



**The Canada Europe Round Table for Business: Canada-European Union Business  
Prospective on Regulatory Cooperation, Mutual Recognition and Competition**

*A Reply to Gazette Notice-  
"Consultations on enhancing Canada- European Union trade and economic relations multilaterally and through a  
new bilateral trade and investment initiative"*

**Submitted on 13 June 2003 by:**

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## **Introduction**

On behalf of its members, the Canada Europe Round Table for Business (CERT)<sup>1</sup> is pleased to provide comments to the Department of Foreign Affairs and International Trade (DFAIT) concerning its call for Canadian views on deepening its economic relationship with the European Union (EU). In particular, we are supportive of the comments delivered by the Canadian Chamber of Commerce, who is an active member of CERT and Canadian Chair of our Doha Development Agenda working group, in its submission to DFAIT on Enhancing Canada-European Union Trade and Economic Relations.

## **Canada-EU Trade and Investment Enhancement Agreement (CEUTIEA)**

Following the delivery of CERT Action Programme "*Creating Opportunities: A roadmap for action in Canada and the EU*" on the occasion of the 19 December 2002 Summit meeting in Ottawa, CERT has commenced policy work in a series of horizontal working groups focused on developing business recommendations for the formation of the CEUTIEA.

CERT working groups are now active on Regulatory Cooperation & Mutual Recognition, Competition, Research & Development and the Doha Development Agenda (DDA). The Regulatory Cooperation & Mutual Recognition and Competition working groups have drafted discussion papers that were submitted to Minister Pettigrew and Commissioner Lamy on the occasion of the May 2003 Canada- EU Summit in Athens, Greece. These submissions, which can be found in Annex I and II to this paper, are in keeping with CERT's mandate to assist the formation of public policy so that this same policy maximizes the scope and ability of the market to allow progressive business activity to flourish. The discussion papers for these two working groups will be updated shortly. We also plan to have first drafts of discussion papers for our Research & Development and DDA working groups prepared soon.

## **Regulatory Cooperation and Mutual Recognition**

As discussed in the 2003 Discussion Paper on Regulatory Cooperation and Mutual Recognition, the most restrictive obstacles to trade and investment are those related to different regulatory requirements on both sides of the Atlantic. In response to this issue, CERT has developed a number of recommendations to intensify regulatory dialogue between the EU and Canada, and to address regulatory issues affecting specific sectors that are referred to in Annex I. CERT stresses the importance of the implementation of the World Trade Organisation (WTO) Agreements on Technical Barriers to Trade (TBT) and on Sanitary and Phytosanitary Measures (SPS). In addition, CERT feels that an improved Canada-EU regulatory co-operation should respect national treatment and most favoured nation and not result in discriminatory practices amongst trade partners.

Furthermore, CERT recommends that any enhanced regulatory dialogue between the EU and Canada should seek a maximum degree of coherence with the co-operation that both, the EU and Canada, have developed with the US in this area. Cooperation and information sharing should occur at an early stage of regulatory formation (this could include information exchange on the Canadian SMART regulation initiative and the European Better Regulation initiative). In addition, risk assessment should be based on sound science and not be misleading.

In Annex III we have also included the position of new CERT member the TSX Group with regards to securities regulation. This position will be incorporated into the second draft of the regulatory cooperation working paper.

## **Competition**

The 2003 Discussion Paper on Competition notes that government policies affecting bilateral trade should avoid any unnecessary barriers to trade being the least restrictive possible. CERT believes that in order to facilitate

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<sup>1</sup> The Canada Europe Round Table for Business (CERT) is a permanent forum for dialogue on major trade and investment matters among senior business leaders, Canadian and European, and among business leaders and governments. Its membership comprises companies and business associations in the European Union (EU) and Canada.

bilateral trade, competition laws should be transparent and non-discriminatory, and that regulatory barriers in the competition field that impede investment are as serious as other impediments such as tariff barriers.

