Canada-European Union Closer Economic Partnership

Response to the Canada Europe Roundtable for Business to International Trade Canada's consultation to gather Canadian private sector views

April 25, 2008

The Canada Europe Roundtable for Business (CERT) appreciates the efforts of International Trade Canada to gather views directly from the Canadian private sector on the benefits, as well as costs, of a closer economic partnership with the EU. The bilateral relationship with the EU presents significant opportunities to improve trade and investment and meet Canada's commitment to ensuring that its economy is open to the world and competitive on the world stage. The formal relationship between the EU and Canada on trade and economic cooperation dates to 1976 with the Bilateral Framework Agreement for Commercial and Economic Cooperation. It marks the EU's oldest formal relationship of this type with any industrialized country. A number of more limited efforts have been launched since then that have achieved some substantial gains in specific areas. However, a wide-reaching trade and investment agreement has been elusive, to the detriment of both the Canadian and European economies.

CERT supports an ambitious trade and investment initiative between the EU and Canada as a means to generating prosperity gains for both partners. CERT supports the pursuit of a free trade agreement with the EU and believes that it should be viewed as a strategic international priority for Canada. A bilateral framework with the EU further offers the possibility to include an advanced agenda that includes sustainable development aims at reconciling economic growth, social cohesion and environmental protection. Given that the next European Commission will take office in 2009, we strongly encourage governments to announce negotiations at the October 2008 Canada-EU Summit to ensure that the EC will be able to maintain momentum on efforts to conclude a deal.

Responses to the consultation questions

1a) What factors, positive or negative, do you see affecting your company's ability to do business in the EU?

- Canada is one a few countries that does not have preferential access to the EU market. Therefore, it is subject to the EU's full common customs tariff.
- Tariffs barriers remain, including peak tariffs in a number of sectors, including agriculture, manufacturing, and textiles. Even low tariff's can account for a significant proportion of margins on products; thus, they can divert trade and have the added effect of imposing an intra-company tax versus countries that have FTAs. This affects value-added supply chain formation both within, and between firms.
- Given that investment accounts for a larger share of the bilateral relationship than trade, non-tariff barriers are likely to cause greater disruptions in the overall economic relationship.

- Barriers to services exist between EU member states (as they do between Canadian provinces). The removal of trade and investment barriers will encourage greater participation by Canadian companies in global supply chains.
- EU employment laws increase the risk of hiring. In professional services, for example, firms would grow more quickly if it was not so expensive to retract as it is in France, as an example.

1b) What concrete steps could Canada and the EU take to remove factors and help increase economic flows? What could be done to improve the positive factors?

- As companies create global supply chains, it is not in Canada's interests to pursue a policy aimed solely at continental integration.
- Europe is clearly interested in the Canadian market, despite its relatively small size. Canada presents numerous opportunities in energy and resources that do not rely solely on the domestic market, but rather on the global market for commodities, where Canada is a known and reliable partner.
- While the EU is naturally interested in the emerging markets of India and China, they know that their fair and equal treatment as investors will be better protected in Canada.
- To improve the situation, clear signals should be made by both sides that they intend to engage in an in-depth-regulatory cooperation. For effective work to take place, these signals should be relayed much beyond the international trade administrations on both sides, particularly to the Federal/EU and Provincial / Members States regulatory bodies and agencies.
- Negotiating a Canada-EU agreement with a regulatory co-operation arrangement at its core would allow the affected party to comment in advance on how the proposed regulation could affect trade and investment patterns. This would be a useful development in preventing future disputes.
- Reverse the lack of mutual recognition on safety standards, inspections processes and align testing and labeling protocols.
- A bilateral framework / agreement should seek balance. For example, to the extent that one jurisdiction restricts foreign acquisitions, it necessitates equal and opposites restrictions in others to ensure a level playing field.

1c) What benefits would you anticipate from increased economic integration with the EU in general and more specifically in the Canadian marketplace?

- Removal of tariffs could increase bilateral trade by well over $1 billion annually
- At present, 25% of FDI into Canada comes from the EU member states and 25% of Canadian investment abroad is in the EU. Further economic integration would increase these numbers.
- The bilateral relationship with the EU offers interesting opportunities to improve trade and investment and meets a commitment of both parties to ensure that their economies are open to the world and competitive on the world stage.
- A bilateral framework with the EU offers the possibility to include sustainable development aims at reconciling economic growth, social cohesion and environmental protection. In particular, Canada and the EU could cooperate on technological development in the field of low carbon, water and energy efficiency technologies in the energy, transport and manufacturing sectors.
- Multinational corporations generally bring innovation and greater efficiency to each of the markets in which they operate. To the extent that freer flow of capital facilitates growth of Canadian companies in the EU and visa versa, innovation and productivity improvements will result in each market, resulting in greater per capita wealth creation.

