

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

C/RM/G/25
11 May 1992

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Original: English/
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TRADE POLICY REVIEW MECHANISM

CANADA

In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (L6490), the initial full report by Canada is herewith submitted.

NOTE TO DELEGATIONS

Until further notice, this document is subject to a press embargo.

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Explanatory Note on Dates: Throughout this report, the use of two years with a slash (e.g. 1990/91) refers to the fiscal year ended March 31st. The use of hyphen signifies a two-year period or, as in the case of some agricultural dates, a crop or dairy year.

INTRODUCTION AND OVERVIEW

1. This is the second report for Canada under the Trade Policy Review Mechanism (TPRM) launched by GATT Contracting Parties in 1989. The first report, by Canada, appeared as C/RM/G/6 dated 2 July 1990. This report provides an overview of Canada's trade policy and practices over the past two years. This report includes few statistics. Detailed data on Canada's trade can be found in the GATT Secretariat's report on Canada's trade policy.

2. Trade is vital to Canada's economic well-being. Over a quarter of GDP and some three million Canadian jobs are directly dependent on exports. Imports of technology, machinery, equipment and other industrial inputs contribute importantly to the competitiveness of Canadian producers.

3. In the mid-1980s the government adopted an agenda for economic renewal which encompassed major initiatives in tax reform, budgetary deficit reduction, deregulation, privatization, investment development and trade policy.

4. Tax reform figured prominently in the government's domestic initiatives. The first phase, involving a broadening of the tax base and a lowering of tax rates, created a tax environment that allows for higher rewards for success. Key objectives were to make the tax system fairer for Canadians and to help Canadian firms compete around the world. The second step, implemented on January 1, 1991, involved the replacement of the manufacturer's sales tax with the Goods and Services Tax (GST). It too served to broaden the tax base and lower tax rates, as well as remove distortions in the tax system that disadvantaged Canadian firms in exporting or competing against imports.

5. Trade policy initiatives have included: the negotiation of a comprehensive free trade agreement with Canada's principal trading partner, the United States; participation in the Uruguay Round of Multilateral Trade Negotiations to reduce barriers to world trade and improve GATT trade rules; and initiation of negotiations with Mexico and the United States for a North American Free Trade Agreement. These and other initiatives reflect Canada's commitment to enhancing competitiveness through the reduction of distortions and barriers to the operation of free markets at home and abroad. For example, on February 13, 1992, the government introduced legislation to unilaterally eliminate tariffs, on an MFN basis, on a range of consumer products. In 1991 imports of these products were valued at about CAN\$1 billion.

6. In October 1991, the government announced its Prosperity Through Competitiveness Initiative. This initiative extends beyond the traditional economic and trade policy instruments to take a harder look at some of the

underpinnings of Canadian competitiveness: learning and skills training, science and technology, capital and investment, the nature of Canada's economic union and improvement in the functioning of the domestic markets, and international business and trade.

7. On the world scene, the past two years have been marked by political and economic events that have shifted the balance of power and presented unusual challenges for world trade and investment. Quite apart from such events, a few chronic problems continue to haunt world trade, and have exacerbated world trading relations over the past two years. Three are of particular concern to Canada: an intensified export subsidy war for agricultural products, unilateralism and managed trade.

8. Since the last review there has been no let up in the agricultural export subsidy war which continues to depress Canadian incomes in the grains and oils industry. Realized farm income has declined drastically with the 1991 levels only about half of 1989. The primary cause of this decline has been the deteriorating price situation in international markets for wheat, with prices in the range of CAN\$79 to CAN\$95 per tonne being less than those during the 1930's in real terms. This has resulted in record bankruptcies in the farm sector.

9. With regard to managed trade, all Contracting Parties should be concerned about ad hoc bilateral arrangements that seek to apportion market shares of selected products or industries. Sector specific arrangements are generally conceived as transitional measures, but their history suggests that once established, they become institutionalized and extremely difficult to terminate.

10. These and other trade issues, as well as worldwide economic sluggishness, have contributed to Canada's weakened economic situation. The Canadian economy, which had been very robust in the period 1983 to 1989, began to slow early in 1990 and slid into recession in the second quarter. For 1991, Canada's real GDP declined 1.5 per cent.

CHAPTER I

ECONOMIC AND TRADE ENVIRONMENT

A. Recent Economic Performance

11. From 1983 to 1989, the Canadian economy was among the fastest growing of the major industrialized countries. By 1988, however, the strong expansion led to the emergence of inflationary pressures. In the face of these pressures, monetary policy remained firm with the result that monetary conditions tightened significantly. Consequently, the economy slid into recession in the second quarter of 1990. Interest-sensitive components of spending - residential construction and business investment - declined in response to the tightening of monetary conditions.

12. After declining through the first quarter of 1991, real output growth rebounded in the second quarter of 1991. Real GDP increased at an annual rate of 5.5 per cent in the second quarter of 1991, reflecting the strong response of interest-sensitive sectors of the economy to lower interest rates. Growth moderated in the second half of the year due to slowing of the world economy, in particular the U.S. economy. The economy grew only 0.4 per cent in the third quarter and declined 0.8 per cent in the fourth quarter. For 1991 as a whole, real GDP declined 1.5 per cent after a 0.5 per cent gain in 1990.

13. The rapid pace of economic growth during the 1983-1989 expansion was accompanied by strong employment growth. The unemployment rate fell from 11.8 per cent in 1983 to 7.5 per cent in 1989 and fell as low as 7.1 per cent in March 1990. With the onset of the recession, however, the unemployment rate began to increase. By the end of 1990, the unemployment rate had risen to 9.5 per cent and by mid-1991 had reached 10.5 per cent. So far in the recovery, there has been virtually no employment growth. In part, this reflects the sluggishness of the recovery. To some extent, however, it also reflects the extensive restructuring measures undertaken by business aimed at raising productivity. As of January 1992, therefore, the unemployment rate remains at 10.4 per cent.

14. The inflation rate, as measured by the change in the consumer price index (CPI), averaged 5.6 per cent in 1991, up from 4.8 per cent in 1990. The introduction of the Goods and Services Tax (GST) in January 1991 accounted for about 1.4 percentage points of the increase in the CPI in 1991. The year-over-year rate was only 3.8 per cent in December, down from 6.8 per cent in January. The year-over-year CPI declined to 1.6 per cent in January as the one-time effect of the GST dropped out of the calculation.

15. Wage pressures built up over the course of the expansion and into the early stages of the recession. Wage increases provided in major collective

agreements peaked at 6.4 per cent in the third quarter of 1990. Wage pressures subsequently eased with the slack in the labour market and as a result of public sector wage guidelines introduced by the federal government and most provincial governments. In 1991, wage settlement increases declined from 6.1 per cent in the first quarter to 2.5 per cent in the fourth quarter of 1991. Public sector settlements declined from 6.4 per cent to 2.4 per cent. Private sector settlements declined from 5.1 per cent to 3.3 per cent.

16. Consistent with the easing in inflation pressures interest rates have fallen sharply across the full range of financial instruments. Since peaking in May 1990, the Canadian 90-day corporate paper rate declined over 650 basis points to 7.35 per cent at the end of February 1992. Long-term rates declined about 270 basis points from their peak, falling to about 9 per cent by the end of February. The larger decline in short-term rates has meant that the yield curve, which had been inverted since late-1988, returned to its more typical positive slope in the first quarter of 1991.

Sectoral Developments

17. Overall, output (on a factor cost basis) declined 2.9 per cent during the 1990-91 recession. About 1.0 percentage points of the decline in output during the recession was recovered by the end of the third quarter.

18. The manufacturing sector was particularly hard hit during the recession. The downturn in this sector began almost one year earlier than in the economy as a whole and resulted in a peak-to-trough output loss of 15 per cent. This industry had recovered some of the decline in the second and third quarters of last year but gave back some of those gains as output fell in the fourth quarter. For 1991 as a whole, manufacturing output fell 6.4 per cent. Primary industries (agriculture, fishing and trapping, logging and forestry) fared somewhat better in 1990, although output remained on a downward trend in 1991.

19. Services output declined much less than goods output during the recession. Led by the finance, insurance and real estate sector, in particular real estate commissions, services output surged in the second quarter of 1991. However, service output declined in the third quarter. This was due largely to a decline in real estate commissions, reflecting a decline in resales of existing homes in the third quarter, and a decline in retail trade. Growth rebounded to 0.1 per cent in the fourth quarter. In 1991, services output grew 0.3 per cent.

Near-Term Outlook

20. Real GDP growth is expected to be moderate in the first part of 1992. This reflects the slowing of world economic growth in late 1991, which is expected to continue in the first part of 1992. The recovery in Canada is

expected to accelerate in the second quarter led by stronger consumer expenditures in response to lower interest rates and increased exports as the U.S. economy strengthens.

21. Inflation pressures are expected to continue to ease, consistent with the achievement of the government's inflation-reduction target for 1992. In turn, as the progress in reducing inflation is consolidated, there will be scope for monetary conditions to ease further.

B. Fiscal Policy Developments in Canada

22. Since 1984, the government has been putting in place the foundations for more durable economic performance in an increasingly competitive global market place. The building blocks have included structural reforms, concrete steps in moving toward price stability and fiscal consolidation through expenditure control. At present, the recovery is not as robust or as widely-based as had been expected a year ago. Much of the current weakness reflects the weak international economic situation.

23. Short-term fixes don't work; Canada's history has amply demonstrated that they only compromise the future. The challenge is to continue to build the proper environment for sustained medium-term growth. This means implementing measures which will bolster confidence, strengthen the conditions for medium-term growth, and address urgent social priorities, while at the same time ensuring that the medium-term objectives of fiscal balance and price stability are not compromised.

Fiscal Consolidation

24. In 1984, the government faced a serious fiscal challenge. The deficit had risen to 8.7 per cent of GDP; total federal government expenditures had reached almost 25 per cent of GDP; and, the federal debt was growing at a rate of over 20 per cent per year. The source of the fiscal problem was a basic structural imbalance between spending on programs and revenues. In 1984/85, for each dollar it received from taxpayers, the government spent CAN\$1.33. This resulted in a rapidly soaring debt and rising debt service costs.

25. A vigorous response was required and the government responded. Cuts in the operating budgets of government departments were effected through management initiatives to increase efficiency and reduce waste. The number of federal government person-years was cut by 10,000. Effort was also made to put the operations of government on a more business-like basis. Subsidies, which can distort market incentives to the private sector, interventionist energy programs, social transfers to the well-to-do and transfers to the provinces were either reduced or their rate of growth was strictly curtailed.

26. Revenue increases were also implemented. The decline in the revenue yield - budgetary revenues as a share of GDP - in the late 1970s and early 1980s contributed considerably to increasing the deficit. The revenue yield fell from a peak of 19.2 per cent of GDP in 1974/75 to 16 per cent in 1984/85. The decline reflected a proliferation of tax expenditures, tax cuts, endemic flaws in the manufacturers sales tax that led to steady erosion of the tax base, and effects of the 1981-1982 recession.

The 1990-1991 Recession

27. The recession placed substantial upward pressure on the fiscal situation in both 1990/91 and 1991/92, resulting in substantially lower revenues and higher unemployment insurance payments. Sizeable slippage in the original deficit targets for these two years would have occurred if these factors had been allowed to flow fully through to the fiscal bottom line.