Regulatory barriers in the competition context include not only the existence of regulation, but also the degree of convergence of regulation between trading partners. An example of this is more onerous or different reporting obligations, longer pre-merger waiting periods, and enforcement techniques that raise business concerns and lead to a chilling effect on investment. In addition, business has concerns about differing regulatory filing requirements and filing thresholds among jurisdictions.

CERT feels that they are considerable gains to be made from EU and Canada working more closely on the development and alignment of their regulatory structures. As a result, our Competition working group has focused on the following two areas: 1) reducing impediments to bilateral trade and investment in the context of competition laws and bilateral cooperation between Canadian and EU competition authorities; 2) and providing business views on the competition element of the Doha Declaration and the mandate of the Working Group on the Interaction between trade and Competition.

### **Research & Development**

The overall goal of this working group is to promote a higher rate of transatlantic participation in R&D initiatives. In turn, CERT supports the simpler and more uniform application rules, streamlined processes and harmonized time frames for joint participation in EU and Canadian research programmes. Sharing of research funds, especially in highly specialized areas where one or other of the trading partners lacks the facilities or expertise to conduct the research on domestic soil, should also be a priority.

### **Doha Development Agenda (DDA)**

CERT's DDA working group is in the process of aligning positions of common interest between Canada and the EU. Following the Cancun Ministerial, the group is planning to create an inventory of areas that could become WTO-plus initiatives through incorporation into the CEUTIEA, where relevant.

### **Conclusion**

For our part, CERT will continue to implement its Action Programme which was submitted at the December 2002 Canada-EU Summit in Ottawa. This will include further recommendations for the development of the CEUTIEA from CERT working groups. Through regular meetings we plan to continue the dialogue on bilateral trade and investment issues between CERT representatives and government officials through the announcement of the political framework for the CEUTIEA in December 2003, and beyond, to negotiations commencing in 2004.

This year will also see our third annual CEO Round Table in Toronto this November (a date will be announced shortly). The 2003 event will focus on the interplay between trade facilitation, information and security, with the key outcomes to be delivered to government on the occasion of the December Canada-EU Summit in Ottawa.

In conclusion, the Canadian government has CERT's full support for your efforts to develop a wide-ranging Canada-EU Trade and Investment Enhancement Agreement (CEUTIEA). I would like to think that with the rapid conclusion of such an agreement, we can open a new chapter in EU-Canada business relations. At the same time, and more broadly, Canada and the EU may help to establish a model for future bilateral trade agreements. We look forward to working closely with your officials to find innovative ways in which to expand bilateral business opportunities.

Signed by,



Boris Rousseff  
Executive Director

## Annex I



### *Regulatory Co-operation and Mutual Recognition Working Group* **2003 Discussion Paper - Draft**

Introduction.

In the relationship between Canada and the EU, the most important obstacles to trade are those referred to different regulatory requirements between both sides of the Atlantic. With the aim of strengthening trade and investment between the transatlantic business community, the Canada Round Table for Business (CERT) has developed a number of recommendations to intensify regulatory dialogue between the EU and Canada, and to address regulatory issues affecting specific sectors. These recommendations are referred to:

- Framework recommendations that take account of the environment in which the EU and Canada operate.
- Priority areas for policy based regulatory co-operation.
- Priority areas for sector- based regulatory co-operation.

#### **Framework Conditions**

International coherence-WTO / use of international standards

First of all, a strengthened regulatory co-operation should not result in new barriers to global trade but in a further support of international schemes already in place. Therefore we stress the importance of the implementation of the World Trade Organisation (WTO) Agreements on Technical Barriers to Trade (TBT) and on Sanitary and Phytosanitary Measures (SPS). Also, according to the WTO principles, an improved Canada-EU regulatory co-operation should respect WTO principles of national treatment and most favoured nation and not result in discriminatory practices towards other trade partners.

Also both governments should promote the use of voluntary international standards instead of developing national mandatory requirements to develop competitiveness at a global level.

Coherence between regulatory schemes with US.

