CANADA

TRADE SUMMARY

U.S. goods exports in 2014 were $312.1 billion, up 3.5 percent from the previous year. Canada is currently the largest export market for U.S. goods. Corresponding U.S. imports from Canada were $346.1 billion, up 4.1 percent. The U.S. goods trade deficit with Canada was $33.9 billion in 2014, an increase of $3.0 billion from 2013.

U.S. exports of services to Canada were $63.3 billion in 2013 (latest data available), and U.S. imports were $30.5 billion. Sales of services in Canada by majority U.S.-owned affiliates were $127.5 billion in 2012 (latest data available), while sales of services in the United States by majority Canada-owned firms were $80.9 billion.

The stock of U.S. foreign direct investment (FDI) in Canada was $368.3 billion in 2013 (latest data available), up from $346.1 billion in 2012. U.S. FDI in Canada is led by the nonbank holding companies, manufacturing, and finance and insurance sectors.

The North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the Parties), entered into force on January 1, 1994. At the same time, the United States suspended the United States-Canada Free Trade Agreement, which had entered into force in 1989. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods among them, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing the NAFTA, the Parties concluded supplemental agreements on labor and the environment, under which the Parties are obligated to effectively enforce their environmental and labor laws, among other things. The agreements also provide frameworks for cooperation on a wide variety of labor and environmental issues.

In 2012 Canada became a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded this agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. It will also address a range of new and emerging issues of concern to U.S. businesses, workers, and other stakeholders in the 21st century. In addition to the United States and Canada, the TPP negotiating partners currently include Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANTIARY BARRIERS

Technical Barriers to Trade

Restrictions on U.S. Seeds Exports

Canada's Seeds Act prohibits the sale, advertising, or importation into Canada of seed varieties that are not registered in the prescribed manner. In order to apply for seed varietal registration, the applicant must reside permanently in Canada. In addition, once registered, the seed variety must be grown in Canada in order to avail the resulting crop of any benefits under the Canada Grain Act's grain grading and inspection system. This operates as a trade barrier to the many U.S. seeds (*e.g.,* wheat, barely, etc.) that are not varieties registered in Canada. In 2013, the Canadian government presented an options paper seeking guidance on how to modernize and streamline the crop variety registration system. Among the options is to remove the oversight role of Canada's federal government in varietal registration.

Cheese Compositional Standards

Canada's compositional standards for cheese further restrict access of certain U.S. dairy products to the Canadian market. These regulations limit the ingredients that can be used in cheese making, require use of a minimum percentage of fluid milk in the cheese-making process, and hold importers more accountable for ensuring that the imported product is in full compliance. The compositional standards also apply to cheese that is listed as an ingredient in processed food.

IMPORT POLICIES

Agricultural Supply Management

Canada uses supply management systems to regulate its dairy, chicken, turkey, and egg industries. Canada's supply management regime involves production quotas, producer marketing boards to regulate price and supply, and tariff-rate quotas (TRQs). Canada's supply management regime severely limits the ability of U.S. producers to increase exports to Canada above TRQ levels and inflates the prices Canadians pay for dairy and poultry products. Under the current system, U.S. imports above quota levels are subject to prohibitively high tariffs (*e.g.*, 245 percent for cheese, 298 percent for butter). The United States continues to press for the elimination of all remaining tariffs and TRQs.

Additional Canadian actions limit the access of U.S. exporters to the Canadian dairy market. For example, the United States has issues surrounding tariff classification of dairy products that have slowed or stopped trade of certain products.

Geographical Indications

Canada and the European Union (EU) announced August 5, 2014 that they had reached agreement on a complete text on the Canada-EU Comprehensive Economic and Trade Agreement (CETA). The details contained in the agreement have raised serious concerns with respect to access for current and future U.S. agricultural and foodstuff producers. For example, the Canadian government has agreed to the EU's request to automatically protect more than 170 food and beverage terms as geographical indications without providing for due process safeguards, such as the possibility of refusal of applications or objection by third parties. Also, while the agreement appears to provide limited safeguards for the use of generic terms with respect to a short list of specific terms for existing producers, concerns remain about the right for future producers to use those terms and for producers to use generic terms with respect to other products. In addition, the U.S. Government continues to examine the effect the agreement will have on the use of individual components of compound terms, the use of translations, and prior rights of existing trademark owners.

