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THE ECONOMIC IMPACT OF THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

(CETA)

An analysis prepared by the European Commission's Directorate-General for Trade



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THE ECONOMIC IMPACT OF THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT (CETA)

*An analysis prepared by the European Commission's Directorate-General for
Trade¹*

¹ The estimated macroeconomic impact of CETA (notably the results reported in sections 3.3, 3.4 and 3.5) is based on the analytical work carried for DG TRADE by BKP Consulting.

Executive summary

The rationale for CETA

The European Commission has negotiated the Comprehensive Economic and Trade Agreement (CETA) with a view to establishing a state of the art and privileged economic relationship with Canada. Canada is a strategic partner of the European Union with whom we share a history based on common values and interests, and with whom we also wish to define a positive forward-looking relationship for the future. To this end, the EU and Canada have reached an ambitious agreement, which will open up new opportunities for trade and investment for economic actors on both sides of the Atlantic.

Both sides have also underlined through this agreement the importance of economic activity taking place within a framework of clear and transparent regulation defined by public authorities, and that they consider the right to regulate in the public interest within their territories as a basic underlying principle of the Agreement.

The content of CETA

CETA will significantly improve business opportunities for European companies in Canada. European companies will receive the best treatment that Canada has ever offered to any trading partner, thus levelling the playing field on the Canadian market for EU companies.

CETA contains provisions on national treatment and market access for goods, trade remedies, technical barriers to trade, sanitary and phytosanitary measures, customs and trade facilitation, subsidies, investment, cross-border trade in services, temporary entry and stay of natural persons for business purposes, mutual recognition of professional qualifications, domestic regulation, financial services, international maritime transport services, telecommunications, electronic commerce, competition policy, state enterprises, monopolies, and enterprises granted special rights or privileges, government procurement, intellectual property, regulatory cooperation, trade and sustainable development, trade and labour, trade and environment, bilateral dialogues and cooperation, administrative and institutional provisions, transparency and dispute settlement. A detailed outline of CETA's provisions is included in Chapter 2.

CETA will support growth and jobs in the EU and bring further benefits for European consumers. It has the potential to keep prices down and provide consumers with greater choice of quality products.

It is important to note that CETA will not change EU standards. Standards and regulations related to food safety, product safety, consumer protection, health, environment, social or labour standards etc. will remain untouched. Without exception, all imports from Canada will have to continue to satisfy all EU product rules and regulations.

CETA also creates a voluntary cooperation mechanism (Regulatory Cooperation Forum)

which allows regulators to exchange experiences and relevant information. However, the role of the forum is only advisory, so as to ensure that it in no way restricts the decision-making power of regulators in the EU's Member States, at EU level or in Canada.

The EU and Canada have therefore achieved the ambitious agreement they wanted, opening up new trade and investment opportunities for economic actors on both sides of the Atlantic. The EU and Canada are thus resolved to preserve their ability to achieve legitimate policy objectives, such as public health, safety, environment, public morals and the promotion and protection of cultural diversity including the ability of governments to subsidise cultural activities.

Finally, any decision to change the CETA text and annexes has to be approved by each Party, and is therefore subject to the EU's applicable internal requirements and procedures.

The expected economic benefits from CETA

CETA contains a wide range of provisions that will have direct positive impact on the ability of EU and Canadian companies to engage in closer economic relations – notably, commitments on the liberalisation of tariffs, investment or services, increased access to each other's public procurement markets, or disciplines on intellectual property rights (such as copyright), geographical indications, conformity assessment, subsidies and so on. A quantification of the expected benefits was carried out only for some of the CETA provisions described in this study; as not all gains could be adequately quantified with available methodologies and data. This study also attempts to give as accurate a qualitative assessment of CETA's expected gains as possible. It should also be borne in mind that, while this study is based on CETA's actual negotiated outcome, it is still a projection of expected gains from an agreement that is not yet in force.

A first category of gains quantified in this study concerns tariffs, FDI liberalisation for goods, and services 'bindings'.

Our simulations, based on a so-called 'CGE' model, predict that once the CETA agreement is fully implemented there will be important gains through tariff elimination, FDI liberalisation for goods, and services bindings, leading to an annual increase in bilateral exports and imports between EU and Canada of at least 8%, amounting to approximately €12 billion per year additional two-way trade by 2030, split roughly evenly between the two parties. Half of this increase will already materialise in the first year of implementation, in particular as customs duties on 98% of all tariff lines will be eliminated at entry into force of the agreement. European exporters of dairy (+€300m), automotive products (+€880m), chemicals (+€451m), textiles, apparel and leather products (+€812m), as well as business services (+€644m) will see the most considerable increases in their exports to Canada. CETA will also add between €1.7-2.1 billion to the EU GDP on an annual basis. Important to highlight that CGE models essentially present a 'snapshot' of best estimations in these

areas at a point in time: due to this, these models tend to underestimate in practice the impact of trade liberalisation. For instance, they do not take into account the synergies that are likely to be created in global supply chains by CETA and other existing and future trade and investment policy initiatives. Furthermore, a recent paper from the IMF (2016) finds that trade agreements on average increase exports by 80 percentage points over ten years, based on a sample of 104 country pairs for the period 1983-1995.

A second category of commitments whose gains the study quantifies are those in the area of public procurement. CETA includes an ambitious procurement chapter that will open new business opportunities for EU companies interested in bidding for public contracts in Canada at all levels (including procurement at provincial level). Based on the limited available data on public procurement in Canada, it is estimated that CETA offers new legal guarantees for open, non-discriminatory access to an additional €32 billion per year of the Canadian public procurement market. It is also estimated that European companies could gain nearly €540 million annually in new contracts.

Abbreviations

| | |
|-------|--|
| ACP | African, Caribbean and Pacific States |
| AIT | Agreement on Internal Trade |
| CAB | Conformity Assessment Body |
| CETA | Comprehensive Economic and Trade Agreement |
| CGE | Computable General Equilibrium |
| CUSPA | Canada-United States Agreement on Government Procurement |
| CWE | Carcass weight equivalent |
| EFTA | European Free Trade Association |
| EU | European Union |
| FDIR | Foreign Direct Investment Restrictiveness Index |
| FDI | Foreign Direct Investment |
| FTA | Free Trade Agreement |
| GATS | General Agreement on Trade in Services |
| GDP | Gross Domestic Product |
| GDyn | Dynamic GTAP model |
| GIs | Geographical Indications |
| GPA | Government Procurement Agreement |
| ICT | Intra-Corporate Transfers |
| ILO | International Labour Organization |
| IPR | Intellectual Property Rights |
| IUU | Illegal, unreported and unregulated |
| LDC | Least Developed Countries |
| MFN | Most Favoured Nation |
| MRA | Mutual Recognition Agreement |
| NA | National Accounts |
| NATFA | North American Free Trade Agreement |
| NTB | Non-Tariff Barrier |
| OECD | Organisation for Economic Cooperation and Development |
| PPP | Purchasing Power Parity |
| PWGSC | Public Works and Government Services Canada |
| RFMO | Regional fisheries management organisation |
| RoO | Rules of Origin |
| SDR | Special Drawing Right |
| SME | Small and medium-sized enterprise |
| SNA | System of National Accounts |

| | |
|--------|--|
| SOE | State Owned Enterprise |
| SPC | Supplementary Protection Certificate |
| SPS | Sanitary and Phytosanitary |
| STRI | Services Trade Restrictiveness Index |
| TBT | Technical barriers to trade |
| TEU | Twenty-Foot Equivalent Unit |
| TRIPS | Trade-Related Aspects of Intellectual Property Rights |
| TRQ | Tariff rate quota |
| UNCTAD | United Nations Conference on Trade and Development |
| UN-ECE | United Nations Economic Commission for Europe |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNSD | United Nations Statistics Division |
| WIPO | World Intellectual Property Organization |
| WITS | World Integrated Trade Solutions |
| WTO | World Trade Organisation |

Contents

| | |
|---|----|
| Executive summary | 2 |
| 1. Introduction..... | 9 |
| 2. Overview over EU-Canada economic and trade relations | 10 |
| 2.1 Tariff profile of the EU and Canada | 10 |
| 2.2 Trade in goods and services | 11 |
| 2.2.1 Trade in goods | 12 |
| 2.2.2 Trade in services | 14 |
| 2.2.3 Foreign Direct Investments (FDIs) stocks and flows of the EU with Canada | 16 |
| 3. The economic assessment of CETA..... | 18 |
| 3.1 Tariff Elimination | 18 |
| 3.2 Services and investment | 21 |
| 3.3 Quantitative assessment of tariff liberalisation, FDI liberalisation in goods sectors and value of services bindings | 28 |
| 3.3.1 Modelling technique | 28 |
| 3.3.2 Bilateral tariff barriers between the EU and Canada | 31 |
| 3.3.3 Simulation design | 33 |
| 3.3.4 Simulation results | 35 |
| 3.4 Public procurement | 39 |
| 3.5 Quantitative assessment of public procurement | 40 |
| 3.5.1 Summary | 40 |
| 3.5.2 The procurement market in Canada | 41 |
| 3.5.3 CETA gains in procurement for European companies | 46 |
| 3.6 Agricultural Non-Tariff Barriers | 49 |
| 3.7 Sanitary and Phyto-Sanitary Measures (SPS) | 50 |
| 3.8 Technical barriers to trade | 50 |
| 3.9 Export duties and other restrictions | 51 |
| 3.10 Rules of Origin (RoO) | 52 |
| 3.11 Customs and trade facilitation | 53 |
| 3.12 Intellectual property rights (IPR) | 54 |

| | | |
|-------------|---|-----------|
| 3.13 | <i>Geographical indications</i> | 57 |
| 3.14 | <i>Trade and sustainable development</i> | 61 |
| 3.15 | <i>Other areas</i> | 62 |

1. Introduction

The economic relationship between the European Union (EU) and Canada has evolved, grown and deepened over the last 40 years. As a democratic, stable and like-minded country, Canada was one of the first industrialised countries with which the EU established a cooperative framework in 1976. It established a structure for ongoing dialogue, with an annual review of economic cooperation. Since then, a number of sectorial agreements have been concluded; however, no single, broad-based and binding agreement existed to address the EU-Canada economic relationship as a whole.

Negotiations for the Comprehensive Economic and Trade Agreement (CETA) were launched in May 2009. In October 2013, the EU and Canada announced a political agreement on the key modalities of the CETA. The negotiators of the European Commission and Canada finalised their work at the beginning of August 2014. President Barroso, President Van Rompuy and Prime Minister Harper announced the end of the CETA negotiations at the EU-Canada Summit on 26 September 2014. The text of the agreement was made public the same day on the website of DG Trade.

On 29 February 2016, the European Commission and Canada announced the end of the legal review of the original (English) version of this text. This legally reviewed text was made public the same day on the website of DG Trade. The text has been since translated into the other official languages of the EU and Canada.

The Commission proposed the signature, provisional application and conclusion of CETA to the Council on 5 July 2016. In the Council, an agreement was found on the scope of provisional application whereby the investment court system is the main point that will not be provisionally applied. The Commission also worked with Canada to produce a Joint Interpretative Instrument, to clarify in a clear and unambiguous way certain provisions of CETA. In addition to the Joint Interpretative Instrument, the Commission, the Council and several Member States included 38 further Declarations alongside the final CETA text. These cover topics including investment protection, public services, the precautionary principle and more technical matters such as the division of competence relating to sustainable development.

CETA was signed alongside its companion Strategic and Political Agreement (SPA) by Canada, the Council, and the Commission at the EU-Canada Summit of 30 October 2016. The European Parliament gave its consent to CETA on 15 February 2017.

The objective of CETA is to increase bilateral trade and investment flows and contribute to economic growth and employment. This is in line with the Europe 2020 strategy to boost growth through external competitiveness and the participation in open and fair markets worldwide while fully protecting our ability to regulate towards achieving legitimate public policy objectives.

2. Overview over EU-Canada economic and trade relations

CETA is a comprehensive free trade and investment agreement between two developed economies with strong economic and purchasing power. Given the size of our respective economies, the EU's total GDP is substantially larger than Canada's amounting to close to €14 trillion in 2014, as compared to Canada's €1.3 trillion.

However, the Canadian per capita income in terms of Gross Domestic Product (GDP) is somewhat higher than that of the EU. In 2015, the GDP per capita stood at €39,000 in Canada and €29,200 in the EU. As far as growth rates are concerned, Table 1 shows that the Canadian economy is more dynamic than the EU economy. The average annual growth rate in Canada reached 4.5% over the 2005-2015 period, while the growth rate in the EU of 2.9% is considerably lower. Over a long period of time, this consistently higher growth rate in Canada makes a significant difference. The above mentioned annual average growth rates indicate that the Canadian economy grew by 56% over the period while the corresponding increase in the size of the EU economy was 27%. Per capita income growth rates were somewhat lower in both Canada and the EU over the period.

Table 1: GDP statistics for Canada and the EU in 2005 and 2015 in €

| | Canada | | | European Union | | |
|--------------------|--------|--------|-----------|----------------|--------|-----------|
| | 2005 | 2015 | 2005-2015 | 2005 | 2015 | 2005-2015 |
| GDP (€ billions) | 900 | 1,400 | 4,5% | 11,600 | 14,700 | 2,4% |
| GDP per capita (€) | 29,200 | 39,000 | 2,9% | 23,500 | 28,900 | 2,1% |

Source: IMF, own calculations. Note that the IMF reports GDP figures in USD. For the conversion in euros the official EUROSTAT exchange rates for the years 2005 and 2015 were used.

2.1 Tariff profile of the EU and Canada

The general tariff profile² of the EU and Canada provides interesting insights into the trade policy regime applicable in each partner. In the case of imports into the EU, merchandise products face on average a relatively low import tariff of 5.1% (see **Table 2**). The simple average tariff on agricultural products however is almost three times higher than the average tariff on non-agricultural products.

For imports into Canada, the simple average tariff applied on its imports, at 4.2%, is lower compared to the EU. Nevertheless, the average tariff on agricultural products is about seven times higher than the one on non-agricultural products (and higher than in the EU).

² This section refers only to MFN tariffs. EU partners that have a preferential agreement with the EU are not taken into account.

This shows that many agricultural products are considered to be sensitive and enjoy greater protection in both the EU and Canada. In terms of tariff quota coverage, both economies apply tariff rate quotas on 11.3% and 9.7% of their agricultural tariff lines, respectively.

Table 2: General tariff profile of the EU and Canada (in %)

| Summary | European Union | | | Canada | | |
|--------------------------------------|----------------|------|--------|--------|------|--------|
| | Total | Ag | Non-Ag | Total | Ag | Non-Ag |
| Simple average MFN applied (2015) | 5.1 | 10.7 | 4.2 | 4.2 | 16.7 | 2.2 |
| Trade weighted average (2014) | 2.7 | 8.5 | 2.3 | 3.2 | 13.5 | 2.2 |
| Tariff quotas (in % of tariff lines) | | 11.3 | | | 9.7 | |

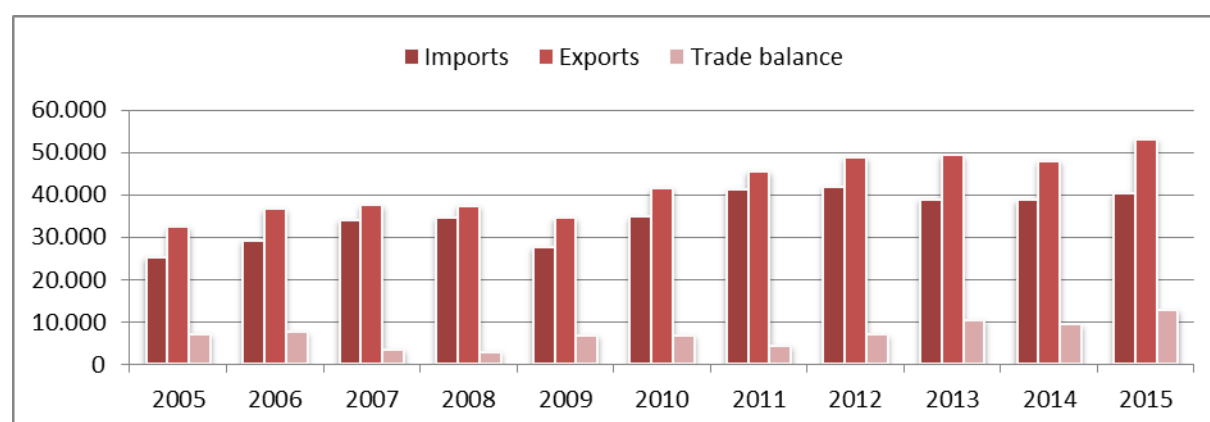
Source: WTO tariff profiles.

