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## Regional and Bilateral Initiatives

### Canada-European Union - Trade and Investment Enhancement Agreement



### Canada-European Union Trade and Investment Enhancement Agreement

#### Framework for the Agreement

#### Introduction

Following the instructions given by Leaders at the Canada-EU Summit in Ottawa on 19 December 2002 to “design a new type of forward-looking, wide-ranging bilateral trade and investment enhancement agreement (TIEA)”, the European Commission and the Government of Canada have worked towards the definition of the scope and main objectives of such an agreement.

The TIEA builds on the long and fruitful co-operation established under the 1976 Framework Agreement for Commercial and Economic Co-operation, the 1996 Joint Action Plan and the 1998 EU-Canada Trade Initiative, as well as the various bilateral sectoral agreements concluded between the Parties, most recently the Agreement on Trade in Wines and Spirits Drinks signed in Niagara on 16 September 2003. The TIEA is aimed at further developing existing co-operation where it has proved successful while providing a general framework for bilateral trade and investment relations.

Canada and the EU<sup>1</sup> also seek to address new challenges and opportunities for trade and investment between two open and developed economies in the XXI century, given the significant potential impact of regulatory barriers and the increasingly prominent role of investment in the bilateral economic relationship. The EU and Canada agree to work to prevent and eliminate unnecessary barriers to trade and investment while ensuring better quality and efficiency of regulations to achieve legitimate policy objectives. Therefore, regulatory co-operation will be an important element of the TIEA.

The TIEA will also reinforce the Canada-EU partnership in the pursuit of common objectives, notably further trade liberalisation based on a strong multilateral rules-based system, and reflect the shared commitment to promote sustainable development, cultural diversity, and science and technology linkages.

In addition to contributing to the enhancement of the bilateral trade and economic relationship, the TIEA should support and contribute to multilateral trade negotiations, to which the EU and Canada remain highly committed. Therefore, for those issues covered by the World Trade

Organization (WTO) Doha Ministerial Declaration, bilateral co-operation under the TIEA will take place without prejudice to on-going WTO negotiations.

Canada and the EU agree to intensify discussions based on the design of the TIEA with the aim of further clarifying the scope of the Agreement and explore the potential for co-operation in any other areas. The agreement should provide an opportunity for review in light of any future multilateral/regional/bilateral trade agreements negotiated by the Parties. Negotiations will begin in 2004.

## **Scope and Objectives of the TIEA**

### **1. Regulatory Co-operation**

The EU and Canada, as reflected in the EU “Better Regulation Package” and the Canadian “Smart Regulation Initiative”, respectively, are committed to ensuring high levels of protection for their citizens and for the environment, while ensuring transparency, performance and cost-effectiveness of regulations. In this context, the EU and Canada recognise the value of regulatory co-operation, developed within the frame of their domestic procedural and substantive obligations, in order to promote information exchange and expand mutual knowledge of regulatory practices, including enhanced use of best practices, improve the effectiveness of regulatory initiatives and facilitate trade and investment.

The EU and Canada agree to work towards removing obstacles to trade and investment through adequate mechanisms, including, where appropriate, the reduction of unnecessary regulatory differences, so as to facilitate trade while ensuring quality and effectiveness of regulations.

Consequently, regulatory co-operation should have a central role in the future agreement while respecting both Parties' rights and obligations under the WTO Agreements or any other international agreements to which each may be a Party, including the right to determine the appropriate level of protection of public interests involved (inter alia, the prevention of deceptive practices, protection of human health or safety, animal or plant life or health, or the environment). Regulatory co-operation will also take into consideration any other international initiatives on regulatory practices to which both Parties might subscribe, such as those developed in the Organisation for Economic Co-operation and Development (OECD).

At the December 2002 Summit in Ottawa, the EU and Canada agreed “to intensify our regulatory dialogue and work towards a new framework in this field”. Following the adoption by Leaders at the May 2003 Summit in Athens of the Joint Action Plan on Regulatory Dialogue and Co-operation, the European Commission and the Government of Canada are developing such a framework. The EU and Canada look forward to its completion at the earliest opportunity. This voluntary framework will form the basis for the development of voluntary co-operation between EU and Canadian regulators competent in the sectors concerned. This framework will support, not duplicate, existing mechanisms (e.g. Joint Committees established under bilateral EU-Canada Agreements; or in multilateral regulatory bodies).

The TIEA will consequently refer to the voluntary Framework as the instrument of regulatory cooperation for those areas within its scope. Other regulatory issues will be addressed according to the relevant sections of this document. With respect to the regulatory aspects of services, consideration

will be given, if needed, to possible common elements with future developments arising from this section.

The TIEA may also establish a specific committee for purposes of follow up of progress made in the overall application of the voluntary Framework, address any issues arising, and make recommendations for future action, without prejudice to the operation of sectoral committees established under bilateral agreements (e.g. Joint Management Committee established under the Veterinary Agreement, and Joint Committee created under the Agreement on Trade in Wines and Spirits Drinks). In addition, the TIEA may establish more formalised co-operation mechanisms in those sectors identified by the respective competent regulators.