Restrictions on U.S. Grain Exports

Under the Canada Grain Act, U.S. origin wheat and barley are not eligible to receive Canadian statutory grades, which are reserved exclusively for grains grown in Canada. As a result, while approved varieties of wheat and barley can be brought into Canada and sold at a fair price based on contract-based specifications, they must be segregated under Canada's grain handling system from Canadian varieties that are eligible for grading. Canadian wheat and barley exporters do not face such a two-tiered grain handling system in the United States. The Modernization of Canada's Grain Industry Act (Bill C-48), introduced in December 2014, would allow for grading of U.S. grain. Furthermore, under the Grain Act, grain varieties which are not approved in Canada may only receive the lowest official statutory grade in the particular class (for example, feed-grade wheat or #5 Amber Durum).

U.S. stakeholders are seeking to address concerns about Canada's varietal registration and grain grading system through existing channels of cooperation among U.S. and Canadian stakeholders, for example as part of the work of a task force created by not-for-profit associations from the United States and Canada. In 2013, the Canadian government presented an options paper seeking guidance from stakeholders on how to modernize and streamline the crop variety registration system. Among the options is to remove the oversight role of Canada's federal government in varietal registration.

Personal Duty Exemption

Canada's personal duty exemption for residents who bring back goods from trips outside of its borders is less generous than the U.S. personal duty exemption. In particular, both Canada and the United States have similar personal duty exemptions for goods brought back from travel of more than 24 hours; however, the United States allows travelers to bring back up to $200 of duty-free goods from trips of less than 24 hours, while Canada has no duty-free allowance for goods purchased during trips of less than 24 hours. Canadians who spend more than 24 hours outside of Canada can bring back C$200 worth of goods duty free while duty-free limit for trips over 48 hours is C$800. However, Canada provides no duty-exemption for returning residents who have been out of Canada for fewer than 24 hours. The United States provides similar treatment for its returning travelers who spend more than 24 hours outside of the country, but unlike Canada, also allows up to $200 of duty-free goods after visits of less than 24 hours.

Wine, Beer, and Spirits

Most Canadian provinces restrict the sale of wine, beer, and spirits through province-run liquor control boards. Market access barriers in those provinces greatly hamper exports of U.S. wine, beer, and spirits to Canada. These barriers include cost-of-service mark-ups, restrictions on listings (products which the liquor board will sell), reference prices (either maximum prices the liquor board is willing to pay or prices below which imported products may not be sold in order to avoid undercutting domestic prices), labeling requirements, discounting policies (requirements that suppliers offer rebates or reduce their prices to meet sales targets), distribution, and warehousing policies. The United States is monitoring changes stemming from British Columbia's Liquor Policy Review and proposed changes in Ontario that would affect the sale of wine to ensure that any new policies do not allow preferences for Canadian wines beyond what is granted in existing trade agreements.

In June 2012, Canada increased its personal duty exemption limit. Canadians still face high provincial taxes on personal imports of U.S. wines and spirits upon their return to Canada from the United States. This inhibits their purchases of U.S. alcoholic beverages.

Softwood Lumber

The U.S-Canada Softwood Lumber Agreement (SLA) entered into force in October 2006 for a period of seven years, with option to extend the SLA for two years. In January 2012, the United States and Canada extended the SLA until October 12, 2015. The United States is currently consulting with stakeholders on how best to proceed.

DOMESTIC SUPPORT MEASURES

Aerospace Sector Support

Canada released a comprehensive review of its aerospace and space programs in November 2012. The review offered 17 recommendations intended to strengthen the competitiveness of Canada's aerospace and space industries and guide future government involvement in both sectors. Recommendations called on the Canadian government to create a program to support large-scale aerospace technology demonstration, co-fund a Canada-wide initiative to facilitate communication among aerospace companies and the academic community, implement a full cost-recovery model for aircraft safety certification, support aerospace worker training, and co-fund aerospace training infrastructure.

The review also recommended that the Canadian government continue funding the Strategic Aerospace and Defense Initiative (SADI). The SADI provides repayable support for strategic industrial research and pre-competitive development projects in the aerospace, defense, space, and security industries, and has authorized over $900 million to fund 27 advanced research and development (R&D) projects since its establishment in 2007. To date, SADI has disbursed nearly $1.5 billion of which approximately $554 million was disbursed in in 2014.

The Canadian federal government and the Quebec provincial government announced aid to the Bombardier aircraft company in 2008 to support research and development related to the launch of the new class of Bombardier CSeries commercial aircraft. The federal government has provided C$350 million in financing for the CSeries aircraft and the government of Quebec has provided another C$118 million. The federal government and Quebec government are also offering commercial loans to potential buyers of the aircraft. The United States will continue to monitor carefully any government financing and support of the CSeries aircraft.