Taking into account the value of products that were traded in 2014, the trade weighted average tariff that is applied on imports is significantly lower for both the EU (2.7%) and Canada (3.2%). For Canada, the difference in the magnitude of tariffs on agricultural and non-agricultural products remains more than six-fold, while this difference is lower in the EU's case at almost four-fold (when accounting for the value of traded goods).

2.2 Trade in goods and services

In 2015, EU exports of goods and services to Canada reached more than €53 billion, a new peak. These exports have been increasing year-by-year, with the exceptions of a 2% decline in 2014 and an 8% decrease in 2009. Slightly less than two thirds of EU exports to Canada are merchandise exports and slightly more than one third reflect services trade, see **Figure 1**.

Figure 1: Exports, imports and trade balance in € million of the EU with Canada 2005-2015



Source: EUROSTAT, own calculations. Note that trade in services data starting from 2010 is calculated according to the new BPM6 methodology (instead of BPM5) and therefore this data is not fully comparable with previous years.

Canadian goods and services exports remained close to €40 billion in 2015, representing a decline from their highest level in 2012 over the period 2005-2015. For the rest of the period, Canadian exports to the EU follow a similar pattern as the EU exports to Canada, recording nevertheless a higher decrease in 2009 (-25%). The share of Canadian goods exports as compared with services exports is higher compared to European exports to Canada, accounting for more than 70%.

Overall, the EU has a positive trade balance in its bilateral trade with Canada. In the 2005-2015 period, the highest trade surplus was recorded in 2015, whereas the lowest one was in 2008 (€12.7 billion and €2.8 billion respectively).

2.2.1 Trade in goods

The EU is Canada's second most important trading partner after the US, accounting for 9% of its trade in goods (exports plus imports) with the world (see Table 3). The US has by far the biggest share, accounting for two-thirds of Canada's total trade, whereas China makes up 8% of Canada's trade. Canada accounts for 2% of EU's total trade with the world, ranking 11th among EU's most important partners. The US and China are the EU's two most important trading partners, with a share of 18% and 15% in the EU's total trade.

Table 3: Most important trading partners in goods trade for the EU and Canada in 2015 (€ billion and %)

| European Union | | | | Canada | | | |
|----------------|---------------|---------------|-----------|--------|---------------|---------------|-----------|
| Rank | Trade partner | Value | Share | Rank | Trade partner | Value | Share |
| 1 | USA | 620,558 | 18% | 1 | USA | 503,440 | 64% |
| 2 | China | 520,997 | 15% | 2 | EU 28 | 74,164 | 9% |
| 3 | Switzerland | 252,910 | 7% | 3 | China | 65,041 | 8% |
| 4 | Russia | 210,143 | 6% | 4 | Mexico | 28,785 | 4% |
| 11 | Canada | 63,458 | 2% | 5 | Japan | 18,338 | 2% |
| Total | Extra EU28 | 3,518,361 | 100% | Total | World | 784,161 | 100% |

Source: EUROSTAT, ITC, own calculations. Values are in € million.

In 2015, EU exports of goods to Canada reached €35 billion, whereas EU imports from Canada were €28 billion. In terms of products traded between the EU and Canada, the most important category is machinery (see Table 4), accounting for 25% of EU exports to Canada and 13% of its imports. Other important export products are transport equipment (nearly 20% of EU exports) and chemical and pharmaceutical products (over 13% of EU exports to Canada). In these categories, the EU also has high trade surpluses with Canada: €4.3 billion for motor vehicles and parts, €3.7 billion for machinery and €2.3 billion for pharmaceuticals.

On the import side, pearls, precious stones and precious metals account for 29% of EU imports from Canada, and for by far the highest EU trade deficit with Canada (€ 8.7 billion). **Mineral products** represent the second largest import category, with a 16% share of EU imports from Canada. The EU had a trade deficit in ores, slag and ash worth €1.7 billion in 2015 made up largely of iron and copper ores and concentrates. The EU also imports significant quantities of wheat and meslin, soya beans and rape/colza seed from Canada, leading to a deficit of €1.4 billion in cereals and oil seeds. Aeronautical equipment imports from Canada are worth €2 billion.

Table 4: EU trade with Canada by HS section and descending order of EU exports, 2015 (€ million)

| Nr. | HS section | Exports | Imports | Trade balance |
|-----|--|---------|---------|---------------|
| 16 | Machinery and appliances | 8,668 | 4,027 | 4,641 |
| 17 | Transport equipment | 6,698 | 2,594 | 4,104 |
| 6 | Chemical products | 5,737 | 2,239 | 3,497 |
| 4 | Foodstuffs, beverages, tobacco | 2,369 | 640 | 1,730 |
| 5 | Mineral products | 2,196 | 3,017 | -821 |
| 15 | Base metals | 2,050 | 1,466 | 584 |
| 18 | Optical and photographic instruments, etc. | 1,493 | 898 | 596 |
| 22 | Other | 883 | 918 | -35 |
| 7 | Plastics, rubber | 842 | 288 | 554 |
| 11 | Textiles and textile articles | 756 | 134 | 621 |
| 20 | Miscellaneous manufacturing articles | 568 | 188 | 380 |
| 13 | Articles of stone, glass and ceramics | 459 | 48 | 412 |
| 10 | Pulp of wood, paper and paperboard | 415 | 491 | -76 |
| 2 | Vegetable products | 402 | 1,750 | -1,348 |
| 8 | Raw hides and skins, and saddlery | 388 | 69 | 319 |
| 1 | Live animals; animal products | 281 | 321 | -40 |
| 14 | Pearls, precious metals | 270 | 8,720 | -8,450 |
| 12 | Footwear, hats and other headgear | 250 | 9 | 240 |
| 9 | Wood, charcoal and cork | 173 | 418 | -245 |
| 3 | Animal or vegetable fats and oils | 119 | 14 | 105 |
| 21 | Works of art and antiques | 90 | 44 | 47 |
| 19 | Arms and ammunition | 37 | 20 | 17 |
| | Total | 35,144 | 28,314 | 6,830 |

Source: EUROSTAT.

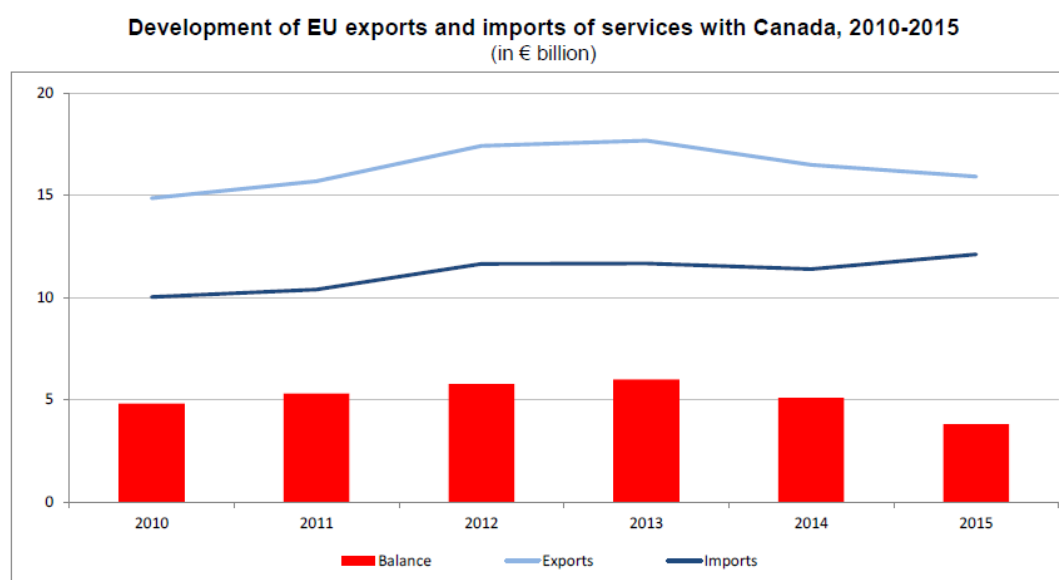
2.2.2 Trade in services

Total trade in services between the EU and Canada amounted to nearly €30 billion in 2015. In the same year, the EU exported services worth €18 billion and imported services amounting to more than €12 billion from Canada (**Figure 2**). The EU's trade balance is consequently positive and significant, reaching almost €6 billion in 2015. These balance of payment based services trade statistics however do not account for services embodied in manufacturing sectors' exports i.e. value added services trade.

Considering the period 2004-2015, EU's services exports to Canada increased by 125% starting from slightly more than €8 billion. At the same time, EU services imports from Canada increased in the period 2004-2015 by 64% from nearly €7 billion in 2004 to €12.1 billion in 2015.

The trade surplus of EU-Canada services trade has been constantly increasing in the period considered, indicating a strong comparative advantage of EU services industries on the Canadian market. (In 2004, the EU services trade balance stood at €1.3 billion, and reached its peak in 2013 over the period 2004-2014.)³

Figure 2: EU trade in services with Canada, 2010-2015 (€ million)



Source: EUROSTAT. Values are in € millions.

Given the importance of the EU services trade surplus, it is interesting to analyse its composition in order to identify the sectors driving this development. **Table 5** provides a

³ It is important to note that the reporting of services trade data changed in 2012 according to the new BPM6 methodology, which has been applied to trade flows also for 2010 and 2011, but not to trade in earlier years.

breakdown per category of EU services trade with Canada. The European services category with the largest trade surplus and the highest exports is the travel sector as EU exports amounted to €4.1 billion compared to €2.8 billion imports from Canada in 2015.

Table 5: Composition of EU services trade with Canada, 2015 (€ million)

| Services | Exports | Imports | Trade balance |
|--|---------|---------|---------------|
| - Travel | 4,067 | 2,723 | 1,344 |
| - Transport | 3,915 | 2,765 | 1,150 |
| -- <i>Sea transport</i> | 1,899 | 1,061 | 838 |
| -- <i>Air transport</i> | 1,678 | 1,399 | 278 |
| -- <i>Other modes of transport</i> | 311 | 276 | 36 |
| -- <i>Postal and courier services</i> | 25 | 29 | -5 |
| - Financial services | 1,444 | 348 | 1,096 |
| - Telecommunications, computer, and information services | 1,776 | 899 | 877 |
| - Services not allocated | 742 | 10 | 732 |
| - Charges for the use of intellectual property n.i.e. | 987 | 365 | 623 |
| - Insurance and pension services | 416 | 113 | 303 |
| - Other business services | 3,664 | 3,375 | 289 |
| - Construction | 185 | 52 | 133 |
| - Maintenance and repair services n.i.e. | 550 | 826 | -276 |
| Other services | 254 | 581 | -327 |
| Services | 17,997 | 12,055 | 5,942 |

Source: EUROSTAT. Flows from 2010 onwards are calculated according to the new BPM6 methodology. Values are in € millions. *Note:* Other services refer inter alia to personal services, recreational services and manufacturing services.

The category with the second highest services trade surplus is transport services. A more detailed look at the transport sector reveals that air and sea transport unsurprisingly represent the most significant subsectors and account for nearly the entire trade surplus of €1.2 billion within the transport sector. Another important services sector to be mentioned is financial services, accounting for the third largest EU services surplus to Canada. The EU financial services sector exported over €1.44 billion to Canada in 2015, whereas Canadian exports in that category amounted to €348 million. In this specific sector, the European trade surplus stood at 76% of exports to Canada.

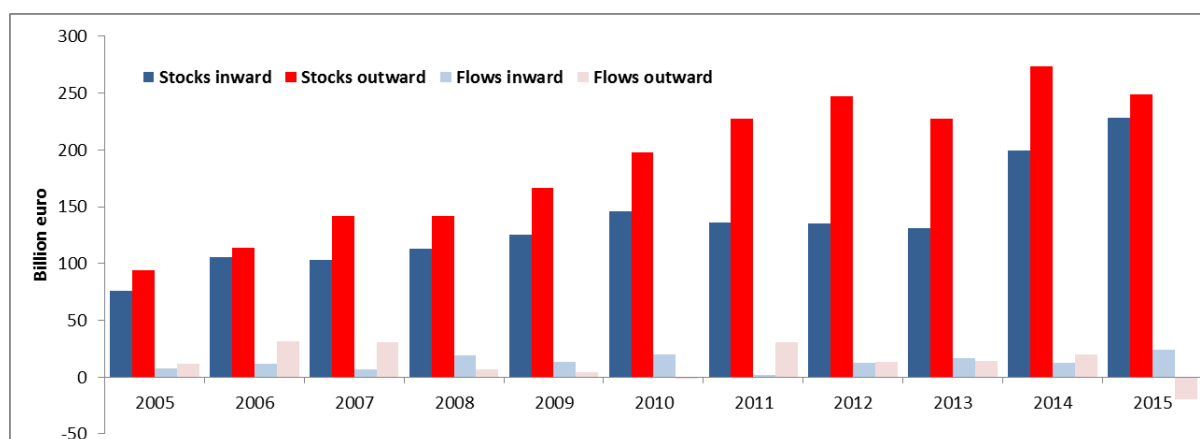
The sectors where Canadian services exports to the EU are larger than EU exports to Canada are: (i) cultural services and (ii) maintenance and repair services. In these two sectors, Canadian exports to the EU surpassed EU exports to Canada by some €340 million and €300 million, respectively.

2.2.3 Foreign Direct Investments (FDIs) stocks and flows of the EU with Canada

The EU and Canada not only have strong ties in terms of international exchange of goods and services but also with respect to foreign direct investment. In the period 2005-2015, EU outward FDI stocks in Canada surpassed Canadian outward FDI stocks in the EU (**Figure 3**). In 2015, European investors in Canada held stocks worth over €249 billion. Canadian investors owned stocks in the EU worth over €228 billion. EU outward stocks in Canada increased by 264% in the period 2005-2015 whereas Canadian outward stocks in the EU increased by 300%. When one puts these figures in the context of the relative size of the two economies, Canada appears to make a very high contribution to the EU's economy as compared to its own size.

In the period 2005-2015, the average EU outward flows to Canada amounted to around €13 billion annually. In the same period, Canadian investors also invested on average €13 billion in the EU per year. The value of the EU outward flows to Canada however is quite unevenly distributed within the period ranging from an annual investment flow of around €30 billion in 2006, 2007 and 2011 to a disinvestment of almost €20 billion in 2015. Canadian outward investment flows display similar patterns although to a lesser extent: from as low as €2 billion in 2011 to nearly €24 billion in 2015.

Figure 3: Inward and outward FDI stocks and flows of the EU with Canada (€ billion)



Source: EUROSTAT. Flows in 2013 and 2014 are calculated according to the new BPM6 methodology. Note that the sum of stocks of year-1 and FDI flows of the year (t) does not equal the stocks of year (t+1). This is caused by the fact that FDI stocks and flows are calculated independently from each other and flows are often not linked to changes in stocks for the same reporter. The reason for that lies in different basis for valuation, for more information see (OECD, 2008).

What is noteworthy is that these figures show that the investment relationship between the EU and Canada constitutes a dynamic element of the overall economic relationship. **Table 6** shows that despite the US being a neighbouring country with significant trade ties, accounting for 66% of Canada's trade (while the EU only accounts for 9% of Canada's trade), EU FDI stocks in Canada and Canadian FDI stocks in the EU reach around 90% of corresponding US figures.

Table 6: Inward and outward FDI stocks and flows of the EU and the US with Canada (€ billion)

| | EU | | | | US | | | |
|------|--------|---------|--------|---------|--------|---------|--------|---------|
| | Stocks | | Flows | | Stocks | | Flows | |
| | Inward | Outward | Inward | Outward | Inward | Outward | Inward | Outward |
| 2013 | 131 | 228 | 16 | 14 | 171 | 283 | 18 | 16 |
| 2014 | 199 | 274 | 12 | 20 | 215 | 318 | 16 | 15 |
| 2015 | 228 | 249 | 24 | -20 | | | | |

Source: EUROSTAT. Flows in 2013, 2014 and 2015 are calculated according to the new BPM6 methodology.