2a) What factors, positive or negative, do you see affecting the flow of goods between Canada and the EU? Factors can be tariff-related barriers and/or non-tariff measures. Please be as specific as possible.

- Trade transactions costs remain in the range of 2 to 15 per cent of trade transaction value. Tariff elimination combined with measures to expedite the movement of goods across borders would result in significant savings to businesses and consumers.
- Canada's fragmented market and sub-federal levels of responsibility remain an impediment to progress in certain areas, including securities regulation and procurement. Every effort needs to be made by the Government of Canada to ensure the full and active support and participation of the Canadian provinces in a process with the EU. Reciprocally, the full support of the EU member states, and notably Germany, France and the UK, will be required to launch negotiations with Canada.
- Standards and technical regulations that favour national products create barriers to trade and investment. Mutual recognition of national standards and regulatory requirements by recognition of each other's conformity assessment procedures would enhance competitiveness at the global level while allowing for differences in national policy objectives.
- Environmental standards and protection measures. Mutual recognition could prevent future NTB's from being implemented in this area.
- Of concern is the appearance of new regulatory barriers such as those that an inadequate implement of REACH could lead to. Incompatible climate regimes on both sides of the Atlantic could also lead to significant barriers and create new factors distorting the competition between various regions in the world.
- Better communication of information about risk between experts, policy-makers and legislators from Canada and the EU will reduce regulatory barriers.
- Differentiated situations regarding investment depending of the sector, the type and size of investment etc. In some cases, there is a very favorable welcome to Canadian investment, in other cases there are greater difficulties.
- Divergent procurement policies and restrictive foreign ownership requirements, such as in energy/utilities in the EU and banking and telecommunications in Canada.
- Canadian government sole source procurement dissuades foreign investment. Refer to the text in **Annex I** for a more detailed discussion of defence sector procurement.
- The possibility of the EU developing a border tax adjustment related to the carbon content of goods being imported into the EU and the climate regime of the country of origin are concerns. It is very complex to establish if the climate regimes established in two different jurisdictions such as Canada and the EU have equivalent or different impact on the GHG emissions. Furthermore, to track the carbon associated with goods would be a highly bureaucratic and cumbersome endeavour leading to a real barrier to trade. Finally, it would hardly be compatible with WTO rules. It should also be pointed out that it would be difficult to understand how a border adjustment could be applied to another country which has signed and ratified a successor treaty to Kyoto. Such an approach would damage not only WTO credibility but also the credibility of international environmental engagements.
- The mobility of our work force between Europe and Canada is more difficult and costly than it need be. For example:
    - non recognition of professional qualifications affecting the ability of staff or of their spouses to work;
    - discrepancies or non compatibility of social security, health care and retirement/pension regimes;

- complexity of the management of personal income tax schemes for expatriates; and,
- complexity of immigration rules in the EU and in Canada and the restrictions they can place on the eligibility of an expatriate's spouse to work.

2b) Are current tariff-levels a disincentive to trade?

- Average tariffs are often high enough to divert trade. For example, average tariffs on manufactured goods, at 3 per cent (EU) and 1.6 per cent (Canada) are equivalent to one half or a third of industry profit margins.
- Low industrial tariffs create an unwarranted tax for intra-corporate trade which weakens supply chain efficiencies and the competitiveness of firms relative to companies from countries with an FTA.
- While average tariffs are low, the various peak tariffs that are currently in place render trade in these sectors prohibitive. Peak tariffs are prohibitive to trade or trade expansion in a number of areas, including manufacturing, textiles, forest products, chemicals and mining/metals.
- The average tariff level on agriculture and agri-food foods remains very high.
- Refer to point 1a).

3) What factors, positive or negative, do you see affecting trade in services between Canada and the EU? Please be as specific as possible.

- Increase in mutual recognition of professional qualifications and product and services standards as a mutually beneficial approach in helping to address skilled labour shortages in Canada and the EU. This will support the development of knowledge base, increase productivity and assist the development of a common skilled labour market between the EU and Canada.
- Employment laws increase the risk of hiring. In professional services, for example, firms would grow more quickly if it was not so expensive to retract as it is in France, for example.
- Removal of onerous restrictions on length of stay for non-resident executives and residency requirements for boards of directors.
- Regulatory challenges to entering the financial sector. The mutual recognition of stock exchange standards and the qualifications of self-regulatory organizations, such as investment dealers, would be a useful development.
- The application of comity principals (the deference given by one agency or tribunal of one nation to an act or decision of another) to prevent inconsistent demands from divergent national law and policy standards is a services barrier that could become more significant in the future. A framework regarding the application of comity in avoiding remedial clashes in competition cases would be a valuable development.
- In the current economic climate Canada will benefit from Dollar Zone investment by European companies

4) What factors, positive or negative, do you see affecting your ability to invest in the EU?

