



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

CANADA

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

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SUMMARY

1. During the review period (2015-18), the Canadian economy was characterized by moderate GDP growth, low inflation, a relatively stable federal government debt-to-GDP ratio, a declining current account deficit, and real exchange rate depreciation.

2. After two years of weak growth in 2015 and 2016 due to lower oil prices and the ensuing deterioration of its terms of trade, Canada experienced a strong expansion that started in the second half of 2016 and in 2017, as the economy responded to stimulative monetary and fiscal policies. Growth continued, albeit at a slower pace (1.8%) in 2018, largely reflecting lower contributions from household consumption and business investment. Canada is a largely open economy, which has long relied on trade as a driving force: aggregate two-way trade flows (imports plus exports) stand at approximately the equivalent of 65% of GDP. Canada has achieved a high standard of living for its population: GDP per capita in nominal terms reached USD 46,182 in 2018.

3. Canada has a diversified economy, with services accounting for around 70% of GDP throughout the review period. At the same time, Canada is among the world's largest producers of numerous natural resources, including timber, oil, gas, minerals, and ores. The manufacturing sector's share of GDP remained constant at 10.4% during the period, while mining accounted for almost 8% of GDP in 2018. Agriculture, energy and mining remain important drivers of Canadian trade and of its trade policy.

4. During most of the review period, a countercyclical fiscal policy was applied for economic stabilization purposes, and Canada posted small federal government budgetary deficits. In FY2017-18 (ending on 31 March 2018), this deficit reached 0.9% of GDP, virtually unchanged from FY2016-17. Throughout the review period, Canada also posted small provincial government operational deficits and a general government deficit, which includes federal, provincial, territorial, and local governments. Canada's gross federal debt stood at some 44% of GDP in the third quarter of 2018.

5. After peaking in 2015, Canada's current account deficit trended down, led by stronger services exports in 2016 and stronger goods exports in 2017. The deficit ranged between 2.4% and 3.5% as a percentage of GDP over the review period. The major exported products are mineral products and energy, but their share decreased from 29% of total exports in 2014 to 24% in 2018, due to declines in world prices. Exports of vehicles and transport equipment represented 16% of total exports in 2018, while agricultural and agri-food product exports accounted for about 11%. The main import categories include machinery and mechanical appliances, vehicles and transport equipment, chemical products, and mineral products (mainly energy). Canada remains heavily reliant on the United States' market, although, during the review period, there was an increase in two-way trade with China. Trade with Mexico also increased.

6. During the review period, according to the authorities, Canada's trade policy was focused on diversifying international trade and foreign direct investment (FDI), and on pursuing an inclusive approach to trade, focused on transparency, labour rights, the environment, small and medium-sized enterprises (SMEs), gender, and Indigenous peoples. A number of initiatives were launched to reach these goals, including: a new Export Diversification Strategy, with the goal of increasing overseas exports by 50% by 2025; improving support to companies looking to export, particularly SMEs; and promoting gender equality through reducing barriers to the participation of women in international trade. With respect to the latter, Canada showed leadership by expanding its internal impact assessment process to include labour and gender, and by incorporating Trade and Gender chapters in its new or revised FTAs.

7. As part of its trade policy, Canada continued to pursue reciprocal FTAs during the review period, with the implementation, or provisional application, of three new Agreements: the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), the Canada-Ukraine Free Trade Agreement (CUFTA), and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Canada was also active in updating and expanding existing FTAs in order to modernize certain FTA provisions, when revised agreements were negotiated with Chile, Israel, and NAFTA partners; however, only the agreement with Chile entered into force, in February 2019. Canada is now a party to 14 FTAs. FTA trade is heavily dominated by

Canada's NAFTA trading partners, with the United States and Mexico accounting for 94% of imports under FTA provisions in 2017.

8. Canada's long-standing Agreement on Internal Trade (AIT) was replaced, on 1 July 2017, by the Canadian Free Trade Agreement (CFTA). The new Agreement brings about wider and more in-depth coverage of internal trade, as it incorporates almost all economic activities and deepens the coverage of many provincial and territorial commitments, in particular on government procurement. It has provisions for reducing regulatory barriers through a mechanism for regulatory cooperation; strengthens dispute settlement procedures; increases alignment with Canada's international obligations; and includes new provisions on environmental protection and labour mobility.

9. During the review period, Canada actively participated in the regular work of the WTO committees, negotiations, dispute settlement, monitoring, and plurilateral initiatives. It also played a leadership role by chairing WTO bodies and promoting initiatives such as trade and gender in the WTO, as well as through its work on WTO reform. Canada notified the WTO of its acceptance of the Trade Facilitation Agreement (TFA) on 16 December 2016. Canada completed the procedures and implemented its commitments under the Information Technology Agreement (ITA) Expansion, and regularly met its notification requirements during the period.

10. FDI remains an important aspect of Canada's economy, with direct investment abroad amounting to over CAD 1 trillion in 2017, equivalent to over 50% of its GDP. Since its last Review, Canada stepped up efforts to improve its FDI attractiveness, with the establishment of Invest in Canada, a one-stop shop for foreign investment, the development of Guidelines on the National Security Review of Investments, and the elimination of the formal approval procedures for many potential investments through the increase of investment review threshold levels. However, most long-standing foreign investment restrictions remain in place, although there has been a relaxation of ownership rules for the airline sector. Canada's investment framework comprises the Investment Canada Act (ICA), 1985, which remains largely unchanged since the last Review; 37 bilateral investment treaties, known as Foreign Investment Promotion and Protection Agreements (FIPAs); and 12 FTAs that have dedicated chapters on investment.

11. During the review period, there were no significant amendments to the Customs Act, except with respect to, *inter alia*, regulations concerning reporting requirements on Advance Commercial Information (ACI), requiring commercial clients to provide Canada Border Services Agency (CBSA) officers with electronic pre-arrival information. The ACI/eManifest programme became operational in all modes of transportation after the eManifest requirements for all highway and rail shipments became legally binding in July 2015. However, ACI/eManifest's commercial reporting requirements and time-frames for required documentation differ depending on the mode of transportation and the type of commercial client. Moreover, the CBSA rolled out two new initiatives to facilitate trade, namely the Single Window Initiative and Phase 1 of the CBSA Assessment and Revenue Management (CARM).

12. The 2019 average applied MFN tariff is 6.1%, slightly up from 6.0% in 2014, mainly due to changes in the tariff structure. About 70.4% of tariff lines are duty-free on an MFN basis, a higher percentage than in 2014 (67.0%), mainly reflecting the elimination of import duties on products under the ITA Expansion, and the unilateral tariff elimination on certain imported products used in the agri-food processing industry. Canada continues to apply some non-*ad valorem* duties (3.7% of total tariff lines) on agricultural products. Tariffs on agricultural products (WTO definition) remain higher (the simple average is 21.8%, and there are some tariff peaks with *ad valorem* equivalents (AVEs) of over 100%) than on non-agricultural products (2.5%). Tariff rate quotas (TRQs) are applied on 159 tariff lines, including dairy products, poultry and egg products, beef and veal, and certain wheat and barley products. Some 99.7% of tariff lines are bound; the exceptions comprise products such as gas, petroleum, electrical energy, and vessels. A wide range of tariff and tax exemptions are provided under specific regulations.

13. Canada grants preferential tariff treatment under bilateral or plurilateral agreements, or under unilateral concession schemes. Preferential schemes include the newly-signed FTAs with the European Union (EU), Ukraine, and the 11 CPTPP countries. Under most FTAs, duty-free treatment (including MFN duty-free) covers 95% of tariff lines. The simple average tariff for FTA partners is slightly over 3.0% (e.g. 3.7% for CPTPP partners, 3.3% for the European Union and Ukraine). However, the simple average preferential rates for agricultural products remain high (ranging

between 17% and 21%, as compared to an MFN average tariff of 21.8%), mainly due to exceptions from preferences for certain agricultural products such as dairy produce, and meat and fish products. On the other hand, tariffs on non-agricultural products are nearly all zero.

14. Canada's system of indirect taxation includes a 5% value added tax (Federal Goods and Services Tax), normally with an additional provincial component levied on the same tax base (Harmonized Sales Tax) or on a tax base that may be different (Provincial Sales Tax). The Federal Government also levies excise duties on alcoholic beverages, tobacco products, certain petroleum products, and a few other items. The provinces and territories levy their own product-specific taxes, often on the same type of goods. Except for increases in some tax rates, the tax regime has remained stable overall in the period under review. Following the announcement of the Pan-Canadian Approach to Pricing Carbon Pollution in 2016, a federal system or provincial schemes (in line with the federal benchmark) are being put in place to ensure that carbon pollution pricing will apply to a broad set of emission sources throughout Canada, with increasing stringency over time. In conjunction with the legalization of cannabis for non-medical purposes in Canada in October 2018, an excise duty framework was developed for cannabis products.

15. The basic features of Canada's import controls regime remain unchanged since the last Review. Updated regulations to ban asbestos and asbestos products came into force at the end of 2018, and previous control measures were repealed. For certain softwood lumber products exported to the United States, export restraints applied by Canada under certain market conditions are no longer in effect, following the expiry of a bilateral agreement on 12 October 2015.

16. Canada continues to be active user of trade remedies. Between 2015 and 2018, 45 anti-dumping (AD) investigations were initiated and 33 measures were adopted, compared with 24 measures adopted between 2011 and 2014. However, after an increase in 2015 and 2016, the number of measures applied in 2017 and 2018 declined. As at 31 December 2018, there were 83 definitive AD measures in place, compared with 53 reported in December 2014. Over two thirds of the measures were applied on steel products; 12% were on other metal products; 8% were on agricultural products; and the remainder were on miscellaneous manufactured products. The measures applied to 29 trading partners. The average length of the AD measures in place as at December 2017 was 6.4 years. As at 31 December 2018, there were 28 countervailing (CV) duty measures and 1 provisional safeguard measure in place. During the 2015-18 period, there were 55 expiry (sunset) review initiations; as at 31 December 2018, 36 of the reviews had been concluded, and in 33 cases the AD/CV duties were continued, albeit in five cases some products were excluded from the order. Canada's trade remedies legislation was modified during the period under review. One of the main changes was the introduction of legislation enabling anti-circumvention investigations to determine whether goods are being imported for the specific purpose of circumventing existing AD or CV duties. Another main change was the introduction of Scope Proceedings to establish whether a particular product falls within the scope of an existing AD and/or CV measure.

17. Canada does not have overarching legislation governing incentives. Various federal agencies and provincial/territorial governments implement incentives programmes. Innovation, Science and Economic Development (ISED) Canada maintains two special financing programmes: the Strategic Innovation Fund (SIF), open to businesses of all sizes across all industrial and technology sectors, and the Canada Small Business Financing Program (CSBFP) for small businesses. The SIF was launched in July 2017 to enhance competitiveness and incorporates four ISED legacy programmes: the Strategic Aerospace and Defence Initiative (SADI), the Automotive Innovation Fund (AIF), the Automotive Supplier Innovation Program (ASIP), and the Technology Demonstration Program (TDP). The SIF provides repayable and/or non-repayable contributions to attract and support new high-quality and innovative business investments in Canada.

18. The development of technical regulations in Canada is decentralized; they are established by several federal and provincial authorities. At the federal level, the development of technical regulations must follow the Cabinet Directive on Regulation and the Policy on Regulatory Development, which apply to all federal departments, agencies, and entities. The Directive sets four guiding principles of federal regulatory policy: a) regulations must protect and advance the public interest and support good government; b) the regulatory process must be open and transparent; c) regulatory decision-making must be evidence-based; and d) regulations must support a fair and competitive economy. During the period under review, Canada continued to regularly notify its draft technical regulations, ordinances, and conformity assessment procedures

to the TBT Committee. Between 2015 and October 2018, Canada submitted 207 notifications, including corrections and appendices. Of these, 137 were new technical regulation notifications. Since 2015, only one specific trade concern (STC) regarding Canada's technical regulations was raised in the TBT Committee.

19. Regarding the application of sanitary and phytosanitary measures, the Safe Food for Canadians Act (SFCA) and the Safe Food for Canadians Regulations (SFCR) came into effect on 15 January 2019, representing the most important revision of food safety regulations in 25 years. The SFCA consolidates the authorities under other pertinent legislation and the food provisions of the Consumer Packaging and Labelling Act. The SFCR replaces 14 sets of regulations to reduce unnecessary administrative burdens on businesses. No new STCs were raised regarding measures maintained by Canada in the WTO Committee on Sanitary and Phytosanitary Measures since its last Review.

20. Federal procurement policy is conducted by individual government entities as well as by two common service organizations, Public Works and Government Services Canada (PWGSC) and Shared Services Canada. All federal procurements over CAD 2 million are reviewed for potential regional and industrial benefits and other national objectives. Procurement at the sub-central level is governed by provincial or other sub-central government laws and procurement regulations. New provisions regarding inter-province procurement were put in place in 2017, reflecting the CFTA's procurement chapter. Key features of this chapter include an expansion of the scope of government entities covered by open procurement rules, and the establishment of new independent bid protest mechanisms in each jurisdiction. For procurement falling within the scope of the CFTA, the provinces grant similar access conditions to procurement from the rest of Canada. Some provinces grant provincial or regional preferences to procurement not falling within the scope of the CFTA or the GPA. Canada included commitments at the sub-central level in the revised GPA that came into force in 2014. Provinces and territories also have government procurement commitments under the CFTA, the CETA, and the CPTPP.

21. During the review period, intellectual property (IP) issues continued to play an important role in Canada's trade policy. In April 2018, Canada launched an Intellectual Property Strategy, primarily focused on developing new IP tools for businesses, on increasing awareness with respect to IP protection, and on countering IP misuse and identifying needed legislative reforms. Canada participates in several WIPO treaties: during the review period, Canada joined the Marrakesh Treaty, which came into force on 30 September 2016, and the Hague Agreement, which entered into force on 5 November 2018. Also, during the review period, the Government entered into bilateral and plurilateral agreements with other countries, where IP issues were covered, including the CETA, the new Canada-United States-Mexico Agreement, and the CPTPP; the implementation of these Agreements will require changes to Canada's IP protection system. Since the last Review, Canada introduced significant amendments to its Copyright Act (e.g. on first distribution rights; rights of authors, performers and makers of sound recordings; copyright exceptions; and safe-harbour provisions for Internet service providers), its Trademarks Act (e.g. term and conditions of registration) and its Patent Act (e.g. with respect to filing date requirements; the abandonment/reinstatement regime; restoration of priority; revocation of granted patents; and protection of third parties), some of which are yet to be implemented.

22. Canada is a net agricultural exporter, despite considerable imports of processed food. A highly export-oriented crop sector, and the beef and pork industries contribute to the trade surplus, which was running at approximately CAD 12 billion annually in recent years. The dairy, poultry and egg industries are subject to supply management, designed to ensure that domestic demand is matched by regulated production and regulated imports. Market access is provided through WTO TRQs on 22 product groups and additional access under some of Canada's preferential arrangements. The CETA includes gradually-increasing quantities of cheese imports from the European Union, and Canada established 20 new TRQs under the CPTPP, to be phased in over 11 to 19 years, depending on the TRQ. Canada formally eliminated export subsidies for wheat, coarse grains, oilseeds, vegetable oils, oilcakes, and vegetables in December 2015, and has committed to eliminate its remaining export subsidies by the end of 2020 in accordance with the Nairobi Ministerial Decision on Export Competition. The main programmes and services supporting the agricultural sector are provided through a joint federal and provincial/territorial policy framework of a five-year duration. The Growing Forward 2 Framework was succeeded by the Canadian Agricultural Partnership on 1 April 2018. The Partnership foresees expenditures on federal programmes and activities totalling CAD 1 billion over the current five-year period. A further CAD 2 billion is being made available on a

cost-shared basis for programmes and activities designed and delivered by the provincial and territorial authorities.

23. Canada's forestry sector was characterized by steady output and generally increasing exports during the review period, with the sector contributing to 7.1% of total exports in 2017. The main forest products continue to be newsprint, softwood lumber, and bleached softwood kraft pulp, although softwood lumber remains dominant in terms of production and trade. The longstanding Softwood Lumber Agreement (SLA) with the United States expired in October 2015, bringing an end to the managed trade of this product; subsequently, trade remedies were imposed, and disputes ensued. The provinces and territories retain about 90% of the ownership of the forests; the Canadian Council of Forest Ministers (CCFM) remains the main forum for the provinces and territories to work cooperatively on policy and management issues. The federal support programmes remain largely intact.

24. Canada remains a net exporter of fish and fish products. A review of the legal framework for fisheries is underway since 2016, and Bill C-68, proposing amendments to the Fisheries Act to ensure the long-term sustainability of marine resources, is currently before Parliament. Canada cooperates with international partners to fight illegal, unreported, and unregulated (IUU) fishing worldwide; in October 2018, Canada and nine other countries signed the Agreement to Prevent Unregulated Commercial Fishing on the High Seas in the Central Arctic Ocean. Canada continues to work towards the ratification of the Port State Measures Agreement (PSMA), signed in November 2010. As part of the ratification process, and in order to meet its commitments under the PSMA, amendments to the Coastal Fisheries Protection Act (CFPA) and related regulations are currently being considered.

25. Canada accounts for a large share of the world's proven oil and gas reserves, and has significant mineral wealth. It is also one of the world's largest crude petroleum producers. The minerals sector contributed approximately 19.5% to total goods exports in 2017, while the contribution of the energy sector was 22.5%. Both energy and mining are open to trade and to foreign investment, subject to reservations, some of which are listed in Canada's FTAs. Several provincial reservations regarding investment remain in place. Over half of Canada's natural gas production is exported, all to the United States. Exports of natural gas and natural gas liquids require authorization, either in the form of a short-term export order, or a long-term licence valid for up to 40 years. Canada is a net exporter of electricity, exclusively to the United States. Public ownership of electricity utilities is the norm in Canada, with a single, vertically-integrated provincial Crown corporation regulating electricity generation, internal transmission and distribution, although there are some exceptions.

26. Manufacturing in Canada covers 21 industry groups that produce goods for both industrial and consumer use. Of particular importance are the automotive and aircraft industries. Canada is part of the fully-integrated North American market, with an annual production of almost 2.24 million vehicles, of which 85% are exported. Canada is home to more than 700 aerospace companies; the aircraft industry exports about 75% of its output, and is highly integrated. Support schemes have been moving away from specific industries and are now focused on innovation and R&D. In this regard, the SIF supports innovation activities across all industrial sectors. Although Canada's steel industry represented just 2.1% of total manufacturing production in 2018, steel is an important input in Canada's main industries. In response to the imposition of tariffs of 25% by the United States in June 2018 following a Section 232 investigation, Canada imposed surtaxes on imports of steel, aluminium and other products from the United States, for a value considered equivalent to the Canadian exports affected by the U.S. tariffs and for the duration of these measures. In June 2018, Canada announced that it would make available up to CAD 2 billion to defend and protect the interests of Canadian workers and businesses in the steel, aluminium and manufacturing industries, including support through the SIF. In October 2018, Canada imposed provisional safeguard measures on seven categories of steel products, in response to an increase in imports. A 25% surtax applies to imports that exceed a specified quantity threshold based on historical import volumes.

27. Canada has a sound financial services sector, which is relatively concentrated, with a few large, well-capitalized institutions accounting for the bulk of total assets. The regulation and oversight of financial institutions is shared among federal, provincial, and territorial authorities. Banks are generally prohibited from engaging in commercial activities. However, Parliament passed legislation that provides greater flexibility for federally-regulated financial institutions (including banks) to undertake in-house commercial activities related to the provision of financial services.

Implementation is awaiting the coming into force of enabling regulations. The acquisition of control of, or significant interest in, banks is subject to checks and restrictions that apply equally to domestic and foreign acquirers. The Minister of Finance's approval is required for any acquisition of a significant interest (over 10%) of voting or non-voting shares in any bank.

28. Insurance companies can incorporate either federally or provincially. Canada's federal insurance legislation prohibits the establishment of "composite" companies. Insurers must obtain licences for the classes of insurance they intend to underwrite. Federally-incorporated insurance companies may engage in other financial services activities, either in-house or through investments in other entities, but are restricted in their ability to engage in non-financial commercial activities. The licensing of insurance intermediaries is governed by provincial laws. The acquisition of control or ownership of any insurance company with equity of CAD 2 billion or more is subject to restrictions. Securities markets are regulated by the 13 provincial and territorial securities regulators. Dealers, advisers, and investment fund managers are required to register with the securities regulatory authority in each province or territory where they do business. All provincial regulators, except Ontario, participate in the "passport system", which, for the matters covered by the passport, gives market participants approval in all passport jurisdictions once a decision from its principal regulator is obtained and the requirements of specific harmonized laws are met.

29. Canada continued the development of its main infrastructure sectors, i.e. transport and communications, during the review period, although there have not been any significant changes in policy direction and the main applicable legislation remains largely unchanged. As regards maritime transport, there were some developments, with changes to the Coasting Trade Act, as all ships are now allowed to reposition their empty containers between locations in Canada on a non-revenue basis without a coasting trade licence. Also, as a result of the CETA, certain targeted domestic maritime services were liberalized. Recent developments in the telecommunications sector include preparation for the gradual deployment of the 5G standard across Canada, and the launching of consultations processes with a view to modernizing the Telecommunication Act, the Broadcasting Act, and the Radiocommunication Act in the near future.

30. Canada's tourism sector has seen strong growth in recent years, in part driven by increased air capacity, the removal of certain visa requirements, and liberalization initiatives undertaken in FTAs. A new policy, Tourism Vision, was launched in 2017, outlining a number of important points to increase tourism and setting ambitious targets for further growth.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. Canada has a diversified and sophisticated economy, with the services sector accounting for around 70% of GDP throughout the 2014-18 review period (Table 1.1). At the same time, Canada it is among the world's largest producers of numerous natural resources, including timber, oil, gas, minerals, and ores. The manufacturing sector's share of GDP remained constant, at 10.4%, during the period, while mining accounted for almost 8% of GDP in 2018. Agriculture, energy and mining remain important drivers of Canadian trade and of its trade policy. Among services, real estate and wholesale and retail sales have the largest share of GDP.

Table 1.1 Main economic indicators, 2014-18

	2014	2015	2016	2017	2018
General indicators					
GDP at market prices (CAD billion, current prices) ^a	1,994.9	1,990.4	2,028.2	2,141.5	2,217.5
GDP per capita (CAD, current market prices)	56,293.4	55,750.1	56,168.7	58,606.8	59,838.3
Employment ('000, seasonally adjusted, year average)	17,796.5	17,950.3	18,083.1	18,419.3	18,657.7
Unemployment rate (share of labour force, year average)	6.9	6.9	7.0	6.3	5.8
Business sector labour productivity ^b	103.8	103.0	103.2	105.1	..
Population (millions)	35.4	35.7	36.1	36.5	37.1
Sectoral distribution of GDP (%)^c					
Agriculture, forestry, fishing, and hunting	2.0	2.1	2.1	2.1	2.1
Mining, quarrying, and oil and gas extraction	7.9	7.6	7.2	7.6	7.8
Utilities	2.2	2.2	2.2	2.2	2.2
Construction	8.0	7.8	7.4	7.4	7.3
Manufacturing	10.4	10.4	10.4	10.4	10.4
Services	69.5	70.0	70.6	70.2	70.2
Wholesale and retail trade	10.5	10.2	10.3	10.6	10.5
Transportation and warehousing	4.3	4.4	4.4	4.5	4.5
Finance and insurance	6.2	6.5	6.7	6.6	6.6
Real estate and rental and leasing	12.3	12.6	12.8	12.7	12.6
Professional, scientific and technical services	5.8	5.7	5.7	5.6	5.7
Educational services	5.3	5.4	5.4	5.3	5.3
Healthcare and social assistance	6.9	6.9	7.0	6.9	7.0
Public administration	6.7	6.7	6.7	6.6	6.6
Other services	11.5	11.6	11.6	11.3	11.2
General government finance^a					
General government revenue (CAD billion)	768.9	795.3	814.0	855.3	889.8
As % of GDP, of which:	38.5	40.0	40.1	39.9	40.1
Taxes on income	15.1	15.9	16.0	15.9	16.2
Contributions to social insurance plans	4.6	4.8	4.8	4.6	4.6
Taxes on production and imports	11.5	12.1	12.3	12.3	12.2
Investment income	2.8	2.4	2.3	2.5	2.5
Sales of goods and services	3.7	3.8	3.9	3.8	3.8
General government expenditure (CAD billion)	762.2	789.1	814.4	849.4	885.1
As % of GDP, of which:	38.2	39.6	40.2	39.7	39.9
Final expenditure on goods and services	23.9	24.7	24.9	24.5	24.6
Current transfers to households	9.0	9.6	9.9	9.9	9.9
Interest on debt	3.1	3.1	3.0	2.8	2.9
General government surplus or deficit (% GDP)	0.3	0.3	-0.02	0.3	0.2
Net lending (+) or net borrowing (-) (% GDP)	0.2	-0.1	-0.4	-0.3	-0.4
Federal government budgetary balance (% of GDP)	0.1	0.2	-0.2	-0.1	0.4
General government gross debt (% of GDP)	85.0	90.5	91.1	89.7	86.6
Federal government gross debt (% of GDP)	31.6	31.8	32.0	31.4	..
Monetary aggregates^d					
M1+ (% growth)	7.5	7.8	8.7	9.5	4.8
M1++ (% growth)	7.3	7.7	8.8	8.7	3.8
Prices and interest rates					
Consumer Price Index (CPI) (average % change)	1.9	1.1	1.4	1.6	2.3

	2014	2015	2016	2017	2018
Overnight rate (policy instrument) (%)	1.0	0.6	0.5	0.7	1.4
External sector					
Real Canadian Effective Exchange Rates (CEER) ^e index	119.3	109.9	108.3	110.0	109.3
CAD per USD (period average)	1.10	1.28	1.32	1.30	1.30
Current account balance (percentage of GDP)	-2.4	-3.5	-3.2	-2.8	-2.6
Trade in goods and services (percentage of GDP)	63.9	65.6	64.7	64.3	65.8
Total reserves excluding gold (USD billion)	74.6	79.7	82.7	86.7	..
in months of imports	1.3	1.6	1.7	1.6	..

.. Not available.

a Seasonally-adjusted, at annual rates.

b Labour productivity is a measure of real GDP per hour worked (2012=100).

c According to the North American Industry Classification System (NAICS), 2002; the shares are based on seasonally-adjusted GDP at basic prices, in chained 2012 dollars.

d Gross M1 is currency outside banks plus personal checking accounts plus current accounts plus some adjustments to M1; M1++ is M1+ plus non-chequable notice deposits held at chartered banks, trust and mortgage loan companies, and credit unions/*caisses populaires* less interbank non-chequable notice deposits plus continuity adjustments.

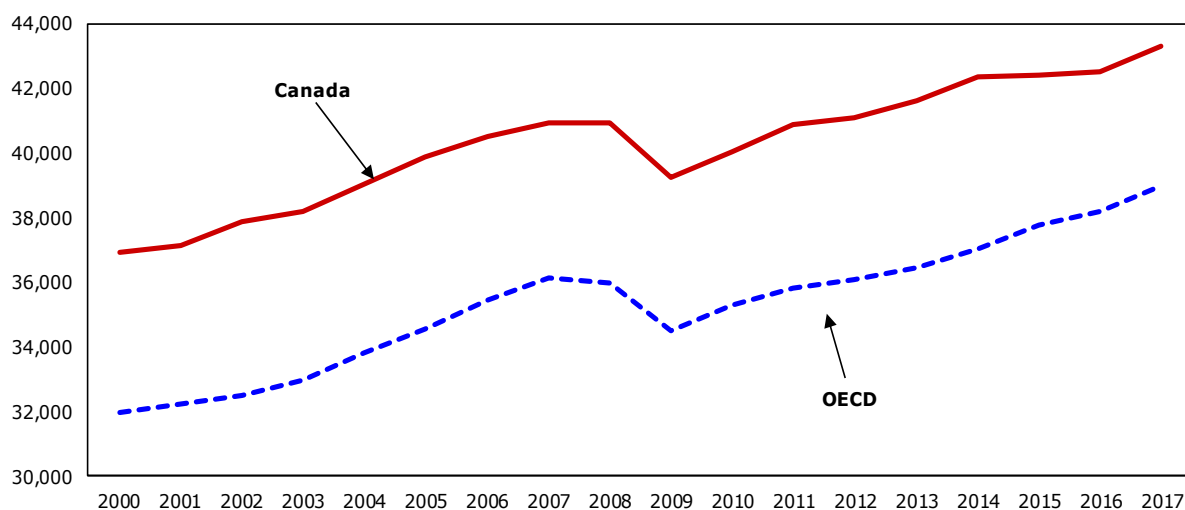
e The CEER index (1999=100) is a weighted average of bilateral exchange rates for the Canadian dollar against the currencies of Canada's major trading partners.

Source: Statistics Canada. Viewed at: <https://www150.statcan.gc.ca/n1/en/type/data?MM=1>; Bank of Canada. Viewed at: <https://www.bankofcanada.ca/rates/>; IMF online information. Viewed at: <http://elibrary-data.imf.org/DataExplorer.aspx>.

1.2. During the review period, the Canadian economy was characterized by moderate GDP growth, low inflation, a relatively stable federal government debt-to-GDP ratio, a deficit of the current account of the balance of payments ranging between 2.4% and 3.5%, and a nominal and real exchange rate depreciation.

1.3. Canada's economy is generally open and competitive, with aggregate two-way commercial flows (imports plus exports) at approximately 65% of GDP. Exposure to the global market has created a permanent challenge to improve the competitiveness of the Canadian economy. Indeed, Canada's previous TPRs bear witness to long-standing efforts by federal and provincial governments to streamline laws and regulations, simplify and harmonize documents and procedures, improve private-sector consultation, and in general strengthen governance. These structural efforts have been underpinned by generally balanced macroeconomic management (see below). Canada has achieved a high standard of living for its population. GDP per capita reached CAD 59,838 in 2018 (some USD 46,182) in nominal terms, up from CAD 58,607 in 2017, which was equivalent to USD 43,274 in purchasing-power parity (PPP) terms (Chart 1.1).

Chart 1.1 GDP per capita, PPP



Note: Based on USD, constant prices, 2010 PPP terms.

Source: OECD Statistics.

1.4. Canada was the world's tenth-largest economy in 2017, compared to eleventh in 2013.¹ Also, in 2017, it was the world's twelfth-largest merchandise exporter – unchanged from 2014 – and regressed from eleventh – to twelfth-largest importer over the same period. Canada ranked as the world's eighteenth-largest commercial services exporter (including intra-EU trade) and the fourteenth-largest importer of commercial services, in 2017, highlighting the importance of Canada at the forefront of trade in a number of commercial services.

1.5. The United States accounts for a considerable share of Canada's trade in goods and services. Canada and the United States have a deeply integrated economic relationship; geographic proximity, sophisticated cross-border supply chains, and similar business environments have long made them each other's most important trading partners.

1.2 Recent Economic Developments

1.2.1 Real sector

1.6. After two years of weak growth in 2015 and 2016, when real GDP expanded by 0.7% and 1.1%, respectively, as the economy adjusted to lower oil prices and the ensuing deterioration of its terms of trade, Canada experienced a strong expansion that started in the second half of 2016 and in 2017, as the economy responded to stimulative monetary and fiscal policies.² Growth continued, albeit at a slower pace in 2018 (Table 1.2).

Table 1.2 GDP by type of expenditure, 2014-18

	2014	2015	2016	2017	2018
Annual %age change (chained 2012 dollars, seasonally-adjusted)					
GDP at market prices	2.9	0.7	1.1	3.0	1.8
Final consumption expenditure	2.0	2.0	2.1	3.1	2.2
Household final consumption expenditure	2.7	2.2	2.1	3.6	2.1
Goods	2.9	2.3	2.2	4.0	1.4
Services	2.5	2.2	2.1	3.3	2.6
Non-profit institutions serving households' final consumption expenditure	-0.8	4.7	6.4	-0.6	2.8
General governments' final consumption expenditure	0.6	1.4	1.8	2.1	2.5
Gross fixed capital formation	2.3	-5.2	-4.3	3.0	0.8
Business gross fixed capital formation	3.3	-6.4	-4.6	2.3	0.3
Non-profit institutions serving households' gross fixed capital formation	6.3	-9.0	-3.7	3.6	-1.1
General governments' gross fixed capital formation	-3.4	1.5	-2.3	6.3	3.4
Exports of goods and services	6.2	3.4	1.3	1.1	3.3
Imports of goods and services	2.5	0.6	0.0	4.2	2.9
% of GDP at current market prices					
Final consumption expenditure	76.1	78.7	79.6	78.8	79.1
Households' final consumption expenditure	54.5	56.4	57.0	56.6	56.7
Goods	24.1	24.7	25.0	24.9	24.8
Services	30.4	31.7	32.1	31.7	31.9
Non-profit institutions serving households' final consumption expenditure	1.3	1.4	1.5	1.5	1.5
General governments' final consumption expenditure	20.3	20.9	21.0	20.7	20.8
Gross fixed capital formation	24.4	23.9	22.9	22.7	22.4
Business gross fixed capital formation	20.6	19.9	19.1	18.8	18.4
Non-profit institutions serving households' gross fixed capital formation	0.2	0.1	0.1	0.1	0.1
General governments' gross fixed capital formation	3.6	3.8	3.7	3.8	3.9
Investment in inventories	0.5	0.0	0.0	0.8	0.6
Exports of goods and services	31.5	31.6	31.2	31.0	31.8
Imports of goods and services	32.5	34.1	33.6	33.4	34.0
Statistical discrepancy	0.0	-0.1	-0.1	0.0	0.0

Source: Statistics Canada, Table: 36-10-0104-01.

1.7. The 1.8% growth posted in 2018 largely reflected lower contributions from household consumption and business investment. Net exports of goods and services contributed positively to

¹ World Bank indicators. Viewed at: http://stat.wto.org/CountryProfiles/CA_E.htm.

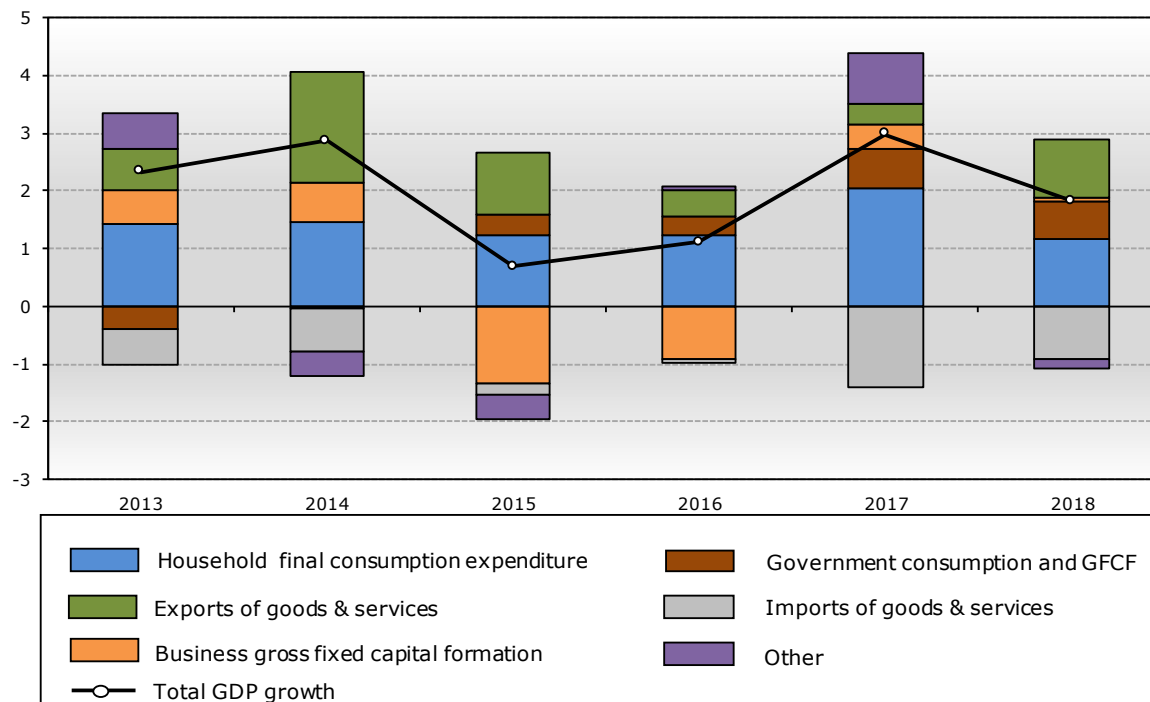
² Bank of Canada (2018), *Annual Report 2017*. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2018/03/annualreport2017.pdf>.

growth in 2018 after being a drag on growth in 2017. (Chart 1.2) Exports of services were strong over the review period, helped by the depreciation of the Canadian dollar.

1.8. The contribution of investment to GDP growth was negative in both 2015 and 2016, mainly due to a sharp decline in private capital formation. This trend was reversed in 2017 and 2018. The expansion of gross fixed capital formation (GFCF) was more subdued in 2018 compared to 2017, as investment in residential and non-residential structures contracted for the year. After a 1.8% increase in 2018, the Bank of Canada is projecting GDP growth of 1.7% in 2019, and 2.1% in 2020.³

Chart 1.2 Contribution to real GDP growth, 2013-18

(Percentage points)



Source: WTO Secretariat, based on Statistics Canada, Table: 36-10-0128-01

1.9. Since November 2015, the Canadian economy has created over 820,000 new jobs⁴ (seasonally adjusted) to December 2018 and the unemployment rate has fallen considerably to 6.3% in 2017, and further to 5.8% in 2018 (Table 1.1), building upon the continuous improvement since 2010. In 2018, there was also a net improvement in labour productivity which, in the past, had lagged behind the productivity of other advanced economies. In fact, increasing competitiveness remains a challenge for Canada. During most of the review period, the relatively subdued performance of business labour productivity was partly compensated by a depreciating real exchange rate, although this does not seem to have alleviated the problem (see below). Productivity could benefit from structural reforms regarding, for instance, innovation policies, but also from simplifying administrative procedures.

1.10. The strong broad-based expansion that Canada was experiencing in 2017 slowed down in 2018, as household expenditures and investment slowed, while exports expanded faster than imports. The International Monetary Fund (IMF) expects GDP growth of 1.9% in 2019 and 2020.⁵ Indeed, most of Canada's economic developments will be strongly influenced by the evolution of its trade relations with the United States, given the large share of business-sector jobs that depend on

³ Bank of Canada (2019), *Monetary Policy Report*, January. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2019/01/mpr-2019-01-09.pdf>.

⁴ Government of Canada online information. Viewed at: <https://www.budget.gc.ca/2018/docs/plan/overview-apercu-en.html>.

⁵ IMF (2019), *World Economic Outlook Update*, January 2019. Viewed at: <https://www.imf.org/en/Publications/WEO/Issues/2019/01/11/weo-update-january-2019>.

foreign demand. In this respect, in the view of the authorities, the conclusion of negotiations to modernize the North American Free Trade Agreement (NAFTA) and the signature of the Canada-United States-Mexico Agreement (CUSMA) provide stability and predictability, given Canada's close relationship with the United States. Also, Canadian exporters can take advantage of the other recently-enacted agreements with Europe and with Asia (Section 2). On the other hand, the perspective of higher interest rates over the medium term will increase the expected return for private investments; these could also suffer from the competition stemming from government borrowing and growing private and public debt.

1.11. The Bank of Canada considers that the economy has been operating near capacity for more than a year. Real GDP growth is estimated to have been slower than potential in the fourth quarter of 2018, leaving the output gap between -1.0 and +0.0%. The Bank estimates the annual growth rate of potential output to average 1.9% over the 2018–20 period. It also estimates a neutral nominal policy rate, a medium- to long-term equilibrium concept, defined as the real rate consistent with output sustainably at its potential level and inflation equal to target (currently the inflation target is 2%, see below). The neutral rate is estimated to be between 2.5% and 3.5%.⁶

1.2.2 Fiscal policy and debt

1.12. During the review period, a countercyclical fiscal policy was launched for economic stabilization purposes, in the context of falling commodity prices. The Organization for Economic Co-operation and Development (OECD) considers Canada's overall stance of fiscal policy to have been stimulatory over the 2016-17 period, during which the underlying primary budget balance of the general government declined, to have been neutral in 2018, and expected it to turn slightly stimulatory in 2019.⁷

1.13. Several of the measures applied to stimulate the economy were contained in the 2016 federal budget. They include the introduction of the new Canada Child Benefit, a simpler, tax-free, more generous and better-targeted system than the previous one. Among the countercyclical enhancements was the Working Income Tax Benefit (WITB), a refundable tax credit that supplements the earnings of low-income workers. In 2016, the Government announced a CAD 250 million enhancement of the WITB, as part of the improvement of the Canada Pension Plan (CPP). This strengthened benefit will be named the Canada Workers Benefits (CWB) and will take effect in 2019. In 2017, the Government committed to further boosting the WITB by an extra CAD 500 million annually. In Budget 2018, the Government proposed to increase the maximum benefits under the CWB and increase the income level at which the benefit is phased out completely.

1.14. In June 2016, the Government reached an agreement with the provinces to enhance the CPP, which began to be phased in as of January 2019. Quebec took action to enhance the Quebec Pension Plan in a similar way. The CPP Enhancement will raise the maximum CPP retirement benefit by up to 50%, over time. This translates into an increase of more than CAD 7,000 in the current maximum retirement benefit, from CAD 13,610 to nearly CAD 21,000. Building on this, in December 2017, federal and provincial ministers reached a unanimous agreement in principle to take the following actions, beginning in 2019: (a) increase retirement benefits under the CPP Enhancement, both for parents who take time off work to care for young children, and for persons with severe and prolonged disabilities; (b) raise survivors' pensions for individuals under age 45 who lose their spouse, by providing a full survivor's pension; and (c) provide a top-up disability benefit to retirement pension recipients under the age of 65 who are disabled and meet eligibility requirements.

1.15. In April 2017, the Canada Mortgage and Housing Corporation launched the Rental Construction Financing Initiative, which will provide CAD 2.5 billion in low-cost loans to support the construction of new rental housing, relieving pressure in rental markets that are experiencing low vacancy rates. To be eligible, borrowers must demonstrate that their projects are financially viable without ongoing operating subsidies. The Initiative will prioritize projects that demonstrate greater social outcomes and may offer loans for up to 100% of the cost of these projects. Lower-cost loans will be provided for terms of up to ten years. In October 2017, the Government announced it would lower taxes on small businesses from 10.5% to 9.0% by 2019. At the same time, it is addressing

⁶ Bank of Canada (2019), *Monetary Policy Report*, January. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2019/01/mpr-2019-01-09.pdf>.

⁷ OECD (2018), *OECD Economic Surveys, Canada, Key Policy Insights*, July. Viewed at: <http://www.oecd.org/eco/surveys/Canada-2018-economic-survey-key-policy-insights.pdf>.

tax planning strategies using private corporations, including limiting the benefits of passive investments held within private corporations.⁸ Budget 2018 also committed to introducing new gender budgeting legislation to enshrine gender budgeting in the Federal Government's budgetary and financial management processes. Through this legislation, the Canadian Gender Budgeting Act, Gender-based Analysis Plus (GBA+) will be applied to new budgetary decisions, and to the Government's tax expenditures and existing spending base.

1.16. During most of the period under review, Canada posted small federal government budgetary deficits. According to the Department of Finance, the Federal Government posted a budgetary deficit of CAD 19.0 billion in FY2017–18 (ending on 31 March 2018), equivalent to 0.9% of GDP, virtually unchanged from FY2016–17. This resulted from a 6.9% increase in revenues and a 6.4% increase in expenses from the prior year.⁹ Revenues totalled CAD 313.6 billion in FY2017/18: personal income tax revenues accounted for 49% of the total, followed by corporate income tax revenues (15.2%), General Sales Tax (GST) revenues (11.7%), other taxes and duties (5.4%, of which 1.7% corresponded to Customs import duties), employment insurance premiums (6.7%), and non-resident income tax revenues (2.5%). Other revenues, which include net income from enterprise Crown corporations and other government business enterprises, revenues from sales of goods and services, returns on investments, net foreign exchange revenues, and miscellaneous revenues, contributed 9.4% of revenues in FY2017/18. The revenue ratio as a percentage of GDP stood at 14.6% in FY2017/18, up from 14.4% in FY2016/17; the increase was mainly due to growth in personal and corporate income tax revenues and gains from enterprise Crown corporations.

1.17. Expenses amounted to CAD 332.6 billion in FY2017/18, of which transfer payments accounted for roughly two thirds. Other direct programme expenses accounted for 29.8% of total expenses. Transfers included major transfers to persons (28.2% of total expenses), major transfers to other levels of government (21.2%), and other transfer payments, which comprise transfers to Indigenous Peoples, assistance to farmers, students and businesses, support for research and development (R&D), and international assistance (14.2%). Public debt charges amounted to 6.6% of expenses in FY2017/18.

1.18. Throughout the review period, Canada also posted small provincial governments' operational deficits and a general government deficit, which includes federal, provincial, territorial, and local governments. The Canada and Quebec pension plans have exceeded 1% of GDP since 2016. In 2018, the IMF noted that the federal fiscal balance had improved but progress at the provincial level was more mixed.¹⁰

1.19. Canada's gross federal debt stood at some 44% of GDP in the third quarter of 2018, while net debt was slightly below 30%. General government debt amounted to some 113% of GDP. According to a recent report by the Parliamentary Budget Office, from the perspective of the government sector as a whole (that is, federal and subnational governments and public pension plans combined), current fiscal policy in Canada is sustainable over the long term. Relative to the size of the Canadian economy, total government net debt is projected to remain below its current level over the long term. However, the report considers that, for the sub-national government sector as a whole, current fiscal policy is not sustainable over the long term because of its effect on government debt accumulation as a share of the economy.¹¹

1.2.3 Monetary and exchange rate policy

1.20. The Bank of Canada's mandate is to conduct monetary policy to promote the economic and financial well-being of Canadians by keeping inflation low, stable and predictable. The Bank conducts a policy of inflation targeting. In 2016, the Government and the Bank of Canada renewed the

⁸ Government of Canada (2018), *Budget 2018*. Viewed at: <https://www.budget.gc.ca/2018/docs/plan/chap-01-en.html>.

⁹ Department of Finance (2018), *Annual Financial Report of the Government of Canada, 2017-2018*. Viewed at: <https://www.fin.gc.ca/afr-rfa/2018/afr-rfa18-eng.pdf>.

¹⁰ IMF (2018), *Canada: 2018 Article IV Consultation--Press Release; Staff Report; and Statement*. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2018/07/16/Canada-2018-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-46084>.

¹¹ Office of the Parliamentary Budget Officer (PBO) (2018), *Fiscal Sustainability Report 2018*. Viewed at: https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2018/FSR%20Sept%202018/FSR_2018_25SEP2018_EN_2.pdf.

inflation-control target for a further five-year period, ending 31 December 2021.¹² The target, as measured by the CPI, remains at the 2% midpoint of a control range of 1% to 3%. A 2% CPI increase rate is considered to be consistent with an economy operating close to potential output. Canada's inflation-targeting approach is symmetric: the Bank of Canada is equally concerned about inflation rising above or falling below the 2% target. It is also flexible, in the sense that the Bank generally seeks to return inflation to target over a horizon of six to eight quarters.

1.21. Acknowledging the volatility of certain CPI components, when setting monetary policy, the Bank focuses on a set of "core" inflation measures that better reflect the underlying trend of inflation. These measures act as an operational guide to help the Bank achieve the CPI inflation desired, but they are neither a target nor a replacement for CPI inflation.¹³

1.22. The Bank of Canada carries out monetary policy mainly by changing the target for the overnight or policy rates.¹⁴ The Bank of Canada last increased its target for the overnight rate to 1.75% in October 2018.¹⁵ The Bank Rate (lending) target was correspondingly set at 2%, and the deposit rate target at 1.5%. On 9 January 2019, the Bank decided to leave rates unchanged and, in its decision, noted that the policy interest rate needed to rise over time into a neutral range to achieve the inflation target.¹⁶ During 2018, the Bank gradually increased interest rates to reduce the monetary stimulus of the economy, hiking rates by 0.25 percentage points on three occasions, in January, July and October, so the monetary policy rate increased from 1% at the beginning of the year, to 1.75% at the end. The 2018 hikes followed two increases in July and September 2017, after the policy rate had remained unchanged for two years, between July 2015 and July 2017.

1.23. CPI inflation averaged 2.3% in 2018 and has remained within its target range of 1-3% throughout the review period (Table 1.1). However, total CPI inflation increased somewhat during 2018. Prices were up on an annual average basis in all eight major components in 2018, led by price increases in transportation and energy.¹⁷ Core inflation, however, has remained close to 2%.

1.24. Canada maintains a freely floating exchange rate system with no restrictions on currency conversion and transfers for current international transactions. Between 2013 and 2016, the Canadian dollar first strongly depreciated *vis-à-vis* the U.S. dollar (until early 2016), and the real effective exchange rate also depreciated by close to 20%, as a consequence of the strong U.S. economy, lower commodity prices, and weak domestic demand, particularly gross capital formation (Chart 1.3). The Canadian dollar fluctuated in 2017 and 2018, appreciating to USD 0.81 in September 2017 before depreciating to USD 0.74 in December 2018.

1.25. Canadian exporters have benefitted in recent years from a lower value of the Canadian dollar compared to major currencies such as the U.S. dollar and the euro. Their share of the global market for exports, however, has continued to erode, as losses of competitiveness were experienced in all categories of non-energy exports. Moreover, according to the Bank of Canada, rising trade tensions

¹² Bank of Canada (2019), *Monetary Policy Report*, January. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2019/01/mpr-2019-01-09.pdf>.

¹³ The measures of core inflation used by the Bank of Canada are: CPI-trim, which excludes CPI components whose rates of change in a given month are the most extreme; CPI-median, which corresponds to the price change located at the 50th percentile (in terms of basket weight) of the distribution of price changes; and CPI-common, which uses a statistical procedure to track common price changes across categories in the CPI basket. Bank of Canada (2018), *Monetary Policy Report*, October. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2018/10/mpr-2018-10-24.pdf>.

¹⁴ The overnight rate is the interest rate at which major financial institutions borrow and lend one-day (or "overnight") funds among themselves; the Bank of Canada sets a target level for that rate. This target for the overnight rate is often referred to as the Bank's "key interest rate" or "key policy rate". Changes in the target for the overnight rate influence other interest rates, such as those for consumer loans and mortgages. They can also affect the exchange rate of the Canadian dollar. Bank of Canada online information. Viewed at: <http://www.bankofcanada.ca/core-functions/monetary-policy/key-interest-rate/>.

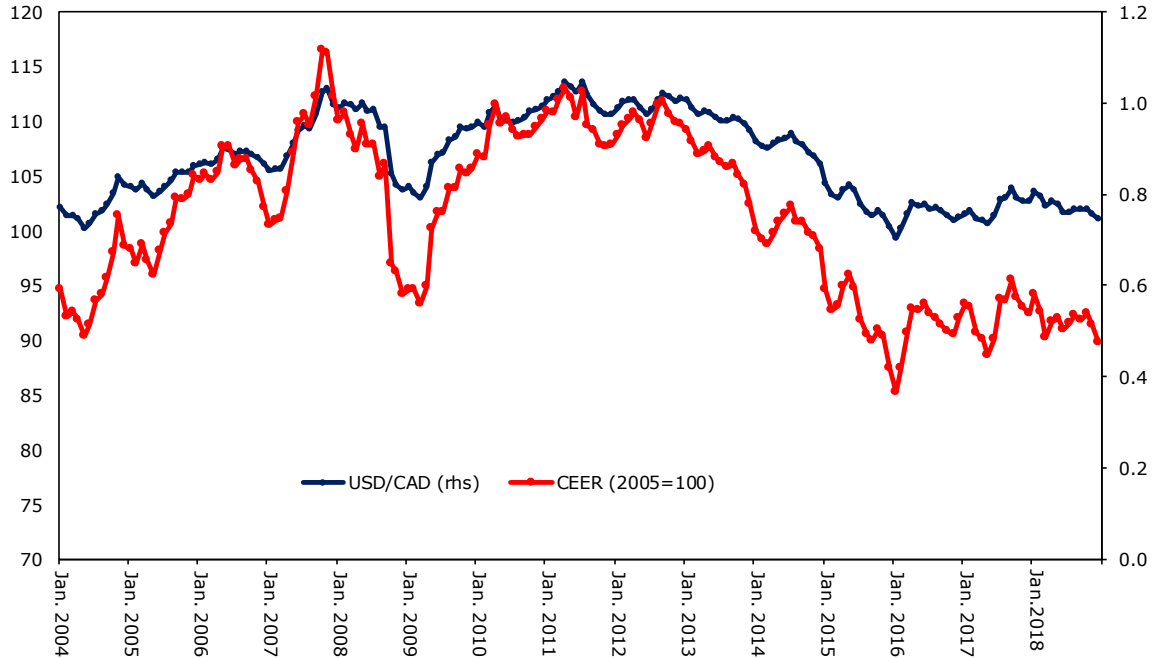
¹⁵ Bank of Canada (2018), *Bank of Canada increases overnight rate target to 1¾ per cent*. Press Release, 24 October 2018. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2018/10/fad-press-release-2018-10-24.pdf>.

¹⁶ Bank of Canada (2019), *Bank of Canada maintains overnight rate target at 1¾ per cent*, Press Release, 9 January 2019. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2019/01/fad-press-release-2019-01-09.pdf>.

¹⁷ Statistics Canada (2019), *Consumer Price Index: Annual review, 2018*, 18 January. Viewed at: <https://www150.statcan.gc.ca/n1/daily-quotidien/190118/dq190118c-eng.htm>.

and increased trade-policy uncertainty since 2017 likely dampened investment and export growth over that period.¹⁸

Chart 1.3 Canadian dollar exchange rate and Real Effective Exchange Rate (CEER), 2004-18



Source: WTO Secretariat, based on Bank of Canada data. Viewed at: <https://www.bankofcanada.ca/rates/exchange/>.

1.2.4 Balance of Payments

1.26. After the financial crisis of 2008-09, the traditional current account surplus of Canada's balance of payments turned into a persistent deficit, which peaked in 2015 and trended down since then, led by stronger services exports in 2016 and stronger goods exports in 2017 (Table 1.3). The deficit ranged between 2.4% and 3.5% as a percentage of GDP over the review period.

Table 1.3 Balance of payments, 2014-18

(CAD billion)

	2014	2015	2016	2017	2018
Current account	-47.8	-70.5	-64.9	-60.1	-58.7
Goods and services	-19.6	-50.1	-49.6	-50.4	-47.1
Goods	4.7	-24.6	-25.5	-24.6	-21.5
Services	-24.3	-25.5	-24.0	-25.8	-25.6
Exports of goods	529.3	524.0	521.5	549.5	585.6
Exports of services	98.3	103.8	109.7	114.2	120.5
Travel	19.6	21.2	24.0	26.4	28.4
Transportation	15.2	15.6	16.3	17.0	17.8
Other services ^a	63.5	67.1	69.4	70.8	74.3
Imports of goods	524.7	548.7	547.0	574.1	607.1
Imports of services	122.6	129.3	133.8	140.0	146.2
Travel	38.0	38.5	38.3	41.3	43.1
Transportation	25.0	26.4	27.0	28.7	31.5
Other services ^a	59.5	64.4	68.4	69.9	71.6
Primary income	-24.8	-16.3	-11.9	-6.9	-9.2
Secondary income	-3.4	-4.2	-3.4	-2.9	-2.4

¹⁸ Bank of Canada (2018), *Monetary Policy Report*, July. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2018/07/mpr-2018-07-11.pdf>.

	2014	2015	2016	2017	2018
Balance on capital account	0.4	-0.1	-0.1	-0.1	-0.1
Net lending / net borrowing, from current and capital account ^b	-47.4	-70.6	-65.0	-60.2	-58.8
Financial account^b	-46.7	-71.9	-65.6	-52.4	-48.9
Net acquisition of financial assets	149.5	210.9	197.2	229.3	156.3
Direct investment assets	72.4	106.5	90.0	107.0	70.4
Canadian portfolio investment	56.4	60.1	12.9	84.7	58.1
Official international reserves	5.9	10.9	7.5	1.1	-2.0
Other Canadian investment	14.8	33.4	86.8	36.6	29.7
Net incurrence of liabilities	196.2	282.8	262.8	281.7	205.2
Direct investment liabilities	71.0	76.3	45.0	35.6	56.4
Foreign portfolio investment	92.8	121.7	170.1	189.2	69.6
Other foreign investment	32.4	84.9	47.7	56.9	79.2
Discrepancy (net errors and omissions)	0.6	-1.3	-0.7	7.8	9.8

a Other services include both commercial services and government services.

b Net lending is shown as a plus sign, whereas net borrowing is shown as a minus.

Source: Statistics Canada, Tables 36-10-0014-01 and 36-10-0471-01.

1.27. Canada has posted a merchandise trade deficit since 2015, mainly reflecting lower commodity prices. This deficit is responsible for most of the deterioration of the current account in Canadian dollar terms. It is noteworthy that trade in services, both imports and particularly exports, has augmented sizeably. As a result, Canada's services balance deficit remained stable throughout the review period. Lower commodity prices and associated lesser returns and investment levels seem to also have had an effect on the primary income balance, which showed a declining deficit since 2014, with payments growing less rapidly than receipts, related to lower profit remittances.

1.3 Developments in Trade and Investment

1.3.1 Merchandise trade

1.28. Canada has long relied on trade as a driving force of its economy. One in six jobs are either directly or indirectly linked to exports.¹⁹ Canada is also heavily reliant on one major market for merchandise goods, and its exports are mainly automotive products, and energy and other mineral products. It is thus vulnerable to fluctuations of world commodity prices, in particular low crude oil and natural gas prices, whose fall in recent years have had a significant impact on the Canadian economy. Also, after 2014, steady increases in imports, along with softer growth in exports, caused the merchandise trade surplus to turn into a deficit.

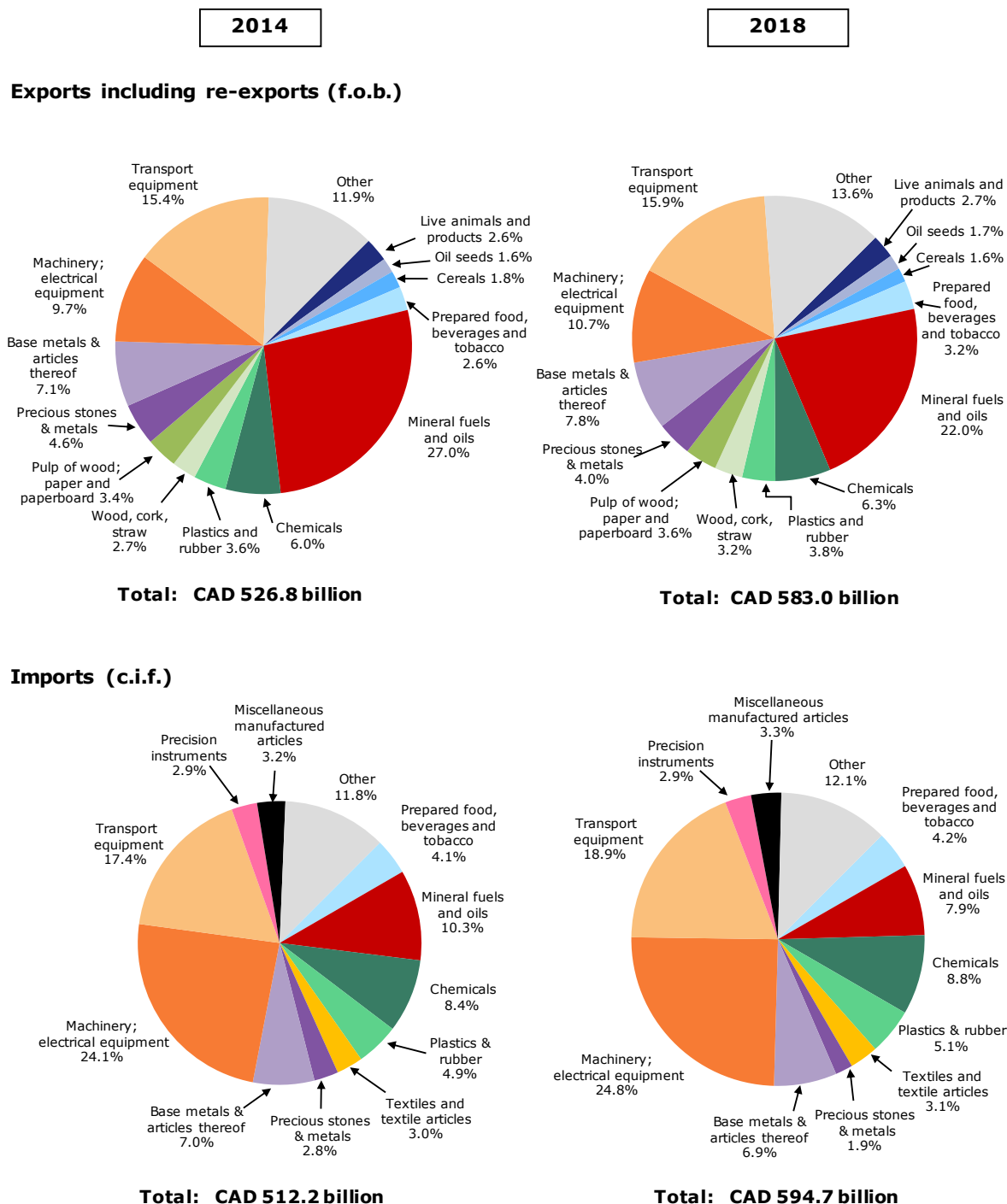
1.3.1.1 Composition of trade

1.29. Canada trades intensively and competitively, not only in primary commodities but also in intermediate and in high value-added products. The major exported products are mineral products (mainly energy), but their share decreased from 29% of total exports in 2014 to 24% in 2018, likely because of softer world prices. Vehicles and transport equipment (mainly automotive) come next; their share increased from 15% to 16% of total exports during the same period. Agricultural and agri-food products accounted about 11% of total exports in 2018 (Chart 1.4 and Table A1.1).

1.30. Imports are generally more concentrated than exports, with four main HS categories dominating, in particular machinery and mechanical appliances, and vehicles and transport equipment, with 25% and 19% respectively, reflecting the intensive intra-industry trade with the United States in these sectors. The next groups are chemical products, whose share increased from 8% to 9%, and mineral products (mainly energy), whose share declined from 11% to 9% under the effect of world price declines (Chart 1.4 and Table A1.2).

¹⁹ Calculated from Statistics Canada Table: 12-10-0100-01.

Chart 1.4 Product composition of merchandise trade by HS section, 2014 and 2018



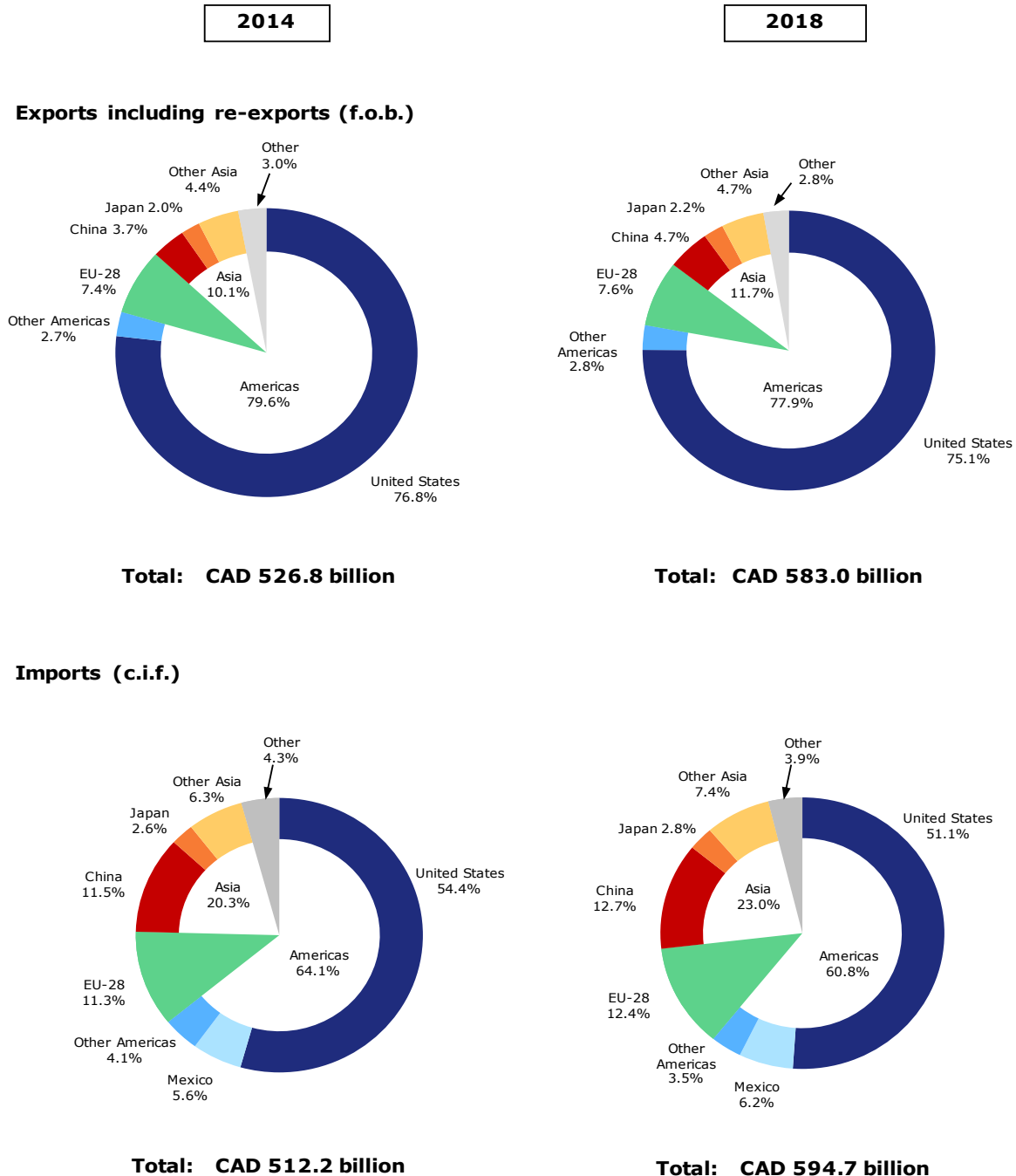
Source: WTO Secretariat calculations, based on information from the Government of Canada, Statistics Canada, and the Canada International Merchandise Trade Database; and Trade Data Online.

1.3.1.2 Direction of trade

1.31. The main developments in Canada's geographical distribution of merchandise trade were a slightly lower reliance on its major trading partner, the United States, which remains, however, by a large margin, its main trading partner, and an increase in two-way trade with China (Chart 1.5 and Tables A1.3 and A1.4). Imports from China that increased the most over the 2014-18 period belong to the groups of telephone sets, monitors and projectors; and headphones, earphones and

other similar equipment. Imports from Mexico also increased relative to the total, reflecting increased imports of motor vehicles for the transportation of goods, and their parts; the share of imports of motor vehicle and parts increased from 30% to 32% of total imports from Mexico, as the share of imports for motor vehicle parts rose from 6.5% to 7.7%.

Chart 1.5 Direction of merchandise trade, 2014 and 2018



Source: WTO Secretariat calculations, based on information from the Government, Statistics Canada, and the Canada International Merchandise Trade Database; and Trade Data Online.

1.3.2 Trade in services

1.32. The services sector is the largest contributor to Canada's economy, accounting for 70% of GDP during the period 2014-18. However, services exports, at CAD 120.5 billion in 2018 (Table 1.4), stand at about one-fifth the size of merchandise exports, and the country remains a net services importer; its trade deficit in services varied between CAD 24 billion and CAD 26 billion during the

review period, particularly in personal travel services, charges for the use of intellectual property, water and air transport services, and insurance services. There was strong growth in imports of financial services, from 5.6% to 8.3% of total imports of services.

1.33. Canada runs a trade surplus in several services sectors, including land transport services, telecommunications services, research and development services, professional and management consulting services, and technical, trade-related and other business services. Over the 2014-18 period, exports of personal travel services have expanded strongly, from 17% to 21% of total services exports.

Table 1.4 International transactions in services by sector, 2014-18

	CAD billion					Share of total (%)	
	2014	2015	2016	2017	2018	2014	2018
Services exports	98.3	103.8	109.7	114.2	120.5	100	100
Travel	19.6	21.2	24.0	26.4	28.4	20.0	23.6
Business travel	3.0	3.1	3.3	3.6	3.4	3.0	2.8
Personal travel	16.6	18.1	20.7	22.8	25.0	16.9	20.7
Transportation	15.2	15.6	16.3	17.0	17.8	15.4	14.7
Water transport	3.3	3.2	3.1	3.5	3.8	3.4	3.1
Air transport ^a	6.6	6.9	7.5	7.9	8.3	6.7	6.9
Land and other transport ^b	5.3	5.4	5.6	5.7	5.7	5.3	4.7
Commercial services	62.0	65.5	67.9	69.2	72.7	63.1	60.4
Maintenance and repair services	1.7	2.1	2.1	2.0	2.4	1.7	2.0
Construction services	0.6	0.6	0.3	0.3	0.3	0.6	0.2
Insurance services	1.7	1.7	1.8	2.0	2.2	1.7	1.8
Financial services	9.1	10.4	10.5	9.8	10.8	9.2	8.9
Telecommunications, computer, and information services	9.2	9.3	10.1	10.6	11.7	9.4	9.7
Charges for the use of intellectual property	5.3	5.2	5.3	5.6	6.2	5.3	5.1
Professional and management consulting services ^c	13.2	14.4	16.5	17.2	16.1	13.4	13.4
R&D services	6.0	5.8	6.5	6.7	6.7	6.1	5.6
Technical, trade-related and other business services ^d	12.9	12.9	11.4	11.7	13.0	13.2	10.8
Personal, cultural, and recreational services ^e	2.4	3.1	3.4	3.3	3.5	2.4	2.9
Government services	1.5	1.6	1.6	1.6	1.6	1.6	1.3
Services imports	122.6	129.3	133.8	140.0	146.2	100	100
Travel	38.0	38.5	38.3	41.3	43.1	31.0	29.5
Business travel	4.6	4.7	4.8	5.2	5.4	3.8	3.7
Personal travel	33.4	33.9	33.6	36.2	37.7	27.2	25.8
Transportation	25.0	26.4	27.0	28.7	31.5	20.4	21.5
Water transport	11.2	11.8	11.8	12.6	14.5	9.2	9.9
Air transport ^a	10.3	10.8	11.0	11.9	12.6	8.4	8.6
Land and other transport ^b	3.5	3.7	4.2	4.1	4.4	2.9	3.0
Commercial services	58.4	63.1	67.2	68.7	70.2	47.6	48.1
Maintenance and repair services	0.9	1.2	1.1	1.0	1.0	0.7	0.7
Construction services	0.6	0.5	0.3	0.3	0.3	0.5	0.2
Insurance services	4.7	4.9	4.9	4.9	5.4	3.8	3.7
Financial services	6.9	8.9	11.7	12.3	12.2	5.6	8.3
Telecommunications, computer, and information services	6.5	6.6	6.1	6.2	6.3	5.3	4.3
Charges for the use of intellectual property	12.9	13.7	15.2	15.4	15.3	10.6	10.4
Professional and management consulting services ^c	11.8	12.6	13.9	14.1	14.5	9.6	9.9
R&D services	1.6	1.6	1.4	1.3	1.6	1.3	1.1
Technical, trade-related and other business services ^d	10.3	10.8	9.8	10.0	10.3	8.4	7.0
Personal, cultural, and recreational services ^e	2.3	2.4	2.7	3.1	3.5	1.9	2.4
Government services	1.1	1.3	1.2	1.3	1.3	0.9	0.9

a Including international passenger fares by water.

b Including postal and courier services.

c Including management services and advertising and related services.

d Including architecture, engineering and other technical services, non-financial commissions, and equipment rentals.

e Including audio-visual services and other personal, cultural and recreational services.

Source: Statistics Canada, Table: 36-10-0021-01.

1.34. Canada's services trade is less concentrated on the U.S. market than its merchandise trade, with the U.S. accounting for about 53-55% of both exports and imports in 2018. The next largest trading partner in services is the European Union, with about 18% (Table 1.5). In general, the Government has been actively promoting trade in services both in the WTO and through a number of free trade agreements (FTAs), foreign investment promotion and protection agreements, and double taxation agreements (Section 2).

Table 1.5 International transactions in services by main partners, 2014-18

	Value in CAD billion					Share of total (%)	
	2014	2015	2016	2017	2018	2014	2018
Services exports	98.3	103.8	109.7	114.2	120.5	100.0	100.0
United States	54.2	58.3	61.5	63.7	66.6	55.2	55.2
EU-28	16.9	16.8	18.8	19.1	20.4	17.2	17.0
United Kingdom	6.2	6.0	6.5	6.3	7.0	6.3	5.8
France	2.7	2.6	3.1	3.3	3.3	2.7	2.8
Germany	2.3	2.0	2.3	2.4	2.3	2.3	1.9
China	2.6	2.7	3.4	3.8	3.7	2.6	3.1
Hong Kong, China	1.8	1.9	2.2	2.2	2.3	1.8	1.9
Switzerland	2.1	2.2	1.8	1.8	1.8	2.1	1.5
Australia	1.8	1.7	1.8	1.9	1.6	1.8	1.3
Japan	1.5	1.8	1.6	1.5	1.5	1.5	1.2
Mexico	1.0	1.1	1.3	1.5	1.4	1.0	1.2
India	0.8	0.8	0.9	1.0	1.0	0.8	0.8
Singapore	0.8	0.7	0.8	0.9	0.9	0.8	0.7
Services imports	122.6	129.3	133.8	140.0	146.2	100.0	100.0
United States	68.6	71.5	73.4	75.8	78.7	56.0	53.8
EU-28	21.4	22.8	24.4	26.0	27.7	17.5	19.0
United Kingdom	5.8	7.1	7.3	8.3	7.9	4.8	5.4
France	3.0	3.0	3.2	3.5	3.7	2.5	2.5
Germany	2.7	2.6	2.7	2.8	3.0	2.2	2.0
Hong Kong, China	3.9	4.1	4.2	4.5	4.9	3.2	3.4
Mexico	2.7	3.1	3.1	3.3	2.9	2.2	2.0
Japan	2.1	2.2	2.2	2.4	2.7	1.7	1.8
China	2.3	2.5	2.5	2.7	2.7	1.9	1.8
Singapore	1.7	1.9	1.9	2.0	2.2	1.4	1.5
Switzerland	1.3	1.3	1.6	1.6	1.6	1.0	1.1
India	1.1	1.3	1.4	1.4	1.4	0.9	1.0
Australia	1.1	1.0	1.1	1.1	1.1	0.9	0.7

Source: Statistics Canada, Table: 36-10-0024-01.

1.3.3 Trends and patterns in foreign direct investment

1.35. Between 2014 and 2017, Canada's stock of foreign direct investment (FDI) abroad has increased at the rapid pace of 10% per year, almost three times the rate of inward FDI. A large part of the increase was destined for the United States, which absorbed 45% of FDI stock abroad in 2017, up from 41% in 2014 (Table 1.6). A quarter of Canada's FDI abroad is located in Europe. Africa, Asia and South and Central America each host only a small share of the total.

1.36. During the review period, growth rates of inward FDI to Canada remained modest. Inward FDI increased most in new sectors, such as real estate, rental and leasing, and information and cultural industries. The United States increased its share of Canadian inward FDI to 49% of the total, whilst other regions generally recorded declines in market share. Europe, which is also a significant source of Canadian inward FDI, accounted for 35% of the inward stock in 2017 (Table 1.6).

1.37. The main sector of Canadian direct investment abroad is finance and insurance (a third of the total); followed by mining and oil and gas extraction; and management of companies and enterprises. The sectors with the fastest rate of expansion during the 2014-17 period were transportation and warehousing, and wholesale and retail trade (Table 1.7).

Table 1.6 International investment position by partner, 2014-17

	Value in CAD billion				Share of total (%)		Growth p.a. 2014-17 (%)
	2014	2015	2016	2017	2014	2017	
Direct investment abroad	845.2	1,043.8	1,083.7	1,121.1	100	100	9.9
North America	510.0	637.8	672.8	685.9	60.3	61.2	10.4
United States	346.5	448.3	481.4	504.8	41.0	45.0	13.4
Europe	215.5	271.4	267.7	288.4	25.5	25.7	10.2
EU-28	196.7	255.1	251.4	269.4	23.3	24.0	11.1
Asia/Oceania	63.9	73.0	79.7	83.6	7.6	7.5	9.4
South and Central America	52.4	57.1	56.5	55.9	6.2	5.0	2.2
Africa	3.3	4.4	7.0	7.3	0.4	0.6	29.6
Direct investment in Canada	744.7	782.9	808.7	824.0	100	100	3.4
North America	364.3	397.2	412.3	431.2	48.9	52.3	5.8
United States	351.8	369.5	388.3	404.5	47.2	49.1	4.8
Europe	275.9	282.9	296.6	288.9	37.0	35.1	1.5
EU-28	227.4	245.6	247.8	243.5	30.5	29.6	2.3
Switzerland	42.9	32.3	44.1	40.2	5.8	4.9	-2.2
Asia/Oceania	81.1	79.0	77.6	82.6	10.9	10.0	0.6
Japan	22.2	26.5	29.8	29.6	3.0	3.6	10.1
South and Central America	20.1	19.9	19.9	19.2	2.7	2.3	-1.6
Africa	3.2	4.0	2.4	2.2	0.4	0.3	-12.2

Source: Statistics Canada, Data Table 36-10-0008-01.

Table 1.7 International investment position by sector, 2014-17

	Value in CAD billion				Share of total (%)		Growth p.a. 2014-17 (%)
	2014	2015	2016	2017	2014	2017	
Canadian direct investment abroad	845.2	1,043.8	1,083.7	1,121.1	100	100	9.9
Finance and insurance	308.3	379.5	384.2	395.8	36.5	35.3	8.7
Mining and oil and gas extraction, of which:	173.7	188.1	185.3	175.7	20.6	15.7	0.4
Oil and gas extraction	63.2	64.9	63.7	58.8	7.5	5.2	-2.4
Mining (except oil and gas)	78.7	82.4	86.0	82.7	9.3	7.4	1.6
Support activities	31.8	40.8	35.6	34.2	3.8	3.1	2.4
Management of companies	106.3	138.3	134.0	140.9	12.6	12.6	9.8
Manufacturing, of which:	69.1	81.7	89.0	85.4	8.2	7.6	7.3
Transportation equipment manufacturing	17.0	16.2	21.6	21.9	2.0	2.0	8.8
Food manufacturing	8.8	14.3	12.6	12.8	1.0	1.1	13.2
Chemical manufacturing	10.0	12.8	13.4	9.5	1.2	0.8	-1.7
Transportation and warehousing	26.8	34.0	49.5	71.1	3.2	6.3	38.4
Real estate and rental and leasing	42.8	62.4	63.3	63.2	5.1	5.6	13.9
Information and cultural industries	35.3	40.9	45.6	49.0	4.2	4.4	11.5
Utilities	21.0	27.6	31.4	32.1	2.5	2.9	15.3
Professional and technical services	18.7	28.5	26.8	31.5	2.2	2.8	18.8
Wholesale trade	11.6	20.5	27.0	25.5	1.4	2.3	30.0
Retail trade	6.6	8.9	9.5	13.2	0.8	1.2	26.3
FDI in Canada	744.7	782.9	808.7	824.0	100	100	3.4
Manufacturing, of which:	198.3	181.1	176.7	176.2	26.6	21.4	-3.9
Petroleum and coal products manufacturing	55.0	52.1	51.5	43.4	7.4	5.3	-7.6
Chemical manufacturing	29.4	28.3	33.6	36.6	4.0	4.4	7.5
Food manufacturing	23.4	22.3	22.1	25.4	3.1	3.1	2.7
Management of companies	123.5	158.8	167.4	170.9	16.6	20.7	11.4
Mining and oil and gas extraction, of which:	174.1	168.8	175.1	162.2	23.4	19.7	-2.3
Oil and gas extraction	122.5	133.5	136.5	119.9	16.5	14.5	-0.7
Mining (except oil and gas)	36.9	21.1	24.4	28.2	5.0	3.4	-8.5
Support activities	14.7	14.3	14.3	14.1	2.0	1.7	-1.4
Finance and insurance	99.3	115.9	126.8	137.0	13.3	16.6	11.3
Wholesale trade	55.0	61.9	68.7	74.7	7.4	9.1	10.7
Retail trade	38.5	31.1	34.3	35.8	5.2	4.3	-2.4
Professional and technical services	11.6	24.2	19.3	17.4	1.6	2.1	14.6
Real estate and rental and leasing	7.2	10.2	11.1	13.4	1.0	1.6	23.2
Transportation and warehousing	7.8	8.8	7.2	10.4	1.0	1.3	10.2
Information and cultural industries	5.5	5.8	7.0	8.9	0.7	1.1	17.2

Source: Statistics Canada, Table 36-10-0009-01.

2 TRADE AND INVESTMENT REGIMES

2.1 General Framework

2.1. Canada is the second largest country in the world, with an area of 9.98 million km², but is sparsely populated, with a population of 37 million people, or 3.7 people per km², as at 2018.¹ It possesses an abundance of natural resources, including forests, minerals and metals, and energy reserves which are important to trade as they account for 47% of merchandise exports.² Canada also possesses vast water reserves, which account for about 9% of its total area, including wet lands, freshwater, rivers, and glaciers. Its territory is divided into ten provinces and three territories, plus its territorial sea.

2.2. Canada is a constitutional monarchy and parliamentary democracy, with the Queen as Head of State, the Governor General as the Queen's representative and formal head of the Government, and the Prime Minister as the effective head of the Government.³ The Constitution is comprised of the Constitution Act, 1867, the Canada Act, 1982, the Constitution Act, 1982, and other acts, orders and amendments referred to in the schedule to the Constitution Act, 1982. The Constitution distributes legislative authority between the Parliament of Canada and the Legislatures of the provinces. There are three levels of government, the federal, the provincial or territorial, and the municipal (the territorial and municipal levels exercising authority delegated by the federal and provincial governments, respectively), each with their own or shared responsibilities (Table 2.1).⁴ Trade and international treaties are under federal jurisdiction, although some matters covered by international trade agreements, such as agriculture and fishing, have shared jurisdiction between the Federal Government and the provinces/territories. Canada has a number of Indigenous populations that are referred to as First Nations, Métis and Inuit communities and have their own governance bodies. The judicial system has a largely unitary structure, with federal and provincial/territorial courts; the courts have more than one level, i.e. lower courts, superior courts and courts of appeal.⁵ The Supreme Court of Canada is the highest, and is the final court of appeal; it hears cases from both the Federal Court of Appeal, the courts of appeal of the provinces and territories, and the Court Martial Appeal Court.⁶

Table 2.1 Government jurisdiction

Federal jurisdiction	Provincial jurisdiction	Shared jurisdiction between federal and provincial	Municipal
International trade and international relations	Public lands and forests	Agriculture	Libraries
Plenary power of taxation (both direct and indirect)	Health system	Companies and economic development	Parks
Postal service	Municipal institutions	Prisons and justice	Community water systems
Defence	Property and civil rights	Fishing	Local police
Fiscal and monetary policy	Education	Public works (health and safety)	Roads and parking
Indigenous affairs	Business licences	Transportation and communication	
Criminal law	Resource ownership and management	Immigration	
Residual powers	Direct taxes	Environmental protection	
Foreign affairs		Energy, mining, and forest management	

¹ Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/n1/daily-quotidien/180927/dq180927c-eng.htm>.

² Natural Resources Canada online information. Viewed at: https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/files/10_key_facts_NatResources_2018_e.pdf.

³ Government of Canada online information. Viewed at: <https://www.canada.ca/en/immigration-refugees-citizenship/services/new-immigrants/learn-about-canada/gouvernement.html>.

⁴ See also previous reports WT/TPR/S/246/Rev.1 and WT/TPR/S/314/Rev.1.

⁵ Department of Justice online information. Viewed at: <https://www.justice.gc.ca/eng/csi-sic/just/07.html>.

⁶ Supreme Court of Canada online information. Viewed at: <https://www.scc-csc.ca/court-cour/role-eng.aspx>.

Federal jurisdiction	Provincial jurisdiction	Shared jurisdiction between federal and provincial	Municipal
Fisheries		Financial services	
Shipping, railways, and telephones		Pipelines	
Science and technology			

Note: This list is non-exhaustive.

Source: The Constitution of Canada; information provided by the authorities; and Parliament of Canada online information. Viewed at: https://lop.parl.ca/About/Parliament/Education/ourcountryourparliament/html_booklet/division-powers-e.html.

2.3. One of the main developments during the period under review was the replacement of the long-standing Agreement on Internal Trade (AIT) with a new agreement, the Canadian Free Trade Agreement (CFTA), as Canada's main internal trade agreement, on 1 July 2017. Canada's internal trade had been governed by the AIT since 1995, and while it had undergone regular amendment, its replacement by the CFTA brought about more widespread and in-depth changes. The main objective of the CFTA is to "reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investments within Canada and to establish an open, efficient, and stable domestic market".⁷ The main benefits are: the creation of more jobs and business opportunities; an improvement in the alignment of rules and regulations; and an increase in competitiveness, support of innovation, and expansion of business opportunities for Canadian suppliers to government.⁸

2.4. Compared to its predecessor, the CFTA has wider coverage, incorporating almost all economic activities, i.e. it covers the energy sector and most of the services sectors.⁹ It furthermore deepens the coverage on government procurement, as all provincial and territorial governments have made more meaningful commitments. In the area of domestic regulation, it has provisions on reducing regulatory differences, and establishes a mechanism for regulatory cooperation. The CFTA also strengthens dispute settlement procedures, increases alignment with international obligations, and includes provisions on environmental protection and labour mobility.¹⁰ While considerable progress has been made in reducing internal barriers through the CFTA, a number of policies remain in place that could impede inter-provincial trade, such as those for alcoholic beverages and in the transport sector. A number of committees and working groups were established under the CFTA to address these remaining barriers, including the Regulatory Reconciliation and Cooperation Table, a committee of senior-level representatives responsible for overseeing the CFTA's regulatory reconciliation and cooperation mechanisms, and the Alcoholic Beverages Working Group.

2.5. While the CFTA is the main agreement covering internal trade, there are a number of agreements in place between certain provinces or territories.¹¹ Some of these cover subjects similar to those in the CFTA or international trade agreements, such as public procurement, standards, etc., while others concern subjects such as development and the economy.

2.2 Trade Policy Formulation and Objectives

2.6. For Canada, international trade is seen as essential to increasing the country's economic competitiveness, in order to create well-paying jobs and drive economic growth. Canada's trade policy since 2015 is based on two core priorities, elaborated as part of the annual plan of the department of Global Affairs Canada¹²: 1) diversifying international trade and foreign direct investment, with a view to increasing economic opportunity and 2) the pursuit of an inclusive approach to trade focused on the inclusion of transparency, labour rights, the environment, small

⁷ CFTA online information. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-Consolidated-Text-Final-Print-Text-English.pdf>.

⁸ CFTA online information. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-top-five-benefits-backgrounder.pdf>.

⁹ CFTA online information. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-general-backgrounder.pdf>.

¹⁰ CFTA online information. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-general-backgrounder.pdf>.

¹¹ CFTA online information. Viewed at: <https://www.cfta-alec.ca/trade-enhancement-agreements/>.

¹² Government of Canada online information. Viewed at: https://www.international.gc.ca/gac-amc/publications/plans/dp-pm/dp-pm_1819.aspx?lang=eng#2.

and medium-sized enterprises (SMEs), gender, and Indigenous peoples in trade and investment agreements, which aim to ensure that the benefits of trade are shared more broadly.

2.7. Over the course of the review period, the Government set out a number of specific trade-related objectives to advance its trade priorities, which are set out in the mandate letters of relevant federal ministers, including the Minister of International Trade Diversification, the Minister of Foreign Affairs and the Minister of Agriculture.¹³ These include: leading efforts to deepen trade and commerce between Canada and the United States; working to enhance North America's global competitiveness; positioning Canada as a top destination for global investment; engaging with emerging markets, especially in the Asia-Pacific region; promoting Canadian agricultural interests; improving support to companies looking to export, particularly SMEs; and ensuring alignment between Canada's export and innovation strategies. These mandates are in various stages of implementation.

2.8. Diversifying trade is essential to Canada's continued economic prosperity and competitiveness. Canada recently unveiled the new Export Diversification Strategy, with the goal of increasing overseas exports by 50% by 2025. Building on trade diversification initiatives already underway, the Strategy aims to assist Canadian businesses – of diverse sizes and sectors – to maximize their growth by capitalizing on more economic opportunities abroad, particularly in markets covered by FTAs, such as the CETA and the CPTPP. The Strategy will support export growth and diversification by investing in the transportation infrastructure that links Canada to global markets; providing Canadian businesses with resources to develop and implement effective export strategies; and enhancing trade services for Canadian exporters.

2.9. Canada is pursuing an inclusive approach to trade that seeks to ensure that more Canadians can take advantage of the opportunities that flow from trade and investment. This approach is informed by ongoing dialogue with a broad range of Canadians, to align trade policy priorities with the interests of all Canadians. In its trade agreements, Canada is building on past achievements by improving labour and environment protections, and pursuing new chapters, focused on cooperation and information-sharing, designed to improve the capacity and conditions of underrepresented groups, in particular women, owners of SMEs and Indigenous peoples, to access and benefit from the opportunities created by trade agreements.

2.10. The promotion of gender equality is a Government of Canada-wide mandate. Gender equality is emphasized through Canada's feminist foreign policy and is an important part of its inclusive approach to trade. Canada acknowledges that trade can affect men and women differently as workers, business owners, and as members of society. Canada is working to reduce barriers to the participation of women in international trade, including by conducting wide-reaching analysis to better understand gender-related effects of trade. This includes expanding its impact assessment (IA) process with respect to the negotiation of an FTA with Mercosur, to include, for the first time, labour and gender, which will be used to inform Canada's position in these negotiations. This will include conducting a Gender Based Analysis Plus (GBA+) of the Agreement in order to analyse the potential effects of the FTA on gender and diversity within Canada. Canada has publicly committed to publish a summary of the GBA+ initial report online for comment. Canada is also expanding the coverage of gender-related issues in trade agreements, through measures such as the introduction of Trade and Gender chapters into its modernized FTAs with Chile and Israel, issuing a Trade and Gender Joint Recommendation under its FTA with the EU, and pursuing chapter-specific provisions in FTAs, like those on the elimination of employment discrimination in its Labour Cooperation Agreements and Labour chapters of its FTAs.

2.11. Trade and Gender chapters concluded to date focussed on cooperation activities and the sharing of best practices, in order to increase the participation of women in international trade, in addition to provisions relating to the sharing of methods and procedures for the collection of sex-disaggregated data, the use of indicators, and the analysis of gender-focused statistics related to trade. Lastly, Canada has been very active in promoting its work on addressing gender-related issues internationally, including at the WTO. For example, it helped draft and promote the Joint Declaration on Trade and Women's Economic Empowerment at the 11th WTO Ministerial Conference in December 2017 and hosted the first seminar under this Declaration in March 2018 on Gender-Based Analysis and Trade.

¹³ Government of Canada online information. Viewed at: <https://www.international.gc.ca/gac-amc/priorities-priorites.aspx?lang=eng>.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.12. Canada continues its active engagement with the WTO on a number of levels. During the review period, Canada was active in the regular work of the WTO committees, negotiations, dispute settlement, monitoring, and plurilateral initiatives. It also played a leadership role by chairing WTO bodies and promoting initiatives such as trade and gender in the WTO, as well as through its work on WTO reform. Canada has played a leading role in the efforts to improve and strengthen the WTO, with a focus on the notifications and committee work, safeguarding the dispute settlement system, and updating the WTO agreements to reflect 21st century realities.¹⁴

2.13. Canada passed legislation to implement the WTO Trade Facilitation Agreement (TFA) on 12 December 2016 and notified the WTO of its acceptance on 16 December 2016.¹⁵ Also, Canada completed the procedures and implemented its commitments under the ITA Expansion during the period under review.¹⁶

2.14. In terms of negotiations, Canada along with a number of other countries, submitted a communication to the Negotiating Group on Market Access regarding facilitating SME trade.¹⁷ Dispute settlement has been another area of its engagement with the WTO. During the review period, Canada was increasingly active with disputes, especially compared to the activity during the previous four-year period. It was involved as a complainant in 6 cases, as a respondent in 6 cases, and as a third party in 39 cases (Table A2.1).

2.15. Canada has been exemplary in terms of meeting its notification requirements during the period (Table A2.2). Notifications were made regularly across WTO disciplines.

2.3.2 Regional and preferential agreements

2.16. Canada's imports under reciprocal and unilateral preferential regimes remain significant, with 18.6% of 2017 imports being imported under these regimes, although it has fallen since the last Review. MFN duty-free imports remain the largest category, with about 65% of total imports; MFN dutiable imports are at 16%. Compared to the previous Review, Canada saw a number of shifts, as trade under reciprocal agreements fell from 24% of the total to 18%, and trade under unilateral preferences declined from 3.8% to 0.6% of total trade. The fall in unilateral preferential imports can largely be attributed to the January 2015 graduation of 72 higher-income or trade-competitive countries from the General Preferential Tariff (GPT) scheme, and the decline in reciprocal trade can be attributed to the liberalization of certain MFN tariffs¹⁸, leading to higher MFN duty-free imports.

2.3.2.1 Reciprocal trade agreements

2.17. Canada continued to pursue reciprocal FTAs during the period of review, as part of its trade diversification agenda. As at 1 January 2019, Canada was a party to 14 FTAs. Over the course of the review period, its most significant reciprocal FTA, according to trade volume, continued to be NAFTA, which accounted for about 94% of FTA imports in 2017, reflecting the ongoing importance of the United States as Canada's leading trading partner (Table 2.2). Since 2015, three new Agreements have been provisionally applied or entered into force: the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), the Canada-Ukraine Free Trade Agreement (CUFTA), and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).¹⁹ With the addition of these, in particular the CPTPP, Canada will have a number of trading partners where more than one reciprocal or unilateral agreement will apply. According to the

¹⁴ WTO documents JOB/GC/201, 24 September 2018 and JOB/GC/211, 14 December 2018.

¹⁵ TFA Facility online information. Viewed at: <http://www.tfafacility.org/ratifications>.

¹⁶ WTO document WT/Let/1205, 25 October 2016.

¹⁷ WTO document TN/MA/W/144/Rev.3, 27 October 2017.

¹⁸ See Section 3.1.3, in particular final stage implementation of certain machinery and equipment, a broad range of agri-food processing inputs, and ITA products.

¹⁹ The CETA has been provisionally applied since 21 September 2017, the CUFTA entered into force on 1 August 2017, and the CPTPP entered into force on 30 December 2018 for Canada and five other CPTPP members.

authorities, these will continue to be applied simultaneously, with potentially overlapping provisions, and traders may choose to apply the more advantageous regime.

2.18. The CETA has been described as a progressive and comprehensive trade agreement. It quickly became Canada's third largest bilateral agreement (as of 2017) in terms of trade volumes (Table 2.2) and covers about 98% of EU tariff lines on goods, meaning that Canada's exports to the European Union will face very few tariffs upon full implementation. It has chapters covering trade remedies, SPS, TBT, trade facilitation, subsidies, investment, services, competition policy, government procurement, IP, and a number of other disciplines. According to the authorities, Canada has already seen an improvement since the entry into force of the Agreement, as two-way trade in goods and services increased.²⁰

Table 2.2 Overview of FTA trade, 2017

(CAD million)

FTA partner	Entry into force	Imports total	of which: MFN duty-free	FTA	Total exports	Trade balance
Chile	5 July 1997	2,035	1,814	175	885	-1,150
Colombia	15 August 2011	985	828	128	746	-240
Costa Rica	1 November 2002	516	459	4	159	-357
CPTPP ^a	30 December 2018	56,723	33,528	n.a.	24,534	-32,189
EFTA	1 July 2009	6,912	5,978	708	4,121	-2,791
EU-28	21 September 2017 ^b	67,238	49,385	1,128	41,658	-25,580
Honduras	1 October 2014	383	210	95	43	-340
Israel	1 January 1997	1,287	1,011	217	451	-837
Jordan	1 October 2012	101	6	81	74	-28
NAFTA	1 January 1994	324,140	199,681	95,437	422,197	98,057
Republic of Korea	1 January 2015	8,705	4,307	3,374	5,302	-3,403
Panama	1 April 2013	11	10	0	151	140
Peru	1 August 2009	1,799	1,735	52	711	-1,088
Ukraine	1 August 2017	112	86	4	268	156

n.a. Not applicable, as no FTA trade occurred.

a CPTPP includes Australia, Japan, New Zealand, Mexico, Singapore and Viet Nam. Thus, there is overlap with other FTA partners.

b Provisionally applied as at 21 September 2017.

Note: "MFN duty-free" covers all trade entering at MFN duty-free rates; calculations were based on imports entering Canada by different tariff regimes. In dataset provided by the authorities, any imports which were coded as preferential treatment but corresponded to MFN duty-free treatment were treated as "MFN duty-free treatment".

Source: WTO Secretariat calculations, based on information from the Government, Statistics Canada, and Canada International Merchandise Trade Database; and the WTO IDB.

2.19. The CPTPP entered into force for Canada, Australia, Japan, Mexico, New Zealand, and Singapore on 30 December 2018, and for Viet Nam on 14 January 2019.²¹ For the remaining signatories (Brunei Darussalam, Chile, Malaysia, Peru), the CPTPP will enter into force 60 days after they have notified of the completion of their ratification procedures. The CPTPP has been described as a comprehensive and modern agreement, covering virtually all aspects of trade and investment, and includes binding chapter commitments in new areas such as the environment and labour. According to the authorities, the CPTPP preserves the high level of ambition negotiated in the Trans-Pacific Partnership (TPP), both with respect to rules and market access, and incorporates the majority of those provisions by reference, with the exception of 22 provisions that are suspended from application upon entry into force of the CPTPP and can only be lifted by consensus among the Parties. The CPTPP also includes a number of bilateral binding or non-binding side letters between Parties that have allowed Canada to individualize the Agreement's outcomes where required to address specific needs. For example, the letters clarify the scope of the Agreement (e.g. culture), address product and service specific issues (e.g. rules of origin, tariff phase out), or establish bilateral specific rules outcomes (e.g. SPS, GIs). Canada's implementing legislation for the CPTPP

²⁰ Government of Canada online information. Viewed at: https://www.international.gc.ca/gac-amic/campaign-campagne/ceta-aecg/year_one-premiere_annee.aspx?lang=eng.

²¹ Information provided by the authorities.

was contained in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation Act, SC 2018, c.23 and has also been notified to the WTO.²²

2.20. During the review period, Canada was also active in updating and expanding existing FTAs in order to modernize certain FTA provisions. The modernized Canada-Chile FTA entered into force on 5 February 2019, while implementing legislation for the modernized Canada-Israel FTA was introduced in Parliament.²³ According to Canada, these amended Agreements have now been updated to include a number of inclusive trade elements, such as provisions on labour, the environment, trade and gender, SMEs, etc.²⁴ Other existing provisions on issues such as SPS, TBT, government procurement, and investment have also been improved in the FTA with Chile.²⁵ The modernized Canada-Chile FTA represents a first for Canada, with the inclusion of a dedicated chapter on Trade and Gender, with a similar chapter also since added to the Canada-Israel FTA.

2.21. On 30 November 2018, Canada, the United States and Mexico signed an agreement, known as the Canada-United States-Mexico Agreement (CUSMA) for Canada, which will replace the NAFTA when it enters into force.²⁶ Canada had a number of negotiating objectives for CUSMA, including: preserving important NAFTA provisions and market access into the United States and Mexico; modernizing and improving the agreement; and reinforcing the security and stability of market access into the United States and Mexico for Canadian businesses. As at February 2019, CUSMA parties were working to advance their domestic procedures towards the ratification and implementation of the Agreement.

2.22. During the review period, Canada also engaged in new negotiations toward comprehensive FTAs. In June 2017, the Pacific Alliance (Chile, Colombia, Mexico, and Peru) invited Canada, along with Australia, New Zealand and Singapore, to become Associated States, which requires the Pacific Alliance to negotiate separate FTAs with each of the four candidate Associated States. Canada was also negotiating a comprehensive FTA with Mercosur, for which negotiations were launched in March 2018. Canada has also held FTA negotiations with India and initiated exploratory discussions for possible FTAs with ASEAN and China during the review period.

2.3.2.2 Unilateral preferential regime

2.23. Canada continues to have three main regimes providing unilateral preferences to developing and least-developed countries: the General Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT), and the Commonwealth Caribbean Country Tariff (CCCT). The three regimes are implemented through the Customs Tariff. There were no significant changes to the programmes since the last Review, except for some rules of origin amendments to the LDCT (Section 3.1.2). As at January 2019, 119 countries or territories were benefitting from one or more regime (Table A2.3).

2.24. Canada's GPT is its long-standing programme to help promote industrialization of developing countries through offering autonomous and non-reciprocal tariff preferences, modelled on UNCTAD's Generalized System of Preferences (GSP). It has been implemented through approximately ten-year cycles, through the Customs Tariff, with the last renewal commencing in July 2014. On 1 January 2015, Canada modernized the GPT by graduating 72 higher-income or trade-competitive countries or territories.²⁷ The GPT provides duty-free treatment to more than 80% of tariff lines, with exceptions mainly in the agricultural, apparel and footwear sectors.

²² Canada's implementing legislation for the CPTPP is contained in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation Act, SC 2018, c.23, received Royal Assent on 25 October 2018 and came into force on 30 Dec. 2018. WTO documents WT/REG395/N/1 and S/C/N/920.

²³ Status as at February 2019.

²⁴ Global Affairs Canada online information. Viewed at: <https://www.canada.ca/en/global-affairs/news/2018/05/minister-champagne-welcomes-modernized-canada-israel-free-trade-agreement.html>.

²⁵ Global Affairs Canada online information. Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/background-contexte.aspx?lang=eng>.

²⁶ Government of Canada online information. Viewed at: <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/index.aspx?lang=eng>.

²⁷ Algeria; American Samoa; Antigua and Barbuda; Netherland Antilles; Argentina; Azerbaijan; Bahamas; Bahrain; Barbados; Bermuda; Bosnia and Herzegovina; Botswana; Brazil; Brunei; Cayman Islands; Chile; China; Colombia; Costa Rica; Croatia; Cuba; Dominica; Dominican Republic; Ecuador; Equatorial Guinea; French Polynesia; Gabon; Gibraltar; Grenada; Guam; Hong Kong, China; India; Indonesia; Iran;

2.25. The LDCT has been in operation since 1983, to provide preferential access to LDCs to aid and encourage their economic growth. It was expanded in 2003 to cover over 98% of tariff lines – all goods from LDCs except certain dairy, poultry, and egg products. Developments since the last Review include new rules of origin amendments, allowing more apparel products to qualify from LDCs (Section 3.1.2).²⁸

2.26. Canada's CCCT scheme emanates from the Caribbean-Canada Trade Agreement (CARIBCAN), an economic and trade assistance programme dating from 1986 designed to benefit Caribbean countries. It provides duty-free access to most products except for textiles, apparel, and certain agricultural goods. There were no major changes to the CCCT scheme during the review period. At present, Canada has a WTO waiver in place for the implementation of these tariff preferences.²⁹

2.3.3 Other agreements and arrangements

2.27. Canada also maintains certain other preferential tariffs, as implemented through its Customs Tariff, for certain products from Australia and New Zealand. These preferences emanate from the Canada Australia Trade Agreement (CANATA) that was established in 1960 and further amended in 1973; and the Trade Agreement Between Canada and New Zealand of 1932, respectively.³⁰ As at 2018, there were 333 preferential tariff lines³¹ for Australia and 338 for New Zealand in Canada's tariff schedule.³² These Agreements have not been notified to the WTO.

2.28. Canada has been one of the parties involved in the Trade in Services Agreement (TISA) negotiations since they were launched in 2013. The negotiations, which are being conducted among 23 WTO Members, are to further liberalize trade in services, both through improved market access and by enhancing specific disciplines.³³ The latest round of negotiations took place in December 2016.³⁴

2.29. Trade and Economic Cooperation Arrangements (TECAs) and Trade and Investment Cooperation Arrangements (TICAs) are two other types of arrangements Canada has entered into that have certain trade and/or investment provisions. At present, there are seven TECAs or TICAs in force.³⁵

2.4 Investment Regime

2.30. Foreign direct investment, like trade, continues to be an important part of the economy, with direct investment abroad amounting to over CAD 1 trillion in 2017, equivalent to slightly over 50% of Canada's GDP. Furthermore, Canada has the highest FDI-to-GDP ratio among the G7 countries.³⁶ Since the last Review, Canada continued to attract FDI from abroad and increased outward Canadian direct investment. However, there was stronger growth in outward investment compared to inward investment, leading to a gap of almost CAD 300 billion in 2017 between outward and inward FDI stock. Canada stepped up efforts to improve its FDI attractiveness during the period by creating a one-stop shop for foreign investment through the creation of Invest in Canada (Section 2.4.4), and

Israel; Jamaica; Jordan; Kazakhstan; Kuwait; Lebanon; Macao, China; North Macedonia; Malaysia; Maldives; Mariana Islands; Mauritius; Mexico; Namibia; New Caledonia and Dependencies; Oman; Palau; Panama; Peru; Qatar; Russian Federation; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Seychelles; Singapore; South Africa; Republic of Korea; Suriname; Thailand; Trinidad and Tobago; Tunisia; Turkey; Turks and Caicos Islands; United Arab Emirates; Uruguay; Bolivarian Republic of Venezuela; and the Virgin Islands.

²⁸ Regulation SOR/2017-127 and Memorandum D11-4-4.

²⁹ WTO document WT/L/958, 30 July 2015.

³⁰ Global Affairs Canada online information. Viewed at: <https://www.treaty-accord.gc.ca/details.aspx?id=100545>.

³¹ Both duty-free and reduced rates.

³² Canada's Customs Tariff 2019. Figures exclude in-quota tariff lines.

³³ Global Affairs Canada online information. Viewed at: <http://international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/services/tisa-acr.aspx?lang=eng#a>.

³⁴ Government of Canada online information. Viewed at: www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/index.aspx?lang=eng.

³⁵ TECAs with Australia, Iceland, Norway, and Switzerland; and TICAs with the Andean Community, South Africa, and MERCOSUR. Global Affairs Canada online information. Viewed at: http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/other_agreements-autres_accords.aspx?lang=eng.

³⁶ Global Affairs Canada online information. Viewed at: <http://www.international.gc.ca/economist-economiste/invest/invest-Canada.aspx?lang=eng>.

by eliminating the formal approval procedures for many potential investments by raising the investment review threshold levels. However, there were no recent changes to remove long-standing foreign investment restrictions, except for the raising of the allowed foreign-ownership percentage in the airline sector (Section 2.4.3).

2.4.1 Framework

2.31. The investment framework consists of the Investment Canada Act (ICA), 1985, which is the main law governing foreign investment in Canada; bilateral investment treaties, known as Foreign Investment Promotion and Protection Agreements (FIPAs); and a number of FTAs that have provisions or dedicated chapters on investment.

2.32. The ICA continues to be the main investment law for reviewing foreign investment into Canada; it has been amended several times, including recently to liberalize the net benefit review threshold and add national security review transparency.³⁷ The stated purpose of the law is "...to provide for the review of significant investments in Canada by non-Canadians in a manner that encourages investment, economic growth and employment opportunities in Canada and to provide for the review of investments in Canada by non-Canadians that could be injurious to national security". Basically, it requires that all non-Canadians³⁸ that wish to establish or acquire control of a Canadian business either file a notification or an application for review to the relevant authorities, unless an exemption applies. The ISED has the main responsibility for the law, except for the net benefit review of foreign investments in the cultural sector, for which the Department of Canadian Heritage has oversight. The Regulations Respecting Investment in Canada and the National Security Review of Investments Regulations prescribe time-periods and other particulars on the review process. Guidelines and interpretive notes were also issued on process matters, to provide guidance to investors.³⁹

2.33. The ICA requires that certain investments by non-Canadians be notified or reviewed for their likely net economic benefit to Canada. The "net benefit" assessment factors are set out in the law. The requirement for review is based on a threshold, which is dependent on the type or origin of the investment and is updated every year (Box 2.1). Only acquisitions of control of Canadian businesses that exceed the prescribed dollar-value threshold are subject to the net benefit review requirement and must be approved by the minister responsible before implementation. For acquisitions of Canadian businesses that do not surpass the relevant monetary threshold, only a notification is required. In addition, the ICA contains rules and procedures to protect national security, and potential investments of any size are subject to review for their potential injury to national security. The national security review of investments can result in prohibition of the investment, divestment of control, or authorization of the investment subject to conditions to protect national security.

2.34. There have been five amendments to the ICA since the last Review entered into force, two in 2015, two in 2017 and one in 2018. The amendments introduced in June 2017, pursuant to the Budget Implementation Act, accelerated the anticipated increase in the threshold for private-sector WTO investors to CAD 1 billion, two years ahead of schedule.⁴⁰ The same Act also improved transparency, and imposed public reporting requirements on the Government regarding national security reviews, so that the Government discloses and reports on the process in a similar manner as under the net benefit reviews. The other amendment introduced in 2017 was a result of the CETA Implementation Act, which raised the threshold for private-sector CETA investors to CAD 1.5 billion.⁴¹ As a result of this amendment and MFN provisions, some of Canada's other FTA partners also received the same threshold.⁴² The 2015 changes were regulatory, and set the gradual increase in the threshold for private-sector WTO Members over a four-year period, that was subsequently accelerated in the 2017 amendment, and operationalized the concept of "enterprise value" to capture the value of intangible assets in the valuation of businesses.⁴³ The Act was also

³⁷ ICA, R.S.C., 1985, c. 28 (1st Supp.). Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/I-21.8/index.html>.