3. The economic assessment of CETA

This chapter describes the major outcomes of the negotiations and includes an economic assessment of the CETA provisions, including a quantitative analysis in certain cases where technically feasible.

Specifically the chapter discusses the qualitative impacts of the Agreement's provisions on tariff elimination, services and investment, government procurement, agricultural non-tariff barriers, sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), export duties and other restrictions, rules of origin (RoO), customs and trade facilitation, intellectual property rights (IPR), including geographical indications, as well as trade and sustainable development.

It also includes a quantitative assessment using a CGE model which captures the gains due to tariff and FDI liberalisation commitments in the goods sector, and the value of so-called 'bindings' in the services sector (i.e. commitments to preserve current levels of openness in certain sectors), and a separate quantitative assessment of the commitments on public procurement.

3.1 Tariff Elimination

The EU and Canada have agreed to eliminate customs duties for imports of goods originating in the EU and Canada either when CETA comes into force or gradually within 3, 5 or 7 years for almost all goods. For the most sensitive agricultural products an alternative to full liberalisation was negotiated.

The objective of duty elimination is to reduce the costs that exporters and importers incur, and thus make goods more competitive on the importing market. Tariff elimination leads also to wider choice and lower prices for consumers. It should be also noted that the duty elimination agreed in CETA is without any prejudice to the rules and regulations that the products in question need to satisfy on the respective import market (technical, sanitary or phytosanitary rules for the security and protection of consumers or the environment, including notably food safety and labelling requirements). No EU regulatory requirements in any area (e.g. food safety and consumer protection) will be lowered by CETA.

The CETA tariff reduction package is comprehensive and ambitious compared to previous EU FTAs, and an example of the EU's current generation of modern FTAs, notably with respect to the elimination of tariffs upon entry into force of the agreement. **Overall, the tariffs for 98.6% of all Canadian tariff lines and 99.0% of all EU tariff lines will be removed.** Full elimination will happen at entry into force of the agreement for 98.2% of the Canadian tariff lines and for 97.7% of the EU tariff lines. All other products identified for liberalisation will see their tariffs reduced to zero within 3, 5 or 7 years. Overall, the result is reciprocal, and offers new opportunities while taking into account key sensitivities of

both parties.

Broken down by respective product areas (industrial, fisheries and agriculture) this means that:

- **Industrial tariffs:** 100% of the tariff lines on industrial products for both sides will be fully eliminated, of which 99.6% upon entry into force in the case of Canada and 99.4% upon entry into force in the case of the EU. Amongst the few products not liberalised at entry into force are a limited number of automotive products, which will be liberalised on a reciprocal basis over 3, 5 or 7 years (17 products in the Canadian tariff offer and the corresponding products in the EU offer). In addition, Canada will dismantle its tariffs on ships over 7 years.
- **Fisheries:** Both sides will fully eliminate all tariffs on fisheries products. 76.4% of Canada's imports within the fishery sector already enjoy a most favoured nation (MFN) tariff of zero percent, and Canada agreed to eliminate the remaining tariffs upon entry into force of the agreement. The EU agreed to eliminate 95.5% of its tariffs on these products upon entry into force of CETA and the remaining 4.5% of the tariffs within 3, 5 or 7 years.
- **Agriculture:** Canada will eliminate duties on 91.7% of agricultural tariff lines of which 90.9% upon entry into force. The EU will eliminate 95.2% duties on of agricultural tariff lines of which 92.2% at upon entry into force. The remainder are sensitive products, which will either be offered as a TRQ (dairy, beef and pork) or excluded altogether from liberalisation commitments (chicken and turkey meat, eggs and egg products).
- Canada will eliminate tariffs on **processed food** including on wines and spirits, soft drinks, chocolate, biscuits, confectionery, and cereals-based products, pasta, and fruit and vegetable preparations. This meets the main agricultural interests of the EU as these represent about 60% of the current agricultural exports to Canada.

The annual quantities of the TRQs agreed for some of the more sensitive products mentioned above are the following:⁴

- **Dairy:** Canadian MFN duties for dairy products range between 200% and 300%, and the EU's existing exports to Canada are therefore very limited. In particular cheese is exported to Canada via an existing WTO TRQ of 20,412 tonnes, of which 13,472 are reserved to the EU with an in-quota duty limited to 3.32cents/kg (less than 1% Ad Valorem Equivalent), while the MFN duty is 245%. Canada will open for the EU a new bilateral quota of 17,700 tonnes of cheese, 16,000 tonnes of which are for high quality cheeses and 1,700 tonnes for industrial cheese. Moreover, 800 tonnes of

⁴ For precise tariff line coverage of the respective TRQs please consult Annex 5 of the Trade in Goods chapter.

high quality cheese will be added through a technical adjustment to the EU portion of the existing WTO TRQ. The effective total will therefore be 18,500 tonnes resulting in a potential increase of EU cheese exports of 128% (on cheese, see also Box 1 below). In addition, Canada will eliminate its duty applicable to the EU portion of the WTO quota, and will also eliminate its tariff on milk protein concentrates, allowing to expand our limited (2500 tonnes) existing exports without incurring the 270% Canadian MFN duty. For its part, the EU will liberalise all its dairy tariff lines upon entry into force.

- **Beef:** One of the most sensitive issues of the negotiation has been bovine meat. This product represented at the same time one of the most sensitive products for the EU, and probably the most important exporting interest in agriculture for Canada. Following intense negotiations, the EU negotiated a limited amount of market access that will not impact the livelihood of the EU farming community. The 45,838 tonnes of hormone free beef concession (expressed in carcass weight equivalent, "CWE") – that is, 0.6% of the total EU beef market – was made with the objective of striking a balance between the Canadian request and the need to minimise the impact of this concession on the livelihood of the EU farmers. Moreover, following the agreed TRQ management, this quantity will be phased in 5 years in order to allow the EU market to progressively adjust and to allow Canada to ramp up the production of hormone free beef and to put in place the robust traceability systems to meet the requirements for exports to the EU. In addition the EU offered to Canada the consolidation of the Canadian portion of the existing 'Hormone-free beef' quota, (3,200 product weight = 4,126 carcass weight equivalent). There will also be an EU TRQ for 3,000 tonnes of bison, which will apply at entry into force of CETA. Finally, the existing 'Hilton beef' quota (11,500 tonnes, product weight, shared between Canada and the US) will be maintained, but the in-quota duty will be brought to zero for Canada.
- **Pork:** The total duty-free access the EU will grant to Canada for hormone free pork is 75,000 tonnes CWE. This represents 0.35% of total EU pork consumption. To this should be added the existing WTO TRQ of 4,625 tonnes (expressed in product weight) which will be consolidated into CETA in order to simplify the administration of this quota by customs authorities and traders.
- **Sweet corn:** The EU agreed to a TRQ of 8,000 tonnes of canned sweet corn at zero duty, which will apply upon entry into force.
- **Common wheat:** The current EU WTO TRQ for low and medium quality common wheat of 38,853 tonnes for Canada will be increased to 100,000 tonnes and the in-quota rate will be brought to zero. This quota will expire once the tariff on common wheat is fully phased out under CETA. In exchange, Canada will eliminate its duties on existing WTO quotas for dairy, eggs and poultry upon entry into force.

Box 1: Cheese

The EU is the biggest world exporter of cheese and dairy and this represents one of our most important exporting interests in agriculture. CETA represents a significant achievement for the dairy sector, at a time when improving exports is increasingly important for EU dairy farmers, given the current critical situation of the EU dairy market.

The 18,500 tonnes new access negotiated in CETA accounts for more than 4% of the current Canadian cheese consumption of dairy products, and the Canadian demand for EU dairy products is steadily growing. Our assessment is that Canada – representing today only about 2% of total EU cheese exports – has an important export potential still to be explored. Cheese exports to Canada could double to around 4.6% of the EU's total cheese exports, once EU exporters make full use of the new quota of 18,500 tonnes and the old quota of 13,472 tonnes.

Finally, the EU and Canada have also agreed modalities for the phasing in of TRQs and the quota administration. These modalities can be summarised as follows:

- Quota administration: while the EU quotas on sweetcorn and bison will be managed on a first-come-first-served basis, the EU quotas on beef and pork will be attributed - as requested by EU Member States - through an import licensing system designed to guarantee both a smooth flow of products imported throughout the year and a maximum quota-fill. Canada will manage its new quota on cheese on the basis of an import licensing system and will guarantee access to newcomers into the system. All WTO quotas concerned by the agreement will keep their current quota administration.
- Phase-in: The duty-free amounts allowed for beef, pork, sweetcorn and cheese under the respective TRQs will be gradually phased-in over 5 years. Duty-free imports for the full volume allowed under the Hilton beef quota, as well as for the bison and common wheat TRQs will be available as of entry into force of CETA.
- Exports under the TRQ will also have to fully respect all food safety, labelling and traceability requirements of either side.

3.2 Services and investment

General assessment

CETA constitutes the most comprehensive trade agreement the EU has ever concluded with regard to trade in services and investment. It ensures legal certainty for EU and Canadian services suppliers and investors by binding the actual level of liberalisation in the open economies of Canada and the EU. It contains a comprehensive coverage of services across all sectors and modes of supply, including areas not committed in any previous

agreement by either partner. Both the Canadian federal government and Canada's provinces have set out all their existing limitations or restrictions to the supply of services, in an unprecedented level of transparency. Most will be subject to a so-called "ratchet", capturing improvements when conditions are modified or eliminated in future. In addition, the so-called "most-favoured nation treatment" obligation ensures EU business receives the best treatment accorded by Canada to any trading partner, now or in the future.

Nevertheless, CETA reserves the right for governments and the EU to regulate all services sectors provided there is no discrimination. In addition, the EU has even reserved the right to discriminate in critical and sensitive sectors, or to introduce quantitative restrictions. This flexibility concerns, among others, public services. In particular, the EU and its Member states can operate public monopolies and exclusive rights for all public utilities at all levels of government, including the local level. Public utilities cover a wide range of sectors, such as, for example education, health and social services, waste management or public transport. As a result, EU Member States, for example, will continue to be able to run public monopolies for a particular service if they wish to. Furthermore, CETA will not force or incite governments to privatise or deregulate public services like water supply, healthcare, social services or education. EU Member States will also continue to be able to decide which services they wish to keep universal and public and to subsidise them if they want to, and Canadian investors will not be able to challenge these decisions under the rules we have negotiated. In addition, nothing in CETA can stop a government in an EU Member State from reversing at any time any decision it may have taken to privatise these sectors. Furthermore, the audio-visual services sector has been entirely excluded from any liberalisation commitments and disciplines.

Better access to the Canadian market for EU services exporters and investors

In addition to the valuable legal certainty and transparency reached in CETA, the EU also gains access to the Canadian market that goes beyond that held by any of Canada's other trading partners.

With *The Investment Canada Act*, there is also a substantial increase in the threshold for review of acquisitions of Canadian companies by non-Canadians from the current C\$354m to C\$1.5bn (applying to all EU investors other than those which are state-owned enterprises). This should facilitate investment projects for EU investors.

New market access for EU services exporters and investors was obtained, for example in maritime services (see Box 6), and through a less restrictive uranium investment regime (exemption from the requirement of first finding a Canadian partner).

Box 6: Maritime services

With over 80% of world merchandise trade by volume being carried by sea, maritime transport remains the backbone supporting international trade. For the EU, which continues to be the most important exporter globally and the second largest importer, maritime transport and all related shipping services are essential to help European companies compete globally.

In CETA the EU has achieved a new opening of the Canadian maritime transport market, with the liberalisation of feeder routes on the important route between Montreal and Halifax. Both ports are important on the Canadian east coast. Montreal is a large port handling 1.4 million standard containers (total of import and export containers in 2015⁵) whereas Halifax handles 0.4 million twenty-foot equivalent units, TEUs (2015⁶ as well).

The opening up of this route will make it easier for EU maritime operators and their larger vessels to operate in Canada.

The EU is by far the world leader in dredging. With CETA, Canada is also opening up its market in dredging activities to EU operators, a market which is estimated to be worth between CAN\$150m and CAN\$400m per year. Dredging is an essential activity to ensure that ports function properly and can adapt quickly to the increasing dimensions of ocean-going ships and/or to increases in international traffic.

Progressive liberalisation and transparency

Provinces and territories have committed their actual level of liberalisation, meaning that they cannot introduce new quotas or new discriminatory measures against EU service supplies except in the reserved sensitive sectors. By explicitly including provincial and territorial reservations, Canada guarantees EU service providers the benefit of the current level of market access, without risk of future restrictions different or additional to those listed, as well as the benefit of any future liberalisation that Canada may undertake.

Canada has provided this benefit in a number of sectors, including in *Professional services*, where it has removed a number of limitations on citizenship and residency conditions for lawyers, accountants, architects and engineers to practice in Canada; in *Telecommunications and Postal and Courier services*, where Canada has locked in future liberalisation for the first time; and in *maritime services*, where Canada has committed the repositioning of empty containers for the first time.

⁵ <http://www.port-montreal.com/PMStats/html/frontend/statistics.jsp?lang=en&context=about>

⁶ <http://portofhalifax.ca/cargo/statistics/>

For the temporary movement of professionals (Mode 4), CETA includes the most ambitious provisions that the EU has negotiated so far, facilitating in particular the transfer of company personnel for up to 3 years and the movement of professionals for service contracts for up to 1 year. Canada has committed to allowing the posting of EU intra-corporate transferees to Canada for up to 3 years, regardless of the services or investment sector in which such professionals are active, this important consideration taken by taken by companies when making an investment decision. Further, Canada will allow for such EU professionals to be accompanied by their spouses and families on their temporary posting abroad (see box 7).

Box 7: Temporary entry for professionals

Some of the unprecedented features of the agreed package on temporary entry include:

Comprehensive commitments on intra-corporate transfers: The ability of companies to post their experienced personnel to their subsidiaries in other countries to set up the business and bring and take back knowledge and expertise is an important component of any investment decision. Under CETA, EU companies will be able to post their intra-corporate transferees to Canada for up to 3 years, regardless of their sector of activity. Contrary to previous agreements, this benefit is not limited to a specific number of sectors, but applies generally to all sectors.

Extended duration of stay for professionals: natural persons who are contractual service suppliers or independent professionals in the meaning of the agreement will be able to stay in the other party for a period of 12 months (instead of 6 months in previous agreements).

The temporary movement of professionals is also necessary to ensure that the required expertise and after-sales service is provided with the sale of a good or a service, thus encouraging cross-border trade. CETA includes commitments in *additional sectors* for contractual service suppliers so the number of sectors in which EU contractual service suppliers will benefit from preferential entry and stay condition in the other party (such as the absence of economic needs tests, or a non-discriminatory treatment with respect to Canadian suppliers), has been extended. It now includes sectors that the EU has never covered before:

- Advisory and consultancy services related to mining; telecommunication services; postal and courier services; insurance and insurance related; other financial services; transport; manufacturing.
- Maintenance and repair of equipment such as vessels, rail transport equipment; motor vehicles, motorcycles, snowmobiles and road transport equipment; aircraft and parts thereof; metal products, non-office machinery, other types of equipment and household goods.
- Related scientific and technical consulting services.
- Environmental services.

Expanded profiles: this preferential access will apply to a wide range of profiles defined in the agreement, such as "investors" (who may be business owners or employees). What's more, the new category of "short-term business visitors" covers a wide range of activities, such as market research, trade fairs and after-sales service. This will greatly facilitate day-to-day business contacts and cross-border engagement.

Spouses: Canada will extend to spouses of EU intra-corporate transferees a treatment equivalent to that granted to spouses of Canadian intra-corporate transferees in the EU. This is a very meaningful benefit, including the right to work, fully in line with the recently adopted EU Intra-Corporate Transfers (ICT) Directive.

Regulatory disciplines

In addition to the ambitious market access commitments undertaken, CETA also includes innovative and strong regulatory disciplines that complement and enhance the market access commitments undertaken by the two parties.

These regulatory disciplines include one of the most extensive and comprehensive sets of mutually binding disciplines on *domestic regulation*, dealing with licencing or authorisation regimes for nearly all services and investment activities. The text ensures fair and transparent regimes for all applicants and makes the authorisation process as smooth as possible.

