between the EU and Canada. The EU could consider how such organisations might be supported financially or in other ways.

Canada and its EU FIPA partners will continue to work towards signature and ratification of the updated agreements.

## 3.11 Competition

### EU and Canadian Competition Law and Policy-making

#### *The European Union*

The fundamental norms and rules of European Community competition law are the text of the Treaty establishing the European Community (“the Treaty”) and legislation adopted by the Council. Rules on antitrust and state aid are to be found in the Treaty text, while merger control rules are in a Council Regulation. Directives of the Council, which have to be implemented by the Member States, have been particularly important with regard to liberalisation. European Commission regulations serve as instruments for the implementation of competition policy.

Community competition law applies only if there is sufficient Community impact. The concept sets out the limit of Community competence and its boundary to the laws of the Member States. The concept, however, has been interpreted broadly. As provided for by the Treaty, Community competition rules apply to conduct that “may affect trade between the Member States”. The subjects of Community competition law are ‘undertakings’.

Agreements between two or more firms that restrict competition are prohibited by Article 81 of the Treaty, subject to some limited exceptions. This provision covers a wide variety of behaviours. The Treaty generally prohibits horizontal anti-competitive agreements, whereas economic benefits from an agreement can lead to exemption from the prohibition. The most obvious example of illegal conduct infringing Article 81 is a cartel between competitors (which may involve price fixing or market sharing). Most vertical agreements concerning supply and distribution are permitted, unless there is market power. Second, firms in a dominant position may not abuse that position (Article 82 of the EU Treaty). This is, for example, the case for predatory pricing aiming at eliminating competitors from the market.

Under the Merger Regulation, the Commission is competent to deal with all mergers that have a ‘Community dimension’, i.e. those mergers where the parties exceed certain turnover thresholds. All proposed mergers notified to the Commission are examined to see if they would “significantly impede effective competition... in particular as a result of the creation or strengthening of a dominant position.” If they do not, they are approved unconditionally. If they do, and no commitments aimed at removing the impediment are proposed by the merging firms, they must be prohibited to protect businesses and consumers from higher prices or a more limited choice of goods or services. In application of Treaty principles for the control of state aid which distorts competition, the Commission determines whether certain aid violates the given legal standard. It may order a Member State to terminate it and order the recipient of aid to return it.

The European Commission’s Directorate-General for Competition (DG COMP) finds itself in an almost unique position in the European Community system. In the area of competition policy, the Commission can apply direct enforcement power that is not dependent on Member State governments. Decisions proposed by DG COMP are adopted by majority vote of the

Commissioners. Commission decisions are subject to judicial review by the two European Courts, the European Court of Justice (ECJ) and the Court of First Instance (CFI).

The Commission is empowered by the Treaty to apply these prohibition rules and enjoys a number of investigative powers to that end (e.g. inspection in business and non-business premises and written requests for information). It may also impose fines on undertakings that violate EU antitrust rules. Since 1 May 2004, all national competition authorities are also empowered to apply fully the provisions of the Treaty in order to ensure that competition is not distorted or restricted. National courts may also apply these prohibitions so as to protect the individual rights conferred to citizens by the Treaty.

## ***Canada***

Canada's Competition Bureau is an independent law enforcement agency headed by the Commissioner of Competition. The Bureau is responsible for the administration and the enforcement of the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*. These *Acts* are described below.

### *The Acts*

The *Competition Act* is a federal law governing most business conduct in Canada. The *Act* contains provisions addressing both criminal offences, including conspiracy, bid-rigging, discriminatory and predatory pricing, price maintenance, misleading advertising and deceptive marketing practices, as well as matters subject to civil review, such as mergers, abuse of dominant position, refusal to deal, exclusive dealing and tied selling.

The *Consumer Packaging and Labelling Act* is a criminal statute relating to the packaging, labelling, sale, importation and advertising of pre-packaged and certain other products. It requires that pre-packaged consumer products bear accurate and meaningful labelling information to help consumers make informed purchasing decisions. The *Act* prohibits false or misleading representations and sets out specifications for mandatory label information such as the product's name, net quantity and dealer identity.

The *Textile Labelling Act* is a criminal statute relating to the labelling, sale, importation and advertising of consumer textile articles. It requires that textile articles bear accurate and meaningful labelling information to help consumers make informed purchasing decisions. The *Act* prohibits false or misleading representations and sets out specifications for mandatory label information such as the generic name of each fibre present and the dealer's full name and postal address or a CA identification number.<sup>131</sup>

The *Precious Metals Marking Act* is a criminal statute relating to the marking of articles containing precious metals. It provides for the uniform description and quality markings of articles made with gold, silver, platinum or palladium to help consumers make informed purchasing decisions. The *Act* prohibits the making of false or misleading representations related to precious metal articles. It

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<sup>131</sup> A CA Identification Number, commonly referred to as "CA Number", is a five-digit number preceded by the letters CA issued by the Competition Bureau upon request.

also requires that dealers who choose to mark their articles with representations related to the previous metal quality, to do so as described by the *Act* and Regulations.

Since the last major reform of the *Competition Act* in 1986, the Competition Bureau has taken an incremental approach to amending its legislation. The Competition Bureau, the Competition Tribunal, and the courts are instrumental in competition policy development. Decisions taken by the Tribunal and the courts assist in clarifying competition law and policy and can encourage legislative reform.

### *Canada's Approach to Administration and Enforcement of the Acts*

The Competition Bureau's approach to the administration and enforcement of Canada's laws is based on five principles: confidentiality, fairness, predictability, timeliness and transparency. If it is determined that a complaint needs further investigation, the Bureau uses a wide range of education, compliance and enforcement tools to deal with both criminal and civil cases. They include:

- Public education, written opinions, information contacts, voluntary codes of conduct, written undertakings and prohibition orders;
- The legal authority, with court authorisation, to search for and seize documents and other forms of evidence, to take sworn oral evidence and to demand the production of documents and records;
- The ability to refer criminal matters to the Attorney-General of Canada, who then decides whether to prosecute before the courts;
- The power to bring civil matters before the Competition Tribunal or other courts depending on the issue; and
- The authority to make presentations and intervene on matters of competition policy before federal and provincial boards, tribunals and commissions.

### *Mergers*

In general, mergers are viewed positively as a means to increase competitiveness, allowing Canadians to benefit from lower prices, product choice and quality services. Mergers of all sizes and in all sectors of the economy are subject to review by the Commissioner of Competition to determine whether they will likely result in a substantial lessening or prevention of competition under the *Competition Act*. The Commissioner must be notified of all mergers that exceed certain size thresholds prior to completion. Failure to notify is a criminal offence.

In reviewing mergers, the Bureau considers many different elements, including the level of economic concentration in the relevant industry and the merging parties' market shares. If the Commissioner determines that the merger is likely to substantially lessen or prevent competition, he/she may apply to the Competition Tribunal for an order to prevent, dissolve or alter the

merger. The Merger Enforcement Guidelines provide additional information regarding the merger provisions of the *Competition Act*.

### *Advocacy*

The Bureau is a strong advocate for competition in the Canadian economy and continues to encourage other policy-makers to consider competition issues when developing new legislation, policies or regulations. It participates in the Government of Canada's deregulation and privatisation initiatives, to ensure that the provision of goods and services in Canada is efficient, and encourages regulators to adopt approaches that rely, to the greatest extent possible, on market forces. Where regulation is necessary, the Bureau has advocated that the regulation be the minimal degree necessary to achieve the objectives of the regulator.

### *The Competition Policy Review Panel*

The work undertaken by the Competition Policy Review Panel is entirely separate from the work of the Competition Bureau. The Panel was announced on 12 July 2007, and is mandated to review key elements of Canada's competition and investment policies to ensure that they are working effectively.

The Panel received submissions from interested parties and the public and has undertaken its own information-gathering and research to support its work. The Panel provided its report to the Government of Canada on 28 June 2008, which included a number of policy recommendations to increase productivity and competitiveness. These recommendations include updating the Competition Act by reforming merger review procedures and revising penalties for offences.<sup>132</sup>

### **Existing EU-Canada Cooperation in the Area of Competition**

The EU has concluded only three Competition Cooperation Agreements with third parties – the 1999 EU-Canada Competition Cooperation Agreement, and Agreements with the United States and with Japan.

The 1999 Agreement is designed to facilitate increased cooperation between the EU and Canada with respect to the enforcement of their respective competition rules. In substance, the Agreement provides for:

- the reciprocal notification of cases under investigation by either authority, where they may affect the important interests of the other party;
- the possibility of coordination by the two authorities of their enforcement activities, as well as of rendering assistance to each other;

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<sup>132</sup> For complete details, please see [www.ic.gc.ca/epic/site/cprp-gepmc.nsf/en/home](http://www.ic.gc.ca/epic/site/cprp-gepmc.nsf/en/home).

- the possibility for one party to request the other to take enforcement action (positive comity), and for one party to take into account the important interests of the other party in the course of its enforcement activities (traditional comity); and
- the exchange of information between the parties, while not affecting either party's confidentiality obligations with respect to such information.

The Canadian Competition Bureau is one of the EU's main partners in bilateral cooperation in competition matters and also in international fora dealing with competition matters. Canada has a long tradition of competition law and has a sophisticated competition authority with a high reputation.

Contacts between the European Commission and the Canadian Competition Bureau are frequent and fruitful. Discussions concern both case-related issues, and more general policy issues. Such contacts concern all areas of competition law enforcement. In the area of cartel cases, this includes the coordination of investigative measures. Staff exchanges between the Bureau and the Commission have also taken place.

### ***Cooperation between EU Member States and Canada***

In 2003, an inter-agency cooperation arrangement was established between the Competition Bureau, the UK Office of Fair Trading and the UK Department of Trade and Industry. The arrangement enhances enforcement cooperation between Canadian and UK authorities in the application of the Parties' competition and consumer laws.

### **Potential Future EU-Canada Cooperation in the Area of Competition**

In the area of state aid (at all levels of government), the approaches taken by the EU and by Canada differ substantially. EU Member States have to comply with stringent rules set out in the Treaty when granting state aid to ensure that it does not adversely affect competition; in Canada the provision of state aid is self-regulated at both federal and provincial/territorial levels. This difference of approach could have an impact on trade.

The 1999 EU-Canada Agreement functions well and to the satisfaction of both sides. It is noted, however, that information exchange under the Agreement is currently limited to non-confidential information. The existing Cooperation Agreement expressly excludes the exchange of protected or confidential information. Under the current rules the Commission is not allowed to pass on any information that it has obtained through its formal investigative tools to third country authorities. The provisions on professional secrecy in Regulation 1/2003 and in the Merger Regulation (Art. 28 of Regulation 1/2003 and Art. 17 of the Merger Regulation) foresee that information acquired pursuant to the regulations shall only be used for the purposes for which it was acquired, i.e., the application of the Treaty rules or of the Merger Regulation.

## **3.12 Taxation Matters**

*Cooperation between the EU and Canada in the area of taxation is implemented by way of bilateral double taxation conventions (“tax treaties”) with EU Member States. Canada has bilateral tax treaties in force with all EU Member States except Greece. Negotiations with Greece are on the verge of completion, as the resulting Convention has yet to be ratified.*

*Canada strives to maintain good relationships that foster goodwill and cooperation with all of its EU tax treaties partners. This is done with an objective to ensure that the tax treaties continue to reflect the prevailing tax policies of the countries involved and serve their mutual interests accordingly. Tax treaties are negotiated, ratified and administered on a bilateral basis with EU Member States, and the relationship in the tax area between Canada and the European Commission is minimal.*

### **Existing EU-Canada Cooperation in Taxation Matters**

Tax treaties between Canada and EU Member States, though different, are all based on the same tax treaty model, the Organisation for Economic Cooperation and Development (OECD) Model Tax Convention. The OECD Model Tax Convention and its Commentaries are subject to ongoing reviews and updates that reflect how member countries (including most EU Member States) interpret and apply the Model Tax Convention. Canada and EU Member States are active participants in this process.