³⁸ Not a Canadian citizen or a permanent resident.

³⁹ Government of Canada online information. Viewed at: <https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/home>.

⁴⁰ Bill C-44.

⁴¹ Bill C-30.

⁴² See footnote in Box 2.1 for the list of FTAs for which Parties receive the higher threshold.

⁴³ See below discussion on the change to enterprise value from asset value.

amended as part of the CPTPP implementation at the end of 2018, to extend the trade agreement investor threshold to those partners.

2.35. Another development was the issuance of the 2016 Guidelines on the National Security Review of Investments, to provide guidance on the national security review process set out in Part IV.1 of the ICA.⁴⁴ The Guidelines, for the first time, set out a non-exhaustive list of factors that the Government will take into consideration during the assessment of a national security risk. They also give further clarification on timing and filing procedures and encourage potential investors to engage with government officials early in the process.

Box 2.1 Investment thresholds, 2019

Private-sector investors from WTO Members	CAD 1.045 billion
SOE enterprises from WTO Members	CAD 416 million
Private-sector trade agreement investors ^a	CAD 1.568 billion
Non-WTO member investments	CAD 5 million (direct investment) CAD 50 million (indirect transaction)
Investments in a cultural business	CAD 5 million (direct investment) CAD 50 million (indirect transaction)

a Applies only to the following agreements: Canada-Chile, Canada-Colombia, Canada-Honduras, Canada-Korea, Canada-Panama, Canada-Peru, the CETA, the CPTPP, and NAFTA.

Source: Government of Canada online information. Viewed at: https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_1k00050.html#p1; and information provided by the authorities.

2.36. Pursuant to the rules set out in the ICA for notification or net benefit review of covered investments, the number of notifications and review applications of foreign investments over the past four years increased slightly, albeit with a slight decline during FY 2015-16, which subsequently rebounded (Table 2.3). Likewise, the value of the notifications and applications also steadily increased, although part of this may be attributed to a change in reporting value.⁴⁵ Investments subject to a net benefit review remain relatively small in number, e.g. only 22 out of a total of 737 investment transactions in FY 2016-17 and 9 in FY 2017-18. In terms of sectors, manufacturing and natural resources generally accounted for the largest value of investments subject to ICA filing requirements during the review period.⁴⁶ Investments from the United States continued to be the largest source of the filings, and typically accounted for slightly more than 50% of the total. EU countries accounted for the second largest number, or about 25%, and the remaining 25% was accounted for by all other countries. In FY 2016-17, China accounted for the third largest number of filings.⁴⁷ National security review orders remained few during the review period, with between one and five issued during any one fiscal year since 2014.

2.37. As at December 2018, Canada had in place 37 FIPAs in order to promote or protect investments of investors of one party in the territory of the other.⁴⁸ On 19 May 2018, the Canada-Ecuador FIPA was terminated by Ecuador, and has not been replaced. The obligations of the

⁴⁴ Government of Canada online information. Viewed at: https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_1k00066.html.

⁴⁵ Amendments in 2015 introduced the concept of "enterprise value" for determining the threshold for net benefit reviews of direct investments by WTO Member private-sector investors. However, establishment of new businesses, direct investments by state-owned or non-WTO investors to acquire control of a Canadian business, and indirect investments by any investor continue to be measured by asset value. Asset value is based on the value of the assets according to the business' financial statements (book value), whereas enterprise value is a calculation that takes into account market value, debt and cash.

⁴⁶ Annual Reports, Investment Act Canada. Viewed at: https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_1k81126.html.

⁴⁷ Annual Reports, Investment Act Canada. Viewed at: https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_1k81126.html.

⁴⁸ FIPAs are in force with: Argentina; Armenia; Barbados; Benin; Burkina Faso; Cameroon; China; Costa Rica; Côte d'Ivoire; Croatia; Czech Republic; Egypt; Guinea; Hong Kong, China; Hungary; Jordan; Kosovo; Kuwait; Latvia; Lebanon; Mali; Mongolia; Panama; Peru; the Philippines; Poland; Romania; Russian Federation; Senegal; Serbia; Slovak Republic; Tanzania; Thailand; Trinidad and Tobago; Ukraine; Uruguay; and the Bolivarian Republic of Venezuela. Government of Canada online information. Viewed at: <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/index.aspx?lang=eng>.

FIPA continue to apply for an additional 15 years for existing investments. Since the last Review, new FIPAs have entered into force with Burkina Faso; Cameroon; Côte d'Ivoire; Guinea; Hong Kong, China; Kosovo; Mali; Mongolia; Senegal; and Serbia. As at December 2018, Canada had completed negotiations with another 7 countries⁴⁹ that had not yet entered into force and negotiations were ongoing with another 14.⁵⁰ Canada generally conducts FIPA negotiations on the basis of a model template. Recently-concluded FIPAs typically have provisions on national treatment, MFN, minimum standard of treatment, compensation for losses, performance requirements, expropriation, transparency, subrogation, taxation, dispute settlement, health, safety, and environmental measures, etc. Recent developments in FIPAs included expanded articles on the settlement of disputes between an investor and the Host Party. In August 2018, Canada launched a public consultation process to make FIPAs more inclusive and progressive, as part of its aim to develop a more inclusive trade agenda.⁵¹ The aim of the consultations was to obtain the views of Canadians and key stakeholders on how the FIPA could better support SMEs and Indigenous groups and advance other objectives, such as gender equality. These consultations were concluded in October 2018, and work on a revised model is ongoing, with a view to having a new model agreement in 2019.

Table 2.3 ICA statistics, 2014-18, fiscal year basis

(Number, unless otherwise indicated)

	2014/15	2015/16	2016/17	2017/18
ISED				
Investment filings	719	641	737	751
• Value of filings (asset and enterprise value, CAD billion)	42.36	56.71	71.40	102.78
Notifications	704	626	715	742
• Value of notifications (asset and enterprise value, CAD billion)	20.58	29.83	41.03	67.64
Review applications	15	15	22	9
• Value of applications (asset and enterprise value, CAD billion)	21.78	26.88	30.37	35.13
National security reviews ^a	4	1	5	2
• resulting in divestiture	1	1	3	0
• permitted with conditions imposed	2	0	2	0
• blocked	1	0	0	1
• withdrawal	0	0	0	0
Department of Canadian Heritage ^b				
Automatic reviews	3	6	9	9
Notifications	11	22	16	17
Discretionary reviews	0	0	0	1
Monitoring of previously-approved investments	14	17	14	13
Interpretive opinions	0	0	1	1

a Under section 25.3 of the ICA.

b Cultural business activities that fall within the purview of the Minister of Canadian Heritage for the ICA include: the publication, distribution or sale of books, periodicals, magazines or newspapers in print or machine readable form, which means the Act may also be applied to digital and audio versions; the production, distribution, sale or exhibition of film or video recordings (including video games); the production, distribution, sale or exhibition of audio or video music recordings; and the publication, distribution or sale of music in print or machine readable form. The phrase "music in print" means that the Act applies to sheet music.

Source: Annual Reports, Investment Act Canada. Viewed at: https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk81126.html and [https://www.ic.gc.ca/eic/site/ica-lic.nsf/vwapj/2017-18ICAAnnualReport.pdf/\\$file/2017-18ICAAnnualReport.pdf](https://www.ic.gc.ca/eic/site/ica-lic.nsf/vwapj/2017-18ICAAnnualReport.pdf/$file/2017-18ICAAnnualReport.pdf). Government of Canada online information. Viewed at: <https://www.canada.ca/en/canadian-heritage/corporate/publications/plans-reports/departmental-results-report-2017-2018/report-administration-investment-canada-act.html#a6a> and <https://www.canada.ca/en/canadian-heritage/corporate/publications/plans-reports/departmental-performance-report-2014-2015/main-report/report-administration-investment-canada-act.html>.

⁴⁹ Albania, Bahrain, Madagascar, Moldova, Nigeria, United Arab Emirates, and Zambia.

⁵⁰ Democratic Republic of Congo, Gabon, Georgia, Ghana, India, Kazakhstan, Kenya, Mauritania, Mozambique, North Macedonia, Pakistan, Qatar, Rwanda, and Tunisia.

⁵¹ Government of Canada online information. Viewed at: <http://www.international.gc.ca/trade-commerce/consultations/fipa-apie/index.aspx?lang=eng>.

2.38. Canada's FTAs have also increasingly become important for providing an investment framework. As at February 2019, the country had 12 FTAs in force that contained investment chapters.⁵² The recent CETA Investment Chapter provides more comprehensive coverage of investment than earlier agreements and differs notably from previous Canadian FTAs in both structure and content. This Agreement raised the investment threshold to CAD 1.5 billion, which, in turn, raised the threshold for private-sector investors in existing FTAs to the same level, due to MFN provisions. Furthermore, it will establish a permanent tribunal and appellate body for the resolution of investment disputes. It also includes provisions for a mediation mechanism to resolve investment disputes. The recent CPTPP also includes innovative provisions relating to investment. In addition to raising the investment threshold to CAD 1.5 billion, as in CETA, the CPTPP's investment provisions include a new exception, allowing the Parties to dismiss investor-state dispute settlement (ISDS) claims that challenge a tobacco control measure as well as novel obligations limiting the Parties' ability to impose performance requirements relating to technology.

2.4.2 Policy

2.39. The Government has worked to create an open, rules-based investment regime that facilitates FDI in Canada. As discussed earlier, during the review period, Canada increased the net benefit review thresholds under the ICA and introduced new national security transparency. Furthermore, as part of its functions and mandate, the newly-created Invest in Canada Hub is expected to promote Canada as a top destination for global investment and develop an economic brand; it is also to develop and implement a national strategy to attract FDI to Canada.

2.40. One of the areas Canada has been working on in recent years is to improve the ISDS process as it forms an integral part of its FIPAs and FTAs, by enhancing the transparency of the system, and by reaffirming the rights of governments to regulate in the public interest. As part of this process, investor-state dispute procedures in FIPAs and FTAs have become more detailed and more transparent.

2.41. A public consultation process on FIPAs was launched in 2018, in order to modernize them and seek input on their content (Section 2.4.1).⁵³

2.42. In 2017, the Canadian Advisory Council on Economic Growth conducted a survey and study on improving the environment for investment based on input from the private sector.⁵⁴ Canadian businesses rated Canada low with respect to the regulatory environment, costs, and taxes. As such, the report made a number of recommendations, in particular to establish an agile regulatory system, modernize the tax system through a targeted review, and expand certain advisory or support programmes.⁵⁵

2.43. In response to this report and other input from stakeholders, Budget 2018 outlined the Government's commitment to a regulatory reform agenda with a series of announcements. The November 2018 Fall Economic Statement then launched additional initiatives. As a result of these, the Government committed to a number of regulatory improvements, for example targeted reviews of regulations to address bottlenecks to innovation and economic growth in key sectors. With regard to modernizing the tax system through a targeted review, as proposed by the Advisory Council, this has not been undertaken. However, the Fall Economic Statement introduced certain accelerated depreciation measures in order to encourage business investment in Canada (Section 1).⁵⁶

⁵² UNCTAD online information. Viewed at: <https://investmentpolicyhub.unctad.org/IIA/AdvancedSearchBITResults>; and information provided by the authorities.

⁵³ Global Affairs Canada online information. Viewed at: <https://www.canada.ca/en/global-affairs/news/2018/08/minister-carr-launches-public-consultation-on-foreign-investment-promotion-and-protection-agreements.html>; and Government of Canada online information. Viewed at: http://www.international.gc.ca/trade-commerce/consultations/fipa-apie/privacy-confidentialite.aspx?lang=eng&_ga=2.231537823.1414648944.1537438189-1644062425.1536830157.

⁵⁴ Advisory Council on Economic Growth online information, *Investing in a Resilient Canadian Economy*. Viewed at: <https://www.budget.gc.ca/aceg-ccce/pdf/investing-in-a-resilient-canadian-economy-eng.pdf>.

⁵⁵ Advisory Council on Economic Growth online information, *Investing in a Resilient Canadian Economy*. Viewed at: <https://www.budget.gc.ca/aceg-ccce/pdf/investing-in-a-resilient-canadian-economy-eng.pdf>.

⁵⁶ Government of Canada online information. Viewed at: <https://www.budget.gc.ca/fes-eea/2018/docs/statement-enonce/fes-eea-2018-eng.pdf>.

2.4.3 Restrictions

2.44. The economy is generally open to foreign investment, and Canada has taken further steps to remove burdens for investors, such as raising the thresholds that subject investments to review. However, there remain long-standing barriers to investment in a number of sectors (Table 2.4). These include key sectors in the economy, such as mining, transport, and cultural industries. There were some improvements in the transport sector since the last Review. In order to allow for more competition in the domestic market, foreign ownership rules for airlines were liberalized through the Transportation Modernization Act.⁵⁷ Through this legislation, non-Canadians may now own up to 49% instead of just 25% of the voting interests of a Canadian air carrier providing passenger or all-cargo air services, with some safeguards (see Table 2.4).

2.45. According to the OECD Restrictiveness Index from 2017, Canada ranks 33rd out of 36 countries in terms of openness to FDI.⁵⁸ However, Canada undertook a number of measures in the last few years to improve its overall investment climate and attractiveness to FDI as described elsewhere in this sub-section. It is noted that Canada ranks much higher in other rankings, such as the A.T. Kearney Foreign Direct Investment Confidence Index, having moved up three places to second rank in the 2018 Index, its highest ranking in the history of the ranking.⁵⁹

Table 2.4 Foreign investment restrictions, 2019

Industry sector	Provision	Reference
Fishing	Only Canadians or Canadian-controlled corporations are permitted to obtain fishing licences. However, the regulations specify that the Minister may issue a licence to a foreign fishing vessel for certain purposes.	Coastal Fisheries Protection Act
Uranium mining	Foreign ownership of uranium mining properties is limited to 49%, with the possibility of being exempted from the Policy.	Non-Resident Ownership Policy in the Uranium Mining Sector
Air transport	Foreign ownership of airlines is limited to 49%. Notwithstanding the 49% ownership limit, there are two safeguards: no more than 25% of the voting interests can be owned directly or indirectly by any single non-Canadian; and no more than 25% of the voting interests can be owned by one or more non-Canadians authorized to provide air services in any jurisdiction.	Canada Transportation Act, as amended by the Transportation Modernization Act
Oil sands	Minister of ISED Canada will find the acquisition or control of a Canadian oil sands business by a foreign State-Owned Enterprise to be of net benefit to Canada on an exceptional basis only.	Investment Canada Act Policy Statement
Telecommunications	Foreign investment in a facilities-based telecommunications service supplier is restricted to 20% direct investment and 33.3% indirect investment. Restrictions do not apply to satellite and sub-sea facilities, and do not apply to providers with less than a 10% revenue share of the telecommunications market.	Telecommunication Act
Broadcasting	Foreign ownership of broadcasting programming and distribution undertakings is limited to 20% of the voting shares, in the case of operating corporations. Additionally, the CEO and 80% of the Board of Directors must be Canadian. In the case of holding corporations, foreign ownership is limited to 33 1/3% of the voting shares and there are no restrictions on the nationality of the CEO and board members. However, a non-Canadian parent corporation and its directors must not control or influence any programming decisions of the broadcasting undertaking.	Broadcasting Act

⁵⁷ Justice Laws online information, *Transportation Modernization Act, Bill C-49, S.C. 2018, c. 10*. Viewed at: https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2018_10/page-1.html.

⁵⁸ OECD online information, *FDI Restrictiveness*. Viewed at: <https://data.oecd.org/fdi/fdi-restrictiveness.htm>.

⁵⁹ A.T. Kearney online information. Viewed at: <https://www.atkearney.com/foreign-direct-investment-confidence-index/full-report>.

Industry sector	Provision	Reference
Cultural industries:		
Book publishing and distribution	Foreign investment in new businesses is limited to Canadian-controlled joint ventures, and foreign acquisition of existing businesses is allowed under certain conditions.	ICA
Periodical publishing	Foreign acquisitions of Canadian-owned and Canadian-controlled periodical publishing businesses are not permitted. Foreign investment in the periodical publishing sector is allowed under certain conditions.	ICA
Film distribution	Foreign acquisition of a Canadian-controlled distributor is not allowed. Foreign investment in new distribution businesses is allowed under certain conditions.	ICA

Source: WTO Secretariat, based on information provided by the authorities.

2.4.4 Incentives and promotion

2.46. An important development during the review period was the creation of Invest in Canada, a departmental corporation that aims to increase Canada's ability to attract and facilitate high-impact FDI and the jobs that come with it. Launched in March 2018, the Government is providing CAD 145 million over five years to create the organization, which promotes Canada as a premier investment destination and helps accelerate global investment. Invest in Canada works closely with Global Affairs Canada's Trade Commissioner Service (TCS) to support foreign investors to establish or expand their operations in Canada and leverage increased TCS expertise.

2.47. The Government is also providing CAD 55 million over five years, and an additional CAD 14 million ongoing, to Global Affairs Canada to increase the TCS' capacity to promote Canada as an investment destination in strategic markets around the world. The TCS continues its role in helping companies penetrate foreign markets by promoting Canada's economic, trade, and investment interests. It operates over 160 trade offices in Canada and around the world, offering a global network that provides market intelligence and related business services.

2.48. One of the government programmes to attract FDI is the Invest Canada-Community Initiatives (ICCI) contribution programme, which has been in operation since 2006.⁶⁰ The ICCI provides funds to Canadian communities that wish to improve their capacity to attract, retain and expand FDI, with the overall goals of creating jobs, stimulating innovation, and increasing exports. The programme does not give direct incentives to businesses, rather it provides contributions to non-profit partnerships with local communities. These grants, or contributions, range from CAD 3,000 to CAD 300,000 for a period of one year, based on a competitive application process; total government support cannot exceed 50% of eligible expenses.⁶¹ For 2019, the ICCI programme is supporting 85 organizations across Canada, with CAD 5.3 million in funding provided by the Federal Government.⁶²

2.49. The Foreign Trade Zones – Marketing Program (FTZ-MP) was a pilot programme designed to market Canada's foreign trade zone (FTZ) advantage and attract FDI. It provided financial support to regional organizations and non-profit organizations to promote local FTZ-type benefits linked to strategic locations across the country. The FTZ-MP pilot ended on 31 March 2018.

2.50. The "Invest in Canada" webpage provides information on various incentive programmes to potential investors. It lists more than 800 incentive programmes across Canada that cover a wide range of assistance, such as grants, loans, guarantees, tax refunds and credits, wage subsidies, equity investments, etc.⁶³ Many of these are general incentives open to all businesses, both in Canada and to potential investors, while others are targeted at specific industries, regions, minorities, etc. Very few provide incentives specifically to attract foreign direct investors. However,

⁶⁰ The Canadian Trade Commissioner Service online information. Viewed at: <http://www.tradecommissioner.gc.ca/funding-financement/icci-icic/about-icci-propos-icic.aspx?lang=eng>.

⁶¹ The Canadian Trade Commissioner Service. Viewed at: <http://www.tradecommissioner.gc.ca/funding-financement/icci-icic/faq-document.aspx?lang=eng>.

⁶² The Canadian Trade Commissioner Service. Viewed at: <http://www.tradecommissioner.gc.ca/funding-financement/icci-icic/154730.aspx?lang=eng>.

⁶³ Invest in Canada online information. Viewed at: https://www.investcanada.ca/incentives#business_tool.

the Investment Attraction Fund of the Department of Tourism, Culture, Industry and Innovation of the Province of Newfoundland and Labrador provides customized financial assistance to attract large-scale businesses and FDI to the province.⁶⁴ The financial assistance is awarded to inward investors for establishing a business in the province or expanding a business as a result of FDI, after making a successful application and meeting certain criteria.

⁶⁴ Tourism, Culture, Industry and Innovation of the Province of Newfoundland and Labrador online information. Viewed at: https://www.tcii.gov.nl.ca/invest/invest_attr_fund.html.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

3.1. The Customs Act¹ and its implementing regulations, *inter alia*, the Reporting of Imported Goods Regulations² and the Transportation of Goods Regulations³, provide the main framework for import procedures in Canada. During the review period, there were no significant amendments to the Customs Act, but there were several changes and clarifications with respect to, *inter alia*, regulations concerning reporting requirements resulting from the implementation of the Advance Commercial Information (ACI) programme. Moreover, the Canada Border Services Agency (CBSA) issued several Customs Notices and D-Memoranda⁴ regarding new initiatives such as the Single Window Initiative (SWI) and Phase 1 of the CBSA Assessment and Revenue Management (CARM).

3.2. The CBSA is responsible for implementing customs procedures. Importers of commercial goods must be registered with the CBSA to obtain a business number from the Canada Revenue Agency (CRA) to open an import/export account. This account is free of charge. Importers may use a licensed customs broker⁵ to transact with the CBSA, but they remain responsible for the accounting documentation and for payments of duties and taxes. Importers must provide proof of origin, which may be in the form of a commercial invoice, a Canada Customs Invoice, a Form A, a Certificate of Origin, an Exporter's Statement of Origin, or any other documentation that indicates the country of origin of the goods. Each tariff treatment requires specific proof of origin as set out in regulations.⁶ The CBSA has the authority to examine shipments randomly, to verify compliance with respect to origin, tariff classification, and value for duty of imported goods.⁷ Advance rulings for tariff classification and origin under a free trade agreement (FTA), and National Customs Rulings for valuation and origin (non-FTAs) are issued by the CBSA upon request.⁸ All commercial goods must be reported to the CBSA using a Cargo Control Document or the Electronic Data Interchange (EDI) system.

3.3. For the release of imported merchandise, either of two methods may be followed. The first method is through the full accounting of documents and the payment of duties for the release of the goods. The import documentation requirements for this method remain broadly as in Canada's previous Review, including two copies of Form A8A-B, the Cargo Control Document (CCD), two copies of Form CI1, the Canada Customs Invoice (or the commercial invoice that contains the data), and a paper copy of all import permits, certificates, licences, or required documents from other government departments and agencies, or an electronic copy for EDI participants.⁹ Alternatively, importers and licensed customs brokers can obtain the release of goods prior to the payment of duties through the Release on Minimum Documentation (RMD).¹⁰ To take advantage of the RMD, the importer must follow an application process, which includes posting an approved amount of security with the CBSA. This option, which is generally used by established importers with high import volumes, requires the electronic transmission of RMD release requests using the EDI system, with certain exceptions.

¹ Customs Act (R.S.C., 1985, c. 1 (2nd Supp.)), last amended on 21 June 2018. The CBSA's mandate is governed by the Canada Border Services Agency Act (S.C. 2005, c. 38), last amended on 10 February 2007.

² The Reporting of Imported Goods Regulations (SOR/86-873), last amended on 24 October 2015.

³ Transportation of Goods Regulations (SOR/86-1064), last amended on 24 October 2015.

⁴ The D-Memoranda provide a series of guidelines, regulations, policies, and procedures on CBSA-related issues. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/menu-eng.html>.

⁵ Customs Act, Section 9; and CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/services/cb-cd/>.

⁶ CBSA online information. Viewed at: <https://cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-2-eng.html>.

⁷ Customs Act, Section 42.01.

⁸ Customs Act, Section 43.1(1)(c); and CBSA online information. Viewed at: <http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-11-1-eng.html>.

⁹ CBSA online information. Viewed at: https://www.cbsa-asfc.gc.ca/import/release-dedouanement-eng.html#p214_17746.

¹⁰ The RMD allows importers to obtain the release of their goods by presenting data for interim accounting. Full accounting data and payment are not required at the time of release but are required within certain time-frames. CBSA online information. Viewed at: https://cbsa-asfc.gc.ca/import/release-dedouanement-eng.html#p214_17746.

3.4. Section 12.1(1) of the Customs Act mandates the cargo carrier to provide advance cargo information (ACI) for all cargo it is responsible for on board that conveyance. The implementation of the ACI/eManifest programme was the most significant change to customs procedures during the period under review.¹¹ The ACI programme aims at enhancing the CBSA's capacity to undertake pre-arrival risk assessments of goods arriving to Canada, as well as to facilitate trade. The programme became operational in all modes of transportation (i.e. air, marine, rail, and highway) after the eManifest requirements for all highway and rail shipments became legally binding in July 2015.¹² When fully implemented, all commercial clients (i.e. carriers, freight forwarders, and importers) will be required to provide CBSA officers with electronic pre-arrival information: ACI/eManifest requirements are currently mandatory for carriers in all modes, and for freight forwarders in air and marine modes, but there are no mandatory importer time-frames for any mode (Table 3.1). The transition period of the eManifest programme continued for freight forwarders after the CBSA decided to delay the mandatory implementation date in May 2017 (i.e. no penalties for non-compliance).¹³ As of January 2019, importers were not yet covered in the eManifest programme.

3.5. ACI/eManifest's commercial reporting requirements and time-frames for submitting required documentation differ depending on the mode of transportation and the type of commercial client (Table 3.1).¹⁴ In addition, transmitting an electronic Conveyance Arrival Certificate Message (CACM) prior to arrival became mandatory for air, marine, and rail carriers; and a Warehouse Arrival Certification Message (WACM) for operators of all types of CBSA-licensed sufferance warehouses in May 2015.¹⁵ Certain types of importations may be exempt from the requirement for pre-arrival information, in cases such as: a Customs Self-Assessment (CSA) approved shipment; approved shipments valued at less than CAD 2,500, under the Courier Low Value Shipment (LVS) programme for CBSA's approved couriers; and vehicles and equipment for use in emergency situations.¹⁶ Even if exempted from advance electronic information requirements, all goods imported into, or moving in-transit through, Canada must be reported to the CBSA at the first port of arrival. Pre-arrival information must be transmitted electronically through the EDI or the eManifest Portal. The latter, available for highway carriers and freight forwarders, was originally intended for use primarily by small to medium-sized businesses.¹⁷ The eManifest Portal is not used by rail, air or marine carriers. However, it is used by freight forwarders in all modes.

Table 3.1 Time-frames for submission of pre-arrival information by mode and commercial client

(√ mandatory; Δ not yet mandatory, no penalties for non-compliance as of January 2019; X not mandatory)

Mode	Timeframe	Type of information by commercial client		
		Carriers	Freight forwarders	Importers
		Cargo and conveyance information (including in-transit shipments)	Secondary information (including house bills in bond and in-transit shipments)	Advance electronic trade data
Marine	24-96 hours, depending on the type and origin of goods	√	√	X

¹¹ The ACI programme was introduced in three separate phases: the marine mode (2004), the air mode (2006), and the eManifest.

¹² Canada Gazette online information. Viewed at: <http://www.gazette.gc.ca/rp-pr/p2/2015/2015-05-06/html/sor-dors90-eng.html>.

¹³ CBSA Customs Notice CN 17-15.

¹⁴ The Reporting of Imported Goods Regulations; the Memoranda-D3 (transportation) series, namely D3-2-1 (air); D3-4-2 (highway); D3-5-1 (marine); and D3-6-6 (rail).

¹⁵ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/prog/aci-manif-ipecc/menu-eng.html>. The electronic CACM must be transmitted by registered participants using an EDI method, after the commercial conveyance arrives in Canada. In the case of the marine mode, the CACM must be transmitted when the marine vessel lands at a CBSA office upon arrival in Canada. The CACM can be transmitted and received by the CBSA within a two-hour window prior to arrival, conditional on the vessel being within Canadian waters at the time the arrival request is submitted to the CBSA. In the case of the air mode, the CACM must be transmitted without delay after the aircraft that is transporting the cargo is cleared to land at an airport in Canada. For the rail mode, the CACM must be transmitted electronically up to 30 minutes in advance of the actual arrival of the conveyance at the Canadian border.

¹⁶ Detailed are prescribed in the Memoranda D-3 series: Memoranda D3-2-1 (air); D3-4-2 (highway); D3-5-1 (marine); and D3-6-6 (rail).

¹⁷ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/prog/manif/portal-portal-eng.html>.

Mode	Timeframe	Type of information by commercial client		
		Carriers	Freight forwarders	Importers
Air	4 hours prior to arrival, or at the time of departure if the flight is less than 4 hours in duration	√	√	X
Rail	2 hours prior to arrival	√	Δ	X
Highway	1 hour prior to arrival	√	Δ	X

Source: Information compiled by the WTO Secretariat, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/prog/aci-manif-ipecc/menu-eng.html>; the Reporting of Imported Goods Regulations; and the Memoranda-D3 (transportation) series.

3.6. In addition to the ACI programme, the CBSA continued to facilitate the movement of goods by providing streamlined border processes through various programmes, including with Canada's key trading partners, especially the United States¹⁸, as noted in the previous Review. These programmes include the Free and Secure Trade Program (FAST), the Commercial Driver Registration Program (CDRP), the Release Prior to Payment (RPP) Privilege, and Warehousing (Table 3.2). Since the last Review, the CBSA has rolled out two new initiatives to facilitate trade, namely the Single Window Initiative (SWI), and Phase 1 of the CBSA Assessment and Revenue Management (CARM). Also, the Cargo Control and Sufferance Warehouse Modernization (CCSWM) initiative was subject to a few changes in procedures and rules.

Table 3.2 Main CBSA trade facilitation and border security programmes

Programme	Description	Eligibility
Trade Facilitation Programmes		
Commercial Driver Registration Program (CDRP)	The CDRP provides commercial drivers with access to an expedited border crossing, simplifies the declaration process (e.g. paying duties and taxes), and extends participation in other programmes such as FAST (see below). The CBSA periodically reviews an approved driver's application/vehicle to ensure compliance with CDRP requirements.	Citizens or permanent residents of Canada or the United States. To qualify for the CDRP, applicants must: <ul style="list-style-type: none"> • be admissible to Canada and have no criminal record that has not been pardoned; • not have violated customs or immigration laws; or • be deemed to be of good character, meaning that the CBSA is confident they will comply with programme obligations
Release Prior to Payment (RPP) Privilege	The RPP Privilege allows importers or customs brokers to obtain the release of goods before duties and taxes are paid. All goods are eligible (including controlled and regulated goods).	Number of participants: 1,658 Importers or licensed customs brokers who have posted a financial security and obtained an account security number.
Warehousing, and Cargo Control and Sufferance Warehouse Modernization (CCSWN)	Shipments may be moved beyond the border or an airport without having cleared customs but remain under customs control. Three types of warehouses exist: <u>Sufferance warehouse</u> : privately-owned and -operated facilities licensed by the CBSA for the control, short-term storage, transfer, delivery and examination of in-bond goods pending release from customs. <u>Bonded warehouse</u> : Imported or domestic goods destined for export remain in a bonded warehouse for up to four years. These facilities provide a deferral of all duties. <u>Place of safekeeping</u> : If goods are not claimed by a client from a sufferance warehouse after 40 days, they are moved to a place of safekeeping at the client's expense. These goods are forfeit to the Federal Government and are subject to disposal.	A licence is required, to be issued after complying with the initiative's requirements and posting a financial security with the CBSA.

¹⁸ Public Safety Canada online information regarding the Beyond the Border Action Plan. Viewed at: <https://www.publicsafety.gc.ca/cnt/brdr-strtg/bynd-th-brdr/ctn-pln-en.aspx>.

Programme	Description	Eligibility
Single Window Initiative (SWI)	The SWI allows importers to provide all the regulatory import requirements of multiple government agencies via a single electronic transmission of shipment information through the Integrated Import Declaration (IID) platform for both regulated and non-regulated goods.	Importers or licensed customs brokers.
CBSA Assessment and Revenue Management (CARM) Accounts Receivable Ledger (ARL)	Automatizes Phase 1 of the CARM that supports the payment of duties and tax revenues. Implementation of the ARL accounting system.	Importers or licensed customs brokers.
Trusted Traders Programmes		
Customs Self-Assessment Program (CSA)	<p>The CSA Program provides a streamlined accounting and payment process, and the option of streamlined clearance for eligible goods. Goods must be shipped directly from the United States or Mexico by pre-approved importers, carriers or registered drivers. Prohibited, controlled or regulated imports are not eligible. Other government department requirements (i.e. permit, licence) must generally be met before the release of goods.</p> <p>The CSA Program is comprised of two components:</p> <ul style="list-style-type: none"> • accounting, revenue reporting, payment and adjustment: importers use the CSA accounting and payment processes for all commercial goods they import, regardless of the clearance process used to report the goods; and • clearance (transportation and reporting of goods): an optional reporting and release process available to CSA importers when using a CSA carrier and a FAST/CDRP-registered driver to carry CSA-eligible goods into Canada, i.e. goods that are shipped directly to Canada from continental United States or Mexico, that are not prohibited, controlled or regulated, and that are not subject to the release requirements of any other government department. <p>CSA-approved participants may be exempted from ACI/eManifest requirements.</p> <p>CSA-Platinum is a benefit of CSA available to approved CSA importers that demonstrate a superior level of effectiveness and reliability with respect to internal controls and compliance directly related to this trader programme. Once approved, participants can conduct their own self-testing of trader programme compliance, which allows the CBSA to invest its post-release verification resources in areas of higher or unknown risk. Once approved, participants receive enhanced benefits that extend beyond their CSA membership benefits.</p>	<p>Importers and carriers must undergo a risk assessment and demonstrate that their systems support CSA requirements (e.g. audit trails, internal controls, and policies and procedures). Importers: residents of Canada and the United States with a history of actively importing for at least 90 days. Carriers must have posted a minimum security of CAD 25,000; they must have actively transported commercial goods to or from Canada for at least 90 days. Number of participants: 107 importers and 992 carriers as of November 2018.</p>
Partners in Protection (PIP) Programme	<p>PIP is a voluntary programme, with no membership fee, that enlists the cooperation of private industry to enhance border and trade chain security. In return, programme members are offered benefits such as lower rates of examination, access to FAST lanes, and supplemental benefits through signed mutual recognition arrangements (MRAs) with compatible foreign programmes. The CBSA currently has seven signed MRAs, with the United States, Japan, the Republic of Korea, Singapore, Mexico, Israel, and Australia.</p> <p>The Trusted Trader Portal (online tool) is available to members and applicants.</p> <p>The harmonization of the CBSA's PIP and the United States' Customs and Border Protection (CBP)'s Customs Trade Partnership Against Terrorism (CTPAT) programmes for highway carriers was implemented in September 2018.</p>	<p>Applicants must be solvent; have a good record of compliance with the CBSA; have no convictions; meet minimum security requirements in the areas of procedural, physical, information technology and cargo handling security; have facilities located in Canada or the United States; and successfully pass an on-site inspection to confirm compliance with the programme's security requirements.</p> <p>Importers, exporters, carriers (including couriers), freight forwarders, warehouses (including marine terminal operators), customs brokers and shipping agents are eligible to apply.</p>

Programme	Description	Eligibility
Free and Secure Trade Program (FAST) – Joint programme between the CBSA and the United States Customs and Border Protection (CBP)	<p>The authorities noted that the CBSA is currently working towards the merger of its CSA and PIP programmes into one simplified, more enticing and better-automated programme, centred on supply chain security, with an added focus on customs and trade compliance.</p> <p>FAST is a commercial clearance initiative of the CSA and PIP programmes, designed to ensure safety and security while expediting legitimate trade across the Canada-U.S. border by approved companies and approved carriers using registered drivers. Dedicated FAST lanes are located at five specific highway ports of entry: Windsor, Sarnia, Fort-Erie, Emerson and Pacific Highway. FAST-eligible goods must meet the following conditions: goods must be shipped directly to Canada from the continental United States or Mexico; prohibited, controlled or regulated imports are not eligible; and goods should not be subject to the release requirements of any other government department.</p>	<p>As of November 2018, 1,633 members (of which 816 were CSA members).</p> <p>Carriers and importers must be authorized under the CSA and/or the PIP programme, and the driver must be registered in either the FAST-Commercial Driver Program or Commercial Driver Registration Program (CDRP).</p> <p>To use a FAST lane, CSA-approved carriers must use a CDRP- or FAST-approved driver and carry CSA-eligible goods for a CSA-approved importer.</p> <p>To qualify for FAST, applicants must:</p> <ul style="list-style-type: none"> • be admissible to Canada and have no criminal record that has not been pardoned; • not have violated customs or immigration laws; • be deemed to be of good character, meaning that the CBSA is confident they will comply with programme obligations; and • be 18 years old or over and possess a valid driver's licence. <p>All FAST participants (drivers, carriers and importers) must have undergone a risk assessment as part of their enrolment in the PIP, CSA and CDRP/FAST programmes.</p> <p>Number of participants: 58,219</p>

Source: Information compiled by the WTO Secretariat, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/menu-eng.html>; <https://www.cbsa-asfc.gc.ca/prog/fast-expres/driv-chauff-eng.htm>; and <https://www.cbsa-asfc.gc.ca/prog/cdrp-picsc/menu-eng.html#a2>.

3.7. The Single Window Initiative (SWI)¹⁹, which was initially launched in March 2015, allows importers to provide all the regulatory import requirements of multiple government agencies via a single electronic transmission of shipment information through the Integrated Import Declaration (IID) platform, both for regulated and non-regulated goods.²⁰ The IID submission can be sent to the CBSA for processing up to 90 days prior to the arrival of the goods. The CBSA transmits the data from importers directly to the appropriate department or agency responsible for regulating the goods. The department/agency assesses the information provided and submits any border-related decisions to the CBSA as required. In November 2018, there were nine participating government departments and agencies in the SWI, representing 38 government programmes (Table 3.3).²¹ In the future, the IID will be the only electronic release request option available for goods regulated by Participating Government Agencies (PGAs), since the current available option to release decisions of goods through the Pre-Arrival Review System (PARS) and the Release on Minimum Documentation (RMD) system will be replaced with the IID by 2019.²² The authorities noted Canada's intention to decommission the PARS and the RMD on 1 April 2019. However, application of both systems for non-regulated goods will remain until at least 2020.

¹⁹ The SWI reflects a commitment made by Canada and the United States under the Beyond the Border Action Plan, a joint initiative of the United States and Canada. Viewed at: <https://www.publicsafety.gc.ca/cnt/brdr-strtg/bynd-th-brdr/ctn-pln-en.aspx>.

²⁰ CBSA Customs Notice 17-09, 21 March 2017.

²¹ CBSA Customs Notice 17-09, 21 March 2017.

²² CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/prog/sw-gu/menu-eng.html>.

Table 3.3 Single Window Initiative's participating government departments and agencies, and their programmes

Government departments/agencies	Programmes
Canadian Food Inspection Agency	All Programs (Animal Health, Feed, Fertilizer Safety, Food, Plant Health, Plants with Novel Traits, and Seed)
Canadian Nuclear Safety Commission	Nuclear Substances and Equipment
Environment and Climate Change Canada	Hazardous Waste and Hazardous Recyclable Materials Ozone Depleting Substances and Halocarbon Alternatives Vehicle and Engine Emissions Program Wildlife Enforcement
Fisheries and Oceans Canada	Trade Tracking Aquatic Invasive Species Aquatic Biotechnology
Global Affairs Canada Health Canada	Import Controls of Agricultural, Steel and Textiles and Clothing Products Consumer Product Safety; Human Drugs; Natural Health Products; Importation of Controlled Substances and Precursors; Veterinary Drugs; Radiation Emitting Devices; Blood and Blood Components; Cells, Tissues and Organs; Active Pharmaceutical Ingredients; Donor Semen; Medical Devices; Pesticides
Natural Resources Canada	Office of Energy Efficiency; Explosives; Kimberley Process (Rough Diamonds)
Public Health Agency of Canada	Pathogens and Biological Toxins
Transport Canada	Importation of Tires Importation of Vehicles – CMVSS ^a Appendix G Importation of Vehicles – CMVSS Appendix F Importation of Vehicles – CMVSS Case-by-Case Importation of Vehicles – FMVSS ^b Standard Importation of Vehicles – FMVSS Case-by-Case Importation of Vehicles – Canadian Vehicles Returning Importation of Vehicles – Age Exempt Importation of Vehicles – Unregulated Importation of Vehicles for Parts

a Canadian Motor Vehicle Safety Standards.

b Federal Motor Vehicle Safety Standards.

Source: CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/prog/sw-qu/oqd-amg-eng.html>.

3.8. The CBSA Assessment and Revenue Management (CARM) is a multi-year project, implemented in four phases from 2014 to 2021, to modernize the CBSA's assessment and revenue processes relating to the importation of commercial goods. Under the first phases of CARM (2014-16), the Accounts Receivable Ledger (ARL), a fully integrated and centralized accounting system, came into effect in January 2016.²³ The ARL allows for the off-setting of account credits (refunds) against debits (amounts payable), and offers users more comprehensive accounting statements (*inter alia*, in-depth duty and tax payment details) and new electronic payment options (i.e. due date/late payment, Canadian currency only, and no cash payments).²⁴ CARM Phase 2, which intends to streamline the assessment and collection of revenue from importers through financial controls and reporting, started in March 2018 and is currently (February 2019) underway.²⁵

3.9. Since 2013, under the Cargo Control and Sufferance Warehouse Modernization (CCSWN) initiative, the CBSA reviewed its cargo and sufferance warehouse policies and regulations, with regard to the in-bond movement of imported goods and the storage requirements of imported goods.²⁶ In September 2017, the CBSA amended delivery requirements by authorizing consolidated

²³ CBSA Customs Notice 16-06, 25 February 2016; CBSA Customs Notice 16-19, 21 July 2016; and CBSA Memorandum D17-5-1, 16 October 2017.

²⁴ According to CBSA Memorandum D17-5-1, customs account holders with monthly account balances of more than CAD 50,000 must submit their payments electronically. Moreover, paragraph 25 provides other payment options if electronic payment is not possible.

²⁵ CBSA, *Departmental Plan 2018-19, Part III – Departmental Expenditure Plans*. Viewed at: <https://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/rpp/2018-2019/index-eng.html>.

²⁶ CBSA online information. Viewed at: <http://www.cbsa.gc.ca/import/ccswm-meacf/menu-eng.html>.

and unreleased cargo to move directly to a sufferance warehouse (Type CW²⁷) without being re-manifested.²⁸ The Customs Notice 17-28 Update - Changes to the Canada Border Services Agency Policies respecting the Importation and Transportation of Goods (Delivery Requirements of Consolidated Cargo to Type CW Sufferance Warehouses) was published the same month, in support of these amended requirements; this policy remains in effect.

3.10. In general, CBSA decisions may be appealed to the Recourse Directorate at the CBSA's Corporate Affairs Branch, for review. Recourse Directorate officials are responsible for conducting an independent review, on behalf of the Minister or President of the CBSA, to determine if the decision or action taken was correct. Reviewing officials may seek technical clarification from CBSA experts, or other government departments, when necessary.²⁹ Between 2015 and 2018, there were 2,492 requests (to the Recourse Directorate) for re-determination of trade programme matters (i.e. tariff classification, origin, or value of duty). The result of the recourse review may be appealed to an appropriate court, tribunal, or commission, depending on the type of appeal. For trade-related matters, the Recourse Directorate's decisions may generally be further appealed to the Canadian International Trade Tribunal (CITT). The CITT's decision may then be appealed to the Federal Court of Appeal. Between 2015 and 2018, 219 appeals relating to trade matters were filed in the CITT under the Customs Act, of which the majority related to tariff classification.³⁰

3.11. The Administrative Monetary Penalty System (AMPS) grants the CBSA the mandate to impose monetary penalties for non-compliance with the CBSA's customs legislative, regulatory and programme requirements. There has been no major change to the AMPS since the last Review. All AMPS contraventions are listed in the Master Penalty Document, including penalties for non-compliance related to the ACI programme.³¹ The AMPS's Master Penalty Document lists (as of January 2019) 152 contraventions related to failure to comply with requirements identified in the Customs Act, Customs Tariff and related regulations. Each contravention included in the list provides the description of the failure to comply, the penalty amounts, references (i.e. legislation, D-Memorandum), and guidelines for application of penalties regarding the contravention. The Designated Provisions (Customs) Regulations outline the sections of the Customs Act, the Customs Tariff, the Special Import Measures Act (SIMA), and other regulations that relate to the AMPS programme.³² Only obligations that are legislatively mandated are subject to AMPS penalties. Unless otherwise indicated, penalties are normally applied by a CBSA officer.³³ The AMPS is a graduated system of monetary penalties, with higher penalties assessed for repetition of the same infraction. Under the AMPS, the maximum penalty amount for a single contravention is CAD 25,000.³⁴ In the CBSA's assessment of penalties, it takes into account factors such as the type of infraction, the frequency and severity of the infraction, and the compliance history of the client. From 2015 to 2018, there were about 98,000 contraventions by importers, carriers and warehouse operators, representing a net penalty amount of over CAD 29.3 million.³⁵ During the review period, the most frequent non-compliance cases, which were subject to AMPS penalties, included: failure to provide pre-arrival information (ACI) to the CBSA by carriers, mainly failure to comply with mandatory ACI/eManifest requirements for highway carriers; failure to pay duties by importers; and the unauthorized removal of goods from warehouses (Table 3.4).

²⁷ Type CW refers to warehouses operated by a consolidator, a deconsolidator, a bonded freight forwarder, or a customs broker.

²⁸ CBSA Customs Notice 17-28, 13 September 2017.

²⁹ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/recourse-recours/impartial-eng.html>. The Enhanced Complaint Mechanism (ECM) was introduced in 2011 in the recourse programme. The ECM provides commercial clients with a centralized system to submit complaints, comments, and compliments, as noted in the previous Review. The Recourse Directorate is responsible for monitoring and reporting on ECM feedback.

³⁰ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/recourse-recours/decisions-eng.html>.

³¹ CBSA, *Master Penalty Document*, last revision, January 2019. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/amps/mpd-dmi-eng.html>.

³² Schedules I and II of the Designated Provisions (Customs) Regulations (SOR/2002-336), last amended on 11 March 2016.

³³ CBSA, *Master Penalty Document*, last revision, January 2019. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/amps/mpd-dmi-eng.html>.

³⁴ CBSA Memorandum D22-1-1, 30 January 2015.

³⁵ Government of Canada, *National Administrative Monetary Penalty (AMPS) Statistics*. Viewed at: <https://open.canada.ca/data/en/dataset/86d88f96-2a6f-435f-82cd-1c427f7641ff>.

Table 3.4 AMPS by category and client type, 2015-18

Category by client type	Net penalty amount (CAD 1,000)	% of total penalty amount
Total	29,319	100.0
Carrier	17,263	58.9
Advance Commercial Information (ACI)	10,674	36.4
C378 Failed to submit the prescribed pre-load/pre-arrival information	9,331	31.8
Report of Goods and Conveyances	3,891	13.3
C023 Failed to report conveyances inbound and/or upon arrival	2,854	9.7
Importer	10,382	35.4
Corrections – Trade Data	3,826	13.1
C352 Failed to pay duties	1,925	6.6
Release	1,648	5.6
C360 Failed to account, or failed to provide interim accounting, for imported goods at time of the release request	1,192	4.1
Information	1,244	4.2
C005 Provided incorrect or incomplete information to an officer	792	2.7
Customs Self-Assessment (CSA)	818	2.8
C246 Failed to account for goods in the prescribed manner or within the prescribed time	815	2.8
Warehouse Operator	1,673	5.7
Movement and Storage of Goods	1,253	4.3
C033 Removed goods not released from a CBSA office or sufferance warehouse, without CBSA authorization.	1,253	4.3

Source: WTO Secretariat's calculations, based on data received from the Government of Canada; and National Administrative Monetary Penalty (AMPS) Statistics. Viewed at: <https://open.canada.ca/data/en/dataset/86d88f96-2a6f-435f-82cd-1c427f7641ff>.

3.12. Upon receipt of the CBSA's notice of penalty assessment, a commercial client may ask for a review of the CBSA's decisions and has 90 days to request a correction or a redress process through a ministerial review.³⁶ The payment of the penalty is deferred until a decision is rendered. Cancellation or amendment of an enforcement action or trade decision will only occur if the review determines the action taken was incorrect, in law or in the application of policy. Officials within the CBSA's Recourse Directorate cannot cancel or amend enforcement actions or trade decisions for lack of intent to contravene the law. Between 2015 and 2018, 1,409 corrections and 3,415 redress actions were completed; both corrections and redress actions imply ministerial reviews and require a decision by the Minister. In the case of redress actions, the Minister makes the decision directly, while for corrections the decision can be delegated to other CBSA personnel.

3.1.1.1 Trade facilitation

3.13. Canada ratified the WTO Trade Facilitation Agreement (TFA) on 16 December 2016. Since the entry into force of the TFA on 22 February 2017, Canada, as a developed WTO Member, has been bound by all commitments in the Agreement. Canada provided its notification on import, export and transit procedures (Art. 1.4), TFA enquiry points (Art. 1.4), the operation of its single window (Art. 10.4.3), measures on the use of customs brokers (Art. 10.6.2), and the contact points for the exchange of information (Art. 12.2.2) on 3 July 2017.³⁷ Although there is no notification related to the formation of a National Committee on Trade Facilitation (Article 23.2) as yet, the Border Commercial Consultative Committees (BCCCs) provide for formal consultations between CBSA officials and private-sector stakeholders to discuss border-related policies, operation programmes, and administrative procedures with respect to Canada's commercial trade.³⁸

3.14. Canada has been a strong supporter of the WTO's work on trade facilitation and is a donor to the Trade Facilitation Agreement Facility (TFAF).³⁹ Canada has engaged in 12 programmes in

³⁶ CBSA Memorandum D22-1-1, 30 January 2015. In a request for a Ministerial Review, the Minister of Public Safety, through the Minister's delegated authorities, is asked to review and decide on the appropriateness of the enforcement action or trade decision. The review is conducted by an impartial official within the CBSA's Recourse Directorate. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/recourse-recours/ministerial-ministeriel-eng.html>.

³⁷ WTO document G/TFA/N/CAN/1, 3 July 2017.

³⁸ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/agency-agence/consult/bccc-ccacf/menu-eng.html>.

³⁹ WTO online information. Viewed at: <https://www.tfadatabase.org/>.

accordance with Article 22 of the TFA; its financial contribution to the TFAF in 2015 and 2016 was CAD 35.8 million (disbursed).⁴⁰

3.1.1.2 Customs valuation

3.15. Customs valuation rules are based on the Customs Act (Sections 44 to 56)⁴¹, the Valuation for Duty Regulations⁴², the Direct Shipment of Goods Regulations⁴³, the Currency Exchange for Customs Valuation Regulations⁴⁴, and the Memoranda D-13 series.⁴⁵ There were no substantial changes to the Act or Regulations since the previous Review.

3.16. Canada's customs valuation is determined in accordance with the WTO Agreement on Customs Valuation. The transaction value method is the primary method of valuation; value for duty is based on the price paid or payable for imported goods.⁴⁶ If this method cannot be used, the Customs Act prescribes a hierarchy of alternative valuation methods.⁴⁷ Moreover, the CBSA has provided interpretations of specific valuation challenges for certain categories of goods, in order to determine the value for duty, *inter alia*, used goods, used automobiles, certain information-based products, and promotional material.⁴⁸ The value for duty of all imported goods must be declared in Canadian dollars at the Bank of Canada rate prevailing on the date of direct shipment of the goods to Canada.⁴⁹

3.17. Designated CBSA officers review the customs value of imported goods, generally through a risk-based post-importation verification of importer's records. In accordance with the Customs Act (Sections 58-70), CBSA officers may re-determine or further re-determine the origin, the tariff classification and/or the value for duty of the imported goods at any time within four years after the date of the initial determination. Customs officers must notify importers of their decisions and the rationale for them.⁵⁰ Importers may request a re-determination or a further re-determination of the customs value within 90 days of the notification of a decision by the CBSA, although this time-limit may be extended under certain circumstances.⁵¹ Decisions of the CBSA may be appealed to the Canadian International Trade Tribunal (CITT) within 90 days, and may be appealed further to the Federal Court of Appeal, and beyond that, the Supreme Court of Canada.⁵² Of the appeals filed and decided by the CITT in the period 2015-18, two related to value for duty⁵³; one value-for-duty related decision was decided by the Federal Court of Appeal regarding an appeal filed prior to the period of review.⁵⁴

3.1.2 Rules of origin

3.18. Canada maintains both preferential and non-preferential rules of origin. Canada's non-preferential rules of origin are in place to, *inter alia*, distinguish most-favoured-nation (MFN) imports from those under the General Tariff. There were no changes in the MFN rules of origin since the previous Review. For goods to qualify for MFN tariff treatment, at least 50% of their production cost must be incurred by the industry of one or more MFN beneficiaries (including Canada). In

⁴⁰ WTO documents G/TFA/N/Can/2, 3 July 2017; and G/TFA/N/CAN/3, 15 August 2018.

⁴¹ Customs Act last amended on 21 June 2018.

⁴² Valuation for Duty Regulations (SOR/86-792).

⁴³ Direct Shipment of Goods Regulations (SOR/86-876).

⁴⁴ Currency Exchange for Customs Valuation Regulations (SOR/85-900).

⁴⁵ CBSA, D-13 Memoranda series. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d13-eng.html>.

⁴⁶ Customs Act, Section 48 (4); and Memorandum D13-4-3, 7 January 2014.

⁴⁷ Other methods include: the transaction value of identical goods method (Section 49); the transaction value of similar goods method (Section 50); the deductive value method (Section 51); the computed value method (Section 52); and the residual basis of appraisal method (Section 53). Memorandum D13-3-1 provides methods of determining value for duty.

⁴⁸ CBSA, Memoranda D-13 series. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d13-eng.html>.

⁴⁹ Memorandum D13-2-3, 25 February 2014.

⁵⁰ Customs Act, Part III, Section 59.

⁵¹ Customs Act, Part III, Sections 60 and 60.1.

⁵² Customs Act, Part III, Section 67.

⁵³ CITT AP-2014-012 (J. Lamb v. President of the Canada Border Services Agency and CITT AP-2017-011 (J. Fersch v. President of the Canada Border Services Agency).

⁵⁴ The CITT decision was upheld, and the appeal was dismissed. Viewed at: <https://decisions.fca-cf.gc.ca/fca-cf/decisions/en/item/108541/index.do?r=AAAAAQAOdmFsdWUgZm9yIGR1dHkK>.

addition, goods must be finished in a country receiving MFN treatment, in the form in which they are to be imported into Canada.⁵⁵ A separate rule, which applies to only a limited number of imported goods, exists for marking purposes. A commercial invoice, a Canada Customs Invoice, or any other documentation indicating the country of origin may serve as proof of origin of the goods. There was no change in Canada's non-preferential rules of origin in the period under review.⁵⁶

3.19. Canada's FTAs, its unilateral preference programmes (General Preferential Tariff (GPT), Least Developed Country Tariff (LDCT), and Commonwealth Caribbean Countries Tariff (CCCT)), and its special trading relations with Australia and New Zealand all contain preferential rules of origin of varying complexity (Table 3.5). In general, the rules stipulate, as stand alone or in combination: (i) wholly obtained criteria for primary products; (ii) a change in the HS tariff heading for goods that have undergone processing (tariff-shift rule); (iii) regional value content methods that may specify minimum levels of regional content or maximum values of non-originating inputs in the value of the final goods; or (iv) specific processing requirements that must be fulfilled for a product to be considered an originating good. Canada's FTAs contain agreement-specific requirements for the certificates (or statements) of origin to be provided upon request by the importer claiming preferential tariff treatment. Canada's unilateral preference schemes do not require certificates of origin to be stamped or signed by any authority in the country of origin.

Table 3.5 Overview of rules of origin criteria, 2018

Preferential programme or partner	Brief overview
General Preferential Tariff (GPT)	The value of non-originating materials must not exceed 40% of the ex-factory price (SOR/2013-165).
MFN Treatment	At least 50% of their production cost must be incurred by the industry of one or more MFN beneficiaries (including Canada) (SOR/98-33).
Least Developed Country Tariff (LDCT)	The value of non-originating materials must not exceed 80% of the ex-factory price (75% threshold for apparel) (SOR/2013-165).
Commonwealth Caribbean Countries Tariff (CCCT)	Wholly obtained or produced, or at least 60% of the ex-factory price of the goods as packed for shipment to Canada must originate in one or more beneficiary countries or Canada. The 60% qualifying content may be cumulated from various beneficiary countries or Canada. The goods must be finished in the beneficiary country in the form in which they were imported into Canada (SOR/98-36).
Australia Tariff (AUT)	No less than 50% of the cost of production of the goods must be incurred in Australia or Canada or both. The cost of production includes: (a) materials (exclusive of duties and taxes); (b) labour; and (c) factory overheads. The goods must be finished in Australia in the form in which they were imported into Canada (SOR/98-35).
New Zealand Tariff (NZT)	At least 50% of the cost of production of the goods must be incurred in New Zealand or Canada or both. The cost of production includes: (a) materials (exclusive of duties and taxes); (b) labour; and (c) factory overheads. The goods must be finished in New Zealand in the form in which they were imported into Canada (SOR/98-35).
CETA	Product-specific rules of origin based on tariff shift and, in some cases, contain a process, value, weight or volume requirement.
NAFTA	
Chile	
Colombia	
Costa Rica	
Panama	
Peru	
Israel	
European Free Trade Association (EFTA) (Iceland,	

⁵⁵ The official version of the MFN Tariff Rules of Origin Regulations may be found on the Department of Justice website. Viewed at: <http://laws-lois.justice.gc.ca/eng/regulations/SOR-98-33/page-1.html>.

⁵⁶ Memorandum D11-4-3 of 4 April 2013 sets out the Rules of Origin Respecting the Most-Favoured-Nation Tariff. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-3-eng.html>.

Preferential programme or partner	Brief overview
Liechtenstein, Norway and Switzerland)	
Jordan	
Honduras	
Republic of Korea	
Comprehensive and Progressive Trans-Pacific Partnership	
CUSMA	Product-specific rules of origin based on tariff shift and, in some cases, contain a process, value, weight or volume requirement. The rules of origin for passenger vehicles, light trucks and heavy trucks include a requirement that 70% of the steel and aluminium purchased by the vehicle producer be originating, and that a percentage of the value of the vehicle be produced by workers earning at least USD 16 per hour.

Source: Based on Government of Canada online information. Viewed at: <http://www.international.gc.ca/>.

3.20. Origin under the NAFTA is determined according to the rules of origin specified in Chapter IV of the Agreement. In general, a good that incorporates non-originating materials is deemed to originate in the NAFTA territory if each of these components undergoes an applicable change in tariff classification, specified for each good in Annex 401. Canada's reliance on the United States as an important supplier of inputs as well as a key export market implies that the NAFTA rules of origin have become an important point of reference for the agreed rules of origin in Canada's other FTAs.⁵⁷ In many instances, the FTAs that Canada has concluded since NAFTA (1994) contain less stringent origin rules than those contained in NAFTA, either through the acceptance of lower regional value content or relaxation of the tariff shift or special processing rules.⁵⁸ The regional value content methods have also been modified in some instances by the "focused value" method, which uses dedicated lists of inputs (rather than all inputs) when calculating the regional value content.

3.21. Under the CUSMA, as is the case under the NAFTA, origin is conferred to: (i) wholly produced goods; (ii) goods produced entirely in the territory of one or more of the Parties using non-originating materials, provided the good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin); (iii) goods produced entirely in the territory of one or more of the Parties exclusively from originating materials; or (iv) (except for a good provided for in Chapters 61 to 63 of the Harmonized System (HS)) produced entirely in the territory of one or more of the Parties; and one or more of the non-originating materials provided for as parts under the HS used in the production of the good cannot satisfy the requirements set out in Annex 4-B (Product-Specific Rules of Origin) because both the good and its materials are classified in the same subheading, or in a heading that is not further subdivided into subheadings, or the good was imported into the territory of a Party in an unassembled or disassembled form but was classified as an assembled good, and the regional value content of the good (determined including accumulation), is not less than 60% if the transaction value method is used, or not less than 50% if the net cost method is used.⁵⁹

3.22. Like the NAFTA, the CUSMA has stricter rules of origin for the automotive sector. The regional content threshold is calculated on a net-cost basis only; and the threshold for passenger vehicles and light trucks will increase from 62.5% to 75.0% over three years from the date the agreement enters into force. For heavy trucks, the threshold increases from 60% to 70% over seven years. In addition, vehicle producers must demonstrate that 70% of the steel and aluminium they purchase for use in production is originating, and that at least 40% (45% for light or heavy trucks) of the content in the vehicle was produced by workers earning at least USD 16 per hour. The CUSMA also has stricter rules of origin for vehicles parts, including a phased-in 75% net cost requirement for

⁵⁷ Moroz, Andrew (Sandy), 2016, *Navigating the Maze: Canada, Rules of Origin and the Trans-Pacific Partnership (and Two Tales of Supply Chains)*, in Tapp, Stephen, Air Van Assche and Robert Wolfe (editors), *The Art of the State: Volume VI: Redesigning Canadian Trade Policies for New Global Realities*, Institute for Research on Public Policy, Montreal, Quebec. Viewed at: <http://irpp.org/research-studies/aots6-moroz/>.

⁵⁸ For example, many of the FTAs contain a minimum 20% regional value content rule for passenger cars based on net costs, compared with the corresponding 62.5% threshold in NAFTA.

⁵⁹ USTR online information, *USMCA, Chapter 4, Rules of Origin*. Viewed at: https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/04_Rules_of_Origin.pdf.

core parts such as engines and transmissions, 70% for principal parts (e.g. fuel pumps, brakes, seats), and 65% for other parts (e.g. hoses, wiring sets).

3.23. Canada has implemented new FTAs with Ukraine (CUFTA), Australia, Japan, Mexico, New Zealand, Singapore, Viet Nam (CPTPP), and the European Union (CETA) since its last TPR.

3.24. The rules of origin under the CETA are contained in the Protocol on rules of origin and origin procedures. General rules and rules for specific products are contained in Annex 5 to the Agreement. In general terms, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties, the product: (i) has been wholly obtained within the meaning; (ii) has been produced exclusively from originating materials; or (iii) has undergone sufficient production. A product that originates in a Party is also considered originating in the other Party when used as a material in the production of a product in that other Party. An exporter may take into account production carried out on a non-originating material in the other Party for the purposes of determining the originating status of a product.

3.25. Under the rules of origin of the CETA, the following products are considered as wholly obtained in a Party: mineral products and other non-living natural resources extracted or taken from there; vegetables, plants, and plant products harvested or gathered there; live animals born and raised there; products obtained from live animals there; products from slaughtered animals born and raised there; products obtained by hunting, trapping, or fishing conducted there, but not beyond the outer limits of the Party's territorial sea; products of aquaculture raised there; fish, shellfish, and other marine life taken beyond the outer limits of their territorial seas by a Canadian/EU vessel; products made aboard factory ships; mineral products and other non-living natural resources, taken or extracted from the seabed, subsoil, or ocean floor of: the exclusive economic zone of Canada or of the EU member States; raw materials recovered from used products collected there; and components recovered from used products collected there.

3.26. Annex 5 lists product-specific rules of origin for all products. This represents the minimum amount of production required on non-originating materials for the resulting product to achieve originating status. Like CUFTA and the CPTPP, the CETA has a 10% general tolerance level.⁶⁰ For certain Canadian goods exported to the European Union on a preferential basis (i.e. passenger cars, dog and cat food, sugar confectionary and chocolate preparations, certain processed foods, certain high sugar-containing products, certain fish and seafood, and certain textiles and apparel), less onerous rules of origin also apply within specified annual volume limits. Canada and the European Union have also agreed that U.S.-manufactured auto parts are to be treated as originating materials in motor vehicles for the purposes of the CETA, should the United States and the European Union conclude a bilateral FTA in the future.

3.27. Origin under the CPTPP is determined according to the rules of origin specified in Chapter 3 of the agreement. In addition, specific provisions regarding textiles and apparel are specified in Chapter 4 of the agreement. In general terms, a good is originating in the CPTPP territory if it: (i) has been wholly obtained or produced entirely in the territory of one or more of the Parties; (ii) has been produced entirely in the territory of one or more of the Parties, exclusively from originating materials; or (iii) has been produced entirely in the territory of one or more of the Parties using non-originating materials, provided the good satisfies all applicable requirements of Annex 3-D (Product-Specific Rules of Origin), Annex 4-A (Textiles and Apparel Product-Specific Rules of Origin) or Appendix 1 to Annex 3-D for certain vehicles and parts of vehicles. Like the CETA, a product that originates in a Party is also considered originating in the other Party when used as a material in the production of a product in that other Party. An exporter may take into account production carried out on a non-originating material in the other Party to determine the originating status of a product.

3.28. The product-specific rules of origin of the CPTPP require that non-originating materials undergo a change in tariff classification (tariff shift). For most industrial goods and certain agricultural goods, origin may also be obtained by demonstrating that they contain a minimum level of regional content. The CPTPP also includes alternative rules of origin, under which certain parts

⁶⁰ *Text of the Comprehensive Economic and Trade Agreement – Protocol on rules of origin and origin procedures.* Government online information. Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/P1.aspx?lang=eng>.

used in the production of passenger vehicles and light trucks may obtain originating status if specific processing requirements are met.

3.29. The CUFTA's rules of origin provisions are similar to those of the CETA.⁶¹

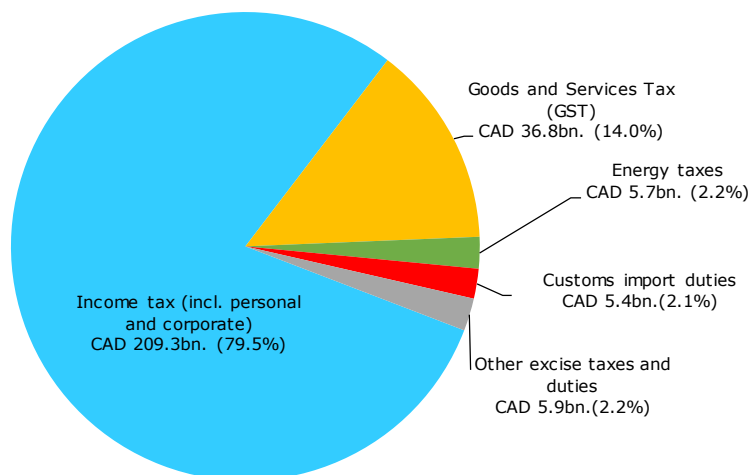
3.30. On 20 June 2017, Canada implemented changes to the rules of origin to allow least developed countries (LDCs) to use manufacturing inputs sourced from, and processed in, an expanded list of countries, in the production of t-shirts and certain trousers that qualify for duty-free importation into Canada. These changes ensure that the LDCT rules of origin more accurately reflect the sourcing patterns and manufacturing capabilities of LDCs for these products.

3.1.3 Tariffs

3.1.3.1 Overview

3.31. Fiscal revenues from the collection of customs duties amounted to CAD 5.4 billion, or about 2.1% of total tax revenues, in FY2017/18. Income tax accounted for most of the revenue (79.5%), followed by the Goods and Services Tax (GST) (14.0%) and energy taxes (2.2%) (Chart 3.1).

Chart 3.1 Tax revenue distribution, FY2017/18



Source: Annual Financial Report of the Government of Canada, Fiscal Year 2017–18.

3.32. Import tariffs are established by Parliament in a federal statute, the Customs Tariff.⁶² Parliament has provided some specific, limited authorities to amend tariffs by order of the Governor in Council, based on the recommendation of the Minister of Finance, such as to reduce import tariffs on goods used in the manufacture in Canada of other goods.⁶³ The Customs Tariff prescribes all tariff treatments, including preferential tariffs, special and emergency measures, and duty reliefs. In addition, some of subjects related to tariffs are supplemented by regulations, as well as by D-Memoranda, for more detailed information. Since the last Review, there were changes in the tariff nomenclature and in duty rates.

3.1.3.2 Tariff Structure

3.33. Tariff treatments consist of the General Tariff, the MFN tariff, and various preferential tariff treatments granted under bilateral or plurilateral agreements or unilateral concession schemes. A General Tariff rate of 35% (or the MFN rate, whichever is higher), in principle, is applied to trading

⁶¹ The CUFTA Rules of Origin Regulations are set out in Memorandum D11-5-14 of 30 August 2017. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-5-14-eng.html>.

⁶² Customs Tariff (S.C: 1997, c. 36), last amended on 21 September 2017.

⁶³ Customs Tariff, Part 1, Sections 13-14; and Part 3, Division 1, Section 82.

partners who are non-WTO Members⁶⁴; in practice, Canada grants MFN tariff treatment to all its trading partners, except the Democratic Republic of Korea.

3.34. The Canadian tariff for 2019 is based on the 2017 version of the Harmonized Commodity Description and Coding System (HS) and comprises 6,986 tariff lines including in-quota lines, and 6,827 tariff lines excluding in-quota tariff lines, at the eight-digit level. This total includes six tariff lines related to sugar (1701.91.10, 1701.99.10, 1702.90.21, 1702.90.61, 1702.90.70, and 1702.90.81) which are only applicable for the Canada-Peru and Canada-Honduras FTAs.⁶⁵ For the tariff analysis, in-quota tariff lines are not taken into account in tariff calculations.⁶⁶ Consolidated versions of the Customs Tariff are issued regularly by the Canada Border Services Agency (CBSA), containing information on applied MFN and preferential duties.⁶⁷ Canada continues to submit its customs tariff and trade data regularly to the WTO Integrated Database (IDB).

3.35. Some 96.3% of all tariff lines carry *ad valorem* duties, but Canada continues to maintain 252 tariff lines, equivalent to 3.7% of total tariff lines, subject to non-*ad valorem* duties; these mainly consist of mixed or specific duties. Unlike *ad valorem* tariffs, the level of protection by means of specific duties is not evident; estimating the *ad valorem* equivalents (AVEs) allows the actual protection of specific duties to be assessed.⁶⁸ The AVEs used in this Section were calculated by the Secretariat as the ratio of specific duties to import unit values, estimated using the ratio of import values to import quantities in 2017 (at the eight-digit level)⁶⁹: the estimated AVEs ranged from 0.2% to 532.2%⁷⁰, with more than one quarter of total non-*ad valorem* tariff lines above 100%. In 2019, non-*ad valorem* rates were mainly concentrated in sectors such as dairy products (HS 04), beverages and spirits (HS 22), edible vegetables (HS 07), preparations of cereals (HS 19), and meat (HS 02).

3.36. Overall, the simple average of the 2019 applied MFN tariff rate, including AVEs, is estimated at 6.1%, slightly up from 6.0% in 2014, mainly due to changes in the tariff structure during the review period (i.e. reductions in the number of tariff lines from 7,251 in 2014 to 6,827 in 2019) (Table 3.6). The coefficient of variation of 4.7 indicates high tariff dispersion, with tariff rates ranging from 0% to 532.2% (Table 3.8).⁷¹ The high dispersion reflects the significant amount of tariff lines that are duty-free (70.4%), the use of tariff rate quotas that have higher rates of duty for over-access commitments, and the wide range of the estimated AVEs of non-*ad valorem* duties.

Table 3.6 Structure of MFN tariffs, 2014 and 2019

	MFN applied		Final bound ^a
	2014	2019	
Bound tariff lines (% of all tariff lines)	n.a.	n.a.	99.7
Simple average rate	6.0	6.1	7.8
WTO agricultural products	22.5	21.8	22.4
WTO non-agricultural products	2.4	2.5	5.2
Agriculture, hunting, forestry and fishing (ISIC 1)	7.9	7.3	7.1
Mining and quarrying (ISIC 2)	0.2	0.2	1.6
Manufacturing (ISIC 3)	6.0	6.0	7.9
Duty-free tariff lines (% of all tariff lines)	67.0	70.4	33.9
Simple average of dutiable lines only	18.3	20.5	11.8
Tariff quotas, out-of-quota (% of all tariff lines)	2.6	2.8	2.0

⁶⁴ Customs Tariff, Part 2, Division 3, Section 29.

⁶⁵ WTO documents WT/REG270/1, 19 July 2010; and WT/REG364/1, 18 April 2016, respectively.

⁶⁶ Refers to products for which an in-quota tariff rate different from the MFN (out-of-quota) rate is applied, for which a separate tariff heading for the in-quota rate has been created.

⁶⁷ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/menu-eng.html>.

⁶⁸ However, there are limits to the accuracy of estimated AVEs, as they are affected by many factors, including the base period chosen for the estimation, variations in import prices through fluctuations of world market prices and/or exchange rates, and the source of imports (i.e. whether a tariff concession or exemption is taken into account), resulting in a wide variation in AVEs without any change in customs duties.

⁶⁹ Using Canada's data submission to the WTO Integrated Database.

⁷⁰ The highest rate of 532.2% is the AVE of the over-access commitment duty rate applicable to dried egg albumin (3502.11.20) (CAD 6.12/kg). The within-access commitment rate of duty is 8.5% (*ad valorem*).

⁷¹ The highest rate of 532.2% is the AVE of the over-access commitment duty rate applicable to dried egg albumin (3502.11.20) (CAD 6.12/kg). The within-access commitment rate of duty is 8.5% (*ad valorem*).

	MFN applied		Final bound ^a
	2014	2019	
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	3.9	3.7	4.9
Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	0.9	1.0	1.2
Domestic tariff "peaks" (% of all tariff lines) ^b	2.2	2.3	1.5
International tariff "peaks" (% of all tariff lines) ^c	7.1	7.5	6.2
Overall standard deviation	28.6	28.7	25.5
Coefficient of variation	4.8	4.7	3.3
Nuisance applied rates (% of all tariff lines) ^d	4.0	0.7	2.0
Total number of tariff lines	7,251	6,827	8,211

n.a. Not applicable.

- a Calculations for final bound rates (based on HS 2007) are taken from the CTS database. Final bound rates are applied for tariff codes under Expansion of the ITA, although some tariff codes are still under the implementation period up to 2019.
- b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
- c International tariff peaks are defined as those exceeding 15%.
- d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: The 2014 and 2019 tariff schedules are based on the HS12 and HS17 nomenclatures, respectively. Calculations are based on the national tariff at an 8-digit level, excluding in-quota rates and including *ad valorem* equivalents (AVEs). AVEs for 2014 were estimated based on 2013 import data, and for the 2019 and the final bound tariffs based on 2017 import data at the national tariff line level provided by the Canadian authorities.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; the WTO IDB; and the CTS database.

3.37. In 2019, about 90% of all tariff lines carried rates of 10% or below (Chart 3.2). The proportion of duty-free lines on an MFN basis in 2019 (70.4%) increased by about 3.4 percentage points from 2014 (67.0%), mainly reflecting the elimination of import duties on products under the expansion of the Information Technology Agreement (ITA)⁷², as well as the unilateral tariff elimination on a broad range of products classified as ingredients.⁷³ With respect to the latter, the Government eliminated tariffs on certain imported ingredients used in the agri-food processing industry on 16 January 2017, aimed at improving the competitiveness of Canadian agri-food processors. The measure covers some 234 tariff lines (at the eight-digit level), of which 23 are subject to in-quota tariff rates (Table 3.7). Tariff eliminations, both through the ITA and decided unilaterally, led not only to a larger proportion of duty-free lines in 2019 relative to 2014 (Chart 3.2), but also to a significant reduction in the proportion of nuisance rates (greater than zero, but less than or equal to 2%), from 4.0% of the total in 2014, to 0.7% in 2019. The authorities noted that, including the preferences granted, some 88% of all imports entered Canada duty-free in 2018.

Table 3.7 Ingredient items covered by the unilateral tariff elimination

Preparations of vegetables, fruit, nuts or other parts of plants (86)	Food preparations, malt extract, couscous (6)
Edible vegetables (37)	Wheat and barley (5)
Cereal grains, starches, malt (30)	Undenatured ethyl alcohol (5)
Animal or vegetable fats and oils (19)	Flours and meals of oil seeds or oleaginous fruits (3)
Spices (13)	Albumins, peptones and their derivatives, gelatine (3)
Edible fruit (11)	Extracts and juices of meat, fish or crustaceans (2)
Miscellaneous edible preparations (e.g. yeasts) (10)	Cocoa and cocoa preparations (2)
	Essential oils (e.g. of peppermint) (2)

Note: Figures in parentheses refer to the number of tariff lines at the 8-digit tariff level (HS 2012 nomenclature basis).

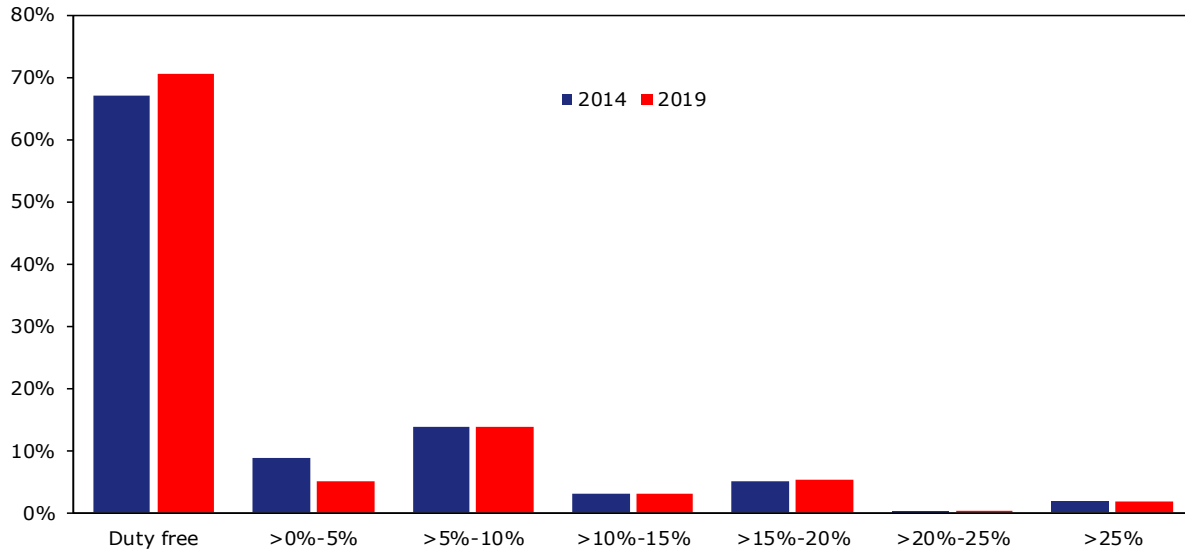
Source: Compiled by WTO Secretariat, based on WTO document G/MA/W/130, 21 April 2017.

⁷² WTO document WT/Let/1205, 25 October 2016. Schedule V is effective as of 13 October 2016.

⁷³ WTO document G/MA/W/130, 21 April 2017.

Chart 3.2 Breakdown of applied MFN tariffs, 2014 and 2019

(% of total tariff lines)



Note: Calculations exclude in-quota rates and include AVEs for non-*ad valorem* duties where it was possible to estimate them. In case of unavailability, the *ad valorem* part was used for compound and mixed rates. They do not add up to 100% due to the unavailability of AVEs for some tariff lines (representing 0.2% of total tariff lines).

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and the WTO IDB.

3.38. Tariffs applied on agricultural products remain considerably higher than on non-agricultural goods. In 2019, the average applied tariff rate on agricultural products (WTO definition) is 21.8%, while the that on non-agricultural products (WTO definition) is 2.5% (Table 3.8). Within agriculture, animals and animal products (47.2%), dairy products (238.7%), and cereals (24.0%) are the product groups with higher average import duties. Among non-agriculture product groups, clothing has the highest average tariff rate (16.2%). Some agricultural product groups, such as coffee, tea, and cocoa and cocoa preparations, oil seeds and fats, beverages and tobacco, and other agricultural products, display high coefficients of variation, implying a larger tariff range within these product groups.

Table 3.8 Applied MFN tariff summary, 2019

	Number of lines	Simple average (%)	Tariff range (%)	CV ^a	Share of duty-free lines (%)	Share of non- <i>ad valorem</i> tariffs (%)
Total	6,827	6.1	0-532.2	4.7	70.4	3.7
HS 01-24	1,492	18.0	0-403.1	3.2	57.3	16.7
HS 25-97	5,335	2.8	0-532.2	3.6	74.0	0.1
By WTO category						
WTO agricultural products	1,266	21.8	0-532.2	2.9	54.8	19.9
Animals and products thereof	177	47.2	0-403.1	1.9	49.7	19.2
Dairy products	38	238.7	0.7-313.5	0.3	0.0	97.4
Fruit, vegetables, and plants	345	3.3	0-17	1.5	63.2	14.2
Coffee, tea, cocoa, and cocoa preparations	31	18.1	0-265	3.6	77.4	6.5
Cereals and preparations	222	24.0	0-277	2.4	32.4	30.6
Oil seeds, fats, oils and their products	94	5.2	0-218	4.5	71.3	2.1
Sugars and confectionary	43	4.0	0-12.5	1.0	20.9	34.9
Beverages, spirits and tobacco	150	4.5	0-256	4.7	50.7	26.0
Cotton	5	0.0	0.0	0.0	100.0	0.0
Other agricultural products, n.e.s.	161	9.3	0-532.2	5.6	83.9	3.7
WTO non-agricultural products	5,561	2.5	0-25	2.0	73.9	0.0
Fish and fishery products	299	1.1	0-11	1.9	75.6	0.0
Minerals and metals	1,030	1.3	0-15.5	2.1	79.9	0.0
Chemicals and photographic supplies	1,002	0.9	0-15.5	2.5	85.7	0.0
Wood, pulp, paper and furniture	323	1.5	0-18	2.3	81.1	0.0

	Number of lines	Simple average (%)	Tariff range (%)	CV ^a	Share of duty-free lines (%)	Share of non-ad valorem tariffs (%)
Textiles	676	3.0	0-18	2.0	77.7	0.0
Clothing	254	16.2	0-18	0.3	6.7	0.0
Leather, rubber, footwear and travel goods	216	5.4	0-20	1.3	57.4	0.0
Non-electric machinery	626	0.6	0-9	3.4	91.7	0.0
Electric machinery	357	1.2	0-9	2.2	81.8	0.0
Transport equipment	241	5.5	0-25	1.2	41.1	0.0
Non-agricultural products, n.e.s.	524	2.8	0-15.5	1.3	57.3	0.0
Petroleum	13	1.2	0-5	1.8	76.9	0.0
By ISIC sector^b						
ISIC 1 - Agriculture, hunting and fishing	516	7.3	0-292.5	4.6	77.3	11.6
ISIC 2 - Mining and quarrying	98	0.2	0-12.5	6.5	96.9	0.0
ISIC 3 - Manufacturing	6,212	6.0	0-532.2	4.7	69.4	3.1
By stage of processing						
First stage of processing	894	4.6	0-292.5	5.8	86.4	7.2
Semi-processed products	1,893	0.6	0-270	12.4	94.8	1.5
Fully processed products	4,040	8.9	0-532.2	3.9	55.4	4.0

a Coefficient of variation.

b International Standard Industrial Classification (ISIC) (Rev.2). Electricity, gas and water are excluded (1 tariff line).

Note: Calculations for averages are based on the national tariff line level (8-digit level), excluding in-quota rates. The tariff schedule is based on HS 2017. *Ad valorem* equivalents (AVEs) were estimated based on 2017 import data at the 8-digit tariff line level based on information received from the authorities of Canada. In case of unavailability, the *ad valorem* part was used for compound and mixed rates.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and the WTO IDB.

3.1.3.3 Tariff quotas

3.39. Agricultural goods included on the Import Control List are grouped into different categories, each with an established import access quantity (or quota). Under Canada's tariff rate quota (TRQ) system, agricultural goods are classified as "within-access commitment" (i.e. limited quantity) tariff items or "over-access commitment" tariff items. Imports within the quota are subject to the lower rates of duty of the within-access commitment tariff items, and imports over the quota are classified under the higher rates of duty of the over-access commitment tariff items (i.e. the MFN rate, or a higher preferential rate). Canada maintains TRQs for agricultural product imports entering under the MFN regime, and for imports from certain countries pursuant to preferential agreements.

3.40. Control of imports into TRQ within-access commitments is managed in one of two ways: through permits issued by Global Affairs Canada, based on prior import allocations to importers, or on a first-come, first-served basis administered by the CBSA.⁷⁴ The procedure for obtaining an import permit and tariff quota allocations varies according to the product and the origin of the imports (Section 4.1). In addition, TRQs for some agricultural categories are determined on a marketing-year basis (i.e. 1 August to 31 July for certain dairy product TRQs established under the WTO and the CPTPP, and 1 May to 30 April for the turkey and turkey products TRQs established under the CPTPP) while, for other agriculture products, TRQs are fixed on a calendar-year basis. If specific circumstances arise that require the importation of agricultural goods in excess of the volumes set out in Canada's TRQ commitments, Canada may allow supplemental imports to meet these needs (i.e. domestic market shortage).

3.41. Canada's 2019 Customs Tariff lists TRQs applicable to agricultural products classified under 159 tariff lines (2.3% of all tariff lines), including dairy products (e.g. cheese and milk), poultry and egg products, beef and veal, and certain wheat and barley products. Canada applies in-quota rates for products otherwise subject to MFN rates in two ways: through Canada's WTO TRQs, or through a specific bilateral TRQ contained in a preferential trade agreement. The tariff treatment granted to imports within TRQs varies, depending on the agreement and the trading partner. For about one third of preferential tariff beneficiaries, including the United States, Chile, and LDCs, Canada grants duty-free treatment for all in-quota tariff lines. However, few in-quota preferential tariff rates are provided under the agreement with Israel, or to GSP beneficiaries. Accordingly, agricultural goods

⁷⁴ CBSA, Memorandum D10-18-1, 12 August 2016.

from Israel are subject to an in-quota average rate of 2.4%, which is just slightly lower than the 2.5% MFN in-quota tariff rate (Table 3.9). Under certain bilateral trade agreements, such as the CETA with the European Union, Canada opened specific bilateral TRQs for cheese. Under the CETA, Canada committed to transferring to the European Union reserve 800 tonnes from its non-EU reserve within its 20,411 tonne WTO TRQ for cheese.

Table 3.9 In-quota "within-access commitment" tariff lines, by tariff regime, 2019

	Number of in-quota tariff lines subject to "within-access commitment"			Simple average tariff rates	Maximum tariff rates
	MFN rates		Preferential rates (duty-free)		
	Duty-free	Dutiable rates			
MFN	42	117	0	2.5	8.5
NAFTA					
Mexico	42	78	39	1.6	8.5
United States	42	0	117	0	0
EFTA					
Iceland	42	70	47	1.3	8.5
Norway	42	61	56	1.1	8.5
Switzerland	42	68	49	1.3	8.5
Other reciprocal treatments					
Chile	42	0	117	0	0
Colombia	42	6	111	0.2	7.5
Costa Rica	42	52	65	1.0	8.5
CPTPP	42	0	117	0	0
European Union	42	0	117	0	0
Honduras ^b	42	68	49 (1) ^a	1.4	8.5
Israel	42	111	6	2.4	8.5
Jordan	42	0	117	0	0
Korea, Rep. of	42	85	32	1.9	8.5
Panama	42	19	98	0.6	8.5
Peru ^b	42	0	117	0	0
Ukraine	42	0	117	0	0
Non-reciprocal treatments					
Australia	42	105	12 (2) ^a	2.4	8.5
New Zealand	42	90	27 (2) ^a	2.4	8.5
Commonwealth Caribbean Countries (CCCT)	42	0	117	0	0
Generalized Preferential Tariff (GPT)	42	98	19 (15) ^a	2.3	8.5
LDC tariff (LDCT)	42	0	117	0	0

Note: The tariff schedule splits tariff lines, to create separate lines for in-quota rates (159 at the 8-digit tariff line level). The number of in-quota lines does not necessarily coincide with the corresponding out-of-quota lines; in some cases, two out-of-quota lines correspond to one in-quota line. Calculations are based on the national 8-digit tariff line level. The figures correspond to numbers of in-quota tariff lines.

a Figures in parentheses refer to a number of tariff lines which are subject to reduced preferential tariff rates (i.e. not duty-free rate) out of the total number of preferential rates applied.

b Six tariff lines (1701.91.10, 1701.99.10, 1702.90.21, 1702.90.61, 1702.90.70, and 1702.90.81) for sugar quotas are not taken into account in the calculations.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and the WTO IDB.

3.1.3.4 WTO bindings

3.42. Canada's latest certified schedule of tariff concessions is in HS 2007.⁷⁵ The authorities are currently in the process of preparing the HS 2012 transposition of the schedule of commitments, for the purpose of multilateral review and certification. Canada is covered by the Waiver Decision of 30 November 2017 regarding the application of HS 2012, and by the Waiver Decision of 12 December 2018 for the application of HS2017, in order to implement the nomenclature changes needed in the Customs Tariff.⁷⁶

⁷⁵ The certification is contained in WTO document WT/Let/938, 20 March 2014.

⁷⁶ WTO documents WT/L/1028, 1 December 2017 and WT/L/1051, 13 December 2018.

3.43. Canada has bound 99.7% of its tariff lines and other duties and charges (ODCs). Its bound duties consist of *ad valorem* rates ranging from 0% to 532.2%, which is the AVE of the over-access commitment duty rate of 612.01¢/kg applicable to dried egg albumin (3502.11.20).⁷⁷ As in the case of Canada's applied tariff schedule, *ad valorem* tariff rates apply to most bound tariff lines, except for agricultural products such as dairy, prepared food, wine, meats, and vegetables, subject to specific and mixed bound tariffs. The simple average bound tariff rate is 7.8%. The simple average bound rate on agricultural products (WTO definition) is 22.4%, whereas that on non-agricultural products is 5.2%. The 23 unbound tariff lines at the HS eight-digit level cover products such as gas, petroleum, electrical energy, and vessels (e.g. tankers, and dredgers). Except for one tariff line (HS 22071090)⁷⁸, all ODCs are bound at zero.

3.44. Although applied rates are lower than bound rates in almost all cases, applied MFN rates exceed the corresponding bound rates for eight bound lines, of which five are due to rounding, two to the nature of AVE calculations, and one to a possible error in either the bound or the applied schedules (Table 3.10).

Table 3.10 Tariff lines where applied rates exceed bound rates, 2019

HS code	Product description	2019 applied MFN tariffs		Bound tariffs	
		As reported	AVEs	As reported	AVEs
16023991	Other prepared or preserved meat of ducks, geese or guinea fowl, in cans or glass jars	9.5%		8% but not less than 7.05¢/kg or greater than 14.11¢/kg	3.3%
19059039	Bread	4.5%		4.3%	
23099020	Preparations of a kind used in animal feed (containing eggs)	10.5%		9.88¢/kg	1.5%
02071422	Liver: Over-access commitment	238% but not less than CAD 6.45/kg	403.1%	238.3% but not less than 644.7¢/kg	402.9%
02071493	Other: Over-access commitment, boneless	249% but not less than CAD 6.74/kg	345.8%	249.0% but not less than 673.5¢/kg	345.5%
04081920	Egg yolks (excl. dried): Over-access commitment	CAD 1.52/kg	53.7%	151.7¢/kg	53.6%
04089920	Birds' eggs (excl. dried): Over-access commitment	CAD 1.52/kg	37.0%	151.7¢/kg	36.9%
35021920	Egg albumin (excl. dried): Over-access commitment	CAD 1.52/kg	169.0%	151.7¢/kg	168.7%

Source: WTO Secretariat estimates, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; the WTO IDB; and the CTS database.

3.1.3.5 Tariff exemptions and reductions

3.45. Canada's regulations under the Customs Tariff provide for a variety of duty and tax concessions in the form of different schemes, such as tariff remission under the Customs Tariff, duty drawback, temporary admission, and duty-free warehouses (Table 3.11). During the period under review, there were no major changes with respect to procedures and policies.

3.46. Under Section 115 of the Customs Tariff, the Governor in Council (on the basis of a recommendation by the Minister of Finance or the Minister of Public Safety and Emergency Preparedness) may grant relief or refund of customs duties, through the issuance of orders.⁷⁹ As noted in the previous Review, tariff remissions are generally proposed in situations where it is not appropriate to provide relief by statutory tariff amendments or another Order under the Customs Tariff. Requests for tariff remission are generally handled on a case-by-case basis, and remission is only provided under exceptional circumstances. The CBSA takes the lead on cases where administrative circumstances form the basis of the remission request, such as administrative error; and the Department of Finance takes the lead on requests involving tariff policy. In 2017-18, the total value of tariff remissions granted under Section 115 was CAD 183.5 million; nearly 90% of them resulted from remissions in respect of ferry-boats, tankers and cargo vessels.⁸⁰

⁷⁷ Within access commitment rate of duty is 8.5% (*ad valorem*).

⁷⁸ HS 22071090 (Undenatured ethyl alcohol) is subject to a rate of 12¢/litre of absolute ethyl alcohol, when taken into a bonded factory.

⁷⁹ Customs Tariff, Section 115.

⁸⁰ Government of Canada, *Public Accounts of Canada*. Viewed at: <https://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html>.

3.47. Under Section 23 of the Financial Administration Act, tariff remissions may also be granted for public interest reasons.

Table 3.11 Key features of tariff exemptions and concessions

Scheme	Summary
Temporary importation (Temporary Importation Regulations SOR/98-58; and Memorandum D8-1-1)	<p>Imports may be temporarily fully exempted from customs duties and other taxes (e.g. excise taxes) if they are not imported for sale, for lease, or for further manufacturing or processing (duty-free entry under tariff No. 99030000.</p> <p>Temporary imported goods cannot be released by the CBSA until the necessary inspections and documents required by other government departments are completed. Goods should be exported within an 18-month period, with a possible extension period.</p> <p>A Temporary Admission Permit (E29B) and a refundable security deposit may be required for relief from duties. A valid A.T.A. Carnet provides an alternative to Form E29B; in this case, there is no need to post a security deposit at the time of importation. Temporary imported goods include certain commercial goods and equipment for public exhibition, etc. Tariff relief may also be available if vessels are temporarily imported for specific purposes, such as repair, alteration, or storage.</p>
Canadian Goods Abroad Program (Customs Tariff, Sections 101-105; and Memoranda D8-2-1 and D8-2-4)	<p>Tariff relief is granted for goods returning to Canada after being exported for specific purposes (e.g. repair, alteration or further processing); duty is payable only on the value-added portion to the Canadian goods in the form of labour or additional material. Examples include:</p> <ul style="list-style-type: none"> • Full relief from duties is applied to emergency repairs to aircraft, vehicles or vessels which are being repaired outside Canada due to an unforeseen contingency that occurred outside Canada to ensure its safe return. • Outward Processing Remission Order (Textiles and Apparel) (SOR/2008-138) provides for the partial or full remission of the customs duties imposed on imported apparel produced in certain countries or territories under the General Preferential Tariff programme (unilateral preferences), using textiles produced in Canada.
Duty deferral programme	
Customs bonded warehouse (CBW) (Customs Bonded Warehouses Regulations SOR/96-46; Memorandum D7-4-4)	<p>The CBW programme provides for a complete deferral of customs duties, anti-dumping and countervailing duties, and other taxes on imported goods until the goods are released for Canadian consumption or exported. Goods may be manipulated or altered for displaying, inspecting, cleaning, etc., if they are not being further manufactured. All goods entering into a CBW are required to meet all other government department requirements, such as permits (including tariff quotas for agricultural products).</p> <p>A CBW licence (Form E401) is required. CBW operators must post a security of 60% for an amount corresponding to the maximum total of duties and taxes payable at any time in the year, following the issuance of the licence for the CBW. Generally, goods may be stored in the CBW for a period of up to four years, but the period varies depending on the type of goods, as specified in Section 19 of the Customs Bonded Warehouses Regulations. Non-residents can operate a bonded warehouse in Canada.</p>
Duty relief (Customs Tariff, Section 89; Memorandum D7-4-1)	<p>The programme relieves the payment of duties on imported goods at the time of importation if the goods are subsequently exported and meet one of the following conditions: the goods are eventually exported in the same condition as they were imported; the goods are further processed and then exported; the goods entered the country solely for display or demonstration; or the goods are used in the processing of other goods. In most cases, the imported goods must be exported within four years of the date of importation. Goods imported under the programme may be sold or transferred to another programme participant without paying duty. Participation in the programme requires the completion of an application form (K90) and the approval of the CBSA. The posting of a security is not required: no bonds or licensing fees are required.</p>
Duty Drawback (Goods Imported and Exported Refund and Drawback Regulations SOR/96-42; Memorandum D7-4-2)	<p>The programme provides a refund of customs duties on imported goods if the goods are subsequently exported and meet one of the following conditions: they are exported in the same condition as they were imported; the goods are imported for further processing and then exported; the goods entered the country solely for display or demonstration in Canada; or the goods are used as inputs to produce other goods for export. A claim for drawback must be filed within four years of the release date of the imported goods (in the case of imported spirits used to manufacture distilled spirits, within five years). An importer, exporter, or producer of goods that are exported, and for which duties were paid on importation, may file a drawback claim. If more than one person is eligible to file a claim, a waiver is required from all other eligible claimants waiving their rights to claim a drawback.</p>

Scheme	Summary
Government contract supplies	Tariff relief (code 9982) may be granted to imports related to defence supplies, as defined in the Defence Production Act, if the goods are part of a contract, are valued at CAD 250,000 or more, and are certified by the Ministry of Public Services and Procurement.

Source: Information compiled by the WTO Secretariat, based on Acts and D Memoranda Series as noted in the table; and CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tip-pec-eng.html#a1>.

3.1.3.6 Preferential tariffs

3.48. Canada grants preferences on a reciprocal basis to 19 trading partners including newly signed FTA partners, namely the European Union, Ukraine, and CPTPP countries that have ratified the CPTPP agreement. Furthermore, Canada offers non-reciprocal preferential tariff treatment for goods originating in beneficiary countries of the General Preferential Tariff (GPT), the Commonwealth Caribbean Country Tariff (CCCT), the Least Developed Country Tariff (LDCT), and Australia and New Zealand pursuant to longstanding bilateral agreements. Pursuant to Section 35.1 of the Customs Act, proof of origin in the form of a certificate of origin, an origin declaration or a statement of origin is required for all imported goods (with exceptions under certain conditions, such as low-value commercial goods)⁸¹ for preferential tariff rates. According to data provided by the authorities⁸², in 2017, some 19% of total imports were under FTAs and unilateral tariff arrangements; the United States, under NAFTA (i.e. goods coming under the NAFTA tariff regime), accounted for most of those imports (15% of total imports) (Table 3.12).

3.49. With over 70% of Canada's tariff lines being duty-free on an MFN basis, Canada's FTAs have led to a substantial further liberalization of its tariff regime. Under most FTAs, duty-free treatment covers 95% of tariff lines (based on Chart 3.3, and Table 3.12). The main exceptions from preferences are in the categories of meat products (HS 02), dairy produce (HS 04), and meat and fish products (HS 16) (Table 3.12). The simple average tariff rate for FTA partners is just over 3% (Chart 3.3 and Table 3.12). At a disaggregated level, the average rates for agricultural products (WTO definition) under FTAs are, in general, lower than the average MFN tariff rates; however, they remain high (ranging from 17% to 21%), mainly due to exceptions from preferences for certain product groups, as noted earlier. On the other hand, tariffs on non-agricultural products are nearly all zero.

3.50. Within the framework of unilateral tariff concessions to developing countries, average tariff rates applied to imported goods from LDCs stand at 3.3%, almost the same as for most FTA partners. Preferences given to non-LDC GPT and Commonwealth Caribbean Countries (CCCT) are more limited, especially for agricultural products: the average tariff rates under the GSP and the CCCT are 21.2% and 19.2%, respectively, compared to the average applied MFN rate of 21.8%. Unlike for FTAs and the LDC programme, apparel (HS 61 and HS 62) is excluded from GPT and CCCT preferential tariff treatment (Chart 3.3 and Table 3.12).

Table 3.12 Tariffs under preferential agreements, 2019

	Simple average tariff rate (%) ^a			Duty-free rates (including MFN duty-free) as a percentage of total tariff lines in each category (%)			Tariff lines not covered by preferential tariff rates	
	All	Agri.	Non-agri.	All	Agri.	Non-agri.	(% of total tariff lines)	Main product groups (HS 2-digit code)
MFN	6.1	21.8	2.5	70.4	54.8	73.9	29.5	
NAFTA								
Mexico	3.3	17.8	0	97.9	88.5	100	2.0	Meat (02); Dairy produce (04); Meat and fish products (16)
United States	3.3	17.8	0	98.4	91.6	100	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)

⁸¹ CBSA, Memorandum D11-4-2.

⁸² Canada's data submission to the WTO IDB. Calculations were based on imports entering Canada by different tariff regimes. Imports coded as receiving preferential treatment, but corresponding to MFN duty-free treatment, were treated as "MFN duty-free treatment".

	Simple average tariff rate (%) ^a			Duty-free rates (including MFN duty-free) as a percentage of total tariff lines in each category (%)			Tariff lines not covered by preferential tariff rates	
	All	Agri.	Non-agri.	All	Agri.	Non-agri.	(% of total tariff lines)	Main product groups (HS 2-digit code)
EFTA^b								
Iceland	3.7	20.1	0.0	95.3	75.4	99.8	4.4	Meat (02); Dairy produce (04); Preparations of cereals, flour, starch or milk (19)
Norway	3.9	21.1	0.0	93.2	64.4	99.8	6.4	Dairy produce (04); Preparations of cereals, flour, starch or milk (19); Vegetable and nut products (20)
Switzerland	3.9	21.2	0.0	93.0	63.0	99.8	6.7	Meat (02); Dairy produce (04); Preparations of cereals, flour, starch or milk (19)
Other reciprocal treatments								
Chile	3.2	17.6	0	98.4	91.6	100	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
Colombia ^b	3.3	18.1	0	98.2	90.4	100	1.7	Meat (02); Dairy produce (04); Sugars and sugar confectionery (17)
Costa Rica	3.5	17.9	0.2	96.5	91.2	97.7	3.4	Dairy produce (04); Ceramic products (69); Furniture (94)
CPTPP ^b	3.7	18.7	0.3	93.7	82.0	96.4	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
European Union ^b	3.3	17.9	0.0	97.6	90.6	99.2	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
Honduras ^b	3.3	17.9	0	98.3	90.9	100	1.7	Meat (02); Dairy produce (04); Sugars and sugar confectionery (17)
Israel	3.9	20.9	0.1	92.2	63.8	98.7	7.6	Meat (02); Dairy produce (04); Meat and fish products (16); Preparations of cereals, flour, starch or milk (19)
Jordan	3.3	17.9	0	98.4	91.6	100	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
Korea, Rep. of ^b	3.4	18.0	0.1	98.0	91.4	99.5	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
Panama ^a	3.3	18.1	0	98.0	89.1	100	1.8	Meat (02); Dairy produce (04); Sugars and sugar confectionery (17)
Peru	3.3	18.0	0	98.3	91.0	100	1.7	Meat (02); Dairy produce (04); Sugars and sugar confectionery (17)
Ukraine ^a	3.3	18.0	0.0	98.1	90.8	99.7	1.6	Meat (02); Dairy produce (04); Sugars and sugar confectionery (17)
Non-reciprocal treatment								
Australia	5.8	21.5	2.2	71.7	57.1	75.1	24.7	Preparations of cereals, flour, starch or milk (19); Apparel (62); Vehicles (87)
New Zealand	5.8	21.5	2.2	71.8	57.3	75.1	24.6	Preparations of cereals, flour, starch or milk (19); Apparel (62); Vehicles (87)
Commonwealth Caribbean Countries	4.5	19.2	1.2	91.5	87.0	92.5	8.4	Apparel (61 and 62); Worn clothing and worn textile articles (63)
General Preferential Tariff	5.4	21.2	1.8	76.4	59.2	80.3	12.1	Preparations of cereals, flour, starch or milk (19); Apparel (61 and 62)
Least Developed Country Tariff	3.3	17.8	0	98.5	91.7	100	1.5	Meat (02); Dairy produce (04); Meat and fish products (16)
Memo^c								
Mexico (NAFTA)-CPTPP	3.3	17.7	0	98.0	89.4	100	1.4	Meat (02); Dairy produce (04); Meat and fish products (16)
Australia-CPTPP	3.7	18.6	0.3	93.8	82.2	96.5	1.4	Meat (02); Dairy produce (04); Meat and fish products (16)
New Zealand - CPTPP	3.7	18.6	0.3	93.8	82.3	96.5	1.4	Meat (02); Dairy produce (04); Meat and fish products (16)

Note: All tariff calculations exclude in-quota lines. The tariff schedule is based on the HS17 nomenclature at the 8-digit tariff line level.
0.0 refers to >0 and <0.05; 100.0 refers to >99.55 and <100.

a AVEs were estimated based on 2017 import data at the 8-digit tariff level.

In case of unavailability, the *ad valorem* part is used for compound and mixed rates.

b The tariff phase-out period is not yet over.

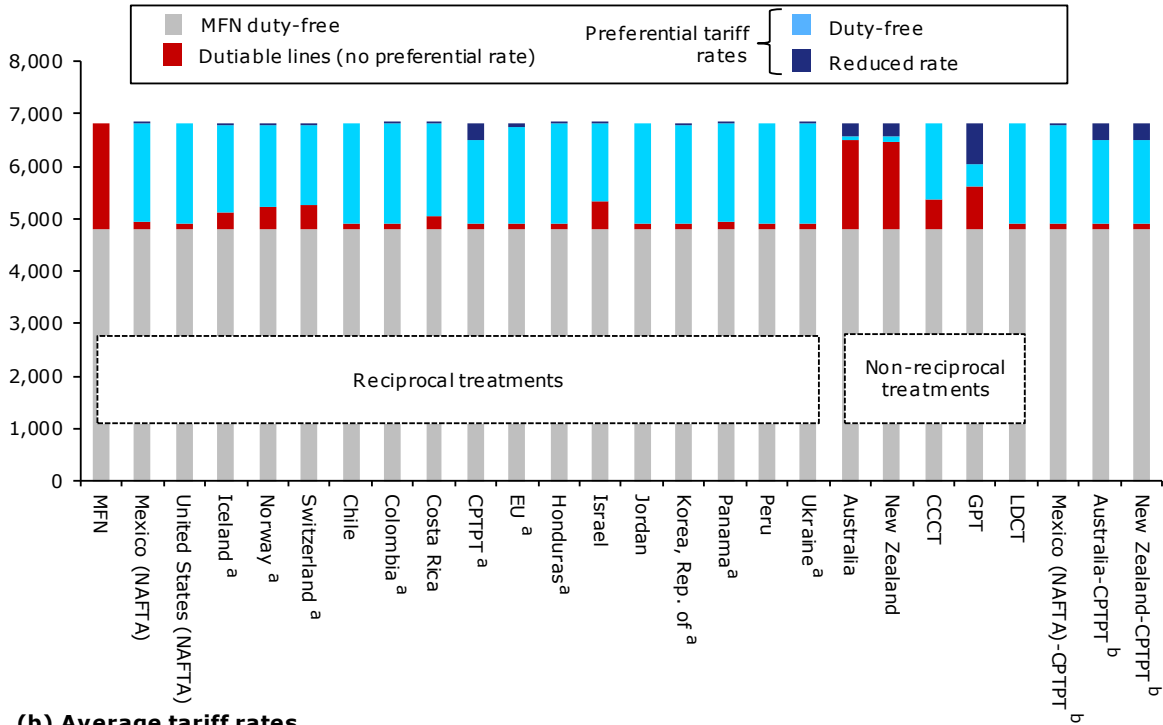
c Based on lowest rates taken among available preferential rates.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and the WTO IDB.

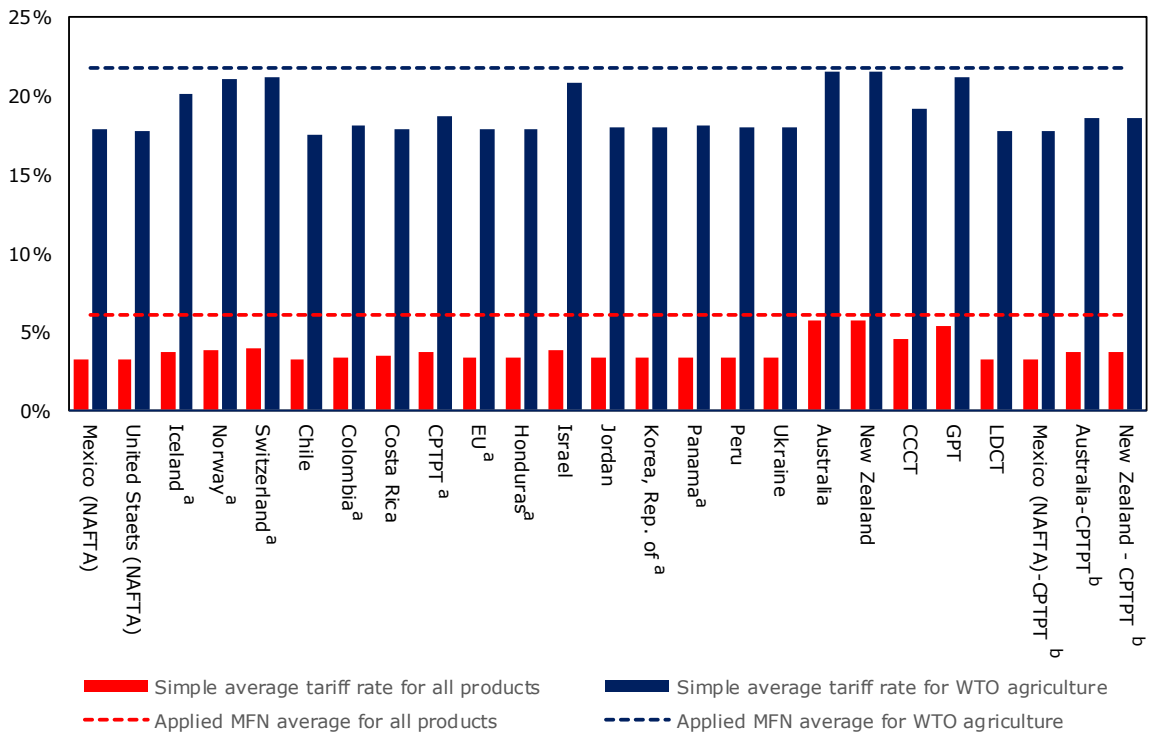
Chart 3.3 Applied MFN and preferential tariffs, 2019

(a) Breakdown of applied MFN and preferential tariffs

(Number of tariff lines)



(b) Average tariff rates



a The tariff phase-out period is not yet over.
 b Based on the lowest rate taken among available preferential rates.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and the WTO IDB.