CETA also contains ambitious and extensive provisions aimed at facilitating the *mobility* of highly-skilled professionals between the EU and Canada. It establishes a framework for the *mutual recognition of professional qualifications* and determines the general conditions and guidelines for the negotiation of profession-specific agreements (see box 8).

Box 8: Mutual Recognition of Qualifications

Agreements on the mutual recognition of professional qualifications (MRAs) typically apply to regulated professions such as e.g. architects or lawyers. The recognition of professional qualifications is a crucial step in facilitating access of professionals from one country into the market of another. CETA provides a detailed framework for the negotiation and conclusion of such MRAs – a first in EU trade agreements.

Crucially, CETA leaves it up to the associations of regulated professions of both Parties to initiate the process of negotiating an MRA, and to agree on the specific conditions for recognition of qualifications. This ensures that MRA negotiations are initiated only if there is sufficient interest from a specific profession on both sides and that the agreements fully take into account the specificities of the profession in question. Once the associations agree on the principles and following the procedures set out in the framework, the MRA becomes legally binding, ensuring that European professionals have their qualifications recognised by the competent authorities in Canada and vice versa.

Investment protection rules and Investment dispute resolution

CETA includes all the innovations of the EU's new approach on investment protection and investment dispute resolution, thus meeting our aim to establish a fairer, more transparent and institutionalised system for the resolution of investment disputes. It introduces important innovations in this field, ensuring a high level of protection for investors, while fully preserving the right of governments to regulate and pursue legitimate public policy objectives such as the protection of health, safety, or the environment. CETA represents a significant step forward from the traditional approach to investment protection and

investment dispute resolution in most of the existing bilateral investment treaties worldwide, and is a clear break from the old Investor-to-State-Dispute-Settlement ('ISDS') system.

In more detail, the agreement includes a legally binding provision which confirms explicitly that the EU and Canada fully preserve their right to regulate. This gives a clear instruction to the tribunal as regards the interpretation of the **investment protection rules**. The article also ensures that investment protection provisions shall not be interpreted as a commitment from governments that legal frameworks will remain unchanged. This clarifies that a measure that may negatively affect an investment or affect an investor's expectations of profits is not inconsistent with the agreement for that reason alone. A further provision of the article confirms the right of competent authorities of a Party to order the discontinuance or re-imburement of an illegal subsidy, clarifying that CETA will not prevent the EU from enforcing its laws on state aid.

The investment protection standards have been also clearly defined in order to remove ambiguities that in some cases made the traditional investment protection rules open to excessively wide interpretations by ISDS arbitrators in the past. For example, the rule of Fair and Equitable Treatment incorporates a closed list of the elements that could give rise to a violation. These are drawn from well-known jurisprudence, and ought to be clear and familiar for the new investment tribunals.

CETA also incorporates an Annex on Indirect Expropriation that clearly defines what situations constitute an indirect expropriation. This ensures that a measure by a public entity will only be considered equivalent to expropriation when its effect on the property of an investor is essentially the same as that of a direct expropriation measure – in other words, when the measure substantially deprives the investor of the property (which remains *per se* lawful, provided it is in the public interest and accompanied by adequate compensation, as it is the case under domestic law in the EU). Moreover, the annex explicitly states that non-discriminatory measures of general application taken for legitimate public objectives, for example in the areas of labour, health or environment, cannot be considered equivalent to expropriation, unless they are so manifestly excessive in light of their objective that they take away the investor's property (in which case the measures can still be taken, against adequate compensation).

CETA provides Canadian investors in the EU the basic guarantees expressly set out in the agreement, but not a higher level of protection as compared to other investors. All investors in the EU already enjoy the same or higher guarantees under EU law and the laws of the Member States. CETA obtains equivalent basic guarantees for EU investors in Canada.

CETA breaks new ground in the field of resolution of **investment disputes** by establishing a new institutional structure to hear investment disputes and by setting up new and clear rules that apply to the life of the dispute.

The **new institutional structure** is the Investment Court System, a first in the world of investment dispute resolution. The Investment Court System will be competent to hear investment disputes for a breach of the investment protection provisions of the agreement (and nothing else). It will operate in a manner comparable to national judicial systems, having a Tribunal of First Instance and an Appeal Tribunal. In a first under international investment law, first instance awards can be corrected for legal errors. The fact that the members of the Tribunal of First Instance and Appeal Tribunal will be appointed by the Contracting Parties to the Agreement constitutes a major innovation and departs from the practice of disputing parties nominating arbitrators on an ad hoc basis, thereby guaranteeing greater independence.

New clear rules applying to investment dispute cover the conduct of proceedings and the functioning of the tribunal. First, CETA provides for transparency of proceedings even going beyond what is common in domestic courts, a fundamental element for any legitimate dispute resolution system. Second, CETA contains provisions which remove the risk of abuses by investors, notably by preventing the possibility of multiple proceedings before different jurisdictions, precluding unfounded claims and by giving control to the EU and Canada over the manner in which the treaty is interpreted. Finally, CETA introduces stringent qualification requirements and strict and enforceable rules on ethics, including, - again a first – a strict prohibition on double hatting (where an arbitrator also acts as counsel in other cases) which will ensure that members of the Tribunal have the necessary impartiality, expertise and knowledge to assess cases.

The improved system of investment protection and investment dispute settlement included in CETA will replace the 8 existing bilateral investment agreements between EU Member States and Canada, which follow the approach common to most bilateral investment treaties in the world, and which has given rise to serious concerns as to both the system of dispute settlement and possible restrictions on public authorities' right to regulate in their relations with foreign investors.

3.3 Quantitative assessment of tariff liberalisation, FDI liberalisation in goods sectors and value of services bindings

3.3.1 Modelling technique

The quantitative economic analysis of the commitments on tariff and FDI liberalisation in the goods sector, and the value of services bindings, is based on a dynamic computable general equilibrium (CGE) model of the world economy. Models of this type are built to answer *what-if* questions by simulating the response of macroeconomic variables such as income, prices, production, etc. given certain changes in trade policy measures.

Though widely shared to be the best available option for this type of analysis and therefore widely used, CGE models tend to underestimate the trade impact of trade liberalisation

(DeRosa and Gilbert (2005)). The trade impact of economic integration agreements such as FTAs is considerably larger than what ex-ante CGE models predict (Bergstrand (2008), (IMF, 2016) . For instance in the fourth year of entry into force of the EU-Korea FTA, EU goods exports to Korea increased (by 55% from 31 billion EUR to 47 billion EUR compared to the year before the FTA came into force. At the same time, the EU's share in Korea's total imports from the world increased from 9% before the FTA was implemented to 13% in the fourth year of the FTA implementation (European Commission 2016). Economic literature suggests that CETA may in reality induce a larger effect on EU economic growth and welfare than our CGE simulations indicate.

The simulated gains only cover partially the expected benefits (namely tariff liberalisation, new FDI liberalisation for goods, and the value of services 'bindings') from the CETA agreement. The figures are a snapshot of our best estimates and do not take into account synergies created along global supply chains by CETA and other existing and future trade and investment policy initiatives. We have seen with other FTA's that such synergies bring about greater economic benefits than the ones we can currently quantify.

Furthermore, some types of gains are hard to quantify due to lack of data, which is crucial for a data driven model such as the CGE model used for the simulations of the CETA gains – this is why such gains are not taken into account in the model. For instance, one important economic gain for EU exporters stems from the enhanced protection of geographical indications, copyright and other intellectual property rights. Similarly, the value of FDI bindings is potentially very significant for EU-Canada investors.

Additionally we have also undertaken a separate quantitative assessment of the gains for EU companies through the public procurement commitments of CETA in section 3.5.

Further information on the benefits of CETA in areas that are not quantified through the CGE simulation is available in sections 3.6 onwards.

The main feature of dynamic CGE models is a simulation of a dynamic baseline that offers the benchmark against which a set of scenarios representing the estimated policy changes can be compared. This set-up enables a straightforward comparison between clearly distinguishable economic outcomes. The baseline contains projections of different macroeconomic variables such as GDP, population, skilled and unskilled labour under the assumption that there are no specific changes in policy. The simulated scenarios, on the other hand, reflect the outcome of a policy change compared to the baseline.

The base year for the simulations is 2011 which is the default year of the most recent GTAP (version 9) database (Narayanan, Aguiar, & McDougall, 2015). The modelling results are reported with respect to the baseline and projected to the year 2030.

Recent FTAs on both sides were pre-simulated as tariff changes resulting from the

agreements are not reflected in the latest version of the GTAP database with base year 2011.⁷ On the EU side these were: Korea (2011), Central America (Costa Rica; El Salvador; Guatemala; Honduras; Nicaragua; Panama) (2013), Colombia (2013), Peru (2013), Georgia (2014) and Moldova (2014). For Canada, the following FTAs were pre-simulated: Korea (2015), Honduras (2014), Panama (2013), Jordan (2012), and Colombia (2015).

Box 9: Overview of modelling characteristics and assumptions

The model used for carrying out the economic assessment here is the dynamic GTAP model (GDyn). GDyn (Ianchovichina & McDougall, 2012) is a multi-sector, multi-region dynamic general equilibrium model which extends the standard, comparative static version of the GTAP model (Hertel, 1997) by including international capital mobility, endogenous capital accumulation and adaptive expectations theory of investment in a recursive dynamics setting. Savings are treated as in the comparative static GTAP model where the representative household allocates regional income that would maximize per capita utility based on a Cobb–Douglas utility function complemented with non-homothetic preferences on the private consumption side. The Cobb–Douglas specification keeps the budget shares constant, implicitly assuming a constant marginal propensity to save of the household.

Capital is assumed to be perfectly mobile across sectors determining a single rental price of capital that clears the market. As in most recursive dynamic models, each period's equilibrium determines the level of global savings and implicitly the aggregate amount of investment expenditure available in that specific period. International capital mobility is modelled using a disequilibrium approach that reconciles investment theory with empirical findings.

In addition, the model used for quantifying the economic impact of CETA extends the standard dynamic GDyn model to account for FDI. In that respect, it introduces the MONASH-type investment function for each region and sector; and a foreign-owned subsector in each goods and services sector. An important feature of the GTAP-FDI⁸ model behaviour is that FDI liberalization increases the share of foreign-owned capital in a sector, which raises the average productivity of capital in that sector. This frees up domestic capital to be re-invested in other sectors or to flow to other regions through the international trust fund which acts as the foreign investor. As well, the model generates foreign-affiliate sales from the foreign representative firm, alongside sales by the domestic representative firm.

⁷ Pre-simulations take into account shocks of goods tariffs only.

⁸ For more information on the GTAP-FDI model, see (Ciuriak & Xiao, 2014).

Regional and sectoral aggregation

The GTAP 9 database used contains 140 different countries/regions. In order to be able to focus on key results and the countries of interest, regions have been bundled into aggregates. The countries/regions selected for an explicit analysis in the CGE modelling of the FTA between the EU and Canada are the following: EU28, Canada, USA, Turkey, Mexico, China, the European Free Trade Association (EFTA), countries in the Caribbean (Caribbean), the countries of the Western Balkans and the Euro-Mediterranean Partnership (Euromed), the Least Developed Countries (LDCs), other Africa, Caribbean and Pacific (ACP) countries (not among the Caribbean countries or the LDCs), and the aggregate Rest of the world.

The GTAP database contains 57 sectors which for the purposes of this analysis were further aggregated to enable focusing on key results and striking a balance between comprehensiveness and readability (see Table 9).

3.3.2 Bilateral tariff barriers between the EU and Canada

Table 7 depicts trade weighted tariffs by sector in the GTAP database and reveals the relative protectiveness of certain sectors in the EU and Canada bilateral trade relations. In the case of Canada, EU exporters of dairy products and processed foods face the highest overall tariff of 227% and 20% respectively. Other sectors with relatively high trade weighed tariffs are wearing apparel (15%), ruminant meats (11%) and leather (9%). On the side of the EU, Canadian exporters are encountering the highest tariffs in the same sectors dairy (79%) and processed foods (16%) although to a lesser extent. Similarly, other sectors with relatively high tariffs rates are ruminant meats (14%), wearing apparel (9%), fishing (9%) and leather (8%).

Table 7: GTAP bilateral tariffs per sector for the EU and Canada (%)

| Number | GTAP sectors | Canada into the EU | The EU into Canada |
|--------|----------------------------------|--------------------|--------------------|
| 1 | Cereals and Oilseeds | 3.3 | 1.4 |
| 2 | Fruit & Vegetables | 0.7 | 2.3 |
| 3 | Processed Foods | 15.5 | 20.3 |
| 4 | Other Primary Agriculture | 2.4 | 1.8 |
| 5 | Dairy | 79.3 | 227.0 |
| 6 | Wool etc. | 0.0 | 0.0 |
| 7 | Forestry etc. | 0.9 | 0.6 |
| 8 | Fishing etc. | 8.6 | 0.0 |
| 9 | Coal etc. | 0.0 | 0.0 |
| 10 | Oil etc. | 0.0 | 0.0 |
| 11 | Gas etc. | 0.0 | 0.0 |
| 12 | Other Mining etc. | 0.0 | 0.0 |
| 13 | Ruminant meats | 13.6 | 10.7 |
| 14 | Other meats | 7.0 | 6.3 |
| 15 | Beverages and Tobacco products | 2.3 | 0.7 |
| 16 | Textiles etc. | 6.7 | 5.8 |
| 17 | Wearing Apparel etc. | 9.4 | 15.4 |
| 18 | Leather etc. | 8.2 | 9.1 |
| 19 | Lumber etc. | 0.6 | 3.5 |
| 20 | Paper & Paper Products etc. | 0.0 | 0.0 |
| 21 | Petroleum & Coke etc. | 2.1 | 1.2 |
| 22 | Chemical Rubber Products etc. | 1.9 | 0.8 |
| 23 | Non-Metallic Minerals etc. | 2.7 | 2.9 |
| 24 | Iron & Steel etc. | 0.4 | 0.0 |
| 25 | Non-Ferrous Metals etc. | 0.7 | 0.0 |
| 26 | Fabricated Metal Products etc. | 1.1 | 1.6 |
| 27 | Motor vehicles and parts etc. | 6.8 | 5.4 |
| 28 | Other Transport Equipment etc. | 1.3 | 0.8 |
| 29 | Electronic Equipment etc. | 1.1 | 0.2 |
| 30 | Other Machinery & Equipment etc. | 1.6 | 0.4 |
| 31 | Other Manufacturing etc. | 0.7 | 3.6 |

Source: GTAP version 9 database.

3.3.3 Simulation design

The design of the modelling exercise refers to the identification and selection of the policy "shocks", or changes, to be implemented. The following trade policy shocks have been simulated:

- a) Tariff cuts;
- b) A limited reduction in non-tariff barriers applicable to FDI in the goods sectors; and
- c) A 3% symmetric reduction services sectors trade costs reflecting the binding of services sectors protection level in the EU and Canada.

Tariff elimination

The modelling simulations follow the tariff elimination schedule for goods of CETA. However, the tariff elimination schedule does not correspond to the model's sectoral aggregation. Hence, the tariff lines affected by the CETA agreement therefore have to be mapped to the GTAP sectors using concordance tables.⁹

FDI liberalisation in the goods sector

Due to lack of data and reliable assessment methods, the model can quantify the impact of FDI liberalisation induced by CETA but cannot capture the impact of FDI bindings. The text of the agreement was therefore screened to see in which areas there have been reductions in FDI barriers affecting the goods sectors. The key source of information to map the legal commitments in the CETA text to the numerical values that measure liberalization is the OECD's Foreign Direct Investment Restrictiveness Index (FDIR).¹⁰

If a CETA legal provision leads to a change in the score of the index this has been encoded in the data. As a result, one obtains a pre-CETA index and a post-CETA index. The difference in value between the two indices is the change induced by CETA in terms of goods sectors FDI liberalisation. This has been implemented as a shock in the model.

The value of services bindings

The main *quantifiable* effect of CETA with respect to much of the services sectors is the binding of the existing level of openness. This means that the difference between the

⁹ These tables are provided by the World Integrated Trade Solutions (WITS), a software facility created by the World Bank and the United Nations Conference on Trade and Development (UNCTAD). In order to create an HS2012-GTAP mapping, an HS2012-HS2007 concordance table, produced by the United Nations Statistics Division (UNSD), was used.