Bilateral income tax treaties are used internationally to eliminate tax barriers to trade and investment. Such treaties achieve their purpose in a number of ways. They do so by providing greater certainty to taxpayers regarding their potential liability to tax in the foreign jurisdiction; by allocating taxing rights between the two jurisdictions so that the taxpayer is not subject to double taxation; by reducing the risk of excessive taxation that may arise because of high withholding taxes; and by ensuring that taxpayers will not be subject to discriminatory taxation in the foreign jurisdiction. In turn, the reduction of double taxation and of excessive source-country taxation encourages cross-border trade and investment.

Tax treaties provide benefits to both taxpayers and governments by setting out clear rules that govern tax matters relating to cross-border trade and investment. They ensure predictability and fairness in the tax treatment of taxpayers and spell out clearly defined provisions that facilitate companies investing and doing business abroad. With regard to predictability and certainty, they provide that the business profits from the cross-border activities of a resident of one country will be subject to taxation in the other treaty country only if there is a minimum level of economic activity that takes place within that other country.

Tax treaties also promote fairness by providing a mechanism for dealing with disputes or questions of application that arise after the treaty enters into force. In such cases, designated tax authorities of the two governments, known as the “competent authorities”, are to consult with a view to reaching a satisfactory solution under which the taxpayer’s income is allocated between

the two taxing jurisdictions on a consistent basis, thereby preventing the double taxation that might otherwise result. The Canadian competent authority under Canada's tax treaties is the Minister of National Revenue or the Minister's authorised representative, who would normally be an official at the Canada Revenue Agency. In European countries, the competent authority is usually the authority responsible for the administration of the tax laws.

Canada's tax treaties with EU Member States also include provisions aimed at ensuring that cross-border investors do not suffer discrimination in the application of the tax laws of the other country.

In addition to eliminating potential double taxation, treaties also reduce "excessive" taxation by lowering withholding taxes that are imposed at source. Under Canadian domestic law, payments to non-resident persons of certain passive forms of income such as dividends, interest and royalties are subject to withholding tax equal to 25% of the gross amount paid. Most of Canada's trading partners impose similar levels of withholding tax on these types of income. This tax is imposed on a gross, rather than net, amount. Because the withholding tax does not take into account expenses incurred in generating the income, a taxpayer frequently will be subject to an effective rate of tax that is significantly higher than the rate that would be applicable to net income in either the source or residence country. The taxpayer may be viewed, therefore, as having suffered "excessive" taxation. Canada seeks to include in its tax treaties provisions that substantially reduce or, in the case of certain types of income, eliminate source-country withholding taxes.

As tax treaties also have as their purpose the prevention of fiscal evasion, they include provisions related to tax administration. A key element of Canada's tax treaties is their provisions authorising the exchange of information between the tax authorities. Under tax treaties, the competent authority of one country may request from the other competent authority such information as may be necessary for the proper administration of the country's tax laws; the requested information will be provided subject to strict protections on the confidentiality of taxpayer information. Because access to information from other countries is critically important to the full and fair enforcement of Canada's tax laws, information exchange is a priority for Canada in its tax treaty program.

### **Corporate Income Tax Rates in the EU and Canada**

The level of corporate income tax rates can have a significant impact on location and foreign investment decisions. Corporate tax rates differ among EU Member States and among Canadian provinces and territories (see Table 3.1 below).

For 2007, rates in the EU ranged from 10% (Bulgaria and Cyprus) to 38.36% in Germany. In Canada, the federal rate is 22.12%, while among provinces and territories, the combined federal and provincial rates ranged from 32.02% (in Quebec) to 38.12% (in Nova Scotia and PEI). In 2007, five EU Member States (Belgium, France, Germany, Italy and Spain) had corporate tax levels above the Quebec rate. Projected forward to 2012 on the basis of announcements already made, the combined federal and provincial corporate tax rate in Canada will range from 25% (Alberta and British Columbia) to 31% (Nova Scotia and PEI). For subsequent years, as there are

no forward projections for EU Member States, one can only compare with actual 2007 rates. If tax rates in the EU remained unchanged to 2012, 15 Member States (EU15 without Ireland but with Malta) would have corporate tax rates at or higher than the lowest combined federal and provincial Canadian rate, while 12 Member States would have corporate tax rates lower than the lowest Canadian rate.

**Table 3.1 EU Member States Corporate Tax Rates**

	<b>2005</b>	<b>2006</b>	<b>2007</b>
Belgium	33.99	33.99	33.99
Bulgaria	15.00	15.00	10.00
Czech Republic	26.00	24.00	24.00
Denmark	28.00	28.00	28.00
Germany	38.31	38.34	38.36
Estonia	24.00	23.00	22.00
Ireland	12.50	12.50	12.50
Greece	32.00	29.00	25.00
Spain	35.00	35.00	32.50
France	33.83	33.33	33.33
Italy	37.25	37.25	37.25
Cyprus	10.00	10.00	10.00
Latvia	15.00	15.00	15.00
Lithuania	15.00	15.00	15.00
Luxembourg	30.38	29.63	29.63
Hungary	16.00	16.00	16.00
Malta	35.00	35.00	35.00
Netherlands	34.50	29.60	25.00
Austria	25.00	25.00	25.00
Poland	19.00	19.00	19.00
Portugal	27.50	27.50	25.00
Romania	16.00	16.00	16.00
Slovenia	25.00	25.00	23.00
Slovakia	19.00	19.00	19.00
Finland	26.00	26.00	26.00
Sweden	28.00	28.00	28.00
United Kingdom	30.00	30.00	30.00

Source: KPMG's Corporate and Indirect Tax Rate Survey 2007, [www.kpmg.com/Global/IssuesAndInsights/ArticlesAndPublications/Pages/Corporate-Tax-Rate-Survey-2007.aspx](http://www.kpmg.com/Global/IssuesAndInsights/ArticlesAndPublications/Pages/Corporate-Tax-Rate-Survey-2007.aspx).

**Table 3.2 Canada Corporate Tax Rates**

Corporate income tax rates <sup>1</sup>		2005	2006	2007	2008	2009	2010	2011	2012
<b>Federal</b> <sup>2, 16</sup>	General/M&P/Investment	22.12	22.12	22.12	19.50	19.00	18.00	16.50	15.00
	Small business	13.12	13.12	13.12	11.00	11.00	11.00	11.00	11.00
	Investment - CCPC	35.79	35.79	35.79	34.67	34.67	34.67	34.67	34.67
<b>British Columbia</b> <sup>3</sup>	General/M&P/Investment	13.5/12	12	12	12/11	11	10.5	10	10
	Small business	4.5	4.5	4.5	4.5/3.5	3.5	3.0	2.5	2.5
<b>Alberta</b> <sup>4</sup>	General/M&P/Investment	11.5	11.5/10	10	10	10	10	10	10
	Small business	3	3	3	3	3	3	3	3
<b>Saskatchewan</b> <sup>5</sup>	General/Investment	17	17/14	14/13	13/12	12	12	12	12
	Small business	5	5	4.5	4.5	4.5	4.5	4.5	4.5
	M&P	10	10	10	10	10	10	10	10
<b>Manitoba</b> <sup>6</sup>	General/M&P/Investment	15	14.5	14	14/13	13/12	12	12	12
	Small business	5	4.5	3	2	1	1	1	1
<b>Ontario</b> <sup>7</sup>	General/Investment	14	14	14	14	14	14	14	14
	Small business	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5
	M&P	12	12	12	12	12	12	12	12
<b>Québec</b> <sup>8</sup>	General/M&P	8.9	9.9	9.9	11.4	11.9	11.9	11.9	11.9
	Small business	8.9	8.5/8	8	8	8	8	8	8
	Investment	16.25	16.25	16.25/9.9	11.4	11.9	11.9	11.9	11.9
<b>New Brunswick</b> <sup>9</sup>	General/M&P/Investment	13	13	13	13	13	13	13	13
	Small business	2.5/2	2/1.5	5	5	5	5	5	5
<b>Nova Scotia</b> <sup>10</sup>	General/M&P/Investment	16	16	16	16	16	16	16	16
	Small business	5	5	5	5	5	5	5	5
<b>Prince Edward Island</b> <sup>11</sup>	General/Investment	16	16	16	16	16	16	16	16
	Small business	7.5/6.5	6.5/5.4	5.4/4.3	4.3/3.2	3.2/2.1	2.1/1.0	1.0	1
	M&P	7.5/16	16	16	16	16	16	16	16
<b>Newfoundland and Labrador</b> <sup>12</sup>	General/Investment	14	14	14	14	14	14	14	14
	Small business/M&P	5	5	5	5	5	5	5	5
<b>Yukon</b> <sup>13</sup>	General/Investment	15	15	15	15	15	15	15	15
	Small business	4	4	4	4	4	4	4	4
	M&P	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
<b>Northwest Territories</b> <sup>14</sup>	General/M&P/Investment	14	14/11.5	11.5	11.5	11.5	11.5	11.5	11.5
	Small business	4	4	4	4	4	4	4	4
<b>Nunavut</b> <sup>15</sup>	General/M&P/Investment	12	12	12	12	12	12	12	12
	Small business	4	4	4	4	4	4	4	4

M&P: Manufacturing or processing, CCPC: Canadian-controlled private corporation

<sup>1</sup> This table provides at a glance the corporate income tax rates (federal, provincial and territorial) announced up to May 23, 2008. The rates apply to the 2005 to 2012 12-month taxation years ended on December 31, unless otherwise indicated. In Canada, corporate income taxes are levied separately by both the federal government and the governments of the provinces or territories. Although the tax base is substantially the same, there are minor differences. Also, rules exist to allocate income between the provinces and territories so that the same income is not taxed twice. The rates indicated in the table may not apply to income earned by credit unions, mutual fund corporations, mortgage investment corporations, most deposit insurance corporations and investment corporations, as this income already qualifies for special tax treatment.

Source: Deloitte, [www.deloitte.com/dtt/article/0,1002,cid%253D110865,00.html](http://www.deloitte.com/dtt/article/0,1002,cid%253D110865,00.html).

## **Potential Future EU-Canada on Taxation Matters**

### ***Enhancing Cooperation between Countries***

The existence of a tax treaty usually creates an ongoing relationship between the tax authorities of the treaty partners, which are tasked with the administration of the treaty. This relationship takes two main forms: first, the exchange of tax information; second, the resolution of disagreements occurring as to the interpretation and application of the tax treaty and, in particular, the relief of double taxation in cases where both countries have competing claims with respect to the taxation of the income of a taxpayer.

Instances of double taxation and areas of disagreements over the interpretation and application of the tax treaty are handled by the competent authorities under a consultative process referred to as the mutual agreement procedure. Under this procedure, the competent authorities exchange views and endeavour to come to an agreement over any issue that may arise under the convention. The most common use of the mutual agreement procedure is for the competent authorities to come to an agreement over the respective countries' tax liability of a taxpayer in order to remove the double taxation resulting from the application of the respective countries' tax law in respect of that taxpayer. The mutual agreement procedure is thus an important feature of tax treaties, as it effectively ensures that instances of double taxation are minimised.