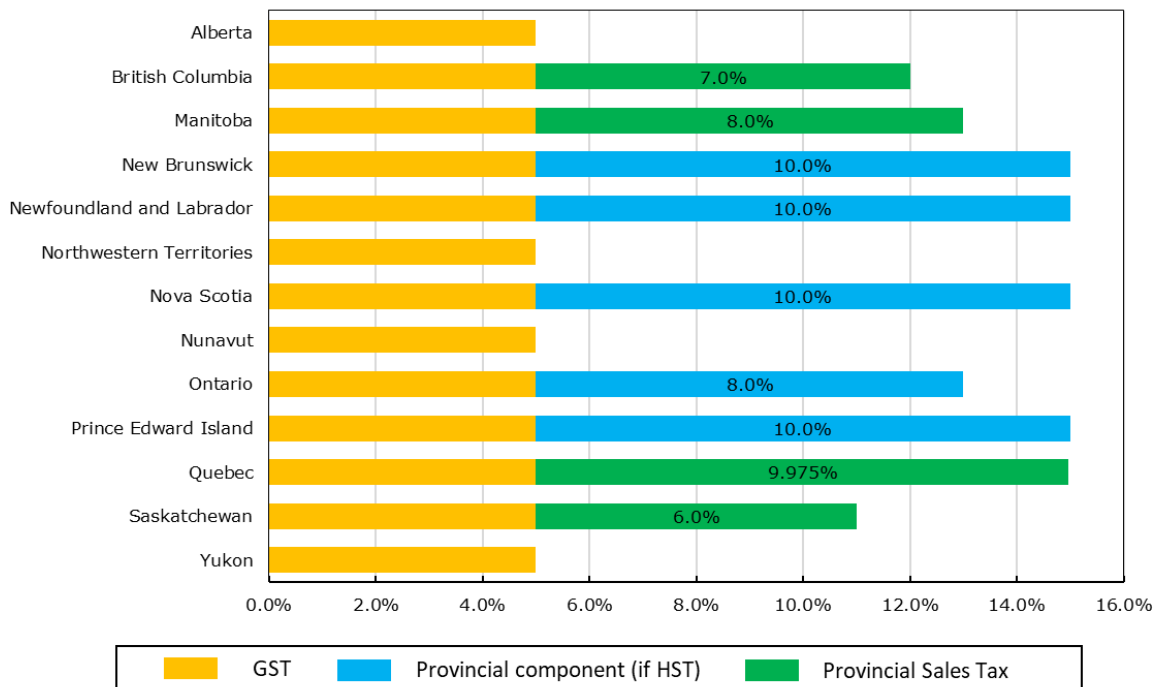
3.1.4 Other charges affecting imports

3.1.4.1 Federal Goods and Services Tax (GST) and provincial sales taxes

3.51. Levied under the Excise Tax Act, the GST is an important source of revenue for the Federal Government. In FY 2016/17, the GST generated CAD 34.4 billion in tax receipts, representing 14% of total federal tax revenue.⁸³ The GST, which is a value added tax, is applied to most goods and services at a rate of 5%. On imports, GST is generally levied on the Canadian dollar value of the goods, inclusive of any applicable duties and excise taxes, if any, and is collected at the border at the same time as these duties and excise taxes. Some goods and services are zero-rated or exempt from GST. Zero-rated items include basic groceries, farm livestock and fishery products for human consumption, farm equipment, prescription drugs, medical devices, feminine hygiene products, and international transportation services. A number of services, such as most financial services, insurance policies, education services, music lessons, medical and dental services, legal aid, and day-care services, are GST-exempted.

3.52. In five provinces, the Federal Government levies (in addition to the GST and on behalf of the province) a provincial tax component on the same tax base as the GST. The combined tax in these provinces is known as the Harmonized Sales Tax (HST) and amounts to a combined rate of 13% in Ontario, and 15% in New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island (Chart 3.4). Four provinces (British Columbia, Manitoba, Quebec, and Saskatchewan) levy a sales tax additional to the GST on a tax base that may be different from the GST. One province (Alberta) and the three territories (Northwest Territories, Nunavut and Yukon) do not levy any Provincial Sales Tax (PST). Provincial tax rates have been stable since 2015, except in Saskatchewan, where the PST was raised by one percentage point, in Prince Edward Island, where the HST was raised by one percentage point, and in New Brunswick and Newfoundland, where the HST was increased by two percentage points.

Chart 3.4 GST and HST/PST rates, 2018



Source: Canada Revenue Agency online information. Viewed at: <https://canadabusiness.ca/government/taxes-gst-hst/federal-tax-information/overview-of-charging-and-collecting-sales-tax/>.

⁸³ Department of Finance (2018), *Annual Financial Report of the Government of Canada, Fiscal Year 2016-17*. Viewed at: https://www.fin.gc.ca/afr-rfa/2017/report-rapport-eng.asp#_Toc492557457.

3.53. Goods and services exported from Canada are generally zero-rated for GST/HST purposes. In addition, the GST/HST is relieved on certain inputs in respect of exported goods under two programmes. The Export Distribution Centre Program (EDCP) generally permits eligible businesses that do not manufacture or produce goods to acquire and import certain goods without paying GST/HST. Eligible businesses must be engaged exclusively in commercial activities, derive at least 90% of their revenues from exports, and add limited value to goods in the course of their activities.⁸⁴ The Exporters of Processing Services Program (EOPS) generally permits eligible businesses to import goods belonging to a non-resident without paying GST/HST if the goods are imported for the sole purpose of supplying storage, distribution, processing, manufacturing or production services in respect of the goods to the non-resident. The relief is available only if the goods are not transferred to another business in Canada (other than for storage or transportation purposes) and are exported within four years of importation. Both programmes are authorized under the Excise Tax Act and are administered by the Canada Revenue Agency.

3.1.4.2 Federal excise duties and taxes

3.54. The Federal Government levies excise duties and taxes on alcoholic beverages, tobacco products, certain petroleum products, and a few other items (e.g. automobile air conditioners and fuel-inefficient vehicles). Excise duties are charged either under the Excise Act or the Excise Act, 2001, whereas excise taxes are charged under the Excise Tax Act. The tax rates are generally identical for imports and domestically-produced goods, but lower rates (or zero) apply to domestic brewers and to wine made entirely from Canadian-grown agricultural input.⁸⁵ The federal excise tax on certain petroleum products ranges from CAD 0.04 to CAD 0.11 per litre; on certain fuel-inefficient passenger vehicles, from CAD 1,000 to CAD 4,000 per unit; and on automobile air conditioners, it amounts to CAD 100. For alcohol and tobacco goods, the current rates are enumerated in Table 3.13.

Table 3.13 Federal excise duty rates, December 2018

Product	Unit	Rate (CAD)	Effective
Spirits			
- imported by a licensed user	Per litre of absolute ethyl alcohol	0.12 ^a	01/07/2003
- not more than 7% of absolute ethyl alcohol by volume	Per litre of spirits	0.306	01/04/2018
- more than 7% of absolute ethyl alcohol by volume	Per litre of absolute ethyl alcohol	12.109	01/04/2018
Beer^b			
- not more than 1.2% of absolute ethyl alcohol by volume	Per hectolitre (hl)	2.683	01/04/2018
- more than 1.2% but not more than 2.5% of absolute ethyl alcohol by volume	Per hl	16.16	01/04/2018
- more than 2.5% of absolute ethyl alcohol by volume	Per hl	32.32	01/04/2018
Wine^c			
- not more than 1.2% of absolute ethyl alcohol by volume	Per litre	0.021	01/04/2018
- more than 1.2% but not more than 7% of absolute ethyl alcohol by volume	Per litre	0.306	01/04/2018
- more than 7% of absolute ethyl alcohol by volume	Per litre	0.639	01/04/2018
Tobacco^d			
- cigarettes	Per five	0.59634	28/02/2018
- tobacco sticks	Per stick	0.11927	28/02/2018
- cigars	Per 1,000 cigars	25.95832	28/02/2018
- raw leaf tobacco	Per kg	1.572	01/07/2003
- other manufactured tobacco	Per 50 g or fraction of 50 g contained in a package	7.45425	28/02/2018

a Special duty rate.

b Reduced rates apply to beer brewed in Canada by a licensed brewer and anyone related to or associated with that brewer.

c Wine produced in Canada and made from 100% Canadian-grown agricultural products is exempt from excise duty.

d Cigars, domestically-manufactured or imported, are subjected to an additional duty of CAD 0.093331 per cigar, or 88% of *ad valorem*, whichever is greater.

Source: Federal Tax Information. Viewed at: <https://canadabusiness.ca/government/taxes-gst-hst/federal-tax-information/overview-of-charging-and-collecting-sales-tax/>.

⁸⁴ Activities covered under the EDCP typically involve minor processing, such as disassembly, reassembly, distribution, display, inspection, labelling, packing, storage, testing, cleaning, diluting, maintenance and servicing, preservation, sorting, grading, trimming, filing, sitting, or cutting.

⁸⁵ Lower excise rates on beer apply to the first 75,000 hectolitres per calendar year for beer produced in Canada by a licensed brewer or anyone related to or associated with that brewer.

3.1.4.3 Provincial product-specific taxes

3.55. In addition to the federal excise duties and taxes noted above, the provinces and territories may levy their own product-specific taxes on the same products and, in some instances, also on other goods.⁸⁶ For example, all provinces apply a Tire Recycling Fee (TRF), ranging from CAD 3 to CAD 14 per new tyre, as an environmental tax. In Ontario, non-refillable containers are subject to an environmental tax of CAD 0.0893 for beer and other beverages. The general provincial product-specific tax regimes for fuels, tobacco, and alcoholic beverages are set out in Tables 3.14, 3.15 and 3.16. Provinces may accord exemptions or reductions for certain products or users on the taxes that they levy.

Table 3.14 Fuel taxes levied by provinces and territories, December 2018

Province	Tax rate(s)
Alberta	Rates per litre: aviation fuel, CAD 0.015; diesel and gasoline, CAD 0.13; locomotive, CAD 0.18; propane, CAD 0.094.
British Columbia	Rates per litre: aviation fuel, CAD 0.02; gasoline, CAD 0.255 (Vancouver area), CAD 0.20 (Victoria area), and CAD 0.145 (rest of province); diesel, CAD 0.26 (Vancouver area), CAD 0.205 (Victoria area), and CAD 0.15 (rest of province); propane, CAD 0.027; locomotive, CAD 0.03.
Manitoba	Rates per litre: aviation fuel, CAD 0.032; clear diesel and gasoline, CAD 0.14; locomotive, CAD 0.063; propane, CAD 0.03.
New Brunswick	Rates per litre: aviation fuel, CAD 0.025; gasoline, CAD 0.0155; motive fuel (e.g. diesel), CAD 0.0215; locomotive, CAD 0.043; propane, CAD 0.067.
Northwest Territories	Rates per litre: aviation, CAD 0.01; motive diesel, CAD 0.09; non-motive diesel, CAD 0.031; gasoline off-highway, CAD 0.064; gasoline on-highway, CAD 0.107; locomotive, CAD 0.114.
Newfoundland and Labrador	Rates per litre: aviation CAD 0.025; diesel CAD 0.165; gasoline, CAD 0.165; marine, CAD 0.035; auto propane, CAD 0.07.
Nova Scotia	Rates per litre: aviation, CAD 0.025; diesel, CAD 0.154; gasoline, CAD 0.155; marine, CAD 0.011; propane, CAD 0.07.
Nunavut	Rates per litre: aviation fuel, CAD 0.01; gasoline, CAD 0.064; motive diesel, CAD 0.091.
Ontario	Rates per litre: aviation, CAD 0.067; unleaded gasoline, CAD 0.147; leaded gasoline, CAD 0.177; diesel, CAD 0.143; locomotive, CAD 0.045; automotive propane, CAD 0.043.
Prince Edward Island	Rates per litre: aviation, CAD 0.007; diesel, CAD 0.202; gasoline, CAD 0.131.
Quebec	Regular rate across the region: gasoline, CAD 0.19; non-coloured fuel oil, CAD 0.20. Rates per litre: aviation and locomotive, CAD 0.03. Taxes on gasoline and non-coloured fuel vary across regions (e.g. regular rate and reduced rate regions).
Saskatchewan	Rates per litre: aviation, CAD 0.015; diesel and gasoline, CAD 0.15; propane, CAD 0.09.
Yukon	Rates per litre: aviation, CAD 0.011; diesel, CAD 0.075; gasoline, CAD 0.062.

Note: According to Natural Resources Canada, fuel that is sold on a reserve or in a native settlement to a registered Indian, a band, a band council or a tribal council may be tax exempt.

Source: Various provincial/territorial government websites.

Table 3.15 Provincial and territorial taxes on tobacco, December 2018

Province/territory	Cigarettes (CAD/unit)	Cigars (tax rate)	Loose tobacco (CAD/g)
Alberta	0.25 (↑)	129.0% (↑)	0.375 (↑)
British Columbia	0.275 (↑)	90.5%	0.375 (↑)
Manitoba	0.295 (↑)	75.0%	0.45 (↑)
New Brunswick	0.2552 (↑)	75.0%	0.2552 (↑)
Northwest Territories	0.304 (↑)	75.0%	0.272 (↑)
Newfoundland	0.245 (↑)	125.0%	0.40 (↑)
Nova Scotia	0.2752 (↑)	60.0% (↑)	0.26 (↑)
Nunavut	0.30	140.0%	0.40 (↑)
Ontario	0.18475 (↑)	56.6%	0.18475 (↑)

⁸⁶ Non-commercial imports of tobacco products and intoxicating liquors may also be subject to product-specific taxation (*ad-valorem* or flat-rate mark-ups) at the provincial level.

Province/territory	Cigarettes (CAD/unit)	Cigars (tax rate)	Loose tobacco (CAD/g)
Prince Edward Island	0.25 (↑)	71.6% (↑)	0.215 (↑)
Quebec	0.149	80.0%	0.149 (↑)
Saskatchewan	0.27 (↑)	100.0%	0.27 (↑)
Yukon	0.30 (↑)	130.0%	0.30 (↑)

(↑) Denotes an increase in the tax rate between 2015 and 2018.

Source: Various provincial/territorial government websites.

Table 3.16 Selected provincial and territorial taxes and mark-ups on alcoholic beverages, December 2018

(CAD or %)

Province	Spirits	Wine	Beer
Alberta	Mark-up (22%-60% alcohol by volume) CAD 13.76/litre	Mark-up (16% alcohol by volume, or less) CAD 3.91/litre	Mark-up (11.9% alcohol by volume, or less): based on the manufacturer's annual worldwide production; - >50,000 hl of production: CAD 1.25/litre - ≤50,000 hl of production: CAD 0.10 to 0.60/litre
British Columbia	124% base mark-up, with graduated mark-up on cost portion over CAD 21/litre 124% mark-up applied between CAD 0 and CAD 21/litre 93% mark-up applied between CAD 21.01 and CAD 29.20/litre 62% mark-up applied between CAD 29.21 and CAD 37.40/litre 43% mark-up applied on any amount over CAD 37.41/litre	89% base mark-up, with graduated mark-up on cost portion over CAD 11.75/litre 89% mark-up applied between CAD 0 and CAD 11.75/litre 27% mark-up applied on any amount over CAD 11.76/litre	Large brewers (>350,000 hl annual production) = CAD 1.08/litre Medium brewers (>15,001≤350,000 hl annual production) = CAD 0.41 to CAD 0.99/litre Small brewers (≤15,000 hl annual production) = CAD 0.40/litre
Manitoba	153% of landed cost, plus CAD 1.09 surcharge per litre	95% of landed cost, plus CAD 1.701 surcharge per litre	49% of landed cost, plus CAD 0.4085 surcharge per litre. Reduced mark-ups for producers brewing <75,000 hl
New Brunswick	CAD 14.49 flat mark-up/litre + 55% mark-up on landed cost	147% mark-up on landed cost, to CAD 8.99/litre	CAD 14.49 flat mark-up/litre + 55% mark-up on landed cost
Northwest Territories	CAD 29.98 per litre	CAD 8.92 per litre	CAD 2.22 per litre
Newfoundland	750ml bottle= CAD 7.69 + 100% landed cost	750ml bottle= CAD 3.57 + 84% landed cost	CAD 4.092/litre = CAD 2.45 + 38% landed cost
Nova Scotia	Mark-up: 160% maximum	Mark-up: 140% maximum	Mark-up: 84.5% maximum
Nunavut	Mark-up: ≤30% alcohol content: CAD 24.00/litre >30% alcohol content: CAD 28.00/litre	Mark-up: ≤16% alcohol content: CAD 9.00/litre >16% alcohol content: CAD 11.00/litre	Mark-up: ≤7% alcohol content: CAD 2.40/litre >7% alcohol content: CAD 2.60/litre Small brewers: CAD 1.80- CAD 2.28/litre (depending on size)
Ontario ^{a, b}	Mark-up: 139.7% Volume Levy: CAD 0.38/litre	Mark-up: 64.6%-114% Wine Levy: CAD 1.62/litre Volume Levy: CAD 0.29/litre	Beer manufacturer: CAD 0.7245/litre draft, and CAD 0.8974/litre non-draft Microbrewer ^c : CAD 0.3596/litre draft, and CAD 0.3975/litre non-draft Volume Levy: CAD 0.176/litre

Province	Spirits	Wine	Beer
Prince Edward Island	CAD 9.37 or CAD 9.62/litre + 51% of landed cost	Mark-up: 168.125% of landed cost on first CAD 40. 56.25% on next CAD 60. 37.5% on balance	74.9% to 88.125% of landed cost, depending on selling price
Quebec	CAD 1.40/litre sold		CAD 0.63/litre sold
Saskatchewan	Mark-up: 88% of landed cost (alcohol content <7%) 99% between first CAD and CAD 12.50/litre of landed cost (alcohol content >7% to 14.5%) 30% on portion of landed cost over CAD 12.50/litre (alcohol content >7% to 14.5%) 130% between first CAD to CAD 25.00 of landed cost. (alcohol content >14.5%) 60% on portion of landed cost between CAD 25.01 and CAD 37.50/litre (alcohol content >14.5%) 30% on any portion of landed cost over CAD 37.50/litre (alcohol content >14.5%)	Mark-up: 88% of landed cost (alcohol content <7%) 99% between first CAD and CAD 12.50/litre of landed cost (alcohol content >7% to 14.5%) 30% for portion of landed cost over CAD 12.50/litre (alcohol content >7% to 14.5%) 130% between first CAD to CAD 25.00 of landed cost (alcohol content >14.5%) 60% on portion of landed cost between CAD 25.01 and 37.50/litre (alcohol content >14.5%) 30% on any portion of landed cost over CAD 37.50/litre (alcohol content >14.5%)	Mark-up: CAD 1.734/litre per package volume (alcohol content <6.5%) 91% of landed cost (alcohol content >6.5%)
Yukon	Mark-up for large producers (total annual production > 8,300 litres of absolute ethyl alcohol): 138% on portion of landed cost between CAD 0.00 and CAD 17.40 35% on portion of landed cost between CAD 17.41 and CAD 53.40 15% on portion of landed cost over CAD 53.41. Mark-up for small and medium-sized producers (total annual production ≤8,300 litres of absolute ethyl alcohol): CAD 11.70 per litre	Mark-up for large producers (total annual production >60,000 litres): 98% on portion of landed cost between CAD 0.00 and CAD 7.50 55% on portion of landed cost between CAD 7.51 and CAD 21.00 15% on portion of landed cost over CAD 21.01 – table wines and ready-to-serve: 125% on portion of landed cost between CAD 0.00 and CAD 7.50 55% on portion of landed cost between CAD 7.51 and CAD 21.00 15% on portion of landed cost over CAD 21.01 – fortified wine Mark-up for small and medium-sized producers (total annual production ≤60,000 litres): CAD 7.70/litre – table wines	Mark-up for large producers (total production >25,000 hl): CAD 1.00/litre – draft beer CAD 1.00/litre – packed beer 70% + CAD 0.30/litre (cost of service) – coolers Mark-up for medium-sized producers (total annual production between 15,000 and 25,000 hl): CAD 0.40/litre – draft beer CAD 0.40/litre – packaged beer Mark-up for small producers (total annual production ≤15,000 hl): CAD 0.10/litre – draft beer CAD 0.10/litre – packaged beer

- a Exempted from taxes and mark-ups: home-brewed/made beer/wine and beverages.
- b Environmental tax (if applicable) – CAD 0.0893 for each non-refillable container.
- c A manufacturer having 49,000 hl or less in worldwide production of beer in the previous calendar year qualifies for microbrewer rates

Source: Various Canadian websites.

3.56. In conjunction with the legalization of cannabis for non-medical purposes in Canada in October 2018, the Excise Tax Act, 2001 was amended to apply an excise duty framework to cannabis products. Licensed cannabis producers are liable to remit the excise duty and ensure excise stamps are placed on all duty-paid cannabis products, legally produced and available for purchase. The Federal Government agreed on a coordinated cannabis taxation framework with most provincial and territorial governments in December 2017. Under the agreement, the Federal Government is to receive 25% of the revenue collected (maximum CAD 100 million per year for the first two years after legalization), with the remaining revenues to be distributed among the participating provinces

and territories. The excise rates on cannabis products are set out in the Excise Act, 2001 and its Regulations.

3.1.4.4 Other charges

3.57. The Pan-Canadian Approach to Pricing Carbon Pollution⁸⁷, a federal benchmark announced in 2016, aims at ensuring that carbon pollution pricing applies to a broad set of emission sources throughout Canada, with increasing stringency over time, to reduce greenhouse gas emissions at the lowest cost to business and consumers, and to support innovation and clean growth. The federal benchmark recognized that provinces and territories have implemented, or are developing, their own carbon pollution pricing systems, and outlined criteria all systems must meet to ensure they are stringent, fair, and efficient. The Federal Government committed to implementing a federal carbon pollution pricing system in provinces and territories that request it or do not have a carbon pricing system that meets the federal benchmark in 2019.

3.58. Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec, Saskatchewan and the Northwestern Territories have established, or are on track to implement, provincial explicit price-based systems or cap-and-trade systems. The Federal Government is implementing the federal carbon pollution pricing system in Manitoba, New Brunswick and Ontario, and the federal system also applies in part in Prince Edward Island and Saskatchewan. Carbon pollution pricing will take effect in the territories in July 2019, with the Northwest Territories implementing its own system, and Nunavut and Yukon having agreed to the federal system.

3.59. All direct proceeds from pricing carbon pollution under the federal system are to be returned to the jurisdiction in which they were collected. The Federal Government is to provide an annual update on how proceeds have been used. Provincial and territorial governments that have committed to addressing climate change by voluntarily adopting the federal system will receive these proceeds directly from the Federal Government and can decide on how to use them. Proceeds from carbon pollution pricing remain in the jurisdiction of origin.

3.1.5 Import prohibitions, restrictions, and licensing

3.60. The importation of certain goods into Canada is prohibited by law. Such goods are grouped within tariff lines 9897.00.00, 9898.00.00 and 9899.00.00 of the Customs Tariff⁸⁸, and include certain endangered species or those posing a potential threat to the environment; base or counterfeit coins; used or second-hand mattresses and materials therefrom; reprints of Canadian copyrighted works or British works copyrighted in Canada; prison labour goods; certain used or second-hand motor vehicles and aircraft; white phosphorous matches; firearms and prohibited or restricted weapons and ammunition; asbestos and products containing asbestos; and publications deemed obscene, constituting hate or terrorist propaganda, or of treacherous or seditious character within the meaning of the Criminal Code. The CBSA provides further information on the underlying policy in its D9 Memoranda series. Since the last TPR, the CBSA has issued updated memoranda on the importation of used or second-hand vehicles (August 2016), policies regarding the classification of obscene material (June 2017) and hate propaganda, sedition, and treason materials (July 2017); and a revised memorandum on the determination procedures for obscenity and hate propaganda (September 2018).⁸⁹ The basic features of the system remain unchanged.

3.61. According to Section 5(1) of the Export and Import Permits Act, the Governor in Council is empowered to establish an Import Control List (ICL) to: (i) ensure the best possible supply of articles in scarce supply in world markets or in Canada, or articles subject to governmental controls in the country of origin or to allocation by intergovernmental arrangement; (ii) support any action taken under the Farm Product Agencies Act; (iii) restrict the importation of arms, ammunition, implements or munitions of war, etc.; (iv) implement an action taken under the Agricultural Marketing Programs Act or the Canadian Dairy Commission Act, with the object or effect of supporting the price of the article; (v) implement an intergovernmental arrangement or commitment; or (vi) to prevent imports

⁸⁷ Government of Canada's online information. Viewed at: <https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work.html>.

⁸⁸ Customs Tariff Act (S.C. 1997, c. 36), Section 136(1).

⁸⁹ CBSA Memoranda D9-1-11 of 25 August 2016; D9-1-1 of 7 June 2016; D9-1-15 of 12 July 2017; and D9-1-17 of 20 September 2018.

that frustrate or circumvent the WTO Agreement on Textiles and Clothing. The ICL is updated regularly, and currently classifies goods in 193 product categories.⁹⁰

3.62. Canada notifies its import licensing procedures to the WTO on a regular basis. The most recent notification, covering 2016, provides information on licensing applied to enforce requirements under the Export and Import Permits Act (R.S.C., 1985, c. E-19), acts pertaining to controlled drugs and substances, explosives, nuclear safety and controlled rough diamonds, wild animal and plant protection, animal health, fish inspection, food and drugs, the National Energy Board Act (oil and gas), the Canada Agricultural Products Act (fruit, vegetables, and cheeses), and the Grower Requested Own Use (GROU) Program (Canadian-registered agricultural pesticides). In addition, on the basis of the Canadian Environmental Protection Act, Canada has promulgated several regulations governing the exportation, importation, interprovincial movement, and recycling of hazardous waste, as well as the Ozone-depleting Substances and Halocarbon Alternatives Regulations to implement intergovernmental arrangements and commitments (Table 3.17).

Table 3.17 Main import restrictions and licensing requirements, March 2019

Product	Main legal basis/rationale
Food of animal and plant origin	Food and Drugs Act and Safe Food for Canadians Act (WTO document G/LIC/N/2/CAN/1). To ensure that the imported food meets Canadian standards for safety, quality, and labelling.
Regulated animals, animal products and by-products, and germplasm	Health of Animals Act, to protect against the introduction and spread of diseases in Canada.
Plant pests, plants and plant products	Plant Protection Act, to protect against the introduction and spread of pests injurious to plants in Canada
Unregistered pest-control products for the purpose of manufacturing, own use or research	Pest Control Products Act, to ensure that the importation of an unregistered pest-control product is used for the specific purpose, and to ensure that it does not pose any unacceptable health or environmental risks.
Controlled substances, industrial hemp and precursor chemicals (Schedules I to VI to the Controlled Drugs and Substances Act)	Controlled Drugs and Substances Act (UN Drug Control Conventions).
Explosives	Explosives Act.
Chemicals controlled under the Chemical Weapons Convention, Munitions Items (weapons, ammunition and war supplies)	Export and Import Permits Act, to restrict importation and/or implement an intergovernmental arrangement or commitment.
Prescribed nuclear equipment and information, radiation devices, and nuclear substances	Nuclear Safety and Control Act, to ensure that products subject to regulatory control are destined to authorized persons or organizations, and that their use will not pose undue risk to health, safety, security, and the environment (implements international obligations).
Carbon steel products and specialty steel products	Export and Import Permits Act, to monitor the volume and the origin of carbon and specialty steel products.
Species regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora	Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA), to allow the importation of certain species and their by-products in internationally-agreed circumstances. For species in Schedule II, to ensure that there are sufficient safeguards and security to prevent escapes to the wild.
Health products	Food and Drugs Act, to ensure that imported natural health products, drugs, blood and medical devices meet Canadian requirements for safety, efficacy, and quality.
Rough diamonds	Export and Import of Rough Diamonds Act. In December 2000, the United Nations General Assembly adopted resolution A/RES/55/56, supporting the creation of an international certification scheme for rough diamonds. This was followed by support from the United Nations Security Council in its Resolution 1459 passed in January 2003.
Asbestos and asbestos-containing products	Updated regulations to ban asbestos, and products containing it, came into force on 30 December 2018, and the Government repealed its previous control measures. The changes come under Canada's comprehensive strategy to manage asbestos, announced in December 2016.
Textile and clothing products	Export and Import Permits Act, to implement FTAs with the United States, Mexico, Chile, Costa Rica, and Honduras.
Natural gas	National Energy Board Act.
Firearms, prohibited weapons, and prohibited devices	Customs Act, Firearms Act, and the Exports and Imports Permit Act (EIPA).

⁹⁰ Government of Canada, Justice Laws Website. Viewed at: http://laws-lois.justice.gc.ca/PDF/C.R.C.,_c._604.pdf.

Product	Main legal basis/rationale
Hazardous waste and hazardous recyclable material	Canadian Environmental Protection Act, to implement international and bilateral obligations.
Ozone-depleting substances	Canadian Environmental Protection Act, to implement international obligations.

Source: WTO document G/LIC/N/3/CAN/17, 1 October 2018; and information provided by the authorities.

3.63. Updated regulations to ban asbestos, and products containing it, came into force on 30 December 2018, and the Government repealed its previous control measures. The Prohibition of Asbestos and Products Containing Asbestos Regulations issued under the Canadian Environmental Protection Act, 1999 (CEPA), were finalized in October 2018. Their coming into force led to the repeal of the Asbestos Products Regulations, which had been issued under the Canada Consumer Product Safety Act. The new Regulations ban the import, sale and use of the substance and products containing it, with several limited exceptions. These include a time-limited exemption for the chlor-alkali industry until the end of 2029. The changes come under Canada's comprehensive strategy to manage asbestos, announced in December 2016.⁹¹

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping and countervailing measures

3.64. Finance Canada is the agency responsible for policy issues regarding trade remedies. Global Affairs Canada is responsible for ensuring that policy follows Canada's trade policy agenda. The main regulations with respect to anti-dumping (AD) and countervailing (CV) measures are contained in the Special Import Measures Act (SIMA),⁹² the Special Import Measures Regulations (SIMR) (SOR/84-927), the Canadian International Trade Tribunal Regulations, and the Canadian International Trade Tribunal Rules, which set out the rules and procedures for the imposition of trade remedies in Canada. The last amendment to the SIMA, the SIMR, and the Rules came into force on 26 April 2018. The changes in legislation were notified to the WTO in May 2018 and are contained in the following legal instruments: the Budget Implementation Act, 2017, No. 1; the Regulations Amending the Special Import Measures Regulations; and the Canadian International Trade Tribunal Regulations; and the Rules Amending the Canadian International Trade Tribunal (CITT) Rules.⁹³

3.65. The key elements of the amendments include: provisions that permit the Canada Border Services Agency (CBSA) to conduct new scope proceedings and anti-circumvention investigations, provisions that grant the CBSA the ability to disregard certain sales due to a particular market situation, changes in sunset review procedures, and provisions that give unions participatory rights in dumping and subsidy investigations (see below).⁹⁴ The authorities noted that many of the amendments were implemented to modernize legislation.⁹⁵

3.66. AD and CV investigations can be initiated following a petition of the domestic industry, or may be self-initiated by the CBSA, although this is seldom the case. The process is conducted through a bifurcated system, in which the CBSA determines whether dumping and/or subsidization occurred, and the CITT determines whether injury, threat of injury or retardation has resulted in the domestic industry. The CBSA receives the complaint, evaluates it, and decides whether it may start a formal investigation to determine whether the goods are dumped or subsidized. To ensure there is sufficient support by the Canadian industry for an investigation, producers representing at least 25% of Canadian production must support the complaint, and there must be more support than opposition

⁹¹ Government of Canada online information. Viewed at: <https://www.canada.ca/en/health-canada/services/chemical-substances/chemicals-management-plan/initiatives/asbestos.html>.

⁹² Special Import Measures Act (R.S.C., 1985, c. S-15), latest amendment in April 2018.

⁹³ WTO document G/ADP/N/1/CAN/4/Suppl.2, G/SCM/N/1/CAN/4/Suppl.2, G/SG/N/1/CAN/3/Suppl.1, 19 June 2018.

⁹⁴ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sapt-pesp-eng.html>.

⁹⁵ On 22 June 2016, the SIMA was amended to make changes regarding the preliminary determination, where the investigation is no longer terminated for goods with an insignificant estimated margin of dumping, but duties will not be collected. Also, additional time was granted in expiry reviews and expiry reviews were allowed to start later. On 22 June 2017, the SIMA was amended to include scope proceedings, anti-circumvention investigations, particular market situations, participation by unions, and termination by the exporter. The provisions regarding determination by the exporter went into effect at this time; the others required regulatory changes, which went into effect in April 2018. On 26 April 2018, the SIMR and CITT Regulations were amended to allow for the legislative changes concerning scope proceedings, anti-circumvention investigations, particular market situations, and participation by unions to take effect.

to the complaint within the Canadian industry.⁹⁶ Once a formal complaint is received, the CBSA has 21 days to determine if it is properly documented. If the complaint is not properly documented, all the proceedings cease. If the CBSA determines that a complaint has been properly documented, a decision on whether or not to initiate an investigation must be made within 30 days. If the CBSA decides not to initiate an investigation, all the proceedings cease. If the CBSA determines that an investigation should be started, questionnaires are sent to exporters, importers, and, in subsidy investigations, to the government of the exporting country.

3.67. Following the decision to start an investigation, the CBSA sends a copy of the complaint to the CITT. The CITT then initiates its preliminary injury inquiry, which investigates into whether the dumping and/or subsidizing have caused or threaten to cause material injury to a domestic industry or have caused material retardation of the establishment of a domestic industry. Within 60 days, the CITT will either terminate its inquiry or make a preliminary finding of injury. In the preliminary inquiry phase, the CITT determines whether the evidence discloses a reasonable indication of injury, threat of injury or retardation. If the CITT finds that there is no reasonable indication, both the CITT injury inquiry and the CBSA investigation are terminated. If the CITT finds that there is a reasonable indication of injury, threat of injury, or retardation it issues its decision and reasons to that effect. Following the CITT's preliminary determination of injury, the CBSA must, within 90 days after the date of its initiation (or 135 days if the case is complex), make a preliminary determination or terminate the investigation.⁹⁷ If the CBSA terminates the investigation, all the proceedings are ended including the CITT injury inquiry. If the CBSA determines that there is dumping or subsidizing of the goods, provisional duties may be imposed by the CBSA and the CITT will initiate its final injury inquiry. There is also a possibility for the CBSA to accept price undertakings in which an exporter increases selling prices so that the margin of dumping, amount of subsidy or injury is eliminated. Such undertakings would suspend both the CBSA investigation and the CITT inquiry.

3.68. The CITT must, within 120 days after the initiation of its injury inquiry, make its final injury finding. Where the CITT determines there is no injury (or threat of injury) to the domestic industry, all the proceedings are terminated, and the provisional duties are returned. Where the CITT makes a finding of injury, the CBSA will review and finalize the provisional duties within six months of the finding. Definitive AD or CV duties are imposed only after the CITT has issued an injury or threat of injury finding. All in all, the SIMA investigative process generally takes about 260 days from the time the CBSA receives a complaint until the CITT makes a finding.⁹⁸ The CBSA collects final duties and monitors imports of subject goods while the finding is in place for the next five years. Under the SIMA, a finding of injury, or threat of injury, or an order continuing a finding of injury, or threat of injury, and the associated special protection in the form of AD or CV duties expire five years from the date of the finding or the order, unless an expiry review has been initiated. In practice, expiry reviews are completed before the expiry date of the finding or order duty.

3.69. One of the main changes brought about by the review of Canada's trade remedies legislation is the introduction of anti-circumvention proceedings.⁹⁹ The proceedings before the CBSA were established to determine whether goods are being imported for the specific purpose of circumventing existing AD and CV duties, which could result in the scope of the duties being extended to cover importations of such goods. Anti-circumvention investigations seeking to eliminate circumvention of an existing order or finding may be initiated as a result of a complaint, or may be self-initiated by the CBSA, which is in charge of the investigation. Generally, an anti-circumvention investigation is initiated as a result of the submission of a formal complaint. If circumvention is found following a

⁹⁶ CBSA, *Overview of Canada's Anti-Dumping and Countervailing Investigative Processes*. Consulted at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/brochure-eng.html>.

⁹⁷ Paragraph 41(1)(a) of the SIMA requires the CBSA to terminate an investigation in respect of any goods of an exporter if the margin of dumping of the goods of that exporter is insignificant (i.e. less than 2% of the export price of the goods). The CBSA may also terminate the investigation at the request of the exporter.

⁹⁸ CBSA, *Special Import Measures Act (SIMA) Investigative Process and Timeframes*, flowchart and explanations. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/flowchart-eng.pdf>.

⁹⁹ Under Canadian law, circumvention occurs when trade and business practices are altered to specifically avoid the liability for SIMA duties. More specifically, circumvention is defined in Section 71 of the SIMA as occurring when all of the following elements are present: (a) a change in the pattern of trade has occurred after a dumping or subsidy investigation was initiated; (b) a prescribed activity is occurring, and imports of the goods to which that prescribed activity applies are undermining the remedial effects of an order or finding of the CITT; and (c) the main cause of the change in trade pattern is the imposition of AD or CV duties. Duty evasion that results from illegal activities such as fraud is not within the scope of anti-circumvention investigations.

formal investigation by the CBSA, duties will be extended to those goods that are circumventing. (See below).

3.70. The decision to initiate or not an anti-circumvention investigation must be made within 45 days of receipt of a circumvention complaint. If the CBSA is of the opinion that there is evidence that circumvention is occurring, it initiates an investigation. The decision to initiate can be made with respect to some or all of the goods identified in the complaint. Likewise, an investigation can be specific to certain goods from an exporter(s) or with respect to certain goods from a country. If the CBSA decides not to initiate, all actions with respect to the complaint are terminated. The CBSA notifies the complainant and provides the reasons for its decision. When an investigation is initiated, Requests for Information (RFIs) are sent to importers, exporters, vendors and foreign producers of the goods under investigation, as well as domestic producers of like goods, in order to obtain the necessary information for the investigation. A typical Anti-Circumvention Investigation Schedule is summarized in Box 3.1. Schedules are published on the CBSA's website at initiation and updated as required.

Box 3.1 Schedule of an Anti-Circumvention Investigation

Day 0	The CBSA initiates an anti-circumvention investigation, sends out RFIs and issues its Statement of Reasons
Day 21	Importer's response to Request for Information due
Day 37	Exporter/producer responses to Request for Information due
Day 110	Close of Administrative Record
Day 135	Statement of Essential Facts (SEF) published
Day 142	Comments on SEF due
Day 149	Responses to comments due
Day 180	Conclusion of Anti-Circumvention Investigation, CBSA's decision, notification to the CITT where circumvention is found, and Statement of Reasons issued

Source: CBSA, *Anti-Circumvention Investigations conducted pursuant to the SIMA*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/ac-eng.html>.

3.71. In each anti-circumvention investigation, a date for the close of the administrative record is established, after which no further information may be submitted by parties. This permits the CBSA to prepare the SEF, a non-confidential report that includes the CBSA's preliminary assessment of whether the evidence discloses a reasonable indication of circumvention. It also includes the summary of the facts that the CBSA relied on in making that preliminary assessment. After publication of the SEF, parties may choose to submit case arguments based on any relevant information available on the administrative record and respond to the CBSA's preliminary assessment detailed in the SEF. During the investigation, evidence may be discovered that the goods under investigation are subject to an order or finding. To determine if this is the case, the CBSA will consider the prescribed factors for making a scope ruling. If the goods are found to be subject to an order or finding, the CBSA will terminate the anti-circumvention investigation, prior to the publication of the SEF, and will issue its reasons for terminating the investigation, including the reasons for determining that the goods in question are subject to an order or finding. This decision to terminate is deemed to be a scope ruling (see below).

3.72. In general, the CBSA makes a circumvention decision, based on prescribed anti-circumvention factors, within 180 days of the initiation of the investigation. In certain circumstances, such as where complex or novel issues arise, the CBSA may extend the period for making its decision to 240 days. If the CBSA makes a decision that the order or finding is not being circumvented in respect of some or all of the goods, AD and/or CV duties will not be extended to those goods. If it makes a decision setting out a finding of circumvention, it notifies the CITT, which in turn modifies the original finding or order to include the circumventing goods, and thereby extend AD and/or CV duties to those goods. The CBSA may also make a partial finding of circumvention, that is, find that only some goods under investigation are circumventing the order or finding. Once the CITT modifies the order or finding, AD or CV duty is payable on all dumped or subsidized goods of the same description that are released on or after the day of the amendment. In addition, retroactive assessment of duties is applied to dumped and subsidized goods released on or after the day the anti-circumvention investigation is

initiated. These duties are applicable until such time as the order or finding is amended or rescinded or it expires. The CBSA notifies the importer, the exporter, the government of the exporting country, the domestic producers and the complainant, if any, of the initiation of the investigation, the termination, the extension, the publication of the SEF, and the final decision.

3.73. The SIMR contains provisions (Sections 57.11 to 57.16) identifying factors considered in assessing the various elements of circumvention. The factors may be considered on a country level or on an exporter-specific level, depending on the nature of the investigation. These factors are for the purposes of determining: (a) whether there has been a change in the pattern of trade¹⁰⁰; (b) whether an activity prescribed under Section 57.12 of the SIMR is occurring¹⁰¹, namely: (i) the assembly or completion of like goods in Canada, or in a third country, using parts or components originating in, or exported from, a country subject to the applicable order or finding¹⁰²; and (ii) the slight modification of like goods originating in, or exported from, a country subject to the applicable order or finding, whether the modification took place in the subject country or a third country, so that the goods are no longer like goods¹⁰³; (c) whether imports of the goods to which a prescribed activity applies are undermining the remedial effects of existing duties¹⁰⁴; and (d) whether the principal cause of change in trade pattern is the imposition of AD and/or CV duties.¹⁰⁵

3.74. Exporters of goods to which a circumvention finding applies may seek an exemption from the extension of duties resulting from an anti-circumvention investigation.¹⁰⁶ In this case, the CBSA initiates an exemption review where the circumstances warrant it. The CBSA notifies the importer, the exporter, the government of the exporting country, and the domestic producers of the initiation and completion of the review. Goods subject to the investigation imported by the exporter making the request will be assessed for AD and/or CV duty during the exemption review. If the CBSA determines that the goods are exempt from the extension of duties, the CITT will amend the order or finding that is affected by the review, in order to give effect to the CBSA's determination. Duties cease on the day the CITT amends the order. Tariffs paid are not reimbursed.

3.75. The new Scope Proceedings have the purpose of establishing whether a particular product falls within the scope of an existing AD and/or CV measure. Scope Proceedings may be initiated as a result of an application made by interested persons (e.g. importers, exporters, or domestic producers), or may be self-initiated by the CBSA. The result is binding and appealable.¹⁰⁷ A scope ruling specifies whether the product in question falls within the product description of the applicable order, finding or undertaking, including whether the goods in question originate in a country named in the order, finding or undertaking. The ruling does not result in a modification of the measure.

3.76. An application for a scope proceeding may request clarification on one or both of two particular issues: whether the product in question falls within the product description of an AD or CV measure, or whether the goods in question originate in the country named in an AD or CV measure. After

¹⁰⁰ In determining the change of trade patterns, the CBSA must take into account: any change in the import volume of subject goods; any change in the import volume of goods that are allegedly circumventing the order or finding; any change in the import volumes of like goods, or the components that can be assembled into like goods, from a country that is named in the applicable order or finding into a third country that is part of the anti-circumvention investigation; and any other factor that is relevant in the circumstances.

¹⁰¹ Any of the factors listed in Section 57.12, by itself, is a deciding factor.

¹⁰² Under these activities: the parts or components must represent a major portion of the total cost of producing the like goods; the process of assembling or completing the like good must be insignificant; and the parts or components from the subject country do not need to be the only ones used to assemble or complete the like goods. See Section 57.13 of the SIMR for further information.

¹⁰³ Section 57.14 of the SIMR describes the factors the CBSA may consider when determining whether a modification of like goods is slight.

¹⁰⁴ To determine if imports of goods to which a prescribed activity applies are undermining the remedial effects of duties, the CBSA may consider the following factors: (a) price and volume of the like goods that are assembled or completed in Canada and sold in Canada, or the price and import volume of like goods that are assembled or completed in a third country, or of slightly modified like goods; (b) whether the goods are sold to the same consumers that otherwise may have bought goods subject to the order or finding; (c) whether the goods have the same end use as the goods subject to the order or finding; and (d) any other factor that is relevant in the circumstances.

¹⁰⁵ To this end, the CBSA may consider the factors found in Section 57.16 of the SIMR.

¹⁰⁶ To request that the CBSA carry out an exemption review, the exporter must not: have been given notice of the initiation of that investigation; be associated with an exporter who was given such notice; or have been requested to provide information during the course of that investigation.

¹⁰⁷ Scope rulings are issued under Subsection 66(1) of the SIMA.

receipt of the application, the CBSA has 30 days (or 45 days, if extended) to review it and determine if the application should be rejected.¹⁰⁸ If this is the case, the CBSA notifies the applicant and provides the reasons for its decision. If the application is not rejected, a scope proceeding is initiated. The CBSA notifies the applicant, if any, the government of the country of export, the exporter, the importer, and the domestic producers of the initiation of the proceeding. The CBSA may send RFIs to obtain the necessary information for its proceeding; the information requested in the RFI will be limited to the specific question of scope. The CBSA is generally required to terminate the scope proceeding or make a scope ruling within 120 days of initiation (Box 3.2). However, the timeline to conduct the proceeding may be shortened, if the CBSA considers it appropriate, or extended to 210 days in certain circumstances, such as when facing complex or novel issues. The CBSA notifies the applicant, the government of the country of export, and any other parties who have requested notification of changes to the proceeding schedule. The scheduling of events is published on the CBSA's website at the time the scope proceeding is initiated and is updated as required.

Box 3.2 Scope Proceeding Schedule

Day 0	Initiation – Requests for Information (RFIs) sent out
Day 21	Importer's response to RFI due
Day 28	Exporter/producer responses to RFI due
Day 55	Closing of the administrative record ^a
Day 80	SEF published ^b
Day 87	Case arguments due from interested persons
Day 94	Reply submissions due from interested persons
Day 120	Conclusion of scope proceeding, ruling issued and Statement of Reasons published

- a In each scope proceeding, a date for the close of the administrative record is established, after which no further information may be submitted by parties.
- b The SEF is a non-confidential report prepared by the CBSA, which include the CBSA's preliminary assessment of whether the goods are subject to the AD or CV measure. It also includes a summary of the facts that the CBSA relied on in making that preliminary assessment. After publication of the SEF, parties may choose to submit case arguments based on any relevant information available on the administrative record and respond to the CBSA's preliminary assessment detailed in the SEF.

Source: CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp-eng.html>.

3.77. The CBSA may terminate the scope proceeding at any time prior to the issuance of the SEF, if: (i) it is unable to obtain, or assess the accuracy of, the evidence; (ii) it is of the opinion there are no grounds for making the scope ruling; or (iii) one or more of the conditions for rejecting an application for a scope ruling have come into effect subsequent to the initiation of the scope proceeding.

3.78. In making a scope ruling, the CBSA takes into account a number of factors, including: (i) the detailed description of the goods in the order or finding; (ii) the detailed description of the goods in the preliminary determination of dumping or subsidizing and in the undertaking; (iii) the CITT's reasons for the order or finding; (iv) the CBSA's reasons for the preliminary determination of dumping or subsidizing; (v) any relevant decision by the CITT, the Federal Court of Appeal (FCA), the Supreme Court of Canada (SCC), or a binational panel; (vi) the physical characteristics of the goods, technical specifications, and product composition, uses, packaging and distribution; (vii) the production activities undertaken in the subject country or the third country; (viii) the nature of the goods when they were exported from the subject country or the third country; (ix) the costs of production incurred in the third country; and (x) any other relevant factors that may be applicable to the specifics of the case. A scope ruling takes effect on the day it was made, unless otherwise stipulated, and includes any terms and conditions that are considered appropriate. For example, the

¹⁰⁸ An application may be rejected by the CBSA for the following reasons: a) the application is incomplete; b) there is already a scope ruling that applies to the goods in question; c) the goods have not been produced as of the day on which the application is received; d) the issue is the subject of a proceeding before the President (of the CBSA), the CITT, the Federal Court of Appeal (FCA), the Supreme Court of Canada (SCC) or a binational panel; e) there is a decision setting out a finding of circumvention that resulted in an amended CITT order that applies to the goods; f) a decision by the CITT, the FCA, the SCC, or a binational panel applies; or g) in the opinion of the President (of the CBSA), the application is frivolous, vexatious or made in bad faith.

ruling may request that a specified certificate be included with the import documentation for a good considered to be not subject to a CITT finding; failure to provide the required certificate could result in the imposition of AD or CV duties. A scope ruling is binding on the CBSA for subsequent decisions made with respect to the goods to which the ruling applies that are released on or after the effective date of the ruling.¹⁰⁹

3.79. A scope ruling may be appealed to the CITT by any interested person. The notice of appeal must be filed in writing with the CBSA and the CITT within 90 days of the date the ruling was made. A decision made by the CITT may be further appealed to the FCA.

3.80. The CBSA reviews scope rulings to give effect to a decision of the CITT, the FCA, or the SCC, and may also review scope rulings if: (i) an order or finding is issued by the CITT with respect to goods of the same description as goods to which the ruling applies, except if those goods originate in, or are exported from, a country that is different from the subject country in the ruling; (ii) the CITT, the FCA, or a binational panel makes a decision that relates to the subject matter addressed in the scope ruling; (iii) the CBSA makes a decision setting out a finding of circumvention that impacts the scope ruling; (iv) the ruling was based on erroneous information; or (v) there was a material change in circumstances since the ruling was made. The review of a scope ruling may result in the confirmation, amendment or revocation of the scope ruling.¹¹⁰

3.81. Another important change introduced by the amendments to the SIMA refers to the provisions to deal with price distortions. In accordance with the updated legislation, margins of dumping may now be calculated using an alternative methodology in situations where domestic prices in the exporting country are distorted due to a particular market situation. In such cases, sales in the exporter's domestic market may be disregarded by the CBSA during its investigation, and the price determined instead by calculating the cost of production and adding reasonable amounts for selling, administration costs and profit.

3.82. The amendments to the SIMA also allow labour unions to participate in dumping and subsidy investigations. Unions that represent persons employed in the production of like goods in Canada are now required to be identified in complaints, or may come forward themselves, and have full participatory rights accorded to other interested parties. At the initiation of a dumping or subsidy investigation, notice is sent to the trade unions identified in the complaint. The notice informs the union that it is considered to be a party to the proceeding. Other trade unions may be identified as parties to the proceeding at a later stage, as the proceeding develops. A trade union that is identified as a party to the proceeding may request information in accordance with the disclosure of information provisions of the SIMA and may provide information to the CBSA.¹¹¹

3.83. A number of changes were also introduced to the CITT Rules on 26 April 2018. Some of the main changes are summarized in Box 3.3.

3.84. Between 2015 and 2018, the CBSA initiated 45 AD investigations, with a peak of 14 investigations each in 2016 and 2017. In 2018, 14 new investigations were initiated. In general, there has been an increase in the number of AD investigations since 2016, compared to 2015, where there were only three initiations. However, the number of initiations since 2016 is similar to those registered in 2013 and 2014 (16 and 13, respectively). Since the beginning of the WTO (1 January 1995) and up to end-2018, Canada initiated 241 AD investigations. Similarly, there has been an increase in the overall number of measures adopted: 33 AD measures were adopted between 2015 and end-2018, compared with 24 between 2011 and 2014. However, the number of measures applied in 2017 and 2018 declined, as several of the investigations initiated in 2016 and 2017 ended in a non-injury determination.¹¹² Of the 45 AD investigations initiated over the period 2015-18, 41 led to the imposition of preliminary duties.

¹⁰⁹ CBSA, *Scope Proceedings*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp-eng.html>.

¹¹⁰ CBSA, *Scope Proceedings*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp-eng.html>.

¹¹¹ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sapt-pesp-eng.html>.

¹¹² CBSA, *Historical Listing: An index of dumping and subsidy investigations conducted pursuant to the Special Import Measures Act since its implementation on December 1st, 1984*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

Box 3.3 Summary of changes to the Canadian International Trade Tribunal Rules

1) E-filing:

Electronic filing of documents has been made mandatory.

2) Rules of general application

New Rule 17(2) allows counsel for parties to serve confidential information directly on other counsel who have been granted access to confidential information in a proceeding. Previously, only the CITT could serve confidential information on counsel.

New Rule 20.1 explicitly states the power of the CITT to compel a non-party to file a questionnaire response or to provide specific information to the Tribunal.

New Rule 21.1 explicitly states the power of the CITT to request affidavits in the context of various proceedings, while at the same time reserving the discretion to do so on a case-by-case basis.

New Rule 23.1(3) allows other parties the opportunity to comment on a request for a decision or order.

Rule 22 was amended to change the deadline for filing of expert reports to 30 days before the hearing instead of 20. Similarly, the deadline to file rebuttal expert reports was changed to 20 days before the hearing instead of 10.

Rule 23(3)(b) was amended to allow experts to attend the confidential portion of CITT hearings.

Rule 24(3) was amended to change the deadline for filing a motion from three days prior to the hearing date to five.

3) SIMA-related amendments

The definition of "interested party" in Rule 2 was amended to add trade unions, to reflect the changes made to the SIMR and the CITT Regulations.

Rule 57 was amended to explicitly require, in new paragraphs (c.1) and (c.2), the President of the CBSA to provide the Tribunal with the margin of dumping and the amount of subsidy for the country, respectively. The provision in the SIMA that required the President of the CBSA to calculate this margin of dumping was removed as part of the 2017 SIMA amendments, but the CITT still requires this number to conduct its cumulation analysis.

Part V.2 and Rule 68.5 are being added to provide that, where the President of the CBSA makes an anti-circumvention finding, s/he must file the record of the decision and the SEF with the CITT.

Rule 73.2 was amended to replace the list of factors regarding which the CITT can request information in an expiry proceeding with a reference to the list of factors contained in Section 37.2 of the SIMR.

Source: CITT online information. Viewed at <http://www.citt.gc.ca/en/amendments-citt-rules>.

3.85. As was the case in the previous review period, most Canadian investigations in the period of review involved several countries' exports of the same products. Frequently, they were accompanied by CV measure investigations on the same products and countries. During the review period, there were three groups of such AD investigations, accompanied by a CV investigation, all of which resulted in no AD or CV measure being applied: steel plate from India, and the Russian Federation (initiated in 2015, terminated by the CITT with no-injury final determination); silicon metal from Brazil, Kazakhstan, Lao PDR, Malaysia, Norway, the Russian Federation, and Thailand (initiated in 2017, terminated by the CITT with no-injury final determination in the case of Brazil, Kazakhstan, Lao PDR, Malaysia, and Thailand)¹¹³; and certain polyethylene terephthalate resin from China, India, Oman, and Pakistan (HS 3907.61 and 3907.69, initiated in 2017, terminated by the CITT).¹¹⁴ There was also one group of investigations dealing only with AD which ended in an injury determination: concrete reinforcing bar from Belarus; Chinese Taipei; Hong Kong, China; Japan; Portugal; and Spain, started in 2016; and another group of AD investigations, only partly accompanied by a subsidy investigation: fabricated steel components from China, the Republic of Korea, Spain, the United Arab Emirates and the United Kingdom (accompanied by a parallel subsidy investigation only for China), which resulted in an injury determination for the China, Republic of Korea and Spain AD investigations, as well as for the subsidy investigation.

¹¹³ The AD investigation was terminated by the CBSA in the case of Norway, due to a finding of no dumping. For the Russian Federation, the AD investigation was also terminated by the CBSA, but due to negligible imports. In the case of the subsidy investigations, they were also terminated, due to a no-injury finding, except for Thailand, for which there was a no-subsidy determination.

¹¹⁴ The subsidy investigations were also terminated by the CITT due to a no-injury finding, except for Oman and Pakistan, for which they were terminated by the CITT due to negligible volume of imports.

3.86. In 2018, AD investigations were initiated on three products:

- Corrosion-Resistant Steel Sheet, from China, Chinese Taipei, India and the Republic of Korea. The CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of the SIMA on 22 January 2019.¹¹⁵ The CITT issued its decision, imposing AD duties, on 21 February 2019;
- Carbon Steel Welded Pipe 3 (CSWP), from Pakistan, the Philippines, Turkey, and Viet Nam. The CBSA was satisfied that CSWP originating in, or exported by one exporter from Turkey had been dumped by an insignificant margin of dumping and terminated the dumping investigation in respect of the goods from this exporter on 16 January 2019. The CBSA made a final determination of dumping in respect of CSWP originating in, or exported from, Pakistan, the Philippines, Viet Nam, and other exporters from Turkey on the same date.¹¹⁶ The CITT issued its decision on 15 February 2019, imposing AD duties; and
- 54-inch Gypsum Board, from the United States, which was terminated on 21 August 2018, as the CITT determined that the evidence did not disclose a reasonable indication that the dumping had caused injury or retardation, or was threatening to cause injury, to the domestic industry, and terminated the preliminary injury inquiry.¹¹⁷

3.87. Also, in 2018, two products were the subject of multiple AD and CV investigations: Cold-Rolled Steel, from China, the Republic of Korea and Viet Nam¹¹⁸, and Sucker Rods, from China, which were concluded on 31 October 2018¹¹⁹ and 14 November 2018, respectively.¹²⁰

3.88. No anti-circumvention investigations had been initiated as of end 2018. On 26 July 2018, the CBSA initiated its first scope proceeding since they were enacted into law, as a result of changes to the SIMA and the SIMR that came into force on 26 April 2018. The proceeding was in respect to certain fabricated industrial steel components (FISCs) from China, the Republic of Korea, and Spain. The scope proceeding was the result of an application filed with the CBSA by Woodfibre LNG Limited (Vancouver, British Columbia), a potential importer of the goods that are the subject of the application. The scope proceeding was set to establish whether or not liquefied natural gas (LNG) modules were subject to the CITT's injury finding issued on 25 May 2017 concerning the dumping of certain FISCs from China, the Republic of Korea (excluding those goods exported by Hanmaek Heavy Industries Co. Ltd.), and Spain (excluding those goods exported by Cintasa, S.A.), and the subsidizing of FISCs from China.¹²¹ This proceeding was concluded on 23 November 2018, and it was found that the goods were in scope. It was determined that the FISC portion of Woodfibre's LNG modules, including pipe rack modules, were subject to the CITT's finding issued on 25 May 2017, concerning the dumping of certain FISCs from China, the Republic of Korea (excluding those goods exported by Hanmaek Heavy Industries Co. Ltd.), and Spain (excluding those goods exported by Cintasa, S.A.), and the subsidizing of FISCs from China. Two other scope proceedings were also initiated, one concerning the same FISC measures, which was concluded in January 2019, and another concerning goods subject to the finding of dumping and subsidizing of aluminium extrusions

¹¹⁵ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/cor2018/cor2018-fd-eng.html?wbdisable=true>.

¹¹⁶ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/cswp32018/cswp32018-fd-eng.html?wbdisable=true>.

¹¹⁷ Consequently, the CBSA, pursuant to paragraph 35(2)(a) of the SIMA, terminated the investigation of dumping in respect of certain 54-inch Gypsum Board from the United States, effective 21 August 2018.

CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/gb22018/gb22018-ti-eng.html>.

¹¹⁸ On 23 August 2018, the CBSA made preliminary determinations of dumping and subsidizing with respect to certain cold-rolled steel in coils or cut lengths from China, the Republic of Korea, and Viet Nam. The subject goods are usually classified under the following tariff classification numbers: 7209.15.00.00, 7209.16.00.00, 7209.17.00.00, 7209.18.00.00, 7209.25.00.00, 7209.26.00.00, 7209.27.00.00, 7209.28.00.00, 7209.90.00.00, 7211.23.00.00, 7211.29.00.00, 7211.90.00.00, and 7225.50.00.00. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/crs2018/crs2018-np-eng.html>.

¹¹⁹ On 31 October 2018, pursuant to paragraph 41(1)(b) of the SIMA, the CBSA made final determinations regarding the dumping and subsidizing of certain cold-rolled steel in coils or cut lengths from China, the Republic of Korea, and Viet Nam. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/crs2018/crs2018-fd-eng.html>.

¹²⁰ On 14 November 2018, pursuant to paragraph 41(1)(b) of the SIMA, the CBSA made final determinations regarding the dumping and subsidizing of certain sucker rods originating in, or exported from, China. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/sr2018/sr2018-fd-eng.html>.

¹²¹ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp/fisc2018/fisc2018-ni-eng.html>.

from China, which was concluded in February 2019. The latter responded to an application from Nokia Canada Inc. on 27 September 2018, as to whether the aluminium brackets included with its unassembled Base Transceiver Station (BTS) systems were subject to the CITT's order in respect of certain aluminium extrusions from China, applied since 2009. On 26 October 2018, the CBSA initiated a scope proceeding with respect to the goods that were the subject of the application. The CBSA made a scope ruling on 22 February 2019, that the aluminium brackets included with unassembled BTS systems imported by Nokia Canada Inc. are not subject to the CITT's order issued on 17 March 2014, in Expiry Review No. RR-2013-003, concerning the dumping and subsidizing of certain aluminium extrusions from the People's Republic of China.¹²²

3.89. As of 31 December 2018, there were 83 definitive AD measures in place, compared to 53 reported in the last TPR for December 2014 (Chart 3.5 and Table A3.1).¹²³ Over two thirds of the measures were applied on steel products; 12% were on other metal products; 8% were on agricultural products; and the remainder were on miscellaneous manufactured products.¹²⁴ The measures were applied on 29 trading partners: Belarus (1); Brazil (3); Bulgaria (1); China (23); the Czech Republic (1); Denmark (2); Germany (1); Greece (1); Hong Kong, China (1); India (2); Indonesia (2); Italy (1); Japan (3); the Republic of Korea (11); Mexico (1); the Netherlands (1); Oman (1); the Philippines (1); Portugal (1); Romania (1); Spain (2); Chinese Taipei (4); Thailand (2); Turkey (4); Ukraine (3); the United Arab Emirates (1); the United Kingdom (1); the United States (4); and Viet Nam (3). The average length of the AD measures in place in December 2017 was 6.4 years, somewhat below the 7 years reported for December 2014 in the previous Review. However, the lower average is partly due to the increase in recent measures, since the longest measure, on potatoes from the United States, has been in place for 34 years (since mid-1984), and the second-longest, on refined sugar from Germany, the Netherlands, the United Kingdom and the United States, for 23 years.

3.90. Also, as of 31 December 2018, there were 28 CVD measures in place, compared with 17 reported in the last Review for December 2014: 21 of them on steel (14 at December 2014) and metal products from China, 1 on imports of refined sugar from the European Union, 1 on pasta from Turkey, 2 on steel products from India, 2 on steel products from Viet Nam, and 1 on steel products from the Republic of Korea.¹²⁵ The longest-lasting CVD measure is the one on refined sugar from the European Union, which has been in place since 1995. The average length of CVD measures as of end-August 2018 was 5.9 years.

3.91. The CITT is required (Subsection 76.03(2) of the SIMA), no later than two months prior to the expiry of a finding or an order, to issue a notice to all known interested persons and governments informing them of the impending expiry. The notice is published in the Canada Gazette and is also posted on the Tribunal's website at www.citt-tcce.gc.ca/en/dumping-and-subsidizing/expiries. The notice invites interested persons and governments to submit their views, within 25 days, on whether the finding or order should be reviewed. On the basis of these views, the CITT determines, on day 50 of the expiry proceedings, whether an expiry (sunset) review of the finding or order is warranted. The decision is also published in the Canada Gazette and the reasons for the CITT's decision are issued no later than 15 days following the decision, on day 65. The CITT's decision and reasons are also posted on its Web site.¹²⁶ If the CITT finds that an expiry review is not warranted, it issues an

¹²² CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/sp-pp/ae2018/ae2018-sr-eng.html>.

¹²³ Eight more AD measures were applied on February 2019, on Corrosion-Resistant Steel Sheet from Chinese Taipei, India and the Republic of Korea, respectively, and CSWP 3 from Pakistan, the Philippines, Turkey, and Viet Nam. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

¹²⁴ The products subject to AD duties were: certain concrete reinforcing bars (9); certain hot-rolled steel sheet (3); certain copper tube (5); certain steel plate (11); certain steel fasteners (2); certain copper pipe fittings (4); certain seamless steel casing; certain carbon steel welded pipe (7); certain thermoelectric coolers and warmers; certain aluminium extrusions; certain oil country tubular goods (10); certain steel grating; certain pup joints; certain stainless steel sinks; certain steel piling pipe; certain unitized wall modules; certain silicon metal; certain photovoltaic modules and laminates; certain carbon and alloy steel line pipe (2); certain large-diameter line pipe (2); certain fabricated industrial steel components (3); certain refined sugar (5); certain hollow structural sections (2); certain liquid dielectric transformers; certain gypsum board; certain cold-rolled steel (3); certain dry wheat pasta; and certain sucker rods. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

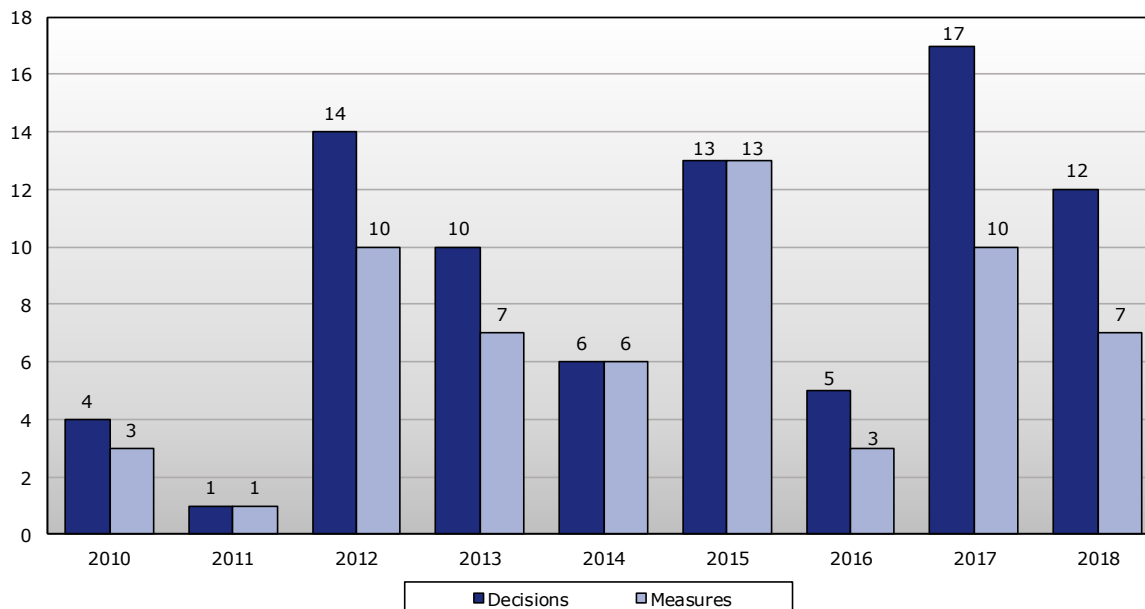
¹²⁵ WTO documents G/SCM/N/328/CAN, 26 March 2018, and G/SCM/N/334/CAN, 19 September 2018; and CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

¹²⁶ CITT online information. Viewed at: http://www.citt-tcce.gc.ca/en/Expiry_Review_Guidelines_e.

expiry review notice to that effect with reasons for its decision, and the finding or order expires five years from the date it was issued. If it determines that an expiry review of the finding or order is warranted, the CITT commences the expiry review proceedings by issuing a notice of expiry review, which includes a schedule of events, is published in the Canada Gazette and on its website, and is sent to the CBSA, to parties and to the counsel of record in the expiry proceedings.

Chart 3.5 Anti-dumping decisions and measures, 2010-18

(number)



Source: CBSA. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

3.92. The expiry review involves two distinct and subsequent investigations or steps, which must usually be completed in 310 days. The first investigation is conducted by the CBSA in the first 150 days to determine the likelihood of continued or resumed dumping and/or subsidizing. The second investigation is conducted by the CITT in the final 160 days to determine the likelihood of injury or retardation caused by the continuation or resumption of dumping and/or subsidizing as a result of the expiry. This second step is contingent on a CBSA finding that the removal of the measure is likely to lead to the continuation or resumption of dumping or subsidizing.

3.93. Upon receipt of a notice of expiry review, the CBSA is required to commence an investigation to determine whether the expiry of the finding or order is likely to result in the continuation or resumption of dumping and/or subsidizing; this determination must be made within 150 days from the initiation of expiry proceedings. At the end of this period, the CBSA makes an Expiry Review Decision and a Statement of Reasons, which it submits to the CITT. When making its decision, the CBSA must take into consideration information provided by parties, as well as: trade compliance data; import statistics; the results of its most recent re-investigation; market research; and the CITT's official record of its expiry proceedings. The reasons for the CBSA's determination are issued within 15 days.

3.94. If the CBSA determines that the expiry of the finding or order is likely to result in the continuation or resumption of dumping and/or subsidizing, the CITT then initiates an investigation to determine whether the expiry of the finding or order is likely to result in injury to the domestic industry or retardation of the establishment of a domestic industry. Generally, on or about day 160, the CITT issues its order and reasons for its determination on whether the expiry of the finding or order is likely to result in injury to the domestic industry or retardation of the establishment of a domestic industry. If it determines that the expiry of the finding or order is likely to result in injury to the domestic industry or retardation of the establishment of a domestic industry, it issues an order continuing the finding or order, with or without amendment, for up to five years or until a request for an interim review is filed with the CITT within that five-year period. AD and/or CV duties continue to be collected while the order is in effect. If the CITT determines that the expiry of the

finding or order is not likely to result in injury to the domestic industry or retardation of the establishment of a domestic industry, it issues an order rescinding the finding or order, which is usually effective at the end of the five-year expiry period. AD or CV duties collected between the date of the five-year expiry and the date of the rescission are refunded by the CBSA.¹²⁷

3.95. During the 2015-18 period, there were 55 expiry (sunset) review initiations: 15 (12 AD and 3 CVD) in 2015, 6 (4 AD and 2 CVD) in 2016, 13 (10 AD and 3 CVD) in 2017 and 21 (15 AD and 6 CVD) in 2018 (Table 3.18). As of 31 December 2018, 36 of the reviews had been concluded and in 33 cases the AD/CV duties were continued, albeit in 5 cases some products were excluded from the order.¹²⁸ The measures were rescinded in three cases (greenhouse bell peppers from the Netherlands and hot-rolled carbon steel sheet from Chinese Taipei and India).

Table 3.18 Expiry reviews conducted between 2015 and 2018

Case	Status/conclusion
2018	
- Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Steel Plate: dumping (Bulgaria, Czech Republic and Romania)	The CITT issued its notice of expiry review on 27 December 2018. The CBSA determination is expected on 24 May 2019. The CITT is expected to issue its order by 4 November 2019.
- Structural Tubing: dumping (Republic of Korea and Turkey)	The CITT issued its notice of expiry review on 10 December 2018. The CBSA determination is expected on 9 May 2019. The CITT is expected to issue its order by 16 October 2019.
- Circular Copper Tube: dumping (Brazil, China, Greece, Republic of Korea and Mexico) and subsidy (China)	The CITT issued its notice of expiry review on 20 November 2018. The CBSA determination is expected on 18 April 2019. The CITT is expected to issue its order by 30 September 2019.
- Thermoelectric Containers (China)	The CITT issued its notice of expiry review on 30 October 2018. The CBSA determination is expected on 29 March 2019. The CITT is expected to issue its order by 5 September 2019.
- Silicon Metal (China)	The CITT issued its notice of expiry review on 16 October 2018. The CBSA determination is expected on 15 March 2019. The CITT is expected to issue its order by 22 August 2019.
- Unitized Wall Modules: dumping and subsidy (China)	The CITT issued its notice of expiry review on 27 August 2018. The CBSA determination is expected on 24 January 2019. The CITT is expected to make its decision by 3 July 2019.
- Carbon Steel Welded Pipe 1: dumping and subsidy (China)	The CITT issued its notice of expiry review on 19 January 2018. On 21 June 2018, the CBSA determined that the expiry of the order was likely to result in the continuation or resumption of dumping and/or subsidizing of the goods. On 22 June 2018, the CITT began its investigation. On 28 November 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
- Seamless Casing: dumping and subsidy (China)	The CITT issued its notice of expiry review on 19 January 2018. The CBSA determination on 21 June 2018 indicated that the expiry of the order was likely to result in the continuation or resumption of dumping and subsidizing of the goods. The CITT investigation started on 22 June 2018. On 28 November 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and/or subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
2017	
- Carbon Steel Welded Pipe 2: dumping (Chinese Taipei, India, Oman, Republic of Korea, Thailand and United Arab Emirates); CV (India)	On 7 May 2018, the CBSA made a determination that the expiry of the order would lead to the continuation or resumption of dumping of certain carbon steel welded pipe originating in, or exported from, Chinese Taipei (excluding goods exported from Chinese Taipei by Chung Hung Steel Corporation and Shin Yang Steel Co. Ltd), India, Oman, the Republic of Korea, Thailand, and the United Arab Emirates (excluding goods exported from the United Arab Emirates by Conares Metal Supply Ltd.); and the continuation or resumption of subsidizing of certain carbon steel welded pipe originating in, or exported from, India. The CITT investigation started on 8 May 2018. On 15 October 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.

¹²⁷ CITT online information. Viewed at: http://www.citt-tcce.gc.ca/en/Expiry_Review_Guidelines_e.

¹²⁸ Copper Pipe Fittings, Refined Sugar, Whole Potatoes, Plate 6, and Fasteners.

Case	Status/conclusion
- Hot-rolled Carbon Steel Plate 3: dumping (China)	On 2 March 2018, the CBSA determined that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of such goods originating in, or exported from, China. The CITT investigation started on 3 March 2018. On 9 August 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
- Steel Piling Pipe: dumping and subsidy (China)	On 25 January 2018, the CBSA determined that the expiry of the order was likely to result in the continuation or resumption of dumping and of subsidizing of such goods originating in, or exported from, China. The CITT investigation started on 26 January 2018. On 4 July 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
- Liquid Dielectric Transformers: dumping (Republic of Korea)	On 22 December 2017, the CBSA determined that the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods to Canada. The CITT investigation started on 23 December 2017. On 31 May 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping of the subject goods would likely cause material injury to the domestic industry. Order continued.
- Stainless Steel Sinks: dumping and subsidizing (China)	On 1 September 2017, the CBSA determined that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of such goods originating in, or exported from, China. The CITT investigation started on 2 September 2017. On 8 February 2018, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
2016	
- Pup Joints: dumping and CV (China)	On 7 April 2017, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
- Copper Pipe Fittings: dumping (China, Republic of Korea, and United States); and CV (China)	On 28 November 2016, the CITT determined that the order would be continued with amendment to certain products originating in, or exported from, China, the Republic of Korea and the United States. The list of products covered by the order was included in an appendix. The CITT excluded from its orders certain copper-iron high-pressure alloy fittings. Order continued with amendment.
2015	
Hot-rolled Carbon Steel Sheet: dumping (Brazil, China, Chinese Taipei, India and Ukraine); and CV (India)	On 6 April 2016, the CITT determined that it would continue its orders with respect to the dumping of the subject goods from Brazil, China, Ukraine, and with the subsidizing of the subject goods from India, but that it would rescind its order concerning the subject goods from Chinese Taipei and India following the determination of the CBSA that the expiry of the orders is unlikely to result in the continuation or resumption of dumping.
Steel Grating: dumping and CV (China)	On 18 April 2016, the CITT determined that, if the finding was rescinded, the likely resumption or continuation of the dumping and subsidizing of the subject goods would likely cause material injury to the domestic industry. Order continued.
Refined Sugar: dumping (United States, Denmark, Germany, Netherlands, United Kingdom); and CV (European Union)	On 30 October 2015, the CITT decided to continue its order in respect of the dumping of the subject goods originating in, or exported from, Denmark, Germany, the Netherlands and the United Kingdom, and the subsidizing of the aforementioned goods originating in, or exported from, the European Union. The CITT also continued its order in respect of the dumping of the subject goods originating in, or exported from, the United States. The CITT excluded from its orders specialty-coloured decorative sugar crystals in granulated form combined with carnauba wax and food colouring matter, imported in small retail-ready containers not exceeding 16 oz. for use exclusively as a superficial decoration in baked goods (such as pies, cakes, pastries, muffins, cookies, etc.) and other prepared foods.
Greenhouse Bell Peppers: dumping (Netherlands)	On 16 October 2015, the CITT rescinded its finding in respect of greenhouse bell peppers originating in, or exported from, the Netherlands. Order rescinded.

Source: CBSA online information, and information provided by the authorities.

3.96. There were 45 administrative reviews (39 re-investigations¹²⁹ and 6 normal value reviews)¹³⁰ to update normal values and export prices during 2015-18.¹³¹

3.97. Under Section 76.01 of the SIMA, the CITT may conduct interim reviews of its findings of injury, threat of injury or retardation, and of the subsequent orders, and of orders continuing such findings pursuant to an expiry review, in whole or in part, at any time between the making of the finding or order and its expiry. At the conclusion of an interim review, the CITT may continue the finding or order, or rescind it or any aspect of it. The interim review may be self-initiated by the CITT or initiated following a properly-documented request. There are two phases in a review; in the commencement phase, the CITT decides whether there have been new facts or changes in circumstances since the issuance of the finding or order to warrant the conduct of an interim review.¹³² If the CITT finds that the conduct of an interim review is warranted, it commences the second phase by issuing a notice of commencement of interim review. In the (second) review phase, the CITT determines whether the finding or order (or any aspect of it) should be rescinded or continued, with or without amendment, and issues reasons for its decision.¹³³ During the 2014-2018 period, there were six requests for interim reviews. In one case, the findings of the expiry review with respect to injury were upheld with amendments¹³⁴; in four others, the requests were rejected, as the CITT decided that no review or amendment was needed¹³⁵; and in one case, the CITT rescinded its order.¹³⁶

3.98. Canadian legislation allows the appeal of a duty assessment made by the CBSA and the eventual refund of duties in three situations: (i) error by the CBSA; (ii) overpayment of duties; or (iii) when a recent scope ruling applies to past importations.¹³⁷ In these cases, a request for re-determination must be presented. The process to make a request under all three situations is similar, but there are additional requirements when the request is based on a scope ruling. Before submitting a request for re-determination, the importer must pay the duties originally determined. A request for a re-determination may cover: (a) whether the imported goods are of the same description as the goods to which the order or finding of the CITT applies; and/or (b) the information

¹²⁹ Re-investigations are conducted to update normal values, export prices or amounts of subsidy, and to establish values for new exporters or new models. They are conducted periodically, often on an annual basis, to ensure that the values in place accurately reflect current market conditions. Procedures followed during a re-investigation are similar to those of an investigation except there is no reconsideration of injury. CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-8-eng.html>.

¹³⁰ Procedures followed during a normal review are similar to those of a re-investigation with the exception that each review is conducted with respect to a single exporter only. CBSA online information. Viewed at: <https://cbsa-asfc.gc.ca>.

¹³¹ 2015: Steel Grating, dumping and subsidy (China); Seamless Casing, dumping and subsidy (China); Oil Country Tubular Goods 1, dumping and subsidy (China); Pup Joints, dumping and subsidy (China); Oil Country Tubular Goods 2, dumping (India, Indonesia, Republic of Korea, Philippines, Chinese Taipei, Thailand, Turkey, Ukraine, and Viet Nam); Hot-rolled Carbon and Alloy Steel Sheet and Strip, dumping (Brazil, China, India, Chinese Taipei, and Ukraine) and subsidy (India); and Copper Pipe Fittings, dumping (China, Republic of Korea, and the United States) and subsidy (China); 2016: Concrete Reinforcing Bar 1, dumping (China, Republic of Korea, and Turkey) and subsidy (China); and Stainless Steel Sinks, dumping and subsidy (China); 2017: Liquid Dielectric Transformers, dumping (Republic of Korea); Concrete Reinforcing Bar 1, dumping (China, Republic of Korea, and Turkey) and subsidy (China); Concrete Reinforcing Bar 1, dumping (China, Republic of Korea, and Turkey) and subsidy (China); and Concrete Reinforcing Bar 2, dumping (Belarus; Hong Kong, China; Japan; Portugal; Spain; and Chinese Taipei); and 2018: Gypsum Board, dumping (United States); Concrete Reinforcing Bar 1, Normal Value Review, dumping (Turkey (2)); Oil Country Tubular Goods 2, Normal Value Review, dumping (Indonesia (1), Philippines (1)); Carbon and Alloy Steel Line Pipe 2, Normal Value Review, dumping (Republic of Korea (1)); and Liquid Dielectric Transformers, Normal Value Review, dumping (Republic of Korea (1)).

¹³² If the CITT self-initiates the review, there is no commencement phase. CITT, *Guidelines on Interim Reviews*. Viewed at: http://www.citt-tcce.gc.ca/en/Interim_Review_Guidelines_e.

¹³³ CITT, *Guidelines on Interim Reviews*. Viewed at: http://www.citt-tcce.gc.ca/en/Interim_Review_Guidelines_e.

¹³⁴ Two orders on Certain Carbon Steel Fasteners from China and Chinese Taipei (dumping). Viewed at: <http://www.citt.gc.ca/en/dumping-and-subsidizing/interim-reviews-section-7601>.

¹³⁵ Liquid Dielectric Transformers from Republic of Korea; Hot-rolled Carbon Steel Plate (multiple Orders); Oil Country Tubular Goods from Chinese Taipei, India, Indonesia, Republic of Korea, the Philippines, Thailand, Turkey, Ukraine and Viet Nam; and Pup Joints from China.

¹³⁶ Bicycles and Bicycle Frames from China and Chinese Taipei.

¹³⁷ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/rrd-drr-eng.html?wbdisable=true>.

used in the assessment of AD or CV duties payable on imported goods, such as the determination of the normal value, the amount of the subsidy, or the export price.¹³⁸

3.99. Importers may request a re-determination at two levels: the first level of review for a determination is made by a designated officer; the second level of review is a re-determination by the President of the CBSA, with respect to any determination or re-determination made by the designated officer.¹³⁹ The President's re-determination may be further appealed to the CITT. The request for re-determination at the first level must be filed within 90 days of the designated officer's decision.¹⁴⁰ A request for re-determination by the President of the CBSA (second level) must be filed within 90 days of a determination or re-determination.¹⁴¹ A request may result in the assessment of additional duty; in this case, interest on the amount owing is charged. Failure to pay the total amount assessed within 30 days of the date of decision will result in additional interest charges issued under the Customs Act. If, on the other hand, a re-determination results in a refund of all or part of the duty paid, the CBSA issues a Detailed Adjustment Statement (DAS) and returns the excess duty paid, with the due interest.

3.100. AD measures against Chile are prohibited under Canada's FTA with that country.

3.1.6.2 Safeguards

3.101. The CITT is the body in charge of conducting global safeguard inquiries, exclusion inquiries, mid-term reviews and extension inquiries pursuant to the CITT Act, the CITT Regulations and the CITT Rules. The CITT may initiate a global safeguard inquiry following a written complaint by a domestic producer, or if ordered by the Government.¹⁴² The CITT then initiates a safeguard inquiry to determine if increased fairly-traded imports of goods into Canada are causing, or are threatening to cause, serious injury to domestic producers of like or directly competitive goods. The CITT may not consider initiating a safeguard inquiry if it believes the injury to the domestic producers is caused by an unfair trade practice, such as the dumping and/or subsidizing of imports. In such a case, it suspends its proceedings and refers the matter to the CBSA. In the case of a standard safeguard inquiry, the CITT has 180 days to conduct the investigation. However, that statutory deadline can be extended to 270 days in complex cases, after which it must submit a report to the Government setting out its determination. Where the Government orders that the CITT conduct an investigation, the time-frame is set in the Order. The Federal Government retains the ultimate power to make the final decision on the application of a safeguard measure, under the authority of Section 55 of the Customs Tariff Act.

3.102. If the CITT determines that increased fairly-traded imports of goods are causing, or are threatening to cause, serious injury to domestic producers of like or directly competitive goods, it may recommend that the Federal Government apply safeguard measures. The CITT must also determine if the goods being imported from a country with which Canada has entered into a bilateral FTA, which in principle should be excluded from any global safeguard measure, are substantial and contribute to the serious injury. In this respect, a global safeguard measure will apply to goods imported from an FTA partner only if the Government is satisfied that the quantity of those goods represents a substantial share of the total imports of goods of the same kind¹⁴³, and the quantity of these goods contributes importantly to serious injury (Customs Tariff Act, Section 59). In exceptional circumstances, imports from NAFTA countries may be considered jointly for the purpose of determining whether they contribute to serious injury.¹⁴⁴ The Federal Government may apply

¹³⁸ Memorandum D14-1-3. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-3-eng.html>.

¹³⁹ Memorandum D14-1-3. Viewed at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-3-eng.html>.

¹⁴⁰ Or 120 days of the date of accounting for the transaction, if the importer or its agent self-assessed the AD or CV duties. CBSA, *Guide for Appealing a Duty Assessment*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/rrd-drr-eng.html>.

¹⁴¹ CBSA, *Guide for Appealing a Duty Assessment*. Viewed at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/rrd-drr-eng.html>.

¹⁴² CITT online information. Viewed at: http://www.citt-tcce.gc.ca/en/Safeguard_Guidelines_e.

¹⁴³ Typically, the trading partner must be among the top five suppliers, as measured in terms of import share during the most recent three-year period.

¹⁴⁴ Article 802 of the NAFTA (Global Actions) provides for the exclusion of one party's goods from another party's global safeguard actions unless imports from that party account for a substantial share of total

safeguard measures in the form of an import surtax pursuant to the Customs Tariff, or in the form of a restriction (import quota or TRQ) pursuant to the Export and Import Permits Act.

3.103. Canadian legislation does not set any statutory deadline for the application of safeguard measures. However, under the WTO Agreement on Safeguards, global safeguard measures may be applied for an initial period of up to four years and are to be progressively liberalized during their period of application. Safeguards can be extended, if the CITT determines that they are still necessary to remedy serious injury or threat thereof and that there is evidence that domestic producers are adjusting to the import competition. In line with WTO rules, their maximum period of application is eight years. The CITT also conducts mid-term reviews to determine if safeguard measures should remain in effect, be repealed or be amended; for measures scheduled to remain in effect for more than three years, this mid-term review is a requirement. Following a request by a domestic producer, the CITT may also conduct extension inquiries to determine if safeguard measures due to expire are still necessary.

3.104. The CITT Act contains provisions relating to bilateral safeguard inquiries under the various bilateral FTAs to which Canada is a signatory. In a bilateral safeguard inquiry, the CITT must determine if, because of the tariff reductions provided for in the FTA, imports from the partners are in such increased quantities and under such conditions as to cause, or threaten to cause, serious injury to domestic producers of like or directly competitive goods. Safeguard measures, if applied, are limited to the temporary suspension of tariff reductions or the restoration of the MFN tariff rates. Measures may be applied for up to three years, followed, in some cases, by a one-year phasing-out period. As with global safeguards, the Federal Government retains the ultimate power to make the final decision on the application of a safeguard measure. Depending on the agreement, a measure can typically be applied for up to two to three years, with the possibility, in some cases, of an extension for an additional one to two years.

3.105. CITT findings in safeguard investigations and safeguard measures imposed under the Customs Tariff may be subject to judicial review in the Federal Court of Canada.

3.106. On 11 October 2018, Canada announced preliminary safeguard measures on seven steel products (Section 4.3.4) to begin on 25 October 2018 and to be in place for 200 days, pending an inquiry by the CITT into whether longer-lasting safeguards are necessary. Prior to that, Canada's last safeguard inquiry dates from 2005.¹⁴⁵ In February 2019, Canada notified modifications to the provisional safeguards on imports of certain steel products resulting from consultations with Mexico.¹⁴⁶

3.1.7 Other measures affecting imports

3.107. On 31 May 2018, following the result of an investigation under Section 232 of the (U.S.) Trade Act of 1974, the United States announced its decision to impose tariffs on imports of certain steel and aluminium products from Canada and other trading partners, at the rates of 25% and 10%, respectively, as of 1 June 2018. Canada challenged the U.S. tariffs in the WTO, requesting consultations on 1 June 2018. On 18 October 2018, Canada requested the establishment of a panel, and on 21 November 2018, a panel was established.

3.108. In response to the U.S. measures, Canada imposed countermeasures in the form of surtaxes against CAD 16.6 billion in imports of steel, aluminium, and other products from the United States, representing the value of 2017 Canadian exports affected by the U.S. tariffs. These countermeasures will remain in place until the United States eliminates its trade-restrictive measures against Canadian steel and aluminium products. The surtaxes were imposed under two Orders: the United States Surtax Order (Steel and Aluminium): SOR/2018-152, Canada Gazette, Part II, Volume 152, Number 14, 28 June 2018; and the United States Surtax Order (Other Goods): SOR/2018-153, Canada Gazette, Part II, Volume 152, Number 14, 28 June 2018. The Orders came into force on 1 July 2018.

imports and contribute importantly to the serious injury (or threat thereof). See also CITT, *Safeguard Inquiry Guidelines*. Viewed at: http://www.citt-tcce.gc.ca/en/Safeguard_Guidelines_e.

¹⁴⁵ WTO documents G/SG/N/6/CAN/4, G/SG/N/7/CAN/1, G/SG/N/11/CAN/1, 15 October 2018.

¹⁴⁶ WTO documents G/SG/N/7/CAN/1/Suppl.1, 5 February 2019.

3.109. The United States Surtax Order (Steel and Aluminium) establishes surtaxes of 25% on imports from the U.S. of steel products classified under 131 tariff items, covering CAD 5.59 billion in imports from the United States in 2017, and surtaxes of 10% on imports from the United States of aluminium classified under 19 tariff items covering CAD 2.66 billion in imports from the United States in 2017.

3.110. The United States Surtax Order (Other Goods) establishes surtaxes of 10% on imports from the United States of other products (e.g. mainly finished consumer goods, such as whiskies and playing cards) classified under 79 tariff items, covering CAD 8.31 billion in imports from the United States in 2017.

3.111. The surtaxes are calculated on the basis of the value for duty of the imported goods, as determined in accordance with Sections 47 to 55 of the Customs Act; they apply in addition to any applicable customs duty imposed under the Customs Tariff.¹⁴⁷

3.112. In accordance with SOR/2018-152 and SOR/2018-153, the objective of these countermeasures is to encourage a prompt end to U.S. tariffs on Canadian steel and aluminium exports to the United States, which significantly impact Canada's steel and aluminium industries and threaten to undermine the integrity of the global trading system. The SORs noted that, should the United States eliminate the measures taken under Section 232 against Canada, these countermeasures will be repealed immediately.¹⁴⁸

3.113. The application of the countermeasures was challenged by the United States in the WTO. On 16 July 2018, the United States requested consultations with Canada concerning the "imposition by Canada of increased duties with respect to certain products originating in the United States". On 19 October 2018, the United States requested the establishment of a Panel.¹⁴⁹

3.2 Measures Directly Affecting Exports

3.2.1 Customs procedures and requirements

3.114. As with imports, Canadian businesses exporting goods to other countries must hold an import-export programme account. The Canadian Border Services Agency uses the account number (RM account identifier) to process customs documents. Exported goods require reporting primarily to control the export of restricted items, to collect accurate trade statistics, and to control the outbound movement of goods in transit through Canada. A paper-based export declaration (Form B13A) is submitted to the Canada Border Service Agency (CBSA) by the exporter or a third party (e.g. customs broker or freight forwarder) on the exporter's behalf. However, the exporter of record, whose business number appears on the declaration, remains liable for the accuracy of all information provided to the CBSA. Clients of the CBSA may report exports electronically using the Canadian Automated Export Declaration (CAED). Exports may also be declared electronically through the G7 Electronic Data Interchange (EDI) Export Reporting System.

3.115. The minimum time-frame for the prior reporting of export shipments varies according to the mode of transport. Exporters of bulk or homogeneous goods may attach the Summary Reporting Program, which allows the filing of monthly summaries of transactions after the goods have been exported. Various exemptions apply to the reporting requirement for non-restricted goods, e.g. for commercial goods valued at less than CAD 2,000, personal and household effects, personal gifts, and goods removed from a bonded warehouse or sufferance warehouse. Export declarations are not required for restricted or non-restricted goods destined for the United States. Export permits for restricted goods must be provided to the designated office closest to the place of exit of the goods from Canada or to any other authorized place indicated on the permit within the stipulated time-frame relevant to the mode of transportation.

¹⁴⁷ United States Surtax Order (Other Goods): SOR/2018-153, Canada Gazette, Part II, Volume 152, Number 14, 28 June 2018. Viewed at: <https://laws-lois.justice.gc.ca/PDF/SOR-2018-153.pdf>.

¹⁴⁸ United States Surtax Order (Steel and Aluminium): SOR/2018-152, Canada Gazette, Part II, Volume 152, Number 14, 28 June 2018. Viewed at: <http://www.gazette.gc.ca/rp-pr/p2/2018/2018-07-11/html/sor-dors152-eng.html>.

¹⁴⁹ WTO document WT/DS557/2, 19 October 2018.

3.2.2 Export taxes, charges, and levies

3.116. The Export Act (R.S.C., 1985, c. E-18) authorizes the Governor in Council to impose export duties on certain ores and metals. Should Canadian timber, lumber or wood products face import duties in foreign countries, the Act also allows the Governor to proclaim export duties on logs and pulpwood products sold to these markets. However, no export taxes, charges or levies have been imposed with reference to this Act so far.

3.117. Canada applied export restraints in certain market conditions on certain softwood lumber products exported to the United States in accordance with the 2006 Canada-United States Softwood Lumber Agreement, for nine years. However, the bilateral agreement expired on 12 October 2015, and the export restraints are no longer in effect.¹⁵⁰ U.S. AD and CV measures on softwood lumber products from Canada are currently subject to WTO dispute settlement proceedings (DS533 and DS534).

3.118. Excise stamps are affixed to tobacco products manufactured in Canada or imported for the domestic market, as proof that the applicable excise duty has been paid. For tobacco products manufactured in Canada for export, a special duty, equivalent to the excise duty applicable in the domestic market, is levied to reduce the incentive to smuggle unstamped goods back into Canada. Prescribed brands not typically sold in Canada are relieved. This applies to manufacturers that export no more than 1.5% of their production.¹⁵¹ The special duty may be refunded if the manufacturer is able to demonstrate that the exported goods have entered a foreign market for consumption and have been subjected to taxation there. Exported tobacco products beyond this 1.5% limit must be stamped, and they are subject to the federal excise duty for tobacco products sold in Canada as well as a special duty of CAD 19.1448 per 200 cigarettes or tobacco sticks, and CAD 5.98275 per 50 grams (or fractions thereof) for other tobacco products. No refund is available in respect of special duty payable on exports of stamped tobacco products.

3.2.3 Export prohibitions, restrictions, and licensing

3.119. The Exports and Imports Permits Act (EIPA), first enacted in 1947, constitutes the principal legal basis for Canada's export control regime. For exports, the EIPA authorizes the Governor in Council to establish an Export Control List (ECL), an Area Control List (ACL), and an Automatic Firearms Country Control List (AFCCCL). The ECL lists goods and technology that require an export permit. Countries listed on the ACL require a permit prior to the export of any goods and technology, whether they are listed on the ECL or not. The Export Permit Regulations (EPR) stipulate how permits may be obtained, whether transaction-based (Individual Permit) or in facilitated treatment (General Permit). Canada's export controls are administered by the Trade Controls Bureau at Global Affairs Canada and are enforced by the CBSA and the Royal Canadian Mounted Police. Global Affairs Canada reports annually to Parliament on developments in the administration of the EIPA.¹⁵²

3.120. Exporters may apply electronically for export permits or certificates, or request amendments, through Export Controls Online (EXCOL) or the Export and Import Control System (EICS), or by fax or regular mail. The EICS, which is used for applications, approvals, and processing of non-strategic controlled goods, also includes quota management functions. EXCOL is used to submit applications for export permits of military and strategic dual-use goods. EXCOL may also be used, for example, to seek advisory opinions on whether an item would appear to fall within the scope of the ECL. Recognized users of EXCOL may also submit quarterly utilization reports for military goods and print selected documents at their premises. There are currently in excess of 4,200 EXCOL users.

3.121. The main items subject to export controls by Canada include military and strategic dual-use goods; nuclear energy materials and technology; and missile, chemical or biological goods of

¹⁵⁰ The Softwood Lumber Products Export Charge Act, 2006 remains in force for administrative purposes (late filings, corrections, appeals, etc.).

¹⁵¹ The quantity is determined according to the manufacturer's production in the preceding calendar year.

¹⁵² The report for 2017 is available at: <http://www.international.gc.ca/controls-controles/report-rapports/2017.aspx?lang=eng>.

non-proliferation concern.¹⁵³ Most items on the ECL derive from Canada's commitments to like-minded countries which participate in multilateral export control regimes, or from Canada's international obligations as a signatory to multilateral or bilateral agreements. The export of other types of goods and certain activities may also be subject to United Nations trade sanctions or arms embargoes against particular countries or regions.

3.122. Canada also controls exports of miscellaneous non-strategic goods, such as softwood lumber, unprocessed logs, rough diamonds, and certain agricultural, textile or other items with medical value. Many of the non-strategic items on Canada's Export Control List are there to ensure the orderly marketing of the commodity. In the case of rough diamonds, Canada's international commitments to the Kimberly Process Certification Scheme (elimination of conflict diamonds) are fulfilled through the Export and Import of Rough Diamonds Act. Many of the permits issued in connection with ECL and ACL controls are delivered free of charge, while others may be subject to a nominal fee.

3.123. The orderly marketing of certain textiles and clothing exports to the United States under NAFTA is ensured through the issuance of mandatory Certificates of Eligibility, and exports of refined sugar, sugar-containing products and peanut butter are controlled to comply with U.S. import quotas.¹⁵⁴ Goods and technologies of U.S. origin require individual export permits when resold to countries subject to U.S. export restrictions and sanctions, such as Cuba, Iran, and the Democratic People's Republic of Korea. The ECL was amended in September 2017 to implement origin quotas stemming from the provisional application of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU. Export permits are henceforth needed when preferential tariff treatment is claimed in the EU market for goods such as high-sugar containing products, sugar confectionery and chocolate preparations, processed foods, dog and cat food, vehicles, and specific apparel goods for export marketing purposes.

3.124. Canada applies sanctions and related measures against certain countries, including individuals and entities associated with terrorist activities. These actions are taken under the United Nations Act, the Special Economic Measures Act, or the Justice for Victims of Corrupt Foreign Officials Act. The precise measures are laid down in individual regulations.¹⁵⁵ Belarus was removed from the ACL in June 2017, and the only country listed in Canada's ACL on it at present is the Democratic People's Republic of Korea.

3.2.4 Export support and promotion

3.125. Canada has a government-based export promotion system, comprising an array of programmes that function more or less independently. Numerous export promotion initiatives are in place at federal, regional and provincial levels. Among the trade advisory services provided, businesses are assisted in their preparations to penetrate international markets, network and business contacts are made available, and business-related problems and market access issues are addressed. Global Affairs Canada coordinates foreign-trade-related activities, whereas domestic responsibilities are conducted through Innovation, Science and Economic Development Canada. Within the network of supporting agencies and organizations (public and private), the Trade Commissioner Service (TCS) holds the most prominent position.

3.126. Part of Global Affairs Canada, the TCS operates domestically out of five regional office hubs and 26 Client Service Satellites co-located with partners in every province or territory. The TCS has increased its worldwide reach over the years, and currently maintains on-the-ground presence in 161 cities around the world.

3.127. The TCS organizes sector-specific, targeted trade missions to priority markets, and helps Canadian businesses access global value chains and networks of foreign contacts. Its core lines of operation are the promotion of export sales and acting as a consultant to existing and potential

¹⁵³ Detailed information on the export control regime is available in handbook format at: http://www.international.gc.ca/controls-controles/export-exportation/exp_ctr_handbook-manuel_ctr_exp-p2.aspx?lang=eng#d_1.

¹⁵⁴ The Certificates of Eligibility are not considered export permits, and textiles and clothing products are thus not enumerated in the ECL.

¹⁵⁵ Global Affairs Canada online information. Viewed at: http://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/current-actuelles.aspx?lang=eng.

exporters in all operative phases including marketing, the identification of opportunities, competitive market assessment, and the establishment of foreign contacts. Clients of the TCS, predominantly SMEs, receive these services free of charge, as long as they maintain meaningful economic ties to Canada, demonstrate a capacity for internationalization, and contribute to Canada's economic growth. Approximately 15,000 exporters use the services and know-how offered by the TCS every year. The TCS also assists foreign companies investing in Canada. Global Affairs Canada expenditures, under its International Commerce Business line, amounted to CAD 164.4 million during FY 2016/17, and the TCS disbursed an estimated CAD 53.0 million under various programmes between 2014 and 2018 (Table 3.19). The Departmental Plan for 2018-19 foresees CAD 23.4 million to be spent under the Trade and Investment Support Program, comprising four programme lines, i.e. CanExport, Global Opportunities for Associations (GOA), the Going Global Innovation (GGI) Initiative, and the Invest Canada-Community Initiatives (ICCI).

Table 3.19 Main TCS funding programmes and amounts disbursed, 2014-18

(CAD million)

Programme	Description of the service provided	Amount disbursed 2014-18
Global Opportunities for Associations (GOA)	Non-repayable support to associations starting or expanding international business development activities	13.6
Going Global Innovation (GGI)	Matching funds (up to 75% of eligible expenses) incurred in pursuing international collaborative R&D opportunities	1.5
Invest Canada-Community Initiatives (ICCI)	Non-repayable support to communities seeking to attract FDI	16.4
CanExport	Provides financial support for a wide range of export marketing activities	17.9
Foreign Trade Zones – Marketing Program (FTZ-MP)	Non-repayable support to communities seeking to attract foreign and direct investment (FDI) through the promotion of Canada's Foreign Trade Zone	0.5
Canadian International Innovation Program (CIIP)	Support to R&D collaboration programmes with Brazil, China, India and Israel	3.1

Note: The Foreign Trade Zones – Marketing Program (FTZ-MP) sunset was on 31 March 2018.

Source: Global Affairs Canada online information. Viewed at: https://www.international.gc.ca/gac-amc/publications/plans/dp-pm/dp-pm_1819.aspx?lang=eng.

3.2.5 Export finance, insurance, and guarantees

3.128. Export Development Canada (EDC) is a financially self-sustained Crown Corporation operating at arm's length from the Government. As Canada's export credit agency, the EDC's mandate is to support and develop export trade and help Canadian enterprises respond to international business opportunities. The EDC provides insurance and financial services, bonding products and small business solutions through a wide range of programmes (Table 3.20), often in partnership with other financial institutions. In addition to serving Canadian exporters and their international customers, the EDC also supports Canadian direct investment abroad as well as investment into Canada. The EDC normally funds itself in global capital markets but may also, if need be, seek loans from the Ministry of Finance. The EDC collects interest on its loans and premiums on its insurance products and has a treasury department that sells bonds and raises money in global capital markets.

Table 3.20 EDC finance and guarantee programmes

Programme title	Product description	Business facilitated in 2017 (CAD billion)
Direct Lending	Provides direct financing to companies on commercial terms	23.854
Structured and Project Finance	Provides financing solutions to companies engaged in largescale global projects	3.060
Loan Guarantees	Provides up to 100% guarantee on loans used by businesses to increase their working capital, purchase new equipment or support foreign investments	1.280
Investments	Provides loans to mid-sized companies to help them grow their international sales or invest in foreign operations	0.163

Programme title	Product description		Business facilitated in 2017 (CAD billion)
Total financing and investments			28.357
Credit Insurance	Covers 90% of insured losses, and a variety of risks when selling products and services internationally		55.827
Financial Institution Insurance			8.205
Contract Insurance and Bonding	Account Performance Security Guarantee	Helps businesses issue international transactions-related bonds by offering collateral solutions (100% guarantee), protection against wrongful calls (up to 95% of the losses), and reinsurance (up to 85% of the value of the bonds)	8.795
	Foreign Exchange Facility Guarantee Surety Bond Insurance	Helps businesses engage in foreign exchange contracts by guaranteeing the payment, thus replacing the collateral that may be required by financial institutions Protects surety companies from losses resulting from bonds issued on behalf of businesses	
	Contract Frustration Insurance	Covers up to 90% of losses resulting from non-payment associated with a specific contract due to certain commercial and political risks	
	Performance Security Insurance	Covers up to 95% of losses resulting from wrongful calls on letters of guarantee, or if a call is triggered due to specific political risks for export contracts	
Political Risk Insurance	Covers up to 90% of losses resulting from political risk, such as: illegal seizure of assets, outright nationalization, war, and civil strife		2.551
Total insurance			75.378
Grand total			103.735

Source: EDC online information. Viewed at: <https://www.edc.ca/en/solutions.html> and <http://figuide.edc.ca/en/Products/EDCPortfolioCreditInsurance>.

3.129. In 2017, the EDC supported CAD 103.7 billion in exports, foreign investment and trade development activities. The EDC assisted 9,398 enterprises during the year, and opened a stand-alone financing hub office in Singapore, its first branch outside of Canada. 2018 saw a moderate slowdown, starting in the second quarter.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.3.1.1 Incentives programmes

3.130. Canada does not have specific overarching legislation governing incentives and subsidies. Various federal agencies and provincial/territorial governments implement incentives programmes. Innovation, Science and Economic Development Canada (ISED) is the government agency in charge of promoting investment, enhancing innovation performance, increasing Canada's share of global trade, and building a fair, efficient and competitive marketplace in all areas of the economy and in all parts of the country.

3.131. The Innovation Canada digital platform for business, as of January 2019, lists 1,039 programmes and services providing assistance to help businesses, and non-profit organizations, innovate and grow in the form of funding, loans and capital investments, tax credits, wage subsidies and interns, expert advice, and partnering and collaboration. Although not exhaustive, this figure encompasses a large portion of the various programmes and services available at the time of the search that are funded by government at either the federal or at the provincial/territorial level and those significantly funded by federal and provincial/territorial governments. Not all of these programmes and services provide funding or target for-profit companies and only a small portion of those have any relation to trade. While some programmes and services, both at the federal and the provincial level, are of broad application, others are sector specific, targeted to activities such as agriculture and cultural industries. An overview of the programmes listed indicates that most are specifically targeted to a particular sector or location and

that many programmes offered were with respect to grants or contributions. It was not possible to determine the total amount of aid provided under each programme or category (Table 3.21).¹⁵⁶

Table 3.21 Government programmes and services listed on the Innovation Canada digital platform for business, January 2019

Support type	Number of programmes 2019
Funding	406
Loans and capital investments	226
Tax credits	87
Wage subsidies and interns	86
Expert advice	196
Partnering and collaboration	56
Total (unique supports)	1,039

Note: Some overlap exists between categories.

Source: Innovation Canada, online information. Viewed at: <http://innovation.canada.ca>.

3.132. ISED-Canada maintains two special financing programmes: the Strategic Innovation Fund (SIF) open to businesses of all sizes across all of Canada's industrial and technology sectors, and the Canada Small Business Financing Program (CSBFP) for small businesses.

3.133. The SIF was launched in July 2017 to enhance competitiveness and incorporates four ISED legacy programmes: the Strategic Aerospace and Defence Initiative (SADI), the Automotive Innovation Fund (AIF), the Automotive Supplier Innovation Program (ASIP), and the Technology Demonstration Program (TDP). The SIF provides repayable and/or non-repayable contributions to attract and support new high-quality and innovative business investments in Canada. The SIF has four Streams, each with its own precise objective: Stream 1 encourages R&D that will accelerate technology transfer and the commercialization of innovative products, processes and services; Stream 2 facilitates the growth and expansion of firms in Canada; Stream 3 attracts and retains large-scale investments to Canada; and Stream 4 advances industrial research, development and technology demonstration through collaboration between the private sector, researchers and non-profit organizations on a competitive basis; funds for Stream 4 projects are not repayable. Projects under Streams 1-3 may be repayable or not, depending on their public benefits. Applicants for Streams 1-3 must be small, medium or large-sized for-profit corporations, incorporated pursuant to the laws of Canada, and carrying on business in Canada. Streams 1-3 operate on a continuous intake basis, and applicants must clearly demonstrate why government funding is needed to complete the project and show the project's innovation, economic and public benefits for Canada.