28. To contain slippage, program spending, excluding unemployment insurance benefits has been kept in check through the Expenditure Control Plan which was introduced in the February 1990 budget and extended and broadened in the February 1991 budget. Further substantial actions were taken to manage revenues and expenditures towards budget targets through the course of the past year. These included, for example, the January 1, 1992 increase in unemployment insurance premium rates to maintain the financial integrity of the Unemployment Insurance Account, the recently announced year-end freeze on discretionary spending and the government's decision, now before Parliament, to fully fund public service pensions. The actions permitted the federal government to realize a deficit outcome for 1990/91 that was effectively on the budget target of CAN\$30.5 billion. As well, they have made it possible to hold the increase in the 1991/92 deficit to CAN\$0.9 billion to a level of CAN\$31.4 billion.

The Fiscal Record

29. Over the period 1984/85 to 1991/92, the process of fiscal consolidation made significant progress. The deficit was reduced from 8.7 per cent of gross domestic product (GDP) to 4.6 per cent. Success was particularly evident in restraining federal program expenditures, the cornerstone of the fiscal strategy. Program spending declined to 16.7 per cent of GDP in 1991/92 from over 19.6 per cent in 1984/85. Annual average spending growth was held to 3.9 per cent - a dramatic decline over the 13.8 per cent annual growth rate over the previous 15 years.

30. The improvement in the operating balance - the difference between program spending and revenues - has also been dramatic. In 1984/85, a shortfall of CAN\$16.1 billion between what the government was receiving in revenues and spending on programs had developed. Because of the actions introduced since 1984, however, the operating balance swung from this

CAN\$16.1 billion deficit to a surplus of over CAN\$10 billion in 1991/92. About 60 per cent of this CAN\$26 billion improvement was due to expenditure restraint.

Addressing Social Priorities

31. At the same time, program spending restraint has permitted the reallocation of resources to priorities and absorbed the impacts of fiscal pressures (e.g. rises in debt service) while living within the overall fiscal objectives. In this regard, the government has provided growing support for certain priority areas. For example, transfer payments to the elderly have grown at an average annual pace of 7.1 per cent; direct cash support for science and technology has grown 9.3 per cent per year; and, funding for training rose from just over CAN\$2 billion a year through the late 1980s to CAN\$3.1 billion in 1991/92.

Actions to Bolster the Economy

32. The government has undertaken significant action to bolster medium-term economic performance since 1984. Measures have included structural reforms such as the Canada-U.S. Free Trade Agreement, tax reform, deregulation and reducing the size of government through expenditure control and privatization. The key to achieving sustainable economic growth over the medium term is to build confidence and control inflation pressures. The 1991 budget specifically addressed the problems of confidence and inflation expectations by announcing fixed limits for program spending and specific inflation targets for the medium term.

33. The economy was unexpectedly weak in late 1991 and the government responded in a number of ways. Of greatest impact, particularly as their effects work through the normal lags in the economy, are the large declines in interest rates and inflation. These declines represent a pay-off to the policy course followed earlier and the confidence that this course will continue to be followed. Interest rates are significantly lower than at the time of the February 1991 budget, inflation is dramatically lower and the dollar has moved down substantially from its 1991 peak levels, all providing support for economic growth. In addition a number of specific actions were taken including additional assistance to the agricultural sector, tax assistance to the transportation sector, a cross-border shopping initiative to level the playing field for Canadian retailers vis-à-vis their American counterparts, etc.

The February 1992 budget

34. Notwithstanding the sizeable pressures on revenues from the weaker-than-expected economy, the 1992 budget contains a fiscal track that shows substantial year-to-year declines in the deficit in both 1992/93 and 1993/94, and zero financial requirements by 1995/96. Reducing Canadians'

tax burdens while at the same time reducing the deficit and maintaining the conditions for low inflation is the essence of the fiscal plan. This requires substantial reductions in federal government spending - almost CAN\$7.3 billion over the fiscal framework to 1996/97.

35. Within this fiscal track, the government is acting to improve competitiveness, to bolster the confidence of households in Canada's medium-term economic prospects and to enhance and better target support to families with children, particularly low and middle-income Canadian families. These actions are being financed by the reallocation of resources from lower priority to higher priority areas.

36. A number of specific tax measures are proposed to improve the competitiveness of Canadian manufacturers including a two-step reduction in the manufacturing and processing tax rate from 23 per cent to 21 per cent by January 1, 1994 and increasing the capital cost allowance rate for eligible manufacturing and processing machinery and equipment from 25 per cent to 30 per cent. The child benefit system will be consolidated and enriched to direct an additional CAN\$2.2 billion to families with children over the next five years. As well, over the same period, the personal income surtaxes will be lowered to reduce individuals' tax burdens by almost CAN\$7 billion. And additional assistance is being proposed for students, the disabled, and home buyers.

37. To pay for the net reduction in Canadians' tax burdens proposed in this budget, there will be substantial reductions in government spending and a streamlining of government operations totalling CAN\$7.3 billion over the 1992/93 to 1996/97 period. The Expenditure Control Plan, first introduced in the February 1990 budget and extended in the February 1991 Budget, is being further broadened and deepened. At the same time, the government is moving to provide more "responsive, client-oriented" government services.

The Fiscal Outlook

38. After being held at CAN\$31.4 billion in 1991/92, the budgetary deficit is forecast to decline CAN\$4 billion in 1992/93 to CAN\$27.5 billion, and by a further CAN\$5 billion to CAN\$22.5 billion in 1993/94. As a proportion of GDP, the deficit declines from 4.6 per cent in 1991/92 to 3.8 per cent in 1992/93 and to 2.9 per cent in 1993/94. By 1996/97, the deficit-GDP ratio is well below 1 per cent.

39. Financial requirements, excluding foreign exchange requirements - a comprehensive measure of the government's borrowing in credit markets - fell from CAN\$27.5 billion in 1991/92 to just under CAN\$20 billion in 1992/93 and CAN\$13 billion in 1993/94. Zero financial requirements will be met in 1995/96, one year later than projected in the February 1991 budget.

40. As a percentage of GDP, program spending declines from 16.7 per cent in 1992/93 to 15.5 per cent in 1993/94 and to under 14 per cent in 1996/97. Program spending increases by 6.1 per cent in 1991/92, due primarily to increased unemployment insurance benefit payments. Over the period 1992/93 to 1996/97, the annual average rate of growth is 3 per cent. The level of program spending subject to control under the proposed Spending Control Act is below the spending limits set by the proposed Spending Control Act.

41. Budgetary revenues, as a proportion of GDP, stabilize at about 18 per cent. As a proportion of GDP, public debt peaks at 62.6 per cent in 1992/93 and declines thereafter. The ratios throughout the period, however, are higher than forecast in the February 1991 budget, primarily reflecting lower levels of nominal income.

C. Exchange Rate Developments

42. The Canadian dollar strengthened against the U.S. dollar over most of 1991, continuing the pattern of appreciation that saw the dollar rise from a low of just under US\$0.70 in February 1986 to US\$0.8621 at the end of 1990. The Canadian dollar peaked at US\$0.8929 on November 1, 1991. The strength of the dollar throughout much of 1990 and 1991 occurred despite the sharp narrowing of the Canada-U.S. short-term interest-rate differential from 550 basis points at its peak in May 1990. In 1991, it moved in the 250 to 330 basis points range and is now about 330 basis points. The dollar eased in November and December, closing the year at US\$0.8654, little changed from the beginning of the year. Since then, the dollar has weakened against its U.S. counterpart in choppy trading, falling to US\$0.8460 by the end of February 1992.

43. The dollar also strengthened against the major overseas currencies in the spring and summer of 1991 before falling sharply over the second half of the year. The dollar closed 1991 down slightly against the major overseas currencies. In early 1992, it initially strengthened somewhat against the overseas currencies reflecting the strength of the U.S. dollar internationally, but subsequently fell back to near its end-1991 level.

D. External Balance and Trade Performance

44. Canada's current account deficit widened from CAN\$20.7 billion in 1989 to CAN\$22.0 billion in 1990 and to CAN\$26.8 billion in 1991.

¹Operational changes by Statistics Canada on how immigrants funds are measured were announced in June 1991 and resulted in sizeable revisions to Canada's current account. Receipts of migrants funds previously were estimated using data provided by visa applicants on their net worth. These receipts are now estimated from data on funds in the possession of immigrants when they arrive in Canada. Thus, receipts were revised sharply downward and the deficit in the
(Footnote Continued)

Non-Merchandise Transactions

45. The deterioration in the current account over the last two years in part reflects a worsening in the deficit on non-merchandise transactions from CAN\$27.8 billion in 1989 to CAN\$33.0 billion in 1990, and CAN\$34.2 billion in 1991.

46. Increased net investment payments accounted for much of the deterioration in Canada's non-merchandise balance in 1990. These payments increased from CAN\$21.1 billion in 1989 to CAN\$24.0 billion in 1990, reflecting both higher interest and dividend payments. The higher interest payments resulted from higher interest rates and the larger net external debt. The increase was moderated by the rising value of the Canadian dollar since part of Canada's debt is denominated in foreign currencies.

47. The investment income deficit narrowed slightly in 1991, to CAN\$23.0 billion as low profits due to the recession in Canada led to a decline in dividend payments. Lower interest rates and a continued rise in the value of the Canadian dollar also benefitted the investment income balance.

48. The slight improvement in the investment income balance in 1991 was offset, however, by a deterioration in the balance on services to CAN\$10.8 billion from CAN\$8.9 billion in 1990 and CAN\$7.0 billion in 1989. Part of this deterioration was due to a worsening of the travel balance, which in turn was due to increased numbers of Canadians crossing the border to shop in the United States.

Merchandise Trade

49. From 1986 to 1990, the merchandise trade surplus fluctuated around CAN\$10 billion, apart from 1989 when wheat exports were down sharply due to the 1988 drought. In 1991, the trade surplus dropped sharply to CAN\$7.4 billion.

50. In real terms, the trade balance improved in 1990 partly due to a rebound in wheat exports. Real merchandise imports, meanwhile, declined modestly, reflecting weak growth in domestic demand in Canada. Notably, the volume of automotive imports in 1990 was at its lowest level since 1984, reflecting both weak demand and the establishment of automotive plants in Canada by overseas manufacturers.

(Footnote Continued)

current account worsened. In 1990, for example, revisions to migrants funds increased the current account deficit by about CAN\$5.5 billion compared to previous estimates.

51. In 1991 the real trade balance deteriorated as weak export growth reflected the slow growth in the economies of Canada's major trading partners. Real imports were up only modestly relative to their 1990 levels as demand in Canada remained sluggish.

52. The terms of trade declined in both 1990 and 1991. Weak economic activity in much of the industrialized world, together with such supply-side factors as grain "subsidy wars" and increased supplies of metals from the former Soviet Union, led to declines in the prices of many of the commodities that Canada exports.

53. From 1986 to 1991, the share of exports from Canada to the United States declined somewhat while that of the European Economic Community increased. During those same years, the share of imports coming from the United States and from the industrialized world fell while imports from other countries rose.

Capital Account

54. The net inflow in the capital account, exclusive of official financing, fluctuated around CAN\$29 billion from 1988 to 1990. In 1991, this surplus increased to CAN\$34.9 billion.

55. In 1990, foreign direct investment increased sharply to a record level of CAN\$6.6 billion after averaging approximately CAN\$4.5 billion from 1987 to 1989. In 1990, the balance on foreign direct investment was positive for the first time since 1974. Foreign direct investment remained strong in 1991, increasing CAN\$5.9 billion and registering a net inflow for the second consecutive year.