### ***Promoting Trade and Investment***

Tax treaties promote cross-border investment and trade by reducing double and excessive taxation. Therefore, tax treaties ensure that companies, for instance, are not subject to the nuisance of an excessive tax burden that might hamper their investments perspectives in a foreign jurisdiction. Tax treaties ensure that by reducing double taxation, Canadian and European companies are not disadvantaged when doing business abroad. Tax treaties reduce tax impediments to international trade by simplifying compliance requirements, for example by eliminating the requirement to file a tax return in situations where little or no tax would typically be payable, and by offering taxpayers more certain and predictable tax results. Hence, tax treaties contribute to removing some tax and administrative barriers that can hamper cross-border trade and investment and create instead conditions that are conducive to such economic activities.

### 3.13 Fisheries

*The Treaty establishing the European Community (“the Treaty”) through Article 3 gives the Community exclusive competency in the sphere of fisheries. Although there is no specific fisheries chapter in the Treaty itself, it assigns to the Common Fisheries Policy the same general objectives and means to achieve those objectives as the Common Agricultural Policy (Articles 32 to 38). Because of this exclusive competence for fisheries, the European Community is entitled to enter into international fisheries obligations with third countries or with other international organisations. Accordingly, the European Commission, acting on behalf of the Union, negotiates bilateral fisheries agreements with third countries and takes part in different Regional Fisheries Management Organisations (RFMOs).*

*Under the Constitution Act, 1867 (section 91), the federal government has the responsibility for the conservation and protection of all fisheries in Canada. The Department of Fisheries and Oceans (DFO) manages the fisheries for the benefit of all Canadians. The Department’s guiding legislation includes:*

- *the Fisheries Act, which provides the Minister with the authority to manage and control fisheries, and to protect fish habitat;*
- *the Oceans Act, which charges the Minister with leading oceans management and providing coastguard and hydrographic services on behalf of the Government of Canada;*
- *the Coastal Fisheries Protection Act (CFPA), which enables the Minister to regulate foreign fishing in Canadian waters and provide the authority to allow foreign vessels access to Canadian ports or fisheries waters.*

#### **Existing EU-Canada Cooperation in Fisheries**

At present, there is no active formal bilateral agreement in place between the EU and Canada. Although a 1981 bilateral Fisheries Agreement (in which the EU was allocated fishing possibilities in Canadian waters in exchange for tariff concessions on seafood products of interest to Canadian exporters) is formally still in force, arrangements under this Agreement ended after 1987.

Although in the 1990s, bilateral fisheries relations were more difficult and, on occasion, negatively affected the entire EU-Canada relationship, recent relations have been very positive. Both sides have cooperated closely in the recent major reform of the Northwest Atlantic Fisheries Organisation (NAFO).

Since 1997, the EU-Canada High-Level Fisheries Meetings have been held annually, in which senior officials meet to exchange views on matters of common interest and on ways to improve fisheries relations. There have also been *ad hoc* bilateral discussions concerning the

establishment of an integrated maritime policy and on the means to involve respective stakeholders in fisheries policy-making.

Most cooperation between the EU and Canada in fisheries matters takes place in the context of NAFO. The EU and Canada are founding members of NAFO and have worked together closely to bring about recent major reforms to this RFMO, resulting in substantial amendments to the NAFO Convention and a package of new control and enforcement measures. NAFO has also established a joint enforcement scheme, to which the EU and Canada provide most of the inspection presence, entailing close cooperation to coordinate the presence of respective inspection platforms and inspections. Most recently, the EU, Canada and other Contracting Parties agreed to a series of measures to protect vulnerable marine ecosystems, as required by the 2006 United Nations (UN) General Assembly Sustainable Fisheries Resolution.

The EU and Canada are very much like-minded regarding international fisheries issues. Both parties cooperate closely as members of other RFMOs, such as the International Commission for the Conservation of Atlantic Tunas (ICCAT), the North Atlantic Salmon Conservation Organisation (NASCO) and the Western and Central Pacific Fisheries Commission (WCPFC). Canada is also a cooperating non-Contracting Party in the North-East Atlantic Fisheries Commission (NEAFC), in which the EU is a member, and a State Party to, but non-Member of, the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). Both parties are also cooperating non-Contracting Parties in the Inter-American Tropical Tuna Commission (IATTC).

The EU and Canada are also parties to the UN Convention on the Law of the Sea (UNCLOS) and the 1995 UN Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Both also support efforts, through the UN Food and Agriculture Organisation (FAO), to deal with various global fisheries and oceans issues, including the global problem of illegal, unregulated and unreported fishing, notably the International Plan of Action on Illegal, Unregulated and Unreported Fishing, and are parties to the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, which entered into force in April 2003, and both support the 1995 FAO's Code of Conduct for Responsible Fisheries. The EU and Canada have also recently co-funded an expert workshop on flag state responsibilities in preparation for further formal work by the FAO, as requested at the last session of the Committee of Fisheries (COFI). Moreover, the EU and Canada are cooperating regarding the implementation of the UN Fisheries Agreements.

### ***Cooperation between EU Member States and Canada***

Canada (Nunavut) has a common maritime boundary with Denmark (Greenland), together with (through Newfoundland and Labrador, and Nova Scotia) a common maritime boundary with France (St. Pierre et Miquelon).

Fisheries relations between France and Canada are currently based upon the 1972 Agreement between Canada and France on their Mutual Fishing Relations, which calls for reciprocal fishing rights for France and Canada in each other's waters. Both countries meet annually to provide

recommendations on fishing allocations in NAFO Area 3Ps to fisheries ministers of both countries as stipulated in the 1994 Procès-Verbal Applying the 27 March 1972 Agreement between Canada and France on their Mutual Fishing Relations.

Canada also has a number of bilateral agreements still in force with other Member States concerning possible access to surplus fish stocks in Canadian waters (the 1977 Agreement with Bulgaria, 1978 Agreement with Romania, 1981 Agreement with Denmark regarding Faroese vessels and 1982 Agreement with Poland), although there have been no arrangements made under these agreements for some time. Canada also signed Memoranda of Understanding on fisheries cooperation with Portugal (2005) and Spain (2007) respectively, and Spain and Canada signed, in 2007, a letter of intent concerning marine science cooperation.

### ***Cooperation between Non-governmental Bodies***

Europêche, the Federacion Espanola de Organizaciones Pesqueras (FEOPE) and the Fisheries Council of Canada (FCC) are all members of the International Coalition of Fisheries Associations. The FCC also cooperates with the Association des Industries du Poisson de l'Union Européenne.

### **Potential Future EU-Canada Cooperation on Fisheries**

Both sides could continue to cooperate closely to ensure that the current proposed amendments to the NAFO Convention come into force. They could also work together to further strengthen NAFO and to incorporate more modern concepts into its decision-making process, such as the precautionary and ecosystem approaches. On control and enforcement, the newly-created Community Fisheries Control Agency will take over the deployment of the EU's inspection presence in NAFO waters and should continue to coordinate the EU's inspection activities with Canada.

Similarly, since both have similar goals regarding international fisheries issues, both could continue to cooperate closely to develop, strengthen and modernise other RFMOs, including the development of effective management and control mechanisms. In particular, since RFMOs play a key role in reducing overfishing, combating illegal, unregulated and unreported fishing, and protecting vulnerable marine eco-systems, both sides should work together to strengthen such international cooperation. This includes encouraging broader implementation of the FAO Plans of Action to address illegal, unregulated and unreported fishing, seabirds, sharks, and capacity. The EU and Canada have also agreed to continue to work together to improve fisheries and oceans governance by cooperating on the development of global standards such as improved flag state and port state measures to combat illegal, unregulated and unreported fishing.

Both sides could continue to exchange information and best practices concerning each party's respective integrated maritime policy, including incorporating this subject within the existing annual EU-Canada High-Level Fisheries Meetings. Annual meetings could also continue to be supplemented by a bilateral technical meeting, in particular to exchange views on issues of concern in the various RFMOs. Both sides could also continue to meet bilaterally to coordinate positions in various international fora, notably in the margins of those RFMOs in which both the EU and Canada participate.

## PART 4: PRIVATE SECTOR VIEWS

*In order to gather the views of the European and Canadian private sectors on issues that might be impacting on EU-Canada trade and investment, and in the context of the joint study, the European Commission and Canada launched separate consultations processes with members of the private sector and civil society.<sup>133</sup> The European Commission undertook a web-based civil society consultation in February and March 2008, and existing or potential traders and investors – or indeed any other interested party – were invited to express their views on the basis of a questionnaire covering various aspects of the EU-Canada trade and investment relationship. In March and April, Canada distributed a similar questionnaire among the members of the domestic steering committee established to help guide Canada’s contribution, which included high-level representatives from the major private sector associations across Canada.<sup>134</sup> In turn, the private sector associations carried out internal consultations to gather the views of their membership.*

*The questionnaires asked several questions regarding the factors that could affect the flow of goods, services and capital between the EU and Canada, and inquired as to areas where greater degree of EU-Canada cooperation would be welcomed. Specifically, the questions included a focus on market access for goods (tariff and non-tariff barriers), market access for services, and other issues such as the protection of intellectual property and access to the EU and Canadian government procurement markets.*

*The responses received by both the EU and Canadian business are summarised in this section grouped by subject matter. Responses, both in the EU and in Canada, naturally tended to be from businesses and parties that take an interest in transatlantic trade and investment and reflect a wide range of business interests and sectors. A high proportion of respondents expressed the view that, despite the robustness of the existing trade and investment relationship between the EU and Canada, there were still many obstacles and much potential to improve the bilateral relationship.*

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<sup>133</sup> In addition, European and Canadian stakeholders have publicly expressed their support, in various other contexts, for an enhanced relationship. In particular, Business Europe, the Canada Europe Roundtable for Business (CERT) and the Canadian Council of Chief Executives (CCCE) have been vocal in this respect. See, for example, their joint press release of 17 July 2008, available at [www.ceocouncil.ca/publications/pdf/test\\_ef8e56ca29ae7c73e9a0fd2449ad39cf/Business\\_Leaders\\_Strongly\\_Endorse\\_Transatlantic\\_Economic\\_Partnership\\_Joint\\_News\\_Release\\_July\\_17\\_2008.pdf](http://www.ceocouncil.ca/publications/pdf/test_ef8e56ca29ae7c73e9a0fd2449ad39cf/Business_Leaders_Strongly_Endorse_Transatlantic_Economic_Partnership_Joint_News_Release_July_17_2008.pdf)

<sup>134</sup> Canada’s steering committee, chaired by the Deputy Minister of International Trade, included high-level representatives from Canadian private sector associations, the provinces and territories, academia, research organisations and think tanks, and federal government departments and agencies.

## **Responses from the EU Private Sector**

### **Merchandise Trade – Tariff Factors**

**General Remarks:** The general consensus among respondents was that Canadian average tariff rates are low (2.2% applied average tariff rate), though higher on average than in the neighbouring United States. However, low as they may be, tariffs can still act as a disincentive to trade: even low tariffs can constitute a competitive disadvantage and divert trade.

In particular, this was deemed to be the case when EU producers compete with producers of Canadian origin, as well as with exporters originating in countries which are party to an FTA with Canada. One respondent, a large multinational corporation, pointed out that in several cases tariffs amounted to the difference between its bid and the bid of a Canadian competitor, or competitor from a Canadian FTA signatory country. Moreover, even low tariffs were generally seen to represent a tax on intra-firm and/or intra-industry trade.

Additionally, concerns were voiced with regard to Canadian trade-prohibitive tariff peaks in some sectors (see below). Overall, however, the general tendency among respondents was to consider non-tariff barriers that affect EU-Canada merchandise trade to a higher degree than tariff barriers. Nevertheless, the reduction or elimination of tariff barriers on both sides of the Atlantic was considered to be desirable.