3.134. Under the SIF, the Government's share of funding for a given project usually varies from 10% to 50% of eligible costs. Total combined government funding (federal, provincial, territorial and municipal) for the project cannot exceed 75% of eligible costs. Eligible costs are non-recurring costs that are specifically related to the project, which include, but are not limited to: direct labour, overheads, subcontracts and consultants, direct materials and equipment, other direct costs, and land and buildings. From July 2017 to December 2018, 31 projects were announced under the SIF, totalling CAD 795 million in SIF contributions during the life of the projects, leveraging a total investment of CAD 8.1 billion in Canada; this includes two SADI projects and one TDP project. Projects run for five years; repayment takes places over up to 15 years, with two-year periods of grace. In February 2018, changes to the SIF were announced in the federal budget, with the SIF now focusing its support on projects requesting at least CAD 10 million in contributions. The Budget 2018 consolidated the Centre of Excellence for Commercialization and Research and the Business-led Networks of Centres of Excellence programmes under the SIF. This Budget also announced funding of CAD 100 million for over five years for the SIF to support projects that relate to Low Earth Orbit (LEO) satellites and next-generation rural broadband which will reach the most remote areas of Canada. Projects eligible for this funding are currently under development and will be announced in 2019.

3.135. Stream 4 is open to consortia and networks and is a competitive process. An applicant must be a company incorporated in Canada (for consortium applications) or a non-profit organization incorporated in Canada (for network applications). Contributions to Stream 4 are non-repayable. For consortia, the combined level of assistance from all governments (federal, provincial, territorial and

¹⁵⁶ Innovation Canada, online information. Viewed at: <http://innovation.canada.ca>.

municipal) to any one recipient shall not normally exceed 75% of eligible costs, except for recipients that are academic institutions for whom the maximum assistance would be 100%. The combined level of assistance provided to networks from all government sources will not exceed 100% of the total eligible costs of the network. The first Stream 4 competition for proposals applying data capabilities in the Health and Biosciences sector was launched in June 2018, and a final announcement is expected in Spring 2019. The second competition for automation and digital technologies in the Agriculture and Agri-food sector was launched in December 2018.

3.136. In June 2018, support for the Steel and Aluminium sectors through SIF was announced. Under this initiative, CAD 250 million in new support will be provided to help bolster the competitiveness of Canadian manufacturers and better integrate the Canadian steel and aluminium supply chain. Applicants must be steel and aluminium producers incorporated in Canada, having a minimum of 200 employees and requesting a contribution of between CAD 10 million and CAD 50 million. The programme has had great interest from Canadian steel and aluminium producers with the total value of applications received greater than CAD 1.7 billion. The first project funded under this programme was announced in October 2018.

3.137. As mentioned above, the 2015 TPR focused on four legacy programmes which were since consolidated under the SIF in July 2017: the Strategic Aerospace and Defence Initiative (SADI), the Automotive Innovation Fund (AIF), the Technology Demonstration Program (TDP), and the Automotive Supplier Innovation Program (ASIP).

3.138. The Strategic Aerospace and Defence Initiative (SADI), launched in 2007, provided repayable contributions to support R&D projects in the aerospace, space, defence and security (A&D) sectors.¹⁵⁷ Applicants were small, medium or large-sized for-profit corporations, incorporated pursuant to the laws of Canada and carrying on business in Canada. At least 1% of total eligible project costs had to be allocated to post-secondary education institutions in Canada. To be eligible, SADI support had to be essential to the project, and the recipient had to have sufficient resources to fund the (initial) R&D phase, typically over a five-year period.¹⁵⁸ Benefits under the SADI covered up to 40% of total eligible project costs; total combined government funding (federal, provincial, municipal, tax credits) for the project could not exceed 75% of eligible costs. Benefits under the SADI took the form of reimbursements over a 15-year repayment period that commenced two years after the end of the R&D phase.¹⁵⁹ The total amount of SADI funding was set at approximately CAD 200 million per year. Since its creation, SADI has supported 42 projects. Total authorized assistance for all projects was CAD 1.6 billion and total repayments collected to end-2018 were CAD 406.6 million.

3.139. The SADI programme also supported the multi-national Joint Strike Fighter (JSF) programme. The SADI typically contributed 40% to eligible project costs. Nominal repayment (i.e. 100% of amounts disbursed) for JSF projects is over 20 years. The mechanism to support this programme under SADI was transferred to the SIF. To date, no JSF projects have been funded under the SIF.

3.140. The Automotive Innovation Fund (AIF) was launched in 2008 to provide repayable contributions to innovation and R&D projects in the automotive sector to develop and build greener, more fuel-efficient vehicles. The AIF was renewed in 2016 to include non-repayable options. The AIF has supported 12 projects and provided a total of CAD 520 million in authorized assistance.

3.141. The Technology Demonstration Program (TDP), launched in 2013, provided non-repayable contributions to support one or more large-scale R&D projects per year in the A&D sectors. Eligible recipients for funding under the TDP were corporations incorporated and carrying on business in Canada that proposed to conduct industrial research and technology demonstration activities with

¹⁵⁷ Government of Canada online information. Viewed at: https://ito.ic.gc.ca/eic/site/ito-oti.nsf/eng/h_00022.html.

¹⁵⁸ Projects have a R&D phase and a repayment phase.

¹⁵⁹ During the R&D phase, the recipient had to submit financial claims for the reimbursement of eligible costs incurred on a monthly or quarterly basis. With each financial claim, the recipient had to provide a report that documented the progress of the project. In the Post-R&D Phase, the recipient participates in programme evaluations, case studies or other efforts required to assess the overall value and effectiveness of the SADI. The recipient had to provide annual financial statements and a forecast of its annual repayments due.

A&D applications, as well as Canadian universities or colleges, and Canadian research institutes.¹⁶⁰ The TDP could award a non-repayable contribution to support one large-scale project per year, up to a maximum of CAD 54 million. The Program covered up to 50% of total eligible project costs over the multi-year life of the project. TDP support had to be essential to the location, scope and/or timing of the project. The TDP supported four projects and provided a total of CAD 187.5 million in authorized assistance.

3.142. The Automotive Supplier Innovation Program (ASIP) was launched in 2015 and provided non-repayable contributions to automotive suppliers undertaking technology demonstration and prototyping activities. The ASIP supported 21 projects and provided a total of CAD 36 million in authorized assistance.

3.143. The CSBFP is a loan loss sharing programme that facilitates loans by financial institutions to small businesses. The programme has been in operation for over 50 years with the objective of helping new businesses get established and enabling established businesses to expand. The maximum amount of the loan is CAD 1 million. The CSBFP receives statutory funding from the Consolidated Revenue Fund for payments made on defaulted loans.

3.3.1.2 Access to credit

3.144. The Business Development Bank of Canada (BDC), a federal crown corporation reporting to Innovation, Science and Economic Development Canada, provides financing and other services to businesses, in particular, SMEs, to promote investment in and development of Canadian businesses. The BDC is financially self-sustaining, meaning that it does not receive appropriations from Government, and provides financing on commercial terms. The BDC provides mostly term lending, as well as venture capital and subordinated debt. The BDC is a complementary lender: it takes on more risk and can offer more flexible repayment terms than the commercial banks but prices the risk (i.e. the interest rates always exceed the pricing of the commercial banks).

3.145. The BDC plays a particular role in the growth of SMEs by providing term lending as well as collaborating with other financial institutions to increase credit availability in the market through co-lending, syndicated loans and indirect financing. The 2017 federal budget announced two major initiatives to promote innovation in Canada involving the BDC: the Cleantech Scale Up Initiative (where the BDC was asked to deploy subordinated debt and equity) and the Venture Capital Catalyst Initiative (VCCI) (where the BDC was asked to deploy subordinated debt and investments on behalf of the Crown). The Bank is also implementing new initiatives announced in the 2018 federal budget to encourage women business ownership, which includes a target of CAD 1.4 billion in commercial financing over three years for majority women-owned businesses and a CAD 200 million Women in Technology Venture Fund to support women-led technology firms (up from CAD 70 million previously).

3.146. The BDC is the only bank devoted exclusively to Canadian entrepreneurs, and currently reports on six business lines: Financing; Growth and Transition Capital; Venture Capital (VC); Advisory Services; venture capital incentive programmes managed on behalf of the Government, including the Venture Capital Action Plan (VCAP) and the VCCI; and the newly-created Cleantech Scale Up Initiative. In FY 2017/18, BDC Financing's term lending acceptances totalled CAD 6.8 billion; net sales from Advisory Services reached CAD 25.1 million; Growth and Transition Capital financing acceptances reached CAD 426.9 million, VC-authorized investments totalled CAD 188 million; and VC raised from public and private sources under the VCAP rose to CAD 1.4 billion. During FY 2018, the BDC launched the Cleantech Practice, to deliver CAD 600 million in capital entrusted to the BDC by the Federal Government to help build globally-competitive Canadian cleantech firms and a long-term, commercially-sustainable cleantech industry that can attract significant private capital. At the end of FY 2017/18, acceptances for the Cleantech Scale Up Initiative totalled CAD 40 million, with close to CAD 10 million disbursed. Additionally, in FY 2017/18, the Government asked the BDC to manage the VCCI, which will invest capital to further increase the availability of late-stage VC for Canadian entrepreneurs. The 2017 federal budget made available CAD 400 million for the VCCI, which will be used to leverage private capital to raise a total pool of

¹⁶⁰ Government of Canada, *Technology Demonstration Program (TDP) — Program Guide*. Viewed at: https://ito.ic.gc.ca/eic/site/ito-oti.nsf/eng/h_00837.html.

approximately CAD 1.5 billion.¹⁶¹ As a result of anticipated market demand, BDC Financing acceptances are forecast to increase to CAD 7.2 billion in FY 2018/19; and the BDC's overall portfolio is forecast to reach CAD 30.6 billion.¹⁶²

3.147. Other federal departments have various funding or incentive programmes, many of which are available to private businesses, but also to individuals, organizations, sub-federal governments, the non-profit sector, etc. Many of these programmes are reflected in Canada's subsidies notification to the WTO (Table A3.2).

3.3.2 Standards and other technical requirements

3.3.2.1 Standards

3.148. The development of standards in Canada is a decentralized process. The Standards Council of Canada (SCC), which takes its mandate from the Standards Council of Canada Act, is Canada's national standardization body.¹⁶³ The SCC is a federal Crown corporation, with the mandate to promote efficient and effective standardization in Canada.¹⁶⁴ The SCC reports to Parliament through the Minister of Innovation, Science and Economic Development Canada and oversees Canada's national standardization network. The SCC prescribes policies and procedures for the development of national voluntary standards; it represents Canada in international standards activities and provides accreditation services for both standards development organizations and conformity assessment bodies.

3.149. The SCC also manages programmes and services designed to support the integration of standardization into regulatory practices, and coordinates and oversees the efforts of the persons and organizations involved in the National Standards System. The SCC is also charged with promoting voluntary standardization in Canada, where standardization is not expressly provided for by law, to promote the participation of Canadians in voluntary standards activities, and to ensure the effective and coordinated operation of standardization in Canada.¹⁶⁵ The SCC represents Canada at the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) and, nationally, sets the requirements for the development of National Standards of Canada, which are developed by SCC-accredited standards development organizations (SDOs).

3.150. Canada's National Standards System is composed of a variety of organizations, with 3,189 members involved in international standards committees on behalf of Canada. The SCC does not develop standards but is responsible for accrediting various bodies in the system. The Technical Barriers and Regulations Division of Global Affairs Canada hosts Canada's SPS and TBT notification authority and enquiry point. The SCC and the National Research Council of Canada (NRC) share the responsibility for the Calibration Laboratory Assessment Service (CLAS) programme through an Agreement of Collaboration. The NRC is responsible for all aspects of calibration laboratory assessment, including surveillance of accredited laboratories, while the SCC is responsible for the accreditation decision.

3.151. At the national level, SCC accredits SDOs. There are currently 10 SDOs: the Air-Conditioning, Heating and Refrigeration Institute; ASTM International; the Bureau de normalisation du Québec; the Canadian General Standards Board (CGSB); the Canadian Standards Association (CSA Group); the Health Standards Organization (HSO); the International Association of Plumbing and Mechanical Officials (IAPMO); NSF International; ULC Standards; and Underwriters' Laboratories Inc. (UL). These institutions generally operate in areas of specialty, reflecting the expertise of their technical committees, but they may develop standards in any area. Other bodies involved in standardization include: the ISED; Measurement Canada (which administers and enforces the Electricity and Gas Inspection Act and the Weights and Measures Act through the exclusive constitutional authority of the Government of Canada); the Telecommunications Standards Advisory Council of Canada

¹⁶¹ BDC (2018), *2018 Annual Report*. Viewed at: <https://www.bdc.ca/EN/Documents/annualreport/bdc-annual-report-2018.pdf>.

¹⁶² BDC (2018), *Corporate Plan Summary 2018-19 to 2022-23*. Viewed at: https://www.bdc.ca/en/Documents/doc_corpo/corporate_plan_summary.pdf.

¹⁶³ Standards Council of Canada Act, R.S., 1985, c. S-16, s. 5; 1996, c. 24, s. 4; 2011, c. 21, s.156, amended 16 March 2012.

¹⁶⁴ SCC online information. Viewed at: <https://www.scc.ca/en/about-scc>.

¹⁶⁵ SCC online information. Viewed at: <https://www.scc.ca/en/about-scc>.

(TSACC, an industry-government partnership formed to develop strategic directions for standardization in the Information Technology and Telecommunications (IT&T) sectors); the National Research Council Canada (NRC); the Institute for National Measurement Standards, which is Canada's national metrology institute; and the National Institute for Nanotechnology (NINT).

3.152. Standards are developed through consensus by committees of interested stakeholders, and may include representation from categories such as industry, governments, authorities having jurisdiction, academia, consumers, and public interest bodies. These committees are organized and managed by an SDO. The basic process by which a standard is developed is consistent among all SDOs. The first step is the identification of the Canadian interest and strategic need for a new standard, followed by a preliminary study and the preparation of a draft outline, and the establishment of a committee, whether pre-existing or new. The committee reviews existing international and regional standards, both published and under development, first for possible adoption or adjustment; if it is not possible to use an existing standard, a new standard is developed and undergoes an approval process by the committee. Once a draft standard is developed and approved by consensus by the committee, the public is invited to review the it and provide comments. A minimum time-frame of 60 days is prescribed for the submission of comments by interested parties, which can only be shortened with appropriate rationale and action to proactively inform affected stakeholders, before the publication of the standard. All comments received, regardless of place of origin, must be considered by the technical committee and responded to, if requested.

3.153. Once a new standard is developed, it may be sent to the SCC (see below), where it is evaluated to see if it meets the criteria of a National Standard of Canada (NSC). These criteria include: a) the standard must have been developed by consensus of a balanced committee of stakeholders; b) it must have been subjected to public review; c) it must be available in both English and French (official languages) upon publication; d) it must not duplicate or overlap with the work of other SDOs, including other international or regional SDOs; and e) it must not create barriers to international trade. NSCs can be submitted to international standards development organizations for consideration and adoption as international standards.

3.154. The SCC introduced self-declaration for NSCs in 2017, allowing SDOs to meet stakeholders' needs more quickly. This facilitates SCC-accredited SDOs to self-declare compliance, through a process whereby their standards are verified for compliance on a sample basis. For SCC-accredited SDOs that have achieved this status, the SCC does not have to review and approve their NSCs prior to publication. System controls are in place to ensure the continued rigour of the development of NSCs.¹⁶⁶

3.155. NSCs must be reviewed and updated at least every five years. There were 3,096 standards developed under SCC accreditation as at 30 September 2018, of which 2,424 had NSC status. Some of the main areas where there were national standards include: information technology (977); electrical engineering (345); environment, health protection and safety (177); construction materials and building (135); health care technology (199); domestic and commercial equipment (121); metrology and measurement (27); energy and heat transfer engineering (127); and telecommunications, audio and video engineering (104).

3.156. As noted above, the SCC facilitates Canadian participation in international standardization, including participation at the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). As the Canadian member of the ISO and the IEC, the SCC ensures effective Canadian participation in the activities of those organizations and establishes requirements and guidance for Canadian participation. Canada participates or observes on 354 ISO technical committees¹⁶⁷ and 115 IEC technical committees.¹⁶⁸

3.157. Cooperation Arrangements are negotiated by the SCC, which has arrangements with Brazil's Associação Brasileira de Normas Técnicas (ABNT, signed in 2018), the British Standards Institute (BSI, signed in 2018), the Ukrainian Research and Training Center for Standardization, Certification and Quality (UkrNDNC, signed in 2018), Peru's Instituto Nacional de Calidad (INACAL, signed in 2017), the Plurinational State of Bolivia's Instituto Boliviano de Normalización y Calidad (IBNORCA,

¹⁶⁶ SCC online information. Viewed at: <https://www.scc.ca/en/accreditation/standards>.

¹⁶⁷ ISO online information. Viewed at: <https://www.iso.org/member/1619.html>.

¹⁶⁸ IEC online formation. Viewed at: <https://www.iec.ch/dyn/www/f?p=103:5:0:#ref=menu>.

signed in 2017), Costa Rica's Instituto de Normas Técnicas de Costa Rica (INTECO, signed in 2016), the American National Standards Institute (ANSI, renewed in 2018), Mexico's Dirección General de Normas (DGN, renewed in 2018), the United Kingdom Accreditation Service (UKAS, signed in 2017), the Standards Administration of China (SAC, renewed in 2016), and the Korean Agency for Technology and Standards (KATS, signed in 2018).

3.158. The SCC also has a bilateral Cooperation Agreement with the European co-operation for Accreditation (EA) to facilitate the implementation of the Protocol on the Mutual Acceptance of the Results of Conformity Assessment within the CETA. The SCC also has a joint Cooperation Agreement with the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) and has CEN Companion Standardization Body membership.¹⁶⁹ In addition, the SCC is a signatory to a number of voluntary accreditation agreements, including the International Accreditation Forum (IAF), the Asia Pacific Accreditation Cooperation (APAC), and the Inter-American Accreditation Cooperation (IAAC).

3.159. The SCC also examines standardization policy issues, both national and international in scope. This includes examining standardization and gender, such as women's rates of participation on technical committees as compared to sectoral labour rates, and the provision of policy guidance on how to effectively incorporate standards by reference in federal, provincial, and territorial regulations to achieve various public policy objectives.¹⁷⁰

3.3.2.2 Technical regulations

3.160. The development of technical regulations in Canada is decentralized; they are established by several federal and provincial authorities. At the federal level, the development of technical regulations must follow the Cabinet Directive on Regulation and the Policy on Regulatory Development, which apply to all federal departments, agencies, and entities over which the Cabinet has either general authority or a specific authority relating to regulation making.

3.161. The Cabinet Directive on Regulation, which entered into force on 1 September 2018 and replaced the Cabinet Directive on Regulatory Management of 1 May 2012, sets out the Government of Canada's expectations and requirements in the development, management, and review of federal regulations. The Directive sets four guiding principles of federal regulatory policy: a) regulations must protect and advance the public interest and support good government; in this sense, regulations are justified in terms of protecting the health, safety, security, social and economic well-being of Canadians, and the environment; b) the regulatory process must be modern, open, and transparent: regulations must be accessible and understandable, and must be created, maintained, and reviewed in an open, transparent, and inclusive way that engages the public and stakeholders early on; c) regulatory decision-making must be evidence-based: there must be an analysis of the costs and benefits, and the assessment of risk, while being open to public scrutiny; and d) regulations must support a fair and competitive economy: they should aim to support and promote inclusive economic growth, entrepreneurship, and innovation for the benefit of Canadians and businesses. Opportunities for regulatory cooperation and the development of aligned regulations should be considered and implemented wherever possible.¹⁷¹

3.162. The Directive requires departments and agencies to examine and analyse regulations through all stages of their life cycle, including: the development of regulations, regulatory management, and review and results. It also requires that, during all stages of the regulatory life cycle, regulators seek opportunities to engage stakeholders (including Indigenous Peoples), pursue regulatory cooperation and regulatory alignment where appropriate, and coordinate with all levels

¹⁶⁹ Standards Council of Canada (2018), *Advancing Solutions, Delivering Results, 2017–2018 Annual Report*. Viewed at: https://www.scc.ca/en/system/files/publications/SCC-AR-2017-2018_EN.pdf. The European Committee for Standardization's list of Companion Standardization Bodies. Viewed at: <https://standards.cen.eu/dyn/www/f?p=CENWEB:60:::NO>.

¹⁷⁰ Standards Council of Canada (SCC, 2018). *Guidelines for Incorporating Standards by Reference in Regulations to Support Public Policy Objectives*. Viewed at: <https://www.scc.ca/en/about-scc/publications/documents-de-politique/guidelines-for-incorporating-standards-reference-regulations-support-public-policy-objectives>.

¹⁷¹ Government of Canada (2018), *Cabinet Directive on Regulation*. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/cabinet-directive-regulation.html>.

of government to minimize cumulative and unintended impacts of regulations on Canadians, businesses, and the economy.

3.163. With respect to the development of regulations, the Directive mandates that, at the beginning of the regulatory life cycle, departments and agencies determine the approach to address an issue, set objectives, undertake consultations with stakeholders, and analyse the risks, impacts, and costs and benefits of a regulatory proposal.¹⁷² The scope and depth of analysis required for regulatory proposals depends on the cost component of each proposal. In general, the greater the estimated cost of the proposal, the more comprehensive the analysis of benefits and costs must be, and the greater the effort required to undertake this analysis.

3.164. Departments and agencies must conduct a Regulatory Impact Analysis (RIA) on all regulatory proposals. The RIA must identify and assess the potential positive and negative effects and implications of a regulatory proposal for consideration by the public, stakeholders and the Cabinet. Regulators must demonstrate that the benefits to Canadians outweigh the costs. To this end, the departments and agencies must conduct an early assessment, known as a triage, of a regulatory proposal, to determine its expected impact level and the appropriate mix of analytical requirements. During the triage, proposals are categorized according to their expected level of impact, which is determined primarily by the anticipated cost of the proposal.¹⁷³ In the case of federal regulatory proposals, benefits and costs can be described in one of three ways: qualitative; quantitative; or monetized. An analysis of monetized benefits and costs is required for all "significant" regulatory proposals, that is, with an expected high or medium impact. If a regulatory proposal identifies environmental considerations, regulators must provide the scope and nature of the likely effects on the environment (positive and negative), describe in the Regulatory Impact Analysis Statement (RIAS) the outcomes of consultations with the public about environmental impact, and describe in the RIAS how the implementation plan would deal with issues identified. If the regulatory proposal is not likely to have environmental effects, regulators must describe in the RIAS the activities they undertook to ascertain that no environmental effects are expected.¹⁷⁴

3.165. As per the Directive, federal authorities should take into account potential opportunities for incorporation by reference of internationally-accepted standards and/or regulations or other appropriate instruments. Departments and agencies should explain in the RIAS why the technique is being used and how it achieves their regulatory objectives. Departments and agencies must submit a regulatory proposal to be considered by the Treasury Board (Governor in Council), or the relevant regulation-making authority, for pre-publication in the Canada Gazette, Part I. Pre-publication of a regulation must include the draft regulatory text as well as a RIAS. The standard comment period following pre-publication is 30 days, unless otherwise prescribed by legislative requirements and/or international obligations. A minimum comment period of 70 days may be required for consultations on proposals for new and amended technical regulations that may have a significant effect on international trade. Upon approval by the Treasury Board, the Governor General signs the regulation, and the Registrar of Statutory Instruments registers it. Regulations enter into force immediately after registration, or on a day specifically stipulated. The Regulation can only be enforced once published in the Canada Gazette Part II. Such publication must take place within 23 days of registration.

3.166. The Report to Parliament on federal regulatory management initiatives for FY2017/18 shows that 184 Governor in Council (GIC) regulations were finalized between 1 April 2017 and 31 March 2018. Of these 184 GIC regulations (compared with 189 in FY2016/17), 166 were low-impact and 18 were "significant", meaning that they had annual national costs greater than CAD 1 million. The significant regulations accounted for 9.8% of the GIC regulations finalized in FY2017-18, which is consistent with figures for previous years. Of these 18 regulations, 15 had monetized benefits and

¹⁷² Government of Canada (2018), *Cabinet Directive on Regulation*. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/cabinet-directive-regulation.html>.

¹⁷³ There are three levels of impact: a) low impact, when the present value of costs of the proposed regulations over ten years is less than CAD 10 million, and the annual cost is less than CAD 1 million; b) medium impact, when the present value over ten years is between CAD 10 million and CAD 100 million, and the annual cost is between CAD 1 million and CAD 10 million; and c) high impact, when the present value over ten years is more than CAD 100 million, and the annual cost is more than CAD 10 million.

¹⁷⁴ Treasury Board of Canada Secretariat (2018), *Policy on Regulatory Development*. Effective 1 September 2018. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/policy-regulatory-development.html>.

costs, 2 had monetized costs only, and 1 had quantified costs and benefits. The total monetized cost associated with significant regulations was CAD 4.4 billion, while the total monetized benefit associated with them was CAD 8.5 billion; this gave a monetized net benefit of CAD 4.1 billion. The regulatory changes that had the greatest net monetized benefits in FY2017/18 were: the Regulations Amending the Ozone-Depleting Substances, and the Halocarbon Alternatives Regulations, with a cumulative net benefit of CAD 3.725 billion (net present value) from 2018 to 2040; the Regulations Amending the Immigration and Refugee Protection Regulations, with a cumulative net benefit of CAD 115.3 million from 2017 to 2026; and the Regulations Amending the Off-Road Small Spark-Ignition Engine Emission Regulations and Making a Consequential Amendment to Another Regulation, with an estimated net benefit of CAD 107.6 million (net present value) from 2019 to 2032. Significant proposals must demonstrate that the expected benefits are greater than the expected costs. However, this determination is based on non-monetized quantitative and qualitative analysis, in addition to monetized analysis. In FY2017/18, three significant proposals had monetized costs that were equal to monetized benefits, and another three had monetized costs that exceeded monetized benefits.¹⁷⁵

3.167. Among the technical regulations that had monetized benefits and costs identified in FY2016/17, and presented main benefits are: the Energy Efficiency Regulations, 2016, for which a cumulative net benefit associated with it was estimated at CAD 1.394 billion (net present value) to 2030, and the Multi-Sector Air Pollutants Regulations, for which a net benefit of approximately CAD 6.436 billion was estimated to 2035.

3.168. Amendment 13 to the Energy Efficiency Regulations, published in December 2016, reported a cumulative net benefit of CAD 1.46 billion through 2030. An October 2018 amendment was proposed that would bring the value up to CAD 1.80 billion by 2030.¹⁷⁶ The proposed amendment to the Energy Efficiency Regulations (the Amendment) would introduce or update minimum energy performance standards, testing standards, and reporting requirements to improve the energy efficiency of 12 heating and ventilation product categories. The Amendment would affect residential and commercial product categories, four of which are currently regulated federally.

3.169. Although Canada does not maintain a catalogue of technical regulations, the Canada Gazette's Consolidated Index of Federal Statutory Instruments includes (but does not specifically categorize or indicate) technical regulations.

3.170. During the period under review, Canada has continued to regularly notify its draft technical regulations, ordinances, and conformity assessment procedures to the TBT Committee. During the 2015-18 period, Canada submitted 210 notifications, including corrections and appendices. Of these, 141 were new technical regulation notifications.¹⁷⁷

3.171. Since 2015, only one specific trade concern (STC) was raised in the TBT Committee, regarding Canada's Tobacco Reduction (Flavoured Tobacco Products) Amendment Act, 2013. However, also since 2015, Canada raised 61 STCs in the TBT Committee regarding technical regulations by other Members, until end 2018.¹⁷⁸ The concerns raised covered a broad range of issues across multiple industry sectors.

¹⁷⁵ Treasury Board of Canada Secretariat (December 2018), *Annual Report to Parliament for the 2017 to 2018 Fiscal Year: Benefits and Costs of Significant Federal Regulations, and the Implementation of the One-for-One Rule*. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/corporate/reports/annual-report-parliament-2017-2018-fiscal-year-federal-regulatory-management-initiatives.html>. This report is the second annual report to Parliament on the benefits and costs of new federal regulations.

¹⁷⁶ Government of Canada online information. Viewed at: <http://gazette.gc.ca/rp-pr/p2/2016/2016-12-28/html/sor-dors311-eng.html>; <http://www.gazette.gc.ca/rp-pr/p1/2018/2018-10-20/html/reg3-eng.html>; and <http://www.gazette.gc.ca/rp-pr/p2/2016/2016-06-29/pdf/q2-15013.pdf#page=605>.

¹⁷⁷ WTO TBT Information Management System. Viewed at: <http://tbtdms.wto.org/en/Notifications/Search?page=11&sortBy=DistributionDate&sortDirection=desc&DistributionDateFrom=01%2F01%2F2015&DistributionDateTo=06%2F11%2F2018&NotifyingMember=Canada&DoSearch=True>.

¹⁷⁸ WTO TBT Information Management System. Viewed at: <http://tbtdms.wto.org/en/SpecificTradeConcerns/Search>.

3.3.2.3 Accreditation and conformity assessment

3.172. Conformity assessment procedures to ensure compliance with technical regulations are generally specified in each technical regulation. Canada can accept first-, second- or third-party conformity assessments, depending on the product. In some cases, it is a regulatory requirement that the certifying body or person is accredited by the SCC and/or is recognized under an MRA or a multilateral agreement (MLA). The type of certification accepted also depends on factors such as risks and the particular characteristics of the sector. When third-party conformity assessment is used, regulatory authorities rely mostly on conformity assessment bodies accredited by the SCC, whose criteria are based on ISO/IEC standards, and include additional requirements to fulfil the needs of Canadian regulatory authorities. Third-party conformity assessment is used in a number of product areas, including electrical safety, and construction products. Canada uses suppliers' declaration of conformity for motor vehicles, electromagnetic compatibility, and some telecommunications products. The regulatory authorities are directly responsible for conformity assessment for certain products (e.g. pharmaceutical products and medical devices).

3.173. According to the authorities, the underlying principles of conformity assessment in Canada, are that it: a) contributes to safeguarding public health, the environment and public safety; b) is based on international standards, agreements and protocols without undue national bias; c) upholds the WTO Agreement on Technical Barriers to Trade (TBT), and avoids creating unnecessary obstacles to trade; d) operates in an explicit, credible, and transparent manner, and is accessible, equitable and fair in its treatment of all users; e) delivers services in a timely and professional manner, in accordance with an accepted code of ethics; f) makes information regarding conformity assessment requirements, accreditation procedures and results publicly available (activities are conducted with due regard to confidentiality while ensuring full disclosure of conformity assessment results to regulatory authorities, as required); and g) is inherently voluntary; however, marketplace demands and/or government regulation may mandate specific conformity assessment requirements.¹⁷⁹

3.174. The SCC is Canada's national accreditation body. SCC accredits conformity assessment bodies (CABs), such as testing laboratories and product certification bodies, to internationally recognized standards. The SCC offers the following accreditation and recognition programmes: management systems certification bodies; product, process and service certification bodies; inspection bodies; greenhouse gas validation/verification bodies; bodies performing the certification of persons, testing and calibration laboratories; medical testing laboratories; and, proficiency testing providers. In addition, the SCC offers two non-ISO-based accreditation programmes: the SCC serves as Canada's monitoring authority for recognition of OECD good laboratory practices (GLP) and the SCC accredits standards development organizations.

3.175. The SCCs accreditation services include accrediting organizations directly, such as laboratories, as well as accrediting organizations that certify others' conformity to specific standards. Certification bodies are accredited on a fee-for-service basis. In December 2018, there were 34 accredited product, process and service certification bodies (including U.S.-based bodies), more than 350 testing organizations, and 22 management systems certification bodies (including foreign-based bodies).

3.176. The SCC's Accreditation Services branch delivers accreditation services to Canadian customers working in Canada and abroad, and to international customers doing business in Canada. The SCC is a signatory to the International Accreditation Forum (IAF), the International Laboratory Accreditation Cooperation (ILAC), the Asia Pacific Accreditation Cooperation (APAC), and the Inter-American Accreditation Co-operation (IAAC).

3.177. The SCC accredits various types of testing laboratories, including: food testing, drinking water testing, environmental sample testing; mineral testing; and materials testing laboratories. It also accredits quality, environmental, energy, food safety, and occupational health and safety management systems. The SCC accredits electrical, fire protection, safety equipment, energy-efficient, and mobile home component product certification, as well as electrical systems, medical gas piping systems, and commercial gas-fired appliance inspections.

¹⁷⁹ SCC online information. Viewed at:
https://www.scc.ca/sites/default/files/liferay_files/ca_principles_e.pdf.

3.178. The accreditation of calibration laboratories is the shared responsibility of the SCC and the National Research Council Canada's (NRC) Calibration Laboratory Assessment Service (CLAS). The CLAS programme provides quality system and technical assessment services, and certification of specific measurement capabilities of calibration laboratories in support of the Canadian National Measurement System. Eligibility for CLAS certification is required for SCC accreditation of calibration laboratories. The CLAS maintains a Directory of Accredited Calibration Laboratories, providing a network of calibration laboratories to ensure clients across Canada have access to calibration services with certified traceability to national and international measurement standards. Calibration laboratories certified by the CLAS offer measurements traceable to the International System of Units (SI).¹⁸⁰ The calibration laboratories that are certified by the CLAS and accredited by the SCC are recognized by over 50 accreditation systems worldwide.

3.179. In its role as the national standards laboratory, the NRC maintains close ties with the Bureau International des Poids et Mesures (BIPM) and a number of other international organizations, such as the Inter-american Metrology System (SIM), the ILAC, and the IAAC, as well as the national laboratories of other countries.

3.180. In addition to the SCC, the following bodies play a role in Canada's standardization and accreditation system: the ISED; Measurement Canada; the Telecommunications Standards Advisory Council of Canada (TSACC); the NRC; the Metrology Research Center; and the National Institute for Nanotechnology (NINT).

3.181. The SCC is a member of a number of organizations that have MRAs in place to assist with international acceptance of conformity assessment results. Canada participates in a number of conformity assessment international agreements. (Table A3.3).

3.3.3 Sanitary and phytosanitary requirements

3.182. The Safe Food for Canadians Act (SFCA) and the Safe Food for Canadian Regulation (SFCR) came into effect on 15 January 2019, representing the most important revision of food safety regulations in 25 years.¹⁸¹ Acknowledging that Canada has one of the strongest food safety systems in the world, the authorities note that new risks and challenges need to be addressed, including new threats to food safety, changing consumer preferences, and prevention-focused international standards. The SFCA consolidates the authorities of the Canada Agricultural Products Act, the Fish Inspection Act, the Meat Inspection Act, and the food provisions of the Consumer Packaging and Labelling Act. The SFCR replaces 14 sets of regulations to reduce unnecessary administrative burdens on businesses (Box 3.4).

3.183. Policies and national standards on food safety, nutrition quality and food-borne surveillance activities are developed, set, and enforced through the Health Portfolio. Being a member of the Codex Alimentarius Commission (Codex), the World Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC), Canada bases or aligns its SPS measures with recognized international standards, guidelines, and recommendations in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Implementation of food safety, animal health and plant health standards at the federal level is mainly in the hands of Health Canada and the Canadian Food Inspection Agency (CFIA). At the sub-federal level, provincial/territorial regulations are enforced by provincial/territorial authorities.

¹⁸⁰ National Research Councils of Canada (NRC) online information. Viewed at: https://www.nrc-cnrc.gc.ca/eng/solutions/advisory/clas_index.html.

¹⁸¹ The Act and the Regulations were notified to the WTO and were circulated in documents G/SPS/N/CAN/700, 8 July 2013 and its revisions and addenda (G/SPS/N/CAN/700/Rev.1 (5 June 2014), G/SPS/CAN/N/700/Rev.1/Add.1 (15 July 2014), G/SPS/CAN/N/700/Rev.2 (24 January 2017), and G/SPS/N/CAN/700/Rev.2/Add.1 (14 June 2018)); G/TBT/N/CAN/394, 19 July 2013 and its revisions and addenda (G/TBT/N/CAN/394/Rev.1 (6 June 2014), G/TBT/N/CAN/394/Rev.1/Add.1 (15 July 2014), G/TBT/N/CAN/Rev.2 (25 January 2017), and G/TBT/N/CAN/Rev.2/Add.1 (15 June 2018)); and G/LIC/N/2/CAN/1, 14 September 2018.

Box 3.4 The Safe Food for Canadians Act and the Safe Food for Canadians Regulations

The Food and Drugs Act and the Food and Drug Regulations continue to apply to all food sold in Canada, and the non-food provisions of the Consumer Packaging and Labelling Regulations (CPLR) remains in force. The SFCA and the SFCR apply mainly to imported and exported food, and to food traded inter-provincially. Some requirements also apply to food sold within the provinces. The SFCA received Royal Assent on 22 November 2012. Work then got underway to establish the SFCR, which consists of 16 parts, including provisions on preventive controls, licensing, traceability, commodity-specific requirements, organic products, recognition of foreign systems, packaging, labelling, seizure and detention, and ministerial exemptions. The SFCA involves enhanced inspection powers. Industries and government regulators are granted transitions ranging from 12 to 30 months to adapt to the new requirements. Key features of the SFCR are as follows:

Licensing: The SFCR requires anyone importing food or manufacturing, processing, treating, preserving, grading, packaging, or labelling food for interprovincial trade or export to hold a licence issued by the Canadian Food Inspection Agency (CFIA). Licences are valid for two years (unless suspended or cancelled). Licence fees are stipulated by the CFIA. Traders in fresh fruit and vegetables are obliged to be members of the Fruit and Vegetable Dispute Resolution Corporation (DRC) to be exempted from the prohibition to trade in such goods. More than 80% of Canada's fruit and vegetable buyers and sellers engaged in interprovincial trade or exports have already joined the DRC.

Preventive controls: The regulations cover elements such as sanitation, hygiene, pest control, and non-food agents; conveyance and equipment; conditions for establishments; unloading, loading and storage; competencies (e.g. staffing); investigation and notification; complaints; and recall. All food safety requirements must be met and are consistent with international standards on agriculture and manufacturing practices (i.e. good agricultural practices (GAPs), good manufacturing practices (GMPs), and Hazard Analysis Critical Control Point (HACCP)). A written Preventive Control Plan (PCP) must be prepared to demonstrate that the controls and requirements are being met. Certain small businesses and farmers are exempted from the PCP requirement.

Traceability records: The SFCR reflects international standards established by the Codex Alimentarius Commission. Documents must be prepared and kept for the next, and previous, step in the supply chain. The document must be provided within 24 hours to respond to an emergency risk of injury to human health, if requested by the Minister.

Export certificates: The Minister may issue export certificates to meet the requirements of the SFCR or those of a foreign government. All food exported must meet Canadian food safety requirements, unless they meet alternative food safety requirements established by a foreign government.

Recognition of foreign systems: The Regulations maintain existing equivalence requirements for meat products and shellfish. In addition, they allow for the recognition of equivalent food inspection systems.

Source: SFCA online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/S-1.1/index.html>; SFCR. Viewed at: <http://www.gazette.gc.ca/rp-pr/p2/2018/2018-06-13/html/sor-dors108-eng.html>.

3.184. Health Canada establishes standards and policies governing the safety and nutrition quality of all food sold in Canada. It also mandates and conducts food-related health risk assessments; approves and regulates pest control products, setting maximum residue limits (MRLs) for pesticides that may remain in food; and evaluates the safety of veterinary drugs used in food-producing animals, establishing the corresponding MRLs.

3.185. The CFIA enforces federally-mandated inspection, compliance, and quarantine requirements related to food, animal health and plant health. It is the lead agency for risk assessment for animal health and plant health. The CFIA has encouraged and supported the development, implementation and maintenance of Hazard Analysis Critical Control Point (HACCP) systems in all federally-registered establishments. With the SFCR, the HACCP will be a requirement for all food imported, prepared for interprovincial trade, or exported. The Food Safety Recognition Program (FSRP) is led by the CFIA with participation from provincial and territorial governments.¹⁸² The FSRP includes the On-Farm Food Safety Recognition Program and the Post-Farm Food Safety Recognition Program, providing government recognition of food safety systems developed and implemented by national industry organizations to enhance food security, maintain the confidence of Canadian consumers, and facilitate market access. National food industry organizations that are not regulated by the CFIA may submit their food safety systems to the FSRP for technical review.

¹⁸² Recognition of a food safety programme implies that it has been found consistent with HACCP principles; that it is in conformity with federal, provincial and territorial legislation, policy and protocols; and that a Food Safety Management System is being implemented effectively and consistently.

3.186. The CFIA sets policies and regulations for imports of food, agricultural input and agricultural products, live animals, animal products and by-products, and plants and plant products. The Canadian Border Service Agency (CBSA) is responsible for the initial import inspections of food, agricultural input and agricultural products at Canadian entry points. The CFIA uses an electronic system (including the Automated Import Reference System - AIRS) and a database of import requirements to assist the CBSA with the control of imported plant, animal and food products.

3.187. The Plant and Animal Health Strategy (PAHS) for Canada was adopted in 2017.¹⁸³ The PAHS is a partnership between federal government departments, provincial and territorial governments, academia, and industry stakeholders. The PAHS is designed as a comprehensive, effective and integrated system focusing on preventive risk management and partner collaboration. It provides a national vision to address evolving risks to plant and animal health in Canada. The implementation of the PAHS is being advanced under the mandates of the Canadian Plant Health Council and the National Farmed Animal Health and Welfare Council.

3.188. The Technical Barriers and Regulations Division of Global Affairs Canada is Canada's enquiry point and national notification authority under the SPS Agreement. During the period 2015-18, Canada submitted 307 notifications (excluding addenda and corrections) to the WTO related to the SPS Agreement. No new specific trade concerns (STCs) were raised regarding measures maintained by Canada in the WTO Committee on Sanitary and Phytosanitary Measures since its last Review, and Canada has not brought up any new STCs concerning measures applied by other Members. However, it has supported several STCs raised by other Members. One previous STC, import restrictions on bovine semen imposed by India, that Canada first raised jointly with the European Union in 1999, was reported by Canada as resolved in October 2017.

3.189. The revised or new FTAs Canada has concluded since its last Review all contain SPS chapters. A consistent feature of Canada's SPS chapters has been provisions aimed at avoiding and resolving trade-related SPS issues among the parties, such as the establishment of SPS Committees and/or contact points, and provisions to facilitate communications and strengthen cooperation. While affirming SPS Agreement rights and obligations, several of the FTAs (CUSMA, CETA, and CPTPP) created additional obligations subject to the dispute settlement provisions of these agreements.

3.3.4 Competition policy and price controls

3.3.4.1 Main regulatory and institutional framework

3.190. The Competition Act is the statutory basis for federal competition policy. The Act, which governs most business conduct in Canada, contains criminal and civil provisions aimed at preventing anti-competitive practices in the marketplace, and is applicable throughout the country as there is no provincial or territorial competition legislation. The purpose of the Act is to maintain and encourage competition in order to: (i) promote the efficiency and adaptability of the Canadian economy; (ii) expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada; (iii) ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy; and (iv) provide consumers with competitive prices and products.¹⁸⁴ The Act is complemented by the Regulations Respecting Anti-Competitive Acts of Persons Operating a Domestic Service, which came into force in 2000, and the Notifiable Transactions Regulations.

3.191. The Act is administered and enforced by the Competition Bureau headed by the Commissioner of Competition. As an independent enforcement agency, the Bureau has a legislated mandate to ensure that Canadian businesses and consumers prosper in a competitive and innovative marketplace. The Bureau administers three laws and their corresponding regulations, in addition to the Competition Act: The Consumer Packaging and Labelling Act¹⁸⁵ (governing the packaging,

¹⁸³ Canadian Food Inspection Agency online information. Viewed at: <http://www.inspection.gc.ca/about-the-cfia/accountability/partnerships-pahs/eng/1490917160508/1490917161242>.

¹⁸⁴ Government of Canada, 'The Competition Act'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04267.html>.

¹⁸⁵ The administration and enforcement of the Consumer Packaging and Labelling Act, as they relate to non-food products, is the responsibility of the Competition Bureau. Administration and enforcement of the Act and Regulations, as it relates to food products, is the responsibility of the Canadian Food Inspection Agency (CFIA).

labelling, sale, importation and advertising of pre-packaged products); the Textile Labelling Act (governing the labelling, sale, importation and advertising of consumer textile articles); and the Precious Metals Marking Act (governing the marking of articles containing precious metals).¹⁸⁶

3.192. Under the civil regime of the Competition Act, certain practices may be brought for review before the Competition Tribunal, a specialized tribunal that combines expertise in economics and business with expertise in law. The Tribunal, an adjudicative body operating independently of any government department,¹⁸⁷ mostly hears cases dealing with matters such as business mergers; abuse of dominant position; agreements between competitors; refusal to comply; price maintenance; other restrictive trade practices; deceptive marketing practices; specialization agreements; delivered pricing; foreign judgments, law and directives that adversely affect economic activity in Canada; and refusals to supply by foreign suppliers.¹⁸⁸

3.193. Under the criminal regime of the Act as well as under the Consumer Packaging and Labelling Act, the Precious Metals Marking Act and the Textile Labelling Act, certain practices may be brought before the criminal courts. If the results of an investigation disclose evidence that, in the opinion of the Commissioner, provides the basis for a criminal prosecution, the matter may be referred to the Attorney General of Canada, who determines whether to undertake a prosecution.¹⁸⁹ The Bureau may also choose to use alternative case resolutions, allowing the agency to resolve certain issues expeditiously without a full inquiry or judicial proceedings. Such options include voluntary undertakings by companies and individuals to adopt certain measures to correct the impact of anti-competitive conduct and prohibition orders.¹⁹⁰

3.194. Private parties may also initiate proceedings before the Court for private damage claims. The Act grants private parties the right to recover in the ordinary civil courts any losses or damages suffered as a result of a breach of the criminal provisions of the Act or as the result of the failure of any person to comply with an order of the court or the Competition Tribunal.¹⁹¹ Both direct and indirect purchasers may bring private claims in Canada as the passing-on defence is not permitted. Nonetheless, there is no private right of action in relation to the civil provisions of the Act, except for some situations where private parties may be able to use a specific section of the Act (Section 36) to bring a private action in respect of an alleged breach of the conspiracy or bid-rigging provisions even if it involves conduct that the Bureau, as a matter of enforcement discretion, would treat under the civil rather than through the criminal track. The range of civil and criminal sanctions available under the Competition Act and the potential penalties or outcomes are detailed in Table 3.22.

Table 3.22 Overview of the Competition Act provisions

Provision	Conduct	Penalty/Outcome
Mergers	Notification and Reviewable (Civil)	Prohibition orders, divestiture orders, dissolution orders, other remedial orders on consent, administrative monetary penalties, consent agreements
Conspiracy	Criminal	Substantial fines, prison time, prohibition orders, and civil damages awards
Bid-rigging	Criminal	Substantial fines, prison time, prohibition orders, and civil damages awards
False or misleading representations	Criminal	Substantial fines, prison time, prohibition orders, and civil damages awards
Competitor agreements	Reviewable (Civil)	Prohibition order, remedial orders on consent, consent agreements
Misrepresentations to the public	Reviewable (Civil)	Prohibition orders, corrective notices, administrative monetary penalties, restitution, consent agreements

¹⁸⁶ Government of Canada, 'The Competition Bureau' (5 November 2015). Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03336.html>.

¹⁸⁷ The Competition Tribunal online information. Viewed at: <https://www.ct-tc.gc.ca/Home.asp>.

¹⁸⁸ The Competition Tribunal online information. Viewed at: <https://www.ct-tc.gc.ca/Home.asp>.

¹⁸⁹ Government of Canada, 'Court Decisions'. Viewed at: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_00150.html.

¹⁹⁰ Government of Canada, 'Alternative Case Resolutions' (22 February 2018). Viewed at: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_03001.html.

¹⁹¹ A person may seek leave of the Competition Tribunal to make an application under sections 75, 76 or 77 (according to section 103.1 of the Competition Act). These provisions relate to reviewable matters regarding refusals to deal, price maintenance, exclusive dealing, tied selling and market restriction.

Provision	Conduct	Penalty/Outcome
Abuse of dominance	Reviewable (Civil)	Prohibition and other remedial orders (including divestiture orders), administrative monetary penalties, consent agreements
Price maintenance	Reviewable (Civil)	Prohibition order, order to accept a person as a customer, consent agreements
Refusal to deal	Reviewable (Civil)	Prohibition order, order to accept a person as a customer, consent agreements
Tied selling	Reviewable (Civil)	Prohibition order, other requirements to restore competition, consent agreements
Exclusive dealing	Reviewable (Civil)	Prohibition order, other requirements to restore competition, consent agreements
Vertical market restriction (Exclusive dealing, tied selling and market restriction)	Reviewable (Civil)	Prohibition order, other requirements to restore competition, consent agreements

Source: WTO Secretariat, based on the Competition Act, and information provided by the authorities.

3.195. The Bureau maintains an immunity programme whereby a company or individual implicated in cartel activities may offer to cooperate with the Bureau in exchange for full immunity from prosecution. Immunity is granted by the Director of Public Prosecutions (DPP), on recommendation by the Bureau. In addition, the Bureau has created a leniency programme – following similar requirements to those of the immunity programme – for parties not eligible for the former. The Bureau will recommend to the DPP that qualifying applicants be granted recognition for timely and meaningful assistance to the Bureau's investigation. Every leniency applicant will be eligible for a leniency cooperation credit of up to 50%. The amount of credit to be assigned will be based on the value of the leniency applicant's cooperation to the Bureau's investigation.¹⁹²

3.196. The Competition Act covers most businesses and sectors of the economy, including Crown Corporations engaged in commercial activities in actual or potential competition with other businesses. Notwithstanding the broad application of the Act, various sectors and activities are expressly excluded, namely, labour relations, fishermen, shipping conferences, securities underwriting and amateur sports.¹⁹³ The Act also contains two industry-specific provisions (for professional sports and financial institutions), though there are exceptions for the sharing of credit information.¹⁹⁴

3.3.4.2 Developments in the legislative and institutional framework

3.197. As a follow up to the Bureau's 2015-2018 Strategic Vision¹⁹⁵, the Bureau released an impact report¹⁹⁶ measuring its progress in achieving the five strategic objectives from the Strategic Vision. The Bureau has made strong progress in meeting its objectives such as implementing the scams warning systems which helps Canadians make informed decisions during purchasing, developing its Talent Management Framework which ensures the Bureau has the right employees to deliver on its mandate, and working with its partners to combat bid-rigging and cartels cases, as seen in the Nishikawa Rubber case.

3.198. The Bureau has also been active in the publication of guidelines and other soft law texts, including 73 position statements and 70 separate technical guidance documents (since 2013).¹⁹⁷ Among the most notable publications during 2015-18 were a white paper on modernizing Canada's

¹⁹² Competition Bureau Canada, 'Immunity and Leniency Programs under the Competition Act'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04391.html#wb-tphp>.

¹⁹³ See, the Competition Act, Part VI, Section 48 and 49. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/C-34/page-12.html?txthl=sport#s-48>.

¹⁹⁴ See, the Competition Act, Part I. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/C-34/page-2.html?txthl=amateur#s-6>.

¹⁹⁵ Competition Bureau Canada, '2015-2018 Strategic Vision' (2 June 2015). Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03934.html>.

¹⁹⁶ Competition Bureau Canada, 'Measuring Progress: Fiscal Years 2015-2018 Strategic Vision Impact Report'. Viewed at: [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-StrategicVision-2015-18-Eng.pdf/\\$file/CB-StrategicVision-2015-18-Eng.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-StrategicVision-2015-18-Eng.pdf/$file/CB-StrategicVision-2015-18-Eng.pdf).

¹⁹⁷ Competition Bureau Canada, 'Position Statements'. Viewed at: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_00173.html.

taxi industry regulations;¹⁹⁸ an award-winning white paper on big data that sparked broader policy discussions on how big data challenges can be addressed to support innovation and competition in the marketplace; and three issues of The Competition Advocate, two of which focused on more competition in the healthcare sector.¹⁹⁹ The Bureau published a market study into technology-led innovation in the Canadian financial services (FinTech) sector.²⁰⁰ The Bureau also published a new Market Studies Information Bulletin²⁰¹ and consulted on a Guide to Efficiencies Analysis²⁰² specifically for merger reviews, and launched updated Immunity and Leniency Programs.²⁰³ In addition, the Bureau is currently developing revised Abuse of Dominance Guidelines, which were made available for public consultation in May 2018.²⁰⁴

3.199. In 2016, the Bureau published an update of the Intellectual Property Enforcement Guidelines (IPEGs) originally published in 2000. The revised IPEGs provide clarification on the Bureau's approach to the conduct of investigations of alleged anti-competitive activities that relate to intellectual property (IP), making it easier for stakeholders with a stake in IP matters to operate within the law. As one of the priorities of the Bureau is to provide increased clarity on how it deals with competition issues involving IP, it has committed to review the IPEGs annually as well as to revise them as needed in light of experience, changing circumstances and decisions of the Competition Tribunal and the courts. The Bureau consulted on the 2016 IPEGs in November 2018.²⁰⁵ The final version is expected to be released in the coming months.

3.3.4.3 Developments in enforcement

3.200. For the 2015-2018 period, it is estimated that the Courts set fines totalling CAD 32 million, and the Bureau imposed administrative monetary penalties amounting to CAD 30.2 million. In relation to merger control, 656 reviews were concluded, of which 188 were considered complex. Specifically, for the last reported and published fiscal period (2017-18), CAD 14.8 million were imposed as fines in cartel cases, one individual was sentenced, and four guilty pleas were filed.²⁰⁶ The Bureau completed 231 merger reviews (161 non-complex and 70 complex) and six merger-related consent agreements were registered with the Tribunal.²⁰⁷

3.201. Major developments and enforcement actions were carried out in relation to supplier collusion. An investigation into an international bid-rigging scheme led to three of the largest fines ever ordered by Canadian Courts for bid-rigging, where Japanese manufacturers of automobile components pleaded guilty to engaging in secret illegal arrangements with other suppliers of wire harnesses, alternators, ignition coils and electric power steering gears. The ongoing investigation into auto parts bid-rigging in Canada has led to thirteen guilty pleas and record-setting fines of more

¹⁹⁸ Competition Bureau Canada, 'Measuring Progress: Fiscal Years 2015-2018 Strategic Vision Impact Report'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04362.html>.

¹⁹⁹ Competition Bureau Year at a Glance, Performance Update for Fiscal Year 2016-2017, p. 13. Viewed at: [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/2016-2017-Year-Glance-e.pdf/\\$file/2016-2017-Year-Glance-e.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/2016-2017-Year-Glance-e.pdf/$file/2016-2017-Year-Glance-e.pdf).

²⁰⁰ The market study report and a progress report are available from FinTech Market Study Portal. Competition Bureau Canada, 'FinTech Market Study Portal'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04188.html>.

²⁰¹ Competition Bureau Canada, 'Market studies Information Bulletin'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04390.html>.

²⁰² Competition Bureau Canada, 'A practical guide to efficiencies analysis in merger reviews'. Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04350.html>.

²⁰³ Competition Bureau Canada, 'Launch of revised Immunity and Leniency Programs will enhance effective enforcement and prosecution'. Viewed at: <https://www.canada.ca/en/competition-bureau/news/2018/09/launch-of-revised-immunity-and-leniency-programs-will-enhance-effective-enforcement-and-prosecution.html>

²⁰⁴ Competition Bureau Canada, 'Abused of Dominance – Enforcement Guidelines' (March 2018). Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04345.html>.

²⁰⁵ Competition Bureau Canada, 'Competition Bureau invites feedback on updated Intellectual Property Enforcement Guidelines' (1 November 2018). Viewed at: <https://www.canada.ca/en/competition-bureau/news/2018/11/competition-bureau-invites-feedback-on-updated-intellectual-property-enforcement-guidelines.html>.

²⁰⁶ Annual Report of the Commissioner of Competition for the Year Ending March 31, 2018, p. 8-9. Viewed at: [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-AnnualReport-2017-18-Eng.pdf/\\$file/CB-AnnualReport-2017-18-Eng.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-AnnualReport-2017-18-Eng.pdf/$file/CB-AnnualReport-2017-18-Eng.pdf).

²⁰⁷ Annual Report of the Commissioner of Competition for the Year Ending March 31, 2018, p. 11. Viewed at: [http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-AnnualReport-2017-18-Eng.pdf/\\$file/CB-AnnualReport-2017-18-Eng.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapi/CB-AnnualReport-2017-18-Eng.pdf/$file/CB-AnnualReport-2017-18-Eng.pdf).

than CAD 86 million.²⁰⁸ Another investigation led to several charges of supplier collusion in infrastructure projects in a Canadian municipality.

3.202. Regarding cartel enforcement, a retail gas price fixing cartel in various markets in Quebec was disrupted with fines exceeding CAD 4 million imposed on the conspirators and terms of imprisonment totalling 54 months for six individuals.²⁰⁹ Also, a landmark decision of the Supreme Court was welcomed related to the Quebec gas price fixing case, confirming the Crown's immunity from testifying in class actions to which it is not party.

3.203. On abuse of dominance, the Bureau succeeded in a long-fought case against the Toronto Real Estate Board for anti-competitive conduct that stifled innovation by placing restrictions on member access and use of real estate data in the Toronto market. The case, which also involved questions relating to the exercise of intellectual property rights (IPRs), was heard by both the Competition Tribunal and the Federal Court of Appeal, which shared the view that, among others, the conduct at issue did not benefit from the statutory exception that relates to the exercise of IPRs. Ultimately, the Supreme Court denied leave to appeal, closing the case definitively in August 2018.²¹⁰ In January 2017, the Bureau also concluded a set of consent agreements with three major publishers to resolve concerns related to their conduct in the e-book industry. Shortly thereafter, as no agreement was reached with a fourth major publisher, the Bureau filed an application with the Competition Tribunal to stop its alleged anti-competitive conduct. An agreement with this fourth publisher was ultimately reached in January 2018.

3.204. On merger review, the Bureau approved the Bayer/Monsanto merger under commitments and remedies that reflect its collaboration with other national competition agencies dealing with this case. In eight other proposed mergers, the Bureau entered into consent agreements that required merging companies to sell assets or take other measures to address some competition concerns. The Bureau published a template for merger consent agreements to ensure transparency and to provide more insight into the terms that it negotiates for merger remedies. Similar divestitures were paralleled in other jurisdictions' reviews of the Bayer/Monsanto merger, including in the United States and the European Commission.

3.3.4.4 International cooperation

3.205. The Bureau's International Affairs division is building relationships with other competition agencies to support enforcement. The division negotiates competition related cooperation instruments with international counterparts. Moreover, the International Affairs Directorate at the Bureau, in partnership with Innovation, Science and Economic Development Canada and Global Affairs Canada, plays a key role in the negotiation and implementation of competition-related provisions in free trade agreements and Foreign Investment Promotion and Protection Agreements (FIPAs).²¹¹ The Bureau advocates for competition considerations in Canada's agreements to ensure that the benefits of trade liberalization are not offset by anti-competitive business conduct and to provide opportunities for Canadian participation in world markets.²¹²

3.206. The Competition Bureau cooperates with other jurisdictions based on international guidelines and recommendations, including the Recommendation of the OECD Council concerning International Co-operation on Competition Investigations and Proceedings. The Competition Bureau currently has cooperation instruments relating to Canada's competition and consumer protection laws with 14 foreign jurisdictions: Mexico; United States; Australia; Brazil; Chile; Colombia; the

²⁰⁸ Competition Bureau Canada, 'Thirteenth guilty plea concludes auto parts bid-rigging investigations with fines totalling over \$86 million' (19 October 2018). Viewed at: <https://www.canada.ca/en/competition-bureau/news/2018/10/thirteenth-guilty-plea-concludes-auto-parts-bid-rigging-investigations-with-fines-totalling-over-86-million.html>.

²⁰⁹ Competition Bureau Canada, 'Irving pleads guilty in Quebec gasoline cartel case' (6 November 2017). Viewed at: <https://www.canada.ca/en/competition-bureau/news/2017/11/irving-pleads-guilty-in-quebec-gasoline-cartel-case.html>.

²¹⁰ Remarks by Interim Commissioner of Competition Matthew Boswell, 'Advancing Competition in a Changing Marketplace' (10 October 2018). Viewed at: <https://www.canada.ca/en/competition-bureau/news/2018/10/advancing-competition-in-a-changing-marketplace.html>.

²¹¹ Competition Bureau Canada, 'International Efforts' (22 February 2018). Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03763.html#tab2>.

²¹² Competition Bureau Canada, 'International Trade' (22 February 2018). Viewed at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03763.html#tab4>.

European Union; Hong Kong, China; India; Japan; New Zealand; China; the Republic of Korea; and Chinese Taipei. The United States Department of Justice has been working with the Competition Bureau and other partners to develop a Multilateral Framework on Procedures (MFP) in competition law investigations and enforcement. The Bureau has contributed input to the draft of the MFP and continues to participate in discussions with its counterparts.

3.207. To enhance cross-border enforcement and promote sound competition policies internationally, the Bureau also participates in many fora, such as the International Competition Network, the Competition Committee of the OECD and the International Consumer Protection and Enforcement Network.

3.208. During fiscal years 2015-2018, the Bureau concluded six cooperation instruments with international partners, including two memoranda of understanding (MOUs) to further enhance cooperation on competition matters between the Competition Bureau and China's Ministry of Commerce and its National Development and Reform Commission; an MOU with Colombia's competition authority, and three second-generation MOUs with competition authorities in New Zealand; Hong Kong, China; and Japan. In addition, the Bureau supported Canadian trade initiatives by negotiating competition policy chapters in the renegotiation of NAFTA (CUSMA) and the negotiations with Pacific Alliance and Mercosur members.

3.209. On case enforcement, Canada cooperated closely with the United States Department of Justice (DOJ) on the Nishikawa Rubber case, which led to a USD 130 million fine for harms caused both in the United States and in Canada, avoiding duplicated processes through the use of comity. The Bureau worked as well together with the DOJ, and other enforcement partners, especially its counterparts at the European Commission and the Administrative Council for Economic Defense of Brazil, in relation to the above-mentioned Bayer/Monsanto merger.

3.3.4.5 Price controls

3.210. Canada does not impose price controls on most products. Exceptionally, the maximum prices of patented medicines are overseen by the Patented Medicine Prices Review Board (PMPRB). The Federal Government as well as provincial governments affect the prices of medicines in Canada. The Federal Government affects the maximum prices of patented medicines by its use of the Patent Act, whereas the provincial governments affect the prices of medicines through their drug reimbursement programmes. According to the Patent Act, the PMPRB has jurisdiction for any medicine to which a patent 'pertains'. If no patents pertain, then the price is not subject to PMPRB jurisdiction. The Board can hold public hearings to determine whether the price of a patented medicine is excessive, and if so, order price reductions and/or the offset of excess revenues. The PMPRB oversees the prices charged by patentees and does not have jurisdiction over prices charged by wholesalers or pharmacies, or over pharmacists' professional fees. In addition, the generic industry has agreed to significant price restrictions for products in Canada, with selected products being limited to a 10%-18% reduction in the price of the equivalent brand product.

3.211. The distribution of pharmaceutical products is also regulated at the federal and provincial levels. Federal regulations, including the Food and Drug Regulations, impose limits and licensing obligations on those who fabricate, package or label, test, import, distribute and wholesale.

3.3.5 State trading, state-owned enterprises, and privatization

3.212. Wholly-owned federal or provincial organizations that are structured like privately-owned or independent companies are known as Crown corporations. Many of these enterprises serve vast, sparsely-populated areas that profit-making, private sector companies would have difficulties catering to. They were primarily created to meet public policy and commercial objectives, and do not result from preferences for public ownership *per se*. Crown corporations operate at arm's length from the Government, but the degree of government control and financial support varies from enterprise to enterprise. Several depend on government funding, others are financially self-sustaining corporations, and some of them are profitable and return dividends to their sole owners.

3.213. The Financial Administration Act (FAA) establishes the framework for governance and accountability for federal Crown corporations. In some instances, provisions may also be contained

in the constituent acts establishing the entities. Most Crown corporations are required to have their annual budgets and corporate plans approved by the Treasury Board (TB).²¹³ Their boards of directors are appointed by the Governor in Council, who also appoints the Presidents and Chief Executive Officers in most cases.

3.214. The 44 federal parent Crown corporations active in 2018 operated in 13 market segments, notably in financial services, transportation, or as Canadian heritage institutions (Table A3.3). Some of them, such as Export Development Canada, Destination Canada, and the Bank of Canada have mandates that relate to trade matters. At the sub-federal level, all provinces and territories have Crown corporations. No comprehensive listing of provincial Crown corporations is kept at the federal level. Provincial Crown corporations were established to engage in a wide variety of activities, e.g. mining, railways, automobile insurance, telecommunications (SaskTel), and lotteries (Manitoba), but currently the largest provincial Crown corporations are concentrated in electricity generation and transmission, and in financial services (Table 3.23).

Table 3.23 Ten largest provincial Crown corporations, 2015

Name	Sector	Annual revenues (CAD million)
Caisse de dépôt et placement du Québec (CDPQ)	Finance	21,132
Hydro-Québec	Power generation	13,851
B.C. Hydro and Power	Power generation	5,812
Ontario Power Generation	Power generation	5,476
Manitoba Hydro-Electric Board	Power generation	2,324
Saskatchewan Power Corp	Power generation	2,232
ATB Financial	Finance	1,944
Alberta Heritage Savings	Finance	1,825
Manitoba Public Insurance	Finance	1,288
Saskatchewan Telecommunications Holding Corporation (SaskTel)	Telecommunications	1,265

Source: Globe and Mail online information. Viewed at: https://www.theglobeandmail.com/report-on-business/rob-magazine/top-1000/rankings/canadas-top-companies-by-industry/article304_93734/.

3.215. A government-controlled enterprise that competes with private businesses in commercial markets is classified as a government business enterprise, for statistical reporting purposes. At the provincial and territorial level, most Crown corporations are considered provincial (or territorial) business enterprises. Although the total assets of federal Crown corporations are far larger than those of the provincial Crown corporations combined, there has been a clear trend for several years that, while business volumes continue to grow at the provincial/territorial-level Crown corporations, revenues have been flat, or even declining, in the federal Crown corporations (Table 3.24). The contribution to the value added in the economy is far higher in the provincial/territorial than in federal Crown corporations.

Table 3.24 Federal and provincial government business enterprises, 2015-17

(CAD million)

	2015	2016	2017
Federal government business enterprises			
Revenue	35,955	27,387	28,301
Expenses	32,906	25,470	27,411
Assets	589,917	615,145	635,071
Provincial and territorial government business enterprises			
Revenues	90,667	93,078	94,539
Expenses	90,460	95,162	96,198
Assets	122,620	126,880	134,610

Source: Statistics Canada, 10-10-0023-01 (formerly CANSIM 385-0039).

²¹³ Eight federal Crown corporations (Bank of Canada, Canada Council for the Arts, Canada Pension Plan Investment Board, Canadian Race Relations Foundation, the International Development Research Centre, National Arts Centre Corporation, the Public-Sector Pension Investment Board and Telefilm Canada) are fully exempt from the requirement for TB approval of their annual corporate plans and budgets. The Canadian Broadcasting Corporation is partially exempt but must seek approval of its capital budget annually. The Royal Canadian Mint and Canada Development Investment Corporation submit their capital budgets for approval, but not their operating budgets.

3.216. In addition to the Crown corporations, Canada has a number of shared-governance corporations and joint enterprises. In shared-governance corporations, the Government has the right to nominate members to the governing body of the corporate entity, though in most cases only a minority. Among the 83 shared-governance corporations, many operate in the transport sector (airport or port authorities).²¹⁴ In joint enterprises, of which there are two at present (the Lower Churchill Development Corporation Limited and North Portage Development Corporation), ownership is shared between the Federal Government and another level of government. The Federal Government may also own enterprises jointly with the private sector, in "mixed enterprises". However, there are no mixed enterprises at present.

3.217. Canada completed several important privatizations between the late 1980s and the end of the 1990s. Since then, the number of Crown corporations has been stable.²¹⁵ In recent years, the Freshwater Fish Marketing Corporation and Ridley Terminals Inc. have undergone transformations, and a competitive sale process for the complete divestment of public ownership in the latter was launched in November 2018. Otherwise, no plans exist to privatize any Crown corporation or other government enterprise, either at the federal or provincial level, at present.

3.218. Canada notifies the WTO on a regular basis of entities it defines as state-trading enterprises (STEs) according to Article XVII (4)(a) of the GATT 1994 or paragraph 1 of the Understanding on the Interpretation of Article XVII. Two notifications were submitted in the period under review.²¹⁶ The latest, covering the period 2015-16 and 2016-17, provided information on the activities of two federal Crown corporations – the Canadian Dairy Commission and the Freshwater Fish Marketing Corporation – as well as the 13 provincial and territorial Liquor Control Authorities engaged in retail sale, importation, and inter-provincial/territorial trade in beer, wine, spirits, and other alcoholic beverages.

3.219. The 2016 notification also included information on the Canadian Wheat Board (CWB). With the repeal of the Canadian Wheat Board Act and the promulgation of the Marketing Freedom for Grain Farmers Act and the Canadian Wheat Board (Interim Operations) Act, effective 1 August 2012, the CWB's monopoly on the marketing and sale of wheat and barley grown in certain provinces was dismantled. The CWB was commercialized as G3 Canada Limited under the Canada Business Corporations Act on 30 July 2015. As a private company with no exclusive or special rights or privileges, it is thus no longer designated as an STE.

3.3.6 Government procurement

3.3.6.1 Overview

3.220. The Government of Canada is one of the largest public buyers of goods and services in Canada, with purchases of approximately CAD 20.5 billion annually on behalf of federal departments and agencies.²¹⁷ In Canada, "procurement" includes the purchase of goods, services, and construction services. During the review period, government procurement at the federal level fluctuated for all three categories of goods, services and construction, with an overall total decline from CAD 28.5 billion in 2014 to CAD 15.6 billion in 2017 (Table 3.25).²¹⁸ However, 2017 marks the first year that Canadian governmental departments were required to proactively publish their contracts on the Open Government Portal, a significant change from the previous process, wherein data was independently verified before being published in the Purchasing Activity Report. Moreover, as Table 3.25 shows, the number of transactions in 2017 increased slightly in comparison to previous

²¹⁴ Government of Canada online information. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/reporting-government-spending/inventory-government-organizations/federal-organizations-interests.html>.

²¹⁵ Since the last TPR, PPP Canada was dissolved, and the Canada Infrastructure Bank was created.

²¹⁶ WTO documents G/STR/N/16/CAN, 22 July 2016; and G/STR/N/17/CAN, 13 July 2018.

²¹⁷ Government of Canada online information. Viewed at: <https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/the-procurement-process>.

²¹⁸ The authorities noted that the 2014 figures are somewhat atypical, as Public Services and Procurement Canada, legally Public Works and Government Services Canada (PWGSC), awarded a multi-year Property and Facilities Management services contract valued at approximately CAD 10 billion.

years, to approximately 377,000. Reported procurement at the provincial and territorial level is estimated at some CAD 19 billion.²¹⁹

Table 3.25 Overview of federal procurement by type, 2014-17

	2014	2015	2016	2017
Goods				
Number	198,931	194,587	194,003	191,287
Value (CAD '000)	4,502,706	6,694,402	8,145,156	3,247,688
Services				
Number	125,700	132,763	133,663	162,147
Value (CAD '000)	22,426,317	6,747,167	7,759,816	8,866,879
Construction				
Number	16,711	15,540	15,795	16,881
Value (CAD '000)	1,531,188	6,402,123	2,302,825	3,463,130
Total				
Number	341,342	342,890	343,461	377,365
Value (CAD '000)	28,460,211	19,843,693	18,207,798	15,577,699

Source: Treasury Board of Canada online information. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/corporate/reports/contracting-data.html>.

3.3.6.2 Legal, institutional and policy framework

3.221. The legal rules that apply to government procurement at the federal level are different from those that apply to the provinces and territories, and the rules that apply to public bodies at the provincial and territorial levels vary in degrees of complexity and formality.

3.222. Federal procurement policy is established by the Treasury Board of Canada pursuant to the Financial Administration Act (FAA), and actual procurement is conducted by individual government entities as well as two common service organizations, Public Services, and Procurement Canada, legally Public Works and Government Services Canada (PWGSC) and Shared Services Canada. The Treasury Board is responsible for establishing a procurement policy framework and for approving proposals to undertake capital projects and to enter into contracts above the dollar levels delegated to departments. The Treasury Board Secretariat is responsible for reviewing proposed procurement strategies requiring Cabinet or Treasury Board approval, for consistency with TB policy requirements. Industry Canada is responsible for the coordination and management of the Canadian Annual Procurement Strategy, which determines the use of procurement in support of industrial and regional development.

3.223. The PWGSC is the federal departments' and agencies' central purchasing agent, real property manager, treasurer, accountant, pay and pension administrator, integrity adviser, and linguistic authority.²²⁰ The PWGSC is the Government's principal purchasing arm. The PWGSC also provides departments and agencies with expert procurement assistance, and develops, implements, and maintains a number of policies in the buying and selling field, including: the Canadian Content Policy; the Fairness Monitoring Policy (the PWGSC policy that establishes third-party monitors to provide an impartial opinion on the fairness of procurement activity); the Policy on Green Procurement; and the Code of Conduct for Procurement. The PWGSC is responsible for developing procurement strategies for consideration by the Procurement Strategy Committee and the review committees, and for implementing them.

3.224. The Government of Canada's procurement activities are carried out pursuant to a governing framework, comprised of statutes and regulations, trade agreements, policies, and guidelines. The central pieces of legislation, governing procurement and its associated regulations (at the federal level), are the Financial Administration Act (FAA) and the Government Contracts Regulations (GCRs), respectively. The FAA contains broad provisions applicable to federal government procurement, while the GCRs contain more specific and prescriptive provisions.

²¹⁹ The latest available complete information is for FY 2011-12 and can be found on the Internal Trade Secretariat's website. Viewed at: https://www.cfta-alec.ca/wp-content/pdfs/English/Statistics/Totals%20by%20year_Aggregate%20values_Table_en.pdf.

²²⁰ Public Services and Procurement Canada online information. Viewed at: <https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/contexte-context-eng.html>.

3.225. Federal procurement policies, procedures, notices and circulars are available online. They apply to all federal government contracting activities. In accordance with the GCRs, procurement must be conducted in a manner that meets requirements in the most cost-effective manner, provides equal opportunity to tender, and is consistent with Canada's international obligations. Procurement policy is evaluated and updated on a regular basis.

3.226. The GCRs govern the bidding process. They provide that all bids must be publicly-solicited, except for a few limited circumstances. Non-competitive procurement processes can be used for procurement below specified thresholds, when there is a pressing emergency, or where the nature of the work is such that it would not be in the public interest to solicit bids²²¹, only one person is capable of performing the contract. Pursuant to Section 6 of the GCRs, a contracting authority may enter into a contract without soliciting bids where the estimated expenditure is below CAD 25,000 in the case of goods, CAD 40,000 in the case of services, or CAD 100,000 in the case of architectural, engineering, or other related services and development assistance projects. Suppliers may be selected through the Supplier Registration Information System, when Standing Offers and Supply Arrangements are in place. For procurement above CAD 25,000, there are three basic types of solicitation methods: open bidding (formally called electronic bidding) through a public notice, traditional competitive bidding, and advance contract award notices (ACANs). The ACAN process may also be used when the contracting authority believes that only one supplier is capable of performing the contract, when the need is one of pressing emergency in which delay would be injurious to the public interest, or if the nature of the work is such that it would not be in the public interest to solicit bids.²²²

3.227. Among procurement above CAD 25,000, competitive methods were utilized in 86% of cases in 2017, while non-competitive bids made up 14% of the total. The open bidding method was the most utilized in 2014 and 2015, but its use declined in 2016, when it accounted for 26.8% of contracts allocated using competitive methods in 2016, and for 23% of all contracts (based on Table 3.26). The most widely-used method in 2016 was the traditional competitive method, which accounted for 61.6% of total bids. ACANs accounted for a relatively small share of total procurement contracts (1.4% in 2017).

Table 3.26 Procurement by type of procedure, all contracts above CAD 25,000, 2014-17

	2014 number	2014 value (CAD '000)	2015 number	2015 value (CAD '000)	2016 number	2016 value (CAD '000)	2017 number	2017 value (CAD '000)
Electronic bidding	6,007	13,182,025	7,551	9,226,351	7,592	4,143,757	6,011	3,744,013
Traditional competitive	14,893	2,171,920	14,503	3,122,399	15,387	5,872,454	16,055	4,549,454
ACANs	628	3,052,998	521	177,059	723	361,686	356	94,880
Amendments	n.a.	5,864,705	n.a.	2,775,524	n.a.	3,836,011	n.a.	3,591,112
Total competitive	21,598	24,462,054	22,575	15,630,158	23,702	14,360,063	22,422	11,889,462
Non-competitive	4,301	2,238,699	4,532	2,209,662	4,424	1,291,436	3,618	1,305,209
Amendments	n.a.	416,218	n.a.	632,815	n.a.	1,353,029	n.a.	605,223
Total non-competitive	4,301	2,714,918	4,532	2,842,477	4,424	2,644,465	3,618	1,910,432
Total	25,899	27,176,972	27,107	18,472,635	28,126	17,004,529	26,040	13,799,893

n.a. Not applicable.

Source: Treasury Board of Canada online information. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/corporate/reports/contracting-data.html>.

3.228. The Treasury Board's procurement policy is set out in the Contracting Policy. The Contracting Policy governs procurement for most of the federal departments and agencies. Furthermore, it sets

²²¹ Contracting Policy Notice 2007-04 gives examples of when the nature of the work is such that it would not be in the public interest to solicit bids. A key reason is when the procurement involves national security considerations.

²²² Government of Canada, *Guide for Managers - Best Practices for Using Advance Contract Award Notices (ACANs)*. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/federal-real-property-management/guide-managers.html>.

out limits as to when departments may contract without seeking Treasury Board approval, which is dependent upon the contract type, value and solicitation method. The objective of the Government's procurement contracting policy is to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to Canada and the Canadian people. The Contracting Policy emphasizes that Government contracting shall be conducted in a manner that will: stand the test of public scrutiny; ensure the pre-eminence of operational requirements; support appropriate national objectives such as Indigenous economic development; and comply with the government's trade agreement obligations.

3.229. The Government is of the view that its procurement activities should be supportive of its procurement objectives and of national objectives such as industrial and regional development, aboriginal economic development, the environment, and other socioeconomic objectives. To this end, the Government requires that all federal procurements in excess of CAD 2 million are reviewed for potential regional and industrial benefits and other national objectives.²²³ The objective of the Government's Procurement Review Policy is to enhance the use of procurement in support of industrial and regional development and other national objectives, in a manner that is fully consistent with the Government's approved procurement objectives, and with Canada's international trade obligations. Procurement initiatives in support of regional industrial development must, to the greatest extent possible, focus on assisting Canadian firms in becoming competitive in domestic and world marketplaces.²²⁴

3.230. The Procurement Review process is carried out by two levels of committees: the Procurement Strategy Committee (PSC), which is a senior interdepartmental committee chaired by the PWGSC, that reviews departmental plans, identifies individual or aggregated procurements requiring individual review, and provides general guidance to the review committees, reviewing procurements between CAD 2 million and CAD 20 million; and the Procurement Review Committees (PRCs), which review and recommend procurement strategies for individual procurements, or groups of procurements, normally exceeding CAD 20 million. The PSC determines, based primarily on an analysis of departmental acquisition plans, those procurements to be subject to procurement review on a case-by-case basis, and notifies departments accordingly, within six weeks after departmental plans are received, subject to sufficient information being available to allow an informed decision. For procurements under CAD 20 million, a decision to hold a PRC must be supported by an explanation as to why individual review is desirable. The record of review contains the PRC's views and recommendations, a description of the industrial and regional or other benefits to be sought, considerations of incremental costs and funding options, and any relevant international considerations. In addition, it should contain an assessment of the risks associated with the achievement of national objectives, and of any impact the recommended procurement strategy might have on the performance, time and cost objectives of the operating department, as well as a plan for monitoring the achievement of the expected benefits.²²⁵

3.231. Canada applies the Procurement Strategy for Aboriginal Business (PSAB), to promote aboriginal business development through the use of federal procurement contracts. In accordance with the PSAB, under certain conditions, a federal government procurement contract is set aside for aboriginal businesses. According to the most recent data available for 2015, government procurement set-asides under the PSAB amounted to CAD 93.5 million, approximately 0.47% of total federal procurement.

3.232. Participants in procurement processes conducted by the PWGSC must comply with the PSPC's Code of Conduct for Procurement.²²⁶ The Code reflects basic principles and expectations with respect to federal procurement in Canada, and consolidates, in summary form, the Federal Government's measures on conflict of interest and anti-corruption as well as other legislative and policy requirements relating specifically to procurement. During the period under review, efforts

²²³ The review of the impact on the environment is done pursuant to Canada's Policy on Green Procurement, which has been in force since 2006 and was updated in May 2018 and falls under the responsibility of the Treasury Board.

²²⁴ Government of Canada, *Procurement Review Policy*. Viewed at: <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12074>.

²²⁵ Government of Canada, *Procurement Review Policy*. Viewed at: <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12074>.

²²⁶ The Code may be viewed at: <https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/contexte-context-eng.html>.

were made towards further improving governance in the procurement area. For instance, in July 2015, an Integrity Regime was introduced to help ensure the Government does business only with ethical suppliers in Canada and abroad; the PSPC runs the Regime. Some features of the Regime include: (i) suppliers may be suspended for up to 18 months if charged with a listed offence or if they have admitted guilt; (ii) suppliers convicted of a listed offence in Canada or abroad remain ineligible for a period of ten years to enter into a contract with the Government; the period may be reduced to five years if they address the conduct that resulted in ineligibility; (iii) suppliers are no longer automatically penalized for the actions of an affiliate in which they had no involvement; and (iv) the PWGSC can now require independent third-party assessments to assess the integrity of suppliers.

3.233. From September to December 2017, the Government conducted a public consultation to "Expand Canada's Toolkit to Address Corporate Wrongdoing" to seek input on potential enhancements to the Integrity Regime and on a possible Canadian "remediation agreement" (RA) regime. According to the summary report prepared by the Government in February 2018, the participants generally expressed support for the Integrity Regime's objective.²²⁷ However, most also stated that additional discretion and flexibility needed to be built into the Regime to account for aggravating and mitigating factors in the determination of an appropriate period of debarment. Further, most participants supported having a Canadian RA regime, acknowledging that RAs could be a useful additional tool for prosecutors to use at their discretion, in appropriate circumstances, to address corporate criminal wrongdoing. Amendments to the Criminal Code of Canada, which created the RA framework, came into force in 2018. Updates to the Integrity Regime policy are underway and are expected to come into effect in early 2019. The revised policy will introduce greater flexibility in department decisions, increase the number of triggers that can lead to debarment, and expand the scope of business ethics covered under the Integrity Regime into areas related to combatting human trafficking and protecting labour rights and the environment.

3.234. The Canadian International Trade Tribunal (CITT) has jurisdiction over complaints made by suppliers regarding the procurement process in federal procurements covered by any of Canada's applicable trade agreements. For Canadian suppliers, complaints about federal procurement processes for goods valued over CAD 25,300, or services valued over CAD 101,100, are within the jurisdiction of the CITT. The CITT hears complaints concerning procurements conducted by the Federal Government that are covered by the Canadian Free Trade Agreement (CFTA), the revised WTO Agreement on Government Procurement (GPA), NAFTA, and certain other international trade agreements that include government procurement obligations. Such complaints may be brought by Canadian suppliers or by suppliers of parties to applicable trade agreements. Under the CITT Procurement Inquiry Regulations, a complaint must be filed with the CITT within ten working days from the date on which the potential supplier first became aware of the grounds for complaint. The CITT usually issues its decision within 90 days of the complaint having been made. Potential remedies include the postponement of the contract's award, ordering a procurement to be undertaken again, or a monetary award, which may include an award in respect of potential lost profits where postponement or retendering are not practical. If not satisfied with the CITT ruling, a complainant, or the federal entity involved, may bring a motion in the Federal Court of Appeal for judicial review of the determination. A complainant may have recourse to the Courts, which also have the power to grant injunctions and set aside contracts.

3.235. Bid-rigging is a criminal offense under Canada's competition legislation. Parties to a procurement process found guilty of it may be liable to a fine and/or to imprisonment for a term of up to 14 years.

3.236. In the fiscal years from 1 April 2015 to 31 March 2018, a total of 210 complaints with respect to procurement were reviewed by the CITT. Of these, eight were resolved by the parties or were abandoned, 119 did not lead to the initiation of an investigation, and the remainder were investigated on merit. Of the 83 complaints that were investigated, the CITT determined 20 to be valid and the rest not valid.

3.237. For goods or services valued under the monetary thresholds of the CITT, Canadian suppliers may file complaints with the Office of the Procurement Ombudsman (OPO). The Ombudsman has

²²⁷ Government of Canada (2018), *Expanding Canada's Toolkit to Address Corporate Wrongdoing, What we Heard*, 22 February. Viewed at: <https://www.tpsgc-pwgsc.gc.ca/ci-if/ar-cw/documents/rapport-report-eng.pdf>.

the power to review the procurement practices of federal departments to verify fairness and transparency and make recommendations, though these do not have the force of a CITT recommendation.²²⁸ Outside of the OPO, the Business Dispute Management Program provides conflict prevention and alternative dispute resolution services to anyone experiencing difficulties with a contract where the PWGSC is the contracting authority

3.3.6.3 Interprovincial procurement arrangements

3.3.6.3.1 Canadian Free Trade Agreement (CFTA)

3.238. Until 2017, Chapter 5 of the Agreement on Internal Trade (AIT), the Procurement Chapter, governed procurement across Canada. Its goal was to ensure equal market access conditions to procurement for "Canadian" suppliers, meaning those that have a place of business in Canada. The Chapter covered procurement by the signatories of the AIT, namely the Federal Government, 10 provincial governments, and two territories.²²⁹ The Chapter also covered procurement by municipalities, municipal organizations, school boards, and publicly-funded academic, health and social services entities (MASH). The AIT applied to all government procurement of goods valued at CAD 25,000 or more, and of services and construction valued at CAD 100,000 and more. For MASH entities, the thresholds were CAD 100,000 for goods and services, and CAD 250,000 for construction. The AIT did not cover MASH entities in the Yukon and included only some Crown corporations. Some services were excluded from the scope of the AIT, which did not apply to procurement related to cultural industries, or aboriginal measures.

3.239. Except as otherwise required to comply with international obligations, entities covered by the AIT were allowed to grant a preference for Canadian value-added, provided that the preference margin was no greater than 10%, and they were also permitted to limit tendering to Canadian goods, services or suppliers, provided the procuring entity was satisfied that there was sufficient competition among Canadian suppliers.

3.240. The Canadian Free Trade Agreement (CFTA), entered into force on 1 July 2017, and replaced the AIT, which had applied to inter-provincial trade since 1995 (see Section 2). Its objective is to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investments within Canada, including in all emerging sectors of the economy, and to establish an open, efficient, and stable domestic market.²³⁰ Key features of the CFTA related to government procurement include an expansion of the scope of government entities covered by open procurement rules, the establishment of new independent bid protest mechanisms in each jurisdiction, and the commitment to develop an electronic Canada-wide single point of access (online portal) to access information about procurement contracts.

3.241. The CFTA's Government Procurement Chapter, which is broadly similar to the GPA, applies to any measure regarding "covered procurement" within Canada. Covered procurement is defined as procurement for governmental purposes: (a) by a procuring entity; (b) of a good, a service, or any combination thereof, not procured with a view to commercial sale or resale, or for use in the production or supply of a good or service for commercial sale or resale; (c) by any contractual means, including purchase, lease, and rental, with or without an option to buy; (d) for which the value equals or exceeds the relevant threshold (see below); and (e) that is not otherwise excluded from coverage. (Table A3.5) Under the CFTA, each Party must provide open, transparent, and non-discriminatory access to covered procurement by its procuring entities. Furthermore, with respect to any measure regarding covered procurement, each Party shall accord to: (a) the goods and services of any other Party, including those goods and services included in construction contracts, treatment no less favourable than the best treatment the Party accords to its own such goods and services; and (b) the suppliers of goods and services of any other Party, including those goods and services included in construction contracts, treatment no less favourable than the best treatment the Party accords to its own suppliers of such goods and services. With respect to the Government, this means that it shall not discriminate: (a) between the goods or services of a

²²⁸ Canadian International Trade Tribunal online information. Viewed at: <http://www.citt-tcce.gc.ca/en/citt-or-opo>.

²²⁹ Nunavut was not a signatory to the AIT; it was just an observer. Viewed at: <https://www.gov.nu.ca/eia/news/nunavut-signs-canadian-free-trade-agreement> and <https://www.ait-aci.ca/about-ait/>.

²³⁰ CFTA Internal Trade Secretariat. Viewed at: <https://www.cfta-alec.ca/>.

particular province or region, including those goods and services included in construction contracts, and those of any other province or region; or (b) between the suppliers of such goods or services of a particular province or region and those of any other province or region.

3.242. On 1 January 2018, the thresholds for covered procurement under the CFTA were adjusted for inflation in accordance with the CFTA. The current thresholds are:

(a) for departments, ministries, agencies, boards, councils, committees, commissions, and similar agencies of a Party:

- i. CAD 25,300 or greater for goods, if the largest portion of the procurement is for goods;
- ii. CAD 101,100 or greater for services, excluding construction, if the largest portion of the procurement is for services; or
- iii. CAD 101,100 or greater for construction;

(b) for regional, local, district, and other forms of municipal government, municipal organizations, school boards, and publicly-funded academic, health, and social service entities, as well as any corporation or entity owned or controlled by one or more of the preceding entities:

- i. CAD 101,100 or greater for goods or services, excluding construction; or
- ii. CAD 252,700 or greater for construction;

(c) for Crown corporations, government enterprises, and other entities that are owned or controlled by a Party through ownership interests:

- i. CAD 505,400 or greater for goods or services, excluding construction; or
- ii. CAD 5,053,900 or greater for construction.

3.243. Subsequent adjustments will be made to these thresholds and will come into force on 1 January every two years after 1 January 2018.

3.244. For the most part, the Government Procurement Chapter does not apply to: (a) public employment contracts; (b) non-legally binding agreements; (c) any form of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives; (d) contracts awarded under a cooperation agreement between a Party and an international cooperation organization if the procurement is financed, in whole or in part, by the organization, only to the extent that the agreement includes rules for awarding contracts that differ from the obligations of the Chapter; (e) the acquisition or rental of land, existing buildings, or other immovable property, or the rights thereon; and (f) measures necessary to protect intellectual property, provided that they are not a disguised restriction on trade. Certain provisions of the Chapter do not apply to a procuring entity if it is procuring under the terms of a public private partnership (PPP).²³¹

3.245. The procurement or acquisition of the following services or goods is excluded from the scope of the Government Procurement Chapter: fiscal agency or depository services; liquidation and management services for regulated financial institutions; services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities; financial services with respect to the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution; health services or social services; services that may, under applicable law, only be provided by licensed lawyers or notaries; and services of expert witnesses or factual witnesses used in court or legal proceedings. The CFTA also excludes the procurement of goods or services in certain specific cases.²³²

²³¹ Article 504 Paragraphs 5-9, and Articles 506.6(g), 508.2-508.4, 508.6, 514, and 516.3-516.5.

²³² Goods and services: (i) financed primarily from donations that require the procurement to be conducted in a manner inconsistent with the Chapter; (ii) procured by a procuring entity on behalf of an entity not covered by the Chapter; (iii) between enterprises that are controlled by, or affiliated with, the same enterprise, or between one government body or enterprise and another; (iv) by non-governmental bodies that exercise governmental authority delegated to them; (v) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities; (vi) under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by the Chapter that

3.246. The Government Procurement Chapter does not apply to procurement that is part of a small business set-aside programme, provided that the programme is fair, open, transparent, and does not discriminate on the basis of origin or location within Canada of goods, services, or suppliers. Procuring entities must publish a tender notice for each covered procurement on one of the designated tendering websites or systems. The CFTA notes that the Federal Government is developing a Single Point of Access (SPA) for all procurement covered by the CETA (federal, provincial, territorial, and the MASH sector) in compliance with the requirements of the CETA. Once developed, the federal government will consult with the provincial and territorial governments in order to determine how to adapt the SPA for the purposes of the CFTA. Furthermore, the CFTA states that once all CFTA Parties agree that the SPA is suitable for the purposes of the Agreement, tender notices for each covered procurement must be directly accessible through the SPA.

3.247. In accordance with the Government Procurement Chapter, limited tendering may only be used in specified circumstances, including if: (i) no tenders were submitted or no suppliers requested participation; (ii) no tenders that conform to the essential requirements of the tender documentation were submitted; (iii) no suppliers satisfied the conditions for participation; or (iv) the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified. Limited tendering may also be used if the goods or services can be supplied only by a particular supplier, and no reasonable alternative or substitute goods or services exist.²³³ Use of limited tendering may also be made for additional deliveries by the original supplier of goods or services that were not included in the initial procurement, if a change of supplier for such additional goods or services cannot be made for economic or technical reasons and would cause significant inconvenience or substantial duplication of costs for the procuring entity. Finally, limited tendering may be used, if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, if the goods or services could not be obtained in time using open tendering; or for goods purchased on a commodity market.

3.248. A procuring entity may determine that it is not in the public interest to award a contract. If this is not the case, contracts are awarded to the supplier that the procuring entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the tender notices and tender documentation, has submitted the most advantageous tender or, if price is the sole criterion, the lowest price: however, if a procuring entity receives a tender from a supplier with a price that is abnormally lower than the prices in other submitted tenders, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

3.249. The Government Procurement Chapter does not prevent a procuring entity from according a preference for Canadian value-added, or from limiting its tendering to Canadian goods, services, or suppliers, except as otherwise required to comply with international obligations, including the GPA, and provided that its purpose is not to avoid competition or to discriminate against any other Party's goods, services, or suppliers.²³⁴ The preference for Canadian value-added, as defined in the

contains provisions inconsistent with the Chapter; (vii) conducted for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of goods, services, or suppliers; or (viii) conducted under the particular procedure or condition of an international agreement relating to the stationing of troops or to the joint implementation by the signatory countries of a project; or under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance, if the procedure or condition would be inconsistent with the Chapter.

²³³ Provided one of the following reasons apply: (i) the requirement is for a work of art; (ii) the protection of patents, copyrights, or other exclusive rights; (iii) due to an absence of competition for technical reasons; (iv) the supply of goods or services is controlled by a supplier that is a statutory monopoly; (v) to ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative; (vi) the work is to be performed on a property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work; (vii) the work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or (viii) the procurement is for subscriptions to newspapers, magazines, or other periodicals.

²³⁴ Under the CFTA, a Canadian good means a good which, if exported outside of Canada, would qualify as a good of Canada under the appropriate rules of origin. A Canadian service means a service provided by a natural person based in Canada; if a requirement consists of only one service, provided by more than one natural person, the service will be considered to be Canadian if a minimum of 70% of the total tender price for the service is provided by natural persons based in Canada; if a requirement consists of two or more services, the service will be considered to be Canadian if a minimum of 70% of the total tender price for the service is

CFTA (Article 503.4(a)), is the premium, no greater than 10%, that may be awarded during the evaluation of tenders for Canadian value-added.

3.3.6.3.2 New West Partnership Trade Agreement (NWPTA)

3.250. The New West Partnership Agreement (NWPTA), which was signed on 30 April 2010 by the Premiers of the provinces of Alberta, British Columbia, and Saskatchewan, came into force on 1 July 2010, and has been fully implemented since 1 July 2013. In November 2016, a Protocol of Accession was signed to incorporate the province of Manitoba into the NWPTA. In 2018, the procurement chapter was in force for British Columbia, Alberta and Saskatchewan's government entities. Manitoba's government entities and Crown corporations were fully covered by the NWPTA as of 1 July 2017. For government-owned commercial enterprises and other enterprises owned or controlled by the Manitoba government through ownership interest, municipal governments, school boards and publicly-funded academic, health and social service entities, as well as any corporation or entity owned or controlled by them, the procurement provisions of the NWPTA entered into force on 1 January 2019.²³⁵

3.251. The NWPTA applies to all levels of provincial government procurement and requires open and non-discriminatory procurement where the anticipated costs are at or above the following thresholds: CAD 10,000 or greater for goods; CAD 75,000 or greater for services; and CAD 100,000 or greater for construction. The NWPTA also applies to the procurement of provincial Crown corporations, government-owned commercial enterprises, and other entities that are owned or controlled by an NWPTA provincial government; in this case, the thresholds are: CAD 25,000 for goods; and CAD 100,000 for services and for construction. In the case of NWPTA-covered procurement by municipalities, school boards, health regions and publicly-funded post-secondary institutions, the MASH sector, as well as by corporations or entities owned or controlled by one of them, the thresholds are: CAD 75,000 for goods and services; and CAD 200,000 for construction. There are certain limited exceptions to procurement under the NWPTA, including procurement of health and social services, services provided by lawyers and notaries, and purchases from a public body or non-profit organization. There are no party-specific exceptions for procurement.

3.252. The Parties to the NWPTA entered into an agreement to replace the NWPTA's bid protest mechanism (BPM) with a new standalone Bid Protest Mechanism. It entered into force on 1 January 2019. The new BPM provides an independent arbitration process by which a supplier that believes a specific procurement was conducted in a manner inconsistent with the obligations of any of the five following agreements may challenge the decision of the procuring entity: the NWPTA; the CFTA; the CETA; the GPA; or the CPTPP.

3.3.6.3.3 Trade and Cooperation Agreement Between Quebec and Ontario

3.253. The Agreement was signed in 2009, and the Public Procurement Chapter was subsequently revised in 2016. The Chapter ensures equality of treatment in the procurement process in both provinces for covered procurement. The thresholds under the Agreement for purchases by ministries and agencies are: CAD 25,300 for goods, and CAD 101,100 for services and construction. For procurement by school boards, academic, health and social service entities, and municipalities, the threshold is CAD 101,100 for goods, services and construction. For entities of a commercial or industrial nature, and for energy entities, the thresholds are: CAD 505,400 for goods and services; and CAD 5,053,900 for construction.

provided by natural persons based in Canada. A Canadian supplier means a supplier that has a place of business in Canada. Canadian value-added means: (a) in relation to services, the proportion of the service contract performed by natural persons based in Canada; and (b) in relation to goods, the value of the portion of the good produced in Canada or the difference between the dutiable value of imported goods and the selling price, taking into account any value added by manufacturers and distributors, and including any costs incurred in Canada related to R&D, sales and marketing, communications and manuals, customization and modifications, installation and support, warehousing and distribution, training, and after-sales service. Article 521 of the CFTA, Consolidated Version. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-Consolidated-Text-Final-Print-Text-English.pdf>.

²³⁵ New West Partnership Trade online information. Viewed at: http://www.newwestpartnershiptrade.ca/government_procurement.asp.

3.254. The Agreement allows a Party to accord a preference for Canadian value-added, and to limit its tendering to Canadian goods, services or suppliers, so long as the measure is consistent with the Party's international trade agreements and that the measure's purpose is not to discriminate against the other Party. There are some exceptions to the procurement coverage under the Agreement. For instance, the Procurement Chapter does not cover procurement for the production, transmission and distribution of renewable energy, other than hydro-electricity, by the Province of Ontario. Quebec excluded procurement by Hydro-Québec of some goods and services. Ontario reserved the right for Ontario Power Generation to accord a preference of up to 20% to bids that provide benefits to the province, such as favouring local sub-contracting, in the context of procurements relating to the construction or maintenance of nuclear facilities or related services. The Chapter does not cover procurement that targets poverty reduction for disadvantaged people for which the value is below CAD 300,000, nor health and social services. Provided that it is in accordance with a Party's international trade obligations, when purchasing mass transit vehicles, a Party may require that the successful bidder contract up to 25% of the contract value in Canada.

3.3.6.4 WTO GPA and other agreements

3.3.6.4.1 GPA

3.255. Canada has been a party to the GPA since 1996. Canada took part in the negotiations leading to the revised GPA, which came into force for Canada on 6 April 2014. Although at the federal level the revision of the GPA did not lead to substantial changes in Canada's market access schedule, there were substantial changes at sub-central level. Since 2014, all provinces and territories and 10 federal Crown corporations are included in Canada's GPA schedule.

3.256. Canada grants national treatment to foreign suppliers in respect of procurement covered by the GPA and other international agreements. For transactions covered by the GPA, national treatment conditions apply to most federal procurement, subject to the agreed thresholds of SDRs 130,000 for goods and services and SDR 5 million for construction contracts. In addition to general exceptions, a number of specific goods and services are excluded from the scope of the GPA. As required by the GPA, the thresholds for procurement contracts in Canadian dollars are revised and notified to the WTO every two years. For the period 2018-19, the relevant thresholds are CAD 237,700 (SDR 130,000) for supplies of goods and services, and CAD 9.1 million (SDR 5 million) for construction contracts. For sub-central government entities and other entities, the thresholds are CAD 649,100 (SDR 355,000) for supplies of goods and services, and CAD 9.1 million for construction contracts.²³⁶

3.257. In addition to the GPA, Canada has ten other international trade agreements that cover government procurement; these are the CETA, the NAFTA/CUSMA, the CPTPP, the Canada-Chile FTA, the Canada-Honduras FTA, the Canada-Korea FTA, the Canada-Panama FTA, the Canada-Peru FTA, the CUFTA, and the Canada-Colombia FTA. While most of these agreements only cover procurement at the federal level, the CETA and the CPTPP include sub-central coverage.

3.3.6.4.2 Comprehensive Economic and Trade Agreement (CETA)

3.258. The Comprehensive Economic and Trade Agreement (CETA), the trade agreement between Canada and the European Union entered into provisional application on 21 September 2017, including Chapter 19, which covers government procurement. This Chapter specifies the areas where EU and Canadian businesses can provide goods and services to each other's governments, at every level of government: national, regional and provincial, and local. It also specifies the specific rules that must be met on: the value of the goods, services, or construction services involved, and the goods, services and construction services that are allowed.

3.259. Under the CETA, Canada and the European Union committed to open up procurement for a wide range of government entities, and to ensure that their respective procurement activities are conducted in a non-discriminatory, impartial and transparent manner. As a signatory to the CETA, Canada agreed to provide EU suppliers with equal opportunity to bid on procurements of goods and services, including construction services, to a wide range of Canadian government entities at the federal, provincial and municipal levels. The CETA likewise opens up procurement at the central,

²³⁶ WTO document GPA/THR/CAN/1, 15 January 2018.

regional and local levels in the European Union. Further, as specified under Article 19.6, Canada is responsible for establishing a Single Point of Access (SPA) – an electronic procurement platform where notices of intended and planned procurements are made publicly available, free of charge. Covered notices of procurement include notices from the Government of Canada, provincial and territorial governments (including their respective MASH sectors), as well as Crown corporations and public utilities. Canada has until 21 September 2022 to implement the SPA and remains committed to meeting this deadline. Discussions are already underway with provincial and territorial governments to take steps towards establishing this electronic platform.

3.260. The CETA thresholds for procurement contracts by central government entities are similar to those of the GPA. For the period 2018-19, the relevant thresholds are CAD 237,700 (SDR 130,000) for goods and services, and CAD 9.1 million (SDR 5 million) for construction services. For sub-central entities, they are: CAD 365,700 (SDR 200,000) for goods and services, and CAD 9.1 million (SDR 5 million) for construction services. For other entities, Crown corporations and government enterprises, they are CAD 649,100 (SDR 355,000) for goods and services, and CAD 9.1 million (SDR 5 million) for construction services. Higher thresholds apply for goods and services procurement contracts (CAD 731,400, SDR 400,000) for procuring entities involved in certain core activities, such as: airports, public transportation networks, maritime ports, and fixed networks for drinking water, electricity, gas or heat. Certain exceptions are also included in Canada's market access schedule. These include: exceptions for cultural industries, Aboriginal businesses, R&D, financial services, services in the fields of recreation, sport and education, and social and health-care services.

3.261. The Government Procurement Chapter contains the conditions for participation in the procurement process, and provisions with respect to the qualifications of suppliers, technical specifications and tender documentation, time-periods, negotiations, the conditions to be met for the use of limited tendering, electronic auctions, treatment of tenders and awarding of contracts, transparency of procurement information and disclosure of information, and domestic review procedures. Article 19.19 established a Committee on Government Procurement, which meets upon request of a Party, to: (a) consider issues regarding public procurement that are referred to it by a Party; (b) exchange information relating to the public procurement opportunities in each Party; (c) discuss any other matters related to the operation of the Government Procurement Chapter; and (d) consider the promotion of coordinated activities to facilitate access for suppliers to procurement opportunities in the territory of each Party, in particular with a view to improving electronic access to publicly-available information on each Party's procurement regime, and initiatives to facilitate access for SMEs. The European Union and Canada committed to submit annually to the Committee on Government Procurement statistics relevant to the procurement covered by the Chapter.

3.3.6.4.3 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

3.262. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was signed on 8 March 2018 between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam. After Mexico, Japan, Singapore and New Zealand, Canada became the fifth CPTPP signatory to ratify the agreement on 29 October 2018. Following the sixth ratification, by Australia on 30 October, and according to the procedure specified in the agreement, the CPTPP came into force on 30 December 2018.

3.263. With respect to government procurement, Canada's market access schedule is largely based on the GPA and extends GPA-like treatment to CPTPP partners that do not participate in the GPA. The CPTPP also provides Canadian suppliers with guaranteed and expanded market access with existing trading partners, and new opportunities in Australia, Brunei, Malaysia and Viet Nam. Additionally, any current or future domestic policy that members adopt must be implemented in a manner consistent with their obligations under the CPTPP (e.g. treating goods, services and suppliers from other CPTPP countries no less favourably than domestic goods, services and suppliers).

3.264. Canadian provinces and territories took commitments on government procurement in the CPTPP that are comparable to their commitments in the GPA. Commitments at the sub-central level

are limited to the procurement activities conducted by provincial/territorial departments and agencies. Procurement conducted by Canadian municipalities is not covered under the CPTPP.²³⁷

3.3.6.4.4 Canada-United States-Mexico Agreement (CUSMA)

3.265. In May 2017, the United States formally announced its intention to renegotiate NAFTA with Canada and Mexico. Renegotiations began in August 2017 and, on 30 September 2018, the three countries announced the completion of negotiations toward a new CUSMA. On 30 November 2018, the Agreement was signed by the three countries at the G-20 meeting in Buenos Aires. The provisions on government procurement under the CUSMA apply only between the United States and Mexico. Canada and the United States retain access to each other's procurement markets, including at the sub-central level, through their obligations under the GPA. The government procurement obligations between Mexico and Canada are provided under the CPTPP.²³⁸

3.266. Until the CUSMA is implemented, the current NAFTA remains in force. NAFTA provisions will continue to apply to trade between the three countries.

3.3.6.4.5 Procurement obligations taken by provincial and territorial governments under trade agreements

3.267. Procurement at the sub-central level is governed by provincial or other sub-central government laws and procurement regulations. Provinces have their own procurement agencies, and their own procurement policies. Canada did not table an offer in the original GPA at the sub-central level but included commitments in the GPA that came into force in 2014. Provinces and territories also now have government procurement commitments under the CFTA, the CETA, and the CPTPP. For procurement falling within the scope of the CFTA, the provinces grant similar access conditions to procurement from the rest of Canada. Thresholds under the GPA, SDR 355,000 for goods and services and SDR 5 million for construction services, are higher than those under the CFTA. Also, the GPA does not apply to: preferences or restrictions on highway projects; preferences or restrictions associated with programmes promoting the development of distressed areas; procurement that is intended to contribute to economic development within the provinces of Manitoba, Newfoundland and Labrador, New Brunswick, Prince Edward Island and Nova Scotia or the territories of Nunavut, Yukon or Northwest Territories.²³⁹ In Nunavut and the Northwest Territories, higher thresholds for procurement to be covered by the CFTA are applied. Any agreement involving Nunavut does not cover procurement subject to the Nunavut Nunavummi Nangminiqatunik Ikajuuti (NNI Policy) or successor programmes having similar objectives, and contracts within the terms of Article 24 of the Nunavut Land Claims Agreement.

3.268. Some provinces grant provincial or regional preferences to procurement not falling within the scope of the CFTA or the GPA, while others do not (Table A3.5). Several provinces and territories (Nova Scotia, Newfoundland and Labrador, Prince Edward Island, New Brunswick, Yukon, Northwest Territories and Nunavut) have exceptions to CFTA rules for procurement of up to CAD 1 million for various combinations of regional development purposes, which includes the promotion of SMEs (New Brunswick, and Yukon), and employment in rural areas (New Brunswick, Yukon, Nova Scotia, Newfoundland and Labrador, and Prince Edward Island). In New Brunswick, for procurement below the thresholds defined in the inter-provincial procurement agreements, the province may (but is not obliged to) apply a preference for products, services or suppliers from New Brunswick or other provinces from the Atlantic region.²⁴⁰ In Nova Scotia, the Procurement Branch may consider and evaluate bids from other jurisdictions on the same basis that the purchasing authorities in those jurisdictions would treat a similar bid from a Nova Scotia supplier.

²³⁷ Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Viewed at: https://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpp/secteurs-secteurs/government_procurement-marches_publics.aspx?lang=eng.

²³⁸ Summary Background: United States-Mexico-Canada Agreement (CUSMA). Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/CUSMA-aeumc/summary-sommaire.aspx?lang=eng>.

²³⁹ WTO document GPA/MOD/CAN/13, 9 May 2014.

²⁴⁰ New Brunswick Regulation 2014-93 under the Procurement Act. Viewed at: <https://www.canlii.org/en/nb/laws/regu/nb-reg-2014-93/latest/nb-reg-2014-93.html?searchUrlHash=AAAAQAkCkJZmVvYZW5jZQAAAAAB&offset=15965>.

3.269. British Columbia's procurement policies require core government entities to openly procure goods, services and construction valued at CAD 5,000 or more for goods; CAD 25,000 or more for services; and CAD 25,000 or more for construction. British Columbian ministries, agencies, Crown corporations and municipalities must use a competitive process that is appropriate to the value, complexity and profile of the business opportunity. Goods, services and construction subject to applicable trade agreements are required to use BC Bid, an electronic tendering system, to advertise all procurements meeting the above threshold amounts.