56. Foreigners also added to their holdings of Canadian bonds in 1990 and 1991. New bond issues abroad totalled CAN\$23.4 billion in 1990, and CAN\$45.2 billion in 1991. Provincial governments and their enterprises were very heavy issuers in foreign capital markets.

Current Account Outlook

57. Weak growth in Canada's major trading partners will cause another large current account deficit in 1992. Beginning in 1993, however, the current account deficit is expected to improve steadily over the remainder of the forecast period.

58. This improvement is expected to result in large measure from faster growth in the economies of our major trading partners. Improved inflation performance over the forecast period will raise Canada's competitiveness. As well, the decline in the value of the Canadian dollar since its peak in November 1991 will help Canadian exporters compete. The structural reforms

undertaken in recent years are expected to raise Canadian productivity, which will also strengthen competitiveness.

59. In addition, Canada's improved inflation performance will allow further declines in interest rates over the forecast period. This will lighten the debt-service burden.

**CANADA: EXPORTS BY COMMODITY GROUPING, 1989 TO 1991
(CAN\$ MILLION, B.O.P. BASIS)**

COMMODITY GROUPING	1989	1990	% CHANGE	1991	% CHANGE
Agricultural and Fishing Products	11,796	12,834	8.8	13,301	3.6
Energy Products	12,284	14,739	20.0	14,763	0.2
Forestry Products	22,480	20,865	-7.2	19,275	-7.6
Industrial Goods and Materials	31,872	30,017	-5.8	28,272	-5.8
Machinery and Equipment	25,222	28,573	13.3	28,959	1.4
Automotive Products	34,624	33,875	-2.2	32,051	-5.4
Other Consumer Goods	2,617	2,792	6.7	3,022	8.3
Special Transactions and Adjustments	873	2,787	219.2	2,058	-26.2
Total	141,768	146,482	3.3	141,701	-3.3

**CANADA: IMPORTS BY COMMODITY GROUPING, 1989 TO 1991
(CAN\$ MILLION, B.O.P. BASIS)**

COMMODITY GROUPING	1989	1990	% CHANGE	1991	% CHANGE
Agricultural and Fishing Products	8,256	8,742	5.9	9,001	3.0
Energy Products	6,221	8,240	32.5	6,533	-20.7
Forestry Products	1,358	1,324	-2.5	1,216	-8.2
Industrial Goods and Materials	26,472	26,109	-1.4	24,259	-7.4
Machinery and Equipment	43,279	42,605	-1.6	42,681	0.2
Automotive Products	32,127	30,618	-4.7	31,141	1.7
Other Consumer Goods	15,023	15,861	5.6	16,602	4.7
Special Transactions and Adjustments	1,938	2,058	6.2	2,891	40.5
Total	134,673	135,557	0.7	134,323	-0.9

**CANADA: EXPORTS BY PRINCIPAL TRADING AREA, 1989 TO 1991
(CAN\$ MILLION, B.O.P. BASIS)**

PRINCIPAL TRADING GROUP	1989	1990	% CHANGE	1991	% CHANGE
United States	105,648	110,442	4.5	107,679	-2.5
United Kingdom	3,569	3,482	-2.4	3,010	-13.6
E.E.C. excluding U.K.	8,200	8,484	3.5	8,396	-1.0
Japan	8,487	7,653	-9.8	6,837	-10.7
Other O.E.C.D Countries	3,455	3,493	1.1	2,498	-28.5
Non-O.E.C.D. Countries	12,410	12,928	4.2	13,281	2.7
Total	141,768	146,482	3.3	141,701	-3.3

**CANADA: IMPORTS BY PRINCIPAL TRADING AREA, 1989 TO 1991
(CAN\$ MILLION, B.O.P. BASIS)**

PRINCIPAL TRADING GROUP	1989	1990	% CHANGE	1991	% CHANGE
United States	93,540	92,924	-0.7	92,639	-0.3
United Kingdom	4,508	4,942	7.2	4,150	-16.0
E.E.C. excluding U.K.	9,885	10,033	1.5	9,586	-4.5
Japan	8,284	8,230	-0.6	8,646	5.1
Other O.E.C.D Countries	4,021	4,986	24.0	4,345	-12.9
Non-O.E.C.D. Countries	14,335	14,441	0.7	14,958	3.6
Total	134,673	135,557	0.7	134,323	-0.9

CHAPTER II

TRADE POLICY SETTING AND FRAMEWORK

A. Federal Parliamentary System and Jurisdiction

60. Canada is a federal parliamentary democracy. The power to legislate in Canada is vested in a parliament whose members are democratically elected. The executive power resides with the Prime Minister and his cabinet, selected from members of parliament of the majority party. The administrative arm of the government is responsible directly to the cabinet through the relevant Ministers, and indirectly, through the budgetary process, to parliament. It acts as both advisor and implementer in the policy formulation process.

61. Canada's legislative authority is divided between the federal government and the provinces by the Constitution Act, 1867. Section 91(2) of that Act confers on the federal Parliament power to make legislation in relation to "the regulation of trade and commerce". This has been interpreted by the courts to mean, that in general, the federal trade and commerce power applies to: (1) interprovincial and international trade and commerce, and (2) general trade and commerce affecting the entire country (e.g. competition law).

62. Section 92(13) confers jurisdiction over "property and civil rights in the province" on the provincial legislatures. Intraprovincial trade and commerce is under provincial jurisdiction. Where the subject matter involves property and civil rights within provincial boundaries, the province has exclusive jurisdiction. However, the federal government may have concurrent jurisdiction over circumstances where interprovincial trade or international trade is at issue. Moreover, in respect to these matters, the federal government would have authority to enter into international agreements but may in some cases require provincial cooperation for implementation of aspects falling exclusively within provincial jurisdiction.

B. Trade Policy Legislation

63. Annex I lists statutes of Canada which could affect trade. Canadian trade law is found in four main statutes: the Customs Tariff, the Customs Act, the Export and Import Permits Act (EIPA), and the Special Import Measures Act (SIMA).

The Customs Tariff and the Customs Act

64. The Customs Tariff provides the authority to establish rates of customs duty on imports and sets out those rates in accompanying Schedules. The legislation also provides the authority for, inter alia, the levying of

surtaxes (Sections 59 and 60), the imposition of tariff rate quotas (Sections 42 to 45, 59 and 60) and surcharges (Section 61) on imported goods. The Customs Tariff also contains provisions for the determination of the origin of goods, the extension or withdrawal of preferential tariff rates, the rules for direct shipment, the marking of goods, certain duty relief programs (e.g. Machinery Program, Inward Processing), and the drawback of customs duties on goods used in Canada for specified purposes.

65. Since January 1, 1988, the Customs Tariff has been based on the Harmonized Commodity Description and Coding System (HS). The legislation for conversion to the HS provided authority for amendments of the Tariff to restore tariff rates which were in effect prior to January 1, 1988 and were changed inadvertently by the conversion. This authority expired on June 30, 1990.

66. The Customs Act provides the legislative authority (for administration and enforcement) required to collect duties and taxes imposed on importations under the Customs Tariff, the Excise Tax Act, the Excise Act and the Special Import Measures Act. It also provides the means of controlling the movement of goods into and out of Canada and supports the administration and enforcement of other statutes that prohibit, regulate or control the importation or exportation of goods.

The Export and Import Permits Act

67. The Export and Import Permits Act (EIPA) provides broad authority to control the import and export of designated products and technologies. Under its provisions, the Government may establish an Import Control List, an Export Control List and an Area Control List by order-in-council. Once a product has been added to either the Import or Export Control List or a country to the Area Control List, the Act gives the Secretary of State for External Affairs the authority to control the flow of goods through the issuance of import or export permits at her discretion. The Act allows for the addition or deletion of products to the Import or Export Control Lists, and of countries to the area Control List for a variety of specific purposes detailed in the legislation.

The Special Import Measures Act

68. The Special Import Measures Act (SIMA) provides authority for levying anti-dumping and countervailing duties. SIMA embodies the principles contained in GATT Articles VI, XVI, and XXIII, as well as the interpretations of those articles contained in the Anti-dumping Code and the Subsidies/Countervail Code. The objectives of SIMA are to provide an internationally-accepted set of rules for the application of anti-dumping and countervailing duties against imported products in those circumstances where investigations of the facts have established that material injury has

occurred, or is likely to occur, to Canadian production of like goods as a direct result of the importation of dumped or subsidized goods.

69. Anti-dumping and countervail investigations are generally initiated as a result of a complaint filed with Revenue Canada by a Canadian industry which alleges injury caused by dumped or subsidized imports. If the evidence warrants the initiation of an investigation, Revenue Canada is the responsible authority for making the preliminary determinations of dumping/subsidization and determining if a "reasonable indication" of injury exists. Final determinations of dumping/subsidization are made by Revenue Canada while the Canadian International Trade Tribunal (CITT) has the responsibility for making the final injury determination (see Annex II).

70. SIMA contains provisions that: (i) require that injury findings expire after five years unless they are reviewed by the CITT and continued on the grounds of the continued existence of, or threat of material injury. Reviews of the injury finding may be requested at any time by an interested party, and the Tribunal will review a finding if the request is warranted; (ii) permit the CITT to consider and report its opinion to the Minister of Finance (who may act on this opinion) as to whether the collection of the full amount of an anti-dumping or countervailing duty permitted under the law is in the public interest; and (iii) enable Revenue Canada's and the CITT's decisions to be appealed to the Federal Court and, with leave, the Supreme Court of Canada. Under the terms of the Canada-U.S. Free Trade Agreement, affected parties may choose to pursue their appeals before a binational dispute settlement panel rather than through a domestic judicial review process.

C. Trade Policy Developments in 1990-91

71. Canada has actively participated in the Uruguay Round of Multilateral Trade Negotiations (MTN) launched in September 1986. An early and successful conclusion of the MTN is Canada's top trade priority. From the outset, Canada pursued five major objectives: to improve market access; to bring agricultural trade under the General Agreement; to develop rules for new issues such as trade in services and trade-related aspects of intellectual property and trade-related investment measures; to have fairer and more equitable GATT rules; and to make the GATT's institutional framework stronger.

72. On February 5, 1991 the Prime Minister of Canada and the Presidents of the United States and Mexico announced their intention to pursue a comprehensive and trade-liberalizing North American Free Trade Agreement (NAFTA). The Canadian approach to the NAFTA negotiations builds on the Canada-U.S. FTA and is closely coordinated with Canada's efforts in the Uruguay Round of MTN. Canada's broad objectives in the NAFTA negotiations are: barrier-free access to Mexico for Canadian goods and services, while

developing tariff phase-out provisions and safeguard mechanisms which reflect Canadian import sensitivities; improved access to the U.S. market in such areas as financial services and government procurement; improved conditions under which Canadian businesses can make strategic alliances within North America to better compete globally; ensuring that Canada remains an attractive site for foreign and domestic investment; and the establishment of a fair and expeditious dispute settlement mechanism.