**Product and sector-specific responses:** Particular attention was drawn to tariff peaks in several sectors which can be serious barriers to trade. Europeans noted that, in particular, Canadian tariff peaks remain in place in the following manufacturing sectors: transport equipment (25%), leather (20%), other manufactures (18%), textiles/apparel (18%), wood/paper (16%), chemicals (16%) and minerals (16%).

Furthermore, it was noted that the average tariff level on agricultural and agri-food goods remains very high, with some tariff peaks on dairy products, animal products, and some cereals blocking trade altogether.

### **Merchandise Trade – Non-Tariff Factors**

**General Remarks:** Most respondents deemed non-tariff barriers (NTBs) to be at least as important as tariff barriers, if not more important, with regard to current trade diversion and potential future barriers to trade. The divergence of EU and Canadian technical standards and regulations in the areas of health and safety and environmental protection were considered to clearly impact on EU/Canadian merchandise trade flows. The same applied, though to a lesser degree, to marking and labelling requirements.

Several means were proposed to tackle non-tariff barriers to merchandise trade. These included the mutual recognition of each other's standards and regulatory requirements, the implementation of existing international standards at the domestic level (e.g. those set by the International Electrotechnical Commission or the International Organisation for Standardisation), as well as enhanced cooperation between national and in international standardisation organisations.

Additionally, respondents proposed that existing international standards should not be exceeded by either side. One respondent, an association of a national chemicals producing industry, indicated a 2003 EU-Canadian Mutual Recognition Agreement on Good Manufacturing Practices for pharmaceuticals as an example of successful and fruitful cooperation in this field.

Respondents generally emphasised their strong support for improved regulatory cooperation. They saw the need to agree on science-based approaches to rule-making, such as risk assessment and risk management, and to share proposed technical or sanitary and phytosanitary regulations, where such measures may have a detrimental effect on trade flows. Moreover, respondents suggested an examination of how onerous NTBs at the Canadian sub-federal level should be undertaken.

On the issue of trade facilitation, a large multinational corporation submitted that Canada, as a signatory of the World Customs Organisation SAFE Framework (Standards to Secure and Facilitate Global Trade), granted imported products from the United States, and to some extent from Mexico, the benefits of Free and Secure Trade lanes (FAST) at border crossings and of Customs Self Assessment clearance options (CSA). The respondent pointed out that there are no such processes for imported products from the EU, despite the fact that imports from the EU are not considered to pose higher security risks than those from the US or Mexico.

**Product and sector-specific responses:** Respondents identified several product- and sector-specific NTBs to trade. These included Canadian restrictions on used cars, caffeinated drinks, garments/textiles/apparel, pharmaceuticals, geographical indications, and alcoholic beverages.

Several EU respondents expressed the view that sub-federal level government control of the alcoholic beverages sector was deemed to create unfavourable conditions for the EU wine and drinks industry. Some EU respondents suggested that Canadian provincial authorities favoured local producers. Furthermore, Canadian rules of origin (RoO) for imports of textiles were deemed to pose a particular challenge to enhanced EU-Canadian cooperation in this sector. The unilateral application of health requirements on aluminium salts in Canada is, moreover, considered to epitomise a costly barrier to trade without any significant benefit for consumers or the environment. One response from a European industry association focused in particular on the high costs associated with Canadian bilingual language labelling requirements for all product information required by Canadian law.

From the perspective of EU food exporters, the implementation of sanitary and phytosanitary measures in Canada which were considered unjustified could lead to disruptions to trade. On the issue of genetically modified organisms (GMOs), several respondents called for the EU and Canada to respect the scientific advice of their relevant food safety authorities. They emphasised the importance for the EU and Canada to come to an understanding to remove non-tariff barriers to trade in GMO products.

### **Services Trade**

Respondents identified a series of market access barriers in Canada that negatively affected European services providers and which should, in the view of respondents, be eliminated. Several respondents were concerned about services trade barriers between Canadian provinces, in particular, which in turn affected European services suppliers.

**Labour mobility:** In many instances European professional certifications were not recognised in Canada (e.g. dentists, nurses, architects, engineers). Mutual recognition agreements were considered to be the way forward in terms of improved cooperation. Also, visa requirements hindered the movement of natural persons, and therefore supply in Mode 4 services from both sides. Respondents called for easy access to temporary visas for qualified personnel. Additionally, one respondent called for the removal of restrictions on length of stay for non-resident executives and on residency requirements for boards of directors.

**Transportation:** The Canadian Transportation Act stipulates that only Canadians may apply for a licence to provide domestic flights while at the same time foreign ownership of Canadian airlines is limited to 25% of voting shares. There is also a requirement for regulatory approval when acquiring a Canadian transport services company of a value of above C\$5 million and a requirement that carriers use only Canadian repair and maintenance services.

**Telecommunications:** Foreign ownership of domestic service providers is limited to 46.7%, and 80% of the Board of Directors of telecommunications companies are required to be Canadian nationals.

**Financial services:** Several respondents highlighted regulatory challenges to entering the Canadian financial sector. In particular, the mutual recognition of stock exchange standards and the qualifications of self-regulatory organisations, such as investment dealers, were deemed to be desirable. One respondent proposed national treatment of European retail and institutional investors which acquire or sell securities in Canada. Moreover, in many Canadian provinces there is a monopoly situation in the automotive insurance sector: opening up of the sector to competition was called for. With regard to the banking sector, one respondent regretted the restrictions in place for foreign banks regarding rights of establishment and business activities.

**Media services:** A respondent observed that media content production was sometimes limited to Canadian nationals.

### **Other Factors Impacting on Trade and Investment**

**Government Procurement:** There was general consensus among European respondents that improved access to the Canadian government procurement market would present great business opportunities for European suppliers of goods and services. Any new arrangement should, in the view of European respondents, provide a level playing field in terms of access to each others' procurement markets and should be applied in a non-discriminatory, fully transparent, and inclusive manner.

Some European respondents believed that Canadian authorities had clear national preferences at federal, provincial and local levels, which should be removed for EU companies, and that any future trade and investment arrangement should include procurement by sub-federal authorities. Additionally, enhanced procurement market access should reflect a broad definition of procurement and include procurement in areas of public services such as health and education.

Several European respondents voiced particular concern over the General Notes submitted by Canada on signing the WTO Government Procurement Agreement (GPA), which exclude urban transport, shipbuilding, water, electricity, and other areas from Canadian obligations under the agreement, while Canadian suppliers have access to the European procurement markets in these sectors. It was pointed out that Canadian competitors, winning contracts in Canada without competition from other markets, had a significant advantage in bidding competitively in the European market. Respondents emphasised the need for reciprocity in any future trade/investment agreement.

**Enforcement of Intellectual Property Rights:** Most respondents noted that they were not aware of any problems regarding IP protection in Canada. One concern surrounded the issue of IP protection of digital media, notably the lack of robust protection for technological protection measures (TPM) employed by content owners to enable the distribution of content in digital form.

The EU-Canadian Wine and Spirits Agreement was considered to be a positive precedent for the recognition of various products. Respondents encouraged similar cooperation in this field with a focus on value-added products.

Finally, one respondent welcomed any future cooperation between the EU and Canada on IPR enforcement vis-à-vis third countries.

**Other Factors:** Several respondents highlight Canada as a large producer of energy and raw materials, including renewable raw materials. Respondents voiced their interest in having access to these markets. This would include the removal of export restrictions and export taxes as well as market access and national treatment for investment with a view to facilitate investments in raw material development. One respondent welcomed enhanced EU-Canadian cooperation on all legal regimes and health and environment regulations affecting mining, processing of raw and primary materials and smelting.

An association dedicated to the creation of EU-Canadian business opportunities called for the determination of best practices in bilateral tax treaties in order to encourage the free flow of capital between Canada and the EU Member States. Cooperation in this field should lead to the removal of double taxation provisions, the reduction of withholding taxes on dividends, interest and royalties between Canada and EU Member States.

Several respondents to the EU's consultation process, notably organisations dedicated to the promotion of animal welfare (not all EU-based), suggested further cooperation to promote the development of animal welfare legislation and standards, including by strengthening the activities of the Working Group on Animal Welfare established under the EU-Canada Veterinary Agreement. In their view, a potential future trade arrangement between the EU and Canada should protect high welfare farm products from the EU from competition from low welfare farm products sourced from Canada. It was proposed that this could be achieved by imposing higher duties on low welfare farm products from Canada, which would also set an economic incentive for the promotion of higher animal welfare standards in Canada.

## **Additional Areas for Future Cooperation**

Several respondents strongly encouraged enhanced EU-Canadian collaboration in science and technological development, particularly in the field of low carbon and energy efficiency technologies in the energy, transport, and manufacturing sectors and in the field of biotechnologies. Furthermore, one respondent points at the need to link EU and Canadian carbon abatement policies in the medium and longer term.

One respondent, a transport equipment producer, urged the EU and Canada to work towards defining a standard aircraft certification system that would facilitate trade in the Aerospace sector for both European and Canadian aircraft manufacturers.

## **Responses from the Canadian Private Sector**

### **Merchandise Trade – Tariff Factors**

One of the overarching remarks voiced by Canadian respondents concerned the disincentive effect tariffs have on trade. Canadian respondents pointed out that Canada is one of a handful of countries that do not have preferential access to the EU market and is, therefore, subject to the EU's full common customs tariff. Canadian companies are, therefore, at a disadvantage when competing with EU firms or firms from countries that enjoy some form of preferred tariff rate.

Both EU and Canadian respondents noted that in some cases tariffs simply constitute an additional 'tax' on intra-firm or intra-industry trade, weakening supply chain efficiencies and the competitiveness of firms. For example, average tariffs on manufactured goods, at 3% (EU) and 1.6% (Canada) are equivalent to between a third and one half of industry profit margins. Respondents on both sides of the Atlantic highlighted the potential for removing such tariffs on growth in intra-firm trade, which is believed to constitute approximately 2/3 of global trade flows, and could in turn lead to significantly lower prices for consumers.

Additionally, concerns were voiced by Canadian respondents with regard to EU trade-prohibitive tariff peaks in some sectors. Canadian respondents noted that EU tariff peaks remain in place for fish and seafood (23%), textiles, apparel and footwear (17%), manufacturing (16%), forest products (10%) and chemicals (6.5%). In many instances, these tariff barriers make exports to the EU Member States prohibitive. Canadian respondents also noted that the average tariff levels on agricultural and agri-food goods remain very high, and they expressed frustration over the complicated calculations for determining EU processed food tariffs based on ingredient compositions.

### **Merchandise Trade – Non-Tariff Factors**

Canadian respondents identified the dismantling of NTBs as an area where much work could be done on a bilateral basis. Respondents noted that standards and technical regulations that favour national products create barriers to trade and investment. In particular, Canadian respondents expressed concerns over the divergent policies, regulations and administration procedures of the individual Member States.

Canadian respondents also had concerns over the divergence of EU and Canadian technical standards and regulations in the areas of health and safety, and environmental protection. They also noted concerns regarding the effect of agricultural NTBs on Canadian exports. Canadian respondents frequently referred to the Common Agricultural Policy (CAP) as a significant impediment to Canadian agricultural exports in many sectors, including wine, and in some cases, even to the erosion of Canadian market share in favour of EU producers. They also focussed on EU regulations regarding GMOs, which prevent Canadian exports to the EU market.

Canadian respondents also emphasised that NTBs are a particular irritant with respect to meat exports (beef, pork, etc.). Specific technical barriers include the EU's Third Country Meat Directive (requirements for production plant standards and meat hygiene standards) and the EU's ban on hormones in livestock production. Canadians also noted that there continues to be a lack of mutual recognition of many food safety standards and inspection processes more generally.