3.270. The CFTA prescribes that the Ontario government's procurement policies require that goods contracts valued at CAD 25,000 or more, and service and construction contracts valued at CAD 100,000 or more, for covered procurements must be subject to competitive tendering. All other provinces and territories also comply with this basic CFTA obligation. Ontario ministries and agencies must use an electronic tendering system to advertise any open competitive procurements of goods and services. Ontario's covered procurements cannot contain local preferences. Ontario is a party to the Trade and Cooperation Agreement between Ontario and Quebec (OQTCA) and to the CFTA, and has commitments under the GPA, the CETA and the CPTPP. The CFTA and the CETA contain procurement obligations for municipalities, schoolboards, and publicly-funded academic, health, and social service entities.

3.271. In Quebec, contracts for goods and services at or above thresholds provided by trade agreements must be tendered publicly.²⁴¹ Purchases of goods and services under the thresholds in trade agreements may be made directly by the different departments according to their internal trade procurement policy. The contracting public body may require a quality assurance system, including ISO certification, for any type of contract. When ISO certification is required, a preferential margin up to 10% may be granted if competition is insufficient; this margin is granted solely for the purpose of determining the successful tenderer, without affecting the value of the contract. On 1 December 2017, an Act to facilitate the oversight of public bodies' contracts and to establish the *Autorité des marchés publics* (AMP) entered into force in Quebec.²⁴² The Act incorporates certain provisions of the FTAs to which Quebec public bodies are subject (for example the CETA), with respect to receiving and reviewing complaints filed by bidders. The AMP's main duty is to monitor the integrity of public procurement processes and the application of certain provisions of the legal framework governing public contracts in Quebec. The AMP is empowered to examine the compliance of a tendering or awarding process for a public contract on its own initiative, after a complaint is filed by an interested person, or on the request of the chair of the treasury board of Quebec or a bidder.

3.272. In December 2016, the Newfoundland and Labrador government enacted new legislation to modernize its procurement framework. On 24 March 2018, the Public Procurement Act came into effect and replaced the 1990 Public Tender Act. The main purpose of the Public Procurement Act is to establish a statutory framework which enables public bodies to achieve best value, transparency and accountability in procurement. It also aims at: fostering and encouraging participation in procurement by suppliers; promoting competition among suppliers; providing for the fair and equitable treatment of all suppliers and contractors; and valuing diversity in procurement.

3.3.7 Intellectual property rights

3.3.7.1 Overview

3.273. During the review period, intellectual property (IP) issues continued to play an important role in Canada's domestic legislative activity and in its international trade policy. Canada remains among the top 20 countries in international innovation rankings, although it lost some ground during the review period, falling from 15th place in the Global Innovation Index in 2015, to 18th in 2018.²⁴³ Canada's IP protection ranking also declined somewhat during the review period, from 12th place in

²⁴¹ For Quebec, the thresholds vary according to the type of entity. For example, the thresholds for departments are not the same as for Crown corporations.

²⁴² *Loi sur l'autorité des marchés publics, 2017, chapitre A-33.2.1*. Viewed at: <http://legisquebec.gouv.qc.ca/fr/showdoc/cs/A-33.2.1>.

²⁴³ *Global Innovation Index 2018 Report*. Viewed at: <https://www.globalinnovationindex.org/gii-2018-report>.

2014 to 18th in 2018.²⁴⁴ Canadian Business Expenditure on Research and Development (BERD), an indicator for innovative activity, declined during the period under review from CAD 34.2 billion in 2014 to CAD 32.8 billion in 2017.²⁴⁵ During the review period, BERD intensity fell from 1.07% in 2011 to 0.93% in 2014²⁴⁶, illustrating that R&D investment by businesses is lagging behind GDP growth.

3.274. The Government's goals with respect to IP policy are contained in several documents. The Government of Canada's Innovation and Skills Plan and the Canadian Intellectual Property Office's (CIPO) new Five-Year Business Strategy for 2017-22 both call for ensuring that Canadian businesses and innovators have the support they need to grow. As part of the Plan, Innovation, Science and Economic Development Canada (ISED) launched Canada's Intellectual Property (IP) Strategy on 26 April 2018. This Strategy is primarily focused on developing new IP tools for businesses, increasing awareness with respect to IP protection, and countering IP misuse that harms both consumers and businesses. It also deals with needed legislative reforms and calls for amendments of key IP laws to ensure the removal of barriers to innovation, particularly any loopholes that allow those seeking to use IP in bad faith to stall innovation for their own gain. The IP Strategy also calls for the creation of an independent body to oversee patent and trademark agents, to ensure that professional and ethical standards are maintained.

3.275. As part of the IP Strategy, the CIPO will launch a suite of programmes to help improve IP literacy among Canadians. The IP Strategy includes support for domestic and international engagement between Indigenous People and decision-makers, as well as for research activities and capacity building. The IP Strategy also supports training for federal employees who deal with IP governance. Additionally, the IP Strategy calls for providing tools to support Canadian businesses as they learn about IP and pursue their own IP strategies. For that, the Canadian Government is creating a patent collective, to bring together businesses to facilitate better IP outcomes for members. The patent collective will allow the coming together of firms to share in IP expertise and strategy, including gaining access to a larger collection of patents and IP.²⁴⁷ Also, new Intellectual Property Guidelines (IPEGs) were issued, to deal with competition policy issues.

3.276. During the period under review, Canada's overall trade balance in technology-intensive services deteriorated, and the deficit widened to CAD 1,416 million in 2016, before falling to CAD 532 million in 2017, mainly as a result of a higher increase in exports than in imports. Exports of technology-intensive services totalled CAD 26,149 million in 2017, while imports reached CAD 26,682 million. The categories "computer and information services" and "R&D" are the largest components of exported technology-intensive services, together representing 56.7% of all technology-intensive service receipts and 21.4% of all commercial services exports in 2017 (Chart 3.6).

3.277. With respect to payments, the main component is charges for the use of IPRs, which totalled CAD 15,437 million in 2017, or 57.9% of imports of technology-intensive services, and 22.5% of all imports of commercial services. Within the category of charges for IPR use, the deficit is most pronounced with respect to "patents and industrial designs" and "software and other royalties". (Chart 3.7). Along with being the largest category of imports of technology-intensive services, "charges for use of intellectual property" is responsible for the overall trade deficit in technology-intensive services.

²⁴⁴ World Economic Forum (WEF) (2018), *The Global Competitiveness Report 2018*. Viewed at: <http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf>.

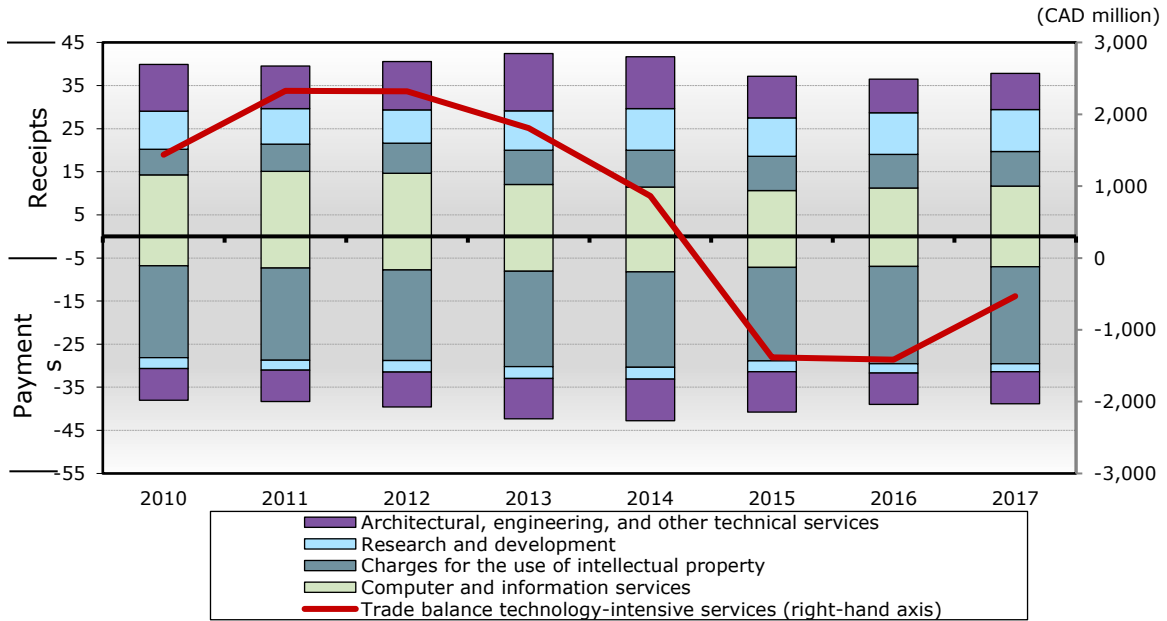
²⁴⁵ Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2710027302>.

²⁴⁶ Statistics Canada, Tables CANSIM 358-0024 (BERD) and CANSIM 379-0031 (GDP at basic prices by NAICS). 2014 GDP data from September 2014. Viewed at: www.statcan.gc.ca.

²⁴⁷ Government of Canada online information. Viewed at: <https://www.canada.ca/en/innovation-science-economic-development/news/2018/04/government-of-canada-launches-intellectual-property-strategy.html>.

Chart 3.6 Trade in technology-intensive services, 2010-17

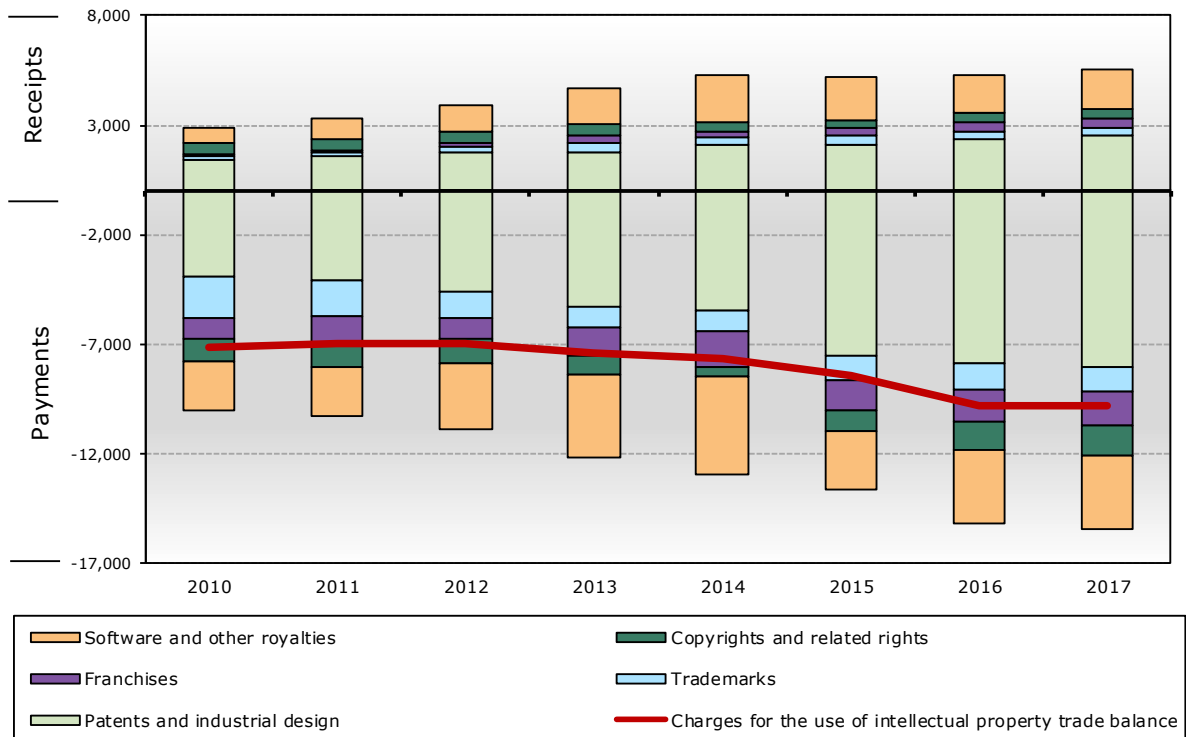
(Percentage of commercial services receipts and payments)



Source: Statistics Canada, CANSIM Table 376-0033 (International transactions in services, commercial services by category).

Chart 3.7 Charges for the use of intellectual property rights, 2010-17

(CAD million)



Source: Statistics Canada, CANSIM Table 376-0033 (International transactions in services, commercial services by category).

3.3.7.2 General institutional and regulatory framework

3.278. The Canadian Intellectual Property Office (CIPO, a part of the ISED, is a Special Operating Agency (SOA) responsible for the administration and processing of the greater part of IP in Canada. The CIPO's areas of activity include trademarks, geographical indications (GIs), patents, copyright, industrial designs and integrated circuit topographies. The CIPO's mandate is to deliver high quality and timely IP services to customers, and to increase awareness, knowledge and effective use of IP by Canadians.²⁴⁸

3.279. Canada updated all its IP laws during the review period, mostly to implement WIPO agreements and FTA provisions. The main regulatory framework at the federal level is composed of six different laws and their amendments and regulations: the Patent Act; the Trade-marks Act; the Copyright Act; the Industrial Design Act; the Integrated Circuit Topography Act; and the Plant Breeders' Rights Act (Table A3.6). These statutes have been amended over time to adapt to international treaties and in response to global technological developments, public access requirements, and the need to modernize the legislation, facilitate implementation, and enhance enforcement effectiveness. The ISED is responsible for the first five acts, with the CIPO administering those same first five acts. The CIPO also maintains databases of registered patents, copyright, trademarks, industrial designs and integrated circuit topographies, as well as a list of protected geographical indications (GIs). The Canadian Food Inspection Agency (CFIA) administers the Plant Breeders' Rights Act, which applies to certain new plant varieties. The ISED and Canadian Heritage share responsibility for copyright policy.

3.280. Canada participates in a number of WIPO-administered treaties and bilateral IP treaties (Table 3.27). Some of Canada's FTAs also contain provisions with respect to IP, including the North America Free Trade Agreement (NAFTA), Canada-United States-Mexico Agreement (CUSMA) and the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and the Canada-Ukraine Free Trade Agreement. During the review period, Canada joined the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh Treaty), which entered into force on 30 September 2016.

Table 3.27 Canada's participation in selected Intellectual Property Protection agreements

Agreement/entry into force for Canada
WIPO-administered treaties
• Hague Agreement Concerning the International Registration of Industrial Designs (5 November 2018)
• Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (30 September 2016)
• WIPO Copyright Treaty (13 August 2014)
• WIPO Performances and Phonograms Treaty (13 August 2014)
• Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (4 June 1998)
• Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (21 September 1996)
• Strasbourg Agreement Concerning the International Patent Classification (11 January 1996)
• Patent Cooperation Treaty (2 January 1990)
• Convention Establishing the World Intellectual Property Organization (26 June 1970)
• Berne Convention for the Protection of Literary and Artistic Works (10 April 1928)
• Paris Convention for the Protection of Industrial Property (1 September 1923)
IP-related multilateral treaties
• Convention on Cybercrime (1 November 2015)
• Protocol (III) additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem (25 May 2008)
• Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 (18 March 2007)
• International Plant Protection Convention (2 October 2005)
• International Treaty on Plant Genetic Resources for Food and Agriculture (29 June 2004)
• Convention for the Protection of Cultural Property in the Event of Armed Conflict (11 March 1999)
• WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994) (1 January 1995)
• Convention on Biological Diversity (29 December 1993)

²⁴⁸ CIPO online information. Viewed at: <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>.

Agreement/entry into force for Canada

- United Nations Convention on Contracts for the International Sale of Goods (1 May 1992)
- International Convention for the Protection of New Varieties of Plants (UPOV) (4 March 1991)
- Protocol 3, annexed to the Universal Copyright Convention, as signed at Geneva on 6 September 1952 concerning the effective date of instruments of ratification or acceptance of or accession to that Convention (10 May 1962)

Source: WIPO.

3.281. In January 2014, the Government of Canada initiated procedures towards accession to, and domestic implementation of, the following five international treaties related to IP: (i) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol"); (ii) the Singapore Treaty on the Law of Trademarks ("Singapore Treaty"); (iii) the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks ("Nice Agreement"); (iv) the Geneva Act of The Hague Agreement Concerning the International Registration of Industrial Designs ("Geneva Act"); and (v) the Patent Law Treaty. Although draft legislation has been adopted for their implementation, as of late November 2018, only one of these five treaties had entered into force: The Hague Agreement Concerning the International Registration of Industrial Designs, on 5 November 2018.

3.282. During the review period, the Government has negotiated several bilateral and plurilateral agreements with other countries, where IP issues have been covered. These agreements include the CETA, the CUSMA, and the CPTPP.

3.283. The CETA, which provisionally entered into force on 21 September 2017, touches upon virtually every sector of its signatories' economies, including IPRs. It promotes effective protection for EU and Canadian IPR holders via specific commitments, including on copyright and related rights, trademarks, designs, patents, GIs, and plant varieties. In particular, the CETA recognizes the special status of, and offers protection on the Canadian market for, certain European agricultural products from specific geographical regions in the European Union that are protected as GIs. The IP chapter of the CETA also aims at strengthening IPR enforcement, and reinforcing Canada's border measures against counterfeit trademark goods, pirated copyright goods and counterfeit GI goods.

3.284. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) contains a comprehensive chapter on IP, which includes provisions across almost all areas of IPR protection and enforcement, setting up a regional standard for the protection and enforcement of IPRs across the Asia-Pacific region. It establishes a clear and predictable standard on IP for creators, innovators and investors operating in the Asia-Pacific region, building on international IP standards. Parties to the CPTPP also agreed to suspend a number of IP provisions from the original Trans-Pacific Partnership Agreement, in areas such as patents, pharmaceuticals, copyright, Internet service provider (ISP) liability, and IPR enforcement, with a view to reflecting Parties' interests and priorities in rebalancing the IP outcome, and creating a common standard on IP in the Asia-Pacific region.²⁴⁹

3.285. Regarding IP, the CUSMA requires Parties to provide ten years of data protection for biologic drugs and introduces a definition of biologic drugs eligible for protection. Canada currently provides eight years of data protection and has a five-year transition period to meet this obligation, following the entry into force of the Agreement. The CUSMA also includes an obligation to provide patent term adjustment (PTA) in respect of "unreasonable" patent office delays. Canada does not currently provide PTA in its domestic regime and has a 4.5-year transition period to meet this obligation. Regarding the term of protection for copyright and related rights, the CUSMA requires Parties to provide a term of protection of "life of the author plus 70 years". Canada currently provides a term of "life plus 50 years" and has a 2.5-year transition period to meet this obligation. The CUSMA also requires Canada to extend the term of protection for sound recordings from 70 to 75 years, without a transition period. The Agreement also requires Parties' border authorities to have *ex officio* authority to detain suspected counterfeit trademark or pirated copyright goods in transit (Canada currently provides *ex officio* authority in respect of suspected counterfeit and pirated goods upon import and export). The CUSMA IP chapter also includes criminal remedies in respect of rights management information (RMI), which will require changes to Canada's domestic regime. Regarding trade secrets, the CUSMA IP chapter includes significant criminal and civil trade secrets safeguards

²⁴⁹ Government of Canada online information. Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/sectors-secteurs/ip-pi.aspx?lang=eng>.

that may require legislation. Regarding ISP liability, the IP chapter includes flexibilities that enable Canada to maintain its "Notice and Notice" regime.

3.286. During the period under review, Canada notified the TRIPS Council of bills aimed at amending the Copyright Act²⁵⁰; both the Copyright Act and the Trademarks Act²⁵¹; and the Patent Act²⁵² (see below). Canada has continued to maintain an active participation in the TRIPS Council's discussions on enforcement: in 2016 Canada presented to the TRIPS Council a written submission through which it shared its national experience to combat the selling of counterfeit products over the Internet.²⁵³ Canada has also expressed a wish to consult with other delegations on how to advance the Work Programme on E-Commerce in the TRIPS Council.²⁵⁴ Canada submitted to the WTO its most recent reports on the Implementation of Article 66.2 of the TRIPS Agreement (technology transfer to LDCs) and Technical Cooperation Activities in October 2018.²⁵⁵

3.3.7.3 Patents

3.287. During the review period, the CIPO implemented a Quality Management System (QMS) for patents that follows the requirements of ISO 9001:2015. The main pieces of legislation on patents are the Patent Act, 1985 (as amended) and the Patent Rules, 1996 (as amended). The period of protection is 20 years from the filing date. Patent protection coverage includes new and useful inventions or new and useful improvements of existing inventions.

3.288. During the review period, important changes were tabled, resulting in substantial amendments to Canada's patent legislation, some of which have entered into force and others which have not. The Budget Implementation Act II, a bill to amend and make the Patent Act consistent with the mostly procedural provisions of the Patent Law Treaty (Bill C-43), received Royal Assent on 12 December 2014. Bill C-59, "An Act to implement certain provisions of the budget tabled in Parliament on 21 April 2015 and other measures", received Royal Assent on 21 April 2015. Bill C-30, "An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and to provide for certain other measures", received Royal Assent on 16 May 2017. Bill C-86, "A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures", received Royal Assent on 13 December 2018. Portions of these bills have yet to come into force. The authorities noted that the amendments to the Patent Act introduced in Bill C-43 will come into force on a day fixed by order of the Governor in Council and will need to be timed with forthcoming amendments to the Patent Rules. Therefore, the Patent Law Treaty (PLT) has not yet been ratified. The coming-into-force date of Patent Act amendments introduced in Bill C-43 will be established after the relevant amendments to the Patent Rules have been prepared and after the CIPO's IT systems have been appropriately updated.²⁵⁶ On 1 December 2018, the proposed Patent Rules were published in the Canada Gazette Part 1, with a deadline of 31 December 2018 to provide comments. The authorities have provided late-2019 as an estimated time when the proposed Rules could come into force. Bill C-43 was notified to the WTO in April 2015. In its notification to the WTO, Canada stated that the coming-into-force date of the changes will be established in the Patent Rules, which are currently being drafted.²⁵⁷

3.289. The authorities noted that the Canadian patent regime is already compliant with many aspects of the PLT; however, to ratify the PLT, some changes are required to the Patent Act, for example, with respect to filing date requirements, claiming date priority, assignment, and representation.²⁵⁸ Most of these changes are included in Bill C-43, which proposes amendments to the Patent Act which would result in modifications to the patent regime, including: (i) changes to

²⁵⁰ WTO documents IP/N/1/CAN/8, and IP/N/1/CAN/C/4, 22 April 2015; and IP/N/1/CAN/15, and IP/N/1/CAN/C/6, 7 June 2016.

²⁵¹ WTO documents IP/N/1/CAN/12, IP/N/1/CAN/C/5, and IP/N/1/CAN/T/4, 22 April 2015.

²⁵² WTO documents IP/N/1/CAN/10, and IP/N/1/CAN/P/10, 22 April 2015.

²⁵³ WTO document IP/C/W/613, 27 May 2016.

²⁵⁴ WTO documents IP/C/W/613/Add.1, 28 October 2016; IP/C/M/83, 2 December 2016; and IP/C/M/85, 27 April 2017.

²⁵⁵ WTO documents IP/C/W/646/Add.4, 26 October 2018; and IP/C/W/647/Add.4, 25 October 2018, respectively.

²⁵⁶ Canadian Intellectual Property Office (CIPO) online information. Viewed at: <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr03892.html>.

²⁵⁷ WTO documents IP/N/1/CAN/10, and IP/N/1/CAN/P/10, 22 April 2015.

²⁵⁸ Canadian Intellectual Property Office (CIPO) online information. Viewed at: <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr03892.html>.

the filing date requirements; (ii) amendments to the abandonment/reinstatement regime, including the introduction of notifications prior to abandonment; (iii) allowing anyone to pay maintenance fees by lifting certain requirements on representation; (iv) allowing for the restoration of priority; (v) preventing the revocation of granted patents on the basis of an administrative defect during the application stage; and (vi) introducing measures for the protection of third parties.

3.290. The changes with respect to the filing date requirements are particularly important, since "the establishment of the filing plays a decisive role in defining the term and scope of protection, and in the ability to benefit from advantages conferred under certain international treaties (such as priority rights under the Paris Convention)".²⁵⁹ When the proposed changes are implemented, applicants will no longer be required to pay a filing fee for the purposes of establishing a filing date, and will be allowed, for the purposes of establishing a filing date, to submit their application in a language other than English or French, or to substitute a reference to another previously-filed application for part of their application. The changes proposed will also allow applicants to apply for the restoration of the right of priority in certain situations; under the current legislation, a priority claim must be made within 12 months of the earlier date of the previously-filed application. With the proposed amendments to the Patent Rules, applicants will be notified before an application is deemed abandoned, while under the current regime, applicants who do not pay their maintenance fee by the due date or fail to request examination before the prescribed time-limit, are not notified, and failure to act in these cases causes the immediate abandonment of an application. As a result of the new notification requirements in the PLT, applicants and patentees will be provided with a longer period to address a missed maintenance fee payment.

3.291. As a caveat, the authorities noted that, by linking the period of abandonment and reinstatement of an application to the sending of a notice by the Patent Office, the changes will potentially increase the market uncertainty period for third parties interested in exploiting the patent compared with the current patent regime. A third party monitoring the payment of maintenance fees for a given application may not be able to determine with certainty when that application is irrevocably abandoned, even if they note that maintenance fee payments are missed. Similarly, the proposed changes will eliminate the possibility of having a patent invalidated because of administrative lapses, which would make it more difficult for third parties to exploit the patent. To counter this, the authorities introduced new provisions to mitigate the impact of potentially longer periods of market uncertainty and to discourage uncompetitive behaviour by, for example, providing protection against infringement proceedings for those third parties who start using, or make preparations to use, a patented invention after a defined period of time has elapsed after IPRs have become uncertain.²⁶⁰

3.292. During most of the review period, Canada did not provide any form of patent term restoration or extension to compensate for the part of the life of a pharmaceutical patent consumed by clinical trials and delays due to pre-market regulatory approval requirements processes. However, the CETA contained new commitments on IP and pharmaceutical patents that introduced changes to existing Canadian law to allow for additional (*sui generis*) protection for eligible pharmaceutical patents. Under the CETA, Canada agreed to provide up to two years of *sui generis* protection. Bill C-30, "An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and to provide for certain other measures", which came into force on 21 September 2017, amended the Patent Act to introduce a Certificate of Supplementary Protection (CSP) system, to allow a period of added protection, capped at a maximum of two years, for eligible patents covering eligible products (human and veterinary drugs). Eligible patents must relate to a "medicinal ingredient" or a "combination of medicinal ingredients", and only one patent can be the subject of a CSP for a given medicinal ingredient or combination. Where there are multiple patents, the Patent Act provides rules for determining which patents are eligible, and for resolving conflicting CSP applications. The Bill also replaced the previous summary proceedings under the Patented Medicines (Notice of Compliance) Regulations with full actions resulting in a final determination of patent infringement and validity and providing equal access to effective appeal rights.

²⁵⁹ Canadian Intellectual Property Office (CIPO) online information. Viewed at: <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr03892.html>.

²⁶⁰ Canadian Intellectual Property Office (CIPO) online information. Viewed at: <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr03892.html>.

3.293. In 2016, the CIPO received applications for 34,745 patents, a drop of 6%. It granted 26,424 patents in that year, an increase of 19%. Industrial design registrations remained stable between 2015 and 2016.

3.294. The ratio of foreign to domestic patent applications increased markedly from 2006 to 2015. Canadians filed 4.6 times more patent applications abroad than domestically in 2015, an increase from 3 times as many in 2006.

3.295. The authorities noted that the faster growth in filings abroad reflects the importance of Canada's international trade. The top foreign destinations for Canadian IP applications continue to be the United States, the European Union and China. During the 2015-16 period, the latest for which complete information is available, the United States was the largest international filer in Canada for all categories of IPRs. The CIPO received more patent applications from the United States than from Canada. Germany was in third place as a top patent filer. Patent activity from the top five international applicants saw mild reductions or stagnation²⁶¹

3.296. Over half of all Canadian IP applications abroad are filed in the United States. Canadian applications to China have increased significantly over the last decade as well. From 2006 to 2015, Canadian patent applications grew by 36%. Canadians are increasingly moving away from direct filings towards applications in multiple countries using the Patent Cooperation Treaty.

3.3.7.4 Industrial designs

3.297. The Industrial Design Act (R.S.C., 1985, c. I-9) and the Industrial Designs Regulations (SOR/2018-120) regulate the protection of industrial designs. The Act was amended in 2014 to enable Canada to accede to The Hague Agreement and to modernize Canada's industrial design regime. This was the first substantive update since 2001. Under the Act, an applicant may obtain protection for shape, configuration, pattern or ornament and any combination of those features that, in a finished article, appeal to and are judged solely by the eye. To be registrable, a design must be novel, i.e. it must not have been disclosed to the public, in Canada or elsewhere, more than one year before its priority date in Canada. This modernization of the Act provided further benefits for business, including: a) increased term of protection, moving from 10 to 15 years; b) less red tape, by simplifying and streamlining application and filing date requirements, and increasing flexibility for error corrections, and the appointment of agents and representatives for service; and c) enhanced e-services, by improving the e-filing interface for clients and providing enhanced functionalities.

3.298. One of the milestones during the review period was Canada's accession to The Hague Agreement on 5 November 2018. The Hague Agreement provides a mechanism for acquiring, maintaining and managing design rights in member countries and intergovernmental organizations through a single international application filed with WIPO's International Bureau. The Hague Agreement allows applicants from member countries to register up to 100 industrial designs in multiple jurisdictions using a single application, language and currency.

3.299. The changes to the Industrial Design Act, which entered into force on 5 November 2018, include notable amendments such as a change to the industrial design term of protection, moving from a maximum of 10 years to a maximum of 15 years. The amended Industrial Design Act clarifies that a certified copy of an entry in the Register of Industrial Designs is admissible evidence in any court. In addition, any obvious error made in the Register of Industrial Designs may be corrected within six months of the entry, while previously, corrections were limited to clerical errors. The amended Industrial Design Act likewise codifies the Supreme Court test for "originality" of a design and uses the term "novelty", which is aligned with international terminology, for the first time.²⁶²

²⁶¹ Canadian Intellectual Property Office (CIPO), Innovation, Science and Economic Development Canada (ISED) (2018), *IP Canada Report 2017*. Viewed at: [https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/vwapi/IP_Canada_Report_2017_en.pdf/\\$file/IP_Canada_Report_2017_en.pdf](https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/vwapi/IP_Canada_Report_2017_en.pdf/$file/IP_Canada_Report_2017_en.pdf).

²⁶² A design is novel if the same design, or a design not differing substantially from it, applied to a finished article that is the same as, or analogous to, the finished article in respect of which the design is to be registered has not been already disclosed in an application or in the prior art. If the design has already been disclosed, the applicant can benefit from a 12-month grace period to file an application for registration in Canada.

Finally, the Act also provides that applications are now made available to the public at registration or 30 months from the earliest priority date, whichever comes first.

3.300. New Industrial Design Regulations also came into effect on 5 November 2018. Changes include: a) simplified filing date and application requirements to align them with international standards; b) the removal of the requirement for foreign applicants to have a representative for services; c) the removal of the requirement to provide signed authorization to appoint an agent; d) the introduction of provisions applicable only to international registrations from WIPO that designate Canada; and e) the introduction of transitional provisions to process applications filed before 5 November 2018. To operationalize changes to the Act and the Regulations, CIPO's Industrial Design Office Practice Manual was re-written to include new practices, align a number of processes with Canada's major trading partners, and generally improve service delivery for clients. As part of this initiative, the CIPO also launched updated e-services, including an improved e-filing interface with new functionalities, to enhance users' interaction with the Office.

3.301. Stakeholder outreach and public engagement have been key elements of Canada's process to accede to The Hague Agreement and modernize its industrial design regime. The CIPO consulted with Canadian IP agents and international stakeholders, including the WIPO, on legislative, regulatory and practice changes, on multiple occasions, to obtain feedback and inform the development of the new industrial design regime.

3.3.7.5 Trademarks

3.302. The Trade-marks Act, 1985 (amended) and the Trade-marks Regulations, 1996 (amended) continue to be the main legal provisions with respect to trademarks in Canada. Trademark protection is 15 years, renewable for further 15-year terms on payment of renewal fees. The concept of trademark in Canada includes certification marks, distinguishing guises, and proposed trademarks.

3.303. The Economic Action Plan, 2015, Act, No. 1 (S.C. 2015, c. 36), assented to on 23 June 2015²⁶³, and the Combating Counterfeit Products Act, (S.C. 2014, c. 32), assented to on 9 December 2014 and which partially came into force on 1 January 2015, introduced important modifications to Canada's trademark legislation and administrative system.²⁶⁴ These Acts introduced changes to the law necessary for the implementation of three international treaties that the Government seeks to ratify: the Madrid Protocol, the Singapore Treaty and the Nice Agreement. Division 3 of Part 3 of the Economic Action Plan, 2015, Act amends the Industrial Design Act, the Patent Act and the Trade-marks Act, to provide for extensions of time-limits in unforeseen circumstances, and to provide the authority to make regulations respecting the correction of obvious errors. It also amends the Patent Act and the Trade-marks Act to protect communications between patent or trademark agents and their clients in the same way as communications that are subject to solicitor-client privilege.²⁶⁵

3.304. The Combating Counterfeit Products Act provides new enforcement tools against counterfeiting, such as new border enforcement measures and new civil causes of action and criminal offences. The Act also amended the definition of what constitutes a criminal offence under the Copyright Act and made minor amendments to the Criminal Code and the Customs Act.²⁶⁶ These changes came into force on 1 January 2019.

3.305. Other changes to trademark legislation, set to come into force in June 2019, include reducing the term of registration and the renewal period from 15 to 10 years, and eliminating the requirement to supply a declaration of use of the trademark as a condition for registration. Currently, before registration of a proposed use trademark is granted, the applicant must confirm that use in Canada has started, or that the trademark has been registered and is in use in the applicant's country of origin, without use in Canada. With the new framework, an applicant will be able to obtain a registration as long as she/he is using or proposing to use a mark and is entitled to use the mark in Canada. Changes set to come into force in June 2019 also include amendments to streamline and

²⁶³ Act to Implement Certain Provisions of the Budget Tabled in Parliament on 21 April 2015, and other Measures. Viewed at: https://laws-lois.justice.gc.ca/PDF/2015_36.pdf.

²⁶⁴ The text of this Act may be viewed at: https://laws-lois.justice.gc.ca/PDF/2014_32.pdf.

²⁶⁵ Economic Action Plan Act, 2015. Viewed at: https://laws-lois.justice.gc.ca/PDF/2015_36.pdf.

²⁶⁶ The Act was notified to the WTO in WTO documents IP/N/1/CAN/12, IP/N/1/CAN/C/5, IP/N/1/CAN/T/4, and IP/N/1/CAN/8, IP/N/1/CAN/C/4, 22 April 2015.

modernize the trademark application and opposition process, expand the scope of what can be registered as a trademark and allow the Registrar of Trade-marks to correct errors that appear in the trademark register. The new legislation provides a broader definition of trademark, to include: a sign or combination of signs that is proposed to be used by a person for the purpose of distinguishing or so as to distinguish their goods or services from those of others; and a certification mark.²⁶⁷ A sign will be defined as a word, a personal name, a design, a letter, a numeral, a colour, a figurative element, a three-dimensional shape, a hologram, a moving image, a mode of packaging goods, a sound, a scent, a taste, a texture and the positioning of a sign.

3.306. As of June 2019, the definition of trademarks will include sounds, textures and smells. The application for the registration of a trademark consisting of a sound should: (a) state that the application is for the registration of a sound mark; (b) contain a description of the sound; and (c) contain an electronic recording of the sound. Currently applications for sound marks may only be submitted by way of a paper application, and not through the CIPO's online filing system.²⁶⁸ The CIPO began accepting the registration of sounds as trademarks as of end-March 2012.

3.307. With respect to the Madrid Protocol, the Singapore Treaty, and the Nice Agreement, Canada has completed the legislative and regulatory work necessary to accede to these treaties, with Gazette Part II regulations published on 14 November 2018. By joining the Madrid Protocol, Canada will have the possibility of obtaining protection for trademarks in a number of countries through a single international application filed with WIPO's International Bureau. Participation in the Singapore Treaty is expected to make trademark registration more user-friendly and reduce compliance costs for Canadian trademark owners. Canadian membership in the Nice Agreement will facilitate the search and comparison of different trademarks. Membership to these agreements will modernize Canada's trademark regime.

3.308. Parallel imports of trademarked goods are allowed, and the rightsholder or their licensee may not restrict the importation of genuine trademarked goods into Canada through an assertion of trademark rights. Exceptions may apply where it can be shown that the mark used on the imported good is likely to cause consumer confusion, due to appreciable differences between the good distributed in Canada and the imported good. The situation with patents is similar to that of trademarks.

3.309. A trademark that has not been used for three years may be subject to summary cancellation. In this case, upon any person's request and payment of the prescribed fee, the Trade-mark Registrar sends a notice requiring the owner of the trademark to either establish that the mark was in use at some time during the three-year period immediately before the date of the notice or offer satisfactory reasons for its non-use. If the right owner's explanation is not accepted, the registration will be cancelled or restricted. The registration of the licensing of a trademark is not mandatory in Canada.

3.310. In 2016, the CIPO received applications for 54,665 trademarks, up by 4%. The CIPO registered 43,306 trademarks in 2016, up 9% from 2015.

3.3.7.6 Geographical Indications

3.311. Geographical indications (GIs) in Canada are protected under trademark legislation, more specifically, the Trade-marks Act, 1985 (amended) and the Trade-marks Regulations, 1996 (amended). The Act prohibits the adoption and use, as a trademark or otherwise, of protected GIs for wines and spirits, and certain agricultural products and food products which do not originate in the territory indicated by the GI or which do originate from that territory but were not produced or manufactured in accordance with the applicable laws of that territory. Once placed on the list of

²⁶⁷ Certification mark was defined to mean: (a) a sign or combination of signs that is used for the purpose of distinguishing or so as to distinguish goods or services that are of a defined standard from those that are not of that defined standard, with respect to: the character or quality of the goods or services; the working conditions under which the goods have been produced or the services performed; the class of persons by whom the goods have been produced or the services performed; or the area within which the goods have been produced or the services performed; or b) a proposed certification mark. A certification mark may be adopted and registered only by a person who is not engaged in the manufacture, sale, leasing or hiring of goods or the performance of services in association with which the certification mark is used.

²⁶⁸ CIPO, *Trade-mark consisting of a sound*, 28 March 2012. Viewed at: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr03439.html>.

protected GIs, there is no term of protection. The Trade-Marks Act provides for protection of GIs for goods other than wines and spirits and certain agricultural products and food products through certification marks (Articles 23-25), which have the same scope of protection as trademarks, except that the owner may not engage in the manufacture, sale, leasing, etc. of the goods indicated by the GI.

3.312. The CETA contains provisions related to GIs that go beyond protection granted under the TRIPS Agreement. Article 7 of the CETA established protection for a list of food GIs contained in an Annex and provided exceptions for certain GIs on that list in certain cases. A CETA Committee on Geographical Indications was created, which can recommend amendments to the list of GIs in Annex 20A of the CETA. As at February 2019, one GI not on the list had been granted protection, and a second one was under consideration.

3.313. Following the signing of the CETA, and regarding GI protection, the Trade-marks Act was last amended by the Canada–European Union Comprehensive Economic and Trade Agreement Implementation Act (An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and provide for certain other measures, or Bill C-30), which provisionally entered into force on 21 September 2017. Bill C-30 amended the Trade-Marks Act to protect certain agricultural products and food products as GIs and provided an avenue for other interested actors from the agriculture and food sectors to apply for GI protections. The Registrar of Trade-marks continues to be responsible for maintaining a list of protected GIs. Registration and inclusion of an indication in the list of protected GIs may be requested by any person, provided the indication meets the definition of a GI. Third parties can object to the application of the proposed indication on various grounds, which include that it: (a) is not a GI; (b) is not protected under the law of the country of origin; (c) is identical to a common name for the goods; or (d) is confusing with a registered trademark, a previously-used trademark, or an earlier and co-pending trademark application.

3.314. The CETA Implementation Act introduced a new test for assessing confusion between a GI and a trademark. A trademark and a GI would be deemed confusing if use of a GI in the same area as a trademark would be likely to lead to the inference that the GI originates from the same source as the goods or services associated with the trademark. Under Bill C-30, commercial adoption or use of a word that is a protected GI, either as a trademark or otherwise, is prohibited if the associated goods are not produced under the rules of the territory of the GI or if the goods do not originate from that territory. The present Customs Request for Assistance Regime is also available to owners of protected GIs, allowing them to request Canadian customs authorities to detain goods at the border that improperly include a protected GI on the product, its label or packaging. In addition, it is unlawful to improperly export or import products covered by a GI. The Trade-Marks Act includes numerous exceptions, meant to protect existing Canadian trademark rights. These exceptions allow: the use of a personal name, except where the name is used in a manner meant to mislead the public; the use of a GI in comparative advertising, except on labels and packaging; and the use of wine or spirit names that have been in continuous use by a Canadian prior to April 1994. Finally, the Trade-Marks Act provides a mechanism for an interested party to apply to the Federal Court to remove a GI from the protected list. The grounds for this are similar to the grounds for which a GI may be objected to.

3.3.7.7 Trade Secrets and Data Protection

3.315. In Canada, the federal Security of Information Act (S.19) criminalizes trade secret theft sponsored by, for the benefit of, or in association with foreign entities. The Criminal Code (S.380) criminalizes fraud generally and may, in some cases, render trade secret misappropriation a criminal offence. In addition, trade secrets are protected in most of Canada only by common law, and in Quebec, by the Civil Code. Protection of trade secrets, provided they are not disclosed to anyone, is for an indefinite term.

3.316. Data protection provisions are included in the Food and Drug Regulations C.R.C., c.870, which provide innovative drugs with eight years of protection from copying. This period can be extended by six months where data on the paediatric use of the drug is also provided.

3.317. Under the Pest Control Products Data Protection Regulations (SOR/2006-124), ten years' exclusive-use protection is granted (plus up to five additional years if minor uses are registered) for

data supporting the registration of a new product containing a new active ingredient. This applies to new pharmaceutical products containing medicinal ingredients not previously approved in Canada. Other data supporting the registration are assigned a 12-year compensable status.

3.3.7.8 Plant Variety Protection

3.318. Canada is a member of UPOV (1991). The Plant Breeders' Rights Act, 1990 (PBR Act) (amended) and the Plant Breeders' Rights Regulations, 1991 (amended) are the main instruments granting plant variety protection. The Act was last amended by Bill C-18 (27 February 2015). It allows for the protection of new varieties of plants, provided the varieties are new, distinct, uniform and stable. All plant species are eligible for protection. Algae, bacteria and fungi are not protected. Applicants must be citizens of, residents of, or have a resident office in, Canada, a UPOV member State, or a WTO Member State.

3.319. Some restrictions to the holders' rights apply. For instance, protected varieties may be used for breeding and developing new plant varieties, and farmers may save and use the harvested seed of a protected variety for replanting on their own land without infringing on the holder's rights (farmers' privilege).

3.320. The term of protection under the PBR Act is up to 18 years, effective from the date of issue of the rights certificate. Bill C-18 extended the protection period from 18 to 25 years for trees, vines or any specified categories, and to 20 years for all other crops, unless the breeder terminates them earlier. Bill C-18 strengthened the rights of breeders, and improved accessibility to protection by: (a) extending plant breeders' rights to include reproduction, import, export, conditioning (cleaning, treating), and stocking for the commercial purposes of propagating, in addition to the current system that already allows for the sale of propagating material and the production of propagating material intended for sale; (b) allowing plant breeders to sell a variety in Canada for up to one year before applying for PBR protection, in order to test the market, advertise, or increase stock; and (c) providing automatic provisional protection for a new plant variety from the date of filing, which allows applicants to exercise their rights while applications are pending "grant of rights" (no legal action in respect of provisional protection can be initiated until after the rights are granted).

3.3.7.9 Copyright

3.321. The Copyright Act, 1985 (amended) and the Copyright Regulations, 1997 (amended) comprise the main legislation with respect to copyright protection. The Copyright Act was last amended by Bill C-86 (13 December 2018), the Government of Canada's Budget Implementation Act, 2018, No. 2.

3.322. The Copyright Modernization Act, which received Royal assent on 29 June 2012, and of which most of its provisions entered into force on 7 November 2012, amended the Canadian Copyright regime by introducing new rights and exceptions better adapted to the online environment, and by ensuring that the Copyright Act remains technologically neutral. The changes also implemented the WIPO Internet treaties, which entered into force for Canada in August 2014. The Copyright Modernization Act allowed authors, performers and makers of sound recordings to enjoy explicit "first distribution rights" for copyrighted material in tangible form, subject to international exhaustion of rights; it explicitly gives authors, performers and makers of sound recordings the exclusive right to control the release of their copyright material online; and provides them legal protection for technological protection measures and rights management information. The Act also clarifies the copyright exceptions framework for the benefit of educational institutions, including by allowing certain uses of Internet content and telecommunication technologies in learning contexts, subject to safeguards.

3.323. The Copyright Modernization Act also established "safe-harbour" provisions for Internet Service Providers (ISPs) and search engines, and a civil liability provision for those who enable copyright infringement online. The Act confirmed Canada's "Notice and Notice" regime, which entered into force on 2 January 2015, and which does not require ISPs to take down allegedly infringing content, but to forward notices, sent by copyright owners, to users whose Internet address has been identified as being the source of possible infringement. If the ISP fails to perform its obligations under the regime, it may be liable for statutory damages of CAD 5,000 to CAD 10,000. Soon after the regime entered into force in January 2015, controversy arose over the practice of

some copyright owners (or their agents) of including settlement demands within their notices. The practice could lead to abuses, given that consumers may be pressured into disclosing their personal information and making settlement payments even in situations where they have not engaged in any acts that violate copyright laws. In December 2018, Bill C-86 amended the Copyright Act in order to address this concern, clarifying that a notice of claimed infringement that contains an offer to settle, or a request or demand for payment or for personal information, or a reference to any such offer, request or demand (e.g., a hyperlink), in relation to the claimed infringement, does not comply with the regime.

3.324. Under the Copyright Act, protection is granted for 50 years after the author's death for works of authorship. The Government would extend this term to 70 years under the implementation of the CUSMA, as is the case in the United States and the European Union. The implementation of this term of protection extension is subject to a transition period of 2.5 years from the coming into force of the CUSMA. Registration is not necessary for protection, but it prevents unknowing infringement of the right and is useful if the copyright is litigated.

3.325. In June 2015, Bill C-59, "An Act to implement certain provisions of the budget tabled in Parliament on 21 April 2015 and other measures", amended the Copyright Act to provide sound recordings and performances fixed in sound recordings published before the copyright expires an additional 20 years of copyright protection, by extending the term of protection from 50 years to the earlier of the end of 70 years after the end of the calendar year in which the first such publication occurs, and the end of 100 years after the end of the calendar year in which the first fixation of the performance in a sound recording occurs. If the sound recording is not published before the copyright expires, the term of protection expires 50 years after the end of the calendar year in which the first fixation of the sound recording occurs. The CUSMA requires Canada to extend the term of protection for sound recordings from 70 to 75 years. There is no revival of copyright, and no right to remuneration in a sound recording, or performer's performance fixed in a sound recording, in which the copyright or the right to remuneration had expired on the coming-into-force of the new provisions. Bill C-59 received Royal Assent on 23 June 2015; the amendments to the Copyright Act entered into force and were notified to the WTO.²⁶⁹

3.326. Copyright protection applies to original literary, dramatic, musical, and artistic works; performer's performance; communication signals; and sound recordings. Protection is provided to countries with whom Canada has a treaty or other agreement. Exceptions to copyright infringement, as outlined in the Act, include: fair dealing; non-commercial user-generated content; private copying; time-shifting of broadcasts; educational institutions, libraries, archives and museums; interoperability of computer programs; ephemeral copies and recordings; and persons with perceptual disabilities.

3.327. Bill C-11, "An Act to amend the Copyright Act (Access to Copyrighted Works or other Subject-matter for Persons with Perceptual Disabilities)", received Royal Assent on 22 June 2016. It amended the sections of the Copyright Act that set out exceptions to copyright infringement for persons with perceptual disabilities, as well as those that set out exceptions for persons with perceptual disabilities to the prohibitions against circumventing technological protection measures (TPMs or digital locks). The amendments contained in Bill C-11 were designed to enable Canada to accede to the Marrakesh Treaty. Canada acceded to the Treaty on 30 June 2016. The treaty came into force internationally on 30 September 2016.²⁷⁰

3.328. In December 2018, Bill C-86 reformed Canada's the Copyright Board, a quasi-judicial administrative tribunal which establishes royalties for uses of copyrighted content, that is administered by a collective management organization. The reforms aimed at ensuring more predictability and clarity of decision-making processes; establishing streamlined time-lines; and increasing efficiency by allowing more parties to enter into direct agreements to ensure that the Board is adjudicating only more complex matters, or when parties are unable to reach agreement.

3.329. The quinquennial statutory parliamentary review of the Copyright Act was launched in March 2018 under the leadership of the Standing Committee on Industry, Science and Technology with the support of the Standing Committee on Canadian Heritage.

²⁶⁹ WTO documents IP/N/1/CAN/15, and IP/N/1/CAN/C/6, 7 June 2016.

²⁷⁰ WTO documents IP/N/1/CAN/17, and IP/N/1/CAN/C/7, 10 November 2016.

3.3.7.10 IP Enforcement

3.330. The Combating Counterfeit Products Act amended the Criminal Code by criminalizing offences related to the infringement of copyright and offences related to goods, labels, packaging or services covered by the Trade-marks Act. It also provides for new border enforcement measures, allowing customs officers to detain goods that they suspect infringe copyright or trademark rights, and permitting customs officers to share information relating to the detained goods with rights owners who have filed a request for assistance, in order to give the rights owners an opportunity to seek a remedy in court. The importation and exportation of copies and goods by individuals for their personal use is exempt from the application of such border measures.

3.331. The provisions of the Combating Counterfeit Products Act were implemented by the Canada Border Services Agency (CBSA), which launched the Combating Counterfeit Products (Intellectual Property Rights) programme to this effect. Under this programme, IP rights holders/owners may file a request asking for the CBSA to temporarily detain suspected counterfeit and/or pirated goods encountered at the border while rights holders/owners seek legal redress. Canadian trademark or GI rights holders/owners registered with the CIPO are eligible to file a Request for Assistance (RFA) application with the CBSA. Similarly, rights holders/owners of a valid Canadian copyright may file an RFA application with the CBSA.

3.332. The information contained in RFAs may be used by the CBSA to identify and detain commercial shipments suspected of containing counterfeit trademark goods or pirated copyright goods. More specifically, if suspect counterfeit and/or pirated goods are discovered during a commercial examination, the CBSA can use the information contained in the RFA application to contact the appropriate rights holders/owners and inform them how to pursue a civil court action.²⁷¹ Since its implementation, over 200 RFAs have been filed, covering approximately 3,000 registered trademarks and 80 registered copyrighted works. Additionally, the CBSA has detained over 70 shipments, 33 cases of which are currently under litigation as pursued by rights holders.

3.333. The Royal Canadian Mounted Police (RCMP) is responsible for leading any criminal investigations related to commercial-scale counterfeiting and piracy. Investigations regarding criminal offences under the Copyright Act and trademark offences under the Criminal Code are carried out under the RCMP's Intellectual Property Rights (IPR) Crime sub-programme, a part of the Federal Enforcement Program. The sub-programme's main objective is to protect the community from infringed products posing health and safety risks. To this end, the RCMP works closely with Health Canada, the CBSA and the private sector, and from this collaboration has resulted a strategy to combat IPR crime, mainly focusing on public awareness and integrated enforcement. The main statutes under this sub-programme are the Copyright Act and the Criminal Code.²⁷²

3.334. The RCMP and the CBSA have a shared responsibility for securing the border. Their efforts are complemented by the Canada/U.S. Integrated Border Enforcement Teams (IBETs), located along the length of the Canada/United States border. The RCMP's Customs and Excise Program is geared towards enforcing laws within Canada and along the Canada/United States border with respect to: the international movement of goods; the illicit manufacture, distribution or possession of contraband products; the illicit traffic of critical high technology and strategic goods, such as chemical, biological, radiological and nuclear components, and their delivery systems; and regulations that impose permit controls on the international movement of commodities.

²⁷¹ CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/security-securite/ipr-dpi/menu-eng.html>.

²⁷² RCMP online information. Viewed at: <http://www.rcmp.gc.ca/fep-pelf/#4>.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, Forestry and Fisheries

4.1.1 Agriculture

4.1.1.1 Introduction

4.1. The results of the 2016 Census of Agriculture conducted by Statistics Canada indicated a continuing trend towards fewer farms and fewer (and older) agricultural operators, while the farms are increasing in size. Although the total farm area amounted to 158.7 million acres in 2016, nearly 1% less than in 2011, the area dedicated to cropland expanded by nearly 7% over the same period (to 93.4 million acres), and the average farm size (820 acres) was 5.3% larger than five years earlier.¹ Canola (rapeseed) continues to account for the largest share (i.e. more than 20%) of all Canadian cropland, followed by spring wheat, and alfalfa and alfalfa mixtures. Over the years, Canadian farmers have made significant adjustments in the crops grown, reflecting changes in market demand and improved crop varieties. In terms of planted acreage, dedicated areas declined by nearly 40% for spring wheat (excluding durum) between 1981 and 2016, and by just over 50% for barley. By contrast, the total acreage planted with durum wheat rose by 44% during the same period, and the expansion was even more spectacular for canola (up nearly 500%), soybeans (700%), and lentils (up 4,350%). Canada was the world's largest producer of lentils in 2017, with 3.73 million metric tons or 48% of global production.

4.2. The trend towards larger farming units is also prevalent in livestock. In the beef sector, which is the dominant livestock activity, the average herd rose from 99 in 2011 to 110 in 2016, despite a decline of 2.4% in the overall number of beef cattle (to nearly 6.9 million heads). The average beef herd also increased in cow-calf operations (from 74 to 84) and in feedlot operations (from 185 to 212 heads). A similar decline in the overall number of dairy cows, but a much sharper fall in the number of farms reporting dairy cows (down 13.4%), also increased the average number of dairy cows per farm (from 65 to 73) between 2011 and 2016. Meanwhile, the overall production of milk is also rising, due to a higher output per cow, from improved nutrition, genetics, and production practices. Better market conditions for pork and poultry between 2011 and 2016 spurred an increase in the number of farms raising pigs, hens and chickens, while the corresponding numbers of animals per farm remained roughly unchanged.

4.3. Canadian farms are primarily registered as sole proprietorships or partnerships (75% of all farms), and the incorporated farming operations (25% of all farms) are dominated by family corporations (almost 90% of all incorporated farms). The 2016 Census counted 193,492 farms and 271,935 farm operators, i.e. 6% fewer farms, and a decline of 8% in the number of farm operators in five years.² Mirroring the ageing of the general population, around 55% of the Canadian farm operators are now 55 years or older. However, for the first time since 1991, the 2016 Census of Agriculture also reported an increase in the number of young farmers (under 35 years of age).³

4.4. Gross farm receipts amounted to CAD 69.4 billion in 2015, or nearly CAD 360,000 per farm on average. The value of farm machinery and equipment averaged close to CAD 280,000 per farm in 2016, reflecting increased investments in productivity-enhancing technologies, including automation. Although farmers adapt relatively quickly to changing market conditions, the expense-to-receipt ratios calculated by Statistics Canada suggest some variations in the profitability of the main types of farming operations in Canada (Chart 4.1). On one end of the spectrum, dairy and oilseed and grain farms had the most favourable ratios in 2015, despite a deterioration from 2010. On the other end of the spectrum, sheep and goat, beef, and hog and pig farms had the least favourable ratios, though improving from 2010. It should also be noted that many farmers supplement their agricultural incomes with off-farm work. Among the 44% of the farm operators

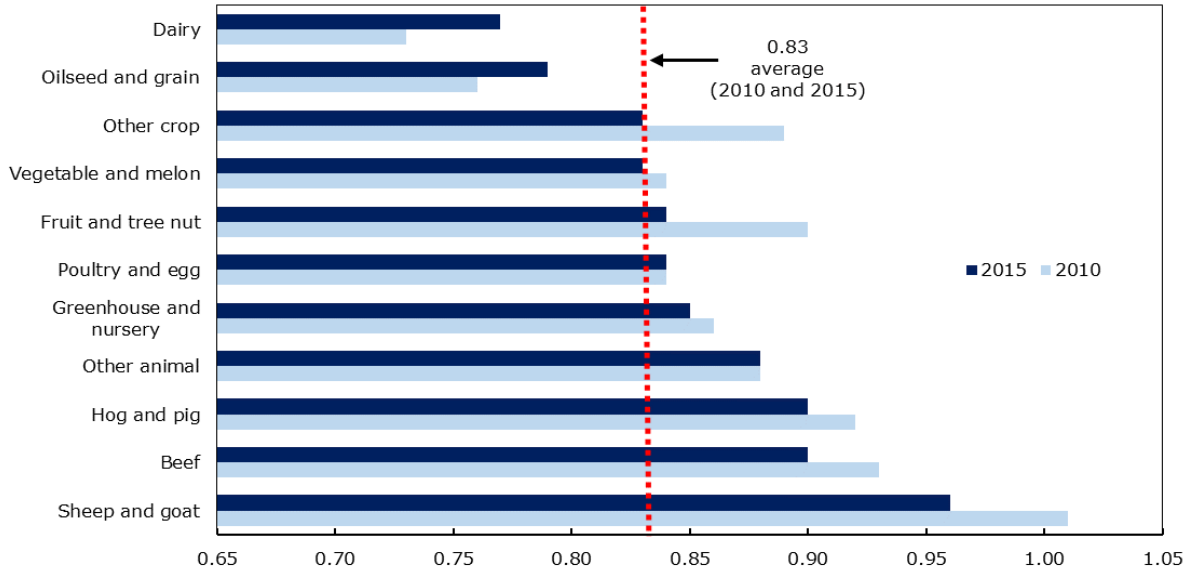
¹ The total farm area includes: cropland; summer fallow; pastures, woodlands and wetlands; and other types of agricultural land (e.g. idle land and built land). Although flooding affected negatively the amount of cropland reported in the 2011 Census, decreasing use of summer fallow and the conversion of marginal land into productive cropland also contributed to the rise in total cropland. The expansion was mainly driven by larger field crop areas in the Prairie provinces.

² The term farm operator denotes an individual making management decisions for an agricultural enterprise.

³ The number of operators under the age of 35 increased by 3% from 2011 to 2016.

indicating off-farm income in the 2016 Census, almost one third averaged 30 hours or more of off-farm work per week.

Chart 4.1 Average operating expense-to-receipt ratio by farm type, 2010 and 2015



Note: Gross farm receipts include programme payments and custom work receipts. Operating expenses do not include expenditures, depreciation or allowances for capital costs related to purchases of land, farm buildings or equipment.

Source: Statistics Canada, The Daily, 10 May 2017.

4.5. Even though the contribution of primary agriculture to Canada's GDP is modest (approximately 1.1% in 2016), the share of agriculture in Canada's GDP rises to 6.7% when food and beverage processing, wholesale and retail sale of food, and inputs and services provided to the sector are included. Farmgate cash receipts in the crop sector exceeded CAD 34.5 billion in 2017, approximately CAD 9.0 billion more than receipts for livestock (Table 4.1). Canada's highly export-oriented crop sector is characterized by low levels of protection, measured in terms of Single Commodity Transfers (SCTs) (Table A4.1). The beef and pork industries are also export-oriented. Thus, despite considerable imports of processed food, Canada is an overall net exporter of agricultural commodities, with a surplus of approximately CAD 12 billion annually in recent years (Chart 4.2). By contrast, in sectors where domestic production is subject to supply management, Canada is a net importer (of dairy products, poultry, and eggs).

Table 4.1 Farmgate receipts for selected agricultural commodities, 2009-17

(CAD million)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Total farm cash receipts	44,560	44,455	49,890	54,228	55,628	58,285	60,022	60,615	62,012
Crops, of which:	23,214	22,413	26,072	29,925	31,396	30,529	32,299	34,300	34,496
Canola ^{a,b}	5,098	5,548	7,669	8,292	7,359	7,365	8,049	9,269	9,950
Wheat (excluding durum wheat) ^{a,b}	3,271	2,510	3,577	4,276	5,263	4,833	5,022	4,477	5,068
Soybeans ^{b,c}	1,345	1,539	1,562	2,395	2,560	2,386	2,465	2,984	2,812
Maize ^{b,c}	1,330	1,563	2,086	2,461	2,341	1,971	1,858	2,062	2,056
Barley ^{a,b}	746	478	589	790	1,021	778	818	702	711
Durum ^{a,b}	771	421	558	915	1,254	1,353	1,332	1,204	1,116
Lentils ^{a,b}	853	724	665	549	848	1,071	2,254	2,006	1,089
Dry peas ^{a,b}	651	582	842	865	938	832	870	1,461	1,035
Livestock, of which:	18,055	18,905	20,338	20,898	21,546	25,636	25,588	23,873	25,080
Dairying	5,450	5,524	5,815	5,896	5,892	6,074	6,027	6,174	6,565
Cattle and calves	5,875	6,154	6,269	6,565	6,820	9,803	10,502	8,763	9,062
Hogs	2,889	3,381	3,940	3,852	4,069	5,093	4,227	4,098	4,519

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Poultry (Hens and chickens, turkey)	2,382	2,288	2,619	2,750	2,853	2,775	2,794	2,871	2,922
Eggs for consumption	715	724	806	877	928	919	983	1,052	1,096
Total direct payments	3,290	3,138	3,480	3,405	2,686	2,121	2,135	2,442	2,436

a Crop year runs from August to July, i.e. 2009 is 2009/2010 ending July.

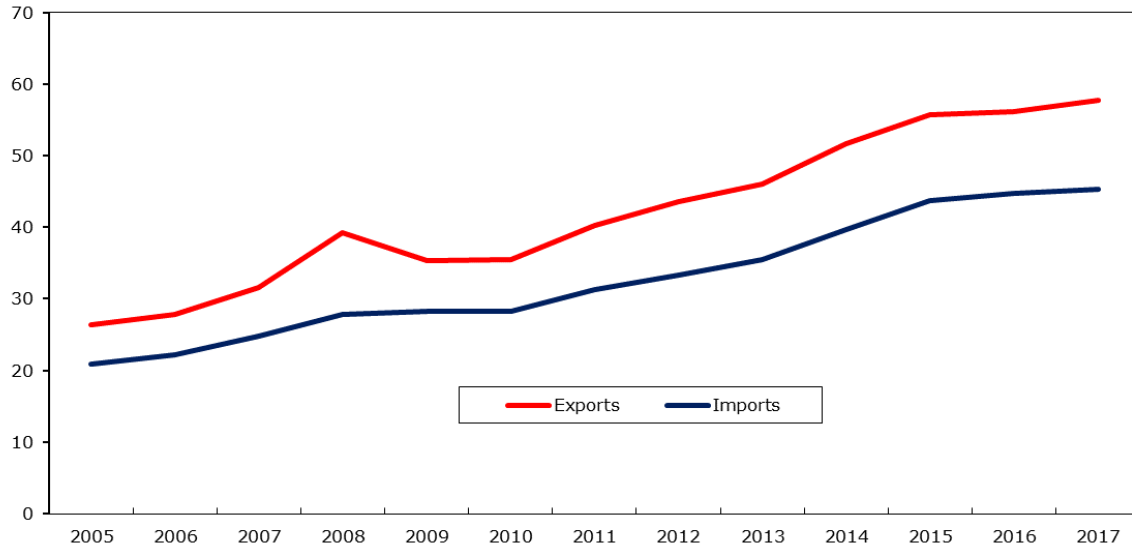
b WTO Secretariat estimates, based on data (quantity and average price) from Agriculture and Agri-Food Canada.

c Crop year runs from September to August, i.e. 2009 is 2009/2010 ending August.

Source: Statistics Canada, Table 32-10-0045-01.

Chart 4.2 Canada's exports and imports of agricultural products, 2005-17

(CAD billion)



Note: WTO agricultural definition. Exports excluding re-exports.

Source: WTO Secretariat calculations, based on Government of Canada, Statistics Canada, and Canada International Merchandise Trade Database data; and UNSD Comtrade.

4.1.1.2 Border measures

4.6. Canada's applied MFN tariffs on agricultural products (WTO definition) averaged 21.8% in 2019, down from 22.5% in 2014. The reduction reflects, in part, the unilateral elimination by Canada of import duties on certain ingredients used in the food processing industry on 16 January 2017.⁴ In addition, the estimated tariff rates may vary year to year, due to changes in import prices for goods that are subject to non-*ad valorem* tariffs. This applies even when there are no changes in the specific or compound rates *per se*.⁵ As before, Canada's dairy sector is characterized by particularly high MFN tariffs (238.7% on average, with almost all lines carrying non-*ad valorem* rates), but above-average tariffs also prevail for animals and animal products (47.2%) and cereals and preparations (24%).

4.7. Canada maintains 22 WTO tariff rate quotas (TRQs) to regulate market access (for 159 tariff line items), with additional access being granted through some of Canada's preferential arrangements. The majority of the TRQs concern products subject to supply management in Canada, i.e. milk and dairy products, poultry, and eggs (Table 4.2). Within the WTO TRQ levels, imports are either subject to zero duty (42 tariff lines) or *ad valorem*/non-*ad valorem* rates that may reach

⁴ Government of Canada online information. Viewed at: <http://www.gazette.gc.ca/rp-pr/p2/2016/2016-12-28/html/sor-dors313-eng.html>.

⁵ Nomenclature changes that alter the number of high-tariff and low-tariff line items may also affect tariff averages.

8.5%. TRQ fill rates fluctuate depending on the market situation for the products in question and may exceed 100%.⁶

Table 4.2 WTO Tariff rate quota (TRQ) level and fill rates, 2013 and 2017

Products	WTO TRQ level	Reservations	2013 fill rate (%)	2017 fill rate (%)
Cream ^a	394 tonnes	Limited to sterilized cream, minimum 24% butterfat, in cans of a volume not exceeding 200ml	99	99
Dry whey ^a	3,198 tonnes		41	1
Butter ^a	3,274 tonnes	61% reserved for New Zealand	99	100
Wheat ^a	226,883 tonnes		36	46
Barley ^a	399,000 tonnes		5	16
Wheat products ^a	123,557 tonnes		128	158
Barley products ^a	19,131 tonnes		137	219
Broiler hatched eggs and chicks ^b	7,949,000 dozen egg equivalent	Canada allocates access between tariff items 0105.11.21 and 0407.11.11, where one chick equals 1.27 eggs	147	168
Chicken: live, meat and products ^b	39,843.7 tonnes (eviscerated)		190	213
Turkey: live, meat and products ^b	5,588 tonnes (eviscerated)		96	97
Beef and veal ^b	76,409 tonnes	45.8% reserved for Australia and 38.7% for New Zealand; the rest applies to imports from countries with which Canada does not have a bilateral trade agreement that cover these products	56	63
Fluid milk ^{b, c}	64,500 tonnes	This quantity represents the estimated annual cross-border purchases imported by Canadian consumers	100	100
Concentrated and condensed milk/cream ^b	11.7 tonnes	100% reserved for Australia	92	0
Yoghurt ^b	332 tonnes	Access reserved for yoghurt in retail-sized containers only	83	50
Powdered buttermilk ^b	908 tonnes	100% reserved for New Zealand	11	24
Other products of milk constituents ^b	4,345 tonnes		73	62
Cheese ^b	20,411.866	69.9% reserved for the European Union	100	99
Other dairy ^b	70 tonnes		100	100
Ice cream ^b	484 tonnes	Access reserved for retail-sized containers only	90	83
Eggs and egg products	21,370,000 dozen egg equivalent	Canada reserves its right to allocate access for egg and egg products between shell (except hatching) eggs, frozen, liquid and dried eggs	87	97
Margarine ^b	7,558 tonnes		33	39
Milk protein substances ^d	10,000 tonnes		56	27

a Administered on a marketing-year basis (years 2012/13 and 2016/17).

b Administered on a calendar-year basis (years 2013 and 2017).

c No data exists regarding fluid milk, as shoppers are free to carry milk for personal consumption upon their return to Canada (GIP No.1).

d Administered on a quota-year basis (years 2012/13 and 2016/17).

Note: The count of in-quota imports for butter, cream and dry whey is based on permits issued by Global Affairs Canada against Canada's tariff quota commitments. The count of in-quota imports for wheat, barley and their products is based on statistics provided by the Canada Border Services Agency.

Source: WTO and information provided by the authorities.

⁶ In the case of poultry and eggs, fill rates may fluctuate due to the calculation of the TRQ volume, based on the minimum global access requirements Canada agreed to under the Canada-United States Free Trade Agreement and the NAFTA, and exchanged notes between Canada and the United States for broiler hatching eggs and chicks. For wheat products and barley products, the fill rates may exceed 100% since these TRQs are administered through a general import monitoring programme, and there may be a delay between receiving notification that the TRQ has been filled and the closing of the TRQ to further imports.

4.8. Since the last Review, the EU-Canada Comprehensive Economic and Trade Agreement (CETA) was applied provisionally since 21 September 2017. Under the CETA, Canada agreed to transfer 800 tonnes of cheese within its existing WTO TRQ from the non-EU reserve to the EU reserve. It also established additional duty-free TRQ access for 16,000 tonnes of cheeses and 1,700 tonnes of industrial cheeses. The access quantity for the 16,000 tonnes and 1,700 tonnes of cheeses under the CETA is being phased in over a five-year period.⁷

4.9. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) came into effect on 30 December 2018. Under the CPTPP, Canada established 20 new TRQs (16 for dairy products, and 4 for poultry and eggs), which will be phased in over a period of 11 to 19 years, depending on the TRQ. The majority of new access will have been phased in by quota year 6.

4.10. Imports subject to TRQs require an import licence, issued by Global Affairs Canada for each shipment. Except for licences administered according to first-come first-served principles, importers must secure a quota allocation before proceeding to apply for a licence. Allocation methods vary, and include import history, equal share, market share, pro rata demand, or a combination of these. Global Affairs Canada informs stakeholders of the precise administration principles and methods for each TRQ, through notices posted on its website. Provisions regarding transfers of allocations, the return of unused quotas, and penalties for under-utilization are in place to maximize TRQ fill rates.

4.11. Under the Export and Import Permits Act, the Minister for International Trade Diversification may, at his/her discretion, authorize that supplemental access be granted for importation of TRQ goods. Such imports are additional to the import access quantity defined in Canada's WTO TRQ commitments. The Minister's policies in this regard are set out in notices to importers for supplemental imports and are available on the Global Affairs Canada website.⁸ For example, this has been done in instances where s/he judges that imports are required to meet market needs. Since 1995, the Canadian Dairy Commission (CDC) has been authorized to import butter for onward sale to Canada's manufacturers. As a butter shortage developed during 2016-17, the regular WTO TRQ of 3,274 tonnes was quickly filled. The CDC therefore requested, and received, supplemental import authorizations for butter from Global Affairs Canada.

4.12. Supplemental import access may be granted for any item subject to supply management, in order to support the export competitiveness of Canadian food processors. The Import for Re-export Program (IREP) allows food manufacturers resident in Canada to import at the applicable within-access rate of duty for further processing and re-exportation.

4.1.1.3 Domestic programmes

4.13. Canada's federal and provincial/territorial governments share responsibility for agricultural policy and operate various cost-shared programmes. Since 2003, the main programmes and services have been provided through joint five-year policy frameworks. The Growing Forward 2 (GF2) Framework Agreement, which included programmes to assist farmers in coping with market volatility and disaster situations (business risk management - BRM) as well as non-BRM programmes focusing on innovation and research, food safety, and market promotion, expired on 31 March 2018. The policy framework for the current five-year period – the Canadian Agricultural Partnership (the Partnership) – foresees expenditures totalling CAD 1 billion on federal programmes and activities, and a further CAD 2 billion to be dispersed through cost-shared (federal and provincial/territorial) programmes and activities. In addition to the CAD 3 billion in expenditures under the Partnership, Agriculture and Agri-Food Canada (AAFC) continues to offer a robust suite of BRM programmes.

4.14. Building on Growing Forward2 (GF-2), the federally-administered programmes under the ongoing Partnership comprise six programmes under three broad headings that include an array of policy support, services, and grants and contribution programming: (i) Growing Trade and Expanding Markets (up to CAD 297 million) works to expand agricultural trade through trade negotiations, the resolution of trade barriers, and the delivery of the AgriMarketing Program, which provides matching

⁷ The CETA "fine" cheese TRQ amounts to 8,000 tonnes in 2019, 10,557 tonnes in 2020, and 13,333 tonnes in 2021, until it becomes 16,000 tonnes in 2022 and subsequent years. Likewise, the CETA TRQ for industrial cheeses rises from 850 tonnes in 2019 and 1,133 tonnes in 2020, to 1,417 tonnes in 2021, and 1,700 tonnes in 2022 and onward.

⁸ Global Affairs Canada online information. Viewed at: http://www.international.gc.ca/controls-controles/notices_avis/exp/list_liste/index.aspx?lang=eng.

contributions to support industry-led market development activities to expand and diversify exports of agriculture and agri-food products, and the AgriCompetitiveness Program, which aims to assist industry-led efforts to provide producers with information needed to build capacity and support development; (ii) Innovative and Sustainable Growth (up to CAD 466 million) helps create a more innovative agricultural sector by supporting a range of activities, including the grants and contribution programme AgriInnovate, which provides repayable contributions on projects that accelerate the commercialization, adoption, and/or demonstration of innovative products, technologies, processes or services that increase sector competitiveness and sustainability, and AgriScience, which supports pre-commercialization and cutting-edge research; and (iii) Supporting Diversity and a Dynamic Evolving Sector (up to CAD 166.5 million), which aims to help the sector adapt to evolving demands, including via the AgriDiversity Program, which provides grants and contributions to help build skills and leadership for under-represented groups, and through the AgriAssurance Program, which provides contributions that enable industry to make meaningful and verifiable claims about the health and safety of Canadian agricultural products.

4.15. Partnership also expects CAD 2 billion to be spent on programmes and activities that are cost-shared between federal (60%) and provincial/territorial governments (40%) that will be delivered by provinces/territories to ensure that programmes are tailored to meet regional needs. The Partnership's cost-shared programming with provinces/territories focuses on the following six priority areas:

- science, research, and innovation – helping industry adopt practices to improve resiliency and productivity through research and innovation in key areas;
- markets and trade – opening new markets, and helping farmers and food processors improve their competitiveness, underpinned by a strong and efficient regulatory system, through skills development and improved export capacity;
- environmental sustainability and climate change – building sector capacity to mitigate agricultural greenhouse gas (GHG) emissions, protect the environment, and adapt to climate change by enhancing sustainable growth, while increasing production;
- value-added agriculture and agri-food processing – supporting the continued growth of the value-added agriculture and agri-food processing sector;
- public trust – building a firm foundation for public trust in the sector, through improved assurance systems in food safety and plant and animal health, stronger traceability, and effective regulations; and
- risk management – enabling proactive and effective risk management, mitigation and adaptation, to facilitate a resilient sector by working to ensure programmes are comprehensive, responsive and accessible.

4.16. Business Risk Management (BRM) programmes, authorized according to the Farm Income Protection Act, 1991, have been carried forward from the GF2 framework into the Canadian Agricultural Partnership, with some modifications. The programmes continue to be co-funded by federal and provincial governments on a 60:40 basis but, as their utilization is driven by farmer demand, actual expenditures vary from one year to the next. The programmes assist farmers in handling significant risks that go beyond their normal capacity to manage and that may threaten the viability of their farms.

4.17. AgriInvest is a programme that allows farmers to deposit proceeds from allowable net sales (ANS) in accounts at participating financial institutions. The funds may be used to reduce risks, cover moderate declines in producer margins, or for investments in farm-related improvements. The first percent of a year's ANS is matched by governments. The government contribution is capped at CAD 10,000 per year as the maximum annual ANS deposit is set at CAD 1 million (down from CAD 1.5 million under GF2). Canadian farmers currently hold about CAD 2.2 billion in such accounts.

4.18. AgriStability is a whole-farm programme offering financial support in the event of large margin declines. The programme has two components: a Program Margin, computed as allowable income minus allowable expenses in any given year (with adjustments for changes in receivables, payables and inventory); and a Reference Margin, calculated as the Olympic average of the Program Margins for the past five years. Benefits are triggered when Program Margins fall below 70% of the Reference Margin. A cap on the Reference Margin limit was introduced in 2018. The cap was designed to ensure producers from all sectors have improved access to support under the programme, regardless of their cost structure. The cap of the Reference Margin limit guarantees all producers at least 70% of their Reference Margin. Support is limited to CAD 3 million per participant, and a minimum payment

of CAD 250. A late participation mechanism that provincial/territorial governments can trigger was added, to allow producers to enter the programme late in situations where there is a significant income decline and a gap in participation. However, late entry is accompanied by a 20% reduction in benefits, to encourage regular enrolment. Disbursements totalled approximately CAD 258 million in 2015 and CAD 465 million in 2016.

4.19. AgriInsurance makes available subsidized insurance, providing coverage for production losses due to natural disasters (weather-related, pests or disease). The programme covers traditional crops such as wheat, maize, oats, barley and horticultural crops, and may be delivered on a yield or non-yield basis. AgriInsurance is developed and delivered at the provincial level, with contributions from the Federal Government towards the total premium and administrative costs. The Federal Government also offers a reinsurance arrangement in which five provinces (Alberta, Saskatchewan, Manitoba, New Brunswick, and Nova Scotia) are taking part at present. For the 2016/17 and 2017/18 crop years, the total government contributions amounted to CAD 1.1 billion and CAD 1 billion, respectively.

4.20. AgriRecovery is a programme for abnormal events resulting in extraordinary costs that require assistance beyond the scope of the core BRM programmes. It provides a disaster relief framework to aid the return to normal conditions. Under this framework, the federal and provincial governments join in efforts to complement the core BRM programmes, for example to cover extraordinary costs related to disease, pest infestations, extreme weather, or contamination of the natural environment. One joint effort – the Canadian-British Columbia Wildfires Recovery Initiative – was activated under the AgriRecovery framework in 2018.

4.21. AgriRisk is a programme where federal, provincial/territorial governments continue to support the development of new risk management tools.⁹

4.22. The Federal Government also funds several loan guarantee programmes, including the Canadian Agricultural Loans Act (CALA) Program and the Advance Payments Program (APP). The CALA Program established under the Canadian Agricultural Loan Act, 1985, provides loan guarantees to enable farmers and cooperatives to seize market opportunities and to support the renewal of the agricultural sector. The Federal Government guarantees lenders (e.g. banks, credit unions or *caisses populaires*) the repayment of 95% of any net losses incurred on eligible loans. The maximum aggregate loan limit is CAD 500,000 per farm operation. The maximum aggregate loan limit for agricultural cooperatives is CAD 3 million, approved by the Minister. Loans totalling CAD 91.6 million were issued by financial institutions under the CALA Program in FY 2017/18.

4.23. Under the Advance Payments Program, established under the Agricultural Marketing Programs Act, 1997, the Federal Government guarantees the repayment of cash advances made to crop and livestock producers based on the value of their agricultural product. The Program is delivered through producer organizations authorized by Agriculture and Agri-Food Canada. Producers have a specified period of time to repay these cash advances (typically between 18 and 24 months) as they sell the agricultural product. Based on the value of the eligible products (including livestock), the Government may guarantee cash advances of up to CAD 400,000 per producer under the Program, paying the interest on the first CAD 100,000 issued to each producer. In all, CAD 2.2 billion in advances were issued to 20,847 producers across Canada for the 2017-18 programme year.

4.24. Following Canada's ratification of the Paris Agreement on 5 October 2016, a comprehensive plan, known as the Pan-Canadian Framework on Clean Growth and Climate Change (PCF), was adopted to reduce emissions across all sectors in Canada, including agriculture. The PCF identifies three agriculture-related actions: increasing stored carbon in agricultural soils, to partially offset emissions from the sector; generating bioenergy and bioproducts to displace emissions in other economic sectors; and advancing innovation in GHG-efficient management practices to reduce agricultural emissions and emission intensity. Over the period 2018-23, the Canadian agriculture and agri-food sector's contribution to the PCF will be primarily delivered through the Canadian Agricultural Partnership (the Partnership). Climate actions are supported by three types of programmes under the Partnership: federal-only programmes that help support the resiliency and sustainability of the sector through science, research and adoption of innovative practices and

⁹ Agriculture and Agri-Food Canada online information. Viewed at: <http://www.agr.gc.ca/eng/about-us/key-departmental-initiatives/canadian-agricultural-partnership/canadian-agricultural-partnership-business-risk-management-programs-effective-april-2018/?id=1500475317828>.

technologies; federal-provincial/territorial (FPT) cost-shared on-farm programmes delivered by provinces and territories (PTs) that build producer awareness of environmental risks and accelerate the adoption of technologies and practices to reduce these risks; and BRM programmes that are demand-driven and help farmers manage significant risks threatening the viability of their operations. Federal programmes and initiatives outside of the Partnership that also contribute to progress on agriculture-related actions identified under the PCF include the Agricultural Clean Technology Program; the Living Laboratories Initiative; and the Agricultural Greenhouse Gases Program.

4.1.1.4 Export measures

4.25. Canada's Uruguay Round export subsidy commitments originally covered 11 product categories. However, in compliance with the Nairobi Ministerial Decision on Export Competition¹⁰, Canada formally eliminated export subsidies for wheat, coarse grains, oilseeds, vegetable oils, oilcakes, and vegetables as of 19 December 2015. Moreover, lower volume limits for products on which export subsidies may continue to be applied (butter, skim milk powder, cheese, and other dairy products) came into effect on 1 January 2016. The remaining export subsidies are to be eliminated by the end of 2020 as per footnote 4 of the Ministerial Decision.

4.26. In practice, Canada did not provide subsidies to exports of grains, oilseeds, vegetable oils, oilcakes, and vegetables for many years prior to 2015. Canada's annual export subsidy outlays were relatively stable until 2015/16 but declined since then (Table 4.3). Except for skim milk powder, where the WTO value commitment has continued to serve as a constraint, Canada is well within its export subsidy commitments.

Table 4.3 Export subsidies: commitment levels and annual outlays, 2013-18

(CAD '000)

Products	Annual value commitment ^a	Subsidized exports ^a				
		2013/14	2014/15	2015/16	2016/17	2017/18
Butter	11,025	0	0	0	0	182
Skim milk powder	31,149	31,036	30,920	31,145	31,024	0
Cheese	16,228	15,430	10,442	8,842	7,122	9,754
Other milk products	22,505	18,063	19,653	21,982	6,876	36
Incorporated products	20,276	18,081	20,175	19,155	10,639	0
Total	101,183	82,610	81,190	81,124	55,661	9,972

a The Nairobi Ministerial Decision reduced the quantities on which export subsidies may be applied but did not alter the exported value commitments. In volume terms, Canada's annual marketing-year limits now amount to 905 tonnes of butter and butter oil; 18,147 tonnes of skimmed milk powder; 6,041 tonnes of cheese; and 14,189 tonnes of other milk products.

Source: WTO documents G/AG/N/CAN/108/Corr.1, 11 April 2016; G/AG/N/CAN/109, 29 April 2016; G/AG/N/CAN/118, 22 March 2018; and G/AG/N/CAN/124 and 125, 8 February 2019; and the Canadian Dairy Commission, Annual Report 2016-17.

4.27. In 2008, Canada untied its food assistance completely. Thus, instead of shipping Canadian food products overseas, Canada makes financial contributions to international organizations that source their food locally and regionally. As a party to the Food Assistance Convention, which entered into force on 1 January 2013, Canada is committed to provide at least CAD 250 million in food assistance per year. According to Canadian estimates, Canada's contribution to food assistance worldwide amounted to CAD 374 million in 2013, CAD 374.8 million in 2014, CAD 331 million in 2015, CAD 351 million in 2016, and CAD 361.8 million in 2017.¹¹

¹⁰ WTO document WT/MIN/(15)45, WT/L/908, 21 December 2015.

¹¹ WTO documents G/AG/N/CAN/108, 1 July 2015; G/AG/N/CAN/109, 29 April 2016; and G/AG/W/125/Rev.8/Add.3, 24 April 2018; and the Food Assistance Convention 2017 Annual Narrative Report.

4.1.1.5 Evolution of support and protection

4.28. Among the results of the Uruguay Round, Canada's Aggregate Measurement of Support (AMS) was bound at CAD 4.3 billion per year. However, reflecting a significant decline in agricultural support in the mid-1990s, Canada's amber box support is currently well within this limit (Table 4.4).¹² Excluding *de minimis* support, Canada reported total current AMS as below CAD 500 million for 2013 and below CAD 600 million in 2014, the latest year for which such information is available. Continued market price support for milk is (by far) the main component of Canada's current AMS, exceeding the 5% *de minimis* level at present.

Table 4.4 Canada's domestic support, 2012-14

(CAD million)

	2012	2013	2014
Measures exempt from the reduction commitment ("green box")			
Federal and federal/provincial	2,010	1,747	1,544
Provincial	644	640	640
Total green box	2,654	2,387	2,184
Aggregate Measurement of Support ("amber box")			
Product-specific AMS	968	748	750
- Market price support	615	485	576
- Direct payments	355	250	148
- Other supports	-2	13	26
Non-product-specific support	2,019	1,992	1,401
Total amber box	2,987	2,740	2,151
Less <i>de minimis</i>			
- Product-specific	131	249	159
- Non-product-specific	2,019	1,992	1,401
Current total AMS	837	499	591
Bound total AMS	4,301	4,301	4,301

Source: WTO documents G/AG/N/CAN/104, 26 February 2015; G/AG/N/CAN/113/Rev.1, 29 September 2017; and G/AG/N/CAN/122, 30 May 2018.

4.29. Publicly-funded extension, inspection and laboratory services, research-related expenditures, and income insurance under the AgriStability Program account for a major portion of the green box support reported by Canada in recent years.

4.30. According to OECD calculations, Canada's Producer Support Estimate (PSE), which averaged 36% of the total value of production in 1986-88, averaged only 9% in 2015-17 (Table 4.5), which is well below the 2015-17 average for all OECD countries (18%). However, due to Market Price Support (MPS), provided predominantly to commodities subject to supply management in Canada, the share of the potentially most distorting support averaged 69% of PSE in the period 2015-17, similar to that during the period 1986-88 (67%).

Table 4.5 Evolution of support and protection, 2012-17

(CAD million)

	2012	2013	2014	2015	2016	2017
Producer Support Estimate (PSE)	7,371.99	5,591.09	5,030.04	5,130.16	5,879.95	5,885.04
Support based on:						
- Commodity outputs	4,560.08	3,710.09	3,079.57	3,286.17	3,708.46	3,587.90
- Price support	4,560.08	3,710.09	3,079.57	3,286.17	3,708.46	3,587.90
- Milk	2,947.19	2,475.79	2,235.33	3,086.15	2,725.85	2,842.42
- Poultry	736.32	461.07	33.90	0.00	106.17	4.58
- Eggs	242.52	202.94	-8.10	-495.75	312.17	206.91
- Other commodities	634.05	570.30	818.44	695.77	564.27	533.99
- Payments based on output	0.00	0.00	0.00	0.00	0.00	0.00
- Payments based on input use	564.30	470.44	483.70	482.71	499.42	509.77
- Payments based on A/An/R/I	2,217.96	1,394.98	1,455.34	1,353.58	1,662.42	1,775.38
- Payments based on non-commodity criteria	12.57	0.88	0.39	0.00	0.00	0.00
- Miscellaneous payments	17.07	14.71	11.04	7.71	9.64	11.98
PSE (as a percentage of gross farm receipts)	13.86	10.27	8.69	8.62	9.79	9.56

¹² Canada eliminated market price support to its grains industry in 1995.

	2012	2013	2014	2015	2016	2017
Producer NPC	1.10	1.08	1.06	1.06	1.07	1.06
Producer NAC	1.16	1.11	1.10	1.09	1.11	1.11
Total value of production (at farm gate)	50,359.03	52,541.50	55,939.26	57,688.04	57,875.37	59,273.73

Note: Payments based on A/An/R/I. Includes the following categories from the OECD PSE database: payments based on current A/An/R/I, production required; payments based on non-current A/An/R/I, production required; and payments based on non-current A/An/R/I, production not required.

A/An/R/I: A - Area, An - Animal numbers, R - Receipts, and I - Income.

NPC: Nominal Protection Coefficient. Ratio between the average price received by producers and the border price (average producer price includes payments based on current output, e.g. deficiency payments).

NAC: Nominal Assistance Coefficient. Producer NAC is the ratio between the value of gross farm receipts (including support) and gross farm receipts valued at border prices (measured at farm gate).

Source: Information provided by the authorities and OECD, Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#tables>.

4.1.1.6 Commodities subject to supply management

4.1.1.6.1 Institutional framework

4.31. While elements of supply management have been present in Canada's agricultural policy since the economic depression of the 1930s, the present system is based on the Farm Products Marketing Agencies Act of 1972, renamed the Farm Products Agencies Act (FPAA) in 1993, and the Agricultural Products Marketing Act (APMA) of 1985. The current national supply management system was implemented gradually; for dairy in 1970, followed by eggs (1972), turkey (1974), chicken (1978) and chicken hatching eggs (1986). The national marketing agencies created under the FPAA are not subject to the Canada's Competition Act. The APMA delegates federal authority over the marketing related to interprovincial and export trade to provincial commodity boards. Production quotas, pricing arrangements, import controls, and coordinated research and marketing activities are the key pillars of the supply management system. The Canadian Dairy Commission (milk and dairy) and the Farm Products Council of Canada (poultry and eggs) oversee the system and report to the Parliament of Canada through the Minister of Agriculture and Agri-Food.

4.32. In the dairy sector, each province governs the production and marketing of milk within its own borders, and marketing activities related to industrial milk are carried out jointly between the federal and provincial governments. Provincial milk marketing boards (or agencies or commissions), generally run by dairy farmers, are given the delegated authority to exercise, for the benefit of producers, the same powers in interprovincial trade and export trade which provincial legislation permits for trade within the province. The National Milk Marketing Plan, a federal/provincial agreement, provides for the establishment of a national target for the production of industrial milk and the allocation of this quota to the provinces. The Canadian Milk Supply Management Committee (CMSMC) supervises the provisions of the National Milk Marketing Plan and fixes the annual national production target for industrial raw milk.¹³ The Canadian Dairy Commission calculates monthly quotas for the national production according to a methodology determined by the CMSMC to ensure that Canada is self-sufficient in milk fat. Previously, two separate quotas were calculated (the industrial market sharing quota and the fluid milk quota). However, this was converted to one single quota in February 2016.

4.33. The national quota is subsequently divided between regional milk pools: the Eastern Canadian Milk Pooling Agreement (covering Ontario, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island); the Western Milk Pooling Agreement (Manitoba, Saskatchewan, Alberta and British Columbia); and the Dairy Farmers of Newfoundland and Labrador, then to each province who, in turn, allocate its share to individual farms in the province. Provincial boards were given authority to set provincial prices for milk, and to allot production quotas to producers based on national and provincial production targets. Supervised by the Canadian Dairy Commission, the regional milk pools ensure that the revenues from all milk sales, and transportation and other costs, are pooled among

¹³ Chaired by the Canadian Dairy Commission, the CMSMC is formed by government and producer representatives from all provinces in Canada. In addition, representatives from national consumer, processor and producer organizations participate with non-voting rights.

the dairy producers in the respective regions. A farmer must hold a daily production quota to sell his/her output to a processing plant through milk marketing boards, who act as the selling agent on behalf of producers. Producers are responsible for ensuring that they manage their quota and production to meet their quota upper and lower limits. Production discipline is exercised, both at the pool level and at the level of the individual farm. If the national production is below 98% of the quota, provinces in the responsible pool lose the opportunity to produce and sell the missing milk. On the other hand, if national production exceeds 101.25% of the quota, the responsible pool is penalized. Provincial milk marketing boards establish similar disciplines for their respective farmers.

4.34. Under the Farm Products Council of Canada, four national agencies ensure the orderly production and marketing of products under the respective responsibilities: the Egg Farmers of Canada, the Turkey Farmers of Canada, the Chicken Farmers of Canada, and the Canadian Hatching Egg Producers.

4.35. In all, about 16,000 Canadian farms - mostly dairy farms - operate under supply management. Except for the funding of certain administrative costs, federal and provincial governments do not provide direct financial contributions to the operation of the system. Producers exercise discipline in production to match domestic demand as closely as possible and, in return, farm gate prices are set to provide acceptable incomes to the participating farmers.

4.1.1.6.2 Milk and dairy

4.36. The number of dairy farms fell below 11,000 in 2017, a reduction of nearly 2,000 farms since 2010 (Table 4.6). The number of dairy cattle also declined over the same period, albeit at a much slower rate. Nevertheless, due to the continuing increase in productivity per cow, Canada's milk production is at record levels, reaching nearly 90 million hectolitres in 2017. While the sector appears to be somewhat less protected than ten years ago, the Producer SCT as a share of gross receipts still exceeds 40%.

Table 4.6 Selected indicators for the Canadian dairy sector, 2010-17

	2010	2011	2012	2013	2014	2015	2016	2017
Farming sector								
Number of dairy farms (as at 1 August)	12,965	12,746	12,529	12,234	11,962	11,683	11,289	10,951
Dairy cattle ('000 head) (as at 1 January)	1,431.3	1,431.9	1,423.3	1,420.9	1,393.8	1,372.9	1,372.3	1,368.6
Total farm cash receipts from dairying (CAD million) ^a	6,262.1	6,567.4	6,698.8	6,707.6	7,251.8	7,293.1	7,229.7	7,644.0
Dairy products	5,524.2	5,815.5	5,917.8	5,891.6	6,073.5	6,028.8	6,174.2	6,564.5
Cattle and calves (dairy only)	737.9	751.9	781.0	816.0	1,178.3	1,264.4	1,055.4	1,079.5
Average farm milk price (CAD per hl) (dairy year basis)	75.4	76.1	76.4	79.1	76.2	73.8	74.5	72.0
Milk production ('000 hl)	76,731.5	77,771.1	79,801.3	78,198.0	78,259.9	81,766.9	84,704.9	89,841.9
Milk quota (million kg of butterfat) (as at 1 August)	300.9	308.5	305.8	307.0	314.9	321.7	346.0	369.0
Processing sector								
Dairy establishments	443	451	468	476	471	473	471	478
Federally-registered	273	275	280	278	273	271	270	279
Provincially-licensed	170	176	188	198	198	202	201	199
Manufactured shipments of milk and dairy products (CAD billion)	14.0	13.8	14.2	15.8	14.2	13.5	14.7	14.3
Sales of fluid milk and cream products ('000 litres) ^b	2,668,103	2,636,431	2,622,939	2,608,220	2,553,161	2,546,832	2,530,649	2,436,902

	2010	2011	2012	2013	2014	2015	2016	2017
Manufacturing of dairy products								
Cheese production ('000 kg)	408,647	405,033	423,803	421,054	433,391	446,216	476,641	497,281
Butter ('000 kg)	82,930	91,366	99,621	91,995	86,069	87,639	94,208	109,476
Yoghurt ('000 kg)	300.7	340.5	373.6	364.9	365.3	409.2	407.6	387.5
Milk powder products ('000 kg)	97,050	109,271	121,955	103,638	121,237	140,476	137,257	147,007
Dairy trade (CAD million)								
Exports	227.2	252.0	237.4	262.0	281.5	211.1	235.3	398.9
Imports	610.4	669.9	677.4	751.2	899.2	900.6	968.6	872.2
Trade balance	-383.1	-417.9	-440.0	-489.2	-617.7	-689.5	-733.3	-473.3
Support								
Producer SCT (CAD million)	3,027.7	2,567.9	2,947.2	2,475.8	2,235.4	3,086.2	2,725.9	2,858.6
Percentage SCT (%)	53.2	42.7	48.3	40.6	35.4	49.7	42.8	41.9

a Farm cash receipts: after transportation and handling costs, plus other fees; dairying refers to milk sold off farms.

b Estimates from 2009 to 2013.

Note: SCT refers to Single Commodity Transfers: the sum of transfers to producers granted to a single commodity. The % SCT is expressed a share of gross farm receipts for the specific commodity.

Source: Information provided by the authorities and Canadian Dairy Information Centre. Viewed at: http://www.dairyinfo.gc.ca/index_e.php?s1=dff-fcil; Agriculture and Agro-Food Canada, Statistics of Canada's *Animal Genetics 2018 Edition*; and OECD, Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#country>.

4.37. The CMSMC meets around four times per year to examine trends in production and consumption, economic factors, and market developments that affect the dairy industry. The national production target for industrial milk is constantly monitored and may be adjusted to reflect changes in the domestic demand for industrial milk products (measured in butterfat). The monthly quota for national production of fluid milk and industrial milk (Total Quota) calculated by the Canadian Dairy Commission includes an allowance for market growth.

4.38. Over the last ten years, Canadian consumers have reduced their (per capita) intake of fluid milk and ice cream, whereas the consumption of dairy products, in particular cream, cheeses and yoghurt has been increasing.¹⁴ The dairy industry has developed a wide range of new cheeses and other products in response to this shift in consumer preferences and to stimulate further growth. Overall, dairy consumption has been on the rise, measured in butterfat, and has allowed a significant increase in the production quotas. At present, the monthly Total Quota fluctuates around 30 million kg of butterfat, i.e. about 20% more than in 2010.¹⁵ Total demand in the period August 2016-July 2017 amounted to 364.2 million kg of butterfat, an increase of 5.6% compared with the previous marketing year. On average, a Canadian dairy farm produced 30,544 kg of butterfat from a herd of 85 cows, generating cash receipts of CAD 547,000 (average farmgate level). Two provinces – Quebec and Ontario – account for 82% of Canada's dairy farms.

4.39. The Canadian Dairy Commission establishes support prices, i.e. the prices at which it purchases butter and skim milk powder for onward sale to processors under various programmes.¹⁶ In the past, the provincial marketing boards, who have the authority on milk pricing, used this information to establish the prices they charge processors for the raw milk they (or provincial agencies) had purchased from dairy farms. Following an agreement between producers and processors in July 2016, the Eastern and Western milk pools determined that, as from 1 February 2017, farm milk prices are no longer to be adjusted based on CDC support prices. Instead, the annual adjustment is calculated using a mathematical formula based on the cost of

¹⁴ Fluid milk now accounts for approximately 28% of total sales.

¹⁵ Canadian Dairy Commission online information. Viewed at: <http://www.cdc-ccl.gc.ca/CDC/index-eng.php?id=4421>.

¹⁶ Effective 1 September 2018, the Canadian Dairy Commission increased the support price for butter from CAD 8.0062/kg to CAD 8.3901/kg, leaving the support price for skim milk powder unchanged at CAD 4.5302/kg.

producing milk (as calculated/commissioned by the CDC) and on the Consumer Price Index (as published by Statistics Canada).

4.40. As the value of raw milk differs depending on its end use, a Harmonized Milk Classification System (HMCS) is used to determine the prices processors pay for milk purchased through the milk marketing boards according to their specific needs. The national HMCS has five classes with various subsections, generally covering fluid milk (Class 1), yoghurts and ice cream (Class 2), cheeses (Class 3), butter, butteroil, concentrated milk and other products (Class 4), and special milk classes (Class 5).¹⁷ The prices that individual dairies within a pool receive for raw milk are not differentiated according to the end use as milk sales are pooled.

4.41. Although the consumption of dairy products has been on the rise in recent years, prompting increases in milk production in Canada, the changes in consumer preferences have led to a structural surplus of skim milk. Ontario accordingly introduced a Class 6 in 2016 for various domestic dairy ingredients to be subjected to international market prices. In February 2017, provincial marketing boards across Canada adopted a new pricing strategy (Class 7) along similar lines for solids, non-fat (skim milk) products and other ingredients, with the expectation that this would become a nationwide programme.¹⁸ This action was not received favourably outside of Canada, in particular by the dairy industry in the United States. Thus, as part of the negotiations leading to the establishment of the CUSMA, Canada agreed to eliminate the Class 6 and 7 pricing systems within six months after the entry into force of the Agreement and apply charges to exports (beyond agreed thresholds) of skim milk powder, milk protein concentrates and infant formula upon entry into force of the Agreement.

4.42. The milk production quotas assigned to individual farms represent an economic value and may be traded among the farmers located within a province, subject to rules and conditions laid down by the provincial marketing boards and agencies. Sales are monitored by provincial marketing boards and are subject to price caps (that may be adjusted monthly) in certain provinces. Expressed in kilograms of butterfat per day, the price caps typically ranged from CAD 24,000 in Ontario and Quebec to approximately CAD 40,000 in Alberta and British Columbia during 2018.¹⁹ Many Canadian dairy farmers use their milk quotas as collateral for loans that support their farming operations. As investment in production quotas represents a major cost of entry into the sector, the provinces have established various programmes offering preferential access to the quota system for new entrants, such as the P5 (Ontario, Quebec, Prince Edward Island, New Brunswick, and Nova Scotia) New Entrant Quota Assistance Program (NEQAP), designed to assist those with an interest in dairy farming who may not otherwise have the financial means or opportunity to get started in the industry.

4.43. Two federal programmes were launched to mitigate the impact on domestic producers resulting from higher cheese imports under the CETA. The Dairy Farm Investment Program involves an initial CAD 250 million in contributions over five years to investments undertaken by Canadian cow's milk producers, to improve productivity through upgrades of their barn equipment. The Dairy Processing Investment Fund (DPIF) is a four-year CAD 100-million contribution programme directed at enhancing the productivity and competitiveness of Canadian dairy processors. The DPIF supports industry-led investments, on a cost-shared basis, for capital investments in equipment and infrastructure, or access to enhanced technical, managerial, or business expertise.

4.44. On 29 October 2018, the Federal Government announced the establishment of two new working groups. One group is to develop mitigation strategies to help dairy farmers and processors adjust to the short-term impacts of the CUSMA and the CPTPP. The other group was tasked with developing a strategic vision to help the dairy sector innovate and remain an important source of jobs and economic growth for future generations. A poultry and egg working group will focus on both short-term and long-term goals for the sector.

¹⁷ For details, see Canadian Dairy Commission online information. Viewed at: <http://www.cdc-ccl.gc.ca/CDC/index-eng.php?id=3811>.

¹⁸ Class 7 comprises skim milk components, such as milk protein concentrates, skim milk and whole milk powders, edible casein, rennet casein, and various powders derived from milk products.

¹⁹ The Canadian Dairy Information Centre (CDIC) compiles and publishes information regarding the quantity of quota exchanged and applicable price caps on its website. CDIC online information. Viewed at: http://www.dairyinfo.gc.ca/index_e.php?s1=dfc-fcil&s2=quota&s3=qe-tq.

4.1.1.6.3 Poultry and eggs

4.45. Canada has around 2,800 chicken farms and 550 turkey farms. The production of poultry has been rising steadily, in volume as well as in value, particularly since 2014 (Table 4.7). Canada's net imports of chicken amount to around CAD 200-300 million per year, while trade in turkey, ducks, geese, and other poultry is much less significant and more balanced. The farmgate value of Canada's chicken and turkey production is about CAD 2.9 billion per year. Support to the sector measured in Producer SCTs was low in recent years, primarily reflecting increasing world poultry prices (translated into Canadian dollars) relative to domestic prices since 2012. Prior to that, high grain prices relative to world poultry prices resulted in much higher Producer SCTs, as the domestic support price for poultry is adjusted to the cost of production of feed grains.

Table 4.7 Selected indicators for the poultry sector, 2010-17

	2010	2011	2012	2013	2014	2015	2016	2017
Number of farms								
Chicken	2,681	2,664	2,645	2,660	2,653	2,803	2,817	2,836
Turkey	548	543	539	527	531	535	551	542
Total poultry production (in weight, '000 kg)	1,209,129	1,216,426	1,225,133	1,248,885	1,267,109	1,308,674	1,362,136	1,407,062
Chicken (including stewing hen)	1,050,938	1,057,215	1,064,432	1,080,636	1,099,257	1,137,070	1,178,778	1,235,834
Turkey	158,191	159,211	160,701	168,249	167,852	171,604	183,358	171,227
Value of manufactured shipments (CAD billion)	6.3	6.5	6.7	6.8	7.1	7.6	7.8	8.1
Trade (CAD million)								
Exports								
All poultry meat	333.9	334.5	375.2	414.1	440.2	537.1	522.1	511.9
Chicken and mature chicken	278.7	278.5	322.8	361.5	371.6	460.7	453.0	441.6
Turkey	33.2	30.2	29.8	32.2	49.1	52.7	48.0	38.5
Ducks, geese and guineafowl	20.4	23.7	17.6	17.3	15.5	20.0	17.5	25.1
Other poultry	1.7	2.1	5.0	3.2	4.0	3.8	3.6	6.7
Imports								
All poultry meat	558.9	527.3	666.3	717.5	736.6	875.4	788.3	715.6
Chicken and mature chicken	493.9	466.4	607.4	661.8	679.3	807.8	715.6	654.9
Turkey	31.6	29.1	30.2	26.3	28.3	36.9	33.6	31.7
Ducks, geese and guineafowl	24.5	20.5	15.2	15.5	13.9	17.1	26.4	16.2
Other poultry	9.0	11.3	13.5	13.9	15.1	13.7	12.8	12.7
Trade balance								
All poultry meat	-225.0	-192.8	-291.1	-303.4	-296.3	-338.3	-266.2	-203.7
Chicken and mature chicken	-215.2	-187.9	-284.6	-300.4	-307.7	-347.1	-262.6	-213.3
Turkey	1.6	1.1	-0.4	5.9	20.9	15.8	14.4	6.8
Ducks, geese and guineafowl	-4.1	3.2	2.4	1.7	1.6	2.9	-8.9	8.9
Other poultry	-7.3	-9.2	-8.5	-10.6	-11.0	-9.8	-9.2	-6.0
Support								
Producer SCT (CAD million)	353.0	817.6	738.3	461.1	33.9	6.8	106.2	4.6
Percentage SCT (%)	15.4	31.3	26.8	16.2	1.2	0.2	3.7	0.2

Note: SCT refers to Single Commodity Transfers: Sum of transfers to producers granted to a single commodity.
The % SCT is expressed a share of gross farm receipts for the specific commodity.

Source: Agriculture and Agri-Food Canada online information. Viewed at: <http://www.agr.gc.ca/eng/industry-markets-and-trade/canadian-agri-food-sector-intelligence/?id=1361290241756>; Statistics Canada (CANSIM 003-0018); Agriculture and Agro-Food Canada, Statistics Canada's *Animal Genetics 2018 Edition*; and OECD, Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#country>.

4.46. The national Chicken Farmers of Canada agency has nine provincial members. Alberta withdrew from the agency at the end of 2013, but subsequently returned in 2017. The agency's Board of Directors meets every six weeks. It establishes the Canadian Chicken Marketing Quota

Regulations, covering production over a rolling eight-week period. The agency administers three quota allocations: (i) chicken for the domestic market, whether whole birds, parts, or as ingredients in other products; (ii) the market development allocation, filled voluntarily by producers as additions to their domestic allocation; and (iii) specialty production of breeds that do not compete directly with the mainstream business. Each province is assigned a share of the national quota, and the provincial marketing boards allocate production to individual farmers.

4.47. Quota Units are assigned to existing and new producers, and they may be traded or leased between the licensed producers, with the approval of the provincial supervisory board. Limits may apply as to the percentage of the provincial quota held by individual producers. A quota utilization percentage is fixed for each production cycle. The percentage varies in accordance with the demand for chicken meat. At its November meeting, the agency agrees on the levy applicable in the coming year, to defray the costs (of administration, marketing, etc.) deemed essential to attain the agency's objectives. The Canadian Chicken Marketing Levies Order must be approved by the Farm Products Council of Canada (FPCC). The levy amounted to CAD 0.0053 per kg of chicken (live weight) in 2016 and in 2017.

4.48. The national Turkey Farmers of Canada (TFC) agency is responsible for the domestic production and marketing of turkeys and turkey meat. Production quotas are enforced through the Canadian Turkey Marketing Quota Regulation, 1990, and complemented by import controls (TRQs). Eight provinces are represented on the TFC's Board of Directors, which meets (at least) quarterly to review production levels and market developments, and to divide the production quota between the provinces. The quota allocation policies administered by the TFC have four elements: (i) the National Commercial Allocation Policies, with sub-quotas for turkey meat from whole birds and birds produced for further processing; (ii) the Export Policy quota, allowing sufficient production to cover planned exports; (iii) a quota for mature turkeys producing eggs and poultry for the industry (the Multiplier Breeder Policy); and (iv) a quota for meat from birds marketed as primary breeding stock (the Primary Breeder Policy).

4.49. Provincial turkey boards distribute their provincial allocation among the turkey farmers and determine the volumes of each size of bird (broilers, hens and toms) to be raised to fill their share of the national allocation. Prices are set and negotiated with processors based on input costs, the supply and demand situation, prices of competing meats, and storage levels. Production quotas may be traded among the turkey farmers. If a province exceeds authorized marketing, the provincial board must pay CAD 0.33 for each excess kilogram of multiplier breeder turkey, and CAD 0.22 for turkey other than multiplier breeds. Provinces are also penalized through a reduction of allocation of future quota.