¹⁰ This index combines four types of measures: Foreign equity restrictions, Screening and prior approval requirements, Rules for key personnel and Other restrictions on the operation of foreign enterprises (including Establishment of branches, Reciprocity requirement, Restrictions on profit/capital repatriation, Access to local finance and Acquisition of land and land ownership)

GATS level of commitment and the applied level of protection – called 'water' by technicians – is removed, which reduces uncertainty about market access and guarantees that there will be no deterioration in the future.

Reducing uncertainty should increase trade. This is brought out by firm-level trade theory, which takes into account the fixed costs of foreign market entry (Melitz, 2003; Bernard, Eaton, Jensen, & Kortum, 2003). Fixed costs of foreign market entry include obtaining market intelligence, identifying foreign partners, dealing with foreign regulatory requirements, and so forth. Firms must confront uncertainty about success in their foreign ventures as they have less knowledge than established firms about foreign markets (information asymmetries). Undertaking the exploratory and preparatory work to access foreign markets thus involves sunk costs. In the face of uncertainty about market access, not all firms capable of exporting or investing abroad will take the risk and, of those that do, some will make the necessary market-entry investments in fewer markets than they might optimally serve.

In the investment literature, firms are understood as making state-contingent decisions; given uncertainty about future states and at least partial irreversibility of investment decisions, the opportunity cost of immediate investment (i.e., the option value of delaying and accumulating additional information) is included in the firm's cost of investment. As Dixit and Pindyck (1994) emphasize, "hurdle rates" for firm investments are substantially higher than the cost of capital; they suggest that the value of real options is thus very significant, implying uncertainty is also a significant factor inhibiting investment. All in all uncertainty does indeed make firms more cautious and, further, this effect may be large.

The quantification of the value of binding services sectors provisions in CETA consists of a symmetric, across the board, reduction of 3% of services NTBs for both trading partners, an approach which has been used in previous analyses.¹¹ It should be considered a conservative assumption and a lower bound of trade costs reductions. CETA does improve market access in some sectors such as maritime transport. It also increases transparency with respect to services sectors provisions. However, the benefits due to new market access and transparency are not captured in these results due to the limitations of the model.

The value of services binding commitments has also been estimated in a more elaborate econometric analysis using the OECD's Services Trade Restrictiveness Index (STRI) which measures restrictiveness in currently applied policy and in countries' bindings under the WTO GATS. The difference in restrictiveness between the two, i.e. the 'water', provides a measure of the extent to which market access could be restricted without violating WTO commitments (Miroudot & Pertel, 2015). This information is then used in a gravity model

¹¹ For further detail see European Commission (2013) and Decreux & Fontagne (2011).

to estimate the impact on services trade of removing the policy uncertainty, or the 'water', under CETA and the results are fed into the CGE simulations.

In terms of modelling, both approaches lead to similar results. Therefore the results from the modelling presented below reflect the 3% symmetric across the board reduction in trade cost equivalents for the services sectors, inter alia in order to provide easier comparability with previous analyses.

3.3.4 Simulation results

This section presents and discusses the macroeconomic, regional and sectoral results of the model. The economic outcome in the sub-sections below is compared to the baseline scenario and projected to 2030.

This scenario considers the economic effects of the liberalisation shocks discussed in section 3.3.3, i.e. tariff cuts, a limited reduction in non-tariff barriers applicable to goods sector FDI and a trade cost reduction in the services sectors reflecting the value of binding services sectors protection levels in the EU and Canada. This section summarises the main results for the EU and Canada.

As shown in Table 8, EU exports to Canada and Canadian exports to the EU are both expected to grow by nearly €6 billion respectively, reflecting a total bilateral trade increase of almost €12 billion. FDI into the EU increases by €630 million while FDI into Canada increases by almost €1.2 billion.

The CGE model also simulates GDP gains for both trading partners. Despite the limitations of the model, which excludes gains in several sectors, it predicts that EU GDP grows between €1.7-€2.1 billion yearly¹², depending on the various GDP projections for 2030. Canada's economy, meanwhile, is expected to grow in the range of €2.4-€3.0 billion per year due to the agreement. These results are intuitive and in line with the differences between the two economies: Canada is the EU's 12th most important goods trading partner, whereas the EU is Canada's 2nd most important trading partner.

The model used for these estimates quantifies the outcome of the CETA agreement only partially, and mainly as regards the removal of customs tariffs, the gains of legally binding the existing level of openness in services sectors of the economy and the benefits from new commitments on liberalisation of FDI. Several important additional gains cannot be quantified due to lack of data and reliable assessment methods. Sizable gains induced by the unprecedented market access granted to EU companies in public procurement markets are also not included in the estimated GDP and trade gains due to the model's above-

¹² Note that the GTAP database is denominated in US dollars. For the purpose of this economic assessment, results are converted in euros at the latest official EUROSTAT exchange rate of 1.1 Dollar/EUR for 2015.

mentioned technical limitations. As a result, other forecasting methods are used to simulate gains achieved in procurement (see 3.4). Other gains not included in the estimates included in this study are new market access in several services sectors, gains stemming from the enhanced protection of geographical indications and intellectual property rights, as well as the value of legally binding the existing level of FDI liberalisation. The model also does not take into account synergies created along global supply chains by CETA and other existing and future trade policy initiatives. Economic literature and trends suggests that such synergies positively impact the opportunities created by the EU's free trade agreements.

Table 8: Results of the CGE simulation

| Country/variable | € billion | % |
|-------------------------------|-----------|------|
| <i>Bilateral trade</i> | | |
| EU | 5.8 | 8.04 |
| Canada | 5.9 | 8.13 |
| Total bilateral exports | 11.7 | |
| <i>FDI</i> | | |
| Into the EU | 0.6 | 0.02 |
| Into Canada | 1.2 | 0.33 |
| Total FDI | 1.8 | |

Source: BKP's simulations based on the GTAP-FDI model.

Duty savings for EU exporters

The model's quantification of the impact of CETA on third countries and region included in the regional aggregation described in section 3.3.1 is essentially zero, with second decimals being zero for all countries and regions except for the Caribbean for which the impact in terms of GDP is negligible.

Table 9 provides an overview of the change in bilateral exports in relative and absolute terms for the GTAP sectors included in the modelling analysis.

On the EU side, the sectors experiencing the largest relative increases are 'wearing apparel', 'dairy', 'leather' and 'other meats' whose exports increase by 145%, 132%¹³, 80% and 62% respectively. As shown in section 3.1, these are the sectors which faced either the highest trade weighted tariff (dairy) or were among the sectors with relatively high tariff

¹³ Note that dairy exports out of quota are zero and therefore the increase by 128% reflects entirely the TRQ for cheese and the tariff liberalisation.

before the CETA induced tariff liberalisation took place. In terms of an absolute impact, the sectors expanding most in terms of exports are 'automotive', 'other business services', 'chemicals', 'wearing apparel' and 'dairy' reflecting an increase of €880 million, €644 million, €451 million, €414 million and €300 million of EU exports.

On the Canadian side, CETA leads to the highest relative increases in exports of 'dairy' (340%), 'wearing apparel' (82%), 'leather' (80%) and 'other meat sector' (72%). In absolute terms, however, the impact on the dairy sector is limited. Dairy imports into the EU increase by €37 million in absolute terms (a reflection of the lack of competitiveness of Canadian dairy products in the EU market).

Other sectors, such as, 'chemicals and plastics', 'other business services', 'non-ferrous metals' and 'processed foods' are more important for the increase in bilateral exports to the EU from Canada. Canadian chemicals and plastics exports to the EU rise by €907 million which is the highest increase in Canadian exports to the EU. Non-ferrous metals exports account for the second highest increase in Canadian exports (€773 million). The Other business services sector also shows a significant boost in bilateral exports of almost €740 million. Finally, 'processed foods' exports increase by nearly €500 million.

Table 9: CGE simulation – sectoral trade impacts in 2030 compared to the baseline

| GTAP sectors | EU exports to | Canada exports | EU exports to | Canada exports |
|---------------------|---------------|----------------|---------------|----------------|
| | Canada | to EU | Canada | to EU |
| | € millions | | % | |
| Cereals & Oilseeds | 15 | 208 | 8.8 | 13.1 |
| Fruit & Vegetables | 7 | 5 | 8.5 | 2.4 |
| Processed Foods | 199 | 498 | 13.9 | 61.5 |
| Other Primary Ag. | 21 | 14 | 9.0 | 9.0 |
| Dairy | 300 | 37 | 132 | 340 |
| Natural Fibres | 0 | 0 | 0.4 | -0.8 |
| Forestry | 0 | 1 | 2.3 | 4.8 |
| Fishing | 0 | 14 | 1.2 | 20.7 |
| Coal | 0 | 0 | 0.1 | -0.1 |
| Oil | 1 | 0 | 0.2 | -0.1 |
| Gas | 0 | 0 | 0.3 | -0.3 |
| Other Mining | 3 | -6 | 0.5 | -0.1 |
| Ruminant meats | 0 | 24 | 0.6 | 35.1 |
| Other meats | 55 | 10 | 61.5 | 72.3 |
| Beverages & Tobacco | 32 | 4 | 1.5 | 5.1 |

| GTAP sectors | EU exports to | Canada exports | EU exports to | Canada exports |
|-------------------------|---------------|----------------|---------------|----------------|
| | Canada | to EU | Canada | to EU |
| | € millions | | % | |
| Textiles | 182 | 41 | 46.9 | 56.3 |
| Wearing Apparel | 414 | 81 | 145 | 82.2 |
| Leather | 216 | 14 | 79.8 | 80.0 |
| Lumber | 123 | 19 | 24.5 | 3.9 |
| Paper Products | 3 | -8 | 0.4 | -0.6 |
| Petroleum & Coke | 103 | 68 | 4.9 | 8.9 |
| Chemical & Plastics | 451 | 907 | 5.4 | 12.4 |
| Non-Metallic Minerals | 96 | 19 | 16.5 | 15.7 |
| Iron & Steel | 5 | 7 | 0.3 | 1.5 |
| Non-Ferrous Metals | 8 | 773 | 0.7 | 4.0 |
| Metal Products | 128 | 69 | 12.0 | 7.3 |
| Automotive | 880 | 320 | 17.8 | 42.5 |
| Other Trans Equipment | 192 | 434 | 5.8 | 10.0 |
| Electronic Equipment | 17 | 96 | 2.3 | 9.1 |
| Machinery | 299 | 462 | 3.1 | 12.2 |
| Other Manufacturing | 83 | 17 | 29.1 | 4.6 |
| Electricity | 19 | 49 | 13.2 | 13.2 |
| Gas Distribution | 1 | 17 | 14.8 | 12.9 |
| Water | 2 | 0 | 13.8 | 13.5 |
| Construction | 7 | 20 | 8.1 | 8.0 |
| Trade | 108 | 69 | 7.9 | 7.9 |
| Other Transport | 118 | 44 | 7.5 | 8.1 |
| Water transport | 53 | 107 | 5.8 | 8.3 |
| Air transport | 248 | 189 | 5.2 | 8.3 |
| Communications | 78 | 92 | 7.2 | 7.9 |
| Finance | 280 | 98 | 5.9 | 8.0 |
| Insurance | 160 | 58 | 6.5 | 7.9 |
| Other Business Services | 644 | 738 | 6.3 | 7.9 |
| Other services | 278 | 293 | 7.3 | 7.8 |
| Total bilateral exports | 5,826 | 5,906 | 8.0 | 8.1 |

Source: BKP's simulations based on GDyn-FDI model

3.4 Public procurement

Canadian provinces, territories and municipalities will open their procurement to EU firms, going beyond what Canada has offered in the multilateral Government Procurement Agreement (GPA) or under NAFTA. In fact, the Canadian offer for access to its procurement markets is the most comprehensive Canada has made thus far to any third country. The Canadian commitments cover the procurement of additional federal entities, provincial and territorial ministries and other government agencies as well as "crown corporations" (i.e., state-owned corporations that are administered "at arm's length" from the government), and regional, and municipal governments and entities.

The EU offers reciprocal access for Canadian suppliers to the European procurement market.

The offer on public procurement is the most comprehensive Canada has ever made, with the exceptions of two areas in two Provinces where Canada has kept some limitations. The first regards energy utilities in the Provinces of Ontario and Québec, where certain specific types of contracts are excluded from the commitments. However, the agreed coverage of entities, as well as of goods and services nevertheless allows EU bidders substantial access to the procurement of the energy entities in Ontario and Québec.

The second area is public transport. With CETA, the government procurement market access for European rolling stock in the Canadian Provinces and Territories will be unlimited, with the exception of Ontario and Québec which will also open their market to EU bidders, but keep some conditions. Both Provinces had enforced so far high local content requirements, meaning it was not viable for potential suppliers from outside of their territory to participate in provincial or municipal tenders for public transport vehicles. The agreed solution significantly lowers and simplifies these requirements and limitations, giving European bidders of rolling stock preferential access to Ontario and Québec for the first time. In particular, both Provinces have accepted the replacement of the "local content" requirement by a more flexible "local value" condition which allows the European bidder not only to take into consideration the value of parts and components (as would be the case with a 'local content') but also labour costs linked to the assembly of the final product and services, such as maintenance or after-sales service.

The rules governing the procurement procedures, transparency and information, eligibility, administrative and judicial remedies are based on provisions derived from the GPA. All public procurement opportunities will be published on a single website, which corresponds to existing intra-EU arrangements, but for Canada it is a big step forward in terms of transparency about their public tenders. It will put EU companies on a par with Canadian companies in terms of access to information. This helps to resolve a significant barrier to procurement opportunities in particular for small and medium sized enterprises.

3.5 Quantitative assessment of public procurement

3.5.1 Summary

This section quantifies government procurement gains obtained by the EU under the CETA. A summary of these gains in CETA for European companies, and the additional procurement market coverage, is presented in **Table 10** below.

Table 10: Summary of EU companies procurement gains under CETA, C\$ million and € million

| | Additional procurement market coverage | Additional procurement market gains |
|----------------------------------|---|--|
| | (C\$ million) | (C\$ million) |
| Provincial/other public entities | 14,239 | 363 |
| Local | 30,469 | 399 |
| Total in C\$ million | 44,708 | 762 |
| Total in € million | 31,506 | 537 |

Source: See tables 17, 18 and 19 below. For the conversion in euros the EUROSTAT exchange rate for the year 2015 was used.

The vast majority of the new procurement possibilities under CETA are at the subnational level. These gains are driven by two main factors:

- a) Substantial new market access granted by Canadian government authorities at the provincial and local level to EU Member State companies;
- b) Legal certainty that Canadian public agencies and bodies will not be able to discriminate against European companies – i.e., to restrict the companies' access to a public tender, for example.

It is also worth noting Canada's commitment to publish all bidding opportunities centrally on-line, through a single point of access on the internet. This will help to facilitate access for EU companies to the Canadian procurement market.

This analysis focuses on the gains from new market access. The gains stemming from legal certainty could not be assessed due to insufficient data availability.

As summarised in **Table 10** and explained in the subsequent sections, CETA provisions will offer legally certain access post-CETA to a share of the Canadian market worth €31.5 billion (**Table 10**). Out of this total share, based on existing estimates of foreign penetration explained herein, the estimated size of potential new contracts that could be won by EU bidders post-CETA is in the range of €540 million (C\$762 million) annual gains. These gains

stem from the additional, EU-specific, market opening at provincial and local level not granted by Canada to other partners in the GPA.

It should be noted that, for a number of technical reasons, these additional market access gains are likely to be underestimates. For instance, the assumed import penetration shares of EU companies are most probably lower than the "real" post-CETA shares. Moreover, there are additional opportunities stemming from the coverage of Crown corporations in CETA at the provincial level, which were not included in the overall gains due to lack of data. It is also not possible to evaluate the market access gains arising from the limits placed on the application of local content requirements in Ontario and Quebec for the same reason. This would tend to increase the gains for EU companies compared to the estimates provided above.

3.5.2 *The procurement market in Canada*

The detailed assessment of the market access gains described above is presented below. In the following the characteristics of the Canadian federal and sub-central (provincial and local) procurement markets are presented. In Section 3.5.3, the gains for European companies are conceptualised and assessed in terms of the size of the Canadian market available post-CETA and the EU-specific market access gains.