Looking to the future, Canadians also raised concerns about the appearance of new regulatory barriers, such as those resulting from the implementation of the EU's new chemical regulation program REACH. Different approaches to climate change on both sides of the Atlantic were also highlighted as factors that could lead to significant barriers to trade and create new policies distorting the competition between various regions in the world. Canadian respondents also believe that tracking the carbon associated with goods would be a highly bureaucratic and cumbersome endeavour leading to a real barrier to trade. Canadian respondents suggested that possibilities for the longer term could include linking emissions trading schemes as well as technical and financial mechanisms to create a common carbon market.

Canadians made several suggestions to tackle NTBs to merchandise trade and to prevent future NTBs from being implemented. These include promoting the compatibility of standards and regulatory requirements and bilateral regulatory cooperation. In addition, respondents felt that recognition of each other's conformity assessment procedures would enhance competitiveness at the global level, while allowing for differences in national policy objectives. Mutual recognition could, moreover, prevent future NTBs from being implemented in areas of key interest, such as environmental standards and protection measures. Canadian business has advocated the mutual recognition of national standards and regulatory requirements for sectors including safety standards for food safety, inspections processes, and alignment of testing and labelling protocols.

Both Canadian and European respondents generally emphasised their strong support for improved regulatory cooperation between Canada and the EU. Canadian respondents favour a high-quality, binding regulatory cooperation framework as the foundation for deeper bilateral economic integration. Such an approach would include a transparent regulatory development process that consults with potentially affected parties in advance of regulatory formation and/or establishes processes to resolve disputes through mutual recognition. Certain Canadian respondents did caution that this cooperation should not compromise integration with U.S. requirements.

Canadian respondents expressed concerns over trade facilitation as respondents noted that trade transaction costs remain in the range of two to 15% of trade transaction value. The EU's administration of various customs laws and regulations, particularly in the area of valuation and

classification, were raised as ongoing concerns. Tariff elimination combined with measures to expedite the movement of goods across borders would result in significant savings to businesses and consumers. Canadian respondents advocated that parties should utilise best practice in modern customs techniques, cooperate in the field of electronic data exchange and promote the common application of international rules, standards and guidelines.

### **Services Trade**

Trade in services is a significant component of overall trade between the EU and Canada. Respondents noted that there was potential to improve services trade, focussing in particular on the importance of labour mobility in today's global marketplace. Respondents noted that much more work could be done on a bilateral basis with important benefits to both sides to ensure firms' global competitiveness, and labour mobility was repeatedly raised as an area where the EU and Canada should do more bilaterally to their mutual benefit. Canadian respondents highlighted the important potential gains that could be attained from having a common labour market between the two territories, especially with regard to skilled labour. Canadians specifically noted the lack of recognition of professional qualifications could affect the ability of skilled individuals or their spouses to work in the EU market. As another step in this process, some Canadian respondents also identified a need to do more to increase the opportunities for our youth to study in each others' countries, suggesting that efforts should be made to ensure the ability to access work permits, transfer of credits, equivalency of degrees and other areas that would facilitate more international study.

Canadian respondents noted concern over inconsistencies and barriers to services that exist between EU Member States. Canadians spoke in particular about the potential of applying the comity principals (the deference given by one agency or tribunal of one jurisdiction to an act or decision of another) to prevent inconsistent demands from divergent national law and policy standards. A framework regarding the application of comity in avoiding remedial clashes in competition cases would be a valuable development.

Several Canadian respondents spoke to financial services, highlighting regulatory challenges to entering the Canadian and European financial sectors. Canadian respondents specified that cooperation should include the joint acceptance or mutual recognition of the jurisdiction of the regulations, rules, reporting and other requirements of each party so as to facilitate trading in equity, debt and other securities. Respondents suggested that this could mean the mutual recognition of national investment dealers associations where, for example, an EU-registered dealer could be accepted as an Investment Dealers Association of Canada (IDA) member without establishing a physical presence in Canada, and vice-versa.

Respondents also noted that visa requirements hinder the movement of natural persons and, therefore, hinder the supply from both sides of natural persons of one country in the territory of another (definition of Mode 4 Services – General Agreement on Tariffs and Trade).

Canadians also raised a series of related issues that can act as impediments to the movement of people between the EU and Canada. Discrepancies or non compatibility of social security, health care and retirement/pension regimes, as well as the complexity of the management of personal income tax schemes for expatriates can be deterrents to the mobility of persons across the

Atlantic. Canadian respondents also suggested that divergent employment laws can impact labour mobility, and suggested alignment of these laws would be beneficial to business on both sides of the Atlantic. More generally, they also noted that the complexity of immigration rules in the EU can act as a barrier.

### **Investment**

Canadian respondents highlighted that the EU-Canada investment relationship is very strong as the EU is Canada's second largest source of Foreign Direct Investment (FDI) and Canada is the EU's third largest source of FDI. Respondents felt that a relationship of this magnitude must be protected in order to mitigate risk, promote transparency and provide a forum for the resolution of investment disputes.

Canadian respondents identified foreign investment barriers as a factor that can limit opportunities for Canadian firms competing in the EU market. In particular, Canadian firms focussed on the barriers that exist due to the different peculiarities between the legal structures of the individual Member States. They also spoke to the lack of clarity and transparency of European investment regulations, and underscored the importance of the removal of unnecessary foreign ownership restrictions. Canadian respondents cited the advantages of Foreign Investment Promotion and Protection Agreements (FIPAs), pointing to this type of agreement as a step in the right direction for EU-Canada commercial relations.

Respondents espoused the benefits of cooperation in the field of taxation. Canadian respondents, like their EU counterparts, indicated that cooperation in this field should lead to the removal of double taxation provisions, the reduction of withholding taxes on dividends, interest and royalties between EU Member States and Canada. Respondents also called for the implementation in both the EU and Canada of personal tax exemptions on unincorporated business income received by non-residents and for implementation a common method of taxing foreign source income.

### **Other Factors Impacting Trade and Investment**

**Government Procurement:** Canadian respondents noted that European and Canadian companies are global leaders in a range of sectors that are largely governed by public procurement rules and procedures, including infrastructure; civil works; transportation; energy; electricity generation, distribution and transmission; and water. Given the economic weight of public procurement – which amounts to 15 to 20% of GDP in Organisation for Economic Cooperation and Development (OECD) countries and 30% in non-OECD countries – further opening of public procurement markets in Canada, the EU and indeed in third countries is encouraged. Canadian respondents called on the EU and the Government of Canada to act decisively in favour of opening of public procurement markets in all Canadian and EU jurisdictions, both at federal and sub-federal levels. The opening of procurement markets should be set as a key issue in future EU-Canada discussions. Canadian respondents acknowledged that divergent procurement policies and foreign ownership requirements in both the EU and Canada can cause an impediment to trade in specific sectors including energy and utilities, and transportation and telecommunications equipment.

Canadian respondents noted that the complexity of the EU procurement market can serve as an important barrier to trade. Canadian respondents also focussed on improved access to government procurement markets at the Member State level, highlighting the fact that certain Member States, in practice, have more restrictive procurement rules than others.

**Enforcement of Intellectual Property Rights:** The protection of intellectual property rights is seen by both EU and Canadian firms an important dimension to ensuring a stable, rules-based trading system and to promoting innovation and research. Canadian respondents echoed the sentiment that the EU-Canadian Wine and Spirits Agreement to be a positive precedent for the recognition of various products. Respondents encouraged similar cooperation in this field with a focus on value-added products.

Several Canadian respondents welcomed any future cooperation between the EU and Canada on IPR enforcement vis-à-vis third countries. Canadian responses noted that companies' proprietary technologies are often targeted for copy and counterfeiting by some companies in third countries and a joint approach by the EU and Canada would help to develop a more unified front by OECD countries on this issue.

### **Additional Areas for Future Cooperation**

The EU-Canada political relationship has always been underpinned by a strong economic relationship. Canadian respondents believe that enhanced economic cooperation should be developed in conjunction with political cooperation more broadly, including cooperation on peace and security and on governance. This was considered particularly important given the EU and Canada's shared interest in dealing with global issues, such as terrorism, Afghanistan, the environment and Arctic sovereignty. Respondents believe that this cooperation will serve to strengthen our common position in a global context.

More specifically, Canadian respondents strongly encouraged enhanced EU-Canadian collaboration in science and technological development. Canadian respondents also welcomed increased cooperation in commercialization of research, in particular through joint EU-Canada ventures. Canadian respondents noted scope for the EU and Canada to work together to find a mutually compatible emission trading scheme and to move toward a common carbon market in the future.

## **Conclusions**

**There was a general consensus among EU respondents that enhanced economic cooperation between Canada and the EU was desirable.** Most responses mirrored sector-specific interests. There appeared to be a particular emphasis on the need for the removal of tariff peaks and onerous non-tariff barriers to trade as well as enhanced regulatory cooperation. In addition, EU respondents underlined their demand for improved investment opportunities in Canada. Government procurement by Canadian authorities was deemed to offer great business opportunities for European exporters and investors. Finally, most respondents noted that any form of enhanced EU-Canada economic cooperation should include all levels of government in Canada, and not only the federal level.

**Canadian respondents noted the bilateral relationship with the EU has not reached its full potential and that there exist significant opportunities to improve trade and investment.** Canadian respondents were clear in their support for a comprehensive trade and investment agreement between Canada and the EU, which could include a free trade agreement that would secure, promote and enhance transatlantic trade and investment. They also believe the EU and Canada should work more closely on regulatory cooperation. Like the EU respondents, Canadians saw important potential with improved labour mobility and mutual recognition of professional qualifications. The development of the two-way economic relationship supports the economic values of both parties, enhancing their competitiveness and prosperity, including by increasing transatlantic global value chains.

## **PART 5: KEY FINDINGS**

*The following section summarises the key findings of the study. It includes not only the essence of the primarily descriptive parts of the study, such as the status of the EU-Canada bilateral economic relationship in Part 1 and the views of the EU and Canadian private sectors in Part 4, but more particularly the analytical and forward-looking findings resulting from the analysis of the factors affecting the flow of goods, services and capital, notably the economic modelling results, and from the analysis of those economic or economic-related areas in which future cooperation could be broadened or deepened and the overall economic relationship thereby enhanced. While the study does not provide policy recommendations, it does offer insight into the potential costs and benefits of a closer EU-Canada economic partnership, together with possible areas where the EU and Canada could continue to enhance their bilateral cooperation.*

### **Part 1: Overview of Bilateral Economic Relations**

#### **1.1 The Current State of the EU-Canada Bilateral Economic Relationship**

- 1) Canada is one of the EU's longest standing partners. Canada's economic relationships with some of the EU Member States can be traced back centuries, reflecting strong historical, political and cultural links.
- 2) The formal EU-Canada bilateral economic relationship dates back to 1976 and the Framework Agreement for Commercial and Economic Cooperation, which was the EU's first cooperation agreement with an industrialised country. The Framework Agreement created a structure for ongoing dialogue, which has largely served both sides well, with a Joint Cooperation Committee to review annually the breadth of trade and economic cooperation activities.
- 3) Building on the 1976 Framework Agreement, the EU and Canada have concluded a number of sectoral agreements, including the Agreements on Science and Technology (1996), Higher Education and Training (1995, 2000), Customs Cooperation (1998), Mutual Recognition (1998), Veterinary Equivalency (1998), Competition Cooperation (1999) and on Wine and Spirits (2004).
- 4) Virtually all EU Member States have bilateral agreements with Canada in areas of economic cooperation. The United Kingdom and France have the most extensive bilateral economic relationship with Canada, reflecting strong historical ties.