4.50. At its November meeting, the TFC Board of Directors decides on a levy applicable to interprovincial and export trade in turkey and turkey meat (the Canadian Turkey Marketing Producer Levy Order). This levy is established for each participating province, and currently ranges from CAD 0.03/kg in New Brunswick to CAD 0.0505/kg in Alberta. Supply management is not applied in Prince Edward Island and Newfoundland and Labrador, where turkey production is not registered.

4.51. In 2017, Canada had 1,059 egg producers and 241 broiler hatching egg producers (Table 4.8). On average, the egg farms have a flock size of approximately 25,000 birds. Most of the farmers are members of their respective supply management organizations, i.e. the Egg Farmers of Canada (EFC) and the Canadian Hatching Egg Producers (CHEP).²⁰ The EFC Board of Directors meets at least four times per year, to plan and manage egg production and marketing, i.e. principally to set or adjust the production quota and fix the production levy for table eggs. The Canadian Egg Marketing Quota Regulations, 1986 has five elements: (i) shell eggs produced for the table market under federal allocation. Surplus table eggs are purchased by the EFC and resold to processors at the Canadian processor price; (ii) shell eggs produced for processing and generally sold at less than the cost of production. Not all provinces have such an allocation; (iii) an Export Market Development Allocation available to certain producers in Manitoba, who are obliged to sell these eggs to a processor; (iv) a Vaccine Egg Allocation for fertilized eggs sold to the pharmaceutical industry for

²⁰ All provinces and the Northwest Territories are members of the EFC, while the CHEP has six provincial members. Hatching egg producers in Nova Scotia are currently working with their government to have hatching eggs recognized as a supply-managed commodity within their province.

the manufacture of flu vaccine, etc.; and (v) a Special Temporary Market Requirement Quota (STMQRQ).²¹

Table 4.8 Selected indicators for the egg sector, 2010-17

	2010	2011	2012	2013	2014	2015	2016	2017
Number of farms								
Eggs	1,025	1,009	1,016	1,021	1,007	1,021	1,062	1,059
Broiler hatching eggs	252	248	245	238	240	244	243	241
Production of eggs ('000 dozens)	634,036	644,660	656,999	663,591	665,594	698,362	746,390	774,528
Trade (CAD million)								
Exports								
Total eggs	69.6	59.9	58.9	54.9	74.5	95.2	82.1	85.2
Hatching eggs	44.7	40.3	38.6	32.6	43.4	46.6	55.2	68.8
Shell eggs, fresh/preserved/cooked	0.8	0.8	1.0	1.1	11.8	15.1	5.1	1.8
Processed eggs	24.1	18.8	19.3	21.1	19.3	33.5	21.7	14.6
Imports								
Total eggs	76.6	76.5	84.7	110.4	166.5	236.8	133.4	137.6
Hatching eggs	40.4	38.7	41.1	46.7	49.7	58.4	62.5	65.3
Shell eggs, fresh/preserved/cooked	21.8	24.6	29.6	44.3	89.6	146.1	45.3	48.2
Processed eggs	14.4	13.2	13.9	19.4	27.3	32.4	25.6	24.0
Trade balance								
Total eggs	-7.0	-16.6	-25.7	-55.5	-92.1	-141.6	-51.3	-52.3
Hatching eggs	4.3	1.6	-2.5	-14.1	-6.3	-11.8	-7.2	3.5
Shell eggs, fresh/preserved/cooked	-20.9	-23.8	-28.6	-43.1	-77.9	-131.0	-40.2	-46.4
Processed eggs	9.7	5.6	5.3	1.7	-7.9	1.1	-3.9	-9.4
Support								
Producer SCT (CAD million)	159.1	206.2	242.5	202.9	-8.1	-495.7	312.2	206.9
Percentage SCT (%)	22.0	25.6	27.6	21.9	-0.9	-50.5	29.6	18.9

Note: SCT refers to Single Commodity Transfers: Sum of transfers to producers granted to a single commodity. The % SCT is expressed a share of gross farm receipts for the specific commodity.

Source: Agriculture and Agri-Food Canada online information. Viewed at: <http://www.agr.gc.ca/eng/industry-markets-and-trade/canadian-agri-food-sector-intelligence/?id=1361290241756>; Statistics Canada (CANSIM 003-0018); Agriculture and Agro-Food Canada, Statistics of Canada's *Animal Genetics 2018 Edition*; and OECD, Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#country>.

4.52. Short-term and seasonal surpluses occur regularly in egg farming, as production is continuous while the demand for table eggs fluctuates. Interprovincial trade is used to match surpluses and shortages among the provinces, to the extent possible. In addition, the EFC operates an Industrial Products Program (IPP) to transform surplus table eggs into "breaker eggs" for the food processing industry. Some provinces also administer their own "Egg for Processing" quotas to supplement the IPP. As the price processors pay for breaker eggs is determined in relation to external reference prices (Urner Barry), the EFC operates a Pooled Income Fund to offset margin changes between producer and processor prices. Lower processor prices and higher intake under the IPP prompted a CAD 0.15/dozen increase in the production levy during 2016, to CAD 0.3375/dozen by the end of the year. The levy was subsequently reduced, reflecting improved market conditions.

4.53. Egg production has been on the rise in Canada, and 2017 marked the eleventh consecutive year of growth. About 732 million dozen eggs were produced for human consumption in response to higher demand. Imports are regulated under the WTO TRQ (21.37 million dozen), and the TRQ is mostly filled.

4.54. In line with the established supply-management policy, Canada's broiler hatching egg producers primarily serve the domestic market. In 2017, the production reached 759 million broiler hatching eggs, of which nearly 0.5% was exported. Imports are regulated under a TRQ which amounted to 158.5 million egg equivalents²², but supplementary imports may also be authorized. The Canadian Hatching Egg Producers (CHEP) calculates the producer levy based on its budget and

²¹ The STMQRQ was introduced as a temporary measure to deal with disruptions caused by the outbreak of Avian Influenza in the United States in 2015. No allocations were made under the STMQRQ in 2017 and 2018.

²² One imported broiler chick corresponds to 1.27 broiler hatching eggs.

production forecasts. The levy has been decreasing (CAD 0.0032 per egg in 2018, CAD 0.003 in 2019).

4.1.1.7 Marketing agencies

4.55. The FPAA was amended in 1993 to allow the establishment of promotion and research agencies for individual farm products. Among the conditions, it must be ascertained that a majority of the producers and, where applicable, importers of such a commodity favour this action. A promotion and research agency is created by proclamation of the Governor in Council. It has the authority to implement a promotion and research plan, funded by a levy on domestic production and imports, but it has no authority to regulate production.

4.56. The Canadian Beef Cattle Research Market Development and Promotion Agency (Canadian Beef Check-Off Agency) was created in 2002. It promotes research, production and marketing of beef cattle, beef, and beef products in interprovincial, import and export trade. The annual levy amounts to CAD 1 per head of beef cattle sold or imported, or the equivalent of this amount for beef and beef products. The levy is collected by the provinces on domestic sales, while the Beef PRA collects the levy directly on imports in collaboration with Agriculture and Agri-Food Canada.

4.57. The Farm Products Council of Canada received submissions to establish a number of PRAs. Although no additional PRAs have been created thus far, public discussions have advanced, and proposals to establish PRAs for pork, hemp and barley are currently being evaluated.

4.1.2 Forestry

4.58. The forestry sector continues to be important, as Canada possesses about 9% of the world's forests and about 35% of its area is covered in forests.²³ The forest sector encompasses the wood, pulp and paper sectors, and increasingly an emerging bio-economy sector. In 2017 the sector contributed to about 1.61% of GDP, a figure that has slightly increased during the review period from 1.09% in 2014. The forest sector continues to be an important economic driver in approximately 300 Canadian communities. Many are located in rural regions where there are relatively few jobs in other industries. Furthermore, Indigenous peoples represent a higher share of the labour force in those communities than other communities in Canada. The importance of forest sector to trade has remained strong or strengthened during the review period. Canada is the world's fourth largest exporter of forest products.²⁴

4.59. Canada's forest area covers about 347 million ha, with a total wood volume of 47 billion m³ (Table 4.9). Most of this is coniferous forest (67%), followed by mixed wood forests (15.8%), broadleaf forests (10.5%), and temporarily non-treed forests (5.9%). While much of the territory is covered in forests, the economic value of the sector is greatest in the provinces of British Columbia, Ontario, and Quebec, as they have the largest forest areas and most of the forest-related jobs. However, even in smaller provinces, the forest-based economy is a relatively important sector of the rural economy. Most of the forests in Canada are owned by the provinces and territories (90%), although ownership levels fluctuate significantly. The remaining forests are held by the private sector (6.2%), Indigenous groups (2%), the Federal Government (1.6%), and municipalities (0.3%).²⁵ Seven percent of the forests are protected, with the majority (4%) protected for ecosystem and recreational reasons, based on International Union for Conservation of Nature classification categories.²⁶ Less than 0.5% of Canada's forests are harvested each year.²⁷

²³ Statistics Canada online information. Viewed at: www.statcan.gc.ca.

²⁴ Information provided by the authorities.

²⁵ Natural Resources Canada online information. Viewed at: <http://cfs.nrcan.gc.ca/statsprofile/inventory>.

²⁶ Canada's National Forest Inventory online information. Viewed at: https://nfi.nfis.org/resources/general/summaries/en/html/CA3_T9_PSAGE20_AREA_en.html.

²⁷ "The State of Canada's Forests, Annual Report 2018." Natural Resources Canada online information. Viewed at: <http://cfs.nrcan.gc.ca/pubwarehouse/pdfs/39336.pdf>.

Table 4.9 Key forest sector figures, 2015-17

	2015	2016	2017
Forest land (million ha)	347	347	347
Total wood volume (billion m ³)	47	47	47
Deforestation (million ha)	0.034	0.037	..
Area harvested (million ha)	0.780	0.767	..
Provincial Crown land	0.702	0.691	..
Private land	0.076	0.076	..
Third-party certification (million ha)	166	168	170
Employment	201,645	211,075	209,940
Contribution to GDP (billion)	21.9	22.9	24.6
% of nominal GDP	1.56	1.60	1.61

.. Not available.

Source: Natural Resources Canada. *The State of Canada's Forests, Annual Reports 2015-18*. Natural Resources Canada online information. Viewed at: http://cfs.nrcan.gc.ca/publications?lang=en_CA%20; and information provided by the authorities.

4.1.2.1 Production and trade

4.60. There were slight variations in the production of forest products during the review period but generally production remained stable while exports continued to increase steadily. Canada remained one of the top producers of certain forest products, i.e. newsprint, softwood lumber, and bleached softwood kraft pulp. Softwood lumber remained the highest valued forest product produced and exported during the period. Forest products accounted for 7.1% of Canada's total exports in 2017.²⁸

4.61. Timber harvesting peaked in 2004 at about 210 million m³, declined steadily thereafter until 2009, after which it grew steadily to about 160 million m³. The decline was mainly attributed to the financial crisis and declines in the U.S. housing market. Production of Canada's main forest product, softwood lumber, grew nearly 5% between 2015 and 2016, and remained stable between 2016 and 2017. Newsprint, also one of the mainstays of the sector, witnessed continual declines during the period due to lower demand as a result of technological change (Table 4.10).

4.62. The main forest products where Canadian exports lead world markets are in softwood lumber, oriented strand board (OSB), northern bleached softwood kraft pulp (NBSK), and newsprint. Softwood lumber continued to be the single largest category of forest product, and its export value increased significantly over the period (Chart 4.3), largely as a result of increasing prices. Wood pulp exports were the second largest by value, and also increased slightly. Forest product exports have become increasingly diversified over the past decade, with less reliance on the U.S. market, although it remains the largest single destination. In recent years, many forest product exports have gone to Asia, in particular China.

4.63. Canada's forest sector exports have continued to be impacted by trade disputes in recent years. In particular, a long-standing disagreement on the softwood lumber trade resulted in the 2006 Softwood Lumber Agreement (SLA), which managed trade in the export of softwood lumber to the United States until it expired on 12 October 2015.²⁹ In 2017, anti-dumping (AD) and (CV) duties on Canadian softwood lumber were applied.³⁰ Subsequently, dispute settlement provisions of NAFTA and the WTO were initiated by Canada with respect to these softwood lumber trade remedies; and a WTO panel report was also issued during the review period on CV measures applied to super calendared paper and uncoated groundwood paper; this is being appealed.³¹

²⁸ "The State of Canada's Forests, Annual Report 2018". Natural Resources Canada online information. Viewed at: <http://cfs.nrcan.gc.ca/pubwarehouse/pdfs/39336.pdf>.

²⁹ Global Affairs Canada online information. Viewed at: https://www.international.gc.ca/controls-controles/softwood-bois_oeuvre/other-autres/agreement-accord.aspx?lang=eng. See also Section 3.2.2, Export taxes, charges, and levies.

³⁰ G/ADP/N/314/USA, 18 September 2018 and G/SCM/N/334/USA, 27 September 2018

³¹ See Table A2.1 and NAFTA Secretariat online information. Viewed at: <https://www.nafta-sec-alena.org/Home/Dispute-Settlement/Status-Report-of-Panel-Proceedings>.

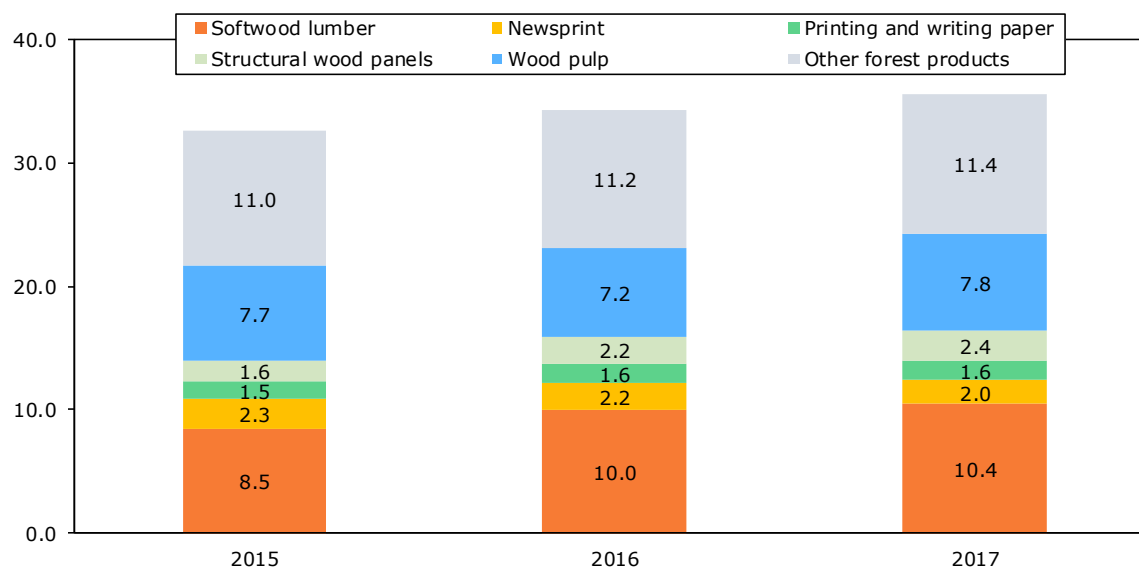
Table 4.10 Domestic production, imports, and exports, 2015-17

	2015	2016	2017
Domestic Production			
Hardwood lumber (m ³)	1,754,400	1,563,300	1,336,500
Softwood lumber (m ³)	62,974,400	66,862,300	66,860,400
Newsprint ('000 tonnes)	3,505,000	3,342,000	3,054,000
Printing and writing paper (tonnes)	3,036,000	2,995,000	2,975,000
Wood pulp (tonnes)	16,551,000	16,508,000	16,302,000
Structural panels (m ³)	7,966,755	8,728,654	8,855,194
Domestic Consumption			
Hardwood lumber (m ³)	2,409,284	1,650,888	1,422,275
Softwood lumber (m ³)	23,139,247	22,741,216	24,746,563
Newsprint (tonnes)	254,656	285,331	235,101
Printing and writing paper (tonnes)	1,339,974	1,310,293	1,342,309
Wood pulp (tonnes)	6,969,820	7,050,187	7,082,324
Structural panels (m ³)	6,906,880	4,071,248	4,273,348
Imports (CAD billion)	11.2	11.2	11.5
Exports (CAD billion)	32.8	34.6	35.9

Source: "The State of Canada's Forests", Annual Reports 2015-18. Natural Resources Canada online information. Viewed at: http://cfs.nrcan.gc.ca/publications?lang=en_CA%20; Natural Resources Canada's Statistical Information. Viewed at: <http://cfs.nrcan.gc.ca/statsprofile/trade/ca>; and Global Trade Atlas online information at: <https://ihsmarkit.com/products/maritime-global-trade-atlas.html>.

Chart 4.3 Exports of Canadian forest products, by value and type, 2015-17

(CAD billion)



Source: WTO Secretariat, based on Natural Resources Canada's *Statistical Data*. Viewed at: <http://cfs.nrcan.gc.ca/statsprofile/trade/ca>.

4.1.2.2 Framework, policy, and management

4.64. As Canada's provinces and territories own 90% of the forest resources in Canada, they are also the ones primarily responsible for establishing the laws and policies applicable to Canada's forests, and for managing them. Each jurisdiction has its own laws and systems regarding the conservation and management of the forests in their respective territory. Thus, the provinces/territories establish concession arrangements for the harvesting of timber, determine management plans, monitor and enforce rules and regulations, and administer royalty fees (stumpage fees). Details of each legislation, policy, and system for each province/territory are too voluminous to examine, but summary information is available on the website of Sustainable Forest Management in Canada.³² Canada's forests under management cover about 226 million ha, or about

³² Sustainable Forest Management in Canada online information. Viewed at: <https://www.sfmcanada.org/en/forest-products/legal-forest-products#Prov>.

65% of the forest lands, with the remaining forest lands considered unmanaged.³³ Provincial and territorial laws and regulations also address the requirements of over-arching federal laws that apply to forests, and of international agreements Canada has signed.

4.65. Building on a long tradition of cooperation between Canada's federal, provincial, and territorial governments, the Canadian Council of Forest Ministers (CCFM) was established in 1985, as the pan-Canadian forest body. The CCFM serves as a forum for jurisdictions to exchange information, provide leadership, and work cooperatively on forest and forestry-related issues of Canadian and international concern.

4.66. Canada's Federal Government plays a leadership role, with the CCFM, and provides an enabling Secretariat function. At the federal level, the CCFM provides a united forum for Canadian provinces and territories to publicly commit to pan-Canadian visions, strategies, and action plans for forests and the forest sector. For example, in recent years, the CCFM led efforts to establish the National Forest Pest Strategy, the Canadian Wildland Fire Strategy, the Forest Bio-economy Framework for Canada, and A Vision for Canada's Forests, 2008 and Beyond, which is currently being renewed.³⁴

4.67. At the federal level, the Species at Risk Act, 2002 (SARA) ensures that the habitat of endangered or threatened wildlife species is protected. The Forestry Act, 1985 sets out development and research activities, and establishes Forest Experimental Areas on federal lands. The Timber Regulations, 1993 set out the rules and permitting procedures for the cutting and removal of timber on federal lands. The Indian Act, the Indian Timber Regulations, and the Indian Timber Harvesting Regulations govern the cutting of timber on Indigenous reserve lands. However, it is noted that federal and Indigenous lands account for a very small amount of the timber harvested annually.

4.68. The Federal Government is involved in supporting workers and communities in the forest sector, in particular through various programmes (Table 4.11). At present, five federal programmes provide support to the sector.

Table 4.11 Federal support programmes for the forest sector, 2018

Programme	Type of initiative	Organization	Funding
Investments in Forest Industry Transformation Program (IFIT)	Support to the sector	Natural Resources Canada – Canadian Forest Service	CAD 190.4 million during 2010-18
Expanding Market Opportunities Program (EMO)	Support to the sector	Natural Resources Canada – Canadian Forest Service	CAD 45 million for 3 years from 2017
Forest Innovation Program (FIP)	Support to the sector	Natural Resources Canada – Canadian Forest Service	CAD 63 million for 3 years from 2017
Indigenous Forestry Initiative (IFI)	Support to the sector	Natural Resources Canada – Canadian Forest Service	CAD 13 million for 3 years from 2017
Green Construction through Wood (GCWood) Program	Support to the sector	Natural Resources Canada – Canadian Forest Service	CAD 39.8 million for 4 years from 2018

Source: CCFM, *Forest Sector Innovation in Canada, 2015*. Viewed at: <https://www.ccfm.org/pdf/CCFM%20Innovation%20Compendium%20August%2017%20EN%202015.pdf> and Natural Resources Canada online information. Viewed at: <https://www.nrcan.gc.ca/forests/federal-programs/13123>.

4.1.3 Fisheries³⁵

4.69. Canada's commercial fishing sector is comprised of three main economic activities: wild capture fisheries, aquaculture, and fish processing. Fisheries landings during the review period increased from CAD 2.3 billion in 2013 to CAD billion 3.9 in 2017. Aquaculture production increased from CAD 964 million to CAD 1.4 billion in the same period. Canada is the world's fourth-largest producer of farmed salmon.³⁶

³³ "The State of Canada's Forests, Annual Report 2018." Natural Resources Canada online information. Viewed at: <http://cfs.nrcan.gc.ca/pubwarehouse/pdfs/39336.pdf>.

³⁴ CCFM online information. Viewed at: <http://cfs.nrcan.gc.ca/pubwarehouse/pdfs/37112.pdf>, https://www.ccfm.org/pdf/National%20Forest%20Pest%20Strategy_Pest%20Risk%20Analysis%20Framework_User%E2%80%99s%20Guide_EN.pdf, <http://cfs.nrcan.gc.ca/pubwarehouse/pdfs/37108.pdf>, and https://www.ccfm.org/pdf/Vision_EN.pdf.

³⁵ For Canada, this comprises wild capture, aquaculture, and fish processing.

³⁶ Canadian Council of Fisheries and Aquaculture Ministers (CCFAM) (2015), *Aquaculture Development Strategy 2016-19*. Viewed at: <http://www.dfo-mpo.gc.ca/aquaculture/collaboration/ccfam-eng.html>.

4.70. Bordered by three oceans (the Arctic, the Atlantic and the Pacific), and possessing inland lakes, Canada has vast fisheries resources. Fisheries' contribution to total GDP was less than 1% in 2016. The fishing sector remains an important source of employment, accounting for over 76,000 jobs over the period.³⁷

4.71. In 2017, commercially valuable fish species, such as lobster and salmon, represented almost half of the total landed value, though accounted for a relatively small proportion (about 15%) of total landed volume (Table 4.12). Between 2013 and 2017, growth in the landed value outpaced growth in the landed weight, mainly due to rising prices, led by a higher demand for these species. The domestic prices of lobster and salmon, for example, increased from CAD 9.11/kg in 2013 to CAD 15.00/kg in 2017, and from CAD 1.35/kg to CAD 3.59/kg, respectively.³⁸ Similar patterns are also observed in the unit values of exports of the major species (Chart 4.4) in international markets.

Table 4.12 Fisheries and aquaculture production in Canada, 2013-17

(Quantity in '000 metric tonnes, value in CAD million)

		2013	2014	2015	2016	2017
Total fisheries	Quantity	1,037	1,010	1,053	1,079	1,043
	Value	3,276	3,574	4,228	4,723	5,274
Freshwater	Quantity	28	27	28	30	29
	Value	61	63	64	74	84
Sea fisheries ^a	Quantity	838	850	838	848	822
	Value	2,252	2,778	3,196	3,301	3,797
Crab, Queen	Quantity	98	96	94	83	92
	Value	434	534	501	593	968
Lobster	Quantity	75	93	91	91	97
	Value	680	942	1,179	1,296	1,462
Shrimp	Quantity	149	132	141	109	83
	Value	344	404	589	445	340
Aquaculture ^a	Quantity	170	134	187	201	191
	Value	964	733	967	1,347	1,392
Salmon	Quantity	100	79	122	124	121
	Value	635	548	669	1,022	1,056
Trout	Quantity	7	7	7	10	9
	Value	39	38	40	56	53

a Major products according to landed value in 2017.

Source: Fisheries and Oceans Canada, *Landings*, January 2019. Viewed at: <http://www.dfo-mpo.gc.ca/stats/commercial/land-debarq-eng.htm>.

4.1.3.1 Trade performance

4.72. Canada's exports of fish and seafood experienced strong growth during the review period, expanding more rapidly in value terms than in volume, primarily due to rising prices (Table 4.12 and Chart 4.4). In 2017, the value of exported fish and seafood products rose 56% to CAD 6.9 billion, up 2.5 billion from 2013, whereas the volume of fish and seafood increased 5% to 620 million kg over the same period. Highly-valued Canadian seafood in international markets drove up the price for premium species, particularly in expanding Asian markets. In 2016, Canada ranked 8th among the world's major fish exporters.³⁹

4.73. Canada's fisheries exports are concentrated in terms of their destination: in 2017, the United States remained the biggest market for Canada's exports, accounting for 62.7% of the total, followed by China (13.9%), and the European Union (7.3%). Lobster accounted for the largest share (31.0%) of exports in value terms, followed by Atlantic salmon (13.2%) and snow/queen crab (14.7%). Imports of fish and fish products have been gradually increasing, from CAD 3.0 billion in 2013 to CAD 3.9 billion in 2017. The major sources of imports of fish and fish products were the United States, China, and Thailand, which accounted for 34.2%, 14.4%, and 9.1% of the total, respectively, in 2017. Imported species mainly included prawns/shrimp and lobster.

³⁷ Information provided by the authorities.

³⁸ WTO Secretariat estimates, based on data from Fisheries and Oceans Canada online information.

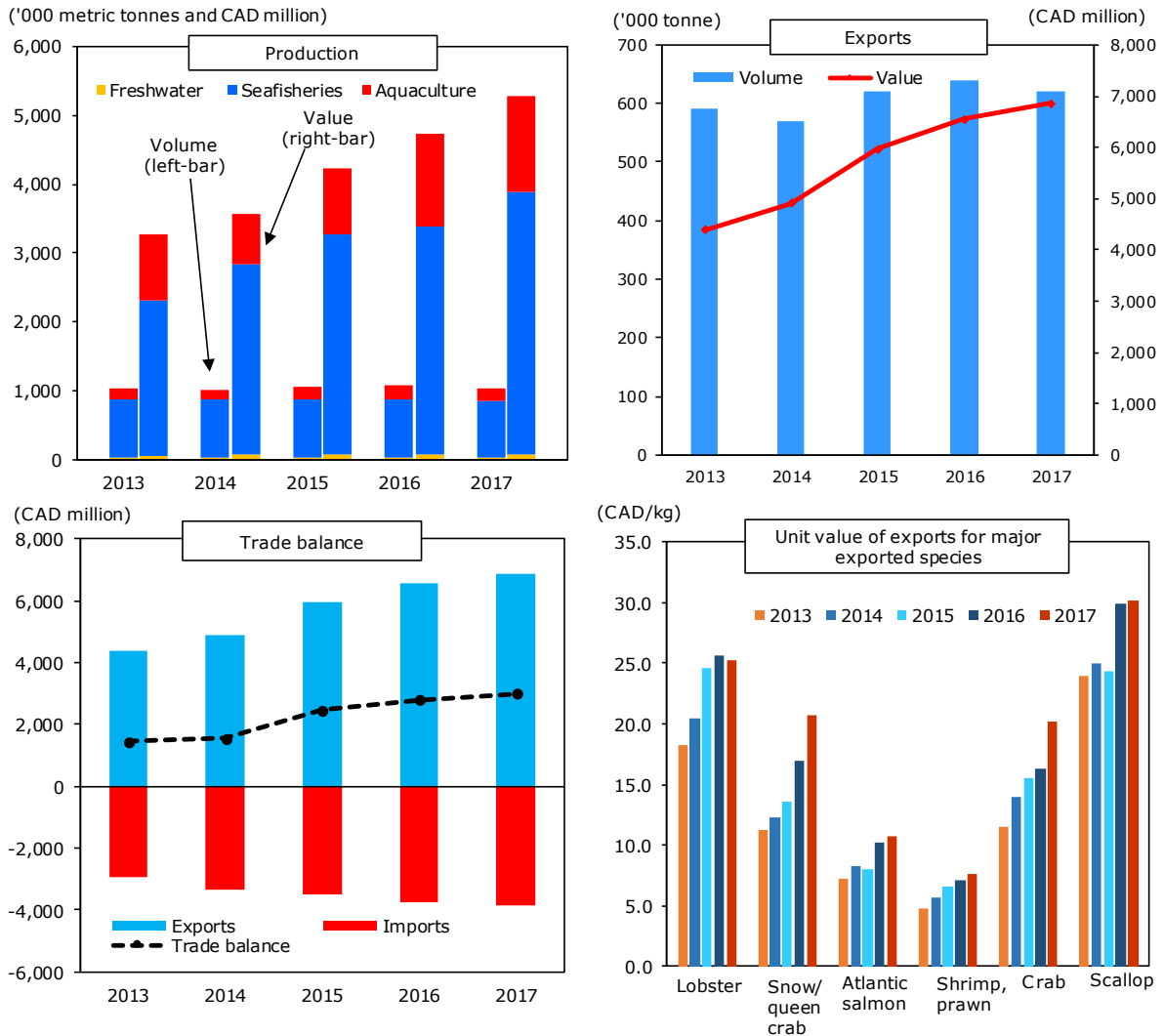
Viewed at: <http://www.dfo-mpo.gc.ca/stats/stats-eng.htm>.

³⁹ FAO (2018), *FAO Yearbook. Fishery and Aquaculture Statistics 2016*. Viewed at: www.fao.org/fishery/static/Yearbook/YB2016_USBcard/index.htm.

4.74. Canada is a net exporter of fish and fish products, and its trade surplus continued to grow during the review period. In 2017, Canada had a trade surplus of CAD 3.0 billion in fish and fish products, with exports of CAD 6.9 billion, and imports of CAD 3.9 billion. Between 2013 and 2017, the trade surplus doubled, increasing by CAD 1.6 billion (Chart 4.4).

4.75. Aquaculture in Canada comprises some 45 different species of finfish, shellfish and marine algae. Production is concentrated on five high-volume species: Atlantic salmon, rainbow trout, blue mussels, oysters, and clams, with Atlantic salmon accounting for most of the aquaculture exports.

Chart 4.4 Canada's production and trade of fish and fishery products, 2013-17



Source: Information provided by the authorities.

4.1.3.2 Law, regulations, and policies

4.76. The Department of Fisheries and Oceans (DFO, or Fisheries and Oceans Canada) is the federal department responsible for formulating and enforcing rules and regulations, as well as governing the conservation and management of fishery resources in Canadian waters. The DFO is the sole authority responsible for managing fisheries in Canada's coastal and tidal areas with major fish stocks, with some exceptions. It shares responsibility for the management of inland fisheries and aquaculture with Canada's provinces.

4.77. The principal legal framework for fisheries is the Fisheries Act.⁴⁰ The Fisheries Act governs the management of fisheries resources in Canada, along with other legal acts (Table 4.13). A review of the 2012 amendments to the Fisheries Act has been under way since 2016. As a result, on 6 February 2018, the Government of Canada introduced a bill in Parliament (Bill C-68) proposing amendments to the Fisheries Act.⁴¹ The proposed amendments include: re-establishing protection for all fish and fish habitat (i.e. the 2012 amendments only focused on the protection of fish that are part of a commercial, recreational or Aboriginal fishery); and incorporating modern safeguards (e.g. a prohibition on fishing for cetaceans, legal requirements related to rebuilding fish stocks, and requirements to publicly release information on project decisions) in order to ensure the long-term sustainability of marine resources.⁴² As at January 2019, Bill C-68 was before the Senate.

Table 4.13 Main fisheries laws

Title	Description
Fisheries Act (R.S.C., 1985, c. F-14)	Management of fisheries resources in Canadian waters. The Act provides broad powers to the Minister for the management, conservation, and protection of fish resources, through licences or leases and the allocation of fisheries.
Department of Fisheries and Oceans Act (R.S.C., 1985, c. F-15)	Establishes the powers, duties and functions of the Minister of Fisheries and Oceans related to: seacoast and inland fisheries; fishing and marine sciences; and the coordination of the policies and programmes of the Government of Canada.
Coastal Fisheries Protection Act (R.S.C., 1985, c. C-33)	Provides a legal framework for regulating access of foreign fishing vessels to Canadian fisheries waters.
Oceans Act (S.C. 1996, c. 31)	Provides for the development and implementation of an ocean management strategy.
Species at Risk Act (S.C. 2002, c. 29)	Provides legal protection for species considered at risk of extinction.

Source: Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/acts-lois/acts-lois-eng.htm>.

4.78. The Fisheries Act (R.S.C., 1985, c. F-14), supplemented by the Fishery (General) Regulations, (SOR/93-53), deals with several instruments to manage fisheries.⁴³ The Total Allowable Catch system (TAC) is the main resource management measure to set catch limits for each species of commercial fish stocks.⁴⁴ Other common measures include: licence requirements for access to commercial fisheries; gear limitations; and other technical measures related to the size, age and sex of fish allowed for landing, and to fishing activities' areas and times (e.g. seasonal closures).

4.79. The DFO also manages fisheries through programmes and initiatives, enforcement activities, management plans, policies and frameworks, and integrated fisheries management plans (on a multi-year basis) for key fisheries, informed by scientific advice from the Canadian Science Advisory Secretariat (CSAS) process, and consultations with fisheries stakeholders.⁴⁵ The integrated fisheries management plans are used to: guide the conservation and sustainable use of marine resources; support the management of sustainable fisheries; and combine science and Indigenous traditional knowledge on fish species with industry data, to determine best practices for harvest.⁴⁶

4.80. To engage in most fisheries activities, it is necessary to obtain a licence. The National Online Licensing System is used by the DFO to issue commercial fishing licences nationally, and recreational fishing licences in Eastern Canada (Atlantic Canada and Quebec). The System is also used to issue fisher registration cards to fish harvesters, including crew members. Most standard licensing transactions are available through the online system. Logbook keeping is mandatory under the Fisheries Act. Fish harvesters are required to record information about fishing catch and effort, and

⁴⁰ Fisheries Act (R.S.C., 1985, c. F-14), last amended on 5 April 2016.

⁴¹ *Bill C-68 - An Act to amend the Fisheries Act and other Acts in consequence*, 6 February 2018. Viewed at: http://www.parl.ca/Content/Bills/421/Government/C-68/C-68_1/C-68_1.PDF.

⁴² Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/campaign-campagne/fisheries-act-loi-sur-les-peches/proposed-propose-eng.html>.

⁴³ Fishery (General) Regulations (SOR/93-53), last amended on 30 May 2018.

⁴⁴ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/reports-rapports/regs/fish-allocation-finance-poisson-eng.htm>.

⁴⁵ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/csas-sccs/index-eng.htm>.

⁴⁶ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/ifmp-gmp/index-eng.htm>.

submit this data as specified in the conditions of the licence. In accordance with the Fishery (General) Regulations, for the proper management and control of fisheries and the conservation and protection of fish, the Minister may specify in a licence any condition that is not inconsistent with the Regulations, such as: (a) the species of fish and quantities thereof that are permitted to be taken or transported; (b) the age, sex, stage of development or size of fish that are permitted to be taken or transported; (c) the waters in which fishing is permitted to be carried out; (d) the location from which, and to which, fish is permitted to be transported; (e) the vessel from which, and to which, fish is permitted to be transhipped; (f) the period during which fishing or transporting fish is permitted to be carried out; (g) the vessel that is permitted to be used, and the persons who are permitted to operate it; and (h) the type, size and quantity of fishing gear and equipment that is permitted to be used, and the manner in which it is permitted to be used.

4.81. Access for foreign fishing vessels in Canadian waters and ports is limited. They are required to obtain a licence to engage in activities such as: (i) engaging in commercial fishing; (ii) transshipping or taking on board any fish, outfit or supplies while at sea; (iii) processing fish at sea; (iv) transporting fish from fishing grounds; (v) provisioning, servicing, repairing or maintaining any other foreign fishing vessel while at sea; (vi) purchasing or obtaining bait, outfits or supplies at a Canadian port; (vii) effecting repairs at a Canadian port; (viii) purchasing, loading, unloading, transshipping, selling or processing fish or fish products at a Canadian port; (ix) unloading, landing, re-embarking or transshipping at a Canadian port any equipment of that vessel or of any other fishing vessel of the same flag state; (x) granting shore leave to the crew of that vessel at a Canadian port; and (xi) discharging or taking on board at a Canadian port a member of the crew of that vessel or of any other fishing vessel of the same flag state. Licences are granted with certain limitations, including times and areas of fishing activities, the number of gear and equipment on board to be used for fishing, specific species and quantities allowed for fishing, as prescribed in the Coastal Fisheries Protection Act (CFPA) and its Regulations.⁴⁷ Moreover, fishing vessels must comply with requirements such as notification of entry to, and exit from, the fisheries waters; taking of observers on board; and boarding and inspection procedures.⁴⁸ The Minister of Fisheries and Oceans may suspend or cancel any licence or permit of vessels with the flag of any State that has unsatisfactory fisheries relations with Canada.

4.82. Canada manages fisheries in accordance with the Sustainable Fisheries Framework (SFF), which was adopted in 2009 as one of policy instruments to the Fisheries Act. The SFF provides the basis of Canada's precautionary and ecosystem approaches to fisheries management,⁴⁹ by ensuring that Canadian fishing activities are conducted in a manner that supports conservation and sustainable use. Under the SFF, Canada implements fisheries management policies, which include: the Policy on New Fisheries for Forage Species; the Guidance on Implementation of the Policy on Managing Bycatch; the Policy for Managing the Impacts of Fishing on Sensitive Benthic Areas; the Fishery Decision-Making Framework Incorporating the Precautionary Approach; the Ecological Risk Assessment Framework for Coldwater Corals and Sponge Dominated Communities; the Guidance for the Development of Rebuilding Plans under the Precautionary Approach Framework: Growing Stocks out of the Critical Zone; the Wild Salmon Policy (Pacific); and Canada's Policy for the Conservation of Wild Atlantic Salmon.⁵⁰ The DFO conducts an annual Sustainable Survey for Fisheries on 179 fish stocks, to track the implementation of the SFF policies and report on the status of fish stocks.⁵¹

⁴⁷ *Coastal Fisheries Protection Regulations (C.R.C., c. 413)*, last amended on 13 April 2017, Section 5. Viewed at: https://laws-lois.justice.gc.ca/eng/Regulations/C.R.C.,_c._413/page-1.html#h-3.

⁴⁸ *Coastal Fisheries Protection Regulations (C.R.C., c. 413)*, last amended on 13 April 2017, Section 12. Viewed at: https://laws-lois.justice.gc.ca/eng/Regulations/C.R.C.,_c._413/page-1.html#h-3.

⁴⁹ The precautionary approach puts an emphasis on the use of precaution in any decisions about species in case of minimal availability of scientific information and substantial risk of serious harm to a species or its ecosystem. In the case of ecosystem-based management, decisions about the management of a species and its ecosystem are based on the best scientific information available, taking into consideration not just a single fish species, but also other effects of all human activities and environmental factors.

⁵⁰ Fisheries and Oceans Canada. Viewed at: <http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/overview-cadre-eng.htm>.

⁵¹ Fisheries and Oceans Canada. Viewed at: <http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/survey-sondage/index-en.html>.

4.83. The 2009 Fishery Decision-Making Framework Incorporating the Precautionary Approach guides how Canada applies the precautionary approach to decisions to set and manage the allowable catch in a fishery. This policy is applied to key harvested fish stocks managed by the DFO; that is, the fish stocks that are the specific and intended targets of a commercial, recreational, or subsistence fishery, although it may be applied to other stocks, if the circumstances warrant it. The Framework requires that a harvest strategy be incorporated into fisheries management plans to keep the removal rate moderate when the stock status is healthy, to promote rebuilding when stock status is low, and to ensure a low risk of serious or irreversible harm to the stock. It also requires a rebuilding plan when a stock reaches low levels. The harvest strategy identifies three stock status zones: healthy, cautious, and critical, in accordance with upper stock and limit reference points. The strategy then sets the removal rate at which fish may be harvested within each stock status zone and adjusts the removal rate according to fish stock status variations. The upper stock reference point marks the boundary between the healthy and cautious zones; when the fish stock is under this point, the removal rate is progressively reduced. The limit reference point marks the boundary between the cautious and critical zones; if a fish stock level is below this point, serious harm to the stock may occur. The removal reference establishes the maximum removal rate of fish stocks in each of the zones.⁵²

4.84. Federally, the aquaculture sector is regulated mainly under the Fisheries Act, along with several regulations (e.g. the Health of Animals Act, and the Food and Drugs Act). Most provinces also have aquaculture-specific legislation and regulations.⁵³ A valid lease and licence are required for every aquaculture site. The subsector is divided into three main regulatory regimes: (i) in British Columbia, the DFO issues the licence and monitors licence conditions, under the Pacific Aquaculture Regulations, whereas the province is responsible for issuing leases, tenures and permits of occupation for aquaculture sites; (ii) in Prince Edward Island, an Aquaculture Leasing Management Board, composed of the DFO, the province, and industry, is responsible for issuing a lease contract as well as a licence; and (iii) in all other provinces and territories, provincial authorities issue both the lease and the licence.⁵⁴

4.85. The Sustainable Aquaculture Programme (SAP), initially launched for the 2008-13 period and subsequently renewed for the 2013-18 period, placed emphasis on regulatory reform (i.e. streamlining regulations and policies, and improving regulatory management), regulatory science (i.e. increasing scientific knowledge and science-based decision-making through science and research activities), and transparency (i.e. public reporting on the environmental and economic performance of Canada's aquaculture sector).⁵⁵ The SAP was renewed for the 2018-20 period. As part of the SAP's aquaculture regulatory reform, the DFO amended the Pacific Aquaculture Regulations⁵⁶ in May 2015 and introduced the Aquaculture Activities Regulations (AAR)⁵⁷, also under the Fisheries Act, which came into force in June 2015. The amendments to the Pacific Aquaculture Regulations, which apply to aquaculture activities in British Columbia, relate to licences and fees. The AAR specify, *inter alia*, conditions under which aquaculture operators may install, operate, maintain or remove aquaculture facilities, or undertake measures to treat their fish for disease and parasites, as well as deposit organic matter. The AAR require aquaculture owners and operators to submit annual reports on their activities to the appropriate Regional Aquaculture Management Office no later than 1 April of the year following the year being reported.

4.86. The Canadian Council of Fisheries and Aquaculture Ministers (CCFAM), which includes federal, provincial and territorial ministers, has worked since 1999 to identify and resolve harmonization issues with respect to aquaculture. It launched an Aquaculture Development Strategy in June 2016, which sets out a collaborative three-year strategy (2016-19) to support an improved federal-provincial-territorial regulatory framework, to enhance the coordination of aquaculture fish health management, and to promote regional economic growth, in particular for rural and coastal

⁵² Fisheries and Oceans Canada. *A fishery decision-making framework incorporating the precautionary approach*. Viewed at: <http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/precaution-eng.htm>.

⁵³ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/aquaculture/management-gestion/regs-eng.htm>.

⁵⁴ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/aquaculture/management-gestion/regs-eng.htm>.

⁵⁵ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/aquaculture/programs-programmes/sustainable-durable/renewed-renouvele-eng.htm>.

⁵⁶ Pacific Aquaculture Regulations (SOR/2010-270), last amended 1 May 2015.

⁵⁷ Aquaculture Activities Regulations (SOR/2015-177).

communities.⁵⁸ In December 2018, the CCFAM approved extending the work under this Strategy to 2022.

4.1.3.3 Market access and import requirements

4.87. Tariff protection in the fisheries sector is relatively low, with an applied average MFN tariff of 1.1%.⁵⁹ Over 75% of total fishery tariff lines are duty-free; applied MFN rates range from zero to 11%.⁶⁰ Many trading partners under FTAs enjoy duty-free treatment. No tariff quotas are applied to fish and fishery products.

4.88. A Safe Food for Canadians (SFC) licence and an aquatic animal health import permit from the Canadian Food Inspection Agency are required prior to importing fish into Canada, in accordance with the Safe Food for Canadians Act (SFCA) and its Regulations, and the Health of Animals Act (HAA) and its Regulations. The SFC licence is valid for two years and is subject to a fee of CAD 250. In addition to obtaining a SFC licence, importers that are importing live or raw molluscan shellfish must import from an authorized country of harvest that has been approved to export to Canada. To be issued an SFC licence, importers are required to develop and implement a preventive control plan (PCP); the PCP must include a procedure for recall and complaints, and traceability records. Importers must maintain PCP records and sample their imported products to verify the effectiveness of their PCP. All imports of fish and fish products are subject to a risk-based approach to product inspection and sampling. The inspection approach focuses on verifying and monitoring the effectiveness of the preventive controls applied by importers and addressing non-compliance issues. Import prohibitions apply to live freshwater pufferfish and Chinese mitten crab.⁶¹

4.89. Under the Health of Animals Act and the Health of Animals Regulations all aquatic animals (defined as finfish, molluscs and crustaceans) must be declared upon entry into Canada as per Section 194 of the Health of Animals Regulations. For importation of aquatic animals (finfish, molluscs and crustaceans) and their products that are susceptible to the diseases of concern regulated by the CFIA, an Aquatic Animal Health Import Permit and, when required, a Zoosanitary Export Certificate, are necessary.⁶² Imports are allowed only from countries which have negotiated export market access with Canada and comply with the negotiated animal health conditions. Import requirements apply to 24 different end-uses, including fish and seafood imported for the end-uses of food service retail use, further processing for human consumption, and aquaculture.⁶³ Import permits are not required for live or dead animals not considered susceptible to diseases of concern, or for products which are considered safe in accordance with international standards of the OIE, or as a result of a CFIA risk assessment.

4.90. The Canadian Freshwater Fish Marketing Corporation (FFMC), a state-trading enterprise established under the Freshwater Fish Marketing Act, has the exclusive right to market and trade freshwater fish in interprovincial and export markets.⁶⁴ The FFMC was established pursuant to bilateral agreements between the Government of Canada and the governments of Alberta, Saskatchewan, Manitoba, Ontario, and the Northwest Territories, and its exclusive right in the inter-provincial and export trade to market and trade in fish and fish products from freshwater commercial fisheries is limited to those provinces and territories. The agreement with Ontario covered only production from an area of north-western Ontario, bordering the province of Manitoba. Ontario (effective 30 March 2010) and Saskatchewan (effective 1 April 2012) left the FFMC arrangement and deregulated their commercial freshwater fish markets.⁶⁵ Manitoba withdrew from

⁵⁸ Fisheries and Oceans Canada, Canadian Council of Fisheries and Aquaculture Ministers (2016), *Aquaculture Development Strategy 2016-2019*.

⁵⁹ Fish and fish products refer to HS 03, HS 0508, HS 051191, HS 150410, HS 150420, HS1603-05, and HS 230120.

⁶⁰ An applied MFN rate of 11% is applied to prepared fish meals (HS 16042010).

⁶¹ Canadian Food Inspection Agency online information. Viewed at: <http://inspection.gc.ca/food/information-for-consumers/travellers/what-can-i-bring-into-canada-eng/1389648337546/1389648516990>.

⁶² Canadian Food Inspection Agency online information. Viewed at: <http://www.inspection.gc.ca/animals/aquatic-animals/diseases/susceptible-species/eng/1327162574928/1327162766981>.

⁶³ Canadian Food Inspection Agency online information. Viewed at: <http://www.inspection.gc.ca/plants/imports/airs/eng/1300127512994/1300127627409>.

⁶⁴ WTO documents G/STR/N/12/CAN, and G/STR/N/13/CAN, 6 August 2010.

⁶⁵ WTO document G/STR/N/14/CAN, 6 July 2012.

the FFMC on 1 December 2017,⁶⁶ and Alberta withdrew from the FFMC with the closure of its commercial fisheries in 2014, leaving, in practice, the Northwest Territories as the sole remaining jurisdiction.⁶⁷ The FFMC is required by law to operate on a self-sustaining basis. The corporation has no exclusive rights or privileges on imports.

4.1.3.4 Domestic support

4.91. Canada has a number of fisheries programmes at the federal level, with all support provided through budgetary measures. According to the OECD, total government financial transfers to the marine capture fisheries sector in Canada were CAD 905 million in 2016 (up from CAD 701 million in 2013) (Table 4.14). The major single element of financial support was the Employment Insurance Program for Fishers, which totalled CAD 299 million in 2016, and represented the equivalent of about 32% of total budgetary support to fisheries. Some 28% of total budgetary support was directed to the Small Craft Harbour Program.⁶⁸ Among the various management programmes, the Integrated Fisheries Management programme was the main financial support recipient in 2016. Total support to fisheries accounted for about 19% of the total landed value.

Table 4.14 Budgetary support to fisheries in Canada 2013-16

(CAD million)

	2013	2014	2015	2016
Fisheries support estimate - total	700.6	696.6	826.6	905.2
Transfers to individual fishers - budgetary	247.9	255.6	272.3	298.6
Employment insurance benefits for fishers	247.9	255.6	272.3	298.6
General service support estimate	494.6	483.2	598.3	646.7
Small Craft Harbour Program	96.0	101.2	216.0	255.7
Agri-Marketing Program	1.7	0.5	2.2	2.5
Management of resources	396.9	381.5	380.2	388.5
Management expenditures	274.2	262.7	263.6	269.8
Aboriginal strategies and governance	81.5	86.6	84.4	80.5
Aquatic animal health	5.4	5.0	5.1	6.2
Fisheries protection	48.7	40.5	44.0	44.6
Genomics and biotechnology	3.0	3.1	3.4	3.0
Integrated Fisheries Management	125.3	116.6	116.4	124.6
International engagement	10.2	10.9	10.4	11.0
Stock enhancement programmes	27.8	27.4	27.0	27.5
Salmonid enhancement programme	27.8	27.4	27.0	27.5
Enforcement expenditures	94.9	91.4	89.6	91.1
Cost recovery charges	-41.9	-42.2	-44.0	-40.1
Cost recovery charges, for resource access rights	-40.6	-41.2	-43.0	-38.9
Licence fees	-38.7	-38.5	-39.5	-34.9
Vessel and fishermen registration	-1.9	-2.7	-3.5	-3.9
Cost recovery charges, for infrastructure access	-1.3	-0.9	-1.1	-1.2
Small Craft Harbour Program - fees	-1.3	-0.9	-1.1	-1.2

Source: OECD Fisheries Support Estimate database. Viewed at: https://stats.oecd.org/Index.aspx?datasetcode=FISH_FSE.

4.92. Canada also manages six fisheries funds, which are jointly coordinated by the federal, provincial and territorial governments. Three are new programmes (see below) that have recently become available, and three are long-standing programmes, i.e. the Aboriginal Fisheries Strategy Allocation Transfer Program (ATP), the Atlantic Integrated Commercial Fisheries Initiative (AICFI), and the Pacific Integrated Commercial Fisheries Initiative (PICFI) (Table A3.2). The Atlantic Fisheries Fund has been available since August 2018 to support projects with an emphasis on innovation, infrastructure and science partnerships in Newfoundland and Labrador, Nova Scotia, New Brunswick, and Prince Edward Island.⁶⁹ The Canadian Fish and Seafood Opportunities Fund is a new cost-shared fund (70% federal and 30% provincial/territorial) to promote market access and development for

⁶⁶ WTO document G/STR/N/17/CAN, 13 July 2018.

⁶⁷ Alberta suspended all commercial fishing in 2015, and focused its activities on sport fishing, resulting in no deliveries. Fisheries and Oceans Canada, *Engagement Report - November 2017*. Viewed at: <http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/comm/ffmc-cpea/FFMC-engagement-CPEA-eng.htm>.

⁶⁸ Small Craft Harbours is a national programme to provide the commercial fishing industry with safe and accessible facilities (through harbour maintenance, and divestiture).

⁶⁹ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/fm-gp/initiatives/fish-fund-atlantic-fonds-peche/index-eng.html>.

the fish and seafood industry.⁷⁰ The Fisheries and Aquaculture Clean Technology Adoption Program is a national funding programme, investing CAD 20 million during the period of 2017-21, to improve environmental performance in the fisheries sector.⁷¹ The Program provides funding for up to 75% of an eligible project's costs. At provincial level, a fuel tax rebate may be available for gasoline consumed in, or by, fishing, for example, in Newfoundland and Labrador.⁷²

4.1.3.5 International arrangements

4.93. Canada is party to several international agreements on fisheries, and has engaged in joint management of fisheries resources, including by sharing knowledge and best practices, and by providing science advice through scientific peer-review processes, with international partners including the United Nations Food and Agriculture Organization (FAO) and the Organisation for Economic Co-operation and Development (OECD), as well as Regional Fisheries Management Organizations (RFMOs) such as the Northwest Atlantic Fisheries Organization (NAFO) and the Inter-American Tropical Tuna Commission (IATTC).⁷³ Most RFMOs have developed management strategies in their specific areas (e.g. the North Atlantic Ocean for the NAFO) to set TACs, technical measures, and monitoring/control obligations for high seas fisheries resources and highly migratory fish stocks.

4.94. Canada continues to cooperate with international partners to fight illegal, unreported, and unregulated (IUU) fishing worldwide. As noted in the previous Review, in November 2010, Canada signed the Port State Measures Agreement (PSMA), which is the first binding international agreement to specifically target IUU fishing.⁷⁴ The PSMA sets measures to prevent vessels engaged in IUU fishing from using ports and landing their catches. Canada has yet to ratify the PSMA and continues to work toward ratification. As part of the ratification process, and in order to meet its commitments under the PSMA, amendment to the Coastal Fisheries Protection Act (CFPA) and related regulations are currently being updated.⁷⁵ Canada is also a contracting party to six RFMOs⁷⁶, and actively engages in combating illegal fishing activities. The DFO is responsible for the administration of Canada's Catch Certification Program⁷⁷, which provides a catch certification for fish exports to the European Union, attesting that fish and fish products originate from legal fisheries. The Program's scope was expanded to include certification schemes for Chile, Japan, and Ukraine.⁷⁸

4.95. Besides IUU fishing, on 3 October 2018, Canada and nine other countries⁷⁹ signed an Agreement to Prevent Unregulated Commercial Fishing on the High Seas in the Central Arctic Ocean. This prohibits commercial fishing in the high seas of the Central Arctic Ocean for at least 16 years.⁸⁰ As part of the Agreement, there will be a joint scientific research and monitoring programme, including data sharing, to improve understanding of the area's ecosystems, and determine conservation and management measures for fish stocks. The Agreement will enter into force once all ten Parties have ratified it. Moreover, although they are non-binding agreements, Canada has signed several Memoranda of Understanding (MOUs) with other countries, including China, Norway,

⁷⁰ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/fm-gp/initiatives/opportunities-fund-fonds-initiatives/index-eng.html>.

⁷¹ Fisheries and Oceans Canada online information on <http://www.dfo-mpo.gc.ca/aquaculture/business-entreprises/factap-patppa-eng.htm>.

⁷² The Government of Newfoundland and Labrador online information. Viewed at: https://www.fin.gov.nl.ca/fin/tax_programs_incentives/business/gasolinetax.html.

⁷³ Other RFMOs include the International Commission for the Conservation of Atlantic Tunas (ICCAT); the North Atlantic Salmon Conservation Organization (NASCO); the North Pacific Anadromous Fish Commission (NPAFC); and the Western and Central Pacific Fisheries Commission (WCPFC).

⁷⁴ FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted in 2009.

⁷⁵ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/international/isu-iuu-09a-eng.htm>.

⁷⁶ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/international/dip-rfmo-eng.htm>.

⁷⁷ The programme was created in response to the European Union's IUU fishing regulation implemented on 1 January 2010.

⁷⁸ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/fm-gp/ccp-pcc/export/catch-country-pays-captures-eng.html>.

⁷⁹ China, Denmark (in respect of Greenland and the Faroe Islands), the European Union, Iceland, Japan, the Russian Federation, Norway, Republic of Korea, and the United States.

⁸⁰ Government of Canada. Viewed at: <https://www.canada.ca/en/fisheries-oceans/news/2018/10/canada-signs-international-agreement-to-prevent-unregulated-fishing-in-the-high-seas-of-the-central-arctic-ocean.html>.

Portugal, the Russian Federation, and Spain, as well as agreements for increased bilateral cooperation in the areas of fisheries management and science research conducive to better international fishery and ocean governance.⁸¹

4.96. With respect to aquaculture, Canada has continuously cooperated with international organizations, such as the FAO and the OECD, as well as with partner countries, such as the United States, to strengthen the existing mechanism to foster sustainable aquaculture development. Among several ongoing programmes with other partners, and as part of commitments under the Canada-United States Regulatory Cooperation Council Joint Forward Plan in August 2014⁸², Canada and the United States established a partnership to deepen their collaboration and advance regulatory cooperation for the aquaculture sector, through technical collaboration, the sharing of effective regulatory practices and standards, joint studies, and annual meetings.

4.2 Mining and Energy

4.2.1 Overview

4.97. Canada accounts for a large share of the world's proven oil and gas reserves, and significant mineral wealth; and the mining and energy sectors are particularly important to the economy. The minerals sector contributed approximately 19.5% to total goods exports in 2017. The energy sector contributed approximately 22.5% to total goods exports in the same year⁸³, as well as to many (e.g. pipeline and environmental services) inputs into the sector and the mining value chain. Together, the two sectors accounted for 42% of total exports.⁸⁴

4.98. Sectoral policy is particularly complex, as it involves economic, environmental and social considerations. Indeed, many resource development and extractive projects are located in – or near – Indigenous communities, with which the Government of Canada has a legal duty to consult when their rights may be affected by a proposed resource project. Canada is in the process of putting in place better rules for the governance of such projects and creating a modern energy regulator. This new approach will provide investors and companies certainty that good projects can move forward, while also ensuring inclusive engagement in review processes and that the environment is protected. As a key element of this endeavour, in June 2018, Bill C-69 was passed in the House of Commons, with amendments following feedback from Indigenous peoples, industry stakeholders, and the broader public. Canada will continue this engagement as the proposed legislation makes its way through the Parliamentary process.

4.99. In Canada, about 80% of greenhouse gas emissions come from energy.⁸⁵ As Canada is a Party to the United Nations Framework Convention on Climate Change, both the federal and provincial governments have set targets for GHG emissions reductions, and have implemented plans for the energy sector, and particularly for the oil and gas sector.⁸⁶ Improvements are being broadly implemented across the sector. For example, oil sand emissions per barrel decreased 29% from 2000 to 2016. In spring 2017, the Minister of Natural Resources launched the Generation Energy initiative, a national dialogue from which emerged that Canada's energy future is one where energy efficiency is enhanced, innovation in clean power is fostered, renewables are adopted, oil and gas is cleaner, and communities, including those of Indigenous peoples, are supported. The Government of Canada is acting on this advice and is working with provinces and territories to enhance and

⁸¹ Fisheries and Oceans Canada online information. Viewed: <http://www.dfo-mpo.gc.ca/international/dip-mou-eng.htm>.

⁸² Government of Canada. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/corporate/transparency/acts-regulations/canada-us-regulatory-cooperation-council/joint-forward-plan-august-2014.html>.

⁸³ Natural Resources Canada (NRcan) online information. Viewed at: <https://www.nrcan.gc.ca/energy/facts/energy-economy/20062>.

⁸⁴ Energy exports were CAD 112.6 billion in 2017, and minerals and metals domestic exports were CAD 97.5 billion. Viewed at: <https://www.ic.gc.ca/app/scr/tdst/tdo/crtr.html?timePeriod=5%7CComplete+Years&reportType=DE&searchType=All&productType=NAICS¤cy=CDN&countryList=ALL&runReport=true&grouped=GROUPED&toFromCountry=CDN&naArea=9999>.

⁸⁵ Natural Resources Canada (NRcan) online information. Viewed at: <https://www.nrcan.gc.ca/energy/facts/energy-ghgs/20063#L1>.

⁸⁶ IEA (2015), *Energy Policies of IEA Countries - Report on Canada*. Viewed at: <http://www.iea.org/publications/freepublications/publication/EnergyPoliciesofIEACountriesCanada2015Review.pdf>.

develop clean growth strategies. For instance, a recent Environmental Performance Review of Canada in 2017 touches on mining in its analysis of energy efficiency and natural resource management.⁸⁷ The mining industry has committed to practices and standards to ensure the safe and sustainable development of the mineral resources. Serious environmental incidents at operating mines are rare. The construction, operation, closure, and reclamation of mines are subject to strict provincial and territorial regulatory requirements, along with federal requirements, related to fish and fish habitat protection, wildlife and wildlife habitat protection, uranium mines, and the control of metal mine effluents. The Mining Association of Canada's Towards Sustainable Mining initiative has been adopted by a number of countries around the world.

4.100. Increased U.S. production of oil and gas from shale formations drove down prices, and reduced U.S. requirements for imports of natural gas. The authorities indicated that the consumption of Western Canadian natural gas by the Central Canadian markets of Ontario and Quebec was displaced, to some extent, by cheaper U.S. imports from the nearby Marcellus shale gas basin. Lower natural gas prices were followed by the fall in world oil prices, reducing revenues and royalties in the upstream sector. As a result, some greenfield projects were delayed or cancelled, and drilling activity declined since 2015.⁸⁸ Despite these challenges, Canada saw significant positive activity in its oil and gas sector in 2018. For example, Canada received final investment decisions with LNG Canada, which will enable access to higher global natural gas prices. Imperial's Aspen oil sands project was also secured. Further, low prices for natural gas and natural gas liquids (e.g. propane and ethane) created additional opportunities for the export of natural gas liquids outside of North America, as well as for additional petrochemicals production in Canada.

4.101. Mining companies faced lower prices since a cyclical peak in 2011, largely due to oversupply in global markets. However, the authorities are confident that continued global economic growth will generate new investment opportunities. As at August 2018, 108 major mining-related projects (e.g. mine constructions, redevelopments, expansions, and processing facilities) were in construction or planned to begin construction in the next ten years, representing CAD 72 billion in potential investment.⁸⁹

4.2.2 Institutional and legal framework

4.102. Under the Constitution, the provinces have ownership over those natural resources (including electricity) that lie within their boundaries and, thus, regulatory oversight rests primarily within their jurisdiction, including with respect to the lease of mining rights for exploration, local distribution, storage, and royalty regimes. The Federal Government has jurisdiction over: imports and exports; international and inter-provincial pipelines and electric power lines; uranium and nuclear power; and (with exceptions) ownership and administration of mineral and energy resources in northern territories and offshore.

4.103. The main institutions that participate in the sector are:

- Natural Resources Canada (NRCan), the federal ministry mandated to ensure the sustainable development and competitiveness of Canada's natural resources, including pipelines, energy development, and trade.⁹⁰ The Major Projects Management Office (MPMO) functions within NRCan since 2007, and acts, *inter alia*, as a single window into the federal regulatory system for major resource projects⁹¹;

⁸⁷ OECD (2017), *OECD Environmental Performance Reviews: Canada 2017*. Viewed at <https://www.oecd-ilibrary.org/docserver/9789264279612-en.pdf?expires=1538384942&id=id&accname=ocid54015567&checksum=552BC1F21C2E5372A0AB7FB3C8829433>.

⁸⁸ Although it is true that natural gas specific greenfield projects are being delayed, this is not necessarily the case for all natural gas drilling and production. For instance, drilling continues in specific liquid-rich natural gas plays, to derive condensates. On the other hand, Petronas, a major natural gas reserve holder and producer, indicated that it is shutting off a large portion of its natural gas wells because of poor market conditions. Viewed at: <https://energynow.ca/2018/12/lng-canada-partner-petronas-cuts-natural-gas-output-due-to-plunging-prices/>.

⁸⁹ Natural Resources Canada (NRCan) online information. Viewed at: <http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/emmc/pdf/2018/en/major-projects-planned-or-Under-Construction-2018-2028-eng.pdf>.

⁹⁰ Natural Resources Canada (NRCan) online information. Viewed at: <https://www.nrcan.gc.ca/home>.

⁹¹ MPMO online information. Viewed at: <https://mpmo.gc.ca/home>.

- the National Energy Board (NEB), an independent regulatory body created to oversee the international and inter-provincial aspects of the energy sector. The NEB conducts compliance activities, and may issue Administrative Monetary Penalties ranging from CAD 25,000 for individuals to a maximum of CAD 100,000 for companies, per day, per infraction⁹²;
- the Canadian Environmental Assessment Agency;
- Environment and Climate Change Canada;
- the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), which interprets and applies the provisions of the Atlantic Accord and the Atlantic Accord Implementation Acts to all activities of oil and gas operators in the Canada-Newfoundland and Labrador Offshore Area and oversees operator compliance with those statutory provisions.

4.104. The Government of Canada is proposing to create the Canadian Energy Regulator (CER), a new federal energy regulator with the required independence and the proper accountability to oversee a strong, safe and sustainable Canadian energy sector in the 21st century. Legislation has been introduced in Parliament to this end (Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts). The CER would be located in Calgary, and would replace the NEB. It is expected to introduce modern and effective governance; enhanced certainty and timelier decisions; strengthened safety and environmental protection; more inclusive engagement processes; and greater Indigenous participation.

4.105. Federal and provincial governments collaborate on energy and mining policy through fora such as the Energy and Mines Ministers process. Recently, they focused on energy efficiency, responsible oil and gas development, electricity reliability, energy access, and technology innovation. In July 2015, Canada's Premiers adopted the Canadian Energy Strategy, updating the 2007 Shared Vision for Energy in Canada. The Strategy calls for this collaboration to address international climate change goals, and social and environmental responsibility. Canada's Mines Ministers announced the development of the Canadian Minerals and Metals Plan (CMMP) in March 2018. The CMMP aims to solidify Canada's position as a global mining leader, and to lay the foundation for lasting success at home and abroad. In addition, on 7 December 2018, Canada's First Ministers agreed to lead a discussion on the development of a framework for a clean electric future, including hydroelectricity, aimed at using clean, reliable and affordable electricity, and to promote access to domestic and international markets. The specific content of this framework will be developed over the course of 2019.⁹³

4.2.3 Trade policy developments

4.106. Trade policy for the mining and energy sectors remains largely unchanged since the previous TPR, excepting updated regulations to ban asbestos and products containing it which came into force on 30 December 2018.⁹⁴ The Government of Canada is committed to market principles in both sectors, and intervenes mainly to achieve policy objectives it considers the market will not meet on its own, such as energy efficiency, cleaner energy, health and safety, and science and technology. Both sectors are open to trade and to foreign investment, subject to the horizontal rules in the Investment Canada Act (ICA) and other reservations, some of which are listed in Canada's FTAs (Table 4.15). Several provincial reservations regarding investment remain in place. No new provisions on market access or national treatment regarding mining and energy have been agreed to within the CETA or the CPTPP.⁹⁵ Chapter 25 of the CETA, Bilateral Dialogues and Cooperation, includes the establishment of the Bilateral Dialogue on Raw Materials, through which parties endeavour to establish and maintain effective cooperation on raw materials.

⁹² NEB online information. Viewed at: <https://www.neb-one.gc.ca/index-eng.html>.

⁹³ IEA (2015). *Energy Policies of IEA Countries – Canada 2015*. Viewed at: <http://www.iea.org/publications/freepublications/publication/EnergyPoliciesofIEACountriesCanada2015Review.pdf>.

⁹⁴ WTO (2015). *Trade Policy Review – Canada*. Viewed at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/TPR/S314R1.pdf>.

⁹⁵ Government of Canada online information. Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/toc-tdm.aspx?lang=eng>.

4.107. The CUSMA contains no new provisions related to mining and maintains obligations and provisions on trade in energy products and services, including in the areas of national treatment and market access, rules of origin, customs and trade facilitation, and cross-border trade in services and investment. However, it modernized the rules that govern North American energy trade. It contains an enforceable bilateral Canada-U.S. side letter on energy regulatory measures and regulatory transparency. The commitments of the letter will provide for enhanced regulatory transparency and cooperation in the North American energy sector and include disciplines with respect to access to electric transmission facilities and pipeline networks. The CUSMA also removes the "energy proportionality clause", includes an annex on harmonizing energy-efficiency performance standards and test procedures, and resolves a technical issue related to diluents that had previously added unnecessary duties and other fees.

Table 4.15 Reservations regarding energy and mining

Specific sector	Provisions contained in trade agreements
Electricity transmission SIC 4911 Electric power systems industry	The approval of the National Energy Board (NEB) is required for the construction and operation of international electricity transmission lines.
Oil and gas transportation SIC 461 Pipeline transport industry	The approval of the NEB is required for the construction and operation of all inter-provincial or international pipelines for the transmission of oil or gas. A public hearing must be held, and a certificate of public convenience and necessity issued where the pipeline in question is longer than 40km. Pipelines shorter than 40km may be authorized by an order without a public hearing. All modifications to, and extensions of, pipelines must be approved by the NEB. All tolls for the transmission of oil and gas in NEB-regulated pipelines and all tariff matters must be filed with, or approved by, the NEB. A public hearing may be held to consider toll and tariff matters.
Oil and gas SIC 071 Crude petroleum and natural gas industries; CPC 883 Services incidental to mining*	Persons who hold oil and gas production licenses, or shares therein, for discoveries made after 5 March 1982 must be Canadian citizens ordinarily resident in Canada, permanent residents or corporations incorporated in Canada. No production license may be issued for discoveries made after 5 March 1982 unless the Minister of Energy, Mines and Resources is satisfied that the Canadian ownership rate of the interest owner in relation to the production license on the date of issuance would not be less than 50%. "Interest-owner" is defined in the Canada Petroleum Resources Act to mean "the interest holder who owns an interest or the group of interest holders who hold all the shares of an interest". The Canadian ownership requirements for oil and gas production licenses for discoveries made prior to 5 March 1982 are set out in the Canada Oil and Gas Land Regulations.
Oil and gas SIC 071 Crude petroleum and natural gas industries; CPC 883 Services incidental to mining*	Under the Canada Oil and Gas Operations Act, the approval of the Minister of Energy, Mines and Resources of a "benefits plan" is required to receive authorization to proceed with any oil and gas development project. A "benefits plan" is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan. The Act permits the Minister to impose an additional requirement on the applicant, as part of the benefits plan, to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in any proposed work referred to in the benefits plan. The Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada-Newfoundland Atlantic Accord Implementation Act have the same requirement for a benefits plan, but also require that the benefits plan ensure that: a. prior to carrying out any work or activity in the offshore area, the corporation or other body submitting the plan establish in the applicable province an office where appropriate levels of decision-making take place; b. expenditures be made for R&D to be carried out, and for education and training to be provided, in the province; and c. first consideration be given to goods produced, or services provided from, within the province, where those goods or services are competitive in terms of fair market price, quality and delivery. d. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned, or cooperatives operated by them, participate in the supply of goods and services used in any proposed work or activity referred to in the plan. e. In addition, Canada may impose any requirement, or enforce any commitment or undertaking, for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts. f. Provisions similar to those set out above will be included in laws or regulations to implement the Yukon Oil and Gas Accord and Northwest Territories Oil and Gas Accord which, for purposes of this reservation, shall be deemed, once concluded, to be existing measures.

Specific sector	Provisions contained in trade agreements
Oil and gas SIC 071 Crude petroleum and natural gas industries; CPC 883 Services incidental to mining*	Investment: pursuant to the Hibernia Development Project Act, Canada and the "Hibernia Project Owners" may enter into agreements whereby the Project Owners undertake to perform certain work in Canada and Newfoundland, and to use their "best efforts" to achieve specific Canadian and Newfoundland "target levels" in relation to the provisions of any "benefit plan" required under the Canada-Newfoundland Atlantic Accord Implementation Act. "Benefits plans" are further described in the Schedule of Canada, Annex I, page I-C-20. In addition, Canada may impose, in connection with the Hibernia Project, any requirement, or enforce any commitment or undertaking, for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.
Uranium Industry classification SIC 0616 Uranium mines; CPC 883 Services incidental to mining**	Ownership by "non-Canadians", as defined in the ICA, of a uranium mining property is limited to 49% at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is, in fact, "Canadian controlled", as defined in the ICA. Exemptions from the policy are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the ownership of the property cannot be found. No increase in non-Canadian ownership is permitted. In considering a request for an exemption from the policy, an investor from the European Union or a CPTPP-signatory country, Canada will not require that it be demonstrated that a Canadian partner cannot be found.

Source: Government of Canada online information. Viewed at: <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecq/text-texte/A1-F.aspx?lang=eng>.

4.108. In the GATS, Canada made commitments for services incidental to mining, including drilling and field services and rental of equipment with operator (CPC 883) and site preparation for mining (CPC 5115), tabling no market access and national treatment limitations for modes 1-3, but leaving mode 4 unbound. No horizontal national treatment limitations for modes 1 and 2 were included in the Schedule, other than: (a) tax measures that result in differences of treatment with respect to expenditures made on scientific research and experimental development services; (b) Ontario: tax measures resulting in differences of treatment with respect to payments for management services made to affiliated non-residents. Also, foreign corporations carrying on business in Ontario must appoint an Ontario agent for service of legal documents; (c) Alberta: first consideration may be given to service suppliers from within Alberta or Canada, where competitive in terms of price and quality, in the case of all large-scale energy projects needing Industrial Development, Forest Management, Oil Sands, Power Plant or Gas Plant and Coal Development Permits; and (d) Newfoundland and Nova Scotia: regulations require that first consideration be given to services provided within the province to petroleum operations where they are competitive in terms of price, quality and delivery. No commitment was made with respect to electricity transmission or oil and gas transportation.

4.109. In general, according to an inventory by the OECD of export-restricting measures placed on 66 metals and minerals by all major exporters, Canada does not restrict exports of mining products.⁹⁶ In particular, NAFTA prohibits the Federal Government from imposing any export volume restrictions, except for: the relief of a critical shortage of natural gas; domestic price stabilization; the acquisition of products in short supply; and conservation measures in relation to restrictions on domestic production or consumption.

4.110. An MOU signed between Canada, the United States and Mexico in December 2014 provides for enhanced cooperation on energy data, including import and export data. It also provides for shared geospatial information related to energy infrastructure, and exchanges of information on projections of cross-border energy flows. It also aims at developing a cross-reference for terminology commonly used in the energy sector, with a view to harmonizing terms, concepts and definitions for energy products and flows, and understanding their differences. In May 2015, the trilateral Climate Change and Energy Working Group was created, involving the energy ministers of the United States, Canada and Mexico.

4.111. Government participation in the sector remains important. State-owned Crown corporations with international trade activity are prevalent, mainly in the provincial electricity markets. Several provinces maintain price controls on fuel products. Local content policies (LCPs) are used in the sector. A recent case study of Canada by the OECD provides a comprehensive review of provincial and federal investment, employment, R&D, technological transfer, and other LCPs, including a discussion of the benefit evaluation embodied therein.⁹⁷

⁹⁶ OECD, Database on export restrictions. Viewed at: <http://www.compareyourcountry.org/trade-in-row-materials?cr=oeecd&lg=en&page=0&visited=1#>.

⁹⁷ OECD (2017), *Local Content Policies in Minerals-Exporting Countries: The Case of Canada*, Trade Policy Note. Viewed at:

4.112. Since 2009, Canada has implemented a corporate social responsibility (CSR) strategy for extractive sector companies operating abroad. Updated in 2014 and to be reviewed in 2019, it articulates the expectation that all Canadian firms operating abroad respect all applicable laws, operate transparently, consult with host governments, and implement internationally-recognized CSR best practices.⁹⁸ These include the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles, the IFC's Performance Standards on Social and Environmental Sustainability, and the voluntary principles on security and human rights.⁹⁹ The four pillars of the strategy are: enabling the promotion of CSR guidelines; strengthening local capacity and training for responsible business and anti-corruption; fostering networks and partnerships to support responsible business; and voluntary mechanisms to help resolve disputes that may arise.

4.113. Since June 2015, the Extractive Sector Transparency Measures Act establishes mandatory reporting standards whereby extractive entities engaged in the commercial development of minerals, oil and natural gas, and either listed on a Canadian stock exchange or having a place of business or assets in Canada, must report annually on payments of CAD 100,000 or more made to any government or government body in Canada or abroad.¹⁰⁰ Voluntary dispute resolution mechanisms include Canada's National Contact Point for the OECD Guidelines for Multinational Enterprises (for all sectors), and the Canadian Ombudsperson for Responsible Enterprise position, announced in 2018 (see below).¹⁰¹

4.114. On 17 January 2018, the Minister of International Trade announced two new initiatives to strengthen Canada's approach to responsible business conduct for Canadian companies doing business and operating abroad. The first is the creation of an independent Canadian Ombudsperson for Responsible Enterprise (CORE) mandated to investigate allegations of human rights abuses linked to Canadian corporate activity abroad. The CORE will seek to assist, wherever possible, in collaboratively resolving disputes or conflicts between impacted communities and Canadian companies. It will be empowered to independently investigate, report, recommend remedies, and monitor their implementation. The CORE's scope will be multi-sectoral, initially focusing on the mining, oil and gas, and garment sectors, with the expectation to expand, within a year of the Ombudsperson taking office, to other business sectors. The second is the creation of a multi-stakeholder Advisory Body to advise the Government on responsible business conduct abroad.¹⁰²

4.2.4 Taxation

4.115. An overview of federal and provincial mining tax regimes in the sector is provided in the NRCan website. Mining operations are subject to federal, provincial and territorial income taxes, and to specific mining taxes. Since 2007, the federal corporate tax rate for income from mineral, gas, and oil production was lowered (16.5% for 2011, and 15% for 2012 and thereafter). When combined with the provincial/territorial income tax rate, overall income taxation ranges from 25% to 31%.¹⁰³ Royalty and mining tax regimes vary by provinces and territories. While rates vary from 10% to 22.9%, they are generally profit-based.

4.116. Taxes have traditionally been calculated with reference to a number of tax credits or deductions, the most specific of which are broadly described on the NRCan website.¹⁰⁴ Reforms are currently underway to phase out inefficient fossil fuel subsidies and reduce GHG emissions. In

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP\(2016\)3/PART2/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP(2016)3/PART2/FINAL&docLanguage=En).

⁹⁸ Global Affairs Canada, *Responsible Business Conduct Abroad*. Viewed at

<https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng>.

⁹⁹ Natural Resources Canada online information. Viewed at: <https://www.nrcan.gc.ca/mining-materials/mining/responsible-mineral-development/corporate-social-responsibility/18693>.

¹⁰⁰ NRCan online information. Viewed at: <https://www.nrcan.gc.ca/mining-materials/estma/18180>.

¹⁰¹ Global Affairs Canada, *Responsible Business Conduct Abroad*. Viewed at

<https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng#RBCDispute>

¹⁰² <https://www.canada.ca/en/global-affairs/news/2018/01/advancing-canadasapproachonresponsiblebusinessconductabroad.html>

¹⁰³ NRCan online information, *Tables on the Structure and Rates of Main Taxes*. Viewed at: <https://www.nrcan.gc.ca/mining-materials/taxation/mining-taxation-regime/8890>.

¹⁰⁴ NRCan online information, *Mining-specific tax provisions*. Viewed at: <https://www.nrcan.gc.ca/mining-materials/taxation/mining-specific-tax-provisions/8892>

particular, accelerated capital cost allowances (ACCAs) for tangible assets and Canadian Exploration Expense (CEE) treatment for intangible assets were phased out in oilsands projects as of 2015 and 2016, respectively, although allowances were introduced for other areas of the energy sector, such as for clean energy and LNG.

4.117. A distinct feature of the Canadian tax regime is the flow-through share (FTS) mechanism intended to assist companies in the energy and mining industries to raise money for eligible exploration, development, and project start-up expenses. By issuing FTSs, a company can renounce, or 'flow through' certain (unclaimed) expenses to the purchasers of such shares. These expenses are deemed to be incurred by the investor and not the company: the investor (which can be an individual or another corporation) receives a 100% tax deduction for the amount invested in the shares, plus a 15% federal mineral exploration tax credit (Mineral Exploration Tax Credit or METC) in the case of an eligible expense.¹⁰⁵ The FTS mechanism has no sunset date. The METC was extended for five years until 31 March 2024, as per the 2018 Fall Economic Statement.

4.2.5 Developments in subsectors

4.2.5.1 Natural gas, petroleum and pipelines

4.118. Canada is one of the world's largest producers and traders of natural gas (Table 4.16). Over half of Canada's production is exported, all to the United States; imports of natural gas, also exclusively from the United States, are substantial, mostly into Southern Ontario.

Table 4.16 Overview of Canada's natural gas industry, 2017

Criteria	Amount
Proven reserves	70 Tcf (17 th in the world)
Producer rank	4 th largest world producer
Gas exports as a share of total exports	1.9%
Exports, export market	51% of production, 100% to the United States

Source: Natural Resources Canada online information. Viewed at: <https://www.nrcan.gc.ca/energy/facts/natural-gas/20067>.

4.119. The recent fall in export values reflects the large increase in U.S. shale gas production, combined with the growing amount of associated gas that is produced as a by-product of drilling for condensates, resulting in further oversupply of natural gas and downward pressure on prices (Chart 4.5). The natural gas sector is governed by the Canada Oil and Gas Operations Act. According to the International Energy Agency (IEA), the Canadian natural gas market is fully liberalized, and appears to operate efficiently; natural gas prices are the lowest among IEA member States, and natural gas serves as an important feedstock to Canada's energy-intensive industries. None of the federal/provincial/territorial governments have a stake in companies involved in the exploration, production or processing of natural gas in Canada.

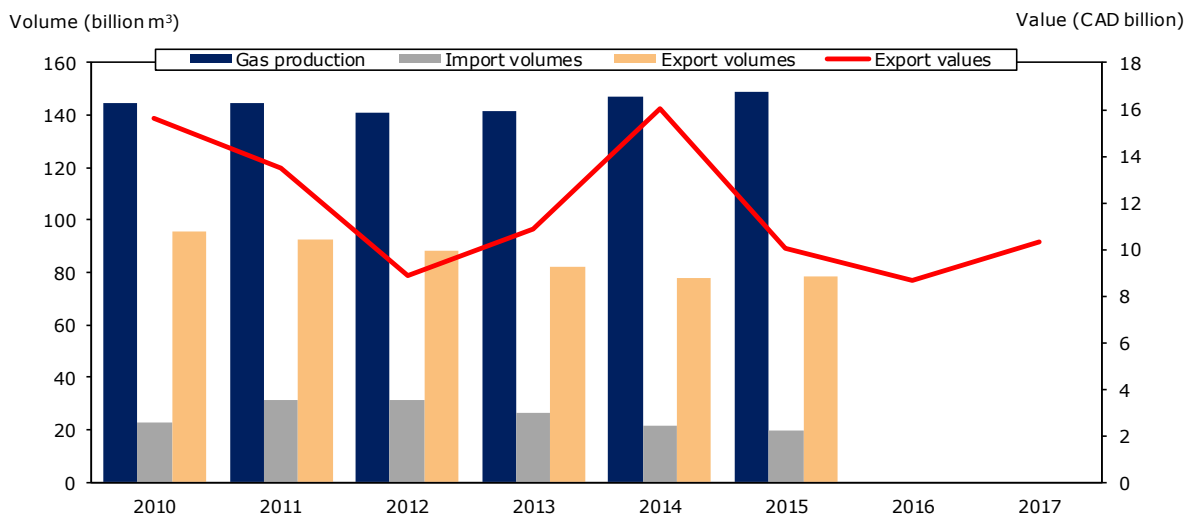
4.120. Exports of natural gas and natural gas liquids, including propane, butane and ethane, require authorization, either in the form of a short-term export order from the NEB (ethylene and propylene are exempt), or a long-term licence valid for up to 40 years.¹⁰⁶ When considering long-term natural gas export licences, the NEB assesses whether the supply of natural gas is large enough to easily accommodate domestic needs, while having regard to the trends in the discovery of gas in Canada. Import licences are also granted by the NEB, for a maximum of 25 years, "having regard to the equitable distribution of gas in Canada"; however, imports of propane, butane, ethane, ethylene and propylene are exempt, as these products have limited consumer implication, and are typically intermediary inputs in larger manufacturing supply chains. The diversification of LNG exports to markets beyond the United States, notably Asia and Europe, remains a policy priority, encouraged since 2015 by an accelerated capital cost allowance for assets used in facilities that liquefy natural gas. The intent to build new LNG export facilities – 13 in British Columbia, 2 in Quebec and 3 in

¹⁰⁵ NRCan online information, *Mining specific tax provisions*. Viewed at: <https://www.nrcan.gc.ca/mining-materials/taxation/mining-specific-tax-provisions/8892>.

¹⁰⁶ Until the National Energy Board Act was amended in June 2015, the maximum term length of an export permit had been 25 years. The duration of a licence begins on a date to be fixed in the licence and must not exceed 40 years in the case of a licence for the exportation of natural gas, and 25 years in any other case. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/N-7/page-27.html#h-86>.

Nova Scotia – was publicly announced, with a total proposed export capacity of 29 billion cubic feet per day of natural gas. Since 2011, 24 LNG projects were issued with long-term export licences. In 2018, LNG Canada announced that it will proceed with its proposed LNG export facility in Kitimat, BC. Canada has been importing small amounts of LNG since 2009 through its east coast Canaport LNG Facility.

Chart 4.5 Gas production and trade, 2010-17



Source: Statistics Canada. Tables 25-10-0047-01 and 12-10-0001-01. Viewed at: <https://www150.statcan.gc.ca/n1/en/type/data?MM=1#tables>

4.121. Canada is also one of the world's largest crude petroleum producers (Table 4.17). The crude oil sector is an important contributor to the Canadian economy, accounting for approximately 13% of the total value of merchandise exports. About two thirds of oil production is exported from Western Canada, almost entirely to U.S. refineries, which are closer to Western Canadian production than eastern Canadian refineries. Refineries in eastern provinces, with the exception of Quebec, rely mainly on non-U.S. imports.

Table 4.17 Overview of Canada's crude oil industry, 2017

Criteria	Amount
Proven reserves	166 billion barrels (3 rd in the world)
Producer rank	4 th largest world producer
Oil exports as a share of total merchandise exports	12.8%
Exports, export market	77% of production, 99% to the United States

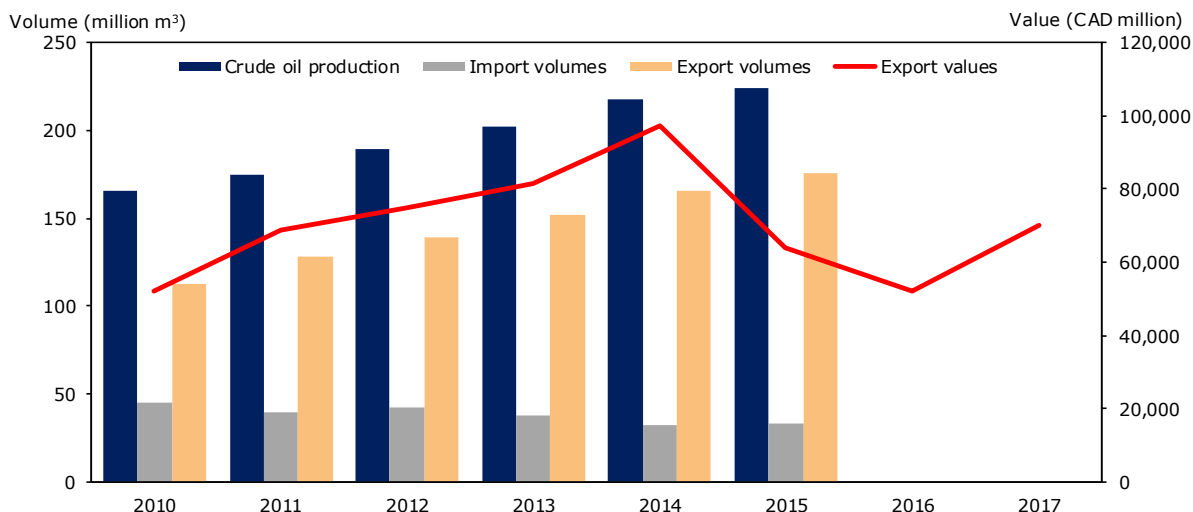
Source: NRCAN online information. Viewed at: <https://www.nrcan.gc.ca/energy/facts/crude-oil/20064>.

4.122. Many of the world's largest oil companies have operations in Canada's oil market, which is open to private, including foreign, investment. While there are several hundred companies with operations, the ten largest companies account for over half of total production. Most of the reserves are contained in oil sands, which account for nearly two thirds of total oil production. Export values fell substantially since their peak in 2014 (Chart 4.6), as global and regional prices decreased significantly.

4.123. Canadian oil imports are not regulated through a licensing regime. A short-term order from the NEB is required for exports of crude oil and refined petroleum products of one year or less (two years or less for heavy oil). NEB law and regulations also provide for long-term export licences for oil and petroleum products, of up to 25 years in duration. The simplified export order process for crude oil and petroleum products is apparently favoured, due to the expeditious approval (two working days) and renewal process, and the unlimited nature of the quantities that can be exported under this type of authorization.

4.124. The provinces have the jurisdiction to regulate petroleum product prices, and some provinces, such as Alberta, have the authority to license the export of oil to another province. Retail prices for fuel are regulated in some provinces, including Prince Edward Island, Newfoundland and Labrador, Nova Scotia, New Brunswick, and Quebec. In Quebec, fuel retail dealers have legal recourse against competitors' dealers selling below the minimum price level set by the Quebec Energy Board (*Régie de l'Énergie*). In Nova Scotia, the Utility and Review Board fixes the wholesale price for petroleum products, a maximum retail price, and minimum and maximum retail mark-ups.

Chart 4.6 Oil production and trade, 2010-17



Source: Statistics Canada. Tables 25-10-0014-01 and 12-10-0001-01. Viewed at: <https://www150.statcan.gc.ca/n1/en/type/data?MM=1#tables>.

4.125. Most petroleum production falls under the provinces' or shared jurisdictions. The Canada Development Investment Corporation (a Crown corporation) retains an 8.5% stake in the Hibernia offshore oil field, through its subsidiary, the Canada Hibernia Holding Corporation. However, as most of Canada's oil production occurs on provincial lands or lands under shared jurisdictions, any work or activity related to the exploration or drilling for oil or gas, or the production, conservation, processing or transportation of oil or gas, requires an operating licence or an authorization from the province.

4.126. The following are the major laws regulating petroleum activities:

- the Canada Petroleum Resources Act, which regulates interests in petroleum in relation to frontier lands that are not subject to a federal-provincial offshore shared management agreement;
- the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act on offshore petroleum resource management and revenue-sharing regulates exploration and development, which requires, *inter alia*, that projects give first consideration for training and employment to local residents in the province, and to goods manufactured in, and services provided from within, the province, as long as these are competitive in terms of market price, quality, and delivery¹⁰⁷;
- the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, on offshore petroleum resource management and revenue-sharing, which also contains in-province domestic content provisions¹⁰⁸; and

¹⁰⁷ Canada's Assembly online information. Viewed at: <https://www.assembly.nl.ca/legislation/sr/statutes/c02.htm>.

¹⁰⁸ Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act. Nova Scotia's legislature online information. Viewed at: <https://nslegislature.ca/sites/default/files/legc/statutes/canada-ns%20offshore%20petroleum.pdf>.

- the Indian Oil and Gas Act and its associated Regulations, which cover oil and gas activity on First Nation reserve lands.

4.127. The development of new oil pipeline transport infrastructure for supplying both the domestic and export markets is a priority. The Pipeline Safety Act, 2015 strengthens Canada's pipeline safety regime by building on the principles of incident prevention, preparedness and response, and liability and compensation. The Act enshrines the "polluter pays" principle and requires companies to have a sufficient financial capacity to respond to leaks, spills and ruptures, and account for their abandoned pipelines.

4.128. All pipelines within Canada are privately-owned and -operated, with the exception of: the natural gas transmission systems in Saskatchewan; one transmission line between Saskatchewan and Manitoba, owned and operated by subsidiaries of the provincial Crown corporation Sask Energy; and the Trans Mountain Pipeline (see below). Transmission tolls and tariffs (inter-provincial/international) and any expansions of the pipeline network require approval from the NEB, to ensure that open and non-discriminatory access exists for all shippers. Canada has not made any GATS commitments with respect to pipeline transport services.

4.129. In 2013, the pipeline company, Trans Mountain, submitted an expansion project to the NEB. The project included pipeline facilities that expand the existing 1,147 km Trans Mountain Pipeline system in Alberta and British Columbia, with about 981 km of new buried pipeline, new and modified facilities, and additional tanker-loading facilities at the Westridge Marine Terminal in Burnaby. This would amount to a trebling of Trans Mountain's oil shipping capacity from its current level of 300,000 bbl/d. In 2016, the NEB recommended that the Governor in Council approve the project, subject to 157 conditions; approval was granted in November 2016.¹⁰⁹ In 2017, a number of First Nations, the cities of Vancouver and Burnaby, and two non-governmental organizations applied for judicial review, claiming that the Government of Canada had failed to consult Indigenous peoples, and that the operation of project-related marine vessels was likely to result in significant adverse effects to the Southern resident killer whale. In May 2018, the Trans Mountain Pipeline and related infrastructure was purchased by the Government of Canada. In August 2018, the Federal Court of Appeal quashed the Governor in Council's Order in Council and the NEB certificate for the project.¹¹⁰ A NEB reconsideration process and new Indigenous consultations process, initiated by the Government of Canada, is underway.

4.2.5.2 Electricity and renewable energy

4.130. Canada is the world's sixth-largest producer of electric energy, two thirds of which generated by hydroelectricity (Table 4.18). The U.S. shale gas development brought down prices for natural gas, the main fuel in U.S. electricity generation; it therefore also brought down prices of wholesale electricity, and the revenues of Canada's electricity exporters, all directed to U.S. markets.

Table 4.18 Overview of Canada's electricity industry, 2017

Criteria	Amount
Electricity generation (2016)	648.4 TWh
Producer rank (2016)	6 th largest electricity generation, 2 nd largest exporter of electricity, 2 nd largest hydro generation, and 6 th largest producer of nuclear electricity globally
Trade balance	72 TWh exported; 10 TWh imported 0.5% of total merchandise exports
Exports, export market	11% of production, 100% to the United States

Source: NRCan online information. Viewed at: <https://www.nrcan.gc.ca/energy/facts/electricity/20068>.

4.131. Public ownership of electricity utilities is the norm in Canada, with a single, vertically-integrated provincial Crown corporation regulating electricity generation, internal transmission and distribution. There are some exceptions: Alberta has an open electricity market, while Ontario has a hybrid market. The provinces have various legal frameworks for independent

¹⁰⁹ NEB online information. Viewed at: <https://www.neb-one.gc.ca/pp/ctnflng/mjrpp/trnsmntnxpnsn/smmrrcmmndtn-eng.html>.

¹¹⁰ A summary of the case may be viewed at Canada's Federal Court of Appeal online information, at: [http://cas-cdc-www02.cas-satj.gc.ca/fca-caf/pdf/Executive_Summary_Trans_Mountain_\(English\)_clean.pdf](http://cas-cdc-www02.cas-satj.gc.ca/fca-caf/pdf/Executive_Summary_Trans_Mountain_(English)_clean.pdf).

power producers (IPPs), with whom they may enter into power purchase agreements. Electricity markets thus remain fragmented, with limited interconnection between provinces.

4.132. Canada is a net exporter of electricity, exclusively to the United States within the integrated North American electricity grid. There are 34 major transmission lines that connect the two countries and support major two-way power flows. The Federal Government has jurisdiction over matters of inter-provincial power lines and international trade, including the construction and operation of international power lines, and export authorizations.

4.133. The NEB grants electricity export permits depending on a number of factors, including the effects of exports on adjacent provinces, the environment, and fair market access for Canadians. Imports of electricity do not require authorization. Canadian utilities must provide reciprocal non-discriminatory open transmission access to U.S. utilities to be able to sell electricity directly to customers in the United States.

4.134. Electricity prices vary from province to province, depending, *inter alia*, on the type of electricity generation, the cost of transmission and local distribution, and whether prices are market-based or regulated. Overall, Canada's retail electricity prices are among the lowest of the International Energy Agency (IEA) members. With the exception of Alberta and Ontario, prices are regulated by a quasi-judicial board or commission. In Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, retail electricity tariffs are regulated on a cost-of-service basis. In Alberta, wholesale and retail markets are deregulated, and prices are market-determined, although households and smaller commercial consumers have the option of subscribing to a regulated tariff. Ontario has been moving towards regulated or contracted prices for energy.

4.135. The development, production and use of nuclear energy is regulated by the Canadian Nuclear Safety Commission (CNSC) under the Nuclear Safety and Control Act. The operation of nuclear power plants and facilities is regulated by the CNSC through a licensing system. Canada's existing nuclear power technology was designed by Atomic Energy Canada Ltd (AECL), a federal Crown corporation. In 2011, its commercial business was sold to SNC Lavalin and, in 2015, the restructuring of AECL's nuclear laboratories was completed with the establishment of a government-owned, contractor-operated model. Under the new model, AECL retains ownership of the lands, and other assets and liabilities of the nuclear laboratories, but it now delivers its remaining mandate through a long-term contract with the contractor, Canadian National Energy Alliance, which owns, and is responsible for the management and operations of, Canadian Nuclear Laboratories.

4.136. After Ontario's closure of all remaining coal-fired power plants in 2014, Canada implemented regulations on GHG emissions from coal-fired electricity plants, that effectively ban the construction of new coal-fired generation that does not utilize capture and storage technology. In 2016, Canada proposed amendments to these regulations to accelerate its commitment to the phase-out of conventional coal-fired power plants by 2030. In October 2014, SaskPower commissioned the world's first integrated carbon capture and storage facility at the Boundary Dam coal plant in Saskatchewan.¹¹¹ Despite the fact that, according to the IEA, Canada is not currently on track to meet its 2020 GHG emissions reduction goals, there are several positive trends, notably a marked decrease in emissions from electricity generation, and programmes at federal and provincial levels to deploy renewables.

4.137. Federal and provincial governments manage several programmes to encourage R&D in all sectors, including innovation in renewable energy, such as hydro, wind and solar energy, and biofuels.¹¹² Federal assistance encompasses grants, subsidized funding and other financial incentives, tax incentives, pricing (regulatory) subsidies, and support for R&D.¹¹³ According to the authorities, participation in these programmes by foreign enterprises established in Canada is not restricted.

4.138. The ecoENERGY for Renewable Power Program provides a 1 cent per kWh incentive for qualifying renewable energy projects commissioned by 31 March 2011. Projects are eligible to

¹¹¹ IEAGHG (2015), *Integrated Carbon Capture and Storage Project at SaskPower's Boundary Dam Power Station*, 2015/06, August 2015. Viewed at: https://ieaghg.org/docs/General_Docs/Reports/2015-06.pdf.

¹¹² NRCan online information. Viewed at: <https://www.nrcan.gc.ca/energy/renewable-electricity/7295>.

¹¹³ NRCan online information. Viewed at: <https://www.nrcan.gc.ca/energy/funding/21146>.

receive the incentive for electricity produced for up to ten years. The programme will end on 31 March 2021.

4.139. In Quebec, Hydro Québec has been using minimum regional-content requirements in its wind energy requests for proposals since 2004, notably to foster social and economic development of Indigenous communities.¹¹⁴

4.140. The Canadian Environmental Protection Act, 1999 and the Renewable Fuels Regulations, 2010 define a commitment to expand the production and use of biofuels, such as ethanol and biodiesel, under Canada's Renewable Fuels Strategy to reduce GHG emissions; these federal measures created substantial additional demand for ethanol and biodiesel. The four key elements of the strategy include:¹¹⁵

- a requirement for fuel producers and importers to comply with a renewable fuel content of 5% of average annual gasoline production or imports (and 2% of the diesel pool);
- support for biofuels production, led by the AAFC;
- support for next-generation technologies; and
- the Federal ecoEnergy for the Biofuels Program of 2007, which was completed in March 2018. Over its duration, this Program provided CAD 1.5 billion to support the production of renewable biofuel alternatives to gasoline and diesel. In April 2018, an evaluation of the Program was published.¹¹⁶

4.141. Five provinces have renewable fuels mandates equal to, or higher than, the current federal requirements to further emissions reductions and support their renewable fuels industry. In Ontario, fuel suppliers have been required to meet a 5% annual average ethanol content in gasoline since January 2007, changing to 10% beginning in 2020, and a 4% annual renewable content in diesel since January 2017. Fuel suppliers in Manitoba have been subject to an 8.5% ethanol content requirement in gasoline since 2008, and a 2% biodiesel content requirement (which includes renewable diesel) in diesel fuel since 1 November 2009. In Saskatchewan, a 7.5% ethanol content in gasoline applies, and 2% renewable content in diesel. In Alberta, a 5% ethanol content in gasoline applies, and a 2% renewable content in diesel. In British Columbia, a 5% ethanol content in gasoline applies, and a 4% renewable content in diesel. Quebec is also planning to put in place a 5% ethanol content in gasoline, and a 2% renewable content in diesel.¹¹⁷

4.2.5.3 Minerals

4.142. Canada is also a leader in the extraction and trade of minerals, mining over 60 commodities. It is the world's leader in the production (by volume) of potash, used in various types of fertilizers, and ranks among the top global producers of aluminium, cobalt, diamonds, gemstones, gold, nickel, platinum group metals, salt, titanium concentrates, and uranium. The commodities with the highest production values are presented in Chart 4.7. Total mineral production in 2017 was valued at CAD 43.9 billion, a 4% increase from 2014. Over the review period, the share of gold and coal in the total value of production increased significantly, as oversupply was progressively reduced on world coal markets, whilst the production of gold continued to increase in Canada, sustained by

¹¹⁴ Hydro Québec online information. Viewed at: <http://news.hydroquebec.com/en/press-releases/486/hydro-quebec-distribution-issues-a-call-for-tenders-for-450-mw-of-wind-power/>.

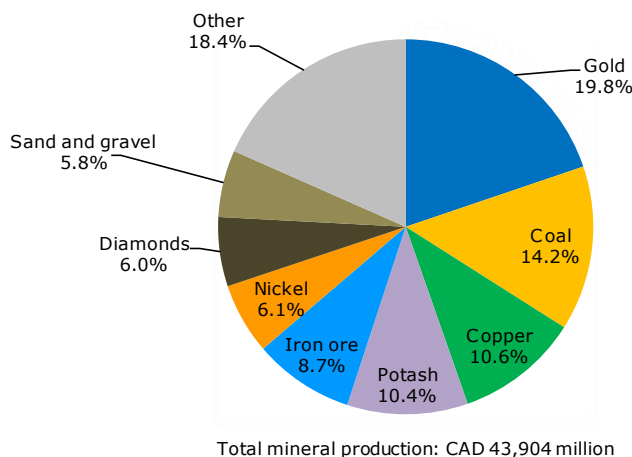
¹¹⁵ NRCAN online information. Viewed at: <https://www.nrcan.gc.ca/energy/alternative-fuels/programs/12358>.

¹¹⁶ NRCAN online information, *EcoEnergy for Biofuels program: Lessons Learnt Assessment*. Viewed at: <https://www.nrcan.gc.ca/21100>.

¹¹⁷ Online information, viewed at: for Ontario: <https://www.ontario.ca/page/ethanol-gasoline>, <https://www.ontario.ca/laws/regulation/050535>, <https://www.ontario.ca/page/greener-diesel-regulation> (4% bio-based diesel content since 2017); for Manitoba: <https://www.gov.mb.ca/jec/energy/biofuels/index.html>; for Saskatchewan: <http://www.qp.gov.sk.ca/documents/english/Regulations/Regulations/e11-1r1.pdf>, <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/R19-001.pdf>; for Alberta: <https://www.alberta.ca/renewable-fuels-standard-resources.aspx> (Alberta refers to ethanol as "renewable alcohol in gasoline"); for British Columbia: <https://www2.gov.bc.ca/gov/content/industry/electricity-alternative-energy/transportation-energies/renewable-low-carbon-fuels>; and for Quebec: <https://politiqueenergetique.gouv.qc.ca/mise-en-oeuvre/plan-daction/objectif/?orientation=2>.

strong world prices.¹¹⁸ Trade in minerals is also important, with domestic exports of minerals and metal products valued at CAD 97.4 billion, and imports at CAD 81.6 billion, suggesting intensive intra-industry trade in ores, concentrates, and semi- and final-processed mineral products, thanks to generally zero or low tariffs on mineral products.

Chart 4.7 Mineral production by value, 2017



Note: Preliminary data.

Source: WTO Secretariat, based on Natural Resources Canada (NRCAN) online information. Viewed at: <http://sead.nrcan.gc.ca/prod-prod/ann-ann-eng.aspx>.

4.143. While mining activities fall under provincial jurisdiction, mining projects are subject to both provincial and federal Environmental Assessments. The federal Canadian Environmental Assessment Agency and Environment and Climate Change Canada have an important role in the Environmental Assessments of almost all major mining projects, as well as serving as the Crown's consultation coordinator for many major resource projects. Canada is currently working to modernize its federal environmental assessment and regulatory processes. The proposed changes, including a new impact assessment process, aim to support jobs and economic opportunities through a more timely, predictable, and transparent assessment process that strengthens investor confidence, restores public trust, advances Indigenous reconciliation, and enhances environmental performance.

4.144. Canada's Mines Ministers announced the development of the Canadian Minerals and Metals Plan (CMMP) in March 2018. The Plan focuses on six Strategic Directions that are organized by thematic priorities, for supporting a competitive and sustainable sector, including Economic Development and Competitiveness; Advancing the Participation of Indigenous Peoples; the Environment; Science, Technology and Innovation; Community; and Global Leadership. A series of Action Plans will operationalize this Plan.

4.145. NRCAN is responsible at the federal level for implementing Canada's international commitments, including under the Kimberly Process Certification Scheme (KPCS) for trade in rough diamonds, through its 2002 Federal Export and Import of Rough Diamonds Act and associated Regulations.¹¹⁹ Thus, certificates must accompany imports and exports of rough diamonds, and shipments must be sealed to ensure that the requirements are met under the KPCS.

4.146. The following downstream restrictions regarding the processing of minerals within the province or the country were scheduled under the CETA:

- in Ontario, the Mining Act requires that all minerals extracted in Ontario be processed within Canada to produce "metal useful in the arts without further treatment", though it is possible to obtain an exemption from this provision from the Ontario government;

¹¹⁸ NRCAN online information. Viewed at: <https://www.nrcan.gc.ca/mining-materials/publications/17722>.

¹¹⁹ Kimberly Process online information. Viewed at: <https://www.kimberleyprocess.com/>.

- in New Brunswick, the Mining Act indicates that, if required to do so by the Minister at the time a mining lease is granted or at any time thereafter, a lessee shall process, or further process, in the province any minerals mined in the province under the mining lease; and
- in Nova Scotia, the Mineral Resources Act indicates that, except for testing, no person shall remove from the province to a place outside of Canada for processing an output from a mine in the province without first obtaining the consent of the Minister.

4.147. Canada is the world's leading potash producer and exporter, possessing the world's largest reserves.¹²⁰ Approximately 95% of Canadian potash production is exported. Two of the three producers export their products to offshore markets exclusively through Canpotex Limited, a marketing, distribution company handling all potash exports to overseas markets. In 2013, a number of anti-trust lawsuits involving the Canpotex company were settled in the United States, after consumers filed suit for price-fixing cartel activities.¹²¹ In January 2018, a merger between the Potash Corporation of Saskatchewan and Agrium was officially announced, under the name Nutrien.¹²² Canpotex, at mid-2018, was wholly-owned by Nutrien and the other largest Saskatchewan potash producer, Mosaic, each shareholder having equal ownership in the company. The Bethune mine opened in June 2017, and is owned by K+S AG, which is not a participant in Canpotex.

4.148. Canada is the world's second-largest uranium producer after Kazakhstan, mining 13.1 kilotonnes in 2017, and accounting for about 22% of world production and 21% of world exports.¹²³ Canada exports around 88% of its production. The regulation of uranium mining is mainly a federal responsibility. At the federal level, uranium mining, refining, processing, fuel fabrication, and nuclear reactor operation are regulated by the Canadian Nuclear Safety Commission (CNSC). Under the Non-Resident Ownership Policy in the Uranium Mining Sector, foreign ownership of uranium mining property is limited to 49%. Ownership levels of more than 49% are permitted on a project-by-project basis if it can be clearly established that the project is, in fact, Canadian-controlled. Exemptions may also be granted in cases where it can be demonstrated that Canadian partners cannot be found.

4.3 Manufacturing

4.3.1 Overview

4.149. Manufacturing is one of the cornerstones of the economy. It represents more than 10% of the total of GDP, accounting for approximately CAD 198 billion in 2017.¹²⁴ The sector covers 21 industry groups that produce goods for both industrial and consumer use. Manufacturing is also one of Canada's most important economic sectors in terms of employment, engaging 1.7 million people in a wide range of industries across the country.

4.150. Canadian manufacturers are increasingly linked with foreign markets, through participation in global value chains. They export more than CAD 360 billion each year, representing 67% of all merchandise exports. In 2017, close to half of what manufacturers sold was exported. Notably, over three quarters of exports were destined for the United States.

4.151. Acknowledging a highly competitive global environment, the Government promotes fair competition for Canadian firms abroad, and seeks to ensure that the Canadian market remains open and competitive. In this context, Canada actively participates in trade negotiations to open markets with the purpose of reducing or eliminating tariffs on manufacturing inputs, machinery and equipment, as well as reducing non-tariff measures.

¹²⁰ Natural Resources Canada online information. Viewed at: <http://www.nrcan.gc.ca/mining-materials/markets/commodity-reviews/2012/15358>.

¹²¹ Competition Policy International, *US/Canada: Potash giants offer millions in cartel settlement with farmers*. Viewed at: <https://www.competitionpolicyinternational.com/us-canada-potash-giants-offer-millions-in-cartel-settlement-with-farmers/>.

¹²² NUTRIEN information online. Viewed at: <https://www.nutrien.com/>.