As disaggregated data at all government levels is not available, we start from federal government procurement data to obtain insights into the structure of the procurement market in Canada. This then allows investigation of procurement market characteristics at the sub-central level.

Federal procurement in Canada

Contract award data at the federal level are available for those contracts awarded by Public Works and Government Services Canada (PWGSC) from January 2009 until 15 April 2015 on behalf of 124 federal departments and agencies. These data provide insights into PWGSC's procurement on behalf of these entities for Goods, Services and Construction. The majority of contracts are awarded on a competitive basis to ensure transparency in the process. It is common procedure that these are reported in the published data. There are circumstances, however, under which contracts are awarded through a non-competitive procurement process and may therefore not be captured in the data.

Through the reporting period, PWGSC managed 141,450 unique contracts representing a total value of C\$91 billion of commitments. There is significant variability in the annual volume of procurement. Many purchases are one-time events rather than regularly recurring expenditures, which can cause large swings in the volume of tenders and in international sourcing patterns. For example, in 2014, federal procurement spiked to nearly C\$24 billion on the strength of 6 contracts entered into by PWGSC with Brookfield Johnson Controls Canada LP for property management services with a total cost not to

exceed C\$9.6 billion (see also **Table 11**).

Excluding this one set of transactions, the total procurement in 2014 was C\$14.1 billion, which is more in line with annual commitments of C\$10-15 billion that have been the norm since the data have been reported.

The thresholds for federal entities that govern when the procurement must go to tender under CETA are 130,000 SDRs¹⁴ for goods and services and 5,000,000 SDRs for construction. At current EUR/SDR exchange rates, this would imply thresholds of about €166 thousand for goods and services and €6.4 million for construction. Based on historic data, CETA thresholds for new contracts will apply to 91% of contracts for goods, 94% for services, and 40% for construction.¹⁵ Overall 88% of the contract value will be eligible for EU Member State supplier bids.

Consistent with international experience, the majority of contracts and amendments during the reporting period were awarded either to a Canadian company or to a Canadian subsidiary of a multinational corporation.

Table 11: Value and geographical distribution of contract awards at federal level in C\$ millions, 2009-2015

| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015* | Total |
|-------------------------|-----------------------------|------------|------------|------------|------------|------------|------------|------------|
| Total in C\$ millions | 13,566 | 15,322 | 13,904 | 10,997 | 9,904 | 23,692 | 3,536 | 90,920 |
| | Percent of Total (%) | | | | | | | |
| Canada | 86.6 | 95.5 | 94.0 | 88.7 | 89.7 | 87.2 | 89.2 | 90.1 |
| North America | 7.4 | 3.5 | 4.1 | 6.8 | 7.9 | 12.2 | 9.4 | 7.5 |
| EU Member States | 5.6 | 0.9 | 1.8 | 3.8 | 2.1 | 0.6 | 1.4 | 2.2 |
| ROW | 0.4 | 0.1 | 0.1 | 0.7 | 0.3 | 0.1 | 0.1 | 0.2 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: PWGSC. 2015 data are current to 15 April 2015. Annual average assigns the 2015 value a weight of 0.29.

Table 11 provides the split by the value of contracts and amendments processed by the domicile of the contracting firm. EU-based firms captured about 2.2% of the total contracts and amendments. With respect to the EU Member States' share, it should be mentioned that this has been volatile and declined from 5.6% in 2009 to 0.63% in 2014.

Comparing the distribution of contracts and amendments across the type of contracts (i.e.,

¹⁴ SDRs stand for Special Drawing Rights.

¹⁵ Based on PWGSC data from 2009 until April 2015.

goods, services and construction), awards to EU Member States for goods accounted for 88% of the value awarded to EU Member States firms through the reporting period.¹⁶ Comparing the distribution to that of all foreign firms, EU suppliers are much more heavily concentrated in goods compared to suppliers from North America.

Sub-central Procurement – Provinces

Canada is a party to a number of agreements that contain specific commitments relating to government procurement. The first agreement to include commitments for sub-national levels of government was the 2010 Agreement between Canada and the United States on Government Procurement (CUSPA), which included commitments for the provinces and territories (with thresholds of 355,000 SDRs for goods and services and 5 million SDRs for construction); with Canada's ratification of the revised GPA in 2014, procurement by provincial and territorial governments with the same thresholds was extended to the GPA parties¹⁷.

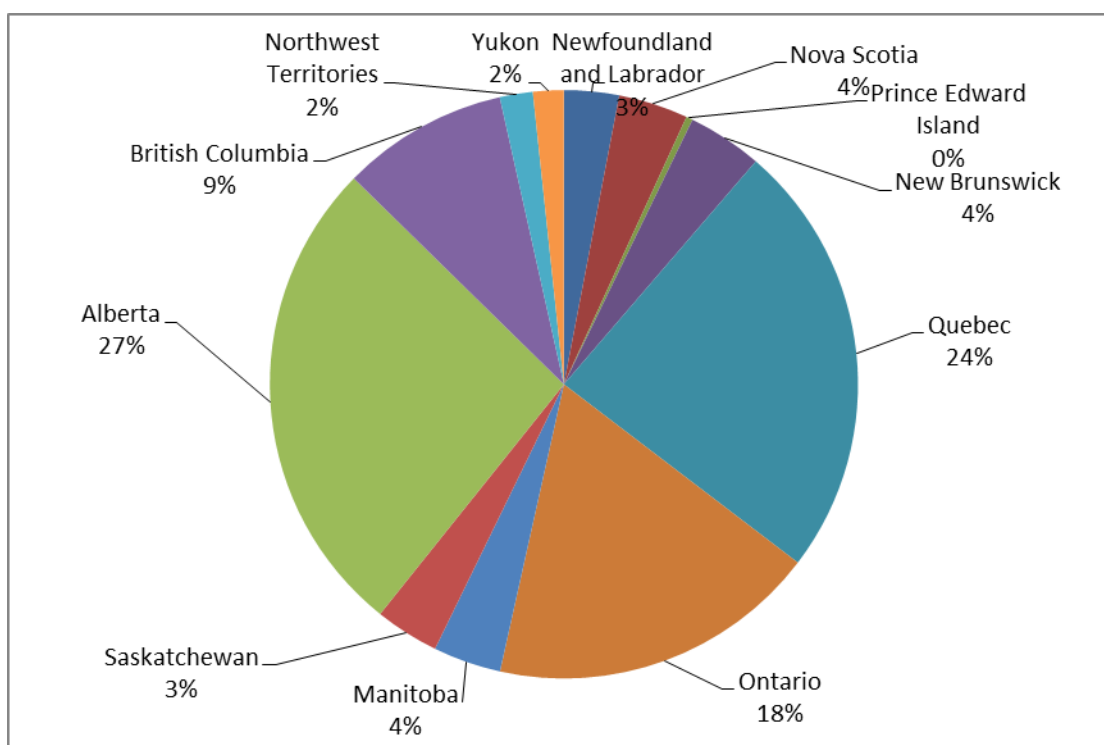
Procurement data for Canadian provinces are generated through reports under Canada's AIT. The AIT requires that covered public sector entities employ a competitive tendering process and these contracts are reported in the published data.

Based on the AIT data, subnational entities' procurement budgets averaged about C\$16 billion annually from 2004 to 2012 (**Table 12**). Of this total, nearly \$13 billion, or 80% of the procurement volume, was generated by four provinces – Québec, Ontario, Alberta, and British Columbia (Figure 4).

Figure 4: Average Procurement by Province/Territory, 2004-2012 Shares

¹⁶ Based on PWGSC data from 2009 until April 2015.

¹⁷ It is worth noting that the political decision by both the federal Government and the Canadian Provinces to enter into CUSPA and the revised GPA were publicly linked to the decision of principle – taken in 2007 – to negotiate ambitious procurement provisions and market access with the EU.



Source: MARCAN reporting under the AIT.

Besides knowing the procurement spending across provinces/territories, it is important to have information on the procurement spending patterns in respect to the type of contract.

The distribution of tendered procurement for goods, services, and construction reported by MARCAN can be found in **Table 12**. Almost half of procurement at this level of government is in the construction sector; the volume of services is more than double of that of goods. This is a very different spending pattern compared to the federal level procurement where spending on construction accounts for merely 8% of the total procurement.

Table 12: Annual tendered provincial procurement by sector 2004-2012, C\$ millions

| | Goods | Services | Construction | Total |
|------------|-------|----------|--------------|--------|
| Total | 2,949 | 5,945 | 7,051 | 15,945 |
| % of Total | 18% | 37% | 44% | 100% |

Source: MARCAN reporting under the AIT.

Other procuring entities

Along with municipalities, the CETA agreement also includes other procurement entities, such as academic institutions. This is the first time Canada has committed such entities in an international agreement.

To estimate the size of the procurement market covered by these procuring entities, we begin with the Québec data for 2013-2014 as total procurement data is not available. To

obtain specific national estimates for Canada, we apply the ratio of procurement by such entities in total provincial procurement in Québec to the other provinces reported through AIT. As shown in Table 15, procurement of other entities in Québec accounts for slightly more than 50% of total provincial procurement in Québec including other procurement entities. Extrapolating the share of Québec's other procurement entities to the share of Québec in the total procurement market provides an estimate of slightly more than C\$18 billion for Canada.

Table 13: Other procurement entities market– Canada, 2013-2014, in C\$ millions

| | Goods | Services | Construction | Total |
|---|-------|----------|--------------|--------|
| Other procurement entities – Québec | 2,121 | 2,408 | 1,313 | 5,842 |
| Gov. Departments – Québec | 805 | 2,552 | 1,923 | 5,280 |
| Total – Québec | 2,926 | 4,961 | 3,236 | 11,122 |
| Ration other entities/gov departments | 2,6 | 0,9 | 0,7 | 1,1 |
| Gov. Departments – Canada (AIT Reporting) | 2,949 | 5,945 | 7,051 | 15,945 |
| Other procurement entities – Canada | 7,775 | 5,608 | 4,812 | 18,196 |

Source: BKP's calculations.

Local procurement

Local¹⁸ contract award procurement data do not exist for Canada. Therefore, we start from OECD National Accounts (NA) data and estimate what the actual local procurement spending could be. In that respect, the first row of **Table 14** reports government procurement expenditures as reported by the OECD NA data. This aggregate includes Intermediate Consumption and Gross Fixed Capital formation by Canada's local governments.

However, not all of this type of expenditure based on the system of National Accounts can be considered public procurement as reflected in contract award data.¹⁹ For example, we know from federal spending data (PWGSC) that on average 82% of what is reported under the OECD as aggregate public procurement can be linked to **sourceable expenditures**. As defined by Public Works and Government Services Canada, sourceable expenditures are those where prices are negotiable and subject to market forces and hence these are the expenditures that are more likely to be subject to tender processes.

¹⁸ Local level procurement refers to sub-provincial procurement i.e. municipalities, towns etc. procurement.

¹⁹ Note the OECD points to the fact that government procurement as accounted for in national accounts is likely to be overestimated the NA procurement categories include non-procurement government expenditures, (OECD, 2011).

In addition we know that contract award data spending at the federal level as reported by the PWGSC accounts for 84% of the OECD System of National Accounts (SNA) aggregate. We use this knowledge to develop estimates of the amount of public procurement expenditure at the local level based on the knowledge we have gained while assessing the Canadian federal spending data.

The application of this approach is provided in **Table 14**, which shows that, by accounting for sourceable expenditure and contract award data as % of the OECD procurement spending, there is estimated local procurement spending of nearly C\$44 billion.

Table 14: Estimate of Procurement Volumes from OECD Government Expenditure Data*

| | FY10-11 | FY11-12 | FY12-13 | Average |
|---|---------|---------|---------|---------|
| OECD Local procurement spending in NA | 65,482 | 63,501 | 63,381 | 64,121 |
| Local spending as a % of OECD app. by federal | 0.84 | 0.84 | 0.83 | 0.84 |
| Local total | 55,005 | 53,341 | 52,606 | 53,651 |
| Local % sourceable spending app. by federal | 83% | 82% | 80% | 82% |
| Estimated Local Procurement | 45,745 | 43,848 | 42,132 | 43,908 |

Source: OECD and PWGSC. * Values are in C\$ millions. The amounts cover below and above threshold procurement.

3.5.3 CETA gains in procurement for European companies

At the federal procurement level, CETA mirrors the thresholds under the WTO GPA, with some limited changes applying to a couple of federal entities. There are no additional quantifiable gains for European companies at this level, beyond the legal guarantee. It is at the sub-federal level, discussed below, where the gains for European companies are much more significant.

EU companies' gains at the provincial level

Canada's provinces and territories were partially subject to legally binding procurement commitments under the revised WTO GPA, which were also reinforced by the CETA negotiations on government procurement.

Nonetheless, CETA offers significant new and additional opportunities for EU companies at provincial level. There is additional coverage of sub-central entities, in particular in respect to Crown corporations.²⁰ For provinces and territories, CETA also lowers the WTO GPA

²⁰ However, it should be noted that the magnitude of potential gains for EU companies stemming from the inclusion of provincial Crown corporations in CETA are not included in the subsequent estimations, due to lack of data.

threshold of 355,000 SDRs for goods and services to 200,000 SDRs, which increases the number of contracts for goods and services open to bids by suppliers from EU Member States. These gains stemming from lowering the threshold at provincial level are quantifiable and are estimated and summarised in **Table 15**. The lowering of the threshold implies that now additionally C\$343 million per annum are contestable for foreign companies, out of which C\$123 million represent procurement of goods and C\$220 million of services.

Table 15: Estimation of CETA gains* for EU companies at provincial procurement level

| | Goods | Services | Construction | Total |
|---|-------|----------|--------------|--------|
| Tenders above threshold of 355,000 SDR pre-CETA | 2,473 | 5,234 | 2,795 | 10,502 |
| % Above 200,000 SDR Ratio | 88% | 92% | 40% | 68% |
| Implied Above-Threshold Tenders – Sub-central Post-CETA | 2,596 | 5,454 | 2,795 | 10,845 |
| Incremental Total Volume Due to CETA | 123 | 220 | 0 | 343 |
| EU foreign penetration share in Canada** | 9.5% | 0.4% | 0.2% | 3.8% |
| Estimated EU gains | 12 | 1 | - | 13 |

Source: BKP's calculations. * Values are in C\$ millions. **These rates are calculated by first applying the foreign market share from Quebec procurement (Goods – 7.9%, Services – 0.4%, Construction – 0.1%) augmented for the fact that the tenders won are above threshold tenders.

To calculate EU Member State share of foreign capture, we use the share based on the Quebec procurement data as representative of the likely situation as Quebec procurement represents nearly a quarter of Canadian total procurement and foreign penetration data is not available for other provinces. This means that estimations based on this methodology must be taken with caution. Relating the EU foreign penetration share based on the Quebec data leads to an additional procurement gain of C\$13 million for European companies. This estimation assumes that EU companies capture all of the additional market available to foreign companies, since the lowering of the threshold is granted only bilaterally in CETA and not extended to other GPA members or FTA partners.

EU companies gains from procurement by other Canadian public entities

As mentioned above, CETA leads to an expansion of other public entities covered for the first time in an international agreement. All these new procurement market opportunities are available on a preferential basis only to European companies, apart from domestic competitors. Moreover, the legal certainty in respect to public procurement obtained in CETA, i.e. the fact that Canadian public authorities will not be able to discriminate against foreign companies, applies only to EU companies. Canadian authorities could on the other hand theoretically discriminate against non-EU foreign companies.

In order to estimate these gains, the share of foreign companies in the EU procurement market is taken as a starting point. This is based on the assumption that, post-CETA,

European companies will be able to capture as much as other foreign companies in EU Member States. The foreign procurement share of EU public law bodies, which provides the most comparable EU benchmark for the Canadian other public entities, stood at 2.52% in the 2008-2012 period (Kutlina-Dimitrova & Lakatos, 2016).

Assuming the EU captures the entire additional foreign market, CETA yields an ***estimated new procurement gain of C\$350 million for European companies*** (Table 16).