## **1.2 Economic Policy-making in the EU and Canada**

- 5) Economic policy-making in the EU and Canada is complex and multi-level, and involves either European Community (EC), or EC and Member State, or Member State only competences in the EU, and federal and provincial/territorial jurisdictions in Canada. Some important issues related to economic policy-making fall, in whole or in part, under Member State competence in the EU and under provincial/territorial jurisdiction in Canada.

## **1.3 Economic Relationships with Third Parties**

- 6) While multilateral negotiations remain the priority for both the EU and Canada, the EU is currently in bilateral and regional negotiations with several new partners. Canada has meanwhile reinvigorated its regional and bilateral trade and investment agenda in line with the government's resolve to ensure that Canadian business can compete in world markets.

## **1.4 Analysis of Trade and Production Structures in the EU and Canada**

- 7) According to EU data, total EU goods and services exports to Canada were valued at €37.2 billion in 2006 and imports from Canada at €28.1 billion. Canada is the EU's 11<sup>th</sup> largest goods trading partner accounting for around 2% of EU goods trade. While Canada's relative position in EU trade has decreased slightly in between 2002 and 2006, the value of Canadian trade with the EU has grown.
- 8) According to Canadian data, the EU is Canada's second largest trading partner, accounting for a total trade volume of €74.4 billion in 2007. Trade relations with the EU are twice as strong as with China, Canada's third largest trading partner. The importance of trade with Europe has increased over recent years with the EU now accounting for around 12% of total imports into Canada and 10% of total exports.
- 9) The EU-Canada trade relationship appears significantly under-traded. Total trade between the EU and Canada is about the same size as the EU's total trade with India, even though the Canadian economy is one and half times larger than India's. Furthermore, although Canada's gross domestic product (GDP) is one and a half times larger than South Korea's, total EU-Canada trade is some 25% lower than that with South Korea.
- 10) Both the production structures of the EU and Canada show that the most important contributors to value-added are the service sectors. In 2007, two-way services trade amounted to €20.5 billion. The EU is Canada's second largest partner for trade in services. The pattern for trade in services between the EU and Canada is dominated by cross-border trade in business services.
- 11) The EU and Canada are significant investment partners. The EU is Canada's second largest source of foreign direct investment (FDI) while Canada is the EU's fourth largest source of FDI into the EU. The most important component of the EU-Canada investment relationship is foreign affiliate sales. At the end of 2006, EU investment stock in Canada reached €120 billion; Canada's stock in the EU was approximately €80 billion. Both the EU's and Canada's investments in each other's markets increased by at least a factor of seven between 1995 and 2006.

## **Part 2: Analysis of Factors Affecting EU-Canada Trade and Investment**

### **2.1 Review of Previous Similar Studies**

- 12) A number of similar studies were reviewed that examined the potential impacts of EU-Canada trade and investment liberalisation. Overall, the recent studies suggest that liberalisation would lead to mutual gains for the EU and Canada, particularly in value-added sectors such as transportation equipment, and machinery and equipment. These studies argue that both the EU and Canada would also benefit from the removal of non-tariff barriers to trade and barriers to investment. A gap in the literature exists in terms of quantifying the impact of services trade liberalisation and of non-tariff barriers; this current study goes further in these areas than previous reports.

### **2.2 Overview of Factors Affecting EU-Canada Trade and Investment**

#### **2.2.1 Tariffs and Tariff-rate Quotas in Goods**

- 13) The tariffs on goods traded between the EU and Canada are generally low, principally as a result of the progressive lowering of tariffs at the multilateral level. On a trade-weighted basis, Canadian goods faced an average tariff of 2.2% in 2007 entering the EU market while EU goods faced a comparable tariff of 3.5% in the Canadian market. The trade data reveals that there is a negative correlation between tariff rates and the volume of goods traded for the EU and Canada. For example, EU agricultural products and electrical products face particularly high tariffs entering into Canada; Canadian fish and seafood products and processed foods face particularly high tariffs entering into the EU.
- 14) Even low tariffs (at or below 3%) can constitute a competitive disadvantage and divert trade. In some cases, they may act as a tax on intra-firm or intra-industry trade, which serve to weaken supply chain efficiencies and the competitiveness of firms.
- 15) The tariff liberalisation scenario used in the modelling simulations assumes a successful conclusion to the World Trade Organisation (WTO) Doha Round of multilateral trade negotiations. Multilateral tariff reductions would reduce the impact of bilateral tariff elimination. Therefore, should EU-Canada trade liberalisation take place in the absence of multilateral tariff reductions, the predicted impact of bilateral liberalisation would be significantly greater.

#### **2.2.2 Non-tariff Measures Affecting Goods Trade**

- 16) Regulatory divergences can have an important impact on a bilateral relationship, as they may inhibit or even eliminate outright trade of a particular good or service. Moreover, differences in technical regulations add costs for producers and exporters that can effectively hamper trade. Non-tariff measures that can act as barriers to EU-Canada trade include sanitary and phytosanitary standards; customs rules and procedures; variances in implementation of legislation between Member States in the EU and provinces and territories in Canada; fees for

product certifications and validations; processing delays for product certifications; duplicative testing; and certification and import requirements.

- 17) A review of non-tariff measures in both the EU and Canadian policy frameworks identified by stakeholders as inhibiting trade suggests there may also be room to improve the design or implementation of regulatory frameworks so as to achieve legitimate regulatory objectives in a less trade-inhibiting fashion. For the purposes of economic modelling, a notional cost reduction of 2% is adopted to represent the cost savings that appears to be realisable. Since significant trade cost savings are unlikely to be realised in commodity trade, the cost reduction is limited to non-commodity processed goods.

### **2.2.3 Factors Affecting Cross-border Trade in Services**

- 18) Trade in services is a key component of the EU and Canada's economic activities. The EU is Canada's second largest partner for trade in services with two-way trade amounting to €20.5 billion in 2007. Common barriers to trade in services include barriers to commercial establishment (foreign ownership caps), restrictions on types of commercial presence and number/type of services that can be provided, discriminatory registration requirements and discriminatory treatment advantaging domestic companies over foreign ones.
- 19) Quantifying the impact of trade liberalisation for services is much more difficult than is the case for goods. Unlike for tariff barriers for goods trade, no comprehensive dataset exists on the barriers to services trade. Moreover, as barriers to services trade typically are part and parcel of broader regulatory frameworks governing the delivery of services in a given jurisdiction, the extent to which liberalising measures can reduce the trade-inhibiting aspects of these regulations currently is effectively impossible to measure directly. The independent consultant responsible for the modelling for the study estimated that the barriers to services trade into Canada amount to 24-52% of additional trade costs. Barriers into the EU are estimated to range from 18-42% additional trade costs.
- 20) Reflecting these difficulties, this study draws on the impact of intra-EU services trade liberalisation to estimate an upper bound on the increase in services trade flows that might realistically be attainable for the EU and Canada. After adjusting for distance and other factors influencing trade, the consultant estimated services trade within the EU to be 35% higher than would otherwise be expected in the absence of the EU's single market. The effect of the measures taken towards the establishment of a single market in services, which varies for individual services sectors, can be used to derive the extent to which the costs of providing services within the EU have been reduced through the implementation of the single market. These cost reductions, estimated to be of the order of 2-10% depending on the sector, are applied to quantify a realistically achievable potential impact of services trade liberalisation in an EU-Canada context.<sup>135</sup>

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<sup>135</sup> Due to data limitations, direct estimates were not available for all sectors (trade, other finance, insurance and consumer services). For these sectors, estimates for the aggregate services trade were then used.

## 2.2.4 Factors Affecting Foreign Investment

- 21) Foreign direct investment (FDI) is a key component of the EU-Canada economic relationship. There are a number of factors that can sometimes act to impede flows of foreign direct investment. These range from specific and formal regulatory restrictions limiting foreign investment in particular economic activities to the impact that more general regulatory frameworks can have on the investment environment. In the same manner, there are a number of ways in which the impact of these factors is measured. As such, there appears to be considerable scope to enhance FDI in an EU-Canada context.
- 22) Quantification of the impact of liberalisation of FDI is still at an early stage of development. This study does not explicitly attempt to quantify of the impact of investment liberalisation, as there are currently insuperable difficulties in quantifying the height of barriers to FDI embodied in national economic regulatory frameworks and in determining the extent to which such barriers can be reduced through further liberalisation.

## 2.3 Evaluation of the Impact of Removing Barriers

### Impacts on the Level of Economic Activity and Economic Welfare

- 23) The level of economic activity, as measured by the volume of GDP, in both economies rises by a comparable amount in absolute terms, though the rise is substantially greater in percentage terms for Canada than for the EU. The simulation estimates the annual increase by 2014 to be approximately €11.6 billion in the EU (or 0.08% of GDP) and €8.2 billion in Canada (or 0.77% of GDP).
- 24) Liberalisation of trade in services contributes substantially to these gains (50% of the total gains for the EU, and 45.5% of the gains for Canada); more limited but still significant gains derive from the elimination of tariffs on bilaterally-traded goods (25% of the total for the EU and 33.3% for Canada). The remaining gains are due to a reduction in the trade costs of non-tariff barriers.
- 25) A large part of the gains is driven by the induced increases in productive resources through new capital investment, of the “dynamic” effect. This is broadly consistent with the current understanding of how businesses organise themselves in a globalised economy, which has become increasingly based on global value chains. Improved access to lower-cost production inputs fostered by EU-Canada trade and investment liberalisation and facilitation, thus, makes *both* jurisdictions more competitive globally.

### Trade Impacts

- 26) The simulation results suggest that two-way bilateral trade could potentially expand by €25.7 billion or by 22.9%. Of this amount, €18.6 billion would be accounted for by an expansion of two-way goods trade and €7.0 billion by two-way cross-border services trade.

- 27) Reflecting the overall higher level of tariff protection in Canada for goods and the higher initial level of EU exports to Canada, the EU's bilateral goods export gain of €12.2 billion (or 36.6%) is substantially larger than Canada's gain of €6.3 billion (or 24.3%). In services trade, EU bilateral cross-border exports expand by €4.8 billion (or 13.1%) and Canada's by €2.2 billion (or 14.2%), reflecting the larger initial level of EU services exports to Canada.

### **Sectoral Trade Impacts**

- 28) The EU gains are proportionately greater in its area of major comparative advantage, services, and Canada's proportionately greater in its area, industrial goods.
- 29) For the EU, the leading sectors in terms of the increase in value of exports are processed foods, chemicals, machinery and equipment and transportation services. Strong gains are also made in value terms in business services, motor vehicles and parts, domestic trade, insurance and consumer services.
- 30) For Canada, the leading sectors are processed foods, primary agriculture, metals, transportation services, transport equipment and machinery and equipment. Chemical products, business services, motor vehicles and parts, and electronic equipment also make solid bilateral export gains.

### **Sectoral Output Impacts**

- 31) In percentage terms, the impacts on Canadian sectors are consistently larger than on EU sectors, a simple reflection of the relative sizes of the two economies. For goods sectors, tariff elimination accounts for a significant portion of sectoral output changes. Those goods sectors that draw heavily on services as inputs are affected significantly by service sector liberalisation, as it reduces their costs. In services, liberalisation within the sector itself is consistently the most important factor driving output change.
- 32) The Canadian sectors experiencing the largest output gains in percentage terms are industrial sectors, such as metals, transport equipment, and electronic equipment. Several Canadian service sectors, including business services and communications and information services, experience small percentage output increases.
- 33) The EU industrial sectors with the largest output gains in percentage terms are processed foods, leather and apparel products, beverages and tobacco products, and chemical products. Consistent with their strong global performance, the EU services sectors all expand with the insurance services taking the lead.