An enhanced regulatory dialogue between the EU and Canada should seek a maximum degree of coherence with the co-operation that both, the EU and Canada, have developed with the US in this area. On the one hand regulatory co-operation is already quite well developed between the EU and the US, which in April 2002 approved a set of "Guidelines on Regulatory Co-operation and Transparency". On the other hand, the NAFTA agreement between Canada, the United States and Mexico includes a chapter on regulatory co-operation that also calls for enhanced information and transparency in the regulatory activities in each of the countries. The development of regulatory co-operation between Canada and the EU could build on these experiences. The establishment of a co-operation framework along the same lines will not only provide for more consistent trade access among the different partners but also reduce the complexity in their implementation since the officials from both governments will work following similar schemes.

Canadian provinces

Regulatory co-operation must comprise all levels of government. This is especially important in the case of Canadian provinces that have the regulatory power in some sectors. Therefore governments from the Canadian provinces should directly participate in any co-operative activity with the European Commission in those areas where they have the regulatory power, without needing the intervention of the federal level. The objective is that those actors that will implement any decision will also participate in the decision making process.

## Priority areas for policy based regulatory co-operation

There are three basic areas for policy based regulatory co-operation where the Canadian government and the European Commission should put especial emphasis: the avoidance of diverging regulations at an early stage of the regulatory process, a greater transparency and involvement of stakeholders and finally the development of common approaches to the assessment of risk in relation to environment or health/safety of consumers.

Enhanced  
transparency  
between  
administrations

Different regulatory outcomes should be avoided from the beginning. Therefore it is necessary that EU and Canadian authorities define mechanisms by which they inform each other at an early stage when formulating legislation or regulatory decisions<sup>2</sup>. These mechanisms should include regularly scheduled exchanges, contacts and data sharing between EU and Canadian officials. The aim is to increase the level of predictability in the regulatory process and to open windows of opportunity for greater co-operation.

In order to maximize the effectiveness of this recommendation, this exchange of information at an early stage should be initiated in areas where there is a clear need to work together and where a basis for co-operation exists. Thus, and as a preliminary step, we call for a prioritization of sectors where an enhanced co-operation should be developed in the first place. Currently, the chemical sector represents a clear case for it.

A right step into the good direction would also be to keep informed both parts of all the new actions and regulatory changes undertaken under the Smart Regulation initiative in the Canadian case and of those changes introduced under the framework of the different communications on "Better Regulation" issued by the European Commission.

Involvement of  
stakeholders

A higher involvement of stakeholders, both national and foreign ones, is essential to improve the quality of new regulations and prevent the adoption of requirements that may result in new trade barriers between the EU and Canada. Interested parties should be informed of all the regulatory initiatives that may have a significant impact on transatlantic trade and be given the opportunity to comment in a meaningful way on those draft regulations. Thus, and in parallel to the current Commission activities on this area, the Canadian administration and the European Commission should develop common "minimum standards of consultation" to be applied on both sides of the Atlantic. These standards should also include information transparency on any meeting between Canada and EU regulatory authorities on specific policy issues and the conclusions of such meetings.

Risk  
assessment

The area of risk assessment and precautionary measures to prevent harm to the environment or health/safety of consumers constitutes one of the main sources of divergence in regulatory outcomes. Since the objective for Canada and the EU is the same, to protect public health and environment, there is a case for developing a common approach in this area. This common approach should be guided by a series of core principles: First, any decision must be based on sound science and not misleading; for instance in the case of environment, authorities should use science based life-cycle methodology. If government choose to award an environmental designation that is based on a single criterion, life-cycle impacts should be considered to ensure that the granting of that designation has an overall positive impact on the environment. Second, improve the communication of information about risk between experts, policy-makers and legislators from both sides of the Atlantic. This will not only lead to a better understanding of each other's approach to risk but also to a better communication of risk assessment results to the public opinion. A bad management of risk can have a very negative impact on trade, investment and innovation.

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<sup>2</sup> Although, the WTO TBT Agreement Code of Good Practice for Voluntary Standards provides also provisions on transparency, it is essential to develop the habit of co-operation and regular contacts between officials in order to effectively implement any early warning mechanism and this must be enhanced at a bilateral level.