D. Internal Trade

73. Following its creation in 1987 by First Ministers, an intergovernmental Committee of Ministers on Internal Trade has focused on barriers to interprovincial trade in the areas of government procurement and liquor board marketing practices. The Intergovernmental Agreement on Beer Marketing Practices was concluded in 1990 and was implemented in 1991. It sets out the provisions and processes which will ensure that government policies and practices do not discriminate against the sale of Canadian beer or beer products by province or territory of origin. The Intergovernmental Agreement on Government Procurement was concluded in 1990 and announced in 1991 for implementation in 1992. It provides for the removal of the discrimination, on the basis of geography, in the procurement of goods valued at CAN\$25,000 or more and a related process of dispute resolution.

74. In parallel, federal, provincial and territorial Ministers of Agriculture have been addressing barriers to interprovincial trade in agricultural and food products. In 1991, following earlier work, they concluded a Memorandum of Understanding to reduce technical barriers, exchange information on proposed legislation or regulation, and establish a dispute settlement panel.

75. In September 1991, Ministers of Transport agreed to: a Memorandum of Understanding on vehicle weights and dimensions, extending a 1988 agreement (when the Motor Vehicle Transportation Act was amended) to include four additional categories of vehicles; and to reciprocal recognition of mandatory periodic commercial motor vehicle inspections.

76. The federal government also announced in its 1991 Speech from the Throne that it was committed to working with provinces and territories to remove barriers to interprovincial trade and to create a single, integrated market by 1995.

CHAPTER III**TRADE POLICY IMPLEMENTATION AND PRACTICES IN 1990-91****A. By Measure**

77. Implementation of Canada's trade policy centers on five broad areas: customs and tariff administration in accordance with Canada's trade statutes and international trade agreements, including the General Preferential Tariff; import and export controls; anti-dumping and countervail measures; government procurement; and export financing and marketing assistance. Canada did not take any safeguard actions under the GATT in 1990-91.

Customs and Tariff Administration

78. Revenue Canada has the mandate to control, regulate, manage and supervise the collection of customs duties and excise duties and taxes. The Customs and Excise jurisdiction of Canada applies to the outer limits of the continental shelf or to a distance 200 miles from shore, whichever is further.

79. All goods entering Canada must be reported at the nearest Customs office and made available for examination, except under certain circumstances set out in regulations.

80. Goods, if not released at the time of importation, may be transported in bond within Canada to another Customs office or to a sufferance or bonded warehouse or duty-free shop licensed by Revenue Canada. Such transportation is subject to the deposit of security to cover the duties that are payable and to the maintenance of transportation records in Canada by the transporter.

81. Generally, goods cannot be released until they have been accounted for by the importer or owner and all the duties paid. However, the Customs Act provides for the release of goods prior to accounting and payment of duties if an interim accounting is made and is followed up by a final accounting and payment of duties within the prescribed time. Importers of commercial goods must also maintain records in Canada of all importations and make such records available to Revenue Canada on request.

82. The Customs Act sets out the methods for calculating the value for duty of imported goods and is in accordance with GATT Customs Valuation Code. The primary method for customs valuation is the transaction value method, which bases value for duty on the selling price in the export transaction. The transaction value of imported goods is the price actually paid or payable for the goods, as adjusted, when sold for exportation to

Canada. Where the value for duty cannot be calculated in this matter, the Act specifies several other methods to be used and the order in which these methods shall be considered.

83. Once imported goods have been accounted for, an officer may determine the tariff classification and appraise the value for duty of the goods within 30 days of the day of accounting. Customs duties are levied in the context of the Customs Tariff which sets out the tariff treatment accorded Canada's trading partners. Schedules I and II of the Customs Tariff contain approximately 8,000 tariff items and rates of duty applicable to goods imported into Canada. The legislation also provides for the determination of the origin of goods which in turn relates to the tariff treatment to which they are entitled.

84. Canada has nine tariff treatments: Most-Favoured-Nation Tariff (MFN), General Preferential Tariff (GPT), including special preferences for the Least Developed of the Developing Countries (LDDC), the United States Tariff (UST), the British Preferential Tariff, Australia Tariff, New Zealand Tariff, Commonwealth Caribbean Countries Tariff and the General Tariff. The MFN, UST and GPT are the principal tariff treatments. Schedule III of the Customs Tariff sets out the tariff treatment to be accorded goods originating in various countries. Notwithstanding the rate of customs duties imposed under the various tariff treatments outlined in the Customs Tariff, goods may benefit from lower rates of duty or duty-free entry under other provisions of the Customs Tariff by special duty relief programs (e.g. special concessionary items, specified goods used in the production of goods in Canada, goods used for special purposes).

85. Canada's General System of Preferences, known in Canada as the General Preferential Tariff (GPT), came into effect in 1974 for an initial ten year period and was subsequently extended until 30 June 1994. (Sections 35 to 41 of the Customs Tariff). Under the GPT, rates of duty on most eligible products are generally two thirds of the Most-Favoured-Nation (MFN) rates or less. Countries which qualify as "least developed" (LDDC Tariff) are granted duty-free treatment for all GPT-eligible products. The GPT applies to most manufactured and semi-manufactured goods, and to some agricultural products. Most textiles, apparel and leather footwear and certain steel products are excluded, as these industries are sensitive to imports receiving preferential treatment. The GPT applies to all developing countries eligible for MFN treatment, as well as to most countries of Central and Eastern Europe.

86. On February 1, 1992 Canada announced that it was undertaking to extend General Preferential Tariff status to Russia, Ukraine, Armenia, Estonia, Latvia and Lithuania. Canada extended GPT status to Namibia on October 15, 1991 and the Czech and Slovak Federal Republic on January 1, 1992.

87. At the time of importation, goods may be assessed other charges apart from regular customs duties. These include anti-dumping duties and countervail duties under the Special Import Measures Act, Goods and Services Tax (GST) under the Excise Tax Act and excise taxes on alcoholic beverages, tobacco and tobacco products under the Excise Act. It should be noted that the GST and excise taxes also apply to domestically-produced goods.

88. Importers or the persons who paid the duties may request a review of the tariff classification or value for duty by an officer designated by the Minister responsible for Revenue Canada. If not satisfied with the decision of the designated officer, a second request for review may be made to the Deputy Minister. Subsequently, the Deputy Minister's decision may be appealed to the Canadian International Trade Tribunal and the Tribunal's decision appealed to the Federal Court. Reviews of the tariff classification or value for duty of imported goods may also be initiated by the designated officer or the Deputy Minister under the circumstances set out in the Act. In this regard, the Customs Act also provides for the deposit of security in lieu of payment of disputed monies, the payment of interest on amounts owed to the importer and the collection of interest on amounts owed to the Department. Similar appeal provisions apply to the duties imposed under the Special Import Measures Act and the Excise Tax Act.

89. The Customs Act permits Revenue Canada to grant relief from duties in the form of abatements, refunds, drawbacks or remission in certain circumstances such as goods that have suffered damage, deterioration or destruction, goods of inferior quality, goods deficient in quantity, goods diverted to a special use or user, goods imported and further manufactured which are then exported.

90. Most goods are permitted entry into Canada. However, there are a number of statutes which control, regulate or prohibit the entry of specific commodities. A list of specific goods which are prohibited entry into Canada is found in Schedule VII to the Customs Tariff and includes such products as obscene literature or hate propaganda, reprints of Canadian copyrighted works, offensive weapons and counterfeit coins. The Export and Import Permits Act also provides for the control and restriction of goods exported from specified countries or for the restriction, control or prohibition of specified goods (e.g. textiles, wearing apparel, endangered species). Other products for which entry is prohibited or controlled are those identified under the Food and Drug Act and Narcotic Act (under Health and Welfare Canada). Such products include narcotics, drugs, food, cosmetics, medical and contraceptive devices. There is also legislation to control the importation of animal and meat products, plants, fruits, vegetables and soil by certificates, inspection and/or quarantine.

Bindings, Tariff Treatments and Rules of Origin

91. Most imports enter Canada under tariff items with bound rates of duty. In 1991, of CAN\$136.4 billion total imports, CAN\$128.4 billion represented trade under bound tariff items (either wholly, partially or conditionally bound). Hence, in 1991 only 5.9 per cent of Canadian imports fell under unbound tariff items. These unbound tariff items are concentrated in petroleum oils, representing CAN\$5.5 billion of the total unbound trade of CAN\$9.0 billion. In looking specifically at the agricultural sector, in 1991 total imports stood at CAN\$9.0 billion, of which CAN\$100 million were imported under unbound tariff items (i.e. 1.1 per cent of the total unbound trade).

92. In looking at all imports, including duty free, the average MFN rate of duty on total Canadian trade was 3.3 per cent in 1991. The average MFN rate of duty on imports into Canada under dutiable lines stood at 9.5 per cent. In 1991, 71 per cent of Canadian tariff lines (HS tariff) were duty free on an MFN basis and 65 per cent of total trade into Canada was imported duty free.

93. All Canada's trading partners which are signatories to GATT or with which Canada has negotiated bilateral trade agreements receive the benefit of MFN treatment. Additional preferences given to GPT, LDDC and Commonwealth Caribbean Countries derive from the 1979 Enabling Clause and Article XXV(5) of GATT and are granted under the authority of the Customs Tariff. The tariff preferences granted to Australia, New Zealand and British Commonwealth Countries are specifically allowed under Article I of GATT since they were in effect at the time Canada acceded to the General Agreement.

94. Canada has in place different rules of origin which apply to goods originating in designated countries, and that qualify the goods for the various tariff treatments. In all cases, the rules of origin are based on a certain percentage of the price or cost of production of the goods originating in beneficiary countries or of Canada, except for the rules for the determination of U.S.-origin goods.

95. To qualify for MFN treatment, proof of origin of the goods is required in the form of a commercial invoice stating the country of origin, the goods must be shipped directly to Canada from a MFN country, and at least 50 per cent of the cost of production of the goods must have been incurred amongst one or more MFN countries.

96. In order to benefit from the GPT, the goods must meet rules of origin which stipulate that the goods must be wholly the produce or manufacture of the beneficiary country or, if imported materials are included, at least 60 per cent of the ex-factory price of the goods must be value added in the beneficiary country, in other GPT beneficiary countries or in Canada.

Proof of origin is required in the form of a certificate of origin (Form "A") and the goods must be shipped directly to Canada from a beneficiary country on a through bill of lading, unless an exemption has been granted. Transshipment through intermediate countries is allowed under conditions specified by Section 18 of the Customs Tariff. Since 1984, Canada has permitted the cumulation of value added in two or more beneficiary countries to be used in meeting the criteria under the rules of origin.

97. To qualify for LDDC tariff treatment, a certificate of origin (Form "A") is required, at least 40 per cent of the ex-factory price of the goods must be the product of one or more LDDC beneficiary countries or of Canada and the goods must be shipped directly to Canada from a beneficiary country on a through bill of lading. Transshipment through intermediate countries is allowed under conditions specified by Section 18 of the Customs Tariff.

98. The FTA provides product-specific rules of origin based on tariff change criteria which must be met if U.S. goods are to benefit from the lower rates of duty under the UST. Essentially, goods, other than those which originate wholly in either Canada and/or the United States, have to incorporate some significant Canadian or U.S. content to be entitled to preferential rates of duty. Depending on the sector, a change in tariff heading would confer origin and in others, a "value added" test (usually 50 per cent) would also be required. Proof of origin must also be furnished under the terms and conditions set out in regulations.