While Parties to the February 2011 OECD Sector Understanding on Export Credits for Civil Aircraft implement the revised agreement, the United States also has expressed concern over the possible use of Export Development Canada (EDC) export credit financing to support commercial sales of Bombardier CSeries aircraft in the U.S. market.

Canada has committed to spend approximately $25 million from 2009 to 2018 to support the Green Aviation Research and Development Network and provide additional funding to the National Research Council's Industrial Research Assistance Program to support R&D in Canada's aerospace sector.

GOVERNMENT PROCUREMENT

Canada and the United States are signatories to three international agreements relating to government procurement (the WTO Agreement on Government Procurement (WTO GPA), the NAFTA, and the 2010

United States-Canada Agreement on Government Procurement). The revised WTO GPA entered into force on April 6, 2014. The current agreements provide U.S. businesses with access to procurement conducted by most Canadian federal departments and a large number of provincial entities.

However, U.S. suppliers have only limited access under these trade agreements to procurements by Canada's Crown Corporations. While Canada has more than 40 Crown Corporations, only seven are covered under trade agreements with the United States.

Quebec Local Content Requirements

Hydro-Québec, a Crown Corporation of the province of Quebec (not covered under any of Canada's procurement agreements with the United States) continues to maintain a local content requirement in its bids for wind energy projects. Requirements for calls for tenders for wind farm projects are established by administrative regulations from the government of Quebec, and current rules stipulate that 60 percent of the value of all wind farm projects must be Quebec content, including 35 percent content required to originate from Gaspésie-Iles-de-la-Madeleine. These local content requirements pose significant hurdles for U.S. companies in the renewable energy sector in Canada.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Protection and enforcement of intellectual property rights is a continuing priority in bilateral trade relations with Canada. In 2012, the U.S. Government moved Canada from the Priority Watch List to the Watch List in light of steps taken to improve copyright protection through the Copyright Modernization Act. With respect to pharmaceuticals, the United States continues to have serious concerns about the impact of the heightened patent utility requirements that Canadian courts have adopted. On enforcement issues, Canada's Parliament passed the Combating Counterfeit Products Act December 9, 2014. The United States is disappointed that Canada did not amend this legislation to allow for inspection of in-transit counterfeit trademark goods and pirated copyright goods entering Canada destined for the United States.

SERVICES BARRIERS

Telecommunications

Canada no longer maintains foreign ownership restrictions for carriers with less than 10 percent share of the total Canadian telecommunications market, following an amendment to the *Telecommunications Act* in June 2012. Foreign-owned carriers are permitted to continue operating if their market share grows beyond 10 percent, provided the increase does not result from the acquisition of, or merger with, another Canadian carrier. Canada capped the amount of spectrum that all large incumbent companies could purchase in the January 2014 700 MHz spectrum auction in an effort to facilitate greater competition in the sector. No foreign entities participated in the auction, which resulted in Canada's three large incumbent wireless providers winning 85 percent of the available blocks. Canada has blocked deals it believes would lead to excessive spectrum concentration among market leaders, and set aside 60 percent of spectrum auctioned off in March 2015 for new wireless entrants as part of its plan to increase competition in Canada's wireless sector. The federal government included a provision to cap wholesale domestic wireless roaming rates in its 2014 budget implementation act. The measure is intended to foster increased competition in Canada's telecom sector by preventing large wireless carriers from charging smaller providers higher roaming rates than they would charge their own customers.

Canada maintains a 46.7 percent limit on foreign ownership of certain suppliers (i.e. those with more than 10 percent market share) of facilities-based telecommunications services, except for submarine cable operations. This is one of the most restrictive regimes among developed countries. Canada also requires that at least 80 percent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadian citizens. As a consequence of these restrictions on foreign ownership, U.S. firms' presence in the Canadian market as wholly U.S.-owned operators has been limited to that of a reseller, dependent on Canadian facilities-based operators for critical services and component parts.

Canadian Content in Broadcasting

The Canadian Radio-television and Telecommunications Commission (CRTC) imposes quotas that determine both the minimum Canadian programming expenditure (CPE) and the minimum amount of Canadian programming that licensed Canadian broadcasters must carry (Exhibition Quota). Large English language private broadcaster groups have a CPE obligation equal to 30 percent of the group's gross revenues from their conventional signals, specialty, and pay services. In March 2015, the CRTC announced that it will eliminate the 55 percent daytime Canadian-content quota. The CRTC maintained the Exhibition Quota for primetime at 50 percent from 6 p.m. to 11 p.m.

Specialty services and pay TV services that are not part of a large English language private broadcasting group are now subject to a 35 percent requirement throughout the day, with no primetime quota.