## Specific Regulatory Issues

CERT members are most concerned with how Canada and the EU's regulatory systems affect trade between both jurisdictions in the following industry sectors:

- Aluminum products
- Chemical products
- Engineering services
- Forest products
- Pharmaceutical products

Primarily these concerns focus on regulations that have the effect of non-tariff barriers by creating technical regulations or requirements that result in discriminatory treatment of imported foreign goods versus domestically produced goods. Examples of such measures can include customs procedures, procurement requirements, environmental policies, differentiated tax rates, discriminatory environmental labelling requirements, and a variety of licensing and documentation requirements that target only imported goods.

The objective for CERT members in this area is to have Canada and the EU give priority to removing any already existing NTBs, and/or to prevent the introduction of any new NTBs.

Specific sector areas that require immediate action include:

Aluminium  
Products

- **Aluminum products –**

Society needs to be concerned with the environment and solutions other than non-discriminating policy instruments must be applied to improve production and distribution of goods to the market place. Production processes and consumer product standards will be the

determining factor to environmental improvements in the application of common sense and scientific assessments. Free market access and consumer choices based on information and preference shall dictate trade-related environmental policy instruments.

Alcan (and the Aluminium industry) understand and accept that environmental strategies be co-ordinated at international, as well as national levels in the harmonisation of environmental standards, unilateral trade measures and on production and process methods. Most importantly, the extension of the debate should include the business community and give serious consideration to the use of science-based approaches in risk assessment and in the management of resources and products.

In order to create level playing-field market conditions, equitable treatment will be sought as relevant at the EU-level by levelling-off of sources of competitive imbalances arising from EU internal policies such as energy market liberalisation, energy taxation, etc., an internationally by ensuring equal commitments by the aluminium-producing countries under the international Conventions on Climate Change.

Chemical  
Products

- **Chemicals products –**

In the area of chemical products there is growing concern that the evolving EU chemicals policy could cause difficulties for a number of industries. Under the "Reach principle", industries producing and selling products containing chemicals in Europe will be under an obligation to prove that the chemicals are not toxic. Details of the policy are yet to be spelled out, including what the implications will be for exporters. In fact, the European Commission's enterprise and environment directorates currently have competing positions for the design of the policy being proposed. The latest proposal shows the enterprise directorate proposing to activate the

authorisation procedure only for chemicals classified as persistent organic pollutants or as carcinogenic, mutagenic and reprotoxic; while the environment directorate and EU environment ministers want to add persistent and bioaccumulative chemicals (PBTs and vPvBs).

#### Engineering Services

##### ▪ **Engineering services –**

The main issue in the area of engineering services for companies is the mutual recognition of professional qualifications between Canada and the EU. The capability to work on both sides of the Atlantic is of great value, especially in view of the upcoming EU expansion to include new members.

Of specific interest within this sector is that of product alignment with European standards. For instance, when a CERT member subsidiary providing fire protection systems tries to sell in the Eurozone, they encounter country barriers along with standard barriers that differ from country to country. They need approvals and even when these are obtained, in many cases, there is an additional requirement for the product to be made in the Eurozone. Actually, in order to bid, one must have a European legal entity. And, whereas this is not a problem for many Canadian and American companies, in general, there are subtle nuances in the “Request for Qualification” to exclude U.S. and Canadian companies from the Bid process. For example, many bids require that the bidder must have done similar work previously in Europe from a specific European subsidiary. This means disqualification in most cases.

#### Forest Products

##### ▪ **Forest products –**

Based on the philosophy that trade and environment policies should be and can be mutually supportive, the Canadian forest products industry is concerned that the integrity of the rules-based world trading system is at risk if jurisdictions are permitted to use pseudo-environmental measures (e.g. environmental labelling, forest certification and other environmental standards) as a means of imposing unjustified non-tariff barriers to trade. Despite being a world leader in sustainable forest management practices and environmental stewardship; Canadian forest products regularly face discriminatory foreign environmental labelling, forest certification and other environmental standards. With respect to the environment in particular, discrimination can occur as the result of differences between countries and their respective natural resource endowments and domestic environmental protection needs. Such differences, when they exist, must be addressed in order to avoid any discriminatory trade measures.