## **2. Services – Domestic Regulation**

Canada and the EU agree to discuss issues related to domestic regulation, including transparency, to help facilitate services trade and enhance investment.

## **3. Mutual Recognition of Professional Qualifications**

The EU and Canada agree to discuss issues related to mutual recognition of professional qualifications to help facilitate services trade and enhance investment.

## **4. Temporary Entry**

Canada and the EU agree to discuss ways to improve access to information by business on their respective temporary entry regimes.

## **5. Financial Services**

The EU and Canada agree to explore ways to facilitate bilateral trade in financial services, including the feasibility of facilitating market access by investment dealers to foreign stock exchanges, without prejudice to the fora or mechanism for advancing enhanced access.

## **6. E-Commerce**

Canada and the EU agree to continue and reinforce co-operation on the basis of the 1999 Joint Statement on Electronic Commerce in the Global Information Society and the 2000 E-Commerce Work Plan, including new areas where Canada and the EU share common objectives. In particular, developments in sectors already identified in the current co-operation framework such as privacy, security and consumer protection should be taken into account, namely the fight against unsolicited communications (spam). This co-operation should take place, *inter alia*, bilaterally, in multilateral fora, or supporting and collaborating with the private sector and civil society.

## **7. Government Procurement**

As reflected in the 1996 EU-Canada Joint Action Plan, the EU and Canada agree on the value of liberalising government procurement in terms of increased trade and investment. The potential benefits of liberalisation are increased in the perspective of the enlargement of the EU to 25 Members.

In this context, the EU and Canada agree to undertake negotiations with a view to achieving the greatest possible extension of their commitments under the WTO Agreement on Government Procurement (GPA) and eliminating any remaining discriminatory measures and practices.

The EU and Canada also agree to consider transparency rules for procurement not included in market access commitments and the need for simplified obligations for some entities or types of procurement.

The EU and Canada also agree to consider working together on the promotion of GPA membership, in particular amongst developing countries, and accelerating negotiations of those already committed to join the GPA.

## 8. Trade Facilitation

The TIEA should set out a joint commitment and establish a framework for Canada and the EU to progress both bilaterally and multilaterally on trade facilitation.

The TIEA shall reflect a strong Canada-EU commitment to co-operate towards convergence of views and joint action in relevant multilateral organisations dealing with trade facilitation, notably in the WTO, the World Customs Organization (WCO), the United Nations (UN) and the United Nations Conference on Trade and Development (UNCTAD) and use appropriate elements from their bilateral relations as a point of reference in such multilateral discussions.

Co-operation pursuant to the TIEA should in particular focus on areas that can bring identifiable trade benefits to both Parties.

The following aspects of trade facilitation should be covered:

- ⌘ The development and sharing of best practices in modern customs techniques: risk management; simplified procedures; the status of authorised trader; pre-arrival processing; post entry audit; and “single window” co-ordination of official controls;
- ⌘ Promotion of common application of international rules, standards and guidelines in the field of customs and international trade, including simplification and harmonization of import and export data and, where possible, use of documentation and procedures that are in line with relevant international standards of the WCO, the UN and other organizations;
- ⌘ Co-operation in the field of electronic data exchange with the aim of facilitating trade (e.g. in line with the results of the G7 initiative on trade facilitation), once Canada and the EU have completed their respective electronic data interchange systems;
- ⌘ Ensuring that any measure on security takes account of trade facilitation, by aiming at greater transparency, proportionality, non-discrimination, and the reduction of barriers to legitimate trade;
- ⌘ Consulting the trading community on its needs with regard to the development and implementation of trade facilitation measures, noting that particular attention should be given to the interests of small and medium enterprises;

- ⊘ Exchange of information and best practices regarding the Parties' technical assistance policies and programmes in the field of trade facilitation; and
- ⊘ Establishing a programme to develop future steps to facilitate trade.

Canada and the EU will make use of relevant co-operation mechanisms, notably those established under the 1997 Customs Co-operation Agreement and international organizations.

## 9. Investment

The EU and Canada agree to work to ensure that investment remains a dynamic feature of the bilateral relationship.

To this aim, the TIEA should include provisions aimed at facilitating two-way investment. This could be achieved through a work programme that may include elements to, *inter alia*:

- ⊘ Establish a more systematic dialogue covering all investment-related issues;
- ⊘ Carry out a more detailed assessment in consultation with stakeholders, including business, of factors influencing international investment in their respective jurisdictions, with a view to determining appropriate disciplines and instruments for improving the bilateral investment environment. This work would involve a consideration of existing investment obligations under the network of multilateral, plurilateral and bilateral investment rules currently in place between Europe and Canada;
- ⊘ Continue co-operating in promoting the development of multilateral disciplines for investment;
- ⊘ Explore the development of mechanisms that enhance transparency such as co-operation between appropriate Business Information Centres, electronic databases and web-portals with the aim to facilitate investment. This work would aim at providing both EU and Canadian companies interested in investing in the other Party's territory with specific and up-to-date information on the prevailing regulatory and business conditions; and
- ⊘ Explore ways to promote investment, including through increased collaboration between Investment Promotion Agencies in EU Member States and Canada.