99. Specifically, under the terms of the FTA, goods originate where:

- (a) goods are wholly obtained or produced in the territory (i.e. Canada and/or the United States);
- (b) goods are processed or assembled in the territory so that any third country components:
 - i) meet the particular rules set out in the Annex to the FTA (e.g. change in tariff heading); and
 - ii) no processing or assembling subsequently takes place in a third country;
- (c) goods are assembled in the territory and no tariff change occurs because the tariff subheading for the goods provides for both the goods and their parts or the goods are imported into the territory in an unassembled or disassembled condition and are classified as such pursuant to General Interpretative Rule 2(a) of the Harmonized System (note that this whole provision does not apply to goods of Chapters 61 to 63) if:

- i) at least 50 per cent of the value of the goods (i.e. materials and direct cost) originate in the territory; and
- ii) the goods have not been further assembled or processed subsequently in a third country.

100. Goods do not originate in the United States if they have only undergone:

- (a) simple packaging or, except as expressly provided by the rules set out in the Annex to the FTA, combining operations;
- (b) dilution;
- (c) an operation solely to circumvent the provisions of the FTA rules of origin.

101. To qualify for BPT treatment, proof of origin is required in the form of a commercial invoice stating the country of origin. The goods must be shipped directly to Canada on a through bill of lading from a BPT beneficiary country. Transshipment is allowed only through another BPT beneficiary country, the U.K. or Hong Kong under the conditions specified by Section 18 of the Customs Tariff. In addition, at least 50 per cent of the cost of production of the imported goods must have been incurred amongst one or more countries entitled to the benefits of BPT.

102. To qualify for the Australian preferential tariff, proof of origin is required in the form of a commercial invoice stating the country of origin. The goods must be finished in Australia in the form in which they were imported into Canada and at least 50 per cent of the cost of production of the goods must have been incurred in Australia (in the case of special rates of duty for Australia) or in one or more BPT beneficiary countries (in the case of BPT rates) or in Canada. The goods must be shipped directly to Canada on a through bill of lading. Transshipment through intermediate countries is allowed under the conditions specified by Section 18 of the Customs Tariff.

103. To qualify for the New Zealand preferential tariff, proof of origin is required in the form of a commercial invoice stating the country of origin. The goods must be finished in New Zealand in the form in which they were imported into Canada and at least 50 per cent of the cost of production of the goods must have been incurred in New Zealand (in the case of special rates of duty for New Zealand) or in one or more BPT beneficiary countries (in the case of BPT rates) or in Canada. The goods must be shipped directly to Canada on a through bill of lading. Transshipment through intermediate countries is allowed under the conditions specified by Section 18 of the Customs Tariff.

104. To qualify for duty-free entry under the Commonwealth Caribbean Countries Tariff, a certificate of origin (Form "A") is required, at least 60 per cent of the ex-factory price of the imported goods must be the product of a Commonwealth Caribbean country or of Canada and the goods must be shipped directly to Canada from a beneficiary country on a through bill of lading. Transshipment through intermediate countries is allowed under the conditions specified by Section 18 of the Customs Tariff.

105. The General Tariff applies to all goods of countries not entitled to MFN treatment with the exception of certain petroleum products, some paintings and drawings, certain books, ferro-chromium and goods classified under Chapter 98 of the Customs Tariff. The General Tariff rate of duty is set at 35 per cent under Section 46 of the Customs Tariff. The countries or territories to which this rate currently applies are Albania, Democratic People's Republic of Korea (i.e. North Korea), Libya, Mongolia and Oman.

Tariff Concessions

106. In addition to the tariff treatment preferences which are provided for in the Customs Tariff, Canada allows the duty-free entry or entry at reduced rates of duty under certain circumstances or under specific programs as described below:

107. **Customs Duties Reduction:** Section 68 of the Customs Tariff provides a mechanism by which customs duties may be reduced or eliminated. This action may be taken either by statutory amendments to the primary legislation (i.e. Customs Tariff) or by executive order.

108. In respect to the statutory concessionary items, the products and uses are set out in Schedule II to the Customs Tariff. Amendments to this list can only be made with the approval of Parliament. For example, the rate of duty for equine leather for use in the manufacture of baseballs has been reduced, on a MFN basis, from 10.2 per cent to duty free (code 2605).

109. With respect to the elimination or reduction of customs duties by executive order, the products which can benefit are materials used in the manufacture of products and most chemicals and plastics. The products and uses are set out in the "Customs Duties Reduction or Removal Order" and the "Chemicals and Plastics Duties Reduction or Removal Order".

110. **Drawbacks and Remissions:** Canada has the legislative authority to put in place provisions which remit or otherwise waive customs duties, usually under certain conditions. These provisions can be broken out into four major areas of relief as follows: home consumption drawback, drawback for export and inward processing, machinery remission program and specific remission orders.

111. **Home Consumption Drawback:** It provides for a whole or a partial refund of duties on goods which have been consumed in the manufacture of certain products in Canada. The products and circumstances under which relief is provided are set out in Schedule IV and V to the Customs Tariff and include such products as materials used in the production of fertilizers and fire brick used in the construction or repair of coke ovens.

112. **Drawback for Export and Inward Processing:** Canadian legislation provides for a reimbursement of customs duties on imported goods which are exported without being used in Canada or which are used or consumed in the manufacture of goods subsequently exported. Similarly, the Inward Processing provisions of the Customs Tariff provide for the same kind of relief from duties as is available through the export drawbacks but allows importers to post security rather than pay duties and file for a drawback after exportation.

113. Under the terms of the Canada-U.S. Free Trade Agreement, the drawback for export and inward processing programs will be eliminated by January 1, 1994, for goods exported to the United States.

114. **Machinery Remission Program:** The Machinery Remission Program provides for the relief of customs duties on a wide range of machinery when reasonably equivalent machinery is not available from Canadian manufacturers. The goods covered by this program must be classified under the tariff items listed in Schedule VI to the Customs Tariff.

115. **Remissions:** Section 101 of the Customs Tariff provides the authority to remit customs duties by executive order. Remissions basically are used only in exceptional circumstances: for example, to rectify short term anomalies or inequities in the Tariff structure. In some cases, remission is conditional on importers meeting specified performance requirements. As a result of the Canada-U.S. Free Trade Agreement, these latter remissions are to be eliminated by January 1, 1998.

Customs Valuation

116. Since January 1, 1985, Canada assesses customs duties according to the "Agreement on Implementation of Article VII of the GATT" (i.e. the Valuation Code). This system of valuation focuses mainly on the value which a buyer and seller attach to goods in an open market, export transaction, without regard to circumstances prevailing in the exporter's home market. The primary basis of value for Customs purposes is the price actually paid or payable for the goods when sold for export to the country of importation. This is referred to as "transaction value". When the value cannot be determined on this basis, there are five alternative methods of valuation which are applied in sequential order as set out in the Valuation Code.

Marking of Imported Goods

117. In principle, the purpose of the marking is to inform the consumer, ultimate purchaser or end-user of the country in which the imported goods were made.

118. Only certain specified goods imported into Canada must be marked, stamped, branded or labelled in legible English or French words, in a conspicuous place so as to indicate the country of origin. The types of imported goods which must be marked fall under one of the following categories: personal or household use, hardware, novelties and sporting goods, paper products and wearing apparel. The complete detailed list is specified in regulations.

Other Tariff Related Measures

119. **Tariff Rate Quotas:** Canada has the legislative authority under Sections 42 to 45, 59 and 60 of the Customs Tariff to impose tariff rate quotas as a retaliation measure to enforce Canadian rights under a trade agreement or in response to practices implemented by other countries which, as a result of discrimination, adversely affect trade in Canadian goods and services or as a safeguard measure. Canada has never imposed a tariff rate quota under these provisions.

120. Canada has put in place a quasi-tariff rate quota in the context of the Canada-U.S. Free Trade Agreement (FTA). Under FTA rules of origin, articles of apparel and clothing accessories which are both cut and sewn in the U.S. from fabric produced or obtained in a third country do not qualify for the preferential FTA rates of duty. Nevertheless, and in accordance with the FTA, such apparel is entitled to the preferred rates of duty up to specified annual amounts.

121. **Withdrawal of Concessions:** Under Section 59 of the Customs Tariff, action can be taken to enforce Canadian rights under a trade agreement or in response to practices implemented by other countries which adversely affect trade in Canadian goods and services. The action may take the form of the withdrawal of rights or privileges granted a country under a trade agreement, the application of a surtax on the goods of any country or the imposition of quotas or tariff rate quotas on imports of any product. These are mechanisms of last resort to be used only when countries cannot arrive at a negotiated settlement.

122. **Surcharges:** The Customs Tariff (Section 61) permits the imposition of a surcharge on imported goods where it is considered that such a measure is required because of Canada's external financial position or by the state of its balance of payments. The surcharge may vary for different goods. The last time Canada invoked this provision was 1962.

Import and Export Controls

123. **Import Control List:** Canada is a signatory to the GATT Agreement on Import Licensing Procedures. The basic statutory instrument for controlling imports and exports is the Export and Import Permits Act. It provides the authority and sets out the criteria for establishing an Import Control List, an Export Control List and an Area Control List. Control over the flow of particular goods to or from specific destinations contained in the list takes place by issuing permits.

124. The reasons for placing goods on the Import Control List include: ensuring adequate supply and distribution of an article that is scarce in world markets or is subject to control in the country of export; supporting actions taken to control domestic production or marketing or price stabilisation schemes for agricultural products; implementing a quantitative restriction pursuant to a finding of serious injury or threat of injury, or collecting information to determine such a finding; collecting information to facilitate implementation of action taken under the Customs Tariff; or to monitor trade in specified categories of steel.

125. The items on the Import Control List include dairy products, chicken and its products, turkey and its products, eggs and egg products, broiler hatching eggs and chicks for chicken production, textile and clothing items, work gloves, handbags, endangered species, arms, carbon steel, specialty steel products, goods of South African origin, flora or fauna listed in the Convention on International Trade in Endangered Species (CITES), small arms, large calibre weapons, racoon dogs, goods imported from Haiti and black bears.

126. There have been two changes to the Import Control List since 1990. In October 1991, goods imported from Haiti or goods of Haitian origin, except personal goods or settler's effects, were placed on the Import Control List. This action was taken to implement the resolutions of the Organisation of American States in response to the coup d'état in Haiti. In December 1991, black bears were placed on the Import Control List in support of the CITES.

127. Canada's import surveillance includes carbon and specialty steel products, and textiles and clothing.

128. **Import Quotas:** Quantitative restrictions are in place for certain items including poultry, eggs, broiler hatching eggs and chicks, certain dairy products such as cheese and condensed milk, and textiles and clothing. While restraints on textiles and clothing are imposed mainly under the Multifibre Arrangement, those on the other products are in place in support of domestic restrictions on production and marketing.

129. Generally, for those products in which the restriction is on a specific product, an annual import quota, called a global import quota, is allocated to qualified applicants. Global import quota allocations are usually valid for one calendar year and are not transferable.

130. For all agricultural products, except cheese and certain dairy products, the annual access level is a percentage of domestic production. For cheese, the global import quota is fixed at 20,411 tonnes per calendar year. For certain products on the Import Control List, such as butter, import permits are not usually issued.

131. The method of allocating global import quota to individual quota holders differs from product to product. All cheese global import quota is allocated to individuals or firms who were engaged in importing cheese during the several years immediately prior to the implementation of import restrictions. In the case of broiler hatching eggs and chicks, by 1993, all global import quota will be allocated to federally registered hatcheries who apply on the basis of their market share. Global import quota for chicken, turkey, eggs and their products is allocated according to a set of procedures that designates a portion to firms engaged in importing prior to the introduction of controls, and another to new entrants, small quota holders and manufacturers of further processed product.