¹²³ Natural Resources Canada online information. Preliminary figures for 2017. Viewed at: <https://www.nrcan.gc.ca/energy/facts/uranium/20070>.

¹²⁴ Government of Canada, *Canadian manufacturing sector gateway*. Viewed at: <https://www.ic.gc.ca/eic/site/mfg-fab.nsf/eng/home>.

4.152. Table 4.19 presents a snapshot of Canada's applied MFN tariffs covering some of the most important groups that represent the Canadian manufacturing sector. They include aerospace and automotive, and iron and steel industries. Among them, imports of the iron and steel industry have the largest share of duty-free lines (99.1%), while for vehicles about 41.5% of tariff lines are duty-free, and for products of the aerospace industry, some 83.3%.

Table 4.19 Applied MFN tariffs on selected manufactured products, 2019

Groups	No. of tariff lines at the 8-digit level	Simple average (%)	Range (%)	Share of duty-free lines (%)
Aerospace ^a	18	1.6	0-15.5	83.3
Iron and steel ^b	211	0.1	0-6.5	99.1
Vehicles ^c	159	3.6	0-9.5	41.5

a HS 88.

b HS 72 excluding HS 7204; and HS 7301, HS 7302, HS7303, HS 7304, HS 7305, HS 7306, and HS 7307.

c HS 840731, HS 840732, HS 840733, HS 840734, HS 840820, HS 8511, HS 8512, HS 8609; and HS 87 excluding HS 8709, HS 8710, HS 8711, HS 8712, HS 8713, HS 8714, and HS 8715.

Source: WTO Secretariat calculations, based on CBSA online information. Viewed at: <https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2019/menu-eng.html>; and WTO IDB.

4.153. Manufacturing in Canada vies to be a cutting-edge, innovative and strongly diverse sector, relying on information technologies, additive manufacturing, automation systems, nanotechnology and biotechnology. In this sense, in 2018, the Canadian manufacturing sector was responsible for 35% (CAD 6.3 billion) of all business enterprise R&D investments.¹²⁵

4.3.2 Automotive industry

4.154. The automotive industry plays a key role in Canada's economy. With a CAD 18 billion contribution to GDP, it is one of Canada's largest manufacturing sub-sectors. The industry directly employs more than 130,000 people, with an additional 400,000 people in aftermarket services and dealership networks.¹²⁶ Canada produces passenger vehicles, trucks and buses, auto parts and systems, truck bodies and trailers, tyres, and machines-tools-dies-moulds (MTDMs). Furthermore, it is one of the global leaders in emerging automotive technologies, such as lightweight materials, advanced safety systems, software and cybersecurity, connected/autonomous vehicles, artificial intelligence (AI), alternative powertrains (electric vehicles and fuel cells), and vehicle safety and testing.

4.155. Canada is the world's 11th producer of light vehicles. Chrysler and General Motors are Canada's leading automobile manufacturers; others include Toyota, Ford and Honda. Five Original Equipment Manufacturers (OEM) assemble light vehicles at Canada's eight auto assembly plants. Automotive manufacturing is highly concentrated in Ontario which accounts for 100% of Canada's light vehicle production, 400 parts manufacturers and 94% of industry shipments; however, there are also important manufacturing clusters in Quebec, Manitoba and British Columbia.¹²⁷

4.156. Canada is part of the fully integrated North American market with an annual production of almost 2.24 million vehicles, of which 85% are exported. Canada's automotive industry benefits from Canada's FTAs, which include the NAFTA, the CETA, the Canada-Korea FTA, and the CPTPP. These trade agreements allow automotive investors in Canada to benefit from integrated global supply chains.¹²⁸ As per Table 4.20 below, Canada's main trading partners for automotive products, for both export and imports, are the United States, Mexico and the EU. Japan, the Republic of Korea, and China are also important trading partners.

¹²⁵ Government of Canada, *Canadian Manufacturing Sector Gateway*. Viewed at: <https://www.ic.gc.ca/eic/site/mfg-fab.nsf/eng/home>.

¹²⁶ Government of Canada, *Canada Automotive Industry*. Viewed at: <https://www.ic.gc.ca/eic/site/auto-auto.nsf/eng/home>.

¹²⁷ Government of Canada, *Canada Automotive Industry*. Viewed at: <https://www.ic.gc.ca/eic/site/auto-auto.nsf/eng/home>.

¹²⁸ Invest in Canada online information. Viewed at: <https://www.investcanada.ca/industries/automotive>.

Table 4.20 Main indicators of the automotive industry, 2013-18

	2013	2014	2015	2016	2017	2018
GDP at basic prices (CAD million)^a	15,440	16,763	16,524	16,943	16,511	16,344
<i>% of total manufacturing</i>	8.5%	8.9%	8.7%	8.9%	8.4%	8.1%
Motor vehicle manufacturing	6,905	7,222	6,808	6,910	6,549	6,148
Motor vehicle body and trailer manufacturing	953	1078	1123	1037	1133	1,185
Motor vehicle parts manufacturing	7,582	8,463	8,593	8,996	8,829	9,011
Exports (CAD million)	60,041	65,574	74,950	81,717	76,585	73,730
<i>% of total domestic exports</i>	13.5%	13.3%	15.6%	17.4%	15.3%	13.7%
Motor vehicle manufacturing	46,910	50,055	57,144	63,638	59,392	55,012
Motor vehicle body and trailer manufacturing	951	1,084	1,353	1,449	1,501	1,952
Motor vehicle parts manufacturing	12,181	14,435	16,453	16,631	15,692	16,766
Major destinations (% of total)						
United States	97.1%	97.0%	96.8%	95.7%	96.7%	95.3%
Mexico	1.3%	1.3%	1.7%	2.2%	1.8%	1.9%
EU	0.3%	0.3%	0.3%	0.3%	0.5%	0.9%
Imports (CAD million)	79,381	85,419	95,392	101,467	107,075	107,502
<i>% of total imports</i>	16.7%	16.7%	17.8%	19.0%	19.1%	18.1%
Motor vehicle manufacturing	41,218	45,524	50,870	53,535	59,251	59,986
Motor vehicle body and trailer manufacturing	3,822	3,959	3,605	3,347	3,731	4,554
Motor vehicle parts manufacturing	34,341	35,937	40,917	44,585	44,093	42,962
Major suppliers (% of total)						
United States	66.1%	66.5%	65.5%	65.7%	64.4%	63.6%
Mexico	11.9%	13.0%	13.4%	13.3%	14.2%	14.1%
EU	7.1%	7.3%	7.5%	7.9%	8.0%	8.3%
Japan	7.0%	5.3%	5.5%	5.4%	5.6%	5.8%
Korea, Rep. of	3.5%	3.4%	3.3%	3.3%	3.2%	3.2%
China	2.6%	2.5%	2.6%	2.4%	2.6%	2.7%

a Based on seasonally adjusted GDP at basic prices, in chained 2012 dollars.

Note: Based on North American Industry Classification System (NAICS) codes 3361, 3362, and 3363.

Source: Information provided by the authorities; and Government of Canada, Statistics Canada and Trade Data Online.

4.157. Canada implemented a number of programmes aimed at stimulating R&D in the automotive industry. In 2008, the Federal Government introduced the Automotive Innovation Fund (AIF), providing CAD 250 million over five years to back strategic, large-scale R&D projects in the automotive sector that support innovative, greener and more fuel-efficient vehicles.

4.158. In July 2017, the AIF was consolidated into the Strategic Innovation Fund (SIF). The SIF supports innovation activities across all industrial sectors, including the automotive sector (Section 3.3.1).

4.159. Canada's motor vehicle safety standards are developed by Transport Canada under the authority of the Motor Vehicle Safety Act. Since the last TPR, the Government amended Schedule IV of the Motor Vehicle Safety Regulations, by revising three Canada motor vehicle safety standards, thereby allowing motor vehicle manufacturers to meet either United States or Canadian requirements. These standards were identified as being suitable for harmonization during the CETA negotiations between Canada and the European Union.

4.3.3 Aircraft

4.160. Canada is home to more than 700 aerospace companies, employing over 85,000 professionals. Although GDP stemming from aerospace products and parts manufacturing totalled CAD 7.6 billion in 2017, the direct economic impact from enterprises for which aerospace is

the main activity reached CAD 12.6 billion to GDP.¹²⁹ This included companies engaging in maintenance, repair, and overhaul (MRO) activities. Between 2012 and 2017, MRO activities grew by over 25%, while manufacturing activity saw a slight contraction.¹³⁰ Most aerospace manufacturing activity takes place in Central Canada, with Quebec and Ontario capturing 52% and 28%, respectively, of the employment share. Western and Atlantic Canada capture close to 60% of MRO activities. The share of STEM¹³¹ employment in aerospace manufacturing in 2017 was almost three times the manufacturing average. Women made up close to a quarter of those employed in STEM occupations.¹³²

4.161. In 2017, Canadian aerospace industry sales were made up of: commercial aerospace (86%), defence aerospace (12%), and space systems (2%). Canada's aircraft industry exports about 75% of its output to customers worldwide.¹³³ The industry is highly integrated, with over 60% of exported products supply-chain related. Overall, during the 2013-17 period, the share of supply-chain exports increased by almost 50%. The main destination of Canadian aerospace products and parts is the United States, with a share of over 50% of the total in 2017 (Table 4.21). It is noticeable, however, that the share of Canadian exports to the United States gradually declined during the period covered by this Report. The EU and Switzerland are the next largest importers of Canadian aerospace industry products and parts; they increased their share during the 2013-17 period, accounting for 21.1% and 6.6% of the total, respectively, in 2017. The major exporters of aerospace products and parts to Canadian markets are the United States, the EU, Mexico and China, with the United States capturing the largest share (close to 58%) of total Canadian imports.

Table 4.21 Aerospace products and parts manufacturing, 2013-17

	2013	2014	2015	2016	2017
GDP at basic prices (CAD million)^a	7,970	8,685	8,204	7,929	7,625
% of total manufacturing	4.4%	4.6%	4.3%	4.2%	3.9%
Domestic exports (CAD million)	11,262	14,501	16,541	14,387	14,179
% of total domestic exports	2.5%	2.9%	3.4%	3.1%	2.8%
Major destinations (% of total)					
United States	61.4%	62.4%	64.6%	60.2%	56.0%
EU-28	17.2%	18.3%	17.9%	23.8%	20.7%
Switzerland	1.1%	0.6%	0.5%	2.7%	6.6%
Imports (CAD million)	10,531	12,822	16,427	14,150	14,790
% of total imports	2.2%	2.5%	3.1%	2.7%	2.6%
Major suppliers (% of total)					
United States	51.2%	57.5%	56.8%	58.7%	57.9%
EU-28	30.6%	26.2%	28.0%	25.0%	24.0%
Mexico	3.3%	3.1%	2.7%	2.6%	2.7%
China	1.4%	1.5%	1.7%	2.1%	2.4%

Note: Based on North American Industry Classification System (NAICS) code 3364.

a Based on seasonally-adjusted GDP at basic prices, in chained 2012 dollars.

Source: Government of Canada, Statistics Canada and Trade Data Online.

4.162. The aerospace industry is the top R&D stakeholder among all Canadian manufacturing industries, with investments totalling CAD 1.7 billion in 2017. The aerospace manufacturing industry contributed close to a quarter of total manufacturing R&D in Canada, and was over seven times as R&D intensive as the manufacturing average.¹³⁴ Firms capturing more than 70% of the aerospace

¹²⁹ Innovation, Science and Economic Development Canada (2018), *State of Canada's Aerospace Industry 2018 Report*. Viewed at: <https://aiac.ca/wp-content/uploads/2018/06/State-of-Canadas-Aerospace-Industry-2018-Report.pdf>.

¹³⁰ Industry Canada online information. Viewed at: https://www.ic.gc.ca/eic/site/ad-ad.nsf/eng/h_ad03964.html.

¹³¹ Science, technology, engineering and mathematics.

¹³² Innovation, Science and Economic Development Canada (2018), *State of Canada's Aerospace Industry 2018 Report*. Viewed at: <https://aiac.ca/wp-content/uploads/2018/06/State-of-Canadas-Aerospace-Industry-2018-Report.pdf>.

¹³³ Industry Canada online information. Viewed at: <https://www.ic.gc.ca/eic/site/ad-ad.nsf/eng/ad03909.html>.

¹³⁴ Innovation, Science and Economic Development Canada (2018), *State of Canada's Aerospace Industry 2018 Report*. Viewed at: <https://www.ic.gc.ca/eic/site/ad-ad.nsf/eng/ad03909.html>.

industry's activity collaborated on R&D with academia, government, and suppliers.¹³⁵ A relatively large number of small and medium-sized businesses participate in the aerospace business, particularly in the area of composites, precision machining, coatings, and component system design. Transport Canada maintains an aviation certification system to ensure that Canadian aerospace products meet the highest standards in safety and reliability. These certification standards are recognized by the U.S. Federal Aviation Administration (FAA) and other regulatory bodies.¹³⁶

4.3.4 Steel

4.163. Canada's steel industry represented 2.1% of total manufacturing production in 2018. It is an important contributor in the provision of jobs and key inputs for other major industries, including energy, advanced manufacturing, construction, and auto production. In 2018, the industry employed more than 23,000 people, and contributed CAD 4.2 billion to GDP.¹³⁷

4.164. In 2017, Canada was the world's 16th largest steel importer, and its imports represented about 2% of all steel imported globally. In value terms, it represented 2.3% of the total goods imported in 2018 (Table 4.22).¹³⁸ Canada was the world's 19th largest steel exporter in 2017, representing 1% of all steel exported globally. In value terms, it represented 1.7% of the total goods Canada exported in 2018.¹³⁹

4.165. Canada imports steel from over 100 countries and territories. The ten major steel exporters to Canada include the United States, Mexico, China, Brazil, Romania, Germany, Turkey, the Republic of Korea, Japan, and Chinese Taipei. Combined, these countries accounted for 86% of Canada's steel imports in 2017, with the United States accounting for the largest share of Canada's steel imports. In 2017, about USD 14 billion-worth of steel was traded between Canada and the United States.¹⁴⁰ Notably, while Canada's top source countries have shifted from year to year, the United States has ranked as its top import source for steel products for more than 20 years. On the export side, 88% of Canada's steel exports were to the United States, and 6% to Mexico, in 2018. The United States and Mexico have ranked first and second as top export markets for Canada's shipments of steel for more than 20 years.

Table 4.22 Steel industry, 2013-18

	2013	2014	2015	2016	2017	2018
GDP at basic prices (CAD million)^a	3,629	3,916	3,709	3,727	4,134	4,288
% of total manufacturing	2.0%	2.1%	2.0%	2.0%	2.1%	2.1%
Iron and steel mills and ferro-alloy manufacturing	2,418	2,520	2,363	2,417	2,435	2,601
Steel product manufacturing from purchased steel	1,211	1,396	1,346	1,310	1,699	1,687
Exports (CAD million)	6,757	7,899	7,671	6,983	8,393	9,065
% of total domestic exports	1.5%	1.6%	1.6%	1.5%	1.7%	1.7%
Iron and steel mills and ferro-alloy manufacturing	4,712	5,627	5,414	5,265	6,165	6,701
Steel product manufacturing from purchased steel	2,045	2,272	2,257	1,718	2,228	2,364
Major destinations (% of total)						
United States	86.2%	88.1%	86.6%	85.4%	91.0%	88.1%
Mexico	4.9%	5.3%	6.7%	7.2%	6.0%	5.7%
EU-28	3.4%	2.4%	2.8%	3.1%	2.1%	2.1%

¹³⁵ Innovation, Science and Economic Development Canada (2018), *State of Canada's Aerospace Industry 2018 Report*. Viewed at: <https://aiac.ca/wp-content/uploads/2018/06/State-of-Canadas-Aerospace-Industry-2018-Report.pdf>.

¹³⁶ Industry Canada, *Aerospace and Defence in Canada*. Viewed at: <https://www.ic.gc.ca/eic/site/ad-ad.nsf/eng/ad03909.html>.

¹³⁷ Government of Canada, *Steel and aluminum*. Viewed at: http://international.gc.ca/trade-commerce/controls-controles/steel_alum-acier_alum.aspx?lang=eng

¹³⁸ Global Steel Trade Monitor. Viewed at: <https://www.trade.gov/steel/countries/pdfs/imports-Canada.pdf>.

¹³⁹ Global Steel Trade Monitor. Viewed at: <https://www.trade.gov/steel/countries/pdfs/exports-Canada.pdf>.

¹⁴⁰ Government of Canada, *Steel and aluminum*. Viewed at: http://international.gc.ca/trade-commerce/controls-controles/steel_alum-acier_alum.aspx?lang=eng.

	2013	2014	2015	2016	2017	2018
Imports (CAD million)	10,897	13,056	11,069	9,934	12,334	13,697
% of total imports	2.3%	2.5%	2.1%	1.9%	2.2%	2.3%
Iron and steel mills and ferro-alloy manufacturing	8,984	11,087	9,476	8,683	10,587	11,775
Steel product manufacturing from purchased steel	1,913	1,969	1,593	1,252	1,747	1,922
Major suppliers (% of total)						
United States	65.2%	57.7%	57.8%	60.1%	55.7%	45.5%
EU-28	9.9%	11.2%	12.9%	11.0%	11.2%	12.4%
China	6.5%	9.0%	9.1%	7.9%	9.2%	8.5%
Korea, Rep. of	3.0%	3.6%	3.6%	4.3%	3.8%	5.5%
Mexico	2.4%	2.4%	1.7%	1.9%	3.0%	3.6%
Japan	3.0%	3.0%	3.9%	3.2%	2.9%	2.6%

a Based on seasonally adjusted GDP at basic prices, in chained 2012 dollars.

Note: Based on North American Industry Classification System (NAICS) codes: 3311 and 3312

Source: Information provided by the authorities; and Government of Canada, Statistics Canada and Trade Data Online.

4.166. Resulting from a Section 232 of the U.S. Trade Expansion Act of 1962 investigation, on 31 May 2018, the United States announced the imposition of tariffs of 25% on imports of steel from Canada and other countries, to take effect on 1 June 2018. In response to the imposition of these tariffs, on 31 May 2018, Canada announced its intention to impose, on 1 July 2018, surtaxes or similar trade-restrictive countermeasures on up to CAD 16.6 billion in imports of steel, aluminium and other products from the United States, equivalent to the value of the 2017 Canadian exports affected by the U.S. measures.

4.167. On 29 June 2018, the Canadian Government announced that it would make available up to CAD 2 billion to defend and protect the interests of Canadian workers and businesses in the steel, aluminium and manufacturing industries. Included in a suite of measures is support of up to CAD 250 million through the Strategic Innovation Fund (SIF), to help bolster the competitiveness of Canadian manufacturers and better integrate the Canadian supply chain of steel and aluminium. This support programme enables steel and aluminium producers to enhance their production capabilities, to better meet the product demand from end-users within Canada. As at 31 January 2019, funding for two steel producers had been announced under the SIF, for a total contribution of CAD 79.9 million.

4.168. The authorities are of the view that restrictions on global steel trade raise the risk of substantial trade diversion of foreign steel products into Canada. On 25 October 2018, the Government of Canada imposed provisional safeguard measures on seven categories of steel products, in response to an increase in imports that caused, or threatened to cause, serious injury to domestic producers. The provisional safeguards are in the form of TRQs whereby a 25% surtax applies to imports of subject goods that exceed a specified quantity threshold based on historical import volumes. The provisional safeguards will be in place for 200 days, pending an inquiry by the CITT into whether longer-lasting safeguards are necessary.¹⁴¹

4.4 Services

4.4.1 Financial services

4.4.1.1 Overview

4.169. Canada has one of the soundest financial services industries in the world, ranking 7th out of 137 economies in terms of financial market development, according to the World Economic Forum's (WEF) 2017-18 Global Competitiveness Report.¹⁴² The sector is a major contributor to the economy, accounting for over 6% of GDP in 2017. It is relatively concentrated, with a few large institutions

¹⁴¹ WTO documents G/SG/N/6/CAN/4, G/SG/N/7/CAN/1, G/SG/N/11/CAN/1, 15 October 2018 and G/SG/N/7/CAN/1/Suppl.1, 5 February 2019.

¹⁴² World Economic Forum (2017), *The Global Competitiveness Report, 2017-18*, Geneva. Viewed at: <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>.

accounting for the bulk of total assets. In the deposit-taking industry, the top six federally-regulated banks (plus provincially-regulated Desjardins Group, an organization of *caisses populaires* and credit unions) account for 94% of total deposit-taking institution assets. Similarly, about 90% of the assets of federally-regulated life and health insurance companies are held by the three largest domestic firms. Canada's deposit-taking system is well capitalized (Table 4.23).

Table 4.23 Selected financial soundness indicators, deposit-taking institutions 2013-18

(%, unless otherwise indicated)

	2013	2014	2015	2016	2017	2018 Q2
Total assets (CAD billion)	3,854	4,179	4,666	5,014	5,277	5,408
Total assets (% of GDP)	203	210	234	246	246	247
Total capital ratio	14.3	14.2	14.2	14.8	14.8	15.2
Tier 1 ratio	11.7	11.9	12.1	12.5	12.9	13.2
Capital to assets ratio	5.0	4.9	5.1	5.2	5.2	5.2
Ratio of non-performing loans to gross loans	0.57	0.52	0.51	0.59	0.48	0.41
Return on assets (net income/end-period assets)	1.1	1.1	1.0	1.0	1.1	1.2
Return on equity	22.3	22.5	20.7	19.9	21.4	22.4
Liquid assets as share of total assets	11.3	11.0	11.5	10.9	10.7	10.7
Foreign exchange loans as share of total loans	27.7	30.1	33.4	34.3	35.6	36.3

Source: IMF Financial Stability Indicators Database (2019) and information provided by the Canadian authorities.

4.170. The financial sector's legal and institutional framework remained broadly unchanged since the last Review. The main federal financial institutions statutes are: The Bank Act, the Insurance Companies Act, and the Trust and Loan Companies Act. These statutes contain sunset provisions that require their renewal by Parliament every five years. These provisions encourage the periodic review of the federal financial section framework, to ensure it remains robust and technically sound.

4.171. Over 2016 and 2017, as part of its regular review of the federal framework, Finance Canada undertook a broad consultations process with stakeholders. Overall, stakeholders indicated that the federal framework is functioning well, but recommended targeted amendments to ensure that it remains up to date with trends and emerging issues, including technological innovation and changes in the business models of financial institutions.

4.172. The first two phases of measures from the review of the federal framework were announced in Budget 2018 and introduced in the Budget Implementation Act, 2018, No.1 and in the Budget Implementation Act, 2018, No.2. The first phase of measures reset the sunset date in the financial institution statutes and brought forward priority items from the review. These included:

- adapting the federal framework to the emergence of financial technology;
- introducing a new infrastructure investment authority for life and health insurance companies; and
- providing flexibility for regulated non-bank deposit-taking institutions to use bank terminology to describe their products and services.

4.173. A second phase of measures introduced a number of targeted amendments in response to specific issues identified during the consultation process. This included establishing thresholds below which financial institutions can acquire a substantial investment of certain entities without having to seek approval by the Superintendent of Financial Institutions. This reduces administrative burdens on financial institutions, while allowing the Office of the Superintendent of Financial Institutions (OSFI) to focus resources on approvals of transactions entailing material risks.

4.174. Other federal financial sector statutes, such as the Canadian Payments Act, 2001, the Payment Clearing and Settlement Act, and the Pension Benefits Standards Act, are not subject to automatic review. In 2015, the Canadian Payments Act was amended to enhance the independent decision-making of Payments Canada's board, and make Payments Canada more accountable to the Government and to the public. Amendments to the Payment Clearing and Settlement Act, to implement a resolution framework for Canada's systemically important financial market infrastructures, received Royal Assent on 21 June 2018.

4.175. The regulation and oversight of financial institutions is shared among federal, provincial, and territorial authorities. At the federal level, the Minister of Finance is responsible for the overall stability of the sector. The prudential oversight function is carried out by the OSFI, an independent agency, which reports to Parliament through the Minister of Finance. The OSFI's functions include advancing a regulatory framework to control and manage risks; regulating and supervising federally-regulated financial institutions and pension plans to determine whether they are in sound financial condition and meeting their legislative requirements; monitoring and evaluating system-wide or sectoral developments that may have a negative impact on the financial condition of federally-regulated financial institutions; and providing input into developing and interpreting legislation and regulations. The OSFI also issues guidelines and provides regulatory approvals for certain types of transactions. The Bank of Canada is responsible for promoting the stability and efficiency of the financial system, in addition to its mandate of implementing monetary policy. It carries out this mandate by, *inter alia*, providing liquidity to the financial system, overseeing critical clearing and payment systems, and identifying systemic risks to the financial system. The Financial Consumer Agency of Canada (FCAC) is the federal government agency responsible for protecting consumers of financial services and products. The Canada Deposit Insurance Corporation (CDIC), a federal Crown corporation, provides insurance on certain deposits placed with its member institutions, and is the resolution authority for its members. All these federal institutions collaborate through the Financial Institutions Supervisory Committee (FISC).

4.176. Clearing and settlement systems (also known as Financial Market Infrastructures or FMIs) are a critical component of Canada's financial system, as they process about CAD 200 billion worth of transactions daily.¹⁴³ Although they operate freely, those that have the potential to pose systemic risk or payments system risk are subject to a closer oversight by the Bank of Canada's Payment Clearing and Settlement Act. They are required to observe applicable risk-management standards and provide the Bank of Canada with advance notice of any significant change to their operations, rules, or procedures. While the Bank of Canada is permitted to charge fees for oversight services, it presently does not. The following systems were designated as systemically important FMIs¹⁴⁴: The Large Value Transfer Systems (LVTS) owned and operated by Payments Canada¹⁴⁵; CDSX, a clearing system for debt and securities, operated by the Canadian Depository for Securities Limited; and the Canadian Derivatives Clearing Service, operated by the Canadian Derivatives Clearing Corporation. The Automated Clearing Settlement System (ACSS) is also owned and operated by Payments Canada and has been designated as a Prominent Payment System.

4.177. In 2018, the Payment Clearing and Settlement Act was amended to introduce a resolution framework for the designated FMIs. The legislative amendments received Royal Assent and will be brought into force once related regulations have been developed to fully implement the FMI Resolution Framework. A payment modernization project is also underway. Payments Canada has embarked on a multi-year initiative to modernize the core clearing and settlement systems in Canada. Launched in 1999, the LVTS will be replaced with a safer, more flexible and resilient high-value payment system (Lynx). The ACSS, launched in 1984, will be gradually replaced with a more efficient retail system. Payments Canada is also developing a new real-time retail payment system (Real-Time Rail) as a third core payment system to better serve the needs of consumers and merchants, and to provide a platform for innovation in the Canadian payments ecosystem. Access to the Real-Time Rail, as with all core payment systems, will be open and risk-based, consistent with international standards.¹⁴⁶

4.178. Financial services companies operating in Canada can benefit from various incentives available at the federal level and in some provinces and territories. At the federal level, financial

¹⁴³ Department of Finance Canada online information. Viewed at: <https://www.fin.gc.ca/activity/consult/rcpa-elcp-eng.asp>. The CAD 200 billion figure is for the core payment systems value only. Average daily values and volumes for all the designated systems, including derivatives reaches CAD 13.2 trillion daily; without derivatives, it is CAD 1.1 trillion daily.

¹⁴⁴ Bank of Canada (2018), *Financial System Review, June 2018*. Woodman, E., Chung, L., and Chande, N., *Establishing a Resolution Regime for Canada's Financial Market Infrastructures*. Viewed at: <https://www.bankofcanada.ca/wp-content/uploads/2018/06/fsr-june2018.pdf>.

¹⁴⁵ Payments Canada is a not-for-profit organization, created under the Canadian Payments Act, 2001. Its membership includes the Bank of Canada, all deposit-taking institutions, authorized foreign banks, life insurance companies, securities dealers, and money market mutual funds.

¹⁴⁶ In December 2018, Payments Canada published an update on the current status of the modernization programme. This update may be viewed at: <http://www.payments.ca/about-us/news/payments-canada-publishes-modernization-delivery-roadmap-2018-update>.

services companies have access to tax credits on eligible R&D-related expenditures, under the Scientific Research and Experimental Development (SR&ED) Program. They are also eligible for the various commercial financing options facilitated by Export Development Canada or provided by the Business Development Bank of Canada.

4.179. Some provincial authorities provide incentives that are geared mainly towards attracting companies engaged in international financial activities. Under Quebec's International Financial Center (IFC) Montréal, companies establishing a new project in Montréal can receive, for one year, a tax credit equivalent to 24% of the salary of local employees (up to CAD 18,000 per employee). In addition, foreign specialists can claim deductions on their taxable income at rates ranging from 100% for the first year to 37.5% for the fifth year. British Columbia's Advantage BC - International Business Activity Program is similar, and targets companies and individuals engaged in international activities. These companies can claim a refund of up to 100% of the provincial corporate tax paid on income derived from their international activities. Similarly, international business specialists can claim a refund of the provincial tax paid on income derived from their international activities, at rates ranging from 100% for the first two years to 25% for the fifth year.

4.180. The OSFI participates actively in the development of international rules in the financial sector. It is a member of the Financial Stability Board, the Basel Committee on Banking Supervision, and the International Association of Insurance Supervisors. The OSFI also participates in information-sharing agreements with foreign supervisory authorities that regulate significant operations of Canadian banks and insurers. To date, the OSFI has concluded about 40 information-sharing agreements. Some of the more recent information sharing agreements and memoranda of understanding include those signed with the China Insurance and Banking Regulatory Commission, the Monetary Authority of Singapore, and the *Superintendencia Financiera de Colombia*.

4.4.1.2 Banking services

4.4.1.2.1 Commercial banks

4.181. Canada's banking industry is considered as one of the soundest in the world, according to WEF's Global Competitiveness Report.¹⁴⁷ As at end-2018, the federally-regulated banking sector comprised 35 domestic banks, 21 foreign-bank subsidiaries, 28 full service foreign-bank branches, 4 foreign-bank lending branches, and 23 foreign-bank representative offices. Foreign banks are particularly active in corporate lending, trade finance, and capital markets. Federally-regulated banks account for the majority (91%) of total deposit-taking institution assets. Financial cooperatives (credit unions and *caisses populaires* – discussed in the following section) account for 9%. The industry remains highly concentrated, with the six largest domestic banks holding about 90% of the total assets of federally-regulated deposit-taking institutions. During the TPR period, Canadian banks continued to expand their international operations, particularly in retail banking, capital markets, and wealth management. Their international assets increased by 43% between 2010 and 2015, to reach CAD 1.3 trillion.¹⁴⁸ Canada's banking system is sound, and the non-performing loan ratio remained below 1% over the past few years (Table 4.23).

4.182. In Canada, banks can only incorporate at the federal level under the Bank Act. A foreign bank may operate through a subsidiary, a branch, or a representative office. The processes for incorporating a bank, or a subsidiary of a foreign bank, or establishing a foreign bank branch are similar. They involve filing an application with the OSFI, with extensive information about the applicants and their plans for future conduct and the development of the business of the bank. Incorporation is subject to the approval of the Minister of Finance, and the issuance of an Order to Commence and Carry on Business by the OSFI.

4.183. Upon receipt of the Order to Commence and Carry on Business, domestic banks and trust companies, and subsidiaries of foreign banks automatically become members of the Canada Deposit

¹⁴⁷ According to the Global Competitiveness Report, 2017-18, Canada ranks 2nd in terms of the soundness of its banks, which is a component of the GCI's Financial Market Development pillar. See: World Economic Forum (2017), *The Global Competitiveness Report, 2017-18*. World Economic Forum, Geneva. Viewed at: <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>.

¹⁴⁸ Department of Finance Canada (2016), *Supporting a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future*, Ottawa, August.

Insurance Corporation (CDIC). The CDIC insures deposits such as those in savings accounts, chequing accounts, term deposits with original terms to maturity of less than five years, and money orders, up to a maximum of CAD 100,000 per depositor per insured category. Entities that solely take wholesale deposits (i.e. deposits above CAD 150,000) may opt out from CDIC membership. Provincially-regulated deposit-taking institutions that conduct business substantially similar to the business of a company to which the Trust and Loan Companies Act applies (see Section 4.4.1.2.2) may, upon successful application, become members of the CDIC. Given that they are prohibited from accepting retail deposits, foreign banks that operate in Canada on a branch basis cannot become members of the CDIC. All CDIC members are assessed annual CDIC premiums, pursuant to a differential Premiums Framework that is set out in the CDIC Act and CDIC By-laws. The Framework categorizes each member into one of four premium categories, according to a number of quantitative and qualitative criteria. CDIC By-laws set out the premium rate that accompanies each premium category, and the maximum premium rate is contained in the CDIC Act. The premium rate is multiplied by the volume of insured deposits of that member as at a specified date. All banks, except foreign lending branches, are required to be members of Payments Canada (formerly the Canadian Payments Association).

4.184. Canadian banks are generally prohibited from engaging in any business other than the business of banking. Various Bank Act restrictions result in a separation between the banking, commercial (non-financial) services, insurance, auto leasing, and securities dealing sectors of the economy. The business of banking includes providing financial services, acting as a financial agent, providing investment counselling services and portfolio management services, and issuing and operating payment, credit or charge cards. One of the key issues noted in the most recent review of the federal framework is the involvement of financial institutions (including banks) in the financial technology (FinTech) industry. While the framework has evolved over time to reflect the increased use of technology in the provision of financial services, it still restricts financial institutions from undertaking commercial services, or investing in firms offering commercial services, through technology. Stakeholders noted that such limitations prevent activities and investments in FinTech, which frequently blend financial service activities with commercial service activities. Stemming from this stakeholder input, Parliament passed legislation that provides greater flexibility for federally-regulated financial institutions (including banks) to undertake in-house commercial activities related to the provision of financial services and invest in firms that blend financial and commercial services.¹⁴⁹ These activities will be subject to terms and conditions prescribed in enabling regulations, which are forthcoming.

4.185. Subsidiaries of foreign banks are incorporated under the Bank Act and are subject to the same regulatory and prudential requirements as domestic banks. Full-service and lending branches of foreign banks are subject to lighter regulatory and prudential requirements but are subject to commensurate restrictions on the type of operations they can carry out. They are not permitted to accept any retail deposits in Canada. Full-service branches may collect wholesale deposits and are required to maintain assets on deposits equivalent to at least 5% of their liabilities (with a minimum of CAD 5 million). Lending branches are prohibited from borrowing or accepting deposits, except from other financial institutions. They are required to maintain assets on deposits equal to CAD 100,000.

4.186. Foreign banks may conduct business with Canadians without being required to obtain a licence, provided that they do not "carry on business in Canada", or maintain an office in Canada. They can also access the domestic capital markets, as long as they do not "carry on business in Canada" (through an agent or otherwise), or maintain an office in Canada, in connection with those activities. Foreign banks can also obtain a licence to establish their presence in Canada through a representative office, but such an office is not allowed to provide any financial services. It can only promote the services of the foreign bank, and act as a liaison between the foreign bank and its Canadian clients.

4.187. The acquisition of control of, or significant interest in, banks is subject to controls and restrictions that apply equally to domestic and foreign acquirers. The Minister of Finance's approval is required for any acquisition of a significant interest (over 10%) of voting or non-voting shares in any bank. Some restrictions depend on whether the bank is categorized as small (i.e. with an equity capitalization of less than CAD 2 billion), medium (i.e. with a capitalization between CAD 2 billion and CAD 12 billion), or large (i.e. with a capitalization of CAD 12 billion or more). Small banks can

¹⁴⁹ Bill C-74, Budget Implementation Act, 2018, No. 1.

be wholly privately-owned. Unless exempted by the Minister, medium banks are required to list at least 35% of their voting shares on a stock exchange in Canada, and those shares must be widely-held. Large-bank ownership must be widely held; no single investor may own more than 20% of any class of voting shares or 30% of non-voting shares. Canada's six major banks (Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, National Bank of Canada, Royal Bank of Canada, and Toronto-Dominion Bank) are currently the only ones classified as "large" by their capitalization. Although Laurentian Bank of Canada and Canadian Western Bank each have a capitalization of less than CAD 12 billion, the Bank Act deems them to be "large" (although the Minister has the discretion to categorize each of them as a small or medium bank, as the case may be).

4.188. The prudential regulation of banks is the responsibility of the OSFI. In line with Basel Committee's Basel III framework, banks are subject to minimum capital requirements. In practice, Canadian banks' capital ratios are well above the minimum requirements of 4.5% for the Common Equity Tier 1 (CET1), 6% for the Tier 1 capital, and 8% for the total capital (Table 4.23). Banks are also required to retain liquidity covering 100% of their liquidity needs for 30 calendar days.¹⁵⁰

4.189. Domestic systemically important banks (D-SIBs) are subject to heightened regulatory requirements, including a 1% surcharge on their CET1. The list of D-SIBs did not change during the review period, and includes: Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, National Bank of Canada, Royal Bank of Canada, and Toronto-Dominion Bank. In November 2018, Royal Bank of Canada was designated by the Financial Stability Board as a global systemically important bank (G-SIB). It is the only designated Canadian G-SIB. At the provincial level, Desjardins Group Central 1 Credit Union, SaskCentral, Conexus Credit Union, and Affinity Credit Union were designated respectively by their provincial regulators as domestic systemically important financial institutions.

4.190. D-SIBs are also required to hold a capital conservation buffer equivalent to 2.5% of their risk-weighted assets, in order to minimize risks of breach to minimum capital requirements.¹⁵¹ Canadian D-SIBs are also subject to a domestic stability buffer (DSB). The DSB is reviewed on a semi-annual basis, in June and December, is currently set at 1.75%, and must be met with Common Equity Tier 1 (CET1) capital only.¹⁵² D-SIBs are also expected to maintain a countercyclical buffer (CCyB), as per Section 1.6 of the Capital Adequacy Requirements (CAR) Guideline. The OSFI decided not to activate the CcyB, given that the DSB already captures some of the same risks. Although the CCyB has not been activated in Canada, Canadian banks are subject to the reciprocity arrangements applicable to countercyclical buffers (CcyBs) activated by Basel Committee member jurisdictions.

4.191. In September 2018, Canada's Bank Recapitalization (Bail-in) Regime came into effect, strengthening the bank resolution framework for D-SIBs. The purpose of the Regime is to provide an alternative to taxpayer-funded bail-outs. Canada's Bail-in Regime allows authorities to quickly convert some of a failing D-SIB's debt into common shares, in order to recapitalize the bank and help restore it to viability. The legislative framework for the Regime received Royal Assent in June 2016. The Bail-in regulations, which came into force in September 2018, set out key features of the regime, including that the rules only apply to debt issued by D-SIBs that is unsecured, tradable, transferable, and has an original term to maturity of at least 400 days. Such debt is held predominantly by foreign and domestic institutional investors, such as asset and fund managers, typically as a small portion of these investors' overall portfolios. The Bail-in regulations do not apply

¹⁵⁰ OSFI (2018), *Capital Adequacy Requirements (CAR) Chapter 1 – Overview*. Viewed at: http://www.osfi-bsif.gc.ca/Eng/Docs/CAR18_chpt1.pdf.

¹⁵¹ OSFI (2018), *Capital Adequacy Requirements (CAR) Chapter 1 – Overview*. Viewed at: http://www.osfi-bsif.gc.ca/Eng/Docs/CAR18_chpt1.pdf.

¹⁵² The Domestic Stability Buffer applies only to D-SIBs and is intended to cover a range of systemic vulnerabilities that, in OSFI's supervisory judgement, are not adequately captured in the Pillar 1 capital requirements described in OSFI's CAR Guideline. Decisions on the calibration of the buffer are based on supervisory judgement, informed by analytical work on a range of vulnerabilities, and are made in consultation with the Financial Institutions Supervisory Committee. The level of the buffer ranges between 0 and 2.5% of a bank's total risk-weighted assets (RWA), calculated under the CAR Guideline. The level is the same for all D-SIBs and must be met with Common Equity Tier 1 (CET1) capital only. The specific vulnerabilities covered by the buffer are expected to evolve over time, and must have a system-wide impact that could materialize in the foreseeable future. The set of vulnerabilities currently addressed by the buffer include: (i) Canadian consumer indebtedness; (ii) asset imbalances in the Canadian market; and (iii) Canadian institutional indebtedness. OSFI online information. Viewed at: <http://www.osfi-bsif.gc.ca/Eng/Docs/dsb.pdf>.

to deposits, including chequing accounts, savings accounts and term deposits such as Guaranteed Investment Certificates, which will continue to benefit from the CDIC framework. As such, deposits are not convertible under the Regime. In addition to the scope of liabilities that are subject to the Regime, the Bail-in regulations set out: (a) the process and considerations to be followed when carrying out a conversion; (b) the disclosure requirements applicable to bank-issued instruments subject to conversion; and (c) the process to compensate investors who are made worse off as a result of a conversion, and accompanying resolution actions, relative to the liquidation of the bank.

4.4.1.2.2 Other deposit-taking institutions

4.192. Trust and loan companies, and financial cooperatives are an important feature of Canada's financial system. The federal financial institutions statutes set out rules for federally-regulated deposit-taking institutions, which, in addition to banks, also include federal credit unions and trust and loan companies. Credit unions, *caisses populaires*, and provincially-incorporated trust and loans companies are deposit-taking institutions regulated by the provinces.

4.193. As at end-2018, there were 62 federally-regulated trust and loan companies (of which around 20 were bank-owned) holding assets worth CAD 358 billion. There were also around 525 financial cooperatives (credit unions and *caisses populaires*), serving over 10 million members and managing total assets of over CAD 400 billion in the third quarter of 2018.¹⁵³

4.194. Trust and loan companies may incorporate either at the provincial level, and operate only within the jurisdiction of that province, or at the federal level, and operate in all provinces and territories. In practice, most of them incorporate at the federal level. Some provinces and territories, for example the Northwest Territories and Ontario, do not provide for the provincial incorporation of trust and loan corporations. Some provinces, however, still require federally-compartmented trust and loan companies to register with provincial or territorial authorities, for example in the case of Ontario. Federally-incorporated trust and loan companies are regulated by the OSFI under the Trust and Loan Companies Act. Like banks, they may accept deposits from the public, and lend or invest them. They are subject to the same regulatory requirements as banks, although there is no requirement for "large institutions", i.e. those with equity over CAD 12 billion to be widely held. Unless exempted by the Minister of Finance, companies with equity over CAD 2 billion are required to list at least 35% of their voting shares on a recognized stock exchange in Canada, and those shares must be widely-held.

4.195. Financial cooperatives can incorporate either under provincial or territorial laws, or under the federal Bank Act (either as a new institution, or by transitioning from the provincial to the federal framework). Currently, most of them are regulated provincially. They are typically affiliated through credit union centrals, which provide liquidity and payment services to their corporate members. The Canadian Credit Union Association (formerly the Credit Union Central of Canada) is the national trade association representing financial cooperatives (except those from Quebec).

4.196. In 2012, the Bank Act was amended to allow provincial financial cooperatives to migrate to federal jurisdiction, as federal credit unions. Such a move would enable them to operate across the country while subjecting their members' eligible deposits to the CDIC protection regime rather than to a provincial deposit insurance regime. In 2016, the Government amended the Bank Act to address the unique transitional risks that credit unions entering the federal framework may face, due to differences between federal and provincial regimes. These relate to technical procedural requirements and provide authority to offer a transitional loan guarantee. In 2016, the UNI Financial Cooperation (an amalgamation of 15 *caisses populaires* from New Brunswick) became the first federal credit union. In 2018, the Coast Capital Savings Federal Credit Union transitioned from the British Columbian framework to the federal one. However, the majority of financial cooperatives continue to operate at the provincial level.

4.197. Under the current review of the financial sector legislation, the sunset date in the Cooperative Credit Associations Act was not renewed, which means that no associations will be authorized to carry on business under the Act after 29 March 2019. The Act governs retail associations. These associations are organized and operated on cooperative principles and are

¹⁵³ Canadian Credit Union Association (CCUA), *National Sector Results, Third Quarter 2018*. Viewed at: https://www.ccu.com/~media/CCUA/About/facts_and_figures/documents/Quarterly%20National%20System%20Results/3Q18SystemResults-29-Nov%20-18.pdf.

permitted to act as deposit-taking institutions, subject to the same restrictions and safeguards as other deposit-taking institutions. They may provide services to, and take deposits from, non-members. There are no active institutions currently subject to the Act.

4.4.1.2.3 Insurance services

4.198. As at end-2018, there were 68 federally-incorporated life insurers, with assets totalling around CAD 1.5 trillion. The 29 foreign life insurer branches accounted for about 2% of the industry's total assets. The life insurance industry also comprises eight Canadian and five foreign fraternal benefit societies, incorporated at the federal level. There is also one Ontario fraternal benefit society. As in the banking sector, the industry is highly concentrated, with the three largest federally-regulated life and health insurers accounting for about 90% of the assets and net income of the federally-regulated sector.¹⁵⁴

4.199. The property and casualty segment of the industry is served by 152 federally-incorporated insurance companies and a number of companies incorporated at provincial/territorial levels. There are 70 federally-regulated foreign companies and 3 mortgage insurers: the Canada Mortgage and Housing Corporation (CMHC), a Crown corporation with over 60% of the insured mortgage market, and two private companies: Canada Guaranty Mortgage Insurance Company and Genworth Financial Mortgage Insurance Company Canada.

4.200. The prudential regulation of federally-regulated insurers is conducted by the OSFI, while provincial and territorial regulators address market conduct activities and the prudential supervision of insurers incorporated at the provincial and territorial level. In most cases, insurance intermediaries are also overseen at the provincial level by self-regulatory organizations (SROs). SROs oversee insurance agents, brokers, and adjusters in Alberta, British Columbia, Manitoba, and Saskatchewan, while regulatory authorities perform this function in New Brunswick, Newfoundland and Labrador, Yukon, and Prince Edward Island. In Ontario and Quebec, regulatory authorities exercise the function, with a complementary role for SROs in certain areas (i.e. insurance broker regulation in Ontario, and ethical and professional standards in the property and casualty (P&C) industry in Quebec). The Canadian Council of Insurance Regulators (CCIR) is an umbrella organization for provincial regulators. Similarly, the Canadian Insurance Services Regulatory Organization is the forum for regulators of insurance intermediaries. The insurance industry is also represented by market-segment-specific associations, such as the Canadian Life and Health Insurance Association, for the life insurance sub-industry; and the Insurance Bureau of Canada, for the property and casualty sub-industry.

4.201. The Insurance Companies Act is the main statute governing insurers in Canada. Insurers may be incorporated as a Canadian insurance company, with foreign insurers having the option of establishing a branch in Canada. Insurance companies can incorporate either federally or provincially. Approvals to establish a Canadian insurance company or a branch in Canada are subject to a review by the OSFI and the approval of the Finance Minister. Once established at the federal level, insurers must be licensed in each provincial jurisdiction in which they intend to carry on business. The overall process generally takes between 12 and 18 months, from the initial application to completion. Insurance companies are subject to minimum capital requirements (Table 4.24). The two private mortgage insurers are designated as approved mortgage insurers under the Protection of Residential Mortgage or Hypothecary Insurance Act.

4.202. The licensing requirement for a foreign company depends on whether the company is deemed to be "insuring a risk in Canada" or not. The OSFI's "Advisory"¹⁵⁵ sets out criteria for determining whether a foreign company's activity qualifies as insuring a risk in Canada or not. These criteria typically do not focus on the location of the risk, but rather on the extent to which the insurance business activity occurs within Canada.

4.203. Insurers may also carry on their business by incorporating provincially. However, some provincial regulators are encouraging companies to establish or move under the federal regime. Ontario passed legislative amendments which have not yet been proclaimed that, if proclaimed, would prohibit the incorporation of new Ontario insurance companies except under extremely limited circumstances.

¹⁵⁴ These are: Great-West Life Assurance Company, Manulife Financial Corporation, and Sun Life Financial Inc.

¹⁵⁵ OSFI Advisory 2007-01— Insurance in Canada of Risks, last revised in 2009.

Table 4.24 Main requirements for establishing an insurance business

	Incorporation of a Canadian insurance company	Establishment of a Canadian branch of a foreign company	Establishment of a provincial insurance company
Application steps	Letters Patent (from the Finance Minister). Issuance of the Order to Commence and Carry on Business (by the OSFI). Application for and obtention of licence from provincial jurisdictions in which to operate, as necessary.	Order approving the insuring in Canada of risks by a foreign entity (by the OSFI, with the approval of the Finance Minister).	Incorporate as per the requirements of the province in which incorporating and apply to provincial regulator for licence. Apply for and obtain licence from additional provincial jurisdictions in which to operate, as necessary.
Fees	OSFI service fees: CAD 32,000. Provincial licence fees.	OSFI service fees: CAD 32,000. Provincial licence fees.	Provincial licence fees, where applicable.
Minimum capital/asset standards	Paid-in capital: minimum of CAD 5 million. Solvency ratio of 300% for non-life insurers and 150% for life insurers for the first three years of operation.	Assets vested in Canada: minimum of CAD 5 million. Solvency ratio of 300% for non-life insurers and 150% for life insurers for the first three years of operation. Consolidated assets of CAD 1 billion for life insurers and CAD 200 million for non-life insurers.	As required by the incorporating province.

Source: Information provided by Canadian authorities.

4.204. Canada's federal insurance legislation prohibits the establishment of "composite" companies. Insurers must obtain licences for the classes of insurance they intend to underwrite. However, some provinces, e.g. Ontario, permit the establishment of composite insurance companies, although none are currently licensed, and recent amendments to its legislation, if proclaimed, would not allow this in the future.

4.205. The Insurance Companies Act provides broad flexibility for federally-incorporated insurance companies to engage in financial services activities, either in-house or through investments in other entities but, for prudential and policy reasons, generally restricts their ability to engage in non-financial commercial activities. Over time, targeted flexibility has been provided to insurance companies to engage in certain non-commercial activities. For instance, amendments to the Insurance Companies Act were introduced through the Budget Implementation Act, 2018, No. 2, to provide flexibility for insurance companies to invest in public infrastructure; as at February 2019, these amendments had not yet been brought into force, and the regulations required to fully implement the amendments to the Act were being developed. In the context of the federal financial framework review, the Insurance Companies Act was further amended to provide federally-regulated insurance companies greater flexibility to undertake, invest, and refer to FinTech services. There are also some restrictions at the provincial level. For instance, Alberta-incorporated insurers, including life insurers, are limited from holding a substantial interest (greater than 10%) in an unincorporated body or a corporate body, unless it is a prescribed entity (currently, there are no prescribed entities).

4.206. The licensing of insurance intermediaries is governed by provincial laws, with the licensing requirement applying to both individuals and firms employing them. In the Yukon, entities are not currently required to be licensed. In other provinces, licensing is required. For example, Ontario requires insurance intermediaries to be licensed; in Manitoba intermediaries (agents/brokers) are required to be licensed by the Insurance Council of Manitoba (ICM); in Prince Edward Island, licensing of individuals is required under the Insurance Act; and in New Brunswick, the Financial and Consumer Services Commission New Brunswick (FCNB) is responsible for the licensing of intermediaries - currently, only individuals and not agencies, brokerages or adjusting firms may be licensed.

4.207. The acquisition of control or ownership of any insurance company with equity of CAD 2 billion or more is subject to restrictions. Unless exempted by the Minister of Finance, such companies are required to have 35% of their voting shares listed on a recognized stock exchange in Canada, and those shares must be widely held. Furthermore, insurance companies that have demutualized, whose "capitalization" was CAD 5 billion or more immediately before demutualization, must be widely held or must be held by an upstream insurance company that is, itself, widely held: no single investor may own more than 20% of any class of voting shares or 30% of non-voting shares.¹⁵⁶ This is the case for the Sun Life Assurance Company of Canada and the Manufacturers Life Insurance Company.

4.208. In general, insurance companies are subject to the same general tax regimes as other businesses. Some taxes are collected at rates that are specific to the industry. A federal capital tax on financial institutions is levied on life insurance companies, at the rate of 1.25% on their taxable capital employed in Canada (subject to a capital deduction of CAD 1 billion). A 10% excise tax is collected on certain premiums paid to insurers who are not located in Canada and not licensed to sell insurance in Canada.

4.209. Since January 2018, federally-regulated life insurers have been subject to the OSFI's new capital guidelines, the Life Insurance Capital Adequacy Test (LICAT).¹⁵⁷ Under the LICAT, the CAR may vary depending on a number of factors, including changes in the business and economic environment. Compared to its predecessor (the Minimum Continuing Capital Surplus Requirement or MCCSR test), the LICAT relies on more advanced and risk-based techniques, and on more current and granular data to measure credit, market and insurance risks. It also has an explicit measure for operational risk. Life expectancy or the effects of a low interest rate environment may impact insurers' LICAT ratios, and the degree of the impact may vary based on, for example, an insurer's types of products, the risks assumed, and business strategies and operations. The aggregate LICAT ratio of the major life insurance companies for the first three quarters in 2018 was approximately 130%, which is above the OSFI's target requirement of 100%.

4.210. Certain coverages, for example, for marine, mortgage, aviation, nuclear, and environmental surety insurance, can be compulsory, based on federal rules and regulations in some sectors. Other compulsory insurance requirements, including automobile insurance, vary from jurisdiction to jurisdiction. In British Columbia, Saskatchewan, and Manitoba, the compulsory minimum civil liability automobile insurance is provided by a monopoly government insurer. In some provinces, minimum coverage may also be compulsory. For instance, the Prince Edward Island Insurance Act sets compulsory minimum third-party liability automobile insurance coverage of CAD 200,000.

4.211. Insurance companies set their premiums freely. Premium rates for automobile insurances are monitored by some provincial administrative tribunals, utility boards, and insurance regulators. There is no federal tax on insurance premiums; taxes are collected at the provincial level. Provinces and territories levy their own taxes on insurance premiums.

4.4.1.3 Securities

4.212. The exchange market in Canada is segmented, and includes the Toronto Stock Exchange, which provides the main market for senior equity securities, and the Aequitas Neo Exchange, the other senior recognized exchange. Other exchanges include the TSX Venture Exchange, an exchange for the securities of early-stage businesses, the Canadian Securities Exchange for emerging issuers, and the Montreal Exchange Inc./*Bourse de Montréal*, which facilitates the trade of derivative products. There are also a number of alternative trading systems in place in Canada, which bring together buyers and sellers of securities. Canada hosts some major global financial centres. Toronto was ranked the 7th largest global financial centre, according to the most recent Global Financial Centres Index ranking, published by Z/Yen Group.¹⁵⁸ Montréal and Vancouver ranked 24th and 15th, respectively, according to the same ranking. The World Federation of Exchanges ranked the Toronto Stock Exchange 9th in October 2018.

¹⁵⁶ Demutualization is the process by which a customer-owned mutual organization or cooperative changes legal form to a joint stock company.

¹⁵⁷ The Life Insurance Capital Adequacy Test (LICAT) replaces the Minimum Continuing Capital and Surplus Requirement (MCCSR) ratio.

¹⁵⁸ Z/Yen Group (2018), *The Global Financial Centres Index 23*, March 2018. Viewed at: <https://www.longfinance.net/media/documents/GFCI23.pdf>.

4.213. Securities markets are regulated by the 13 provincial and territorial securities regulators.¹⁵⁹ The Canadian Securities Administrators (CSA) is an umbrella organization of provincial and territorial securities regulators, whose objective is to improve, coordinate, and harmonize the regulation of the Canadian capital markets. Two self-regulatory organizations also operate across multiple jurisdictions: The Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA). The IIROC's functions include setting and enforcing rules and standards regarding investment dealer firms and their employees and regulating trading activities on debt and equity marketplaces in Canada. As at end-2018, there were 171 investment dealers registered with the IIROC, down slightly from 2014.¹⁶⁰ The Mutual Fund Dealers Association of Canada (MFDA) provides oversight to dealers that distribute mutual funds and exempt fixed-income products.

4.214. There are three main categories of registration under provincial securities legislation for firms: dealers, advisers, and investment fund managers.¹⁶¹ All of them are required to register with the securities regulatory authority in each province or territory where they do business. To facilitate the registration process, regulators have created a common registration regime, under the National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Once registered, dealer firms are generally required to become members of the IIROC or the MFDA, as applicable. Some provinces delegated some registration activities to the IIROC. For instance, in Alberta, British Columbia, Saskatchewan, New Brunswick, and Newfoundland and Labrador, dealer firms can register directly with the IIROC. Likewise, Ontario and Quebec delegated to the IIROC their registration powers with respect to individuals who are carrying out certain functions with investment dealers.

4.215. All provincial regulators, except Ontario, participate in the "passport system", which, for the matters covered by the passport, gives market participants approval in all passport jurisdictions by obtaining a decision from its principal regulator and meeting the requirements of specific harmonized laws. Although Ontario does not participate in the system, the passport regulators accept the Ontario Securities Commission's decisions under passport. Non-Ontario market participants can obtain access to the market in Ontario through an interface system, in which the Ontario Securities Commission makes its own decision but generally relies on the review by the principal regulator.

4.216. The Canadian Investor Protection Fund (CIPF) and the MFDA Investor Protection Corporation are compensation or contingency funds of the IIROC and the MFDA, respectively, which protect investors in the event of insolvency or bankruptcy of one of their respective members. The coverage is paid for by members. Coverage for clients is generally available in the amount of up to CAD 1 million.¹⁶²

4.217. The governments of Canada, British Columbia, Saskatchewan, Prince Edward Island, New Brunswick, Ontario, and Yukon continue to work towards establishing a Cooperative Capital Markets Regulatory System. The initiative would result in the establishment of a single regulator, the Capital Markets Regulatory Authority, responsible for administering uniform provincial securities law in participating provinces and territories, and complementary federal legislation addressing capital markets-related systemic risk, data collection and criminal offences on a national basis.

4.218. Canadian securities administrators also participate in international and regional organizations, such as the International Organization of Securities Commissions, the Council of Securities Regulators of the Americas, and the North American Securities Administrators Association. There are no federal taxes specific to the securities industry.

¹⁵⁹ These are: the Alberta Securities Commission; the British Columbia Securities Commission; the Manitoba Securities Commission; the Financial and Consumer Services Commission (New Brunswick); the Office of the Superintendent of Securities Service (Newfoundland and Labrador); the Office of the Superintendent of Securities Northwest Territories; the Nova Scotia Securities Commission; the Nunavut Securities Office; the Ontario Securities Commission; the Office of the Superintendent Securities Consumer (Prince Edward Island); the *Autorité des Marchés Financiers* (Quebec); the Financial and Consumer Affairs Authority of Saskatchewan; and the Office of the Yukon Superintendent of Securities.

¹⁶⁰ IIROC online information. Viewed at: http://www.iroc.ca/industry/Documents/PeerGroupList_en.pdf.

¹⁶¹ There are three main categories of registration, but each such category is sub-divided into different categories depending on the registrant's characteristics, for a total of eight categories for market intermediaries.

¹⁶² More information may be found at: for CIPF: <http://cipf.ca/Public/CIPFCoverage/WhatAretheCoverageLimits.aspx>; for MFDA IPC: <http://mfda.ca/mfda-investor-protection-corporation/mfda-ipc-coverage/>.

4.4.2 Telecommunications

4.219. The communications sector in Canada is comprised of two subsectors: telecommunications and broadcasting, with the latter including radio, TV, broadcasting distribution (i.e. cable, Internet Protocol TV, and satellite direct-to-home broadcasting) and on-demand services. Each subsector is subject to separate laws and regulations. In 2017, the sector had CAD 67.6 billion in revenues, with the telecommunications subsector accounting for about 74% and the broadcasting sector for 26%.¹⁶³ The Canadian Radio-television and Telecommunications Commission (CRTC) regulates both telecommunications and broadcasting but does not regulate online broadcasting.¹⁶⁴

4.220. Canada's telecommunications sub-sector continued to expand over the review period, with growth in revenues up 3.2% in 2017 compared to the previous year.¹⁶⁵ However, this growth was uneven, as gains were seen in the fixed Internet and mobile sectors, while there were declines in the traditional sectors of local and long-distance communications, data, and private lines (Table 4.25). While the subsector has been growing, it faced criticism for high wireless prices and low consumption rates.¹⁶⁶ The industry retains a number of restrictions on foreign investment, as outlined in Section 2.4.3, and remains heavily concentrated, as it is dominated by a small number of large ownership groups. In 2017, revenues from the top five ownership groups accounted for approximately 85% of total communication revenues.

4.221. Recent developments in the telecommunications subsector include preparation for the gradual deployment of the 5G standard across Canada. The Ministry of Innovation, Science and Economic Development (ISED) released a spectrum road map in June 2018 for the release of spectrums over the next five years. Steps were also taken to review the main communications legislation, with a view to modernizing it but, as at December 2018, the consultation process was still in progress.

Table 4.25 Industry overview, 2014-17

	2014	2015	2016	2017
Communications services subscriptions (% of households)				
Landline	75.5	71.9	66.8	63
Mobile	85.6	86.1	87.9	89.5
Internet	84.9	86.9	87.4	89
TV distribution	79.6	77.8	74.8	72.3
Communications service industry revenues (CAD billion)				
Telecommunications	45.9	47.8	48.7	50.3
Wireline voice	10.1	9.7	9.0	8.6
Internet	8.9	9.8	10.8	11.5
Data and private line	4.8	4.6	4.5	4.5
Wireless	22.0	23.6	24.4	25.8
Broadcasting	18.2	18.0	17.9	17.3
Radio	1.9	1.9	1.8	1.8
TV	7.4	7.2	7.3	6.9
BDU (Cable, Satellite and Fibre TV)	8.9	8.9	8.7	8.5

Source: CRTC online information. Viewed at: <https://crtc.gc.ca/pubs/cm2018-en.pdf> and <https://crtc.gc.ca/eng/publications/reports/policymonitoring/2017/cm2017.pdf>; and Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=1110022801>.

¹⁶³ CRTC online information. Viewed at: <https://crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2018/index.htm#4.0> and information provided by the authorities.

¹⁶⁴ In 2012, the CRTC issued the Digital Media Exemption Order (DMEO) exempting digital media broadcasting undertakings from regulation.

¹⁶⁵ CRTC online information. Viewed at: <https://crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2018/index.htm#4.0>.

¹⁶⁶ Financial Post online information. Viewed at : <https://business.financialpost.com/telecom/tight-reins-leaves-our-telecom-sector-open-to-criticism-but-sadly-not-competition>.

4.4.2.1 Framework

4.222. The legal framework for the sector has remained relatively unchanged during the review period as most of the laws have been in place for many years, although there have been some amendments (Table 4.26). However, there have been new regulations issued on Simultaneous Programming Service Deletion and Substitution and Discretionary Services in 2015 and 2017, respectively. The main acts remain the Telecommunications Act, 1993 and the Broadcasting Act, 1991. The Telecommunications Act contains provisions on eligibility criterion; rates, facilities, and services; administration; telecom apparatus; and investigation and enforcement.¹⁶⁷ The Telecommunications Act was last amended in 2014 to provide the CRTC with the authority to impose certain conditions concerning the provision of service on providers of telecommunications services that are not telecommunication carriers, to give the CRTC the authority to impose administrative monetary penalties, and to provide the Minister of ISED the authority to establish a registration system and update other processes relating to telecommunication apparatus in order to assess conformity with technical requirements. The Broadcasting Act provides the legislative framework for broadcasting in Canada under which the CRTC issues broadcasting licenses and formulates regulations. Regulations issued under the Broadcasting Act regulating Simultaneous Programming Service Deletion and Substitution and Discretionary Services were amended in 2015. In 2017, the CRTC merged the Pay Television Regulations, 1991 and the Specialty Services Regulations, 1990 into the Discretionary Service Regulations.

Table 4.26 Main communications laws and regulations, 2018

Title	Reference
Acts	
Canada's Anti-spam Legislation	S.C. 2010, c. 23
Canadian Radio-television and Telecommunications Commission Act	R.S.C., 1985, c. C-22
Bell Canada Act	S.C. 1987, c. 19
Broadcasting Telecommunications Act	S.C. 1991, c. 11
Telecommunications Act	S.C. 1993, c. 38
Canada Elections Act (Voter Contact Registry)	S.C. 2014, c. 12
Telecommunications Regulations	
Canadian Telecommunications Common Carrier Ownership and Control Regulations	SOR-94-667
CRTC Tariff Regulations	SOR-79-144
Telecommunications Fees Regulations	SOR-2010-65
Broadcasting Regulations	
Broadcasting Information Regulations	SOR-93-420
Broadcasting Licence Fee Regulations	SOR-97-144
Broadcasting Distribution Regulations	SOR-97-555
Conversion from Analog to Digital Television Regulations	SOR-2011-65
Discretionary Services Regulations	SOR-2017-159
Radio Regulations	SOR-86-982
Television Broadcasting Regulations	SOR-87-49
Simultaneous Programming Service Deletion and Substitution Regulations	SOR-2015-240

Source: CRCT online information. Viewed at: <https://crtc.gc.ca/eng/statutes-lois.htm>.

4.223. The Ministers of Innovation, Science (ISED) and Economic Development and Canadian Heritage jointly established an independent Panel to review the Telecommunication Act, Broadcasting Act, and the Radiocommunication Act in June 2018. The Review Panel launched its consultation process in September 2018.¹⁶⁸ In particular they recognised the digital revolution and its impact on the telecom sector. The review is designed to address four particular themes: reducing barriers to access by all Canadians to advanced telecommunications networks; supporting creation, production and discoverability of Canadian content; improving the rights of the digital consumer; and renewing the institutional framework for the communications sector.¹⁶⁹ As of December 2018, the review process was ongoing and written submissions to the Panel's consultation paper were due on 11 January 2019. As per its mandate, the Review Panel will issue a "What We Heard Report" by June 2019 and provide its final recommendations to the Government by January 2020.

¹⁶⁷ Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/T-3.4/>.

¹⁶⁸ Government of Canada online information. Viewed at: <https://www.ic.gc.ca/eic/site/110.nsf/eng/home>.

¹⁶⁹ Government of Canada online information. Viewed at: <https://www.ic.gc.ca/eic/site/110.nsf/eng/00003.html>.

4.224. In 2017, the Government also launched a review of its Anti-Spam Act.¹⁷⁰ Between 26 September and 12 December 2017, the House of Commons Standing Committee on Industry, Science and Technology (INDU) undertook a statutory review of Canada's Anti-Spam Legislation (CASL). The final INDU committee report on CASL presented 13 recommendations including clarification of certain legislative provisions of CASL. In June 2018, the Minister of ISED launched national consultations on data and digital transformation. It is expected that the results of these consultations will guide legislative changes related to privacy as well as other marketplace framework policy such as CASL.

4.225. The CASL provides for a private right of action, which was scheduled to come into force in July 2017. Under this provision, individuals and organizations would have been able to bring a private right of action in court against individuals or organizations that they allege have violated the law. Some Canadian industry representatives had raised concerns over the scope of the private right of action under the CASL. The coming-into-force date of the provision was suspended on 2 June 2017, pending a review of the CASL.

4.226. The CRTC is an administrative tribunal that regulates and supervises Canadian broadcasting and telecommunications in the public interest. In the broadcasting subsector, the CRTC's responsibilities include approving mergers, acquisitions and changes of ownership of broadcasting undertakings; issuing, renewing, and amending licences for broadcasting distribution and programming undertakings; and resolving competitive disputes.¹⁷¹ The Commissioner for Complaints for Telecommunications Services Inc. (CCTS), under the authority of the CRTC, handles telecommunications complaints that fall within the parameters of the Wireless Code and the Deposit and Disconnect Code. In 2017-18, the CCTS handled over 14,000 consumer complaints, mostly involving billing errors and contract disputes in the wireless, Internet and home phone sectors. In September 2017, the CCTS expanded its mandate to accept complaints regarding television issues under the Television Service Provider Code.

4.227. Canada's wireless sector received increased attention from the ISED and the CRTC in recent years, due to its growth and potential, in particular to reach underserved areas. In remote regions of the country, wireless broadband is being deployed for high-speed Internet use due to the geography and topography of Canada. Canada regulates access to its wireless frequency spectrum through licences under the authority of the ISED. The ISED uses different approaches to make spectrum available, including auctions, low-cost license exempt spectrum, and All Come All Served spectrum licenses. Auctions are typically used when demand exceeds supply. However, the Office of the Auditor General found that small Internet service providers struggled to acquire high-quality spectrum in rural and remote areas.¹⁷² Recognizing the importance of wireless services for Canadians in all regions, the ISED committed to continue to develop through consultation policies that encourage service into rural areas. For example, the ISED has recently launched a consultation¹⁷³ on a new set of smaller service areas for spectrum licensing. These areas could potentially reduce the cost of acquiring spectrum for smaller wireless providers interested in serving rural and remote areas.

4.228. Canada also has in place seven Mutual Recognition Agreements (MRAs) for the telecommunications sector.¹⁷⁴ These arrangements allow for the mutual acceptance of conformity assessment results of telecommunications equipment.

¹⁷⁰ House of Commons online information. Viewed at:

<http://www.ourcommons.ca/Content/Committee/421/INDU/Brief/BR9155285/br-external/RogersCommunicationsInc-e.pdf>.

¹⁷¹ CRTC online information. Viewed at:

<https://crtc.gc.ca/eng/publications/reports/dp2018/dp2018.htm>.

¹⁷² Office of the Auditor General online information. Viewed at: http://www.oag-bvg.gc.ca/internet/English/parl_oag_201811_01_e_43199.html.

¹⁷³ Government of Canada online information. Viewed at: <https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf11446.html>.

¹⁷⁴ Asia-Pacific Economic Cooperation (APEC); Inter-American (CITEL); European Free Trade Association (EFTA); European Community; Switzerland; Mexico; and Israel. Government of Canada online information. Viewed at: https://www.ic.gc.ca/eic/site/mra-arm.nsf/eng/h_nj00026.html.

4.4.3 Transport

4.4.3.1 Air transport and airports

4.4.3.1.1 Air transport

4.229. Air transport is an important component of Canada's overall transportation mix, with local, regional, national and international airlines flying passengers and cargo to destinations across the country and around the world. Canada has the third-largest air transport market in the world, and has 18 million km² of airspace, managed by the second-largest air navigation service provider in the world, NAV CANADA.¹⁷⁵

4.230. Air transport is the second-largest commercial transport subsector, after truck transportation. As Table 4.27 below indicates, in 2018, air transport contributed 0.5% to GDP. The total number of enplaned and deplaned air passengers reached 149.6 million in 2017, an increase of 8.7% compared with the previous year. This marked the eighth consecutive annual increase in air passenger traffic following the economic slowdown of 2009.¹⁷⁶ In 2017, the combined flight hours of Canadian airlines were over 2.1 million hours. Loaded and unloaded air cargo volume stood at 1.31 million metric tons in the same year, making up 11.8% of Canada's international trade.¹⁷⁷

Table 4.27 Main indicators of air transportation, 2013-18

	2013	2014	2015	2016	2017	2018
GDP at basic prices (CAD million)^a	6,293	7,315	7,661	8,421	9,279	9,924
% of GDP at basic prices	0.4%	0.4%	0.4%	0.5%	0.5%	0.5%
% of transportation and warehousing	8.7%	9.5%	9.7%	10.4%	10.9%	11.3%
Memo (% of total transportation and warehousing):						
Truck transportation	26.0%	26.1%	25.3%	25.2%	25.2%	24.8%
Rail transportation	9.7%	10.0%	10.0%	9.4%	9.6%	9.6%
Water transportation	2.4%	2.3%	2.2%	2.1%	2.1%	2.0%
Air passenger traffic (millions)						
Total passengers enplaned and deplaned	124	130	133	141	150	..
Domestic sector	75	78	80	84	88	..
Transborder sector	25	26	26	27	29	..
Other International sector	24	26	27	30	33	..
Air cargo traffic (1,000 tonnes)						
Total, cargo loaded and unloaded	1,073	1,102	1,173	1,223	1,313	..
Domestic sector	470	483	529	554	577	..
Transborder sector	233	229	236	227	234	..
Other International sector	370	390	408	442	502	..
Cargo flights (Number, 1,000)	112	114	106	84	84	..
Operating revenue and expenses for total Canadian air carriers (CAD million)						
Net income ^b	513	651	997	1,375
Operating income, net	1,284	1,643	2,473	2,484
Revenue	20,816	22,309	22,833	23,048
Expense	19,532	20,666	20,360	20,564

.. Not available.

a Based on seasonally adjusted GDP at basic prices, in chained 2012 dollars.

b After provision for income taxes and non-operating income.

Note: Based on North American Industry Classification System (NAICS) codes: 481, 482, 483, and 484.

Source: Statistics Canada. Tables: 23-10-0253-01, 23-10-0254-01, and 23-10-0034-01.

4.231. Transport Canada has primary responsibility for transportation policy in federally-regulated sectors, including the economic, legislative and policy framework related to air transport. Two principle pieces of legislation govern aviation sector: The Aeronautics Act, and the Canada Transportation Act.

¹⁷⁵ Government of Canada online information, *Transportation in Canada 2017*. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

¹⁷⁶ Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/n1/daily-quotidien/180802/dq180802b-eng.htm>.

¹⁷⁷ Statistics Canada online information. Viewed at: <https://www144.statcan.gc.ca/tdih-cdit/index-eng.htm>.

4.232. The Canadian Transportation Agency regulates the economic aspects of various modes of transportation, including air transport, regulated at the federal level. The Agency is an independent, quasi-judicial, federal administrative tribunal whose authorities and mandate are set out in the Canada Transportation Act. It administers the air transport licensing regime that requires domestic air services operators to be majority-owned and controlled by Canadians and have proper liability insurance, in addition to having an operating certificate issued by Transport Canada. The Canadian Transportation Agency also verifies the financial viability of applicants starting operations, oversees the licensing of international scheduled and non-scheduled services to and from Canada and administers the permit system for international charter operations. The Agency is also responsible for resolving disputes by facilitation, mediation, arbitration and adjudication.

4.233. The Canadian Air Transport Security Authority (CATSA) is responsible for security screening at designated Canadian airports and operates under the provisions in the Aeronautics Act. The CATSA is a Canadian Crown corporation created in 2002 under the Canadian Air Transport Security Authority Act and reports to the Government of Canada through the Minister of Transport. The Transport Canada Civil Aviation Directorate (TCCA) regulates and oversees the safety of the country's air transportation system.

4.234. In 2012, the Government of Canada and the aviation industry released Canada's Action Plan to Reduce Greenhouse Gas Emissions from Aviation.¹⁷⁸ This voluntary Action Plan sets a target for an average annual improvement in aviation fuel efficiency of at least 1.5% until 2020 from a 2008 baseline¹⁷⁹. Furthermore, the Action Plan identifies a series of supporting measures that are expected to have the greatest impact in reducing greenhouse gas emissions over time (e.g. fleet renewals and upgrades, improved capabilities in air traffic management, and alternative fuels). During the review period, the air transport sector continued to implement these supporting measures, which has resulted in roughly a 6% improvement in fuel efficiency between 2015 and 2017.

4.235. Air transportation is comprised of local, regional, national and international airlines, which transport passengers and cargo to destinations both domestically and globally. In 2018, there were 600 air carriers with licences in Canada. Some of the major domestic airlines include Air Canada, WestJet, Porter Airlines, and Air Transat.

4.236. In 2017, among Canadian airlines, Air Canada had the largest share of the Canadian domestic (54%), U.S. transborder (48%), and international (41%) markets. The Air Canada network has three hubs (Toronto, Montréal and Vancouver) and, in 2017, provided scheduled passenger services to 64 Canadian destinations, 57 U.S. destinations, and 96 other foreign destinations on six continents.¹⁸⁰ It undertook a new Cost Transformation Program to secure an additional CAD 250 million in savings by the end of 2019.¹⁸¹

4.237. In 2017, WestJet and WestJet Encore together accounted for 37% of available seat-kilometres in the domestic air market. They operated, on average, 675 scheduled flights per day.¹⁸² They provided scheduled passenger services to 39 Canadian destinations, 28 U.S. destinations, and 34 destinations in the Caribbean and Mexico¹⁸³.

4.238. Porter Airlines, a regional carrier based at Toronto's Billy Bishop Airport, used a fleet of 29 turboprop aircraft to provide direct, non-stop scheduled passenger services to 24 destinations in Canada and 9 in the United States, in 2017. Air Transat was the largest leisure carrier in 2017, with a fleet of up to 40 aircraft, depending on the season, serving 65 international destinations in 26 countries.

¹⁷⁸ Government of Canada online information. Viewed at: <http://www.tc.gc.ca/eng/policy/aviation-emissions-3005.htm>.

¹⁷⁹ Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

¹⁸⁰ Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

¹⁸¹ Travelweek online information. Viewed at: <http://www.travelweek.ca/news/air-canada-announces-strong-2017-results-annual-report/>.

¹⁸² Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

¹⁸³ Westjet online information. Viewed at: <https://www.westjet.com/assets/wj-web/documents/en/investorMedia/180329-2017-annual-information-form-accessible.pdf>.

4.239. In 2017, foreign operators offered 12.8 million scheduled seats from Canada on an average of 273 flights per day. This was up from the 12.7 million seats offered in 2016.¹⁸⁴

4.240. Under the Canada Transportation Act, only Canadians are eligible for a licence to provide domestic flights. However, the Transportation Modernization Act (Bill C-49), which came into force on 23 May 2018, amended the former to introduce new measures related to air transportation. In particular, it increased the maximum percentage of foreign voting interests in Canadian air carriers from 25% to 49%, subject to restrictions.¹⁸⁵ Nevertheless, no single non-Canadian may own or control, directly or indirectly, more than 25% of the voting interests in that corporation. In addition, no more than 25% of the voting interest in a Canadian air carrier may be owned by foreign air carriers. The Canadian Transportation Agency is expected to continue to ensure that all Canadian air carriers comply with the requirement that air service licensees be owned and controlled by Canadians.

4.4.3.1.2 Airports

4.241. Airports in Canada were owned and operated by the Government of Canada prior to 1994. The National Airport Policy was introduced to change the Government's role regarding airports, from owner and operator to that of regulator and, in the case of National Airport System (NAS) airports run by airport authorities, landlord, with the purpose of reducing the administrative and financial burden related to the management, operation and development of the national airport network.

4.242. In 2018, Canada had 26 principal airports, forming the National Airport System (NAS).¹⁸⁶ The commercial management and operation of 22 of the 26 NAS airports is entrusted to private, not-for-profit, non-share capital corporations called airport authorities (AAs), that must ensure their financial viability as well as the provision of services. The airports to which this arrangement applies are leased to the AAs under 60-year emphyteutic leases, with an option to renew for 20 years. As a result, the Government retains ownership of the NAS airports without having to assume formal responsibility for debts incurred by the AAs. There were no changes to the operational and management responsibilities of AAs during the review period. The four remaining NAS airports are owned and operated by three territorial governments, and operated by the City of Kelowna, British Columbia, respectively. There are also a number of Regional and Local Airports, serving commercial traffic, and Small Airports, which do not serve commercial traffic, most of which are owned and managed by municipality governments. Under the Policy, all territorial airports were classed as "arctic".

4.243. Government funding exists for Canada's Small, Regional and Local Airports, and for related infrastructure projects, via the Airports Capital Assistance Program, launched in 1995 to provide safety-related support as these airports were transferred to local management. The funding was aimed at helping such airports face the challenges associated with having enough resources to finance their airport operations and infrastructure needs. As at 2018, the Government had invested more than CAD 785.9 million for 904 projects at 182 airports.¹⁸⁷

4.244. Considerable growth in passenger traffic was observed in 2017, particularly in the largest airports. Major increases were observed at Toronto/Lester B. Pearson International (+5.9%), Vancouver International (+8.8%), and Montréal/Pierre Elliott Trudeau International (+9.6%). All sectors experienced growth in 2017, as the domestic sector expanded 5.4% (+4.5 million passengers), other (non-trans-border) international traffic was up 9.6% (+2.9 million) and trans-border traffic (between Canada and the United States) increased 4.9% (+1.3 million). These three airports accounted for 88.5% of the 32.8 million passengers who enplaned and deplaned international flights in Canada.¹⁸⁸ In 2017, the top 20 Canadian busiest airports moved 134.5 million passengers.¹⁸⁹

¹⁸⁴ Government of Canada online information. Viewed at:

<https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

¹⁸⁵ Canadian Transportation Agency online information. Viewed at: [https://otc-](https://otc-cta.gc.ca/eng/implementation-recent-amendments-canada-transportation-act)

[cta.gc.ca/eng/implementation-recent-amendments-canada-transportation-act](https://otc-cta.gc.ca/eng/implementation-recent-amendments-canada-transportation-act).

¹⁸⁶ Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/programs/airports-policy-nas-1129.htm>.

¹⁸⁷ Government of Canada online information. Viewed at: <https://www.tc.gc.ca/en/programs-policies/programs/airports-capital-assistance-program.html>.

¹⁸⁸ Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/n1/daily-quotidien/180802/dq180802b-eng.htm>.

¹⁸⁹ Government of Canada, *Transportation in Canada 2017*. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3>.

4.4.3.1.3 Air services agreements

4.245. As at December 2018, Canada had air transport agreements or arrangements with over 100 bilateral partners. During review period, Canada concluded expanded agreements with several markets, including Algeria, Australia, The Bahamas, Ethiopia, Israel, Ivory Coast, Mexico, Morocco, Qatar, the United Arab Emirates, Egypt, Thailand, and South Africa. First-time agreements were also concluded with: Antigua and Barbuda, Belize, Benin, Cameroon, Guinea, Mauritius, Mongolia, the Seychelles, Sri Lanka, St. Lucia, St. Vincent and the Grenadines, and Tanzania.

4.246. Transport agreements can also be signed by Transport Canada Civil Aviation (TCCA) with a foreign authority, to enable the performance of maintenance in each other's territory based on the acceptance of each authority's regulatory framework. The TCCA also has the ability to approve individual maintenance organizations in countries where it has no agreements in place, to allow them to perform maintenance on Canadian aeronautical products. When the TCCA approves individual maintenance organizations outside of Canada, it refers to them as Foreign Approved Maintenance Organizations (FAMOs). FAMOs are required to meet Canadian Aviation Regulation (CAR) 573.13, which has strict public interest criteria. Currently, the TCCA has only issued FAMO approvals to three organizations but has developed international maintenance agreements with nine different countries.¹⁹⁰ The TCCA performs direct oversight of its three FAMO approvals to ensure compliance with Canadian regulations. The nine maintenance agreements rely on the oversight of the applicable domestic authorities to ensure compliance of their organizations with the applicable regulatory requirements.

4.247. In 2017, U.S. Customs and Border Protection pre-cleared approximately 13 million U.S.-bound passengers at Canada's eight pre-clearance airports under the current bilateral Agreement on Air Transport Preclearance. The enabling legislation for the pending new Agreement on Land, Rail, Marine and Air Transport Preclearance between the Government of Canada and the Government of the United States¹⁹¹, the Preclearance Act, 2016, received Royal Assent on 12 December 2017. This brought both countries closer to implementing the new comprehensive pre-clearance Agreement.¹⁹² Once this Agreement, signed in 2015, comes into force and is implemented for each mode of transportation, it will replace the existing air pre-clearance agreement, and enable the expansion of pre-clearance to the land, rail and marine modes and to new locations in the air mode.¹⁹³ Expanding pre-clearance will facilitate faster travel between Canada and the United States, provide access to more destinations in both countries, bolster trade, better protect Canada's rights, and increase border security. Canada allows the sale of international air transportation services by foreign air carriers in Canada, subject to bilateral transport agreements. The sale of such services can be executed directly by service providers or their agents. Furthermore, a foreign air carrier may establish a sales presence in Canada under the terms of provincial laws and regulations.

4.248. In order to provide maintenance and repair operations on Canada-registered aircrafts, the providers are obliged to gain prior approval from Transport Canada, in accordance with Canadian Aviation Regulations, or with the regulations of the foreign State party to an agreement or technical arrangement with Canada. This is necessary, as the requirements of Transport Canada for maintenance personnel exceed the International Civil Aviation Organization (ICAO) standards. Alternatively, maintenance can be performed by a Canadian aircraft maintenance organization (AMO) located outside of Canada, but only if the Canadian AMO provides the necessary oversight to ensure compliance with Canadian safety requirements. To date, Transport Canada has approved 869 AMOs.

4.4.3.2 Maritime transport

4.249. Canada's territorial waters are a significant part of its area, comprising about 70% of its land

¹⁹⁰ These agreements may be consulted at the TCCA website:

<https://www.tc.gc.ca/eng/civilaviation/standards/int-ta-menu-3674.htm>.

¹⁹¹ Newswire online information. Viewed at: <https://www.newswire.ca/news-releases/canada-is-one-step-closer-to-expanding-prec-clearance-operations-with-the-us-663928013.html>.

¹⁹² Newswire online information. Viewed at: <https://www.newswire.ca/news-releases/canada-is-one-step-closer-to-expanding-prec-clearance-operations-with-the-us-663928013.html>.

¹⁹³ Government of Canada, *Transportation in Canada 2017*. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html#toc3-2>.

mass or about 7.1 million km².¹⁹⁴ The Ocean Act, 1997 delineates Canada's maritime area where it has sovereignty or imposes control, i.e. over its internal waters, territorial sea, contiguous zone, exclusive economic zone, and continental shelf.¹⁹⁵ In addition to providing traditional resources such as fish, the oceans and waterways are essential parts of the transportation system. The shipping sector provides an important service for the transportation of both domestic and foreign goods and has been keen to align itself with international maritime law and agreements. In 2017, water transportation accounted for 0.09% of GDP.¹⁹⁶

4.250. Approximately 20% of the total value of Canada's international trade (including with the United States) was shipped by maritime transport in 2017.¹⁹⁷ Excluding the United States, marine transport shipped approximately 47% of the total value of Canada's trade.¹⁹⁸ Most of this is bulk cargo, such as petroleum products, agricultural products, crude oil, iron ore, and fuel oil, but also includes machinery and manufactured products.¹⁹⁹ Canada's non-U.S. maritime trade is highly reliant on foreign flagged vessels and the services of the international market. In 2017, Canada ranked 31st in ownership of the world fleet (owning 369 vessels, 149 of which were national and 220 of which were foreign-registered).²⁰⁰ Few national carriers provide international marine transportation services, accounting for only 0.1% of trade in terms of volume.²⁰¹ In contrast, Canadian vessels dominate domestic trade, carrying approximately 98% of domestic tonnage, as per the protections of the Coasting Trade Act.²⁰² However, there has been some liberalization of targeted domestic maritime services under the Act, to implement the CETA and the Transportation Modernization Act.

4.251. According to Transport Canada's Vessel Registry Query System, as at December 2018, there were almost 39,000 vessels on the Large Vessel Register and about 14,000 on the Small Vessel Register.²⁰³ Of the nearly 39,000 vessels on the Large Vessel Register, about 27,000 were Canadian-built, i.e. 70%.²⁰⁴

4.252. All ships²⁰⁵ in operation in Canada are subject to certain fees to the Canadian Coast Guard. These vary by region, size of the vessel, and if the vessel carries a Canadian or foreign flag. Typically, there is an annual or monthly fee, plus additional fees based on weight, or per-entry.²⁰⁶

¹⁹⁴ Fisheries and Oceans Canada online information. Viewed at: <http://www.dfo-mpo.gc.ca/oceans/publications/cos-soc/index-eng.html>.

¹⁹⁵ The Ocean Act. Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/o-2.4/>.

¹⁹⁶ At basic prices. Addendum to the 2017 Transportation in Canada Annual Report, Chapter 1. Transportation and the Economy, Table EC1. Economic Indicators, 2017. Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html>.

¹⁹⁷ Table EC5: Modal Shares in Canada's International Trade, 2008–2017. "Transportation in Canada 2017 Annual Report." Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html>.

¹⁹⁸ Table EC07: Modal Shares in Canada-Other Countries Trade, 2008–2017. "2017 Transportation in Canada 2017 Annual Report." Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html>.

¹⁹⁹ Table M19: Main Commodities Shipped in Canada's International Marine Trade. "2017 Transport Canada Annual Report." Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/transportation-canada-2017.html>.

²⁰⁰ "Review of Maritime Transport 2018", Table 2.3. UNCTAD online information. Viewed at: <https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2245>.

²⁰¹ Clearseas Organization online information. Viewed at: https://clearseas.org/wp-content/uploads/2017/05/ValueMarineShipping_fullreport_EN.pdf.

²⁰² Clearseas Organization online information. Viewed at: https://clearseas.org/wp-content/uploads/2017/05/ValueMarineShipping_fullreport_EN.pdf.

²⁰³ Small vessels are those less than or equal to 15 gross tonnage while large vessels are those more than 15 gross tonnage. Transport Canada online information. Viewed at: <http://wwwapps.tc.gc.ca/Saf-Sec-Sur/4/vrqs-srib/eng/vessel-registrations/advanced-search>.

²⁰⁴ These figures do not include vessels currently suspended; meaning the Chief Registrar's office does not have a valid address for the vessel owner or the vessel has been sold and the new owner has not come forward yet to register the vessel. Including suspended vessels, as of December 2018 there were 47,176 vessels in the Large Vessel Register (34,707 Canadian-built) and 23,420 vessels in the Small Vessel Registry.

²⁰⁵ There are exclusions for fishing vessels, government ships, and pleasure craft.

²⁰⁶ Canadian Coast Guard online information. Viewed at: <http://www.ccg-gcc.gc.ca/marine-services-fees>.

4.4.3.2.1 Legal framework and developments

4.253. The Canada Shipping Act, 2001 (CSA, 2001) is Canada's principal maritime legislation, and along with its over 50 regulations, requires that all commercial vessels be registered, and that all non-commercial vessels be either licensed or registered, with few exceptions.²⁰⁷ The Act also has provisions on personnel; safety; navigation services; incidents, accidents, and casualties; wrecks; pollution prevention; and enforcement. Registration of vessels requires one to be a Canadian citizen, permanent resident, Canadian corporation, or foreign corporation with a Canadian authorized representative. Further, Canadian flagged ships must be manned by persons holding a Canadian Certificate of Competency, which is only issued to Canadian citizens or permanent residents.²⁰⁸

4.254. The Coasting Trade Act provides the rules for vessels operating in Canada's coastal waters conducting commercial marine activities. Those operating above the continental shelf must be participating in activities related to the transport, exploration or exploitation of the minerals and non-living natural resources of the continental shelf. The Act prioritizes Canadian vessels over foreign vessels, by requiring that Canadian non-duty-paid vessels and foreign vessels obtain a licence. Canadian duty-paid vessels do not require such a licence.²⁰⁹ Canadian non-duty paid vessels and foreign vessels will only be granted such licences when no Canadian vessel is suitable or available for such services. Further, these vessels must have import duties and taxes paid on the vessel for its temporary use in Canada.²¹⁰ According to the Canadian Transportation Agency, between 75 and 88 licences were issued per year between 2015 and 2018.²¹¹ There are also procedures or permits to be obtained for the use of foreign workers as crew on coastal trade vessels.

4.255. The Navigation Protection Act (NPA) is the primary federal legislation that can authorize interferences to navigation. Its primary purpose is to ensure the public right to navigate is protected, in the context of economic development projects (e.g. bridges and dams) in navigable waters. The NPA also prohibits the depositing or throwing of materials that risk impacting navigation in navigable waters, and the dewatering of navigable waters. The NPA will be renamed the Canadian Navigable Waters Act if proposed legislation (Bill C-69) is enacted.

4.256. The Canada Transportation Act establishes the national transportation objectives, including a declaration that the transportation system advances the well-being of Canadians and enables competitiveness and economic growth throughout Canada.²¹²

4.257. During the review period, the Transportation Modernization Act, 2018 made important changes in the maritime sector, so as to improve supply-chain efficiency and the competitiveness of Canadian ports as gateways to North America. With respect to coasting trade, effective 10 December 2018, pursuant to the Coasting Trade Act²¹³, all ships (regardless of flag or ownership) are now allowed to reposition their owned or leased empty containers between locations in Canada on a non-revenue basis without a coasting trade licence. This is expected to reduce trade costs and address the current shortage of available containers for export.

4.258. The Marine Liability Act was amended in December 2018 to modernize the Ship-source Oil Pollution Fund, Canada's domestic oil pollution damage compensation fund. Among other things, the amendments provide for unlimited compensation, emergency funding for a significant incident, and modernization of the Fund's levy so that it can be replenished. The remaining acts in the maritime sector are laws that have been in place for many years, and which were not significantly amended

²⁰⁷ Commercial vessels under 15 gross tons are not required to be registered. Transport Canada online information. Viewed at: <http://www.tc.gc.ca/eng/marinesafety/oep-vesselreg-menu-728.htm>.

²⁰⁸ Transport Canada online information. Viewed at: <https://www.tc.gc.ca/eng/marinesafety/mpsp-training-examination-certification-faq-1052.htm>.

²⁰⁹ Government of Canada online information. Viewed at: <https://www.tc.gc.ca/eng/policy/acf-acfs-menu-2215.htm>.

²¹⁰ Temporary import of vessels are generally subject to a 25% customs duty. However, many vessels are currently exempt or subject to reduced duties due to the regulation on Vessel Duties Reduction or Removal Regulations (SOR/90-304). Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-90-304/page-1.html#docCont>.

²¹¹ In 2015 there were 75; in 2016, 85; in 2017, 79; and in 2018, 88. Canadian Transportation Agency online information. Viewed at: <https://www.otc-cta.gc.ca/eng>.

²¹² *Canada Transportation Act* (S.C. 1996, c. 10) Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca/eng/acts/C-10.4/index.html>.

²¹³ Justice Laws online information. Viewed at: https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2018_10/page-10.html#h-7.

during the review period (Table 4.28). The Canada Marine Act (CMA), 1998 contains the main rules on port activities, and the Canada Shipping Act is the main shipping law governing vessels in Canada's jurisdictional waters.

4.259. The Government of Canada launched an independent review of the Pilotage Act in May 2017 as part of the wider Oceans Protection Plan initiative. The goal of the review was to inform the Government's efforts to modernize the legislative framework for pilotage, while preserving safety and supporting the delivery of safe and efficient marine pilotage services into the future. The review provided 38 recommendations for improvements, organized under five themes: safety, governance, labour, tariffs and fees, and technical amendments.²¹⁴ The Government intends to introduce legislation at the earliest opportunity to enable improvements in the effectiveness, efficiency and accountability of Canada's pilotage system.

4.260. Canada is also in the process of enacting the Wrecked, Abandoned or Hazardous Vessels Act, that would give certain protections to the environment, public, etc., by strengthening vessel owner liability and enhancing federal powers to address abandoned, hazardous or wrecked vessels. The Act would implement the International Convention on the Removal of Wrecks, 2007, also known as the Nairobi Convention. This Convention will enter into force in Canada three months from the date that the Instrument of Accession is deposited with the International Maritime Organization (IMO). The legislation (Bill C-64) was given Royal Assent on 28 February 2019 and is expected to enter into force during the course of 2019.

Table 4.28 Main maritime Acts, 2018

Title	Reference
Transportation Modernization Act	S.C. 2018, c. 10
Canada Marine Act	S.C. 1998, c. 10
Canada Transportation Act	S.C. 1996, c. 10
Coasting Trade Act	S.C. 1992, c. 31
Canada Shipping Act, 2001	S.C. 2001, c. 26
Marine Transportation Security Act	S.C. 1994, c. 40
Marine Liability Act	S.C. 2001, c. 6
Navigation Protection Act	R.S.C. 1985, c. N-22
Pilotage Act	R.S.C. 1985, c. P-14
Shipping Conferences Exemption Act, 1987	R.S.C. 1985, c. 17 (3 rd Supp.)

Source: Transport Canada online information. Viewed at: <https://www.tc.gc.ca/eng/acts-regulations/acts.htm>; and Justice Laws online information. Viewed at: <https://laws-lois.justice.gc.ca>.

4.261. Another review and legislative process was initiated in 2016 on the Navigation Protection Act, whereby concerns were raised over the 2012 amendments. In February 2018, the Government introduced proposed legislation (Bill C-69) which would amend the Act and rename it the Canadian Navigable Waters Act. The main function of this legislation is the regulation of works (e.g. culverts, bridges, and dams) that may interfere with the public right of navigation. The Act is currently going through the parliamentary process and has been referred to the Standing Senate Committee on Energy, the Environment and Natural Resources for review. If enacted, the Act would restore and better protect the public right to navigate on navigable waters.²¹⁵

4.262. As a result of the CETA being provisionally applied in September 2017, eligible EU and Canadian entities are allowed to provide targeted domestic maritime services, such as the repositioning of empty containers owned or leased by eligible entities between locations in Canada on a non-revenue basis, feeder services between Montréal and Halifax under certain conditions, and privately-procured dredging services.

4.4.3.2.2 Ports

4.263. The National Marine Policy (1995) laid out a comprehensive framework for major elements of Canada's marine transportation system, including the port system, which consists of Canada Port Authorities (CPAs), public ports (which may be owned by Transport Canada or by other entities),

²¹⁴ "The Pilotage Act Review's Final Report", Transport Canada online information. Viewed at: <https://www.tc.gc.ca/en/reviews/pilotage-act-review-final-report-april-2018.html>.

²¹⁵ Government of Canada online information. Viewed at: <https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/navigation-protection/guidebook.html>.

and private ports. In all cases, the Minister of Transport has the authority to establish the regulatory framework regarding marine safety, security, and environmental protection; and monitor compliance with regulatory requirements. The CMA provides the legislative framework for CPAs, public ports, and the St. Lawrence Seaway. It was amended in 2017, in order to provide CPAs, or their wholly-owned subsidiaries, access to additional financing arrangements from the Canada Infrastructure Bank. There are 18 CPAs; these ports are deemed by the CMA as being vital to Canada's domestic and international trade. In 2017, ports and marine shipping carried over CAD 200 billion worth of Canadian imports and exports, and CPAs alone handled approximately 60% of Canada's marine commercial cargo tonnage. Transport Canada is also responsible for some smaller ports in Canada such as regional and remote ports.

4.264. In March 2018, the Minister of Transport launched a review of CPAs with a view to optimizing their role in the transportation system. The review is focused on four key themes: innovation and trade logistics (including safety and security components), partnering with Indigenous peoples, sustainability and port communities, and port governance. As part of the review, Transport Canada launched three studies, to be completed by summer 2019, which will examine economic and commercial forecasts; the financial and operational capacity of CPAs; and CPA governance. Findings of the review are expected in 2019, and will guide the consideration of potential policy, legislative and regulatory responses.

4.4.4 Tourism

4.4.4.1 Overview and developments

4.265. The tourism industry in Canada is an important sector in the overall services mix. The travel and tourism sector provides a vital stimulus to Canada's commercial growth through the visitor economy. This is especially true because of the amount of economic activity which the sector draws into the country. In 2017, its direct contribution to GDP was CAD 41.3 billion, that is 2% of total GDP. The sector has an important impact on employment as well. In 2017, it directly supported 739,000 jobs (4% of total employment). Furthermore, one in 10 jobs – more than 1.8 million – depends on the tourist economy.²¹⁶ Travel and tourism investment in 2017 was CAD 17.5 billion, which is 3.6% of total investment.²¹⁷

4.266. In 2018, Canada welcomed its highest ever number of international overnight visitors, an estimated 21.1 million people from around the world.²¹⁸ This increase over the last few years is underpinned by growing aviation capacity, currency advantages, a strong country brand, and increased federal marketing investments.

4.267. Canada experienced notable growth from key markets in 2017, including Mexico, which generated nearly 50% growth in arrivals to Canada. This is largely attributed to the elimination of the visa requirement for Mexican travellers at the end of 2016. Substantial increases in air capacity (+70%) also contributed greatly to this lift. Growth from India was also high, at over 18%, and stems predominantly from a two-fold increase in direct air capacity. While overall growth from the U.S. market increased modestly, at 3%, visitors arriving by air rose by an estimated 7% year-on-year.²¹⁹

4.4.4.2 Legal and regulatory framework

4.268. Tourism in Canada is promoted at the federal, provincial and territorial, and municipal levels, with the involvement of the private sector. At the level of the federal government, the department of Innovation, Science and Economic Development Canada oversees Canada's tourism policy, in an effort to increase international visitation. Other federal departments and agencies are involved in tourism activities and services.

²¹⁶ *Canada's Tourism Vision*. Viewed at: <https://www.ic.gc.ca/eic/site/095.nsf/eng/00002.html>.

²¹⁷ World Travel and Tourism Council (2018), *Travel & Tourism Economic Impact 2018: Canada*. Viewed at: <https://hi-tek.io/assets/tourism-statistics/Canada2018.pdf>

²¹⁸ Information provided by the authorities.

²¹⁹ Destination Canada (2018), *2017 Annual Report*. Viewed at: <https://www.destinationcanada.com/sites/default/files/archive/710-Destination%20Canada%20Annual%20Report%20-%202017/2017%20Annual%20Report%20-%20FINAL%20online%20version%20%28E%29.pdf>.

4.269. Destination Canada, legally the Canadian Tourism Commission, is an important player in the services sector. It was created in 1995 to promote tourism in general, and Canada as an international destination in particular. It is a Crown corporation, wholly owned by the Government of Canada, which reports to the Minister of Tourism, Official Languages and La Francophonie. As Canada's national tourism marketer, Destination Canada markets Canada abroad to leisure and business travellers, to increase arrivals and grow Canada's tourism economy. It uses data-driven marketing strategies to stimulate international demand and tourism export revenue for Canada in 10 countries: Australia, China, France, Germany, India, Japan, Mexico, the Republic of Korea, the United Kingdom, and the United States. The campaigns of Destination Canada are targeted to reflect individual market conditions and traveller interests. In collaboration with its tourism industry partners, Canada is being promoted as a premier four-season tourism destination.²²⁰

4.270. The Indigenous Tourism Association of Canada (ITAC) has a main goal of supporting the growth of Indigenous tourism in Canada and addressing the demand for the development and marketing of authentic Indigenous experiences. It focuses on creating partnerships between associations, organizations, government departments and industry leaders from across Canada. The ITAC has an established membership process that enables Indigenous tourism industry partners to engage with, and show support for, Indigenous tourism.²²¹

4.271. Provincial and territorial governments also play an active role in the development and promotion of tourism at the sub-national level in every part of the country. Ministers responsible for tourism from each jurisdiction meet as the Canadian Council of Tourism Ministers, on an annual basis, to discuss trends and issues of concern to the tourism sector and work together to seek solutions. The provinces and territories have their own regulations and laws for the tourism sector.

4.4.4.3 Policy actions

4.272. In 2017, the Government of Canada launched the Tourism Vision. This includes a whole-of-government, 20-point action plan, focused on supporting enhanced marketing of Canada internationally, improving access for tourists who come to, and travel through, Canada, and enhancing the tourist product offerings. Canada's Tourism Vision sets out ambitious targets for growth: (i) positioning Canada to compete to be a top-ten tourist destination in the world by 2025; (ii) increasing the number of international overnight visitors to Canada by 30% by 2021; and (iii) doubling the number of tourists visiting Canada from China by 2021.

4.273. In May 2018, the Government of Canada released the annual report on the Vision, outlining key results obtained so far, including that 2017 saw the highest number of tourists arriving in Canada to date. In July 2018, the Prime Minister provided the Minister of Tourism, Official Languages and La Francophonie with the mandate to promote tourism in Canada, and to harness the full economic potential of this key sector. As part of this, the new federal Tourism Strategy will help expand tourism opportunities and help attract new visitors while creating good middle-class jobs in every region. On 12 November 2018, the Minister announced the creation of the Advisory Council on Jobs and the Visitor Economy. The Council will identify important issues facing the tourism sector in Canada. It will also recommend new ways to increase tourism opportunities and competitiveness globally, in order to support the development of the new Federal Tourism Strategy.

4.274. Canada made improved market access commitments in the tourism sector in recent preferential trade agreements (e.g. through CETA and CPTPP).

4.4.5 E-commerce

4.275. E-commerce is a shared jurisdiction matter between the Federal Government and the provinces/territories. Regulation affecting it includes, among other things, protection of personal information, legal equivalence of electronic documents and signatures, consumer protection, advertising, and the protection of intellectual property (IP).

²²⁰ Destination Canada online information. Viewed at: <https://www.destinationcanada.com/en/about-us>.

²²¹ Indigenous Tourism Association of Canada. Viewed at: <https://indigenoustourism.ca/corporate/>.

4.276. Retail e-commerce sales, from both store and non-store retailers, rose 14.7% from 2017 to CAD 18.0 billion in 2018.²²² The e-commerce market is, however, likely much larger, as this figure does not include the on-line purchases made by consumers from retailers located outside of Canada. On-line purchases of goods by consumers from foreign-located retailers are embedded in Statistics Canada's goods import data series. In 2015, the value of all postal imports, which includes imports of on-line purchases, was estimated to be CAD 1.8 billion.²²³ Findings from a 2016 survey by Canada Post showed that half of Canadians (53%) made at least one cross-border purchase, with the majority purchasing from the United States followed by the Asia-Pacific region, and Europe.²²⁴

4.277. A number of federal statutes and regulations provide a general framework for commerce, including electronic commerce. In general, all existing laws that apply to traditional commerce apply to business conducted via the Internet. Laws governing business incorporation, business name registration, taxation, consumer protection, advertising, importing or exporting, product safety, and product standards apply to e-business. This marketplace framework also consists of laws covering areas such as corporate and insolvency law, foreign investment, privacy, e-protection, competition, copyright, trade-marks and industrial design, and patents. Taken together, these policies, laws and regulations provide the foundation for the digital marketplace, including activities that are core to enhancing electronic commerce, such as regulating the use of personal data, IP, and competition.

4.278. Canada's federal data privacy laws include the Privacy Act and the Personal Information Protection and Electronic Documents Act (PIPEDA). Canada's provinces and territories also have privacy laws. The Privacy Act is the law that governs the personal information-handling practices of federal government institutions. The Act applies to all personal information the federal institutions collect, use and disclose. The Act also gives individuals the right to access, and request correction of, personal information held by these federal government institutions. The PIPEDA applies to businesses/organizations and provides that there must be a consent to collect, use or disclose personal information. Canada recently strengthened protections related to data privacy and security, through amendments to the PIPEDA, and the accompanying Breach of Security Safeguards Regulations. As at 1 November 2018, private sector organizations that experience a breach of data security safeguard involving personal information are required to notify individuals as soon as is feasible of any breach that poses a real risk of significant harm. They must also report the data breach to the Privacy Commissioner of Canada.

4.279. Provincial/territorial e-commerce legislation is modelled on the Uniform Electronic Commerce Act (UECA).²²⁵ The UECA was adopted in 1999 by the Uniform Law Conference of Canada and is based on the 1996 UNCITRAL Model Law on Electronic Commerce.²²⁶ Thus, the provinces/territories each have their own electronic commerce legislation similar to the UNCITRAL Model Law, with the exception of Quebec, which has legislation that is not based on the UECA but is nonetheless influenced by the principles of the UNCITRAL Model Law. The main elements of the provincial/territorial laws are the legal recognition of electronic information and a "media neutral" approach given to electronic documents. Thus, electronic documents and signatures are given the same acceptance and enforceability as their paper counterparts.

²²² Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/n1/daily-quotidien/190222/dq190222a-eng.htm>.

²²³ Statistics Canada online information. Viewed at: <https://www150.statcan.gc.ca/n1/pub/11-621-m/11-621-m2016101-eng.htm>.

²²⁴ Canada Post online information. Viewed at: https://www.canadapost.ca/web/assets/pdf/blogs/canada-post-growing-e-commerce-in-canada-2016_en.pdf.

²²⁵ Uniform Law Conference of Canada online information. Viewed at: <https://www.ulcc.ca/en/uniform-acts-new-order/older-uniform-acts/703-electronic-commerce/1793-uniform-electronic-commerce-act-consol-2011>.

²²⁶ United Nations online information. Viewed at: <http://www.un.or.at/uncitral/english/texts/electcom/ml-ec.htm>.

5 APPENDIX TABLES

Table A1.1 Merchandise exports including re-exports by group of products, 2014-18

HS Section/HS Chapters/subheadings	2014	2015	2016	2017	2018
Total (CAD billion)	526.8	524.1	516.8	546.2	583.0
	(% of total)				
01 Live animals and products	2.6	2.7	2.9	2.8	2.7
02 Vegetable products	4.9	5.3	5.2	5.1	4.8
12 Oil seeds and oleaginous fruits	1.6	1.7	1.8	1.9	1.7
10 Cereals	1.8	1.8	1.4	1.5	1.6
03 Fats and oils	0.6	0.6	0.7	0.8	0.7
04 Prepared food, beverages and tobacco	2.6	3.0	3.3	3.2	3.2
05 Mineral products	29.1	20.9	17.8	22.1	24.0
27 Mineral fuels and oils	27.0	18.9	16.0	20.1	22.0
2709 Petroleum oils and oils obtained from bituminous minerals, crude	18.5	12.2	10.1	12.8	14.9
06 Chemicals and products thereof	6.0	6.8	6.6	5.8	6.3
07 Plastics and rubber	3.6	3.8	3.9	3.7	3.8
08 Raw hides and skins; leather, fur skins and articles thereof	0.3	0.3	0.2	0.2	0.2
09 Wood, cork, straw	2.7	2.9	3.4	3.4	3.2
10 Pulp of wood; paper and paperboard	3.4	3.7	3.5	3.4	3.6
11 Textiles and textile articles	0.7	0.8	0.8	0.7	0.7
12 Footwear, headgear, etc.	0.1	0.1	0.1	0.1	0.1
13 Articles of stone, plaster, cement	0.4	0.4	0.5	0.5	0.4
14 Precious stones and metals, pearls	4.6	4.7	4.9	4.5	4.0
15 Base metals and articles thereof	7.1	7.3	7.1	7.7	7.8
76 Aluminium and articles thereof	1.9	2.0	2.1	2.3	2.2
16 Machinery, electrical equipment	9.7	10.8	10.9	10.7	10.7
84 Machinery and mechanical appliances	6.9	7.6	7.7	7.7	7.7
8411 Turbo-jets, turbo-propellers and other gas turbines	1.0	1.2	1.3	1.4	1.5
85 Electrical machinery and equipment and parts thereof	2.9	3.2	3.2	3.1	3.0
17 Transport equipment	15.4	17.9	19.3	17.3	15.9
87 Vehicles	12.6	14.7	16.5	14.8	13.4
8703 Motor cars and other motor vehicles principally designed for the transport of people	9.4	10.9	12.5	11.0	9.1
18 Precision instruments	1.3	1.5	1.6	1.6	1.6
19 Arms and ammunition	0.1	0.1	0.1	0.1	0.1
20 Miscellaneous manufactured articles	1.4	1.8	1.9	1.8	1.7
21 Works of art, collectors' pieces and antiques	0.1	0.1	0.1	0.1	0.1
Other (HS 98 and HS 99)	3.6	4.5	5.2	4.6	4.5

Source: WTO Secretariat calculations, based on Government, Statistics Canada, and Canada International Merchandise Trade Database data; and Trade Data Online.