## **2.4 Additional Components of the Bilateral Trade and Investment Relationship**

### **2.4.1 Labour Mobility**

- 34) The temporary entry of business persons is an important complement to trade in both services and goods, and to the conduct of investment activities. A number of studies, looking at both

temporary and permanent movement of workers, have found evidence of a positive correlation between labour mobility and trade. To the extent the efficiency of such mobility can be improved, and hence the costs reduced, international trade and investment will increase, as will efficiency.

- 35) A number of constraints exist regarding labour mobility both within the EU and within Canada. Within the EU, third-country nationals experience difficulties in determining the requirements for admission in a given Member State, due often to a lack of transparency and outdated publicly available information. In Canada, inter-provincial barriers to labour mobility exist, usually based on differences in licensing and qualifications recognition policies.
- 36) Stakeholders in both the EU and Canada have expressed a clear interest in the facilitated entry of their business persons in each other's markets as well as in foreign markets, both in terms of border measures and behind the border measures such as licensing and qualification recognition. While both the EU and Canada have taken multilateral commitments in this area, these do not fully address stakeholder interest and do not represent the level of commitments taken in some of their bilateral trade agreements.

#### **2.4.2 Government Procurement**

- 37) Currently, the EU-Canada international framework for public procurement is governed by the WTO Agreement on Government Procurement (GPA). In their commitments to the GPA, the EU and Canada made different choices regarding procurement entities covered and the sectors they are willing to offer.
- 38) Canada has not included commitments for sub-central (provinces and territories) entities or for other entities (Crown Corporations, whether federal or provincial/territorial) in its GPA offer. Whilst the EU has included commitments in both these areas to other GPA members, it does not – on the basis of reciprocity – extend access to procurement by such entities to Canada.
- 39) Evidence points to the fact that only a fraction of available coverage is subject to commitments between the EU and Canada; and
- 40) There is an opportunity for the mutual improvement of government procurement commitments.

#### **2.4.3 Intellectual Property Rights**

- 41) The EU and Canada have two of the most robust IP protection regimes in the world, and the impact on the bilateral relationship is generally positive in terms of increased bilateral investment and innovation.
- 42) A basic framework of international law exists for all four main areas of IP protection – patents, copyright, trademarks, and industrial design – in the form of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the United Nations World Intellectual Property Rights Organisation (WIPO) Convention. The EU and Canada cooperate

in various international fora on IP issues, including the G8, the Organisation for Economic Cooperation and Development (OECD), the World Customs Organisation and Interpol.

- 43) The EU and Canada both place a strong emphasis on copyright protection and continue to adapt their respective regulatory frameworks to allow copyright owners and users to exploit these opportunities to their full potential, while at the same time striving to provide adequate protection of copyright protected material. The Government of Canada is currently undertaking a process of copyright reform. On 12 June 2008, the Government of Canada introduced Bill C-61, *An Act to Amend the Copyright Act*, to bring the Act in line with advances in digital technology and current international standards.
- 44) In the WTO negotiations, the EU and Canada have diverging views with regards to geographical indications (GIs). Both the EU and Canada have systems in place for recognising GIs. Outside the WTO, the EU has criticised Canada on related issues. In particular, it has raised concerns that an EU GI 'Prosciutto di Parma' cannot be used in Canada due to the prior Canadian-owned trademark for "Parma". Canada has expressed the view that negative impacts on producers have occurred within the EU as a result of its GI regime.
- 45) The issue of IPR enforcement was raised in Canada's 2007 Trade Policy Review, and EU industry has reported that activating court, customs and policy enforcement mechanisms can be challenging, making it difficult for right-holders to effectively enforce their rights. Enforcement challenges have also been identified by Canadian stakeholders in EU Member States such as Greece, Italy and Romania.

#### **2.4.4 Telecommunication Services**

- 46) Telecommunication service markets in both the EU and Canada are generally open to competition. Both the EU and Canada have bound domestic regimes in this sector in GATS. Barriers to investment in this sector include: limitations on foreign investment in facilities-based telecommunications in Canada as well as limits on competition in the Northern Territories; commercial presence market access limitations in Finland, France, Poland and Slovenia, and national treatment limitations for cross-border services in Cyprus and Malta.
- 47) There are currently no bilateral agreements between the EU and Canada specifically related to the telecommunications services sector. However, EU Member States and Canada have treaty obligations related to telecommunications services under a range of agreements negotiated within the International Telecommunication Union. In addition, the EU-Canada Framework for Regulatory Cooperation and Transparency, a voluntary arrangement, has been used by both parties for a range of telecommunications sector activities over many years.

#### **2.4.5 Electronic Commerce**

- 48) The EU and Canada are world leaders in working to expand electronic commerce, while securing user trust, consistent international rules and consumer security and protection. They hold bilateral consultations in the context of a 1999 Joint Statement on Electronic Commerce

and work plan established in 2000. To further strengthen collaboration, a Joint Statement on cooperation in the field of Anti-Spam Policies and Strategies was signed in 2005.

- 49) In December 2001, the European Commission ruled that Canada's Personal Information Protection and Electronic Documents Act (PIPEDA) met the rigorous standards for the protection of personal data as outlined in the EU's Data Protection Directive, thus allowing for the continued flow of personal information between the EU and Canada.
- 50) Areas of bilateral discussion are broad and include: possible technological options as regards authentication; approaches to increase consumer confidence, protection and education; and efforts to include stakeholder interests, particularly related to the facilitation of self-regulatory and co-regulatory approaches within appropriate or regulatory frameworks. The EU and Canada also continue to address electronic commerce in multilateral fora (i.e. OECD, WIPO, WTO).

### **Part 3: Existing and Potential Bilateral Cooperation in Other Areas**

#### **3.1 Science and Technology**

- 51) The 1996 Science and Technology Agreement provides the basis for EU-Canada cooperation and has led to significant collaboration in certain areas such as information and communication technologies and agriculture. Canada historically has a strong presence in projects falling under the EU's Framework Programmes, doing particularly well in relation to researcher mobility programmes in the EU. Information on European participation rates in Canadian projects is not collected, reflecting in part the nature of science and technology governance structure in place.
- 52) There is scope for further enhancing science and technology cooperation, focussing on a more common research agenda and on cooperation projects in key strategic areas such as environment and energy. Enhanced cooperation could relate in particular to climate change, energy efficiency, hydrogen and fuel cells, renewable energy sources, while cooperation could continue in other important areas such as space, information and communications technologies and life sciences.
- 53) There is potential for increased EU-Canada collaboration involving the private sector in applied research and development and commercialisation.
- 54) A number of options could be explored in order to further develop collaborative relationships between the EU and Canada, including:
  - Benchmarking and mapping of excellence, including identifying the main players (initially in the European Commission and the Canadian federal level, but expanding to the Member-State level as well as the provincial and territorial levels in due course) and improving reporting on European participation in Canadian federal research programmes;

- The establishment of dedicated Canadian funding for collaboration with the EU;
- Given the importance of provinces and territories in the Canadian science and technology context, mechanisms to increase their indirect participation in Canada’s cooperation dialogue with the EU could be identified and developed, without impinging on the steering role of the Canadian federal level;
- The establishment of National Contact Points (NCP) in Canada, both on a sectoral and at a geographical level. A NCP coordinator within Canada could also be identified;
- The identification and reduction of institutional and administrative hurdles to increased cooperation; and
- Enhancing networking opportunities for researchers through the provision of seed-funding for the establishment of networks, the organisation of conferences or workshops and helping to cover travel costs to face-to-face meetings in identified priority sectors.

### **3.2 Energy**

- 55) The EU and Canada are both significant actors in the global energy scene and have a strong trade and investment relationship in the sector. For example 32% (or C\$39.1 billion) of total global Canadian investment in the energy and metallic minerals industry is in the EU and 22% (C\$27.1 billion) of global EU investment is in Canada.
- 56) The EU and Canada face mutual energy challenges, including energy security and the interaction of energy and climate change. With this in mind, a High-Level Energy Dialogue was created at the 2007 EU-Canada Summit. The first High Level meeting took place in Ottawa on 26 June 2008, where participants agreed:
- That there was clear scope for increased cooperation on topics of mutual interest in multilateral fora (e.g. the G8 and the International Energy Agency) and in sharing best practices on initiatives to promote energy efficiency and renewable energy, and
  - To focus their joint science and technology efforts on three key sectors: clean coal and carbon capture and storage, bio-energy, and distributed generation and smart electricity networks. Collaborative energy projects may fall under three categories: research and development, demonstration and socio-economic research.

### **3.3 Environment**

- 57) The EU and Canada have had a High-Level Dialogue on environmental issues since 1975 (with a hiatus between 1983 and 1991). The High-Level Dialogue meets once every 18 months. Further to the impetus provided by the 2007 Summit, the following priority areas for cooperation have been established:

- *On Climate Change – Bilateral:* To provide updates on development in regulatory approaches; undertake further technical discussions on a sectoral approach to regulation; share best practices and lessons learned on carbon capture and storage; exchange information and more technical details on emissions trading, certified emissions reductions, offset systems; facilitate exchange of information ahead of major climate change meetings; further discuss the role of biodiesel and ethanol in meeting renewables mandates.
  - *On Climate Change – Multilateral:* To work together bilaterally and multilaterally to advance negotiations towards a global and comprehensive post-2012 agreement, as well as to continue working together and with others to deliver results in global efforts to confront climate change – through the G8, the Major Economies Meetings, and other complementary processes and partnerships.
  - *On Biodiversity:* To share views and information on respective approaches on the establishment of protected areas, including the designation and management of marine protected areas; priority was placed on action to meet 2010 goals of significantly reducing the rate of loss of biodiversity.
  - *On Chemicals and Waste:* To track progress on respective regulatory agendas; encourage engagement between Canada and the European Chemicals Agency; and discuss options for a transatlantic conference on chemicals.
  - *On Arctic and the North:* To exchange information further, as required, as well as to examine possible joint research projects on issues related to the Arctic and the North, in particular Arctic marine ecosystems.
  - *On Science and Technology:* To ensure that environment Science and Technology is adequately addressed through EU-Canada science and technology cooperation.
  - *On Eco-labelling and Green procurement:* to share experiences with greening government.
  - *Knowledge Exchange:* To facilitate and strengthen these actions, the EU and Canada could explore the possibility of setting up an exchange programme allowing officials/experts from both sides to be seconded to the respective host administration for a determined period of time.
- 58) An EU-Canada dialogue on sustainable trade – the establishment of which had been agreed within the TIEA context – could provide a context for an exchange of views and information on existing or future initiatives to further promote international sustainable trade.
- 59) In the International Working Group on Environmental Performance Verification, the EU and Canada (along with the US) are working to establish reciprocity among participating countries to accelerate the development and deployment of environmentally sound technologies to address common environmental challenges.

### **3.4 Regulatory Cooperation**

- 60) EU-Canada regulatory cooperation operates within the 2004 voluntary Framework on Regulatory Cooperation and Transparency, as implemented by the EU-Canada Roadmap on Regulatory Cooperation. The Roadmap contains sector specific areas of cooperation, identifying for each sector the objective of cooperation, progress and results and next steps. Information exchange and discussion on good regulatory governance also takes place. This framework is complemented by the 1998 Mutual Recognition Agreement on Conformity Assessment<sup>136</sup> and the 1998 Veterinary Agreement.
- 61) The current Roadmap covers the period 2007-2008 and includes chemicals, e-waste, equivalency of organic production methods and control, pharmaceuticals including veterinary pharmaceuticals, radiation emitting devices, chemical contaminants in food, food allergen labelling and incident prevention, tobacco control, forestry products and automobiles. As the Roadmap is a living document, sectoral initiatives can be added or removed by mutual agreement at any time.
- 62) There remains potential to further advance mutually beneficial regulatory cooperation. Leaders recognised this in their June 2007 joint Summit Statement in Berlin in which they agreed to "...commit to concluding a Regulatory Cooperation Agreement, addressed under the TIEA, as soon as possible."
- 63) Both sides are of the view that the inclusion of the broadest possible range of issues addressed by regulatory authorities and levels of government could maximise the benefits of regulatory cooperation. Both sides are committed to enhancing regulatory cooperation; however, the conditions and timing have not been established.