## 10. Competition

Canada and the EU recognize the importance of embracing the principles of competition so as to ensure the efficient functioning of their respective markets and that the benefits of the trade and investment liberalisation process are not diminished by anti-competitive conduct.

The TIEA should confirm the Parties' commitment for continued co-operation and co-ordination among competition authorities on the basis of the 1999 Competition Agreement.

Canada and the EU agree to co-operate on policy issues of common interest in relevant international fora.

## 11. Sustainable Development

Both the EU and Canada are active players on sustainable development issues (environmental, social and economic aspects) both domestically and internationally and recognise the important contribution that trade and investment policy can play in the development of those objectives.

Therefore, sustainable development should have a prominent place in the TIEA to ensure that enhanced trade and investment benefits sustainable development. The TIEA should contain a formal commitment to a high level of ambition in this field.

In addition, the proposed Agreement should establish a comprehensive EU-Canada dialogue on sustainable trade. This dialogue would offer a valuable opportunity to learn from each other's experiences on ways to ensure that trade and investment policies contribute to the objective of sustainable development.

The proposed EU-Canada dialogue should consist of exchanges of views and information on existing or future initiatives to further promote international sustainable trade, the identification of opportunities for bilateral co-operation on sustainable trade and investment initiatives; and a dialogue aimed at supporting multilateral initiatives and developing new ones (WTO, follow up to World Summit on Sustainable Development (WSSD), the OECD, the International Labour Organisation (ILO), etc.).

The EU and Canada could address, among other issues, the following:

- ⌘ **Environment:** transfers of environmental friendly technologies, voluntary eco-labelling and certification, trade and environment technical assistance and capacity building.
- ⌘ **Corporate Social Responsibility (CSR)** (as the contribution of the private sector to sustainable development): CSR and competitiveness; promoting the OECD Guidelines for Multinational Enterprises; exchange of best practices in promoting sustainability reporting and disclosure; exploring the impact and potential of socially responsible investing; and the role and contribution of Public authorities in support of CSR.
- ⌘ **Social Dimension of Sustainable Development:** exchange of experiences and best practices of both the EU and Canada in their relations and agreements with third countries, for example on labour issues; co-operation between international institutions (ILO, WTO, etc.), including co-operation arising from the findings and recommendations of the ILO World Commission on the Social Dimensions of Globalisation.
- ⌘ **Sustainability and/or Environmental Impact Assessments of Trade Negotiations:** process and methodology.

## 12. Intellectual Property Rights

Canada and the EU recognise that the protection of intellectual and industrial property rights is an important issue in terms of trade and

investment and, therefore, agree to establish a bilateral dialogue in this area.

### **13. Science and Technology Co-operation**

The EU and Canada recognise the important role of research and innovation in their economies and their shared goal of increased competitiveness.

An important role of scientific co-operation is to reinforce bilateral trade and investment relations through joint projects and investments, and to increase knowledge and information sharing in order to best contribute to the development of effective regulatory initiatives.

The EU and Canada agree, in the context of their 1996 Agreement for Scientific and Technical Co-operation, to identify, build on and enhance modalities for increasing science and technology collaboration, while working to make that collaboration relevant to trade, investment, regulation and broader policy. We likewise agree to identify and reduce barriers to co-operation.

### **14. Small- and Medium-Sized Enterprises**

Canada and the EU agree to explore ways to facilitate bilateral trade, investment, and technology transfer between Canadian and EU small- and medium-sized enterprises (SMEs) with the aim of including any appropriate provisions in this respect in the TIEA.

### **15. Civil Society Consultations**

Both the EU and Canada have developed mechanisms for involving different non-state actors in governmental policy-making and have argued in favour of a greater role for civil society members in the WTO.

Therefore, the TIEA should ensure that civil society has a role to play in the bilateral trade and investment relationship. Building on each other's experience of consultation with civil society, the TIEA should establish a bilateral civil society dialogue, following the implementation of the Agreement. This may involve a variety of consultative mechanisms to encourage direct participation by representatives of non-governmental organisations, business associations, and other specific or sectoral stakeholders in discussions on a range of horizontal trade and related issues.


### **16. Dispute Settlement and Institutional Arrangements**

Canada and the EU agree to discuss the appropriate institutional and dispute settlement provisions once the contours of a future agreement become more clearly defined.

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1. EU refers to the European Union or the European Union and its Member States as appropriate. The competence of the EU and/or Member States will be clarified during the negotiations subject by subject.

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