Table A1.2 Merchandise imports by group of products, 2014-18

HS Section/HS Chapters/subheadings	2014	2015	2016	2017	2018
Total (CAD billion)	512.2	536.2	533.3	561.4	594.7
	(% of total)				
01 Live animals and products	1.2	1.2	1.3	1.2	1.2
02 Vegetable products	2.5	2.7	2.8	2.8	2.7
03 Fats and oils	0.2	0.2	0.2	0.2	0.2
04 Prepared food, beverages and tobacco	4.1	4.3	4.5	4.3	4.2
05 Mineral products	11.3	8.0	7.2	7.8	8.8
27 Mineral fuels and oils	10.3	7.1	6.3	6.9	7.9
06 Chemicals and products thereof	8.4	8.7	8.7	8.6	8.8
07 Plastics and rubber	4.9	5.0	5.1	5.1	5.1
08 Raw hides and skins; leather, furskins and articles thereof	0.5	0.5	0.5	0.5	0.5
09 Wood, cork, straw	0.7	0.7	0.7	0.7	0.7
10 Pulp of wood; paper and paperboard	1.9	2.0	1.9	1.9	1.8
11 Textiles and textile articles	3.0	3.2	3.3	3.2	3.1
12 Footwear, headgear, etc.	0.6	0.7	0.7	0.7	0.7
13 Articles of stone, plaster, cement	1.2	1.3	1.3	1.2	1.2
14 Precious stones and metals, pearls	2.8	2.6	2.6	2.3	1.9
15 Base metals and articles thereof	7.0	6.6	6.1	6.6	6.9
16 Machinery, electrical equipment	24.1	25.0	25.2	24.6	24.8
84 Machinery and mechanical appliances	14.6	15.1	15.3	14.7	15.0
8471 Automatic data processing machines and units thereof	1.9	1.9	1.9	2.0	2.0
85 Electrical machinery	9.5	9.8	9.8	9.9	9.8
8517 Telephone sets	2.0	2.3	2.2	2.4	2.4
17 Transport equipment	17.4	18.6	19.0	19.6	18.9
87 Vehicles	15.2	15.9	16.7	17.2	16.4
8703 Motor cars and other motor vehicles principally designed for the transport of people	5.8	6.3	6.6	6.6	6.5
8708 Parts and accessories of the motor vehicles	4.4	4.7	5.1	4.7	4.4
8704 Motor vehicles for the transport of goods	2.8	2.8	3.2	3.7	3.1
18 Precision instruments	2.9	3.1	3.1	3.0	2.9
19 Arms and ammunition	0.1	0.1	0.1	0.1	0.1
20 Miscellaneous manufactured articles	3.2	3.4	3.5	3.4	3.3
21 Works of art, collectors' pieces and antiques	0.1	0.1	0.1	0.0	0.1
Other (HS 98 and HS 99)	1.9	2.0	2.0	2.0	2.1

Source: WTO Secretariat calculations, based on Government, Statistics Canada, and Canada International Merchandise Trade Database data; and Trade Data Online.

Table A1.3 Merchandise exports including re-exports by destination, 2014-18

	2014	2015	2016	2017	2018
Total exports (CAD billion)	526.8	524.1	516.8	546.2	583.0
	% of total				
Americas	79.6	79.6	79.2	78.6	77.9
United States	76.8	76.7	76.3	75.9	75.1
Other America	2.7	2.8	2.9	2.8	2.8
Mexico	1.1	1.3	1.5	1.4	1.4
Brazil	0.4	0.4	0.4	0.3	0.4
Europe	8.3	8.0	8.5	8.6	8.6
EU-28	7.4	7.2	7.7	7.6	7.6
United Kingdom	2.9	3.0	3.3	3.2	2.8
Germany	0.6	0.7	0.8	0.8	0.8
Netherlands	0.7	0.7	0.5	0.6	0.8
Belgium	0.7	0.6	0.6	0.6	0.6
France	0.6	0.6	0.7	0.6	0.6
Italy	0.8	0.4	0.5	0.4	0.5
Spain	0.2	0.2	0.3	0.3	0.4
EFTA	0.7	0.6	0.6	0.8	0.8
Norway	0.4	0.4	0.3	0.4	0.4
Switzerland	0.3	0.2	0.3	0.4	0.3
Other Europe	0.2	0.2	0.2	0.2	0.2
Turkey	0.2	0.2	0.2	0.2	0.2
Commonwealth of independent states (CIS)	0.3	0.2	0.2	0.2	0.2
Africa	0.9	0.9	0.7	0.7	0.7
Middle East	0.9	0.9	0.9	0.8	0.9
Saudi Arabia, Kingdom of	0.2	0.2	0.2	0.3	0.3
United Arab Emirates	0.3	0.4	0.3	0.3	0.2
Asia	10.1	10.4	10.5	11.0	11.7
China	3.7	3.9	4.1	4.3	4.7
Japan	2.0	1.9	2.1	2.2	2.2
Other Asia	4.4	4.7	4.4	4.5	4.7
Korea, Republic of	0.8	0.8	0.8	1.0	1.0
India	0.6	0.8	0.8	0.8	0.7
Hong Kong, China	0.9	0.7	0.5	0.4	0.7
Indonesia	0.4	0.3	0.3	0.3	0.4
Australia	0.3	0.4	0.4	0.4	0.3
Chinese Taipei	0.3	0.3	0.3	0.3	0.3
Other	0.0	0.0	0.0	0.0	0.0

Source: WTO Secretariat calculations, based on Government, Statistics Canada, and Canada International Merchandise Trade Database data; and Trade Data Online.

Table A1.4 Merchandise imports by origin, 2014-18

	2014	2015	2016	2017	2018
Total imports (CAD billion)	512.2	536.2	533.2	561.4	594.7
	(% of total)				
Americas	64.1	62.9	62.1	61.4	60.8
United States	54.4	53.2	52.2	51.4	51.1
Other America	9.7	9.7	9.9	10.0	9.7
Mexico	5.6	5.8	6.2	6.3	6.2
Brazil	0.7	0.7	0.7	0.8	0.9
Europe	12.8	12.9	12.8	13.3	14.0
EU-28	11.3	11.5	11.4	11.8	12.4
Germany	3.1	3.2	3.2	3.2	3.2
United Kingdom	1.8	1.7	1.5	1.6	1.5
Italy	1.3	1.4	1.4	1.5	1.5
France	1.2	1.3	1.1	1.1	1.2
Netherlands	0.7	0.6	0.7	0.7	0.8
Belgium	0.4	0.4	0.4	0.6	0.7
Ireland	0.3	0.3	0.4	0.4	0.5
Spain	0.4	0.4	0.4	0.5	0.5
Sweden	0.4	0.3	0.4	0.4	0.4
EFTA	1.2	1.2	1.2	1.2	1.2
Switzerland	0.8	0.8	0.8	0.8	0.8
Other Europe	0.3	0.3	0.3	0.3	0.4
Commonwealth of independent states (CIS)	0.4	0.4	0.4	0.6	0.5
Africa	1.2	1.1	1.3	1.0	0.7
Middle East	1.2	0.7	0.6	0.8	1.0
Saudi Arabia, Kingdom of	0.5	0.4	0.3	0.5	0.6
Asia	20.3	22.0	22.7	23.0	23.0
China	11.5	12.2	12.1	12.6	12.7
Japan	2.6	2.8	3.0	3.1	2.8
Other Asia	6.3	7.0	7.7	7.2	7.4
Korea, Republic of	1.4	1.5	2.0	1.5	1.6
Chinese Taipei	0.9	1.0	1.0	1.0	1.0
Viet Nam	0.6	0.8	0.9	0.9	0.9
India	0.6	0.7	0.8	0.7	0.9
Thailand	0.6	0.6	0.6	0.6	0.6
Malaysia	0.5	0.5	0.5	0.5	0.5
Other	0.0	0.0	0.0	0.0	0.0

Source: WTO Secretariat calculations, based on Government, Statistics Canada, and Canada International Merchandise Trade Database data; and Trade Data Online.

Table A2.1 Involvement in dispute settlement cases, 1 January 2015-31 January 2019

Subject	Respondent/ complainant/ appellant	Request for consultation received	Status (as at 31 January 2019)	WTO document series
Requests for consultations				
Canada - Measures Governing the Sale of Wine in Grocery Stores	Canada/United States	18 January 2017	Consultations	WT/DS520
United States - Certain Systemic Trade Remedies Measures	United States/Canada	20 December 2017	Consultations	WT/DS535
Panels				
<u>Canada as complainant:</u>				
China — Anti-dumping Measures on Imports of Cellulose Pulp from Canada	China/United States	15 October 2014	Implementation notified by respondent on 11 January 2018	WT/DS483
United States - Countervailing Measures on Supercalendered Paper from Canada	United States/Canada	30 March 2016	Panel report under appeal	WT/DS505
United States - Countervailing Measures on Softwood Lumber from Canada	United States/Canada	28 November 2017	Panel composed	WT/DS533
United States - Anti-dumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada	United States/Canada	28 November 2017	Panel composed	WT/DS534
United States - Certain Measures on Steel and Aluminium Products	United States/Canada	1 June 2018	Panel composed	WT/DS550
<u>Canada as a respondent:</u>				
Canada — Anti-dumping Measures on Imports of Certain Carbon Steel Welded Pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Canada/Chinese Taipei	25 June 2014	Report adopted	WT/DS482
Canada - Measures Concerning Trade in Commercial Aircraft	Canada/Brazil	8 February 2017	Panel composed	WT/DS522
Canada - Measures Governing the Sale of Wine in Grocery Stores (second complaint)	Canada/United States	28 September 2017	Panel established, but not yet composed	WT/DS531
Canada - Measures Governing the Sale of Wine	Canada/Australia	12 January 2018	Panel established, but not yet composed	WT/DS537
Canada - Additional Duties on Certain Products from the United States	Canada/United States	16 July 2018	Panel composed	WT/DS557
Compliance Panel under Article 21.5				
United States – Certain Country of Origin Labelling (COOL) Requirements	United States: Appellant/Appellee Canada: Other Appellant/Appellee		Appellate Body Report circulated on 18 May 2015 and adopted on 29 May 2015	WT/DS384
Arbitration under Article 22.6				
United States – Certain Country of Origin Labelling (COOL) Requirements	United States/Canada		Report circulated on 7 December 2015	WT/S384

Source: WTO Secretariat.

Table A2.2 Selected notifications to the WTO, 1 January 2015-31 December 2018

WTO agreement	Description	Document symbol	Date
Agreement on Agriculture			
Articles 10 and 18.2 (ES:1, ES:2, and ES:3)	Export subsidies commitments: budgetary outlays and quantity reduction commitments	G/AG/N/CAN/118 G/AG/N/CAN/109 G/AG/N/CAN/108	22/03/2018 29/04/2016 01/07/2015
Article 16.2 NF:1 (1)-(4)	Net-food Importing Developing Country (NFIDC) Decision: food and other assistance	G/AG/N/CAN/115	28/10/2016
Article 18.2 (DS:1)	Domestic support	G/AG/N/CAN/122 G/AG/N/CAN/113/Rev.1, G/AG/N/CAN/113 G/AG/N/CAN/104	30/05/2018 29/09/2017 27/10/2016 26/02/2015
Article 18.2 (MA:1)	Administration of tariff and other quota commitments	G/AG/N/CAN/116	14/03/2018
Article 18.2 (MA:2)	Tariff quotas	G/AG/N/CAN/120 G/AG/N/CAN/112 G/AG/N/CAN/111 G/AG/N/CAN/107	16/03/2018 08/07/2016 15/06/2016 28/04/2015
Article 18.3 (DS:2)	New or modified exempt domestic support measures	G/AG/N/CAN/121 G/AG/N/CAN/114 G/AG/N/CAN/105	29/05/2018 27/10/2016 26/02/2015
Articles 5.7 and 18.2 (MA:5)	Special safeguard provisions	G/AG/N/CAN/119 G/AG/N/CAN/117 G/AG/N/CAN/110 G/AG/N/CAN/106	16/03/2018 14/03/2018 26/05/2016 28/04/2015
General Agreement on Trade in Services			
Article III:4 or IV:2	Contact and enquiry points	S/ENQ/78/Rev.15	04/02/2015
Article V:7(a)(3)	Economic integration agreements: CETA, Canada and Honduras, Canada and the Republic of Korea, CTPPP	S/C/N/920 S/C/N/896 S/C/N/791 S/C/N/789	20/12/2018 21/09/2017 05/02/2015 20/01/2015
WT/L/847	Services LDC waiver	S/C/N/792/Rev.1 S/C/N/792	16/12/2015 09/03/2015
Agreement on the Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement)			
Article 16.4 – <i>ad hoc</i>	Anti-dumping actions (preliminary and final)	G/ADP/N/320 G/ADP/N/319 G/ADP/N/318 G/ADP/N/316 G/ADP/N/313 G/ADP/N/310 G/ADP/N/307 G/ADP/N/306 G/ADP/N/305 G/ADP/N/304 G/ADP/N/303 G/ADP/N/299 G/ADP/N/298 G/ADP/N/297 G/ADP/N/296 G/ADP/N/295 G/ADP/N/291 G/ADP/N/288 G/ADP/N/285 G/ADP/N/283 G/ADP/N/282 G/ADP/N/277 G/ADP/N/274 G/ADP/N/271 G/ADP/N/270 G/ADP/N/268	29/11/2018 18/10/2018 24/09/2018 27/07/2018 30/05/2018 22/02/2018 20/12/2017 14/12/2017 19/10/2017 20/09/2017 30/08/2017 31/05/2017 20/04/2017 23/03/2017 24/02/2017 30/01/2017 18/10/2016 28/07/2016 31/05/2016 24/03/2016 23/02/2016 15/10/2015 24/07/2015 29/05/2015 16/04/2015 20/02/2015
Article 16.4 – semi-annual	Anti-dumping actions (taken within the preceding six months)	G/ADP/N/314/CAN G/ADP/N/308/CAN G/ADP/N/300/CAN G/ADP/N/294/CAN G/ADP/N/286/CAN G/ADP/N/280/CAN G/ADP/N/272/CAN G/ADP/N/265/CAN	14/09/2018 14/03/2018 15/09/2017 21/03/2017 22/09/2016 01/03/2016 07/09/2015 17/03/2015
Article 18.5	Notification of laws and regulations under Article 18.5	G/ADP/N/1/CAN/4/Suppl.2 G/ADP/N/1/CAN/4/Suppl.1	19/06/2018 23/08/2016
GATT 1994			
Article XXIV:7(a) of GATT 1994	Free-trade areas: CETA, CUFTA, Canada and Honduras, Canada and the Republic of Korea, CTPPP	WT/REG395/N/1 WT/REG389/N/1 WT/REG388/N/1/Rev.1 WT/REG388/N/1 WT/REG364/N/1 WT/REG362/N/1	20/12/2018 21/09/2017 15/09/2017 14/09/2017 05/02/2015 20/01/2015

WTO agreement	Description	Document symbol	Date
Article XVII:4(a) and Paragraph 1 of the Understanding on the Interpretation of Article XVII	State trading activities	G/STR/N/17/CAN G/STR/N/16/CAN	13/07/2018 22/07/2016
Article XXVIII:5	Invocation of paragraph 5 of Article XXVIII	G/MA/347	17/11/2017
Agreement on Government Procurement 1994			
Article XIX:5	Statistics reported under Article XIX:5	GPA/123/Add.6 GPA/119/Add.4 GPA/114/Add.6 GPA/108/Add.8	12/02/2016 19/10/2015 19/10/2015 19/10/2015
Agreement on Government Procurement 2012			
Article XVI:4	Statistics reported under Article XVI:4 of the revised GPA	GPA/130/Add.7/Rev.1 GPA/130/Add.7	12/04/2017 06/02/2017
Article XXII:5	Notification of domestic legislation relevant to the GPA	GPA/136 GPA/128	31/03/2016 05/05/2015
Article XXII:8	Work Programme on the Collection and Reporting of Statistical Data	GPA/WPS/STAT/27 GPA/WPS/STAT/2	19/04/2018 27/05/2015
Article XXII:8	Exchanges Among the Parties on Responses to SME Questionnaire Pursuant to Paragraph 3.2(c) of the Committee's Decision on a Work Programme on SMEs	GPA/WPS/SME/29 GPA/WPS/SME/28 GPA/WPS/SME/17 GPA/WPS/SME/13 GPA/WPS/SME/1	05/09/2016 05/09/2016 27/05/2016 09/12/2015 18/05/2015
Procurement thresholds	Thresholds in Appendix I of the Agreement, as expressed in national currencies	GPA/THR/CAN/1 GPA/W/336/Add.5	15/01/2018 19/01/2016
Agreement on Import Licensing			
Articles 5.1-5.4	Notification under Articles 5.1-5.4 of the Agreement	G/LIC/N/2/CAN/1	14/09/2018
Article 7.3	Replies to the questionnaire	G/LIC/N/3/CAN/17 G/LIC/N/3/CAN/16 G/LIC/N/3/CAN/15 G/LIC/N/3/CAN/14 G/LIC/N/3/CAN/13	01/10/2018 29/11/2017 06/10/2016 25/02/2016 25/02/2015
Trade Facilitation Agreement			
Article 22	Notification based on Article 22 of the TFA	G/TFA/N/CAN/3 G/TFA/N/CAN/2 G/TFA/N/CAN/1	15/08/2018 03/07/2017 03/07/2017
Decision on Notification Procedures for Quantitative Restrictions			
G/L/59/Rev.1	Notification of QRs	G/MA/QR/N/CAN/3	17/10/2016
Agreement on Rules of Origin			
Paragraph 4 of Annex II	Preferential rules of origin	G/RO/N/169 G/RO/N/168 G/RO/N/134 G/RO/N/133	24/05/2018 25/05/2018 02/10/2015 02/10/2015
WT/L/917/Add.1 (Paragraph 4.3 of the 2015 Ministerial Decision)	Notification of preferential rules of origin for LDCs	G/RO/LDC/N/CAN/2 G/RO/LDC/N/CAN/1	10/10/2017 13/06/2017
Agreement on Subsidies and Countervailing Measures			
Article 25.1 and GATT 1994 Article XVI:1	Subsidies	G/SCM/N/315/CAN G/SCM/N/284/CAN	12/07/2017 09/07/2015
Article 25.11 – <i>ad hoc</i>	Countervailing duty actions (preliminary and final)	G/SCM/N/339 G/SCM/N/338 G/SCM/N/336 G/SCM/N/333 G/SCM/N/330 G/SCM/N/327 G/SCM/N/326 G/SCM/N/324 G/SCM/N/323 G/SCM/N/319 G/SCM/N/318 G/SCM/N/317 G/SCM/N/307 G/SCM/N/304 G/SCM/N/302 G/SCM/N/301 G/SCM/N/295 G/SCM/N/292 G/SCM/N/288 G/SCM/N/287 G/SCM/N/285	16/10/2018 17/09/2018 24/07/2018 25/05/2018 22/02/2018 15/12/2017 09/11/2017 14/09/2017 04/08/2017 12/05/2017 13/04/2017 14/03/2017 14/07/2016 24/05/2016 16/03/2016 25/02/2016 09/10/2015 23/07/2015 29/05/2015 16/04/2015 23/02/2015
Article 25.11 - semi annual	Countervailing duty actions (taken within the preceding six months)	G/SCM/N/334/CAN G/SCM/N/328/CAN G/SCM/N/321/CAN G/SCM/N/313/CAN G/SCM/N/305/CAN	19/09/2018 26/03/2018 21/09/2017 21/03/2017 27/09/2016

WTO agreement	Description	Document symbol	Date
Article 32.6	Notification of laws and regulations under Article 32.6	G/SCM/N/298/CAN	16/03/2016
		G/SCM/N/289/CAN	18/09/2015
		G/SCM/N/281/CAN	20/03/2015
		G/SCM/N/1/CAN/4/Suppl.2	19/06/2018
		G/SCM/N/1/CAN/4/Suppl.1	23/08/2016
Agreement on Safeguards			
Article 12.1 (A), Article 12.4 and Article 9	WTO Agreement on Safeguards, upon initiating an investigation and imposing a provisional measure on imports of certain steel products	G/SG/N/6/CAN/4 G/SG/N/7/CAN/1 G/SG/N/11/CAN/1	15/10/2018
Article 12.6	Notification of Laws, Regulations and Administrative Procedures Relating to Safeguard Measures	G/SG/N/1/CAN/3/Suppl.1	19/06/2018
Agreement on Sanitary and Phytosanitary Measures			
Article 7 Annex B	Sanitary and phytosanitary regulations	614 notifications received. Viewed at: http://spsims.wto.org/	
Agreement on Technical Barriers to Trade			
Article 2.10	TBT Notification	G/TBT/N/CAN/562 G/TBT/N/CAN/531 G/TBT/N/CAN/531/Corr.1 G/TBT/N/CAN/525 G/TBT/N/CAN/525/Add.1 G/TBT/N/CAN/496 G/TBT/N/CAN/496/Corr.1	09/08/2018 25/08/2017 01/09/2017 08/05/2017 18/07/2017 12/09/2016 20/09/2016
Article 2.9	Technical regulations	103 notifications received Viewed at: http://tbtims.wto.org/	
Articles 2.9 and 5.6	Technical regulations and conformity assessment procedures	47 notifications received. Viewed at: http://tbtims.wto.org/	
Article 5.6	TBT Notification	G/TBT/N/CAN/534	06/11/2017
Article unspecified	Notification	G/TBT/N/CAN/506	12/12/2016
Agreement on Trade-Related Aspects of Intellectual Property Rights			
Article 63.2	Laws/regulations; amendment of a law/regulation	IP/N/1/CAN/20 IP/N/1/CAN/T/5 IP/N/1/CAN/18 IP/N/1/CAN/P/13 IP/N/1/CAN/19 IP/N/1/CAN/G/1 IP/N/1/CAN/11/Rev.1 IP/N/1/CAN/O/2/Rev.1 IP/N/1/CAN/17 IP/N/1/CAN/C/7 IP/N/1/CAN/16 IP/N/1/CAN/P/12 IP/N/1/CAN/15 IP/N/1/CAN/C/6 IP/N/1/CAN/14 IP/N/1/CAN/P/11 IP/N/1/CAN/13 IP/N/1/CAN/O/3 IP/N/1/CAN/12 IP/N/1/CAN/T/4 IP/N/1/CAN/C/5 IP/N/1/CAN/11 IP/N/1/CAN/O/2 IP/N/1/CAN/10 IP/N/1/CAN/P/10 IP/N/1/CAN/9 IP/N/1/CAN/D/3 IP/N/1/CAN/8 IP/N/1/CAN/C/4 IP/N/1/CAN/7 IP/N/1/CAN/T/3	14/06/2018 14/06/2018 11/06/2018 11/06/2018 11/06/2018 11/06/2018 10/05/2017 10/05/2017 10/11/2016 10/11/2016 08/06/2016 08/06/2016 07/06/2016 07/06/2016 07/06/2016 07/06/2016 23/04/2015 23/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015 22/04/2015

Source: WTO Secretariat.

Table A3.1 Definitive Anti-Dumping Measures in Force, as of 31 December 2018

Country/ Customs Territory	Product, investigation ID number	Measure(s)	Date of original imposition; publication reference	Date(s) of extension; publication reference(s)
Belarus	Certain concrete reinforcing bar	Duties	03.05.17	
Brazil	Certain hot-rolled steel sheet (previously hot-rolled carbon steel sheet)	Duties	17.08.01	16.08.06 15.08.11 12.08.16
	Certain copper tube	Duties	18.12.13	
	Certain steel plate	Duties	20.05.14	
Bulgaria	Certain hot-rolled steel plate (previously hot-rolled carbon steel plate)	Duties	09.01.04	08.01.09 07.01.14
China	Certain hot-rolled steel plate (previously hot-rolled carbon steel plate)	Duties	27.10.97	10.01.03 09.01.08 08.01.13
	Certain hot-rolled steel sheet (previously hot-rolled carbon steel sheet)	Duties	17.08.01	16.08.06 15.08.11 12.08.16
	Certain steel fasteners	Duties	07.01.05	06.01.10 05.01.15
	Certain copper pipe fittings	Duties	19.02.07	17.02.12 28.11.16
	Certain seamless steel casing	Duties	10.03.08	11.03.13
	Certain carbon steel welded pipe	Duties	20.08.08	19.08.13
	Certain thermoelectric coolers and warmers	Duties	11.12.08	09.12.13
	Certain aluminium extrusions	Duties	17.03.09	17.03.14
	Certain oil country tubular goods	Duties	23.03.10	02.03.15
	Certain steel grating	Duties	19.04.11	18.04.16
	Certain pup joints	Duties	10.04.12	07.04.17
	Certain stainless-steel sinks	Duties	24.05.12	
	Certain steel piling pipe	Duties	30.11.12	
	Certain unitized wall modules	Duties	12.11.13	
	Certain silicon metal	Duties	19.11.13	
	Certain copper tube	Duties	18.12.13	
	Certain concrete reinforcing bar	Duties	09.01.15	
	Certain photovoltaic modules and laminates	Duties	03.07.15	
	Certain carbon and alloy steel line pipe	Duties	29.03.16	
	Certain large diameter carbon and alloy steel line pipe	Duties	20.10.16	
	Certain fabricated industrial steel components	Duties	25.05.17	
	Sucker rods	Duties	14.12.18	
	Cold roll steel	Duties	21.12.18	
Czech Republic	Certain hot-rolled steel plate (previously hot-rolled carbon steel plate)	Duties	09.01.04	08.01.09 07.01.14
Denmark	Certain refined sugar	Duties	06.11.95	03.11.00 02.11.05 01.11.10 ^a 30.10.15
	Certain steel plate	Duties	20.05.14	

Country/ Customs Territory	Product, investigation ID number	Measure(s)	Date of original imposition; publication reference	Date(s) of extension; publication reference(s)
Germany	Certain refined sugar	Duties	06.11.95	03.11.00 02.11.05 01.11.10 ^b 30.10.15
Greece	Certain copper tube	Duties	18.12.13	
Hong Kong, China	Certain concrete reinforcing bar	Duties	03.05.17	
India	Certain carbon steel welded pipe	Duties	11.12.12	
	Certain oil country tubular goods	Duties	02.04.15	
Indonesia	Certain steel plate	Duties	20.05.14	
	Certain oil country tubular goods	Duties	02.04.15	
Italy	Certain steel plate	Duties	20.05.14	
Japan	Certain concrete reinforcing bar	Duties	03.05.17	
	Certain steel plate	Duties	20.05.14	
	Certain large diameter carbon and alloy steel line pipe	Duties	20.10.16	
Korea, Rep. of	Certain hollow structural sections	Duties	23.12.03	22.12.08 20.12.13
	Certain copper pipe fittings	Duties	19.02.07	17.02.12 28.11.16
	Certain liquid dielectric transformers	Duties	20.11.12	
	Certain carbon steel welded pipe	Duties	11.12.12	
	Certain copper tube	Duties	18.12.13	
	Certain steel plate	Duties	20.05.14	
	Certain concrete reinforcing bar	Duties	09.01.15	
	Certain oil country tubular goods	Duties	02.04.15	
	Certain fabricated industrial steel components	Duties	25.05.17	
	Certain carbon and alloy steel line pipe 2	Duties	04.01.18	
	Cold roll steel	Duties	21.12.18	
Mexico	Certain copper tube	Duties	18.12.13	
Netherlands	Certain refined sugar	Duties	06.11.95	03.11.00 02.11.05 01.11.10 ^c 30.10.15
Oman	Certain carbon steel welded pipe	Duties	11.12.12	
Philippines	Certain oil country tubular goods	Duties	02.04.15	
Portugal	Certain concrete reinforcing bar	Duties	03.05.17	
Romania	Certain hot-rolled steel plate (previously hot-rolled carbon steel plate)	Duties	09.01.04	08.01.09 07.01.14
Spain	Certain concrete reinforcing bar	Duties	03.05.17	
	Certain fabricated industrial steel components	Duties	25.05.17	
Chinese Taipei	Certain steel fasteners	Duties	07.01.05	06.01.10 05.01.15
	Certain carbon steel welded pipe	Duties	11.12.12	

Country/ Customs Territory	Product, investigation ID number	Measure(s)	Date of original imposition; publication reference	Date(s) of extension; publication reference(s)
	Certain oil country tubular goods	Duties	02.04.15	
	Certain concrete reinforcing bar	Duties	03.05.17	
Thailand	Certain carbon steel welded pipe	Duties	11.12.12	
	Certain oil country tubular goods	Duties	02.04.15	
Turkey	Certain hollow structural sections	Duties	23.12.03	22.12.08 20.12.13
	Certain concrete reinforcing bar	Duties	09.01.15	
	Certain oil country tubular goods	Duties	02.04.15	
	Dry wheat pasta	Duties	26.07.18	
Ukraine	Certain hot-rolled steel sheet (previously hot-rolled carbon steel sheet)	Duties	17.08.01	16.08.06 15.08.11 12.08.16
	Certain steel plate	Duties	02.02.10	30.01.15
	Certain oil country tubular goods	Duties	02.04.15	
United Arab Emirates	Certain carbon steel welded pipe	Duties	11.12.12	
United Kingdom	Certain refined sugar	Duties	06.11.95	03.11.00 02.11.05 01.11.10 ^d 30.10.15
United States	Certain whole potatoes ^e	Duties	04.06.84 18.04.86	14.09.90 14.09.95 13.09.00 12.09.05 10.09.10 09.09.15
	Certain refined sugar	Duties	06.11.95	03.11.00 02.11.05 01.11.10 30.10.15
	Certain copper pipe fittings	Duties	19.02.07	17.02.12 28.11.16
	Certain gypsum board	Duties	04.01.17	
Viet Nam	Certain oil country tubular goods	Duties	02.04.15	
	Copper pipe fittings	Duties	25.05.18	
	Cold roll steel	Duties	21.12.18	

- a The finding against Denmark was originally rescinded but this decision was reversed on appeal and duties were reinstated in accordance with the Tribunal's decision of 28 September 2012.
- b The finding against Germany was originally rescinded but this decision was reversed on appeal and duties were reinstated in accordance with the Tribunal's decision of 28 September 2012.
- c The finding against the Netherlands was originally rescinded but this decision was reversed on appeal and duties were reinstated in accordance with the Tribunal's decision of 28 September 2012.
- d The finding against the United Kingdom was originally rescinded but this decision was reversed on appeal and duties were reinstated in accordance with the Tribunal's decision of 28 September 2012.
- e This case was originally two separate dumping investigations concerning whole potatoes: one with respect to non-size A russets potatoes from the state of Washington (date of original imposition: 4 June 1984) and another with regard to whole potatoes from the United States, excluding those potatoes covered by the previous finding (date of original imposition: 18 April 1986). Those two investigations merged before the first expiry review in 1990.

Source: WTO documents G/ADP/N/308/CAN, 14 March 2018, G/ADP/N/314/CAN, 14 September 2018, and G/ADP/N/322/CAN (to be issued), and CBSA online information, at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/hist-eng.html>.

Table A3.2 Selected federal incentives programmes, 2018

Programme	Form of assistance	Disbursements
Industrial programmes		
Aboriginal Entrepreneurship Program (AEP)	Repayable or non-repayable contributions for a range of activities including business planning, start-up, expansion and/or marketing, of up to CAD 99,999 for a single project or CAD 250,000 for community-owned businesses.	23 projects, totalling CAD 6,327,025 in 2016-17. 26 projects totalling CAD 6,747,981 in 2017-18. 15 projects totalling CAD 4,928,377 in 2018-19.
ACOA Business Development Program (BDP)	Grants and contributions are provided to not-for-profit organizations and businesses to improve the growth and competitiveness of Atlantic Canadian SMEs; provide for dynamic and sustainable communities in Atlantic Canada; and provide for initiatives that strengthen the Atlantic economy. Contributions are repayable (normally within 10 years), conditionally repayable or non-repayable.	CAD 133,490,945 in FY 2015/16; CAD 157,475,355 in FY 2016/17; CAD 175,416,579 in FY 2017/18; and CAD 162,477,131 (estimate) in FY 2018/19.
Advanced Manufacturing Fund (AMF)	Repayable contributions to for-profit organizations, and non-repayable contributions to not-for-profit organizations. Eligible recipients include established for-profit businesses in Ontario that are incorporated in Canada, and not-for-profit organizations located in Ontario.	CAD 32.6 million in FY 2015/16; CAD 42.8 million in FY 2016/17; CAD 53.3 million in FY 2017/18; and CAD 41.4 million (estimate) in FY 2018/19. Existing funding will end on 31 March 2019.
Atlantic Innovation Fund (AIF)	The objective is to increase the capacity for, and the commercialization of, R&D in the region. Contributions to commercial clients are either conditionally or unconditionally repayable, and contributions to not-for-profit organizations are non-repayable.	CAD 37,241,005 in FY 2015/16; CAD 30,653,122 in FY 2016/17; CAD 36,274,360 in FY 2017/18; and CAD 40,000,000 (estimate) in FY 2018/19.
Automotive Innovation Fund (AIF)	Fully repayable contribution. Sharing ratios range up to 15% of eligible costs. The objectives are to build automotive R&D capacity in Canada and secure knowledge-based jobs. Eligible recipients are corporations incorporated pursuant to the laws of Canada carrying on business in Canada, with investment proposals in Canada of more than CAD 75 million for vehicle or powertrain assembly operations associated with innovation and R&D.	CAD 59 million in FY 2015/2016; and CAD 144.2 million in FY 2016/2017. CAD 60,069,858 in FY 2014/15 and CAD 92,266,600 in FY 2015/2016.
Automotive Supplier Innovation Program (ASIP)	Non-repayable contributions to support technology demonstration and prototyping activities of Canadian-based suppliers developing innovative products and/or processes in the automotive sector. Eligible recipients must be for-profit companies, incorporated pursuant to the laws of Canada, carrying on business in Canada. Priority for funding is given to SMEs (with either fewer than 500 employees globally, or global revenues of less than CAD 1 billion). Larger firms are eligible, but must partner with at least one Canadian-based SME. Each company is eligible to receive up to CAD 10 million over the term of the ASIP. The ASIP funds up to 50% of the total eligible costs of a project.	CAD 14.3 million in FY 2015/16; and CAD 21.9 million in FY 2016/17.
Canada Small Business Financing Program (CSBFP).	Lenders can register a loan made to an eligible small business up to a maximum of CAD 1 million, of which a maximum of CAD 350,000 can be used to finance the purchase or improvement of equipment or the purchase of leasehold improvements. The maximum loan term is 15 years for real property loans, and 10 years for other loan classes. The Government reimburses lenders for 85% of eligible loan losses. Eligible recipients are small business enterprises, with gross revenue not exceeding CAD 10 million.	(Disbursements less revenues received) CAD 6,581,110 in FY 2015/16; CAD 6,306,984 in FY 2016/17; and CAD 10,924,447 in FY 2017/18.
Community Futures Program (CF). Atlantic Provinces	The objective is to support rural communities in diversifying their economies. Non-repayable contributions provided to support the network of 41 not-for-profit Community Business Development Corporations (CBDCs), their four associations and the Atlantic association enabling CBDCs to provide small businesses with loans of up to CAD 150,000 on commercial-lending terms.	CAD 12,604,443 in FY 2015/16; CAD 12,627,869 in FY 2016/17; CAD 12,641,998 in FY 2017/18; and CAD 12,642,000 (estimate) in FY 2018/19.

Programme	Form of assistance	Disbursements
Community Futures Program – Northern Ontario	The objectives are to assist communities in pursuing economic stability, growth, and job creation. Eligible applicants include the 24 Community Futures Development Corporations (CFDCs) located throughout Northern Ontario, as well as two regional and one provincial associations. Non-repayable contributions are provided to CFDCs to cover operating costs for the delivery of the Program within their service area. As part of this delivery, CFDCs provide small business loans of up to CAD 150,000 on commercial-lending terms from their locally-owned and -controlled investment funds.	CAD 8,360,008 in FY 2014/15; CAD 8,360,008 in FY 2015/16; CAD 8,360,008 in FY 2016/17; and CAD 8,360,008 in FY 2017/18.
Community Futures Program – Quebec	The objectives include fostering economic stability, growth and job creation; supporting local rural economies; and helping to build economically sustainable communities. The Program supports 57 CFDCs and 10 Business Development Centres in Quebec. Non-repayable contributions provided to the CFDCs to establish capital funds with which to provide small businesses with loans of up to CAD 150,000 on commercial-lending terms.	CAD 28,400,000 in FY 2014/15; CAD 28,600,000 for FY 2015/16; CAD 29,607,493 in FY 2016/17; and CAD 28,683,673 in FY 2017/18.
Community Futures Program - Southern Ontario	Eligible applicants include the 37 CFDCs located under the Federal Economic Development Agency for Southern Ontario's mandate. Non-repayable contributions are provided to CFDCs to cover operating costs for the delivery of the Program within their service area. As part of this delivery, CFDCs provide small business loans of up to CAD 150,000 on commercial-lending terms from their locally owned and -controlled investment funds.	CAD 11.3 million in FY 2014/15; CAD 11.2 million in FY 2015/16; CAD 11.3 million in FY 2016/17; CAD 11.3 million in FY 2017/18; and CAD 11.3 million (estimate) in FY 2018/19.
Community Futures Program – Western Canada	Either non-repayable or conditionally-repayable contributions to Community Futures organizations (CFs). Non-repayable contributions are provided to four provincial associations and 90 independent, locally-run, not-for-profit CFDCs across Western Canada to support the operating costs of their administrative and business service activities. The CFDCs provide small businesses with loans of up to CAD 150,000 on commercial terms.	CAD 29,790,691 in FY 2015/16; CAD 28,228,125 in FY 2016/17; CAD 26,365,978 in FY 2017/18; and CAD 28,156,322 (estimate) in FY 2018/19.
Eastern Ontario Development Program (EODP)	The EODP promotes the growth of new and existing businesses in rural communities. Financial assistance is provided in the form of non-repayable contributions. Eligible applicants include the 15 CFDCs located in Eastern Ontario and the Eastern Ontario CFDC Network. Non-profit organizations, commercial enterprises, and Aboriginal organizations, can apply to the CFDCs for funding. Funding to commercial enterprises is up to CAD 100,000.	CAD 9.6 million in FY 2015/16; CAD 9.6 million in FY 2016/17; CAD 9.6 million in FY 2017/18; and CAD 9.6 million (estimate) in 2018/19. Existing funding will end on 31 March 2019.
Economic Development Initiative (EDI) - Northern Ontario	The objective is to support business and economic development activities that develop new expertise in innovation, economic diversification and business growth in Northern Ontario's francophone communities and capitalize on economic opportunities made possible through linguistic duality. Financial assistance is provided in the form of non-repayable contributions. Eligible recipients include francophone or other organizations located in Northern Ontario undertaking projects in both official languages, providing programmes or services in French.	CAD 364,600 in FY 2014/15; CAD 1,335,400 in FY 2015/16; CAD 1,171,274 in FY 2016/17; and CAD 876,338 in FY 2017/18.
Economic Development Initiative (EDI) - Southern Ontario	The EDI supports projects that strengthen innovation, entrepreneurship, partnerships, and diversification of economic activities. Financial assistance is provided as non-repayable contributions. Eligible recipients are francophone or bilingual organizations located in southern Ontario providing programmes or services in French to the francophone community.	CAD 1 million in FY 2015/16; CAD 1 million in FY 2016/17; CAD 1 million in FY 2017/18; and CAD 0.8 million in FY 2018/19.
Futurpreneur Canada	Provides loans and support to young entrepreneurs. The initial recipient is Futurpreneur Canada, which in turn provides loans and mentoring resources to aspiring young entrepreneurs who are between the ages of 18 and 39. Assistance is provided in the form of a contribution.	CAD 9 million in FY 2014/15; CAD 7 million in FY 2015/16; CAD 7 million in FY 2016/17; CAD 7 million in FY 2017/18; and CAD 7 million (estimate) in FY 2018/19. Funding is provided until 31 March 2019.

Programme	Form of assistance	Disbursements
The Innovative Communities Fund (ICF)	The objective is to support strategic initiatives that respond to the economic development needs of Atlantic Canada. Assistance is in the form of non-repayable contributions. The ICF provides assistance to non-commercial/not-for-profit organizations to support strategic economic development initiatives.	CAD 40,951,127 in FY 2015/16; CAD 47,669,438 in FY 2016/17; CAD 41,687,697 in FY 2017/18; and CAD 37,157,762 (estimate) in FY 2018/19.
National Research Council Industrial Research Assistance Program (NRC-IRAP)	The objectives are to provide support to SMEs in the development of technologies, up to their commercialization. Assistance is through cost-shared non-repayable contributions. Contributions to firms do not exceed 75% of the total eligible costs of the project. Eligible recipients are firms with fewer than 500 employees operating in Canada. The NRC-IRAP Youth Employment Program provides non-repayable funding for SMEs to hire, for up to one-year, post-secondary graduates in science, engineering, technology, business and the liberal arts.	CAD 209,838,256 in FY 2014/15; and CAD 235,148,939 in FY 2015/16.
Northern Aboriginal Economic Opportunities Program (NAEOP)	The NAEOP supports greater participation by northern Aboriginal communities and businesses in the Canadian economy and comprises two programme streams: Community Readiness and Operations Planning (CROP) and Entrepreneurship and Business Development (EBD). Assistance under CROP is provided to First Nations and Inuit communities and organizations, according to specific funding agreements between the Government and the recipient. Assistance under EBD is provided to Aboriginal entrepreneurs, businesses and organizations in the pursuit of economic opportunities for the benefit of Aboriginal people and includes support for activities that facilitate the establishment or expansion of Aboriginal businesses. The maximum amount payable to an eligible recipient for a project may not exceed 100% of the eligible project costs or CAD 3 million per annum.	CAD 10.8 million in FY 2015/16; CAD 10.8 million in FY 2016/17; and CAD 10.8 million in 2017/18.
Northern Ontario Development Program (NODP)	The NODP invests in projects that support community economic development, business growth and competitiveness, and innovation, to encourage economic growth, diversification, job creation and self-reliant communities in Northern Ontario. Financial assistance includes repayable and non-repayable contributions. Assistance is provided to municipalities, SMEs, not-for-profit organizations, and other community groups.	CAD 35,500,400 in FY 2014/15; CAD 35,279,600 in FY 2015/16; CAD 31,540,000 in FY 2016/17; and CAD 30,640,000 in FY 2017/18.
Quebec Economic Development Program (QEDP)	The QEDP helps promote the long-term economic development of the regions of Quebec. Financial assistance takes the form of contributions (repayable or not) and grants. Eligible costs include all costs directly related to the project. Assistance is provided to SMEs, SME groups and associations, non-profit organizations, and institutions dedicated to the promotion and dissemination of knowledge.	CAD 183,700,000 in FY 2014/15; CAD 189,900,000 in FY 2015/16; CAD 244,818,183 in FY 2016/17; and CAD 238,142,111 in FY 2017/18.
Southern Ontario Prosperity Initiatives (SOPI) of the Southern Ontario Prosperity Program (SOPP)	The SOPP promotes economic diversification, job creation and self-reliant communities in southern Ontario. Within it, the SOPI provides financial assistance through repayable contributions to for-profit organizations and non-repayable contributions to not-for-profit organizations. This Program is directed at not-for-profit organizations, new businesses, and SMEs.	CAD 105.5 million in FY 2015/16; CAD 100.8 million in FY 2016/17; CAD 97.8 million in FY 2017/18; and CAD 95.8 million (estimate) in 2018/19.
Strategic Aerospace and Defence Initiative (SADI)	The objective of SADI is to contribute strategically to R&D in the A&D industries. Assistance is provided in the form of repayable contributions that do not exceed 40% of eligible costs, except under exceptional circumstances and with Ministerial approval. No pre-defined maximum amount is established. Eligible recipients for funding are corporations incorporated under Canadian law, that are prepared to conduct strategic R&D activities in A&D industries. At least 1% of total eligible project costs must be allocated to post-secondary education institutions in Canada.	CAD 2.7 million FY 2015/16; CAD 270 million FY 2016/17; CAD 3.4 million FY 2017/18; and CAD 7.6 million April 2018-31 December 2018.

Programme	Form of assistance	Disbursements
Strategic Innovation Fund (SIF)	The objective of the SIF is to support innovative projects that produce high economic, innovation and public benefits for Canadians. It is open to firms of all sizes across all of Canada's industrial and technology sectors. It provides repayable and non-repayable contributions to support four distinct Streams of activities. For Streams 1-3, applicants must be a for-profit corporation, incorporated pursuant to the laws of Canada and proposing to carry on business in Canada. For Stream 4, lead applicants must either be a network or a consortium. The 2018 federal budget announced that the SIF will now focus its support on projects requesting at least CAD 10 million in contributions.	Authorized assistance for 28 announced projects (not including 3 legacy projects announced after amalgamation under the SIF): CAD 192 million FY 2017/18 (July 2017-31 March 2018); and CAD 543 million April 2018-31 December 2018.
Strategic Investments in Northern Economic Development (SINED) Program	The objective of the SINED is to promote economic development for the North, focusing on four priorities: innovation, economic growth and diversification, capacity development, and economic infrastructure. Assistance is provided to business associations, economic development organizations, territorial and municipal governments, and SMEs, on a project-by-project basis. Contributions to a project may not exceed 75% of total project costs, except for government or not-for-profit recipients, or for government assistance to a project of CAD 100,000 or less, where the limit is 100% and may not exceed CAD 3 million per annum.	CAD 18.2 million in 2015/16; CAD 18.2 million in 2016/17; CAD 18.2 million in 2017/18.
Technology Demonstration Program (TDP)	The objective is to foster the growth of a competitive, knowledge-based economy through the implementation of large-scale technology demonstration projects. Assistance is provided as a non-repayable contribution that may not exceed 50% of total eligible costs. Treasury Board (TB) approval is required for contributions over CAD 10 million. Eligible recipients of the TDP are corporations incorporated pursuant to the laws of Canada that carry on business in Canada and propose to conduct industrial research and technology demonstration activities with A&D applications, as well as Canadian universities or colleges and Canadian research institutes. Projects must include at least one small or medium-sized Canadian corporation and one Academic Institution.	CAD 54 million FY 2015/16; CAD 54 million FY 2016/17; and CAD 49.5 million April 2018-31 Dec 2018.
The Western Diversification (WD) Program	Financial assistance is provided through non-repayable contributions to not-for-profit organizations, and repayable contributions to for-profit organizations, to enhance economic activity in Western Canada. The WD helps western-based SMEs bring innovative technology-based products, processes and services to the market.	CAD 82,739,434 in FY 2015/16; CAD 84,983,794 in FY 2016/17; CAD 101,189,959 in FY 2017/18; and CAD 77,716,678 (estimate) in FY 2018/19. Established in December 1987, and ongoing.
Women's Enterprise Initiative (WEI)	The purpose is to encourage the establishment and growth of women-owned and -controlled businesses, and to promote economic equality between men and women in Western Canada. Financial assistance is provided in either non-repayable or conditionally-repayable contributions to Women's Enterprise Centres (WECs), which are non-profit organizations. Non-repayable contributions are provided to 4 provincial WECs in British Columbia, Alberta, Saskatchewan and Manitoba, to support the operating costs of their administrative and business service activities. In addition, the WECs provide women-owned small businesses with loans of up to CAD 150,000 on commercial terms.	CAD 3,802,500 in FY 2015/16; CAD 4,105,575 in FY 2016/17; CAD 3,573,917 in FY 2017/18; and CAD 3,900,000 (estimate) in FY 2018/19.
Fisheries		
Aboriginal Fisheries Strategy Allocation Transfer Program (ATP)	Facilitates the voluntary retirement of commercial licences and the issuance of licences to eligible Aboriginal groups.	CAD 4,180,900 in FY 2014/15; CAD 4,409,416 in FY 2015/16; CAD 2,911,033 in FY 2016/17 and CAD 2,582,330 in FY 2017/2018.
Atlantic Integrated Commercial Fisheries Initiative (AICFI)	The objective of the AICFI is to assist Mi'kmaq and Maliseet First Nations (MMFNs) in Nova Scotia, New Brunswick, Prince Edward Island and the Gaspé Region of Quebec, in the development of sound fisheries management and governance practices for their commercial fishing enterprises. Assistance is provided in the form of training and other skills development activities.	CAD 10,318,670 in FY 2014/15; and CAD 7,856,777 in FY 2015/16; CAD 8,580,553 in FY 2016/17 and CAD 10,441,648 in FY 2017/18.

Programme	Form of assistance	Disbursements
Pacific Integrated Commercial Fisheries Initiative (PICFI)	The objective is to achieve a fair, sustainable, integrated commercial fishery on Canada's west coast. Assistance is provided to Aboriginal fishing enterprises in the form of commercial fishing access, acquired through voluntary retirement, vessels and gear, and providing training and other skills development activities.	CAD 22,045,931 in FY 2014/15; and CAD 22,049,852 in FY 2015/16; CAD 15,408,409 in FY 2016/17 and CAD 16,410,223 in FY 2017/18.
Atlantic Fisheries Fund	To support innovation to encourage new products and technologies; infrastructure to encourage capital investments in new products, processes or technologies; and science partnerships between industry, academia, and other research institutions.	Nil in FY 2016/17 and CAD 202,493 in FY 2017/18. The programme began in August 2017 and ends in March 2024.
Canadian Fish and Seafood Opportunities Fund	To advance a national approach to key cross-cutting market access issues and branding opportunities to maximise the value of the fish and seafood sector.	The programme began in December 2018, and no disbursement has been made.
Fisheries and Aquaculture Clean Technology Adoption Program	To encourage the use of clean technologies to improve environmental performance and increase the global competitiveness of Canadian fish and seafood products.	Nil in FY 2016/17 and CAD 878,043 in FY 2017/18. The programme began in 2017 and ends in March 2021.
Natural resources		
ecoENERGY for Renewable Power Program	The objective is to encourage the deployment of low-impact renewable power by providing a financial incentive for electricity generated from qualifying projects. The incentive is provided in the form of a 1 cent per kWh on the production of electricity from qualifying renewable energy projects, such as wind, solar, biomass, and low-impact hydroelectricity. Eligible recipients are typically independent power producers or utilities; however, a few projects use the electricity generated for their own consumption.	The total amount budgeted for FY 2019/20 is CAD 76.61 million. Qualifying projects are eligible to receive the incentive for 10 years from the date of project commissioning, until 31 March 2021, when the Program will end.
Forest Innovation Program (FIP)	The FIP was established to support research, development and technology transfer activities in the forest sector, through a combination of support for external and internal R&D, and engagement with industry, academia, and other stakeholders.	The budget was CAD 31 million in FY 2014/15 and CAD 30 million in FY 2015/16. The Program was extended for another three years (CAD 23 million in FY 2017/18, CAD 20 million in FY 2018/19, and CAD 20 million in 2019/20).
Investments in Forest Industry Transformation Program (IFIT)	The IFIT Program provides targeted investments for projects that implement new technologies and innovative processes leading to non-traditional high-value forest products, including bioenergy, biomaterials, bio-chemicals and next-generation building products. It provides funding through non-repayable contributions. Eligible recipients are companies that either produce forest products in an existing forest product manufacturing facility located in Canada or that are, or will be, new entrants in the forest sector for the purposes of the proposed project. The maximum amount that can be paid to any project over the course of the Program is CAD 20 million.	The budget was CAD 7.7 million in FY 2014/15; and CAD 22.8 million in FY 2015/16. The IFIT was extended in 2014 for four more years, to 31 March 2018, with an additional CAD 90.4 million funding. In 2017, an additional CAD 55 million was allocated over a 3-year period (CAD 10 million in 2017/18, CAD 12 million in 2018/2019, and CAD 33 million in 2019/2020).
Expanding Market Opportunities Program (EMO)	Support to the sector to enhance market opportunities in the forestry sector.	The budget is CAD 45 million for 3 years from 2017.
Indigenous Forestry Initiative (IFI)	Support to the sector to promote Indigenous forestry.	The budget is CAD 10 million for 3 years from 2017.
Green Construction through Wood (GCWood)	Support to the forestry sector.	The budget is CAD 39.8 million for 4 years from 2018.
Smart Grid Program	The CAD 100-million Program provides support for utility-led investments in the deployment of smart grid integrated systems or the demonstration of next-generation smart grid technologies. Reimbursement of eligible expenses for up to 25% of total costs for deployment programmes or 50% of total costs for demonstration projects.	The budget for FY 2019/20 is CAD 25 million.
Clean Energy in Rural and Remote Communities (CERRC) Program	The CAD 220-million Program provides support for the demonstration and deployment of renewable energy projects, energy efficient solutions, and increased skills and capacity in rural and remote communities.	The budget for FY 2019/20 is CAD 26 million.

Programme	Form of assistance	Disbursements
Emerging Renewable Power (ERP) Program	The CAD 200-million Program provides support for the deployment of renewable energy technologies that are well established abroad but have yet to be deployed in Canada, or that have been successfully demonstrated in Canada but not yet commercially deployed. The ERP provides reimbursement of expenses incurred in deploying an eligible renewable energy programme up to a maximum according to technology type.	The budget for FY 2019/20 is CAD 50 million.
Lower Churchill Loan Guarantee	Provides a loan guarantee for the construction of Lower Churchill projects, which are being built to meet electricity demand in Newfoundland and Labrador, and Nova Scotia. Assistance was provided in the form of loan guarantees. The total amount of project debt guaranteed is CAD 9.2 billion. No further loans for these projects had been guaranteed as at January 2019.	The total amount of project debt guaranteed is CAD 9.2 billion. The Canada-guaranteed bonds for these projects have maturity dates varying from 1 December 2020 to 1 June 2057.

Source: WTO document G/SCM/N/315/CAN, 12 July 2017; and information provided by the authorities.

Table A3.3 Canadian participation in conformity assessment agreements, 2018

Signatories	Instrument type	Coverage
Canada and other APEC members	MRA	Product certification procedures and results for terminal equipment, radio equipment, electromagnetic compatibility (EMC) and electrical safety.
Canada and EEA EFTA members (Iceland, Liechtenstein, and Norway)	MRA ^a	Telecoms, EMC, recreational craft, medical devices (not implemented), electrical safety (not implemented), and GMP-Pharma (good manufacturing practices for pharmaceuticals).
Canada and the European Union	CETA	Telecoms, EMC, recreational craft, medical devices (not implemented), electrical safety (not implemented), and GMP-Pharma.
Canada and Switzerland	MRA ^a	Telecoms, EMC, medical devices (not implemented), electrical safety (not implemented), and GMP-Pharma.
Canada and other members of the Inter-American Telecommunication Commission (CITEL)	MRA	Product certification procedures and results for terminal equipment, radio equipment, EMC and electrical safety.
Canada-Mexico	MRA	Terminal equipment, radio equipment and EMC
Canada-Israel	MRA	Terminal equipment, radio equipment and EMC
SCC and other International Accreditation Forum (IAF) bodies	MRA	Recognition of quality management systems, environmental management systems, and product certification body accreditations.
SCC and other ILAC bodies	MRA	Recognition of laboratory accreditations.
SCC and other Asia Pacific Accreditation Cooperation (APAC) bodies ^b	MRA – 2019	Facilitates the acceptance of conformity assessment results across the region and with other regions around the world. Conformity assessment results that are produced by conformity assessment bodies (CABs) that have been accredited by one APAC MRA signatory are accepted by all the other APAC MRA signatories.
SCC and other Inter-American Accreditation Co-operation (IAAC) bodies	Multilateral Recognition Agreement (MLA) – 2002/08	Mutual recognition of quality management systems, product certification, testing laboratories, environmental management systems, calibration laboratories, and medical laboratories.
SCC and the European co-operation for Accreditation (EA)	Bilateral Cooperation Arrangement (BCA) – 2016	Implementation of the CETA's Protocol on the mutual acceptance of the results of conformity assessment.
National Research Council (Canada), Centro Nacional de Metrología (Mexico), and National Institute of Standards and Technology (all three as part of the North American Metrology Co-operation – NORAMET)	MRA – 1999	Technical cooperation on the methodologies and application of metrological activities.

a Legally binding.

b established on 1 January 2019 by the amalgamation of two former regional accreditation cooperation entities: the Asia Pacific Laboratory Accreditation Cooperation (APLAC) and the Pacific Accreditation Cooperation (PAC).

Source: Information provided by the authorities.

Table A3.4 Federal Crown corporations, 2018

Crown corporation and sector	Mandate	Assets (Q2, 2018) CAD million
Agriculture		
Canadian Dairy Commission	To provide efficient producers of milk and cream with the opportunity of obtaining a fair return for their labour and investment, and to provide consumers of dairy products with a continuous and adequate supply of dairy products of high quality.	129.6
Farm Credit Canada	To enhance rural Canada by providing specialized and personalized business and financial services and products to farming operations, including family farms, and businesses in rural Canada, including small and medium-sized businesses, that are related to farming. The primary focus of the activities of the corporation are on farming operations, including family farms.	34,611.3
Citizenship, multiculturalism		
Canadian Race Relations Foundation	To facilitate throughout Canada the development, sharing, and application of knowledge and expertise to contribute to the elimination of racism and all other forms of racial discrimination in Canadian society.	29.7
Employment and social development		
Canada Mortgage and Housing Corporation (CMHC)	As set out in the National Housing Act (NHA), the CMHC's mandate is to promote the construction of new houses, the repair and modernization of existing houses, and the improvement of housing and living conditions. In relation to financing for housing, the NHA's purpose is to promote housing affordability and choice; to facilitate access to, and competition and efficiency in, the provision of housing finance; to protect the availability of adequate funding for housing; and to contribute to the well-being of the housing sector. Additional objects in the NHA relate to its housing finance activities. These are: a) to promote the efficient functioning and competitiveness of the housing finance market; b) to promote and contribute to the stability of the financial system, including the housing market; and c) to have due regard to exposure to loss.	264,713.0
Finance		
Bank of Canada	The Bank of Canada is the nation's central bank. Its mandate, as defined in the Bank of Canada Act, is "to promote the economic and financial welfare of Canada". Its core responsibilities include monetary policy, to preserve the value of money by keeping inflation low, stable and predictable; promote safe, sound and efficient financial systems, within Canada and internationally; provide funds-management services for the Government, where it acts as fiscal agent for the Government's public debt and foreign exchange reserves; and ensure a consistent supply of quality bank notes that are readily accepted and secure against counterfeiting. The Bank has the sole right to issue bank notes.	109,931.8
Canada Deposit Insurance Corporation	To provide insurance against the loss of part or all of deposits, to promote and otherwise contribute to the stability of the financial system in Canada, and to pursue the foregoing for the benefit of persons having deposits with member institutions and in such a manner as will minimize the exposure of the Corporation to loss.	4,144.7
Canada Development Investment Corporation	To assist in the creation or development of businesses, resources, properties and industries of Canada; to expand, widen and develop opportunities for Canadians to participate in the economic development of Canada through the application of their skills and capital in any activities carried on by the Corporation; to invest in the shares or securities of any corporation owning property or carrying on business related to the economic interests of Canada; to invest in ventures or enterprises, including the acquisition of property, likely to benefit Canada; and to carry out all activities in the best interests of Canada, operating in a commercial manner.	647.0
Canada Pension Plan Investment Board	To assist the Canada Pension Plan in meeting its obligations to contributors and beneficiaries under the Canada Pension Plan; to manage any amounts transferred to it under the Plan, and its right, title or interest in any designated securities, in the best interests of the contributors and beneficiaries under that Act; and to invest its assets with a view to achieving a maximum rate of return, without undue risk of loss, having regard to the factors that may affect the funding of the Plan and the ability of the Plan to meet its financial obligations on any given business day.	394,166.0
Royal Canadian Mint	To mint coins in anticipation of profit and to carry out other related activities.	415.7
Fisheries		
Freshwater Fish Marketing Corporation	To purchase all fish lawfully fished and offered for sale, to create an orderly market, to promote international markets, to increase the fish trade, and to increase returns to fishers.	61.5

Crown corporation and sector	Mandate	Assets (Q2, 2018) CAD million
Foreign affairs, trade, development		
Canadian Commercial Corporation	To assist in the development of trade between Canada and other nations, and to assist persons in Canada to obtain goods and commodities from outside Canada and to dispose of goods and commodities that are available for export from Canada.	6.761.6
Export Development Canada (EDC)	To support and develop, directly or indirectly, Canada's export trade and Canadian capacity to engage in that trade, as well as respond to international business opportunities.	60,831.0
International Development Research Centre (IDRC)	To help developing countries find solutions to problems. The IDRC encourages, supports, and conducts research in the world's developing regions, and on developing world and global challenges more broadly. In doing so, it seeks to apply new knowledge towards the economic and social improvement of developing regions. The IDRC's programmes promote innovation to increase food security, stimulate economic growth, secure the future of children and youth, notably by improving health, ensure stability and security, and advance democracy.	89.5
Innovation, science and economic development		
Business Development Bank of Canada	The BDC is mandated to support Canadian entrepreneurship by providing financing, investment capital and advisory services to SMEs operating in all industries and located across Canada. It is financially self-sustaining, meaning that it does not receive appropriations from Government, and provides financing on commercial terms.	29,410.7 (as at 30/09/2018)
Canadian Tourism Commission (Destination Canada)	To sustain a vibrant and profitable tourism industry in Canada; to market it as a desirable tourist destination; to support a cooperative relationship between the private sector and the governments of Canada, the provinces, and the territories with respect to Canadian tourism; and to provide information about Canadian tourism to the private sector and to the federal, provincial, and territorial governments.	54.5
Standards Council of Canada	To oversee Canada's standardization system by promoting efficient and effective voluntary standardization, when standardization is not expressly provided for by law, in order to advance the national economy, support sustainable development, benefit the health, safety, and welfare of workers and the public, assist and protect consumers, facilitate domestic and international trade, and further international cooperation in relation to standardization.	7.7
Infrastructure		
The Jacques-Carter and Champlain Bridges Inc.	To ensure safe passage for users through the management, maintenance, and rehabilitation of infrastructure by optimizing traffic flow and respecting the environment.	662.9
Canada Infrastructure Bank	To provide provincial, territorial, municipal and Indigenous government partners access to innovative financing for revenue-generating infrastructure projects.	n.a.
The Windsor-Detroit Bridge Authority (WDBA)	To enable the construction and operation of a new international crossing between Windsor, Ontario and Detroit, Michigan. The project includes four components: a six-lane high-level bridge; a Canadian port of entry (POE) with border inspection and toll facilities; a U.S. POE with border inspection; and an interchange with the Interstate 75.	604.9
Natural resources		
Atomic Energy of Canada Limited (AECL)	Three key aspects of AECL's Value Proposition have a national impact: <ul style="list-style-type: none"> • as an advisor to, and agent of, the Government or public policy purposes; • as an enabler of business innovation and technology transfer; and • as a generator of highly qualified people. 	1,193.2
Public Services and Procurement Canada		
Canada Lands Company Limited	Through its subsidiaries, to ensure the commercially-oriented, orderly disposition of selected surplus federal real properties, with optimal value to the taxpayer, and the holding of certain properties.	1,190.8
Canada Post Corporation	To establish and operate a postal service for the collection, transmission and delivery of messages, information, funds and goods, both within Canada and between Canada and abroad, and to conduct its operations on a self-sustaining financial basis while providing a standard of service that will meet the needs of the people and that is similar with respect to communities of the same size.	8,218.0
Defence Construction (1951) Limited	To deliver and maintain infrastructure and environmental projects and services and provide full lifecycle support for infrastructure and environmental assets, required for the defence of Canada.	50.5

Crown corporation and sector	Mandate	Assets (Q2, 2018) CAD million
Transport		
Pilotage Authorities - Atlantic - Great Lakes - Laurentian - Pacific	To establish, operate, maintain, and administer, in the interest of safety, an efficient pilotage service within the designated waters set out in respect of each Authority.	18.6 (Atlantic) 4.8 (Great Lakes) 40.8 (Laurentian) 24.8 (Pacific)
Canadian Air Transport Security Authority (CATSA)	To deliver effective and efficient screening of persons who access aircraft or restricted areas through screening points, the property in their possession or control, and the belongings or baggage that they give to an air carrier for transport.	566.5
Federal Bridge Corporation Limited	To provide users with safe and effective infrastructures through its two wholly-owned subsidiaries, the Seaways International Bridge Corporation, Ltd., and St. Mary's River Bridge Company, as well as the Canadian facilities of the Thousand Islands International Bridge.	447.1
Marine Atlantic Inc.	To provide a safe, environmentally responsible, and quality ferry service between the Island of Newfoundland and the Province of Nova Scotia, in a reliable, courteous, and cost-effective manner.	572.5
Ridley Terminals Inc.	To provide continuous, high-quality, and high-performance rail car unloading, product storage, and loading services as a marine terminal, and to operate in a commercial manner.	314.4
VIA Rail Canada Inc	To offer a national passenger rail transportation service that is safe, secure, efficient, reliable, and environmentally sustainable, and that meets the needs of travellers.	1,346.3
Treasury Board		
Public Sector Pension Investment Board	To manage the amounts transferred under the Canadian Forces Superannuation Act, the Public Service Superannuation Act, and the Royal Canadian Mounted Police Superannuation Act (the "Acts") in the best interests of the contributors and beneficiaries under those Acts, and to invest the assets with a view to achieving a maximum rate of return, without undue risk of loss, having regard to the funding, policies and requirements of the pension plans established under the Acts and the ability of those pension plans to meet their financial obligations.	n.a.
Canadian Heritage		
Canada Council for the Arts	To foster and promote the study, enjoyment, and production of works in the arts.	453.6
Canadian Broadcasting Corporation	To inform, enlighten, and entertain; to contribute to the development of a shared national consciousness and identity; to reflect the regional and cultural diversity of Canada; and to contribute to the development of Canadian talent and culture.	1,967.5
Canadian Museum for Human Rights	To explore the subject of human rights, with special but not exclusive reference to Canada, in order to enhance public understanding of human rights, to promote respect for others, and to encourage reflection and dialogue.	323.1
Canadian Museum of History	To enhance Canadians' knowledge, understanding and appreciation of events, experiences, people and objects that reflect, and have shaped, Canada's history and identity, and also to enhance their awareness of world history and cultures.	321.6
Canadian Museum of Immigration at Pier 21	To explore the theme of immigration to Canada, in order to enhance public understanding of the experiences of immigrants as they arrived in Canada, of the vital role immigration has played in the building of Canada, and of the contributions of immigrants to Canada's culture, economy and way of life.	29.5
Canadian Museum of Nature	To increase, throughout Canada and internationally, interest in, knowledge of, and appreciation and respect for the natural world, by establishing, maintaining, and developing for research and posterity a collection of natural history objects, with special but not exclusive reference to Canada, and by demonstrating the natural world, the knowledge derived from it, and the understanding it represents.	201.3
National Arts Centre Corporation	To operate and maintain the Centre, to develop the performing arts in the National Capital Region, and to assist the Canada Council for the Arts in the development of the performing arts elsewhere in Canada.	285.6
National Gallery of Canada	To develop, maintain, and make known, throughout Canada and internationally, a collection of works of art, both historic and contemporary, with special but not exclusive reference to Canada, and to further knowledge, understanding, and enjoyment of art in general among all Canadians.	97.1

Crown corporation and sector	Mandate	Assets (Q2, 2018) CAD million
Canada Science and Technology Museums Corporation	To foster scientific and technological literacy throughout Canada by establishing, maintaining, and developing a collection of scientific and technological objects, with special but not exclusive reference to Canada, and by demonstrating the products and processes of science and technology, as well as their economic, social, and cultural relationships with society.	261.1
Telefilm Canada	To foster and promote the development of the audio-visual industry in Canada.	82.7

n.a. Not applicable.

Source: Treasury Board. Viewed at: <https://www.canada.ca/en/treasury-board-secretariat/services/reporting-government-spending/inventory-government-organizations/consolidated-financial-information-crown-corporations-second-quarter-2017-2018.html>.

Table A3.5 Exceptions to the scope of the CFTA's Procurement Chapter

Schedule of Canada
Procurement exceptions
For Canada, the following is not covered by the Chapter:
A. Excluded entities
The following entities are not covered by the Chapter:
Canadian Security Intelligence Service; Communications Security Establishment; Financial Transactions and Reports Analysis Centre of Canada; Bank of Canada; Canada Pension Plan Investment Board and its subsidiaries; Public Sector Pension Investment Board and its subsidiaries; Senate; House of Commons; Library of Parliament; Office of the Senate Ethics Officer; Office of the Conflict of Interest and Ethics Commissioner; and Parliamentary Protective Service.
B. Exceptions and notes
1. The Chapter does not apply to procurement:
a) by a shared-governance corporation, joint enterprise, mixed enterprise, international organization, and any entity that is not wholly-owned by the Government. For greater certainty, a shared-governance corporation includes any entity where appointments to the board of directors are not made exclusively by the Government;
b) by commissions under the Inquiries Act, RSC 1985, c I-11, as amended;
c) by a corporation incorporated or acquired by or on behalf of the Royal Canadian Mounted Police for the purpose of performing its functions under the laws of Canada, and any corporations that are wholly-owned by such a corporation;
d) by a corporation incorporated or acquired by or on behalf of any service established by an Act of Parliament to collect information and intelligence respecting the security of Canada, and any corporations that are wholly owned by such a corporation;
e) in respect of the intervention activities of the Canada Deposit Insurance Corporation or its subsidiaries, or procurement by any subsidiary created in respect of such intervention activities;
f) by the Canada Lands Company Limited or its subsidiaries, for the development of real property for commercial sale or resale;
g) by any successor entity to an entity whose procurement is not covered under the Chapter;
h) in respect of shipbuilding and repair, including related architectural and engineering services, by any Crown corporation for which the Minister of Transport is specified, or was specified on the effective date, as the appropriate Minister in respect of that corporation;
i) in relation to an international crossing between Canada and another country;
j) of transportation services, leasing, and rental of transportation equipment, or transportation services incidental to a procurement contract by Marine Atlantic Inc., Canada Post Corporation, or pilotage authorities established pursuant to the Pilotage Act, RSC 1985, c P-14, as amended;
k) by the Canadian Air Transport Security Authority for security screening, including services and goods that are related, or incidental, to security screening;
l) of financial management consulting services of a confidential nature;
m) related to space projects for the Canadian Space Agency;
n) related to services provided by veterinarians;
o) related to advisory and other services provided to Export Development Canada or its affiliates, in connection with the provision of services to their customers;
p) of services related to cadastral surveys on Canada lands, pursuant to the Canada Lands Surveys Act, RSC 1985, c L-6, as amended;
q) of public relations services; and
r) conducted for the specific purpose of providing international assistance, including development aid.
2. The Chapter does not apply to:
a) industrial and technological benefits applied under the Industrial and Technological Benefits Policy, or any successor policy having similar objectives, to a procurement that exceeds CAD 20 million, provided that the evaluation of regional benefits in the tendering process is carried out in a non-discriminatory manner with respect to regions;
b) industrial and regional benefits applied under the Industrial and Regional Benefits Policy, to a procurement that exceeds CAD 2 million, provided that the evaluation of regional benefits in the tendering process is carried out in a non-discriminatory manner with respect to regions.
3. The Government reserves the right to exclude any newly-created entity from coverage under the Chapter in instances in which the disclosure of that entity's procurement would put the safety of Canadians at risk.
Schedule of Ontario
For Ontario, the following is not covered by the Chapter:
Procurement exceptions
A. Excluded entities
The following entities are not covered by the Chapter:
1. Offices of the Legislative Assembly
B. Exceptions and notes
1. Articles 507.1 and 509.1 do not apply to procurement that targets poverty reduction for disadvantaged natural persons, if the value of the procurement is below CAD 200,000.
2. The Chapter does not cover procurement relating to a jointly-owned international crossing between Ontario and another country, or a sub-central jurisdiction of that country, including the design, construction, operation, or maintenance of the crossing, as well as any related infrastructure. This exception does not apply to procurement conducted solely by Ontario.
Schedule of Quebec
Procurement exceptions
For Quebec, the following is not covered by the Chapter:
A. Excluded entities
1. National Assembly of Quebec and its Officers
B. Exceptions and notes
1. The Chapter does not cover procurement:
a) of the following goods by Hydro-Québec (identified in accordance with the HS Codes: HS 7308.20; HS 8406; HS 8410; HS 8426; HS 8504; HS 8535; HS 8536; HS 8537; HS 8544; HS 8705.10; HS 8705.20; HS 8705.90; HS 8707; HS 8708; HS 8716.39; and HS 8716.40)

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<ul style="list-style-type: none"> b) of the following services by Hydro-Québec (identified in accordance with the United Nations Provisional Central Products Classification (CPC)): 84 – Computer and related services; 86724 – Engineering design services for the construction of civil engineering works; and 86729 – Other engineering services. c) of goods purchased for representational or promotional purposes, or for services or construction services purchased for representational or promotional purposes outside the province; d) of services contracts, excluding construction services contracts, which grant to a supplier the right to provide and exploit a service to the public as complete or partial consideration for the delivery of a service under a procurement contract; e) of the following services: (i) transportation services provided by local-owned trucks for hauling aggregate on highway construction projects; (ii) integrated engineering services for transportation infrastructure turnkey projects; or (iii) advertising and public relations services.
2. Quebec may require that final assembly takes place in Canada when purchasing mass transit vehicles.
3. Quebec reserves the right to adopt or maintain any measure favouring local outsourcing in the case of construction services contracts awarded by Hydro-Québec. Such a measure would not be a condition for participation or qualification of suppliers.
Schedule of Nova Scotia
Procurement exceptions
For the government of Nova Scotia, the following is not covered by the Chapter:
A. Excluded entities
None
B. Exceptions and notes
For the government of Nova Scotia, the Chapter does not cover the following procurement:
1. Goods purchased for representational or promotional purposes; or services or construction purchased for representational or promotional purposes outside Nova Scotia.
2. Any of the government of Nova Scotia's covered procuring entities may derogate from the Government Procurement Chapter in order to promote regional economic development, subject to the following conditions:
<ul style="list-style-type: none"> a) any procurement qualifying for a derogation pursuant to this paragraph shall: <ul style="list-style-type: none"> (i) be undertaken to support small firms or employment opportunities in a non-urban area; and (ii) have an overall value of no more than CAD 1 million, or if the overall total value exceeds CAD 1 million, the value of the part of the contract that would be excluded will not exceed CAD 1 million; b) the derogation will only be utilized up to a maximum of 10 times per calendar year; c) any procurement being funded by the Government may not be excluded; and d) when the government of Nova Scotia intends to rely on this derogation to exclude all or part of a procurement, at least 30 days prior to the signing of the relevant procurement agreement, the government of Nova Scotia will notify the other Parties of its intention to utilize this derogation. Such notifications must include certain information as set out in Nova Scotia's Schedule to Annex 520.1.
3. Ground ambulance-related and telecommunications procurement for emergency health care purposes.
Schedule of New Brunswick
Procurement exceptions
For New Brunswick, the following is not covered by the Chapter:
A. Excluded entities
The following entities are not covered by the Chapter: New Brunswick Power Corporation and all of its existing future subsidiaries and affiliates; Municipal energy utilities; Provincial Holdings Limited; Atlantic Lottery Corporation; and Wastewater Commissions (exception below). (Note: the thresholds for currently-covered entities will remain the same as they are in their current AIT Annexes.) The following entities are only covered by this Chapter above the CETA thresholds, and are only covered for goods, services and construction that are covered by the CETA: Forest Protection Limited; New Brunswick Research and Productivity Council; Wastewater Commissions are excluded except for the Fredericton Area Pollution Control Commission and the Greater Moncton Sewerage Commission; Regional Solid Waste Commissions listed as listed in the CETA; New Brunswick Arts Board; New Brunswick Credit Union Deposit Insurance Corporation; Farm Products Commission; and New Brunswick Museum
B. Exceptions and notes
1. For New Brunswick, the Chapter does not cover procurement of:
<ul style="list-style-type: none"> (a) services that may, under the applicable laws of the Party issuing the tender, only be provided by the following licensed professionals, regardless of value: veterinarians, land surveyors, engineers, architects, and accountants below the CETA threshold. Engineers, architects and accountants are not covered, regardless of value, for those entities that are not covered by the CETA; (b) transportation services provided by locally-owned trucks for hauling aggregate on highway construction projects covered above the CETA threshold for those entities covered by the CETA; (c) advertising and public relation services; (d) marketing management consulting services below the CETA threshold. Marketing management consulting services are not covered, regardless of value, for those entities that are not covered by the CETA; (e) if construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt compound and pre-mixed concrete for use in the construction or repair of roads covered above the CETA threshold for entities covered by the CETA; (f) goods purchased for representational or promotional purposes or services, or construction purchased for representational or promotional purposes outside the territory of a Party covered above the CETA threshold for those entities covered by the CETA; (g) procurement of any goods, the interprovincial movement of which is restricted by laws not inconsistent with the CETA, covered above the CETA threshold for those entities covered by the CETA; and (h) local food.
2. Any of New Brunswick's covered procuring entities may derogate from the Chapter in order to promote regional economic development.
<ul style="list-style-type: none"> (a) Any procurement being excluded under this paragraph must: <ul style="list-style-type: none"> i. be undertaken to support small firms or employment opportunities in a non-urban area; and ii. have an overall value of no more than CAD 1 million, but if the overall value of the procurement exceeds CAD 1 million, up to CAD 1 million of that overall procurement may be excluded; (b) the exclusion will only be utilized by New Brunswick up to a maximum of 10 times per calendar year;

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(c) any procurement funded by the Government may not be excluded; and
(d) in each case where New Brunswick intends to rely on this exclusion to exclude all or part of a procurement, at least 30 days prior to its execution of the applicable procurement agreement, it will notify the Parties of its intention to utilize this exclusion. Such notifications must include certain information as set out in New Brunswick's Schedule to Annex 520.1.
Conditions:
3. New Brunswick submits the "hybrid negative list" procurement offer without prejudice, and reserves the right to make changes to the procurement offer based on the following: the formal approval by Cabinet of a negative list has been conditioned by a "modified ratchet", allowing for the possibility that newly-created entities must be consulted and approve of their coverage under this Agreement. If they do not agree they will be placed on the modified negative list.
Schedule of Manitoba
Procurement exceptions
For Manitoba, the following is not covered by the Chapter:
A. Excluded entities
None
B. Exceptions and notes
The Chapter does not cover procurement of any goods purchased for representation purposes, or of services or construction purchased for representation purposes outside of Manitoba below CETA thresholds.
Schedule of British Columbia
Procurement exceptions
Reciprocity is applied with respect to exceptions scheduled by other Parties to the CFTA, as set out in British Columbia's Schedule to Annex 520.1.
Schedule of Prince Edward Island
Procurement exceptions
For Prince Edward Island, the following is not covered by the Chapter:
A. Excluded entities
None
B. Exceptions and notes
1. architects below the CETA threshold, regardless of the value for those entities not covered by the CETA;
2. engineers below the CETA threshold, regardless of the value for those entities not covered by the CETA;
3. construction materials that are used for highway construction and maintenance;
4. goods purchased for representational or promotional purposes, and services and construction purchased for representational or promotional purposes outside the territory of a Party;
5. local food;
6. Articles 507.1 and 509.1 do not apply to procurement that targets poverty reduction for disadvantaged natural persons if the value of the procurement is below CAD 200,000; and
7. any of Prince Edward Island's covered procuring entities may derogate from the Chapter in order to promote regional economic development:
(a) any procurement qualifying for a derogation shall: (i) be undertaken to support small firms or employment opportunities in a non-urban area; and (ii) have an overall value of no more than CAD 1 million, but if the overall value of the procurement exceeds CAD 1 million, up to CAD 1 million of that overall procurement may be excluded;
(b) the exclusion will only be utilized by Prince Edward Island up to a maximum of 10 times per calendar year;
(c) any procurement being funded by the Government may not be excluded; and
(d) in each case where Prince Edward Island intends to rely on this exclusion to exclude all or part of a procurement, at least 30 days prior to its execution of the applicable procurement agreement, it will notify the Parties of its intention to utilize this exclusion. Such notifications must include certain information, as set out in Prince Edward Island's Schedule to Annex 520.1.
Schedule of Saskatchewan
Procurement exceptions
For Saskatchewan, the following is not covered by the Chapter:
A. Excluded entities
The following entities are not covered by the Chapter:
1. SaskPower
B. Exceptions and notes
The Chapter does not apply to:
The procurement of goods for representational or promotional purposes, and the procurement of services or construction for representational or promotional purposes outside the territory of a Party
Schedule of Alberta
Procurement exceptions
For Alberta, the following is not covered by the Chapter:
A. Excluded entities
The following entities are not covered by the Chapter:
The Legislative Assembly, the Legislative Assembly Office and the Legislative Offices; Alberta Innovates; Alberta Energy Regulator; Alberta Electric System Operator; and Alberta Utilities Commission.
B. Exceptions and notes
1. The Chapter does not cover the procurement:
(a) of goods purchased for representational or promotional purposes, and services and construction purchased for representational or promotional purposes outside the territory of a Party;
(b) of local food as defined in Bill 202, 2015 the Alberta Local Food Act or any successor;
(c) for the production, transmission and distribution of renewable energy, other than hydro-electricity; and
(d) of waste water treatment facilities.
2. For a period not to exceed four years after the effective date of the CFTA, Alberta reserves the right to accord a preference in infrastructure procurements to bids that provide benefits to the province. The selection criterion of benefits to the province in the evaluation of tenders shall not exceed 20% of the total points. Economic benefit plans shall not take account of the origin of workers involved in the delivery of the benefits. For the purposes of this provision, the four Atlantic provinces shall be treated the same as the provinces that are party to the New West Partnership Trade Agreement.

<p>Schedule of Canada</p> <p>3. Alberta reserves the right to exclude procurements under exceptional circumstances for regional economic development purposes if the conditions set out in Alberta's Schedule to Annex 520.1 are met.</p> <p>4. Alberta gives notice of its intention to create a Crown corporation which will be responsible for all infrastructure procurement by the provincial government, and which will be subject to the Crown corporation procurement thresholds.</p>
<p>Schedule of Newfoundland and Labrador</p> <p>Procurement exceptions</p> <p>For Newfoundland and Labrador, the following is not covered by the Chapter:</p>
<p>A. Excluded entities</p> <p>The following entities are not covered by the Chapter:</p> <p>1. The Research and Development Corporation of Newfoundland and Labrador, and any subsidiary thereof</p>
<p>B. Exceptions and notes</p> <p>1. The Chapter does not cover procurement by a covered entity of any goods purchased for representation or promotional purposes, or of services or construction purchased for representational or promotional purposes outside of Newfoundland and Labrador;</p> <p>2. Subject to otherwise applicable exceptions, the Chapter covers procurements undertaken by Nalcor Energy and any of its existing or future subsidiaries or affiliates, as follows:</p> <p>(a) all procurements undertaken by Newfoundland and Labrador Hydro above the applicable monetary thresholds;</p> <p>(b) all procurements undertaken by any other Nalcor entity above the applicable monetary thresholds, except for: (i) any procurements that relate to the oil and gas sector; (ii) any construction-related procurements where work on the applicable construction project has commenced prior to the effective date; and (iii) with regard to construction projects where work on the project commences after the effective date, Nalcor reserves the right to derogate from the Chapter for up to 30% of construction-related procurement on the project, based on the total value of all construction-related procurement undertaken on the project; and</p> <p>3. Any of Newfoundland and Labrador's covered entities may derogate from the Chapter in order to promote regional economic development, subject to the following conditions:</p> <p>(a) Any procurement qualifying for derogation pursuant to this paragraph shall:</p> <p>i. be of a total value estimated at CAD 1 million, or less; and</p> <p>ii. support small firms or employment opportunities in non-urban areas.</p> <p>(b) If the procurement meets the requirement of sub-paragraph (a)(ii) but its total value exceeds CAD 1 million, the value of that part of the contract that would be affected by the derogation will not exceed CAD 1 million.</p> <p>(c) Newfoundland and Labrador's covered entities may not derogate pursuant to this paragraph more than 10 times in total per calendar year.</p> <p>(d) A procurement will not qualify for a derogation pursuant to this paragraph if it is funded by the Government.</p> <p>(e) Newfoundland and Labrador will notify the other Parties of any derogation taken pursuant to this paragraph at least 30 days prior to the signing of the relevant procurement contract. Such notifications must include certain information as set out in Newfoundland and Labrador's Schedule to Annex 520.1.</p>
<p>Schedule of Yukon</p> <p>Procurement exceptions</p> <p>For Yukon, the following is not covered by the Chapter:</p>
<p>A. Excluded entities</p> <p>The following entities are not covered by the Chapter:</p> <p>1. Regional, local, district or other forms of municipal government;</p> <p>2. Francophone School Board and publicly-funded academic, health and social service entities;</p> <p>3. Legislative Assembly;</p> <p>4. Elections Yukon;</p> <p>5. Yukon Information and Privacy Commissioner;</p> <p>6. Yukon Conflict of Interest Commissioner;</p> <p>7. Yukon Ombudsman; and</p> <p>8. Yukon Child and Youth Advocate.</p>
<p>B. Exceptions and notes</p> <p>1. The Chapter does not include procurement subject to the Yukon Business Incentive Policy or any successor policy having similar objectives. For goods and services, the Policy seeks to maximize the employment opportunities for Yukon residents resulting from the purchase of goods and services by the government; to encourage the use of Yukon materials and manufactured products in goods and services supplied to the government; and to encourage growth in the manufacturing sector, resulting in the availability of more products Yukon goods and services to the general public. For construction services, the purposes of this Policy are: to maximize the employment opportunities for Yukon residents; maximize the use of Yukon materials and manufactured products in government construction projects; encourage the use of Yukon apprentices in government construction projects; and encourage the employment of Yukon youth in government construction projects.</p> <p>2. Article 518.9 does not apply to Yukon procurements that are below the thresholds prescribed in the CETA. For greater certainty, paragraph 9(b) does not apply to Yukon in respect of Yukon's exception under paragraph 9(a).</p> <p>3. Yukon may derogate from the Chapter in order to promote regional economic development, without providing undue support to monopolistic activities.</p> <p>(a) Any procurement qualifying for a derogation shall:</p> <p>i. be of a total value estimated at CAD 1 million dollars, or less; and</p> <p>ii. support small enterprises or employment opportunities.</p> <p>(b) If a procurement meets the requirement in subparagraph (a)(ii) but its total value exceeds CAD 1 million, the value of the part of the contract that would be affected by the derogation may not exceed CAD 1 million.</p> <p>(c) Yukon may not derogate from the procurement provisions of the Chapter more than 10 times per year.</p> <p>(d) A procurement qualifying for a derogation shall be notified at least 30 days prior to the signing of the procurement contract, accompanied by:</p> <p>i. the details of the circumstances justifying a derogation, pursuant to the Note in Yukon's Schedule to Annex 520.1;</p> <p>ii. the information regarding the name of the enterprise(s) and/or area(s) to which the procurement is expected to provide regional economic benefits; and</p> <p>iii. an explanation of reasons for the conformity of the procurement with the requirements of this exception.</p>

Schedule of Canada**C. Transitional Measures Annex**

The following provisions of the Agreement do not apply to Yukon for a period of two years after the effective date: Articles 506 and 516.

Schedule of the Northwest Territories**Procurement exceptions**

For the Northwest Territories, the following is not covered by the Chapter:

A. Excluded entities

The following entities are not covered by the Chapter:

1. the Legislative Assembly;
2. all other procuring entities as described under Article 504.3 are covered, at the following revised thresholds (and subject to Article 504.4):

(a) for the procuring entities described under Article 504.3(a), the thresholds at Article 504.3(a) are amended to (i) CAD 150,000 or greater for goods or services, if the largest portion of the procurement is for goods or services; or (ii) CAD 500,000 or greater for construction;

(b) for the procuring entities described under Article 504.3(b), the thresholds at Article 504.3(b) are amended to (i) CAD 300,000 or greater for goods or services, excluding construction; or (ii) CAD 7.5 million or greater for construction; and

(c) for the procuring entities described under Article 504.3(c), the thresholds at Article 504.3(c) are amended to (i) CAD 500,000 or greater for goods or services, excluding construction; or (ii) CAD 7.5 million or greater for construction.

For greater certainty, if a procuring entity falls under the description at Article 504.3(a) and Article 504.3(b), the applicable thresholds are those set out in (b) above. If a procuring entity falls under the description at Article 504.3(a) and Article 504.3(c), the applicable thresholds are those set out in (c) above.

B. Exceptions and notes

1. The Agreement does not cover procurement subject to the Northwest Territories Business Incentive Policy (including the Northwest Territories Manufactured Products Policy and other directly related programmes) or successor programmes having similar objectives.
2. Article 518.9 shall only apply to the government entities described at Article 504.3(a) if the procurement value is (i) CAD 300,000 or greater for goods or services, if the largest portion of the procurement is for goods or services; or (ii) CAD 7.5 million or greater for construction.
3. Procuring entities may derogate from the Chapter in order to promote regional economic development by supporting small enterprises or employment opportunities, without providing undue support to monopolistic activities. Notice of such procurements shall be made publicly available and include information with regard to the procurement and the successful supplier.
For procurements of goods or services in excess of CAD 300,000 and construction in excess of CAD 7.5 million, the following additional restrictions shall apply to a derogation from the Chapter for the purposes of regional economic development: (a) (i) if the total value of the procurement of goods or services exceeds CAD 1 million or the total value of the procurement of construction exceeds CAD 7.5 million, then the value of the part of the contract that would be affected by the derogation must not exceed CAD 1 million; or (ii) if the procurement of goods or services is valued at CAD 1 million or less, then the entire value of the contract may be affected by the derogation;
(b) this derogation may not be used more than 10 times per year; and
(c) a procurement shall not qualify for a derogation if it is funded by the Government.

Schedule of Nunavut

For Nunavut, the following is not covered by the Chapter:

A. Excluded entities

The following entities are not covered by the Chapter:

1. the Legislative Assembly;
2. all other procuring entities as described under Article 504.3 are covered, at the following revised thresholds (and subject to Article 504.4): (a) for the procuring entities described under Article 504.3(a), the thresholds under Article 504.3(a) are amended to (i) CAD 150,000 or greater for goods or services, if the largest portion of the procurement is for goods or services; or (ii) CAD 500,000 or greater for construction;

(b) for the procuring entities described under Article 504.3(b), the thresholds at Article 504.3(b) are amended to (i) CAD 300,000 or greater for goods or services, excluding construction; or (ii) CAD 7.5 million or greater for construction; and

(c) for the procuring entities described under Article 504.3(c), the thresholds at Article 504.3(c) are amended to (i) CAD 500,000 or greater for goods or services, excluding construction; or (ii) CAD 7.5 million or greater for construction.

For greater certainty, if a procuring entity falls under Article 504.3(a) and Article 504.3(b), the applicable thresholds are those set out in (b) above. If a procuring entity falls under Article 504.3(a) and Article 504.3(c), the applicable thresholds are those set out in (c) above.

B. Exceptions and notes

1. The Agreement does not cover procurement subject to the Nunavut Nunavummi Nangminiqatunik Ikajuuti (NNI Policy) or successor programmes having similar objectives, and contracts within the terms of Article 24 of the Nunavut Land Claims Agreement.
2. Procuring entities may derogate from this Chapter in order to promote regional economic development by supporting small enterprises or employment opportunities, without providing undue support to monopolistic activities. Notice of such procurement shall be made publicly available and include information with regard to the procurement and successful supplier.

For procurements of goods or services in excess of CAD 300,000 and construction in excess of CAD 7.5 million, the following additional restrictions shall apply to a derogation from the Chapter for the purposes of regional economic development:

(a) (i) if the total value of the procurement of goods or services exceeds CAD 1 million or the total value of the procurement of construction exceeds CAD 7.5 million, then the value of the part of the contract that would be affected by the derogation must not exceed CAD 1 million; or (ii) if the procurement of goods or services is valued at CAD 1 million or less, then the entire value of the contract may be affected by the derogation;

(b) this derogation may not be used more than ten times per year; and

(c) a procurement shall not qualify for a derogation if it is funded by the Government.

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3. Only Article 502.2 applies to procurement targeting poverty reduction for disadvantaged people for which the value is below CAD 300,000.

4. Article 518.9 shall only apply to the government entities described in Article 504.3(a) where the procurement value is (i) CAD 300,000 or greater for goods or services; or (ii) CAD 7.5 million or greater for construction.

Source: *CFTA, Consolidated Version*. Viewed at: <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-Consolidated-Text-Final-Print-Text-English.pdf>; and information provided by the authorities.

Table A3.6 National IP legislation and international agreements, December 2018

Legislation	Scope, term of protection, and selected limitations
<p>Patents</p> <p>Patent Act, 1985 (amended); Patent Rules, 1996 (amended). The Patent Act was last amended by Bill C-86 (Budget Implementation Act, 2018, No. 2). Additionally, the Patent Act was amended by Bill C-30 (An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and provide for certain other measures, provisionally applied since 21 September 2017, and by Bill C-59 (Economic Action Plan 2015 Act, No. 1)</p>	<p>Coverage: new and useful invention, or new and useful improvement of existing invention; inventions are defined to include: art, process, machine, manufacture, and composition of matter. Higher life forms may not be patented. Protection: up to 20 years from filing. Part 4, Division 7, Subdivision A of Bill C-86 amended the Patent Act to advance the Government's IP Strategy, including to clarify acceptable practices and prevent misuses of IPRs. Bill C-30 amended the Patent Act, Sections 104 to 134, to make available a Certificate of Supplementary Protection (CSP) for eligible new medicinal ingredients or new combinations of medicinal ingredients that are contained in human and veterinary drugs, following expiry of an eligible patent. The rights of a CSP match those of the patent as they apply to a medicinal ingredient or combination in a drug, with a few exceptions. The CSP can last for up to two years, thereby providing significant additional protection to pharmaceutical manufactures. Bill C-30 also amends Section 55.2 (4) of the Patent Act to allow the Governor in Council to make regulations that will ensure that disputes brought under the Patented Medicines (Notice of Compliance) Regulations, which constitute Canada's pharmaceutical patent linkage regime, provide litigants with an equivalent and effective right to appeal. Bill C-59 amended the Patent Act to protect communications between patent or trade-mark agents and their clients in the same way as communications that are subject to the solicitor-client privilege. These amendments came into force in June 2016.</p>
<p>Patented Medicines (Notices of Compliance) Regulations</p>	<p>Provides for effective patent enforcement over new and innovative drugs and the timely market entry of competing generic products.</p>
<p>Trade secrets and data protection</p>	
<p>Trade secrets are protected by common law and, in Quebec, by the Civil Code</p>	<p>Criminalizes trade secret theft sponsored by, for the benefit of, or in association with foreign entities. Criminalizes fraud generally and may, in some cases, render trade secret misappropriation a criminal offence.</p>
<p>Data Protection provisions in the Food and Drug Regulations</p>	<p>New pharmaceutical products containing medicinal ingredients not previously approved in Canada i.e. new chemical entities. Protection: 8 years of data protection; can be extended for an additional 6 months with the filing of the results of a paediatric study.</p>
<p>Pest Control Products Data Protection Regulations</p>	<p>10 years' exclusive-use protection (plus up to 5 additional years if minor uses are registered). Exclusive-use protection for data supporting the registration of a new product, which contains a new active ingredient. Other data supporting the registration are assigned a 12-year compensable status (e.g. where a new use is registered following mutual registration).</p>
<p>Industrial designs</p>	
<p>Industrial Design Act, 1985 (amended) Industrial Designs Regulations, 1999 (amended). The Industrial Design Act was amended in 2014 to enable Canada to accede to the Hague Agreement, and to modernize its industrial design regime</p>	<p>Protection: up to 15 years. Applies to novel industrial designs defined as features of shape, configuration, pattern or ornament, and any combination of those features that, in a finished article, appeal to, and are judged solely by, the eye. Protection is not extended to: features applied to a useful article dictated solely by a utilitarian function of the article; or any method or principle of manufacture or construction.</p>
<p>The Hague Agreement</p>	<p>Notable amendments to the legislation include the following:</p> <ul style="list-style-type: none"> - the maximum term of exclusive right is increased from 10 years to 15 years; - clarifies that a certified copy of an entry in the Register of Industrial Designs is admissible evidence in any court; - provides that any error made in the Register of Industrial Designs may be corrected within six months of the entry if the error is obvious from documents that are in the Minister's possession. Previously, corrections were limited to clerical errors; and - codifies the "novelty test", that is, the Supreme Court's test for "originality" of a design and uses the term "novelty" to describe a design, which is aligned with international terminology.

Legislation	Scope, term of protection, and selected limitations
<p>New Industrial Design Regulations, 2018</p>	<p>The new Regulations facilitate Canada's accession to the Hague System, carry out the amendments that were made to the Act, and further modernize the domestic industrial design regime. Some of the main changes include:</p> <ul style="list-style-type: none"> - electronic communications is deemed received 24/7, regardless of whether the office is open or closed to the public; - filing date requirements have been simplified to align with international standards; - applications are now made available to the public at registration or 30 months from the earliest priority date, whichever comes first; - application requirements have been simplified: the prescribed application form is no longer required; the description is now optional and the application is deemed to relate to all four features of the design (shape, configuration, ornamentation and pattern); designs no longer need to be shown applied to a finished article; applications are no longer limited to a single environmental view; and a divisional application may be filed for any design disclosed in a previously-filed application, including in environmental views; - an applicant no longer needs to provide signed authorization to appoint an agent and - the Regulations contain specific provisions that apply only to international registrations that designate Canada and that are received from WIPO. Transitional provisions outline how the office will process an application received before the coming into force.
<p>Trademarks</p> <p>Trade-marks Act, 1985 (amended). Trademarks Regulations, 1996 (amended). The Trade-Marks Act was last amended by Bill C-86 (Budget Implementation Act, 2018, No. 2).</p>	<p>Trademarks include: a mark used by a person for the purpose of distinguishing, or so as to distinguish, wares or services manufactured, sold, leased, hired or performed by him from those manufactured, sold, leased, hired or performed by others; a certification mark; a distinguishing guise; or a proposed trademark. Prohibited marks are listed in the Trademarks Act (Articles 9-11); criteria for registrable trademarks in Articles 12-15.</p> <p>Part 4, Division 7, Subdivision B of Bill C-86 amended the Trade-marks Act to advance the Government's IP Strategy, including to clarify acceptable practices and prevent misuses of the trademark regime.</p> <p>Trademark protection: 15 years, renewable for further 15-year terms on payment of renewal fees.</p>
<p>Geographical indications (GIs)</p> <p>Trade-marks Act, 1985 (amended). Trademarks Regulations, 1996 (amended). The Trade-marks Act was amended by Bill C-30 (An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and provide for certain other measures) (21 September 2017)</p>	<p>Once protected, there is no term of protection for GIs for wines and spirits and certain agricultural products and food products. The Trade-marks Act prohibits the adoption and use, as a trademark or otherwise, of protected GIs for wines and spirits and certain agricultural products and foods which do not originate in the territory indicated by the GI or do not originate from that territory but have not been manufactured in accordance with the relevant regulations. The Trade-marks Act provides for the protection of GIs for goods other than wines and spirits and certain agriculture and food products through certification marks (Articles 23-25), which have the same scope of protection as trademarks, except that the owner cannot be involved in the manufacture, sale, lease, etc. of the goods indicated by the GI (Article 23).</p> <p>Bill C-30 amended the Trade-marks Act to protect certain agricultural products and food products as GIs, including associated rights, exceptions, and product categories denoting the scope of rights. The Registrar of Trade-marks continues to be responsible for maintaining a list of protected GIs. Any person may request to have an Indication entered on the list of protected GIs, provided it meets the definition of a GI. A third party can object to the application on various grounds, which include: the proposed Indication does not function as a GI; the proposed Indication is not protected under the law of the country of origin; the proposed Indication is identical to a common name for the goods; and, for Indications related to agricultural products and foods, the proposed Indication is confusing with a registered trademark, a previously-used trademark, or an earlier and co-pending trademark application. Bill C-30 provides a mechanism for an interested party to apply to the Federal Court to remove a GI from the protected list. The grounds for which a GI may be removed are similar to the grounds for which a GI may be objected to.</p>
<p>Copyright</p> <p>Copyright Act, 1985 (amended) Copyright Regulations, 1997 (amended)</p> <p>The Canadian Copyright Act was last amended by Bill C-86 (13 December 2018), the Government's Budget Implementation Act, 2018, No. 2.</p>	<p>Applies to original literary, dramatic, musical, and artistic works; performers' performances; communication signals; and sound recordings.</p> <p>Protection is provided to countries with whom Canada has a treaty or other agreement; exceptions to copyright infringement are outlined in Articles 29-32.2 of the Act. They relate, <i>inter alia</i>, to fair dealing; non-commercial user-generated content, private copying, time-shifting of broadcasts, educational institutions, libraries, archives and museums; interoperability of computer programs; ephemeral copies and recordings; and persons with perceptual disabilities.</p> <p>Bill C-86 amended sections of the Copyright Act, pertaining primarily to the Copyright Board and Collective Administration of Copyright (i.e. Parts VII and VIII), as well as the sections in the Act that concern the notice and notice regime (i.e. Sections 41.25-41.27).</p> <p>The amendments aimed at ensuring more predictability and clarity of decision-making processes; establishing streamlined time-lines; and increasing</p>

Legislation	Scope, term of protection, and selected limitations
	<p>efficiency by allowing more parties to establish royalty rates outside of the Board's oversight. Protection: generally, 50 years from the last author's death; other specific terms of protection, including 70 years from publications for sound recordings.</p>
<p>Integrated circuits Integrated Circuit Topography Act, 1990 (amended) Integrated Circuit Topography Regulations, 1993 (amended)</p>	<p>Protection: up to 10 years, beginning on the filing date or the date of first commercial exploitation, whichever is earlier. The term ends on 31 December of the 10th year. Protection is for the three-dimensional configuration of the materials that form integrated circuits, whether it has been embodied in an integrated circuit product or not. Topographies that define only part of the structure needed to perform an electronic function may be registered. Protection is extended to nationals of non-WTO Members on a reciprocal basis. The exclusive right in a registered topography consists of the exclusive right to:</p> <ul style="list-style-type: none"> (a) reproduce the topography or any substantial part thereof; (b) manufacture an integrated circuit product incorporating the topography or any substantial part thereof; and (c) import or commercially exploit the topography or any substantial part thereof, or an integrated circuit product that incorporates the topography or any substantial part thereof. <p>Exceptions to exclusive rights include: exhaustion of rights applying to integrated circuit products legitimately put on the market anywhere in the world with the authorization of the owner of the rights; unauthorized copying of a protected topography for the sole purpose of either analysis or evaluation, or of research or teaching with respect to topographies; and reverse engineering.</p>
<p>Plant variety protection Plant Breeders' Rights Act, 1990 (amended) (PBR Act) Plant Breeders' Rights Regulations, 1991 (amended)</p> <p>The Act was last amended Bill C-18 (27 February 2015)</p>	<p>Allows for the protection of new varieties of plants; varieties must be new, distinct, uniform and stable. All plant species are eligible for protection. Algae, bacteria and fungi are not protected. Applicants may only be citizens of, residents of, or have a resident office in Canada or a UPOV member State. Restrictions to the holders' rights include: protected varieties may be used for breeding and developing new plant varieties; and farmers may save and use the harvested seed of a protected variety for replanting on their own land without infringing on the holder's rights (farmers' privilege). Protection is up to 18 years, effective from the date of issue of the rights certificate. The PBR Act extended the protection period from 18 years to 25 years (for trees, vines or any specified categories) and 20 years for all other crops, unless the breeder terminates them earlier.</p>
	<p>Bill C-18 amended the PBR Act to strengthen the rights of breeders, and improve accessibility to protection by:</p> <ul style="list-style-type: none"> - extending plant breeders' rights to include reproduction, import, export, conditioning (cleaning, treating), and stocking for the commercial purposes of propagating, in addition to the current system that already allows for sale of propagating material and the production of propagating material intended for sale; - allowing plant breeders to sell a variety in Canada for up to one year before applying for PBR protection, in order to test the market, advertise, or to increase stock; and - providing automatic provisional protection for a new plant variety from the date of filing, which allow applicants to exercise their rights while applications are pending "grant of rights" (no legal action may be initiated until after the rights are granted).

Source: WTO Secretariat.

Table A4.1 Indicators for selected agricultural commodities, 2009-17

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Canola^a									
Production ('000 tonnes)	12,898.1	12,788.6	14,608.1	13,868.5	18,551.0	16,410.1	18,376.5	19,599.2	21,328.0
Imports ('000 tonnes)	127.9	223.7	96.6	127.6	66.1	76.6	105.0	94.5	107.5
Exports ('000 tonnes)	7,162.5	7,104.6	8,699.0	7,301.9	9,095.6	9,163.3	10,299.0	11,016.4	10,723.1
Average price (CAD/tonne)	426	568	601	650	503	489	509	529	539
Producer SCT (CAD million)	71.1	112.1	102.3	215.3	32.6	72.8	98.0	49.3	271.7
Percentage SCT (%)	1.4	1.7	1.3	2.5	0.4	1.0	1.1	0.5	2.5
Wheat (including durum)^a									
Production ('000 tonnes)	26,949.9	23,299.6	25,288.0	27,246.0	37,589.1	29,442.1	27,647.4	32,139.9	29,984.2
Imports ('000 tonnes)	117.4	68.0	78.4	73.8	55.0	88.2	108.6	109.6	82.1
Exports ('000 tonnes)	18,481.3	16,183.8	17,499.7	19,578.1	23,496.4	23,956.8	21,704.9	20,155.3	21,866.6
Average price (CAD/tonne), durum	203	300	345	290	220	310	290	275	265
Average price (CAD/tonne), wheat	218	318	290	285	205	210	225	235	240
Producer SCT (CAD million)	102.4	87.0	69.2	42.5	50.3	103.7	108.1	156.3	192.2
Percentage SCT (%)	2.4	1.7	1.3	0.6	0.6	1.4	1.7	2.2	2.9
Soybeans^b									
Production ('000 tonnes)	3,581.6	4,444.6	4,466.5	5,086.4	5,355.9	6,044.8	6,456.3	6,596.5	7,716.6
Imports ('000 tonnes)	371.7	266.3	232.5	257.6	343.1	331.2	319.0	482.4	487.2
Exports ('000 tonnes)	2,111.3	2,753.6	2,741.4	3,331.6	3,427.3	3,804.4	4,190.6	4,419.8	4,998.2
Average price (CAD/tonne)	359.0	447.0	478.0	532.0	530.0	418.0	440.0	454.0	434.0
Producer SCT (CAD million)	15.5	5.1	14.9	9.8	15.0	34.2	27.1	30.7	78.5
Percentage SCT (%)	1.1	0.3	0.7	0.4	0.6	1.3	1.0	1.0	2.2
Barley^a									
Production ('000 tonnes)	9,528.2	7,627.2	7,891.5	8,012.3	10,281.6	7,116.8	8,256.6	8,839.4	7,891.3
Imports ('000 tonnes)	42.4	42.7	13.5	19.0	9.0	136.1	160.9	63.6	58.7
Exports ('000 tonnes)	2,149.2	2,016.7	2,058.6	2,184.3	2,390.9	2,463.0	1,992.3	2,322.7	2,824.6
Average price (CAD/tonne)	153	188	225	279	188	201	209	169	227
Producer SCT (CAD million)	47.3	39.7	36.9	46.0	13.4	19.7	21.3	16.0	38.0
Percentage SCT (%)	5.5	3.1	2.8	2.7	0.8	2.1	1.8	1.8	3.4
Lentils^a									
Production ('000 tonnes)	1,530.2	2,004.8	1,573.5	1,537.9	2,261.7	1,987.0	2,540.5	3,193.8	2,558.5
Imports ('000 tonnes)	8.2	28.5	11.4	8.7	9.4	13.4	16.3	98.0	34.7
Exports ('000 tonnes)	1,386.8	1,105.0	1,147.7	1,638.2	1,752.7	2,179.3	2,144.5	2,454.8	1,537.0
Average price (CAD/tonne)	645	440	470	440	445	585	965	575	475
Producer SCT (CAD million)	4.3	55.2	15.7	10.1	1.4	25.5	21.5	172.2	40.7
Percentage SCT (%)	0.4	5.9	2.1	1.5	0.1	2.1	0.9	8.4	3.2

a Crop year runs from August to July, i.e. 2009 is 2009-10.

b Crop year runs from September to August, i.e. 2009 is 2009-10.

Note: SCT refers to Single Commodity Transfers: the sum of transfers to producers granted for a single commodity. The % SCT is expressed as a share of gross farm receipts for the specific commodity.

Source: Agriculture and Agri-Food Canada. Viewed at: <http://www.agr.gc.ca/eng/industry-markets-and-trade/canadian-agri-food-sector-intelligence/crops/?id=1361290484419>; and OECD, Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#country>.