The industry emphasizes that it strongly supports environmental standards (e.g. environmental labels and forest certification) as long as they are developed and used in a fully transparent, non-discriminatory fashion and according to proper and sufficient scientific evidence.

Some of the specific regulatory issues that are currently restricting or threatening Canadian exports in the forest products sector that would benefit from greater regulatory cooperation and mutual recognition between Canada and the EU include:

- Plant health regulations (e.g. Pinewood Nematode case at the EU level);
- Environmental labeling (e.g. proposed discriminatory requirements in the Netherlands for sustainable wood products);
- Green procurement (e.g. proposed discriminatory requirements in the United Kingdom for forest products);
- Proposed EU chemicals policy (see section on chemical products above), and;
- Codes and standards being revised for wood products as construction materials at the EU level that discriminate against Canadian products.

▪ **Pharmaceutical products –**

Currently the Commission is drafting a proposal for a regulation to develop paediatric indications of medicinal products in Europe. Whatever the outcome of this proposal is, Canadian and EU authorities should start to looking at ways of ensuring that those paediatric indications that have been approved on one side of the Atlantic will be automatically approved on the other.

We understand that it is necessary to build confidence between Canadian and European agencies and we welcome initiatives such as the existing Visiting Expert Programme through which the EMEA receives experts from the Canada authorities. However we highly recommend that exchanges between the Canadian health authorities and the EMEA are strengthened and done on a regular basis.

## **2.1 Recommendations on Sectoral Priorities**

All Canadian and EU government policy affecting bilateral trade in the aforementioned sectors and the respective issues identified within each of those sectors should:

- Be addressed on a priority basis ahead of all other sectoral issues.
- Be addressed within the context of the aforementioned recommendations on policy area priorities.
- Ensure all new standards and regulations implemented within the sectors identified are non-discriminatory and as cost-efficient as possible in relation to foreign versus domestic goods and services.
- Ensure that all already existing standards and regulations within the sectors identified are non-discriminatory and as cost-efficient as possible in relation to foreign versus domestic goods and services.
- Be addressed to ensure free market competition and eliminate any and all protectionist measures in the marketplace against one party's goods and services versus the other's.
- Be addressed to ensure the alignment of standards and requirements between parties in areas such as environment and the issue of climate change in view of recent developments and the ratification of the Kyoto protocol. (e.g. SNC-Lavalin, has developed DEF1, a proprietary software for monitoring and reducing fugitive volatile organic emissions. Such state of the art pollution prevention technologies could lead to "niche" services from Canada, addressing the European regulatory requirements. The same could be said for Clean Development Mechanisms and eventually possible International Emissions Trading in relation to climate change.

## **Conclusion**

To further promote and strengthen trade and investment between the transatlantic business community, especially in the context of avoiding non-tariff barriers, CERT urges Canada and the European Union to negotiate an agreement on regulatory cooperation that incorporates all of the recommendations in this discussion paper.