For cable TV and direct-to-home broadcast services, more than 50 percent of the channels received by subscribers must be Canadian programming services. Non-Canadian channels must be pre-approved ("listed") by the CRTC. Upon an appeal from a Canadian licensee, the CRTC may determine that a non-Canadian channel competes with a Canadian pay or specialty service, in which case the CRTC may either remove the non-Canadian channel from the list (thereby revoking approval to provide service) or shift the channel into a less competitive location on the channel dial.

The CRTC also requires that 35 percent of popular musical selections broadcast on the radio qualify as "Canadian" under a Canadian government-determined point system.

The CRTC held stakeholder hearings in September 2014 to discuss changes to the Canadian broadcasting system and ways to improve consumer choice and flexibility. A proposal to apply a restrictive code of conduct designed for vertically-integrated suppliers in Canada (*i.e.*, suppliers that own infrastructure and programming) to foreign programming suppliers as well (who by definition cannot be vertically integrated, as foreign suppliers are prohibited from owning video distribution infrastructure in Canada) has raised significant stakeholder concern. The CRTC is expected to make its final recommendations to the Canadian government in 2015.

INVESTMENT BARRIERS

The Investment Canada Act (ICA) has regulated foreign investment in Canada since 1985. Foreign investors must notify the government of Canada prior to the direct or indirect acquisition of an existing Canadian business above a particular threshold value. In 2014, the threshold for review of investments/acquisitions by companies from World Trade Organization (WTO) Members was $354 million. Canada amended the ICA in 2009 to raise the threshold for review to $1 billion over a four-year period, although bids by foreign state owned enterprises (SOEs) will remain subject to the current $354 million threshold. The new thresholds will come into force once regulations are drafted and published. Industry Canada is the government of Canada's reviewing authority for most investments, except for those related to cultural industries, which come under the jurisdiction of the Department of Heritage. Foreign acquisition proposals under government review must demonstrate a "net benefit" to Canada to be approved. The Industry Minister may disclose publicly that an investment proposal does not satisfy the net benefit test and publicly explain the reasons for denying the investment, so long as the explanation will not do harm to the Canadian business or the foreign investor.

Under the ICA, the Industry Minister can make investment approval contingent upon meeting certain conditions such as minimum levels of employment and R&D. Since the global economic slowdown in 2009, some foreign investors in Canada have had difficulty meeting these conditions.

Canada administers supplemental guidelines for investment by foreign SOEs, including a stipulation that future SOE bids to acquire control of a Canadian oil-sands business will be approved on an "exceptional basis only."

OTHER BARRIERS

Port Hawkesbury Paper Mill

The United States remains concerned about the nature and extent of assistance provided by Nova Scotia's provincial government to the Port Hawkesbury paper mill following a bankruptcy settlement that resulted in the sale of the mill to a Canadian firm. In addition to provincial support, the mill also allegedly receives preferential power rates from Nova Scotia Power Inc. The Port Hawkesbury paper mill produces supercalendared paper which is an uncoated printing paper used to produce a variety of printed materials including magazines, catalogs, retail inserts, direct mail materials, corporate brochures, flyers, directories, and other high-run publications and advertising. On March 19, 2015, as a result of a petition filed by the domestic industry, the Department of Commerce announced the initiation of a CVD investigation of imports of supercalendered paper from Canada.

McInnis Cement Plant

In July 2014, McInnis Cement announced that it completed the financing package for constructing its $1.1 billion cement plant in Quebec's Gaspe Peninsula. The provincial government and other provincial entities have committed to providing $500 million in loans and equity to the project. The United States is concerned about the public sector assistance provided to McInnis, and is reviewing available information on the terms of such assistance.

Cross-Border Data Flows

The Canadian federal government is consolidating information technology services across 63 Canadian federal government email systems under a single platform. The request for proposals for this project invokes national security as a basis for prohibiting the contracted company from allowing data to go outside of Canada. This policy could preclude some new technologies such as "cloud" computing providers from participating in the procurement process. The public sector represents approximately one third of the Canadian economy, and is a major consumer of U.S. services. In today's information-based economy, particularly where a broad range of services are moving to cloud-based delivery where U.S. firms are market leaders, this law could hinder U.S. exports of a wide array of products and services.

Privacy rules in two Canadian provinces, British Columbia and Nova Scotia, mandate that personal information in the custody of a public body must be stored and accessed only in Canada unless one of a few limited exceptions applies. These laws prevent public bodies such as primary and secondary schools, universities, hospitals, government-owned utilities, and public agencies from using U.S. services when personal information could be accessed from or stored in the United States.