Table 16: Estimation of CETA gains* for EU companies as part of other procurement entities in Canada

| | Goods | Services | Construction | Total |
|--|-------|----------|--------------|--------|
| Estimated other entities Tenders | 7,775 | 5,608 | 4,812 | 18,196 |
| % Above 200,000 SDR threshold | 88% | 92% | 40% | 76% |
| Above-Threshold Tenders | 6,842 | 5,146 | 1,908 | 13,896 |
| Estimated EU Share Post-CETA | | | | 2.52% |
| Post-CETA market access gains for EU companies | | | | 350 |

Source: BKP's and own calculations. * Values are in C\$ millions

EU companies gains at the local procurement level

Canada commits for the first time its local procurement level in an international agreement. In this respect, CETA grants unprecedented access to European supplies of goods and services at the local procurement level. Starting from the C\$44 billion discussed in **Table 14**, and after applying the threshold limits, we arrive at almost C\$30.5 billion of local level procurement subject to CETA (**Table 17**). In order to estimate the gains for European companies we proceed as in the case of other public entities procurement. The foreign share of local authorities in the EU Member State stood at 1.31% in the 2008-2012 period (Kutlina-Dimitrova and Lakatos 2016). Extrapolating this share to the amount of total procurement leads to ***EU companies' procurement gains of C\$399 million***.

Table 17: Estimation of CETA gains* for EU companies at local procurement level

| | Goods | Services | Construction | Total |
|---|-------|----------|--------------|--------|
| Estimated Local Procurement | 8,122 | 16,370 | 19,417 | 43,908 |
| % New Contracts subject to threshold of 200,000 | 88% | 93% | 42% | |
| Local above threshold procurement | 7,154 | 15,157 | 8,158 | 30,469 |
| EU foreign share | | | | 1.31% |
| EU post-CETA market access gains | | | | 399 |

Source: BKP's and own calculations. * Values are in C\$ millions

3.6 Agricultural Non-Tariff Barriers

Tariff elimination in CETA is complemented by the removal of other trade barriers, including several 'behind the border' barriers that – by discriminating EU products against products originated in Canada – have prevented the EU from further improving its performance on the Canadian market in so far. Wine and spirits are traditionally the main EU agricultural products exported to Canada (in 2015 EU exports of wine and spirits to Canada were worth 1.163 Billion Euros and represented 34% of agricultural exports to Canada). The agreed rules for establishing a level playing field for EU products in Canada include, in particular those concerning wines and spirits, which are the main EU exports of agricultural origin to Canada. It should be remembered that Canada has a long standing system of provincial monopolies for the sale of alcoholic beverages. This has been a major obstacle for EU exporters despite the existence of the EU-Canada Wine Agreement have. In this respect CETA offers several dramatic improvements:

- The number of Canadian off-site private outlets, which are the small alternative to the monopoly of the Provincial Liquor Boards and which are only open to Canadian producers, will be frozen. This minimises the impact of a competitive path that is not open to EU exporters and whose expansion would have worsened their relative competitive position in the market.
- The service fees (so-called cost-of-service-differential) imposed by the Liquor Boards on imported wines and spirits will no longer be applied on an ad-valorem basis (as this was the case notably in Ontario), but based on volume and calculated in a more uniform and transparent manner. This will remove the unequal treatment for the – normally higher value – EU products and no longer result in EU products systematically bearing a higher burden than Canadian products for the same 'service'.
- Abolition of the Canadian requirement to blend imported bulk spirits with local spirits before bottling (this requirement prevented GI labelling).
- Incorporation into CETA of the existing EU-Canada wine and spirits agreements (1989 Trade and Commerce in Alcoholic Beverages Agreement and the 2003 Wines and Spirits Agreement). As a result of which the CETA dispute settlement mechanism will apply to wine-related provisions this will have important consequences in terms of effective enforcement.
- Provisions addressing the out-of-province activities of certain liquor boards which lead to unfair competition in Canada and in third countries. This should further help EU companies.

3.7 Sanitary and Phyto-Sanitary Measures (SPS)

The CETA Sanitary and Phytosanitary (SPS) chapter preserves the rights and obligations of the EU and of Canada under the WTO SPS Agreement. CETA is expected to streamline processes but it will not amend either the European or the Canadian SPS rules. All products need to comply with applicable sanitary and phytosanitary standards of the importing Party.

As regards meats and meat products, the existing EU-Canada Veterinary Agreement was integrated into CETA, confirming the successful and mutually beneficial collaboration in the veterinary field. As additional elements of trade facilitation, the Parties agreed to simplify the approval process for exporting establishments. Canada has already re-opened the market for beef from 19 Member States through swift and pragmatic procedures. The detailed knowledge and the high level of mutual trust in the veterinary control services which has been built between Canada and the EU over many years is also reflected by commitments aimed at minimising trade restrictions in the event of a disease outbreak (so-called regionalisation). In the event of a disease outbreak, trade from unaffected areas can continue without interruption and lengthy re-approval processes.

In the area of plant health, CETA sets up new procedures that will simplify and accelerate the approval process of plants, fruit and vegetables by Canada. CETA will allow Canada to undertake EU-wide assessments and approval procedures for fruit and vegetables, replacing the current, country-by-country and product by product approach which requires enormous resources. A pilot project on apples is already well under way and made good progress, in close cooperation between the competent authority of Canada (CFIS), the European Food Safety Authority and the European Commission. The aim is to create a more predictable regulatory environment for exporters. For all product categories, the parties agreed to establish fast-track procedures for items identified as priorities.

3.8 Technical barriers to trade

The chapter on technical barriers to trade (TBT) builds on the key provisions of the WTO TBT Agreement on Technical Barriers to Trade and contains provisions that will foster closer contacts between the EU and Canada in the field of technical regulations. Both sides also have agreed to further strengthen the links and cooperation between their standard-setting bodies as well as their testing, certification and accreditation organizations.

The chapter also contains provisions on transparency which provide interested persons with the right to comment on proposed technical regulations being developed by the Parties, and which establish a minimum period of 60 days for the other Party to provide comments on draft technical regulations notified to the WTO. Those provisions also require the Parties to provide a written reply to the comments of the other Party and to publish

comments received during the consultation period.

Under CETA, the EU and Canada have agreed to accept the conformity assessment certificates issued by conformity assessment bodies located in the other party's territory in a number of sectors, such as electrical, electronic and radio equipment, toys, machinery or measuring equipment among others, subject to a mechanism that will ensure their ability to do so effectively (see also Box 4).

Box 4: Avoiding double testing for electrical and electronic products

Cumbersome testing and certification requirements for electrical and electronic products, such as washing machines or TV sets, can considerably increase the cost of market entry, and thus pose potentially powerful barriers to trade. This applies all the more to comparatively small markets where economies of scale are more difficult to attain.

This has been recognised inside the EU's internal market and has led the EU to replace mandatory third party testing with supplier's declaration of conformity for many consumer and industrial products. However, some countries, like Canada, have in place conformity assessment schemes that require third party certification. In those cases the EU is trying to facilitate the recognition of certificates issued by conformity assessment bodies located in the European Union. CETA is a good example of this approach.

In CETA, the EU and Canada have established a system of mutual acceptance of the results of conformity assessment, by which they will accept conformity certificates issued by conformity assessment bodies located in the territory of the other Party. These provisions will facilitate the process by which a conformity assessment body located in the EU will be allowed to issue conformity assessment certificates according to Canadian requirements for products to be sold in Canada. This system relies on the closer cooperation between the EU's and Canada's accreditation systems as the tool to create mutual confidence in the technical competence of conformity assessment bodies. This cooperation has been crystallised in a cooperation agreement between European Accreditation and the Standards Council of Canada.

By avoiding double-testing on both sides, CETA should help to reduce the costs of EU-Canada trade especially for small and medium-sized enterprises (SMEs). The empirical data needed for an in-depth quantification of the cost savings linked to conformity assessment or other NTBs commitments is however not available.

3.9 Export duties and other restrictions

Export duties and other export restrictions will be generally prohibited. This is important in particular with regard to energy and raw materials for which the EU is dependent on imports and of which Canada is a major producer.

Canada has also agreed to a general prohibition of "duty drawback"²¹ that will be applicable three years after entry into force of the agreement.

The Chapter on Subsidies provides that Canada and the EU will not grant any export subsidies to agricultural products fully liberalised and/or covered by a tariff rate quota provided the in-quota tariff has been fully eliminated.

CETA contains no obligations related to the provision or the elimination of domestic agricultural or fisheries subsidies. Thus, the Parties remain free – under CETA – to grant such subsidies in conformity with their respective obligations under WTO rules and commitments. However, the Parties should ensure transparency on subsidies granted, and a Party may request consultations in case it feels that its interests are or may be negatively affected by support measures of the other Party affecting any product or service.

In terms of export restriction, several Canadian Provinces have export restrictions for raw fish in the form of minimum local processing requirements. These export restrictions will be eliminated upon entry into force except for the Province of Newfoundland and Labrador which will only eliminate the restrictions 3 years after CETA comes into force.

3.10 Rules of Origin (RoO)

The rules of origin in CETA set the conditions under which a product qualifies as 'European' or 'Canadian', and hence is eligible for a customs duty reduction or elimination under CETA. The objective is to avoid that products from other countries benefit from privileged trading conditions by simply passing through Europe or Canada.

Basic rules

The general rules of origin in the EU and Canada are different, as they reflect the particular structures of their economies. To reconcile those two systems for the purpose of preferential trade under CETA, the EU and Canada agreed that the general EU standard rules will be taken as a basis, accompanied by some limited derogations for products such as cars, textiles, fish and some agricultural products and foodstuffs as long as their exports to Europe do not exceed an agreed quantity. Furthermore, the rules of origin in CETA incorporate a more modern version of the direct transport rule, which is better adapted to current transport facilities/routes²² used by economic operators.

²¹ Duty draw back means the possibility to refund a customs duty paid on a good that is non-originating imported into the territory of a Party on the express condition that the good, or an identical, equivalent or similar substitute, is used as a material in the production of another good that is subsequently exported to the territory of the other Party under preferential tariff treatment pursuant to this Agreement.

²² The direct transport rule establishes that originating goods exported from a partner country to the other

'Cumulation of origin'

Under CETA, European products using Canadian contents, and vice versa, will also be eligible for duty reduction or elimination. This rule, known as 'cumulation of origin', will allow companies to take advantage of complementarities between the EU and the Canadian economy and support their integration and product supply chains. The widened rule of 'cumulation' included in CETA will give companies trading between the EU and Canada a freedom to decide on any type of material and processing that they find economically justified between the two economies. CETA goes further as regards this rule than any previous EU free trade agreements and is better adapted to current supply chains.

Box 3: Cumulation of origin

An EU producer may source some components in Canada. The value of the parts sourced in Canada, whether high or low, counts towards the joint EU-Canadian value-added and may contribute to granting of a preferential treatment in Canada, once the final product is exported to Canada.

Official confirmation of origin

To help facilitate trade and create a predictable trade environment, CETA includes legally binding provisions whereby Canada and the EU provide companies upon request an expeditious confirmation whether their product can or cannot be considered as European or Canadian for the purpose of trade under CETA.

3.11 Customs and trade facilitation

The Chapter on Customs and Trade Facilitation sets common principles and provides for enhanced cooperation and exchange of information between the customs authorities of the EU and Canada with a view to facilitate, where possible, import, export and transit requirements and procedures (Box 5).

Provisions on transparency ensure that legislation, decisions and administrative policies, fees and charges related to the import or export of goods and governing customs matters

partner country cannot be altered during transport. However, the new rule introduces the possibility to carry out certain operations, such as splitting of the consignments. Moreover, a systematic proof that this rule has been fulfilled will not be required by the importing country.

are made public and that for new customs-related initiatives interested persons have an opportunity to comment before their adoption.

Box 5: Framework for enhanced cooperation

Canada and the EU undertake to apply simplified, modern and where possible automated procedures for the efficient and expedited release of goods, resorting where appropriate to risk management, release of goods at the first point of arrival, and pre-arrival processing.

The EU and Canada will issue, upon request, binding preliminary information to traders on the tariff classification of goods (advance rulings), which will provide them with legal certainty and stability in the customs treatment of their international trade. In addition, Canada and the EU will provide for an impartial and transparent system for addressing complaints by operators about customs rulings and decisions.

3.12 *Intellectual property rights (IPR)*

The Chapter on IPR builds on the provisions of WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The CETA provisions lead to an improvement of intellectual property rights protection for European companies exporting innovative, artistic, distinct and high quality products to Canada. The economic impact of such IPR legal provisions, including of copyright protection in general and of CETA in particular, is, however, very challenging to quantify. From an economic point of view, increased IPRs give producers additional incentives to innovate and invest in the production of new products.

While it is difficult to make a quantitative assessment, the important economic benefits of a robust IPR framework have been confirmed recently in a study conducted by the European Observatory on Infringements of Intellectual Property Rights and the European Patent Office²³. IPR-intensive industries account directly for 35% of all jobs in the EU – around 56 million direct jobs and another 20 million indirect jobs, one in three of all EU jobs. The jobs created in these industries offer tend to be better remunerated (+40%) than those created in non-IPR intensive industries. Further, these industries generated almost 39% of total economic activity (GDP) in the EU (equivalent to €4.7 trillion) and account for 90% of the EU's exports and 85% of its imports. Securing robust IPR provisions that are in line with the EU legislative framework and our international obligations is therefore an

²³ European Observatory on Infringements of Intellectual Property Rights and the [European Patent Office](https://euipo.europa.eu/ohimportal/en/web/observatory/ip-contribution) <https://euipo.europa.eu/ohimportal/en/web/observatory/ip-contribution>

important EU objective in trade negotiations.

With CETA, Canada will align its copyright protection with the World Intellectual Property Organization (WIPO) Internet Treaties. This is an important outcome in protecting the intellectual property of our creative industries. The WIPO Copyright Treaty and the WIPO Performances and Phonogram Treaty (known together as the "Internet Treaties") lay down norms preventing unauthorized access to and use of creative works on the Internet or other digital networks. They address the challenges posed by today's digital technologies, in particular the dissemination of protected material over digital networks such as the Internet. Most importantly, the treaties ensure that the owners of those rights will continue to be adequately and effectively protected when their works are disseminated through new technologies and communications systems such as the Internet.

Regarding the Internet, the agreement contains important provisions establishing the rules regarding limitations to the liability of internet service providers for infringing content when they comply with a number of conditions, such as a system of effective notification of infringing content.

The treaties also require Canada to ensure that rights holders can effectively use technology to protect their rights and to license their works online.

First, the treaties provide adequate legal protection and effective remedies against the circumvention of technological measures (such as encryption) used by rights holders to protect their rights. These "anti-circumvention" provisions tackle the problem of "hacking", and the Treaties regulate their use in a manner that promotes and protects legitimate economic activity.

Second, the treaties prohibit the deliberate alteration or deletion of electronic "rights management information" – that is, information which accompanies any protected material, and which identifies the work, its creators, performer, or owner, and the terms and conditions for its use.

Canada also agreed to better protect European artists' rights by providing performers the exclusive right to authorize or prohibit the broadcasting by wireless means and the communication to the public of their performances. This means European artists can obtain royalties from, for example, food, drink, and retail establishments that play music to attract consumers. Canada will ensure that a single equitable remuneration will be paid for broadcasting by wireless means or for any communication to the public, and this remuneration will be shared between the relevant performers and phonogram producers.

These rights will ensure that artists, both European and Canadian, are rewarded for their creativity and have the incentives to continue to create new artistic works.

Canada also agreed to strengthen the protection of plant varieties on the basis of the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV). This means innovative plant varieties that can lead, for example, to better yields will be

protected and are therefore likely to be introduced more quickly onto the Canadian market to the benefit of farmers and consumers²⁴.

Canada will introduce more favourable conditions for innovative pharmaceutical research that approximate its system for the one existing in the EU, which ensures the important balance between researching new and improved pharmaceuticals and keeping a sustainable and affordable health system.

CETA improves intellectual property rights for innovative pharmaceuticals in several ways: (i) in order to ensure an equal treatment in terms of due process, innovators holding a pharmaceutical patent will obtain the right to appeal marketing authorisation decisions in Canada in the same manner as other producers already did; (ii) Canada commits its current regime of data protection (6+2 years), thus providing for necessary legal certainty in an area where long term investments are essential; (iii) Canada will put in place a patent term restoration system along the lines of the EU system to compensate for unjustified delays in the process of marketing approval of pharmaceuticals, including a maximum period of supplementary protection (2 years). Importantly, the parties agreed on the possibility for a Party to provide exceptions for the purpose of export to third countries.