## **Annex II**



### *Competition Working Group* **2003 Discussion Paper – Draft**

#### **1 Introduction**

- 1.1 The main priority of CERT is to act in such a way that all Canadian and EU government policies affecting bilateral trade should be the least restrictive possible, avoiding unnecessary barriers to trade<sup>2</sup>.
- 1.2 The Canada Europe Roundtable for Business (CERT), whose goal is to reduce obstructions to business flow and enhance trade, points out that there are considerable gains to be made from Europe and Canada working more closely on the development and alignment of their regulatory structures.
- 1.3 As a consequence, the European Commission's report on EU governance as well as the Smart Regulation initiative launched by the Canadian government which aims at creating greater regulatory coherence have been particularly well greeted by CERT.
- 1.4 Like other regulation, competition laws and policies can impede trade and investment.
- 1.5 In order to facilitate bilateral trade, competition laws should be transparent and non-discriminatory, and regulatory barriers in the competition field that impede investment are as serious as other impediments such as tariff barriers.
- 1.6 Regulatory barriers in the competition context include not only the existence of regulation, but also the degree of convergence of regulation between trading partners. For example, more onerous or different reporting obligations, longer pre-merger waiting periods, and enforcement techniques that raise business concerns and lead to a chilling effect on investment.
- 1.7 In addition, business has concerns about differing regulatory filing requirements and filing thresholds among jurisdictions.
- 1.8 The special contribution that CERT can make is to help the Canadian and European Community develop rules that maximize the scope and ability of business to work productively to create wealth and employment, while maintaining appropriate individual and business freedoms.
- 1.9 In that spirit, CERT has identified two particular areas in which we welcome the opportunity to engage in a dialogue aimed at developing initiatives to reduce barriers to trade and investment between Canada and Europe:
  - 1.9.1 Provide input regarding possible steps to reduce impediments to bilateral trade and investment in the context of competition laws in Canada and Europe and bilateral cooperation between Canadian and EU competition authorities; and

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<sup>2</sup> In terms of tariff issues as well as in terms of non-tariff barriers.

- 1.9.2 Provide input regarding business views on the competition elements of the Doha declaration and the mandate of the Working Group on the Interaction between Trade and Competition.

## **2 Steps to Reduce Barriers to Trade and Investment**

- 2.1 Business representatives are concerned about safeguards for the protection of confidential information that is exchanged between competition authorities. This is an international issue and one where Canada and the EU can set a new standard in cooperation that addresses the concerns of business. Further, business would benefit from greater convergence in both procedural and substantive aspects of Canada and Europe's respective competition laws to facilitate ease and efficiency of investment initiatives.
- 2.2 In particular, the existing cooperation agreement between Canada and the EU could be strengthened to enhance the transparency and fairness of the cooperation process, and strengthen and clarify the safeguards for confidential information.
- 2.3 In 1999 an Agreement was adopted between the European Communities and the Government of Canada regarding the application of their competition laws<sup>1</sup>.
- 2.4 This Agreement has two main purposes: on the one hand, promote cooperation and coordination between competition Authorities of the European Union and Canada; on the other hand, lessen the possibility or impact of differences between the Parties in the application of their competition laws.

3 Three years after the adoption of the Agreement and in order to prepare the CERT meeting in connection with a EU-Canada Summit, it is necessary to check if it has fulfilled the roles it had been attributed and to identify the ways and means to improve this regulatory framework in the interest of the undertakings.

## **3 Regulatory co-operation**

- 3.1 Regulatory cooperation has been an achievement for both the EU and Canada regarding the application of their competition laws. However, improvements are still possible.
- 3.2 CERT is particularly pleased about the adoption of the 1999 Agreement and can conclude to the effectiveness of this Agreement.
- 3.3 Indeed, the Agreement facilitates the running of competition procedures that concern both the European and Canadian markets. This achievement has been possible thanks to the coordination between Commission officials and their Canadian counterparts. These officials remained in close and mutually beneficial contact all along the procedure by sharing information and by discussing and developing consistent analysis of the substantive issues.
- 3.4 Through the verifications carried out beforehand (i.e. notification and consultations, semi-annual meetings of the competition Authorities) and the measures coming after a merger (e.g. coordination of enforcement activities), a real bilateral practice has been developed as regards the application of EC and Canada's competition laws.

Effectiveness of  
the bilateral  
Agreement

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<sup>1</sup> OJ L. 175/50, July 10th 1999.