### **3.5 Transportation**

- 64) The air services sector is a critical pillar in the transportation relationship, not least because negotiations for a comprehensive Air Services Agreement are in progress. The EU is Canada's second largest international market for air services (after the United States) and Canada the EU's fifth (after the United States, Switzerland, Norway and Turkey), with 8.5 million passengers in 2005.
- 65) Goods trade between the EU and Canada takes place through multi-modal transportation, but the Atlantic is usually traversed using maritime transport. Canada's Gateways and Trade Corridors, in particular the Atlantic Gateway and the Ontario-Quebec Continental Gateway, including marine ports, intermodal connections, air and internal waterway components, have a strategic role in facilitating and increasing two-way trade with the EU.
- 66) The EU and Canada collaborate bilaterally on policy and regulatory issues in the realm of transportation. In addition, certain EU Member States cooperate with Canada on bilateral

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<sup>136</sup> Telecommunications, radio and information technology equipment, medical devices, recreational craft, electrical safety, electro-magnetic compatibility and pharmaceutical good manufacturing practices.

projects, such as the France-Canada cooperation related to the development of a database on the behaviours of chemicals and the planned UK-Canada cooperation for the purpose of exchanging information on rail and mass transit security.

- 67) The conclusion of a comprehensive aviation safety would be an important step towards formalising the EU-Canada relationship in the transportation field.

### **3.6 Customs Cooperation and Trade Facilitation**

- 68) Since the 1998 Agreement on Customs Cooperation and Mutual Assistance in Customs Matters entered into force both the EU and Canada have increased supply chain security. Both sides recognise that enhanced cooperation to mitigate the negative effects would be mutually beneficial.
- 69) A decision has been taken in principle to negotiate a supply chain security arrangement, which would include cooperation on container security. The European Commission's Taxation and Customs Union Directorate General and the Canada Border Services Agency have been pursuing discussions on this issue.
- 70) An agreement on mutual recognition of trade partnership programmes (pre-clearance systems for economic operators) could enable economic operators to benefit from the simplifications that these programmes offer on both sides of the Atlantic.
- 71) The EU and Canada have discussed other areas for potential future cooperation. These areas could possibly include cooperation in the field of electronic data exchange, developing and sharing best practices in modern customs techniques and promoting the common application of international rules, standards, guidelines and documentation where possible.

### **3.7 Employment and Social Affairs**

- 72) While no formal EU-Canada agreement is in place on employment and social affairs, the EU and Canada regularly exchange on issues of mutual interest and have jointly organised events to facilitate the exchange of information and experiences, and officials. Most cooperation between the EU Member States and Canada takes place within the International Labour Organisation.
- 73) Canada has concluded Social Security Agreements with all EU Member States with the exception of Bulgaria and Romania. Consideration could be given to extending this network of agreements to cover all EU Member States.
- 74) Some individual EU Member States and Canadian provinces and territories have also concluded Memoranda of Understanding on social security matters. The creation of a network of such arrangements could be encouraged.
- 75) Consideration could be given to finding a mechanism to avoid double health insurance requirements for posted workers, as there is currently no transatlantic portability of health

insurance from the country of habitual employment to the host country, and to waiving the requirement of private health insurance in the case of each other's full-time international students.

- 76) Consideration could also be given to the continued accumulation of state pension rights in the context of labour mobility. The inability to continue to accumulate such rights whilst on an overseas posting or to transfer accumulated rights between an EU Member State and Canada can adversely impact on a person's decision to seek and/or take up an economic opportunity.

### **3.8 Movement of People**

- 77) Both the EU and Canada face similar challenges with respect to the effective management of each others' citizens into and out of their territories. This includes balancing the integrity of their border management systems with the desire to facilitate the movement of *bona fide* business travellers. Failing to meet this challenge can result in lost business opportunities for the travellers and/or the service providers that they are travelling to in the context of Mode 2 service provision.
- 78) The EU and Canada regularly engage in dialogue related to matters such as immigration, asylum and refugee policies, visas, the integration of immigrants and social cohesion.
- 79) Short-term Canadian visitors to the EU are visa-exempt. All but two EU Member States' citizens travelling to Canada are visa-exempt; Canada aims to achieve the objective of visa-exempt status for all EU Member States and the European Commission and Canadian authorities will continue working to achieve that aim as soon as possible.
- 80) A first joint review of the EU-Canada Agreement on Advance Passenger Information (API) and Passenger Name Record (PNR) is scheduled to commence in 2008. The successful completion of the review will be an important factor in the potential renegotiation of commitments made under the existing EU-Canada API/PNR agreement.

### **3.9 Education and Training**

- 81) Both the EU and Canadian economies rely heavily on the education and mobility of their human resources to maintain and advance economic growth objectives. Whilst the issues of labour mobility and the related question of professional qualifications have been recognised as being an integral part of an advanced economic relationship, post-secondary education and vocational training are often overlooked.
- 82) Where there is no mutual recognition of professional/vocational qualifications, EU or Canadian residents wishing to enter Canada or the EU temporarily, to provide services or in an employment context, may be asked to undertake training in the host country in order to carry out the economic activity for which they are qualified in their home country. The ability to access this training so that the net benefit outweighs the overall cost can determine whether or not skilled workers take up a service provision opportunity.

- 83) The current EU-Canada relationship in post-secondary education has been a positive force for cross-cultural linkages and economic growth, but this potential is clearly limited by the lack of recognition of post-secondary qualifications and of individual credits by both partners. These lacunae work as a barrier to the mobility of learners and workers which in turn impacts the effective and efficient use of human potential, limits the ability of employers to hire workers with the skills they require and may create indirect barriers to trade.
- 84) Areas identified for potential additional cooperation could include:
- Consideration of the establishment of a degree equivalency system between the EU and Canada, building on work already underway in the context of the Bologna Process, including the introduction of the *diploma supplement* in Canada;
  - Encouragement being given to educational establishments to work towards a system for the accumulation and transfer of credits between EU and Canadian post-secondary educational establishments, building on the European Credit Transfer System and the Pan-Canadian Protocol on the Transferability of University Credits; and
  - The EU and Canada acting to remove remaining barriers to student mobility, such as facilitating student permit applications from each others' nationals, granting student work permits or addressing concerns relating to health insurance requirements.

### **3.10 Investment Promotion**

- 85) EU-Canada cooperation on investment promotion takes place not at EU-Canada level but at EU Member State-Canada level.
- 86) Significant Canada-EU Member State cooperation takes place through a number of mechanisms, including Bilateral Investment Treaty (BITs) and activities in the OECD. Further to their EU accession, six EU Member States (the Czech Republic, Hungary, Latvia, Poland, Romania and Slovakia) were required to bring their bilateral investment treaties with Canada into conformity with EU law. Canada and its EU partners will continue to work towards signature and ratification of the updated agreements.
- 87) Since the EU has only one office in Canada (in Ottawa), EU Chambers of Commerce – existing and future – in other parts of Canada have an important role to play in raising awareness about the EU and encouraging increased business links between the EU and Canada. The EU could consider how such organisations might be supported financially or in other ways.

### **3.11 Competition**

- 88) The 1999 EU-Canada Competition Cooperation Agreement provides the basis for bilateral cooperation with respect to the enforcement of each Party's respective competition rules. It functions generally well and to the satisfaction of both Parties. Contacts between the European Commission and the Canadian Competition Bureau are frequent and fruitful.

- Information exchange under the Agreement is currently limited to non-confidential information; the exchange of protected or confidential information is expressly excluded. Under its current rules the Commission is not allowed to pass on any information that it has obtained through its formal investigative tools to third country authorities.

89) In the area of state aid (at all levels of government), the approaches taken by the EU and by Canada differ substantially. EU Member States have to comply with stringent rules set out in the European Treaty when granting state aid to ensure that it does not adversely affect competition; in Canada the provision of state aid is self-regulated at both federal and provincial/territorial levels. This difference of approach could have an impact on trade.

### **3.12 Taxation Matters**

90) Bilateral double taxation conventions (“tax treaties”) exist between Canada and 26 of the 27 EU Member States. Canada and Greece are currently engaged in negotiations for a double taxation convention. All existing EU Member State-Canada tax treaties are based on the OECD Model Tax Convention and are used to eliminate tax barriers to trade and investment.

91) The level of corporate tax rates can affect foreign investments and can influence new foreign investment decisions. Corporate tax rates differ among EU Member States and among Canadian provinces and territories. For 2007, rates in the EU ranged from 10% (Bulgaria and Cyprus) to 38.36% in Germany. In Canada, combined federal and provincial rates ranged from 32.02% (in Quebec) to 38.12% (in Nova Scotia and PEI). In 2007, only five Member States (Belgium, France, Germany, Italy and Spain) had corporate tax levels above the Quebec rate.

### **3.13 Fisheries**

92) There is no active, formal bilateral agreement between the EU and Canada on fisheries. Most cooperation in fisheries matters takes place in the context of the Northwest Atlantic Fisheries Organisation (NAFO) and will continue to do so. This includes continuing to cooperate closely to ensure that the current proposed amendments to the NAFO Convention come into force and working together to further strengthen NAFO and to incorporate more modern concepts into its decision-making process, such as the precautionary and ecosystem approaches.

93) The EU-Canada High-Level Fisheries Meetings, which have been held annually since 1997, complement this and provide an opportunity for senior officials to meet to exchange views on matters of common interest, on ways to improve fisheries relations, and to exchange information and best practices concerning the each party’s respective integrated maritime policy. It is supplemented by a bilateral technical meeting.

94) Both the EU and Canada continue to cooperate closely to develop, strengthen and modernise other Regional Fisheries Management Organisations, including the development of effective management and control mechanisms and the development of global standards, such as improved flag state and port state measures to combat illegal, unregulated and unreported fishing.

#### **Part 4: Private Sector Views**

- 95) There was a great deal of commonality of views between EU and Canadian respondents to the private sector consultations undertaken in the context of this study. There was a general consensus that the EU-Canada economic relationship had not yet reached its full potential and that significant opportunities existed to improve trade and investment flows. Canadian respondents were clear in their support for a comprehensive trade and investment agreement between the EU and Canada.
- 96) There was an emphasis on the desirability of removing remaining tariffs and tariff peaks in particular, as well as non-tariff barriers to trade in goods and services and of continuing to improve the investment environment and investment opportunities. Both EU and Canadian respondents supported closer cooperation, particularly in the fields of regulatory cooperation, labour mobility and recognition of qualifications. Both EU and Canadian respondents felt that the government procurement markets on both sides of the Atlantic had the potential to offer increased business opportunities to exporters and investors. EU respondents indicated that any future trade and investment arrangement should include procurement by sub-federal authorities. Some respondents welcomed any future cooperation between the EU and Canada on IPR protection and enforcement vis-à-vis third countries.
- 97) EU respondents noted that any form of enhanced EU-Canada economic cooperation should include all levels of government in Canada. Canadian respondents registered a similar interest regarding the EU and the Member States, noting concerns over the complexity of the European market due to divergent policies, regulations and administrative procedures of the individual Member States.