132. In 1985, import restrictions on beef and veal, authorised by the Meat Import Act and implemented using Article XIX of the GATT, were imposed for one year. In every year since 1985, Canada has reserved its right to impose import restrictions on beef and veal but has decided not to implement them.

133. Import quotas on ice cream and yoghurt, imposed in 1988, led to a GATT panel ruling that these trade restrictions were not in conformity with current GATT rules. Canada has undertaken to bring its practice into conformity with GATT in the context of a successful conclusion of Multilateral Trade Negotiations.

134. **Import Permits:** The Export and Import Permits Act enables the Secretary of State for External Affairs, or her designate, to issue import permits to residents of Canada who apply to import goods on the Import Control List. The import permits are issued by the Export and Import Permits Bureau of External Affairs and International Trade Canada.

135. Importers with global import quota allocations must apply for import permits for every shipment. The amount of goods imported is subtracted from the global import quota allocated to that company. Import permits will normally be issued if the applicant has outstanding global import quota.

136. Import permits are generally valid for 30 days - 5 days before the proposed entry date and 25 days afterward. Import permits may be extended but are not transferable. Since 1980, over 90 per cent of applications for import permits have been approved. Accommodations are made for imports that are marginally in excess of the amounts stated on import permits: up to 5 per cent in excess of the stated value or quantity or 50 units, whichever is less. For many products on the Import Control List, limited importation of goods for personal use is permitted.

137. In general, an attempt is made in the management of import restrictions on agricultural products to respond to short supply conditions. Import permits in excess of the global import quota, known as supplementary import permits, may be issued if there is a domestic shortage of those products and for test marketing. Prospective importers must meet certain conditions that are usually specified in Notices to Importers. Amongst other conditions, importers must provide evidence that the product is in short supply and generally must have used the global import quota available to them. Supplementary permits may also be issued for a product that will be processed in Canada and re-exported.

138. The Canada-U.S. Free Trade Agreement has had two major effects on import restrictions. The two countries will exempt each other from restriction under their respective meat import laws. Also, Canada has increased its global import quota on poultry and shell eggs.

139. The increase in shell egg imports is being allocated to federally registered egg grading stations, based on the market share of those that apply. The increase in the chicken and turkey global import quotas due to the Free Trade Agreement are allocated first to manufacturers of further processed product not on the Import Control List, with the remaining distributed according to the usual procedures for allocating growth in import quota availability.

140. There is no formal appeal procedure for the issuance of global import quota and supplementary import permits, but applications may be made to senior officials, the Secretary of State for External Affairs and the Minister for International Trade, and subsequently to the Federal Court of Canada.

141. **Export Controls:** Canada controls its exports through the issuance or denial of export permits (licences). Two different criteria for controlling exports are used. One is to control the export of all goods to any destination as identified on the Area Control List (ACL). The second is to control the export of certain products as listed on the Export Control List (ECL) to all destinations with some exceptions. For example, most goods on the ECL are not subject to export permits if destined to the United States.

142. For many years, the Area Control List included primarily Warsaw Pact countries and their allies. In September 1986, Canada altered its policy regarding sales of non-military goods. As of December 1991, the Area Control List included only Libya, South Africa, Haiti and Yugoslavia.

143. Products can be placed on the Export Control List for several reasons. They include: meeting defence or other domestic needs by ensuring adequate supply and distribution of a product; to promote the further processing of Canada's natural resources; to implement an intergovernmental arrangement or commitment; to control the export of military or strategic goods for national security reasons; or to keep exports of non-agricultural raw materials under surveillance in times of surplus supply and depressed prices.

144. The Export Control List is divided into eight Groups of controlled products. The first three Groups, the Industrial List, the Munitions List and the Atomic Energy List, respectively, cover those goods subject to COCOM controls and therefore restricted to the countries on the COCOM proscribed list.² Restrictions also apply to countries other than those proscribed by COCOM in furtherance of Canadian foreign policy objectives and to prevent diversion of the goods to the COCOM proscribed destinations. Group 4 encompasses Canada's commitments under the Nuclear Non-proliferation Treaty. Group 5 is a list of Miscellaneous goods controlled primarily for domestic policy reasons. Group 6 includes goods that are controlled by reason of Canada's commitments under the Missile Technology Control Regime (MTCR) and encompasses goods that are used, or could be used, in the proliferation of missile systems capable of delivering chemical, biological or nuclear weapons. Group 7 is a list of chemical precursors and related dual-use production equipment that could be used to produce chemical weapons. This Group reflects Canada's commitments under the Australia Group. Finally, Group 8 contains a list of chemical precursors that could be used in the production of illicit drugs. It reflects Canada's commitments under the Chemical Action Task Force and the United Nations Convention Against Illicit Traffic in Narcotic and Psychotropic Substances.

145. Permits for ECL-controlled goods to the United States are required for atomic energy materials and equipment, for some goods subject to controls because of Canadian domestic policies or bilateral agreements and for automatic weapons as described and identified under Canada's Criminal

²These countries are Albania, all the Republics of the former Soviet Union, Bulgaria, the People's Republic of China, the Democratic People's Republic of Korea, Hungary, the People's Republic of Mongolia, Poland, Romania and the Czech and Slovak Federal Republic.

Code. All other ECL goods are not subject to the permit requirements if the United States is the country of destination.

146. Exports of most goods on the Export Control List require end-use assurances in the form of International Import Certificate (IIC) or End-use Certificates (EUC) issued by the government of the importing country. For those governments which do not issue IIC's or EUC's, the importing company may be required to provide an end-use statement certifying as to end-use and that the goods will not be diverted elsewhere or to another use contrary to that which was identified on the export permit.

147. In addition to the Export Controls Division of the Department of External Affairs and International Trade Canada, other government agencies involved in controlling exports include Revenue Canada (Customs and Excise) and the Royal Canadian Mounted Police, both of which enforce the controls. Regarding interdepartmental consultations concerning the evaluation of strategic or military equipment, the agencies involved include the Atomic Energy Control Board and the Departments of National Defence, Communications, Environment and Industry, Science and Technology.

Anti-Dumping and Countervailing Actions

148. The Special Import Measures Act (SIMA) contains the authority for Canada's anti-dumping and countervailing duties. The Act is based on internationally-accepted GATT rules governing the conduct of anti-dumping and countervail investigations and the application of anti-dumping and countervailing duties against injurious imports.

149. Between January 1, 1990 and December 31, 1991, Canada initiated 30 anti-dumping investigations (actions) (See Annexes II to IV). This number is slightly less than the previous 24 actions over the 18 month period between July 1988 and January 1990 and is in line with a steady decrease since 1985.

150. During the two-year period noted above, 11 definitive duties on four products were imposed, 5 actions were terminated, 3 actions ended in no injury findings, and 11 were still in progress at the end of 1991. All findings have a maximum duration of five years.

151. Canada has hardly used price undertakings: only one was accepted over the period January 1990 to December 1991. This may be attributable to the time constraints which restrict negotiation and acceptance of a price undertaking to the time period preceding the imposition of preliminary measures. After that time, undertakings may not be accepted.

152. Canada did not initiate any countervailing duty investigations during the period January 1990 to December 1991.

153. The SIMA provides for the CITT to review its findings of injury at any time after findings are made. If a review is warranted, the CITT may rescind the finding, or continue it with or without amendments. Any injury finding not reviewed by the CITT within in five years of the original finding or the date of the latest review, is rescinded at the end of that five-year period. The rules of procedure require the CITT to notify interested parties requesting their views on whether to review the finding.

154. Between January 1990 and December 1991, the CITT reviewed 88 findings, of which 61 were rescinded, 19 maintained, and 14 expired. Currently, the CITT is conducting a review of two other findings (see Annex V).

Government Procurement

155. The main objectives of contracting by the Canadian government are to achieve an optimal combination of quality, timeliness and total costs of acquisitions and to reflect fairness in spending public funds. When appropriate, government contracting also relates to national policies and objectives such as those for industrial and regional development.

156. Canadian federal government procurement is governed by the following acts, regulations and policies:

- (a) The Department of Supply and Services Act establishes Supply and Services Canada (SSC) as a common service agency with a broad mandate to provide departments, boards and agencies of the Government of Canada with material and a range of services.
- (b) The Financial Administration Act provides the statutory framework for the collection and expenditure of public monies including specific provisions in the form of Government Contracts Regulations which set out the conditions under which contracting authorities may enter into contracts.
- (c) The Defence Production Act assigns the Minister of SSC with exclusive authority to acquire defence supplies.
- (d) Policy Manuals such as the Treasury Board Manual on contracting and the SSC Supply Policy Manual, set out the general and administrative policies which guide departmental procurement.

157. Canada's obligations under GATT and the Canada-U.S. Free Trade Agreement (FTA), when they apply, override federal procurement policies internal to the federal government such as the Priority Groups Sourcing

Policy favouring Canadian products and services.³ Goods procurement subject to GATT and FTA are generally handled by SSC and involve those purchases by specific entities valued from CAN\$29,000 to under CAN\$204,000 for the FTA, and CAN\$204,000 and over for the GATT Government Procurement Agreement.

158. Services procurement, with some exceptions, are handled by all government departments and agencies.

159. Since 1989, consistent with the Canadian government efforts to liberalize trade, a number of initiatives have been undertaken by SSC to improve access for suppliers to federal government procurement:

- a) implementation of the FTA, which builds on the GATT Code by opening a further portion of government contracting to competition between Canada and the United States, and establishment of the Procurement Review Board (PRB). The PRB is empowered to receive complaints, conduct investigations and issue a determination which may include recommending an appropriate remedy, regarding cases in which a bidder feels he has not been fairly treated.
- (b) publication of procurement notices in a more user-friendly document, Government Business Opportunities (GBO);
- (c) a gradual shift to open bidding procedures and a decreasing reliance on source lists for procurement over CAN\$25,000 (not just those subject to GATT and FTA.) Introduced on a pilot basis in November 1989, SSC's Open Bidding Policy has now been expanded to include the majority of SSC goods and services procurement over CAN\$25,000 whereby notices of proposed procurements are published in the GBO and on the electronic Procurement Opportunities Board (POB); and
- (d) SSC has also begun publishing in the GBO and the POB notices of intention to use single tendering procedures; these notices are referred to as Advance Contract Award Notices (ACANS).

160. Canada is currently participating in the work of the GATT Committee on Government Procurement aimed towards broadening the coverage of the GATT Code and improving Code procedures.

³As of April 1, 1992, the Canadian content premium policy and the FTA premium policies have been eliminated.