Perspective of evolution

- 3.5 Thus, the cooperation is of mutual benefit to both sides in terms of better understanding of each other's competition policy regimes. This is the reason why CERT would like to go further in this direction.
- 3.6 Regarding the encouraging results linked to the Agreement, CERT wishes to reach a higher convergence of competition rules and procedures, especially concerning vertical and horizontal agreements, mergers and concentrations. Such a convergence of rules and procedures would facilitate the tasks of EU and Canadian undertakings when they have to deal with antitrust authorities. This may imply improving the Agreement.
- 3.7 For instance, it may be appropriate to initiate an assessment of their respective legislations concerning exemption regulations. An assessment of notification rules (thresholds, timing of notification, market definition) for mergers would be valuable.
- 3.8 Thus, to improve the cooperation between the EU and Canada, CERT proposes a systematic consultation with businesses on these matters.

#### **4 Action within a multilateral framework**

- 4.1 In light of the ongoing negotiations of the Doha Round, the majority of the bilateral trade and tariff issues will be dealt with from a multilateral perspective.
- 4.2 CERT does fully support the objectives of the Doha Round. It estimates that the European Union and Canada, working together, should have a leading role within a multilateral framework such as the WTO. Indeed, it strongly believes in the need to eliminate any obstacle to trade and investment.
- 4.3 The "core principles" identified in the Doha declaration that set out the mandate of the Working Party on the Interaction Between Trade and Competition – transparency, non-discrimination and procedural fairness – are fundamental and they should be reflected in trading partners' competition laws.
- 4.4 CERT strongly supports the view that competition laws should not discriminate on the basis of nationality, and that non-discrimination should be considered a core principle of all competition laws. The principle of national treatment should apply to competition laws, i.e., the principle that a government should treat the goods, services and persons of other nationalities no less favorably than it treats its own.
- 4.5 Due process and transparency are also important core principles to be respected and applied in the design, implementation and enforcement of competition laws at the national level and with respect to any multi-jurisdictional enforcement cooperation. Both principles are essential because they provide stakeholders – the public, consumers and competitors – some assurance that the system will produce consistent and rational results and generate confidence in the system of competition law enforcement.
- 4.6 While the future direction of any development of competition norms in a multilateral agreement within the WTO remains to be determined at the Cancun round of negotiations this fall, CERT would like to see enhanced consultation with business people by governments participating in the international convergence discussion to allow them to understand the commercial costs of inconsistent rules in this area.
- 4.7 CERT could provide to both partners the business perspective on competition policy issues currently being studied by the WTO working group on the interaction between trade and competition policy.

- 4.8 Indeed, guaranteeing a level playing field between undertakings implies implementing appropriate competition rules in other economic areas, such as Japan, China or India. This would avoid non tariff-barriers issues and lead to suitable competition conditions.
- 4.9 In the perspective of the WTO negotiations, CERT would also be inclined to discuss how best to encourage developing countries to participate and develop their own competition regimes.

## **Annex III – Mutual Recognition of Securities Trading**

In the context of the government's request for comment on general investment issues and especially the need for "the type of investment rules that would provide better access, treatment, protection and predictability for investments" as well as the further liberalization of measures affecting access "including regulatory measures that may restrict cross-border trade in services", CERT- member TSX Group is interested in the following:

- the inclusion in the investment component of a new Canada-EU accord of a framework agreement establishing the basis for stock exchanges in Canada and the EU to negotiate mutual recognition agreements between and among exchanges;
- by mutual recognition we mean the acceptance by each exchange and jurisdiction of the regulations, rules, reporting and other requirements of all the other participating exchanges and jurisdictions related to the operation of securities markets so as to facilitate free trading in equity, debt and other securities.

The effect of such a framework would be to remove certain of the intermediaries in the cross-border trading of securities, concentrate liquidity in home markets for listed companies, simplify access to foreign capital for issuing companies and access to foreign securities by investors, lower the costs now associated with trans-border trading between Canada and the EU and increase volumes.

The TSX Group has advanced preliminary proposals to European exchanges setting out an initial business plan. Both TSX Group and European exchanges view the project as a first step in creating an attractive, profitable and successful model for global securities trading that would serve to demonstrate to the United States in particular the value of a securities trading approach based on the mutual respect for different approaches and for the mutual recognition of exchanges as the simplest, most efficient way to bring about freer trading in securities.