- Lack of recognition of professional qualifications and foreign residency requirements.
- Approaches to rule-making, such as risk assessment and risk management highlight divergences between Canadian and EU regulators across business sectors. EU treatment of Canadian agricultural products, such as beef and genetically modified crops, as well as certain forest products, are examples.

- As noted in the last bullet under question 1a), employment laws will be an unnecessary drag on investment and economic growth.

5) Does the level of protection and enforcement of intellectual property rights in the EU affect your commercial activities in the EU market?

- The negotiation of an EU-Canada wine and spirits agreement for geographical indications is an important precedent for establishing similar sector arrangements of mutual interest, with a focus on value-added products.
- Greater collaboration between Canada and the EU on IPR enforcement issues vis-à-vis third countries (Russia, China …) is recommended. Companies' proprietary technologies are often targeted for copy and counterfeiting by some companies in third countries and a joint approach by the EU and Canada would surely help to develop a more unified front by OECD countries on this issue.

6) What factors, positive or negative, have you experienced that affect you company's ability to access EU government procurement markets?

- Canadian and European companies are global leaders in a range of sectors including infrastructure, civil works, transportation, energy, electricity generation, distribution and transmission, water, etc, which are largely governed by public procurement rules and procedures. Given the economic weight of public procurement - which amounts to 15-20% of GDP in OECD countries and to 30% in non-OECD countries – further opening of public procurement markets in Canada, the EU and indeed in third countries is encouraged.
- As highlighted in its *Declaration in support of an EU-Canada Trade and Investment Agreement*, CERT believes that the EU-Canada dimension forms a significant portion of the transatlantic economic relationship which is the most integrated and significant economic partnership in the world. In this respect, and in order to create a lever for new business opportunities for Canadian and European undertakings, further opening of public procurement markets would benefit both sides. The opening of procurement markets should be set as a key issue in future Canada-EU discussions.
- A bilateral framework to ensure procurement policies are applied in a non-discriminatory manner that is fully transparent, inclusive, and according to proper and sufficient scientific evidence would prevent NTB's and increase bilateral investment and jobs. Open procurement markets will have the added effect of enabling the formation of value-added supply chains.

7a) Which fields of cooperation outside market access are most important to your company?

- Investment, including removal of unnecessary foreign ownership restrictions. FIPAs should be signed with all EU member states.
- Industry-specific regulations shelter domestic firms from competition, ultimately resulting in higher prices for consumers, reduced choice, and slower access to technology on the part of industry. Among countries within the Organization for Economic Cooperation and Development (OECD), Canada ranks 25th out of 29 nations in terms of openness to foreign business, joining other countries with heavy restrictions such as Iceland and Mexico. The countries most open to foreign business activity tend to be European, led by Belgium.
- Foreign investment measures can limit opportunities for Canadian firms competing in a global economy to attract expertise, strengthen their networks, and pursue new business opportunities.
- Determining the best practices in bilateral tax treaties to encourage the free flow of capital between Canada and the EU member states, including the removal of

double taxation provisions. Reduction of withholding taxes on dividends, interest and royalties between Canada and EU member countries.

- Canada and EU member states should implement personal tax exemptions on unincorporated business income received by non-residents.
- Implement a common method of taxing foreign source income by exempting income received from member states. A similar approach should be implemented for foreign income received from outside the EU.

7b) Where would you welcome greater Canada-EU cooperation?

- A high-quality, binding regulatory framework between Canada and the EU as the foundation for deeper bilateral economic integration. A transparent regulatory development process that consults with potentially affected parties in advance of regulatory formation, and/or establishes processes to resolve disputes through mutual recognition. Chemicals are an example of a sector where greater cooperation should occur.
- Share proposed technical or sanitary and phytosanitary regulations, where such measures may have a detrimental effect on bilateral trade and investment.
- Alignment of foreign takeover regulation and practices.
- Alignment of employment laws, where possible.
- Freer trading in securities between Canada and the European Union, based on the principle of mutual recognition of stock exchanges, should be pursued. Mutual recognition includes 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.
- Retail and institutional investors from each country should have unfettered access to acquire or sell securities in either country as long as they follow the regulations in the other country. They should be treated as domestic investors would be treated.
- Members of self regulatory organizations (investment dealers) should be able to do business in each country without the onerous duplication of fixed costs necessitated by residency requirements. This could mean the mutual recognition of national investment dealers associations; or an EU-registered dealer could apply to be, and be accepted as, an IDA member without establishing a physical presence in Canada, and vice-versa.
- Exchanges from each country should be free to do business in the other country in trading services, listings, and data, either through mutual recognition of their exchange status in the other jurisdiction or some other device of comparable effect.
- Securities regulators should be mutually recognized by each other's governments.
- Utilize best practice in modern customs techniques, cooperation in the field of electronic data exchange, balancing security measures with impacts on trade and promotion of the common application of international rules, standards and guidelines.
- Mutual recognition of professional qualifications is essential to facilitating labour and skills movement between continents. Agreement to facilitate reciprocal youth study programmes would be welcomed.
- S&T cooperation. Canada and the EU could cooperate on technological development in the field of low carbon and energy efficiency technologies in the energy, transport and manufacturing sectors.
- Align Canadian and EU carbon abatement policies in the medium to longer term. This could include linking emissions trading schemes, technical and financial mechanisms to create a common carbon market.