161. Out of the estimated total Canadian government procurement of CAN\$16 billion, approximately 26 per cent comprises direct and indirect imports. With respect to procurement awarded under the GATT Code (threshold value CAN\$213,000 for calender years 1988 and 1989), the following statistics are available for 1989 in Canadian dollar and based on country of origin for goods supplied:

	<u>Value of Contracts Awarded in CAN\$'000</u>	<u>Percentage</u>
Canada	971,477	69.81
EC	284,024	20.41
Japan	4,929	0.35
Sweden	2,136	0.15
Switzerland	1,455	0.10
United States	125,075	8.99
Other	2,311	0.17
<hr/>		
Total	1,391,407	

162. The following is a list of SSC goods procurement by broad product area:

**SUPPLY AND SERVICES CANADA
VALUE OF GOODS CONTRACTS FOR MAJOR COMMODITY GROUPS
FISCAL YEAR 1990/91**

Description	Value of Documents (CAN\$'000)
Data Processing Equipment	712,942
Fuels, Lubricants, Oils & Waxes	561,042
Communication Equipment	553,454
Aircraft Frames & Structures	292,164
Furniture	285,917
Ammunition & Explosives	220,714
Aircraft Components & Accessories	175,421
Instruments & Laboratory Equipment	154,471
Ground Effect Vehicles, Motor Vehicles	128,564
Subtotal	3,084,689
Total Goods Procurement	4,992,259

Export Finance and Marketing Assistance

163. The Export Development Corporation (EDC) is Canada's official export credit agency, responsible for providing export credit insurance, loans, guarantees, and other financial services for Canada's export community. EDC's financial services assist Canadian exporters to compete effectively in international markets by reducing the financial risks associated with export sales, or by funding foreign buyers of Canadian exports. EDC also offers insurance for Canadian foreign investment, and bonding and surety services for Canadian exporters bidding on export contracts.

164. The EDC is a state enterprise wholly-owned by Canada. EDC funds itself on international and domestic capital markets. Securities issued by EDC are direct unconditional obligations of EDC and as such constitute direct and unconditional obligations of Canada.

165. Loans signed on the corporate's own account were CAN\$1,276 million in 1990. The EDC funds its requirements at advantageous terms appropriate to its AAA credit status and maintains a sound liquidity position. The Corporation is active throughout the world's financial markets and is well received by investors, not only on the strength of its financial position, but also for its use of innovative methods.

166. The government, through the Minister for International Trade, also provides support to Canadian exporters under the EDC's Canada Account which matches concessional financing offered by other countries to their exporters and extend loans to countries that the EDC does not consider credit-worthy. Financing in 1990 was about CAN\$198 million under this Account. The terms and conditions of Canadian concessional financing are consistent with Canada's commitments under the OECD Arrangements on Guidelines for Officially Supported Export Credits (the Consensus). The main sector covered by the Account is capital projects for public infrastructure requirements of developing countries. Over half of the total financing concluded last year was provided to assist Canadian exporters selling to buyers in Africa and Asia.

167. The objective of EDC export insurance is to promote the growth of Canadian exports through the provision of a complete portfolio of insurance and guarantee services which protect exporters against export and foreign investment risks. Such services are available to cover short-term credit of up to 180 days relating to the sale of general commodities and services; agricultural products sold on credit terms of up to three years; goods and services transactions made on medium credit terms of up to three years; goods and services transactions made on medium credit terms of up to five years; as well as Foreign Investment Insurance. In 1990 the EDC provided insurance guarantees of CAN\$4.8 billion on its own account and CAN\$78.7 million against the Canada Account.

168. Including Corporate and Canada Accounts, a total of 351 insurance claims were paid by EDC in 1990. These payments amounted to CAN\$28.1 million. The Corporation also collected CAN\$4.9 million in recoveries from claims previously paid.

169. The Program for Export Market Development (PEMD) is the federal government's major program for providing export marketing assistance. It encourages new exporters to get involved in exporting, and existing exporters to expand in new markets, by sharing the costs of export marketing activities. These include specific project bidding, market identification, participation in trade fairs abroad, incoming foreign buyers, marketing agreements, innovative marketing, permanent sales offices abroad, and special activities for non-sales trade associations. Contributions are repayable based on sales generated. Estimated assistance to business under PEMD for 1990/91 was CAN\$20.3 million. See Annex VII for further details.

170. Other federal programs for assisting exporters are as follows:

- (a) New Exporters to Border States (NEBS), which provides "export-ready" companies with a short course at a Canadian Consulate in a border state on the process of exporting, including documentation, customs procedures, banking and insurance, distributors and agents, and more;
- (b) New Exporters to the U.S. South (NEXUS), which helps exporters with experience only in regional U.S. markets. The program provides contacts and information on new U.S. southern markets, usually through trade fairs or events organized by Canadian trade officers in southern states; and
- (c) New Exporters to Overseas (NEXOS), which expands on the NEBS and NEXUS programs to introduce exporters to Western Europe. Missions focus on specific sectors and usually include a visit to a major trade fair.

E. By Sector

171. Canada's first Trade Policy Review (C/RM/6, 2 July 1990) provides a sectoral overview of the Canadian economy. This section contains brief descriptions of those sectors for which there were significant policy developments in 1990 and 1991 with a bearing on international trade. They include: agriculture, automotive, fisheries, forestry, textiles and clothing.

Agriculture

172. Canada's food and agricultural policy continues to rest on the four pillars which underpin the Agri-Food Policy Review (APR), i.e.: market responsiveness, self-reliance, environmental sustainability, and regional sensitivity. Its agricultural trade policy intends to support these goals, maintains a balance between the interests of export-oriented industries, domestically-oriented industries, the primary sector and the processing sector, and takes into account the realities of regional diversity within Canada. Canada's goal is to achieve the progressive reduction of trade distorting measures, and to bring agricultural trade under comprehensive GATT rules which apply equally to all.

173. Although Canada remains committed to its goals, destructive international trade conditions arising from the use of trade-distorting subsidies in the grains and oilseeds sector by some other countries have required Canada to increase support expenditures since the mid-1980s. To ensure the survival of grains and oilseeds farmers, payments increased from an annual average of CAN\$403 million between 1981 and 1984 to an expected CAN\$2.7 billion in 1992.

174. In normal years, farm and food products exports are equivalent to about 50 per cent of farm cash receipts. Nearly 65 per cent of roughly CAN\$10 billion of farm exports come from the grains and oilseeds sector. Over two-thirds of Canadian farm output (grains, oilseeds, livestock, meats and many horticulture crops) is priced on an international basis. Dairy products, poultry and eggs are subject to regulated prices and supply controls; output is set to match domestic consumption requirements less allowable import access in accordance with Canada's GATT obligations. Canada is a net importer of sugar and horticultural products, but a net exporter of beer, biscuits, maple syrup, malt, distillery products and processed meats.

175. There is generally close co-operation between the federal and provincial governments, and frequent consultation with industry groups, in the development of agricultural trade policy. The federal government holds the constitutional power to regulate trade, and the provinces retain important economic powers that can impinge on trade and trade policy.

176. Considerable liberalization has occurred in the Canadian agricultural sector since 1986. Among the more noteworthy changes are tariff reductions undertaken both as a result of the FTA and as part of Canada's MTN offer on tropical products. The two-price wheat program was phased out in the 1988-89 crop year. Canadian Wheat Board (CWB) import permit requirements for oats and oat products from the U.S. were removed in June 1989 pursuant to the Canada-U.S. Free Trade Agreement (FTA). As of August 1989, the marketing of oats was returned to the private sector and the requirement for import permits was lifted for all oats and oat products regardless of

their source. CWB import permits for wheat and wheat products from the United States were removed in 1991 pursuant to the FTA. Global import quotas for poultry and eggs were increased in 1989 as a result of the FTA. In addition, government aids to export assistance for dairy products were ended. Broiler hatching eggs were placed on the Import Control List in early 1989 in support of domestic production controls in this sector.

177. In order to make the Canadian agri-food industry more competitive at home and abroad, governments and industry have committed themselves to an action plan over the next three years. The plan will provide a fast-track mechanism to resolve regulatory bottlenecks; the implementation of a human resources audit of the agri-food industry; a review of legislation to ensure strong collaborative relationships within the agri-food industry, and the development of a Canadian Food Research Network. As well, an industry-led body on agri-food competitiveness has been established to oversee and monitor these and other initiatives. Separate consultations are taking place with respect to research and technology.

178. Federal and Provincial Ministers of Agriculture, with the support of a wide range of industry and environmental organizations, have endorsed a new framework for action on environmental sustainability in the agri-food sector. The framework embodies a three-fold objective of minimizing or reversing any direct and indirect damage to the resource base in the agricultural industry; protecting the resource base from damage caused by other sectors; and protecting the environment and other sectors from damage originating in the agri-food sector.

179. **Tariffs:** In successive rounds of GATT negotiations, Canada has reduced and bound its tariffs on agricultural products at relatively low levels. The Canada-U.S. FTA will eliminate tariffs between the two countries by 1998.

180. The FTA provides a special safeguard mechanism for specified fresh fruits and vegetables where temporary duties, not above the MFN rates, can be imposed provided certain conditions relating to import prices and acreage are met. This mechanism is known as "snapback" and expires in 2009. It has been used on three occasions since the implementation of the FTA (on asparagus in May 1990, tomatoes in August-September 1991, and on peaches in July-October 1991).

181. **Non-Tariff Measures:** Import controls support domestic supply management programs operated at the farm level. These restrictions appear in the Import Control List of the Export and Import Permits Act. Margarine imports have historically been prohibited. The Meat Import Act authorizes import restrictions on beef and veal under specified conditions. Restrictions under this Act have not been implemented since 1985. Moreover, any restrictions must be consistent with Canada's global minimum access undertaking for beef and veal, which is proportional to the size of

the Canadian population and currently stands at 71,129 tonnes. As a result of the FTA, CWB import permits for wheat and wheat products imported from the United States were eliminated in 1991. CWB import permits are still required for barley and barley products from all sources and for wheat and wheat products from non-U.S. sources. CWB licences are not usually issued unless there is a domestic shortage. They are granted automatically, however, for products in retail packages consigned to retailers.

182. **Export Credit:** Canada has been selling grain on credit since the 1952-53 crop year. The Canadian Wheat Board is empowered to finance sales of grain on credit terms of three years or less, at commercial rates of interest. The funds are provided by Canadian banks, under lines of credit to the banks guaranteed by the Minister of Finance. Up to one-third of Canadian wheat sales in recent years have been on government-guaranteed credit.

183. The Canadian Export Development Corporation has authority to provide insurance, guarantees and export credits to support the sale of some agricultural products. These facilities are offered on commercial terms for terms of less than six months.

Summary of Agricultural Legislation

184. A broad range of laws and regulations have evolved over time to meet Canadian agricultural and trade policy needs. The following paragraphs provide information on the more important changes in 1990 and 1991.

185. **Agricultural Stabilization Act:** Until the end of the 1990-91 crop year, the Agricultural Stabilization Board stabilized prices of oats and barley grown outside the designated area of the CWB, cattle, hogs, sheep, industrial milk and cream, corn and soybeans. The trigger levels were based on the average of market prices or net revenue over the previous five years adjusted for changes in cash costs during this period. The Act also enabled the establishment of tripartite stabilization programs funded by producers and the federal and provincial governments. Tripartite programs were established for cattle, hogs and lambs and certain specialty and horticulture crops.

186. The Board's payments over the most recent five years, minus payments related to the Canadian Dairy Commission, were:

<u>Fiscal Year</u>	<u>Payment (CAN\$'000)</u>
1986/87	85,939
1987/88	222,532
1988/89	165,959
1989/90	138,858
1990/91	80,135

Source: Annual Report, Agricultural Stabilization Board;
Years ending March 31st.

187. **Western Grains Stabilization Act (WGSA):** Until the end of the 1990-91 crop year, the WGSA stabilized grains and oilseeds producer net cash returns in the CWB designated area at a level not below the previous five-year average. Participation in the program was voluntary and producers and the federal government contributed to costs on a one-third / two-thirds basis. Payouts, when required, were based on producer contributions during the previous three years.