Canada also agreed to strengthen its border measures against counterfeited trademarks, pirated copyright goods and counterfeit geographical indication goods, namely by introducing a possibility for customs to detain fake goods ex-officio. This means that Canada's competent authorities may act on their own initiative to temporarily suspend the release of, or detain, goods suspected of infringing an intellectual property right and is thus particularly attractive for smaller companies, including SMEs that do not need to register each brand with Canadian Customs to benefit from their protection. Canada will adopt or maintain procedures with respect to import and export shipments, under which a right holder may request its competent authorities to suspend the release of, or detain, goods suspected of infringing an intellectual property right.

Also importantly, Canada introduced the possibility for judicial authorities to take necessary provisional measures and orders to desist covering intermediaries that are involved in the entry into the market of goods infringing intellectual property rights.

Thus, CETA provisions lead to an improvement of intellectual property rights protection for European companies exporting innovative, artistic, distinct and high quality products to Canada. As mentioned above, quantifying the economic impact of such IPR legal provisions is very challenging. Real economic activity confirms however that increased IPRs give producers additional incentives to innovate and invest in the production of new products.

²⁴ The EU is a major provider of new plant varieties. This important research and innovation activity is protected by a *sui generis* type of intellectual property called Community plant variety right. This is not related to the use of genetically modified organisms.

The innovation linkage is missing from standard CGE trade models, including the GTAP-FDI model used for this study.

It is expected that for exporters benefiting from increased IP protection, there would be an increase in mark-ups; this mechanism is not, however, available in the GTAP-FDI model used for this analysis. For IP-intensive manufacturers, there would be increased returns on investment. Although the CGE model used allows for investment responses, including through FDI into regions that improve their IPRs, the empirical basis for translating the CETA IPR provisions into specific investment returns is lacking.

Finally, increased IP protection would also positively impact innovation and, thus, the product mix of consumption, production, and trade. This too would be extremely difficult to calibrate and include in the CGE modelling framework.

3.13 Geographical indications

In terms of the legal protection of Geographical Indications (GIs), CETA will considerably enhance the protection of a list of 143 prioritised names among the most traded European food and drinks products. With CETA these products will be protected from imitations at a level comparable to that offered by EU law, and thus also avoid the risk of being considered as generic/customary names (e.g. Feta) in Canada. EU GIs will compete from a stronger position and should gradually manage to restore reputation and recognition of the original GI designation. This is a fundamental step, compared to the current situation where they enjoy no protection and therefore this can make a real economic difference for European producers in time.

Specifically, this means that Canada will have to prevent (a) the use of a geographic name for products that do not originate in the place of origin specified for the protected names; or that do originate in such place of origin but were not produced or manufactured in accordance with the applicable laws and regulations; (b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and (c) any other use which constitutes an act of unfair competition.

Also, the use of a GI name will be prohibited even when the true origin of the product is indicated, or the GI name is used in translation or accompanied by expressions such as "kind", "type", "style" or "imitation". This is an extension to food and drink products of the high level of protection reserved by Article 23 TRIPS to wines and spirits only.

Protection of GI rights will be triggered via a combination of judicial remedies and administrative enforcement via existing "consumer protection" laws. In addition, GIs are included in the scope of border measures, for both imports and exports.

Furthermore, the listed EU GIs will be protected from possible attempts to mislead

consumers as to the true origin of the product. Hence, the misleading use of flags and other symbols evoking a protected EU GI and the country where that GI product comes from will be prohibited, and all products must have an accurate and visible indication of their true origin.

For the first time in a "common law" country like Canada, a deviation from the principle "first in time first in right" was negotiated. This will benefit five EU GI names (Canards à foie gras du Sud-Ouest (Périgord), Szegedi téliszalámi/Szegedi szalámi, Prosciutto di Parma, Prosciutto di S. Daniele, Prosciutto Toscano), which conflicted with prior Canadian trademarks and will now coexist with these existing trademarks. Up to now, the use of the original EU GI could have been deemed unlawful in Canada because of the conflict with the Canadian trademark; now, these European names can be lawfully used in Canada and will be protected against any future conflicting use.

For a few names, which conflicted with names already in use in Canada, a number of tailor-made solutions were found:

- Four names will be protected as GIs, but the use of English or French translations of these terms²⁵ will be allowed, if the use does not mislead the consumer about the true origin of the product;
- For another three EU GIs (Nürnberger Bratwürste, Jambon de Bayonne and Beaufort), the solution involves grandfathering the use of these names by certain existing producers, coupled with a phase-out period for others. This means that those producers who already had products using these names on the market for a certain number of years, before a certain cut-off date, may remain on the market. Those who have used the names for a shorter period prior to the cut-off date will be given a transitional period to phase out their production within an agreed number of years. Regarding Beaufort, producers in the proximity of the geographical place called "Beaufort Range" on Vancouver Island, but not beyond that small area, may continue using the name;
- Canada will also protect the names of five cheeses of particular importance (Asiago, Gorgonzola, Feta, Fontina, and Munster) which had been considered as not deserving any protection in Canada so far. The use of these EU GIs will now be protected in Canada with an exception for the existing use by products already present on the Canadian market ('grandfathering'). New entrants to the Canadian market, instead, will only be able to sell their product under these five names where they are accompanied by expressions such as "style", "type", "kind", or "imitation". This is a compromise solution, but one that achieves the result that

²⁵ Black Forest Ham/Jambon Forêt noire; Tiroler Bacon; Parmesan; St George; Valencia orange; Comté /County in association with Canadian names of counties.

Canada recognises that these names are protected GIs. This solution considerably improves and protects the market position of our producers by clearly distinguishing such products from the original product. This will allow Canadian consumers to clearly identify, for example, genuine Feta.

Importantly, the initial list of 143 names could be expanded in the future in order to add new GIs to be protected. A procedure by consensus by a Joint Committee is established in the Agreement.

These new protections for EU GI products means that over time, depending on company efforts (including promotion campaigns) and consumer responses, protected EU GI products would be expected to capture a greater share of the Canadian branded foodstuffs market and/or to capture a greater price premium. Although specific quantification of the economic impact of the expanded GI protection is not possible due to lack of appropriate data trade in GI products reveal that the distinctive nature of the products does allow exporters to command a price premium.

GIs are linked to a territory. In essence, the GI is a distinctive sign/name used to identify a good as originating in the territory of a particular country, or region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. GIs signal quality to consumers and add value, and distinctiveness, to the product, therefore reducing the substitutability of other similar products for the protected product. This quality/reputation factor can provide a price premium, expand market share, or preserve market share against new entrants.

There is extensive literature on the qualitative impact of GIs, with particular focus on the impact of such designations on the areas benefiting from it. This literature suggests that GIs work on the basis of first economic principles (at least from the perspective of surveyed firms) in terms of internationalization of protected products: they facilitate market access through reputational channels, provide a price premium (essentially through the same reputational channel), and protect against erosion of markets from counterfeit production.

Table 18: Selected Canadian Imports* of Speciality Cheeses from the EU (€ million and %)

| | 2009 | | | 2010 | | | 2011 | | | 3-Yr Total | | |
|----------------|--------|--------|------|--------|--------|------|---------|--------|------|------------|---------|------|
| | Total | GI | % GI | Total | GI | % GI | Total | GI | % GI | Total | GI | % GI |
| Brie | 13,072 | 5,722 | 44 | 14,010 | 6,126 | 44 | 13,696 | 5,685 | 42 | 40,778 | 17,533 | 43 |
| Camembert | 2,444 | 2,444 | 100 | 2,625 | 2,607 | 99 | 3,250 | 3,216 | 99 | 8,319 | 8,267 | 99 |
| Gouda | 22,970 | 7,687 | 33 | 31,609 | 8,597 | 27 | 38,567 | 8,154 | 21 | 93,146 | 24,438 | 26 |
| Gruyere | 106 | 71 | 67 | 112 | 90 | 80 | 143 | 117 | 82 | 361 | 278 | 77 |
| Havarti | 1,663 | 1,631 | 98 | 2,663 | 2,615 | 98 | 2,754 | 2,726 | 99 | 7,080 | 6,972 | 98 |
| Parmesan | 33,953 | 21,510 | 63 | 36,257 | 23,755 | 66 | 47,931 | 26,814 | 56 | 118,141 | 72,079 | 61 |
| Provolone | 1,481 | 1,152 | 78 | 974 | 857 | 88 | 974 | 520 | 53 | 3,429 | 2,529 | 74 |
| Romano | 6,468 | 3,134 | 48 | 4,979 | 2,860 | 57 | 4,132 | 2,685 | 65 | 15,579 | 8,679 | 56 |
| Emmental | 3,593 | 2,368 | 66 | 3,241 | 2,201 | 68 | 3,755 | 2,344 | 62 | 10,589 | 6,913 | 65 |
| Total of Above | 85,750 | 45,719 | 53 | 96,470 | 49,708 | 52 | 115,202 | 52,261 | 45 | 297,422 | 147,688 | 50 |

Source: International Trade Centre (2015). “Total” includes both Brie and “Brie-type”. *Values are in thousands USD.

At the same time, survey-type studies suggest that the impact of GIs on exports is conditional on many variables, including the distribution systems through which the protected product is marketed internationally. Consistent with the findings of the trade literature in general, certified GI products are generally manufactured by smaller local producers and marketed locally, while only a handful of major producers penetrate export markets, typically selling abroad through major chains. This explains why, depending on the reality of the third countries concerned, the lists of EU GIs to be directly protected via bilateral agreements, such as the one in CETA, are usually based on a selection of the most representative and economically significant EU GIs in the third market concerned, and do not cover all EU GIs.

Importantly, trade statistics are not able to capture the distinction between GI-protected and non-GI products, as HS level tariff codes do not fully match with GI definitions, insofar they comprise larger product categories.

With the caveats expressed above, exports by specific tariff lines would provide a rough approximation of the exports of GI products of a certain category. In this light, GI protection appears to impact on a significant trade flow and over time the additional market advantage provides EU exporters the opportunity to capitalize on established GI-based brand names.

GI holders will now also be able to uphold their rights via administrative recourse rather than exclusively through costly court proceedings, and Canada will also introduce border measures against counterfeit GI goods.

These various elements, related to the broader framework of protection for GIs established in CETA, will contribute to the overall gains for EU producers.

3.14 Trade and sustainable development

Both Parties have traditionally negotiated provisions on trade and labour as well as environmental issues in connection with their FTAs. However, Canada's approach was to negotiate separate side-agreements, whereas the EU's long standing practice is to bring these issues within a broader sustainable development framework that is made an integral part of its FTAs. In CETA, both areas were brought within a common sustainable development framework, establishing equally ambitious rules for labour- and environment-trade related aspects. Building on the EU approach, CETA contains substantive provisions in areas including:

- Commitments to international standards and agreements: on the labour side, these commitments include the respect of all the International Labour Organisation (ILO) core labour standards (i.e. freedom of association and right to collective bargaining; elimination of forced labour; abolition of child labour; non-discrimination in respect of employment and occupation) and of other labour rights such as health and safety at work, the implementation of the ratified fundamental ILO Conventions, as well as progress towards the ratification of those not yet ratified (where Canada is already working on Conventions 98 on the Right to Organise and Collective Bargaining and 138 on Minimum Age). On the environmental side, commitments to the effective implementation of Multilateral Environmental Agreements;
- Protection of the right of each Party to regulate in the areas of labour and environment as each deems necessary or appropriate, while providing for high levels of protection in these domains;
- Guarantees that labour and environmental rules are not misused in a trade context, both as a form of disguised protectionism or by relaxing domestic labour and environmental laws or their implementation to encourage trade and investment unfairly;
- Engagements to the conservation and sustainable management of natural resources such as forest and fisheries, including the fight against illegal, unreported and unregulated (IUU) fishing, support to regional fisheries management organisations (RFMOs), and the promotion of sustainable aquaculture;
- Promotion of trade and investment practices supporting sustainable development objectives, such as Corporate Social Responsibility – where specific reference is

made to the OECD²⁶ Guidelines for Multinational enterprises – and sustainability assurance schemes, such as eco-labelling and fair trade;

CETA sets up a comprehensive institutional framework to oversee the implementation of these provisions, as well as binding procedures for their enforcement, including:

- A dedicated governmental body and specific channels to ensure the involvement of civil society both domestically and on a bilateral basis;
- A tailored mechanism to address disputes, including government consultations and review by an independent panel of experts, whose reports are public and require follow-up;
- A high degree of transparency in the work of the institutional structures, as well as in the dispute resolution procedures.
- An open review clause that allows both Parties to keep under review the effectiveness of the implementation of this chapter and revisit accordingly the enforcement mechanism in the future.

3.15 Other areas

The agreement also includes provisions on non-tariff barriers (NTBs) in respect of motor vehicles, in particular cars, recognition of good manufacturing practices of pharmaceutical companies, State Owned Enterprises (SOEs), Regulatory Cooperation, as well as state-to-state Dispute Settlement. Amongst these, the following achievements are worth highlighting:

Non-tariff barriers (NTBs)

CETA creates an important precedent with regard to NTBs in the motor vehicles sector, which are perceived by EU industry as significant obstacles to their exports. It is the first time that a North American country recognises unilaterally the equivalence of a number of international standards (so-called UN ECE²⁷ Regulations), which the EU has adopted as its own standards in the area of motor vehicles. Canada has agreed to recognise a number of current UN-ECE Regulations, accompanied by a forward looking work programme towards regulatory convergence, also taking into account possible EU negotiations with the US. In this respect, the EU has managed to start a process of expanded recognition of UN-ECE Regulations in North America.

²⁶ OECD stands for Organisation for Economic Cooperation and Development.

²⁷ UN-ECE is short for United Nations Economic Commission for Europe.

Good Manufacturing Practices of pharmaceutical companies

An agreement whereby Canada authorities would recognise Good Manufacturing Practices inspections of pharmaceutical companies located in some EU countries was already in place. With CETA the process of recognition of additional EU MS inspection authorities has progressed and the idea is that before the entry into force of CETA any inspection carried out in the EU territory by any EU MS authority will be accepted by Canada and vice versa. In addition, CETA provides also for the optional recognition of inspections carried out in third countries.

State-Owned Enterprises (SOEs)

CETA includes an ambitious chapter on state-owned enterprises, monopolies and enterprises granted special or exclusive rights or privileges, confirming the mutual objective to ensure that the disciplines of CETA are not circumvented and market access effectively denied through the activities of such enterprises.

The Parties retain the right to set up such enterprises without limitation and for whatever purpose they deem appropriate, but undertake to ensure that, when they operate in the market (as opposed to pursuing a public interest purpose, for example as a public service), they follow commercial considerations and non-discrimination, thus ensuring that there is a level playing field with private enterprises and that they pursue their operations on the market as commercially driven entities. The obligations apply to entities at all levels of government, including the provinces in Canada. This is fully in line with the relevant provisions of the EU Treaty as to the operation of this kind of enterprise in the EU's internal market.

Appropriate carve-outs are foreseen to ensure that these disciplines do not affect the commitments and exceptions agreed for public procurement and in the services and investment schedules of reservations. Notably, the carve-outs ensure that public authorities in the EU and Canada maintain the right to resort to public monopolies or enterprises granted special rights in order to provide public services and guarantee that the market access reservations for public services are not affected.

Regulatory Cooperation Forum

The Regulatory Cooperation Forum within CETA will function as a voluntary cooperation mechanism to exchange experiences and relevant information among regulators, and to help identify areas where regulators could cooperate.

It is important to note that the Forum will not be able to change existing regulations or develop new legislation, but only provide assistance and advice to regulators and

legislators. Thus, it will in no way restrict the decision-making power of regulators in the EU's Member States or at EU level.

State-to-State Dispute Settlement

CETA provides for a streamlined State-to-State dispute settlement mechanism covering most areas of the agreement. The system is intended as a last resort should the parties fail to resolve disagreements relating to the interpretation and implementation of the agreement's provisions by other means (notably consultation and mediation). It proceeds along an agreed set of procedures and time frames. Should parties fail to reach an agreement through formal consultations, they can request the establishment of a panel, made up of independent experts.

A mechanism for mediation is also available on a voluntary basis to tackle measures that adversely affect trade and investment between the Parties.

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