- CERT is convinced that opening of public procurement markets on a level-playing field is central to the long term prosperity of the Canadian and European economies. CERT calls on the Governments of Canada and the EU to act decisively in favour of opening of public procurement markets in all Canadian and EU jurisdictions, both at federal and sub-federal levels. This issue should be a key element in the agenda of the Canada-EU Summit in October 2008.
- Economic cooperation should be clearly developed jointly with cooperation on peace and security and cooperation on governance and more broadly political cooperation. A proper articulation with other key cooperation areas such as NAFTA should also occur.
- A comprehensive and binding bilateral trade and investment agreement. The October 2008 Canada-EU Summit would provide a good occasion on which to announce this initiative.

7c) Do you know of examples of cooperation with other parties that could serve as a model for the Canada-EU relationship?

- Canada's political relations with Europe have always been underpinned by a strong economic relationship. This is important, given our shared interest in dealing with terrorism, Afghanistan, the environment and Arctic sovereignty. An eventual transatlantic marketplace will help to reinforce Western leadership in the world, providing an economic counterweight to the emerging economic giants of Asia.
- Canada and the EU have an opportunity to develop a framework that accelerates transatlantic economic integration and creates a template for an eventual transatlantic marketplace.
- The Canada-EFTA FTA sets a positive precedent for further Canada-Europe economic cooperation.
- TIEA Regulatory Cooperation framework should be concluded.
- 1999 Canada-EU Competition agreement has proven effective and can be updated to include comity and a common set of rules to allow companies to file notice of a merger or acquisition with multiple competition authorities with one application to be a leading example of cooperation and progress in this area. This would strengthen Canada-EU leadership in this area in the plurilateral environment.
- The negotiation of an EU-Canada wine and spirits agreement for geographical indications is an important precedent for establishing similar sector arrangements of mutual interest, with a focus on value-added products.
- Canada and the EU should continue their shared effort to liberalize multilaterally, including through the WTO agreements, including the Government Agreement on Procurement (GPA).

Annex I: Aeronautic, space and defence procurement

2a) What factors, positive or negative, do you see affecting the flow of goods between Canada and the EU? Factors can be tariff-related barriers and/or non-tariff measures. Please be as specific as possible.

The benefits to Canadian Industry and Canadian tax payers are numerous when it comes to dealing with large European investors, including in the aeronautic, space and defence areas. These possibilities should be considered when forming a positive mutually beneficial bilateral trade agreement.

The current/past USA focused sole sourcing has hampered European companies from investing or expanding their Canadian footprint or passing on additional work to Canadian partners.

The Canadian taxpayers demand for accountability and return on investment for its tax dollars may in future lead to some question marks on this period of government/DND procurement. European investors could have introduced more competition, and thus better conditions, to the procurement processes. In addition, these same European investors have potentially new and more varied work to offer Canada, including valuable R&T work.

European investors are well aware of the goals of Canadian National Industry and has helped to develop this over the years spending on average CAD$600 yearly with several Canadian companies. Recent examples like the MDA takeover attempt by ATK reflect the change in sentiment of Canadian sovereignty and industry.

The last series of large DND procurements including Boeing C-17s, Lockheed Martin C130 Js and Boeing Chinook helicopters representing several Billion Canadian dollars were carried out without also engaging with European Industry in efforts to look at other solutions.

The USA has opened their defence procurement to European companies for the overall benefit of the country. Examples include Eurocopter's sale in 2006 of up to 300 EC 145 Lakota helicopters to the United States Army, and built by the American Eurocopter division of EADS North America. After winning orders for its A330 refuelling tanker from Australia, Britain, the United Arab Emirates, and Saudi Arabia, EADS, teaming with Northrop Grumann, was choosen by the US Air Force in February 2008 and will begin building A330 MRTT and freighters at a new Mobile, Alabama plant once the deal proceeds.

Canada is missing out on significant European investment in the aeronautic, space and defence areas due to a restrictive sole sourcing approach.

About the Canada Europe Roundtable for Business

The Canada Europe Roundtable for Business (CERT) is an association of Canadian and European companies founded in 1999 to provide private sector input to the Government of Canada and the European Commission to assist bilateral policy formation. CERT's goal is the establishment of a bilateral trade and investment relationship that is barrier-free, creating a more dynamic and prosperous transatlantic market.

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