Payments under this measure from 1986-87 to 1990-91 were:

<u>Crop Year</u>	<u>Payment (CAN\$'000)</u>
1986-87	1,395,473
1987-88	958,191
1988-89	nil
1989-90	nil
1990-91	158,000 (interim payment)

Sources: Western Grain Stabilization Annual Report, 1989-90,
and Minister of State for Grains and Oilseeds Press
Release of March 27, 1991. Years ending July 31st.

188. **The Farm Income Protection Act (FIPA):** This Act, adopted in the spring of 1991, is intended to provide the authority for comprehensive safety nets for Canadian agriculture. It allows for the creation of cost-shared income protection programs for all commodities. It provides for the new Gross Revenue Insurance Program (GRIP) and the Net Income Stabilization Account (NISA). It replaces (and repeals) the Crop Insurance Act, the Western Grains Stabilization Act (WGSA) and the Agricultural Stabilization Act (ASA), whose programs terminated at the end of the 1990-91 crop year and thus constitutes authority for ongoing tripartite

stabilization programs (e.g. for swine, cattle, etc.). It also has important environmental provisions.

189. The main features of the new legislation are:

(i) **Gross Revenue Insurance Program (GRIP):** This voluntary program offers farmers protection against revenue losses due to market price and production risks. In the initial stage, GRIP is offered in two components: crop insurance and revenue insurance. These components together combine price support and yield protection. Producers can participate in either or both components. Program premium costs are shared between producers and the two levels of governments. All crops covered by the Western Grain Stabilization Program, and most grains and oilseeds grown in Eastern Canada, are eligible under GRIP.

(ii) **Net Income Stabilisation Account (NISA):** Under this voluntary program, farmers may deposit funds in individual accounts that can be drawn from when their income falls. Farmers may deposit up to 2 per cent of eligible sales annually; producer contributions will be matched equally by government funds. Competitive interest rates are paid on the accounts and an additional three percentage points are added on the farmer's contribution. A farmer can contribute up to an additional 20 per cent of his sales, but this is not matched by government payments. NISA is now available to producers of grains, oilseeds and edible horticultural crops not covered by a National Tripartite Stabilization Program.

190. **Farm Products Marketing Agencies Act:** This legislation establishes the authority to create marketing agencies such as the Canadian Egg Marketing Agency, the Canadian Turkey Marketing Agency, and the Canadian Chicken Marketing Agency. These agencies administer supply management programs in the egg and poultry sectors.

191. At the time of writing (March 1992), this legislation was being amended to provide enabling authority for producer check-offs on agricultural products in order to fund research, development and promotion activities.

192. **Canadian Dairy Commission Act:** The Canadian Dairy Commission Act gives the Commission the mandate to provide efficient producers of milk and cream with the opportunity of obtaining a fair return, and consumers with a continuous and adequate supply of high quality dairy products. The Commission may buy and sell dairy products on both domestic and export markets, collect levies and make stabilization payments to producers. It administers a national milk supply management program to balance milk supplies and domestic requirements. During the 1991-92 dairy year,

production quotas for industrial milk were reduced by 5.7 per cent in the face of falling demand.

193. The Canadian Dairy Commission assists exporters to cover the difference between internal support and world market prices of dairy products. These payments are financed by levies paid by milk producers on all industrial milk shipments.

194. Producers receive direct payments from the Commission on deliveries of industrial milk and cream for domestic requirements. The payments are part of the target price and moderate consumer prices for dairy products. Payments over the past four years were:

<u>Dairy</u> <u>Year</u>	<u>Payment</u> <u>(CAN\$'000)</u>
1987-88	283,092
1988-89	279,593
1989-90	265,795
1990-91	254,286

Source: Annual Report, Canadian Dairy Commission; 1990-1991.
Years ended July 31st.

195. **Canadian Wheat Board (CWB) Act:** The Act establishes the Board as the sole interprovincial and international marketing agent for Western Canadian wheat and barley. The CWB also administers a delivery quota system which regulates Western farmers' grain and oilseed deliveries into the grain elevator system. The CWB operates a price pooling mechanism based on the returns from all its sales. It recommends annual initial payment levels for wheat and barley to the government. The government assumes any pool deficit that might arise if initial payments exceed average market returns, as occurred for the wheat (CAN\$673 million deficit), durum (CAN\$69.6 million) and barley (CAN\$0.95 million) for the 1990-91 marketing year. The Act also provides for import licensing for wheat, barley and their products, although licensing for U.S. wheat and wheat products was removed in May 1991.

196. **Western Grain Transportation Act (WGTA):** The program is intended to ensure adequate compensation to railways for the movement of western grain and to promote cost-effective and efficient grain transportation in western Canada. The legislation provides for producers to share in transportation cost increases.

197. The geographic boundaries of eligible movements are:

- (a) from any point on any railway line west of Thunder Bay or Armstrong to Thunder Bay or Armstrong;

- (b) from any point on any railway line west of Thunder Bay or Armstrong to a port in British Columbia for export; or,
- (c) from any point on any railway line west of Thunder Bay or Armstrong to Churchill for export.

Payments under this measure since the 1986/87 year were:

<u>Fiscal</u> <u>Year</u>	<u>Payment</u> <u>(CAN\$'000)</u>
1986/87	672,084
1987/88	941,234
1988/89	777,339
1989/90	568,755

Source: Farm Income Data Book; January 1, 1992. Years ending March 31st.

198. **Special Income Assistance Program (SIAP):** In March, 1990, the government announced a program to improve 1990 farm income. It offered federal aid of CAN\$500 million, contingent on provincial participation. The program also included structural measures and changes in the Farm Debt Review Fund regulations to ease the credit obligations of farmers in financial difficulties. Canadian provinces financed part of the direct income assistance, provided credit relief and tax concessions and increased their contributions to crop insurance programs. The program expired in 1990.

199. **Farm Support and Adjustment Measures (FSAM):** This ad hoc program provided immediate cash flow and income assistance to producers. It included measures to assist producers in the transition towards income protection under long-term safety net programs. It addressed acute producer income problems in the grains, oilseeds and horticulture sectors. It was implemented in two phases, announced in the Spring and Fall of 1991, with payments stretching into the 1992/93 fiscal year. FSAM provided transitional measures for farmers and provincial governments to join the GRIP and NISA programmes and to inhibit the competitive escalation of provincial support measures, an extension of the Cash Flow Enhancement Program (CFEP), land management initiatives, and aid to producers of horticulture crops which were suffering from difficult market conditions.

200. **Cash Flow Enhancement Program:** This program, announced in late 1990, provided interest-free cash advances to farmers who produced crops in the 1990 crop year, but had not yet sold them because of depressed markets. The government paid the interest on cash advances up to CAN\$50,000 per farm. As noted above, FSAM extended the program to the 1991 crop. It cost CAN\$85 million for interest reimbursement on CAN\$1.7 billion in advances.

201. **Health and Sanitary Legislation:** Health, safety and quality assurance standards are applied to both domestic products and imports under the authority of several different Acts. The Plant Health, Food and Drug, Animal Disease and Prevention, Feeds, Canada Agricultural Products, Fertilizers, Livestock and Livestock Products, Meat Inspection, Pest Control Products, Pesticide Residue Compensation, and Seeds Acts authorize the enforcement of standards in their respective areas.

202. The release of the Pesticide Registration Review Team report in July 1990 was followed by extensive public consultations on the proposal for a revised federal pest management regulatory system. Efforts in 1991 focused on the implementation of final recommendations of the report and Ministerial decisions with a view to ensuring the efficient federal regulation of pest control products that minimize the risk to human health, safety and the environment while meeting the industry's needs. A modified and enhanced pesticide registration system was announced early in 1992.

203. A commitment has been made by federal and provincial ministers to develop, over the next five years, uniform food standards that meet or exceed international standards, thus eliminating interprovincial trade barriers arising from varying food standards and ensuring uniform protection of consumers. The Department of Agriculture is also pursuing, with the industry and the provinces, the introduction of certification and accreditation standards for organically grown food products. More residue testing is also being considered to meet demands for increased quality and safety assurance.

204. **Extension of the Farm Debt Review Boards (FDRB):** The Farm Debt Review Boards were extended for a one-year term commencing April 1, 1991. Anticipated administrative costs are CAN\$12 million. The Farm Debt Review Act ensures that farm operations in financial difficulty have access to an impartial third-party review of individual farm circumstances and possible financing/refinancing options.

205. **Environmental Measures:** The Farm Income Protection Act (FIPA) requires periodic environmental assessment of all programs implemented under the legislation. FIPA also requires that all program agreements define the circumstances and conditions under which insurance may be withheld, restricted, or enhanced for purposes of protecting the environment.

206. The Permanent Cover Program II provides CAN\$50 million to extend programs in the three prairie provinces to remove marginal or ecologically fragile lands from annual cultivation. The Land Management Assistance Program (LMAP) provides CAN\$22 million for the other seven provinces for similar purposes.

Automotive

207. The motor vehicle sector is the largest manufacturing and traded component of the industrial sector of the Canadian economy. In most years over 80 per cent of the domestic sales of new motor vehicles are imported and a similar proportion of the domestic production of new motor vehicles is exported. This is a direct consequence of Canadian automotive policies which have encouraged rationalized production. For example, in 1990 the total value of shipments was CAN\$42.8 billion consisting of CAN\$27.9 billion in vehicles, CAN\$1.4 billion in truck bodies and trailers, and CAN\$13.5 billion in parts. Of these shipments, CAN\$36.2 billion were exported and imports were valued at CAN\$34.6 billion. In 1990, production in Canada amounted to 1,910,000 vehicles consisting of 1,076,000 cars and 834,000 trucks.

208. The provisions of the Canada-U.S. Automotive Products Trade Agreement of 1965 (Auto Pact) are integrated into the Canada-U.S. Free Trade Agreement (FTA). As part of the FTA, Canada grandfathered membership in the Auto Pact to existing companies or those who could qualify by the 1989 model year. As well, under the FTA various duty remission programs will be phased out and all tariffs for bilateral trade will be eliminated for products which meet the rule of origin requirement. Automotive tariffs on original equipment products - parts and vehicles - are being eliminated in 10 equal increments from 1989 to 1998. For aftermarket parts, the tariffs are being phased out in 5 equal increments from 1989 to 1993. Canada is phasing out, as well, its prohibition on the import of used vehicles from the U.S. over a five-year period ending on January 1, 1993.

209. As tariffs are eliminated under the FTA, Canada's various duty remission programs will be phased out according to the following schedule:

- (a) duty drawback on exports to the United States will be eliminated after January 1994;
- (b) performance-based duty remission programs will cease as of January 1, 1996; and
- (c) third country export-based remission programs will cease as of January 1, 1998.

210. Specific rules of origin have been established under the FTA to determine eligibility for duty free treatment of products moving between Canada and the United States. For most automotive products, a change of tariff heading, as well as a test measuring the value of North American content, are involved. As provided by the FTA, direct costs of processing, plus the value of components sourced in either Canada or the United States must equal at least 50 per cent of the value of the goods when exported to the other party.

211. Canadian Auto Pact producers, grandfathered under the FTA, continue to remain eligible to import duty-free from the United States and from third countries until 1998 and, subsequently, from third countries when all bilateral tariffs on eligible automotive products are eliminated between Canada and the United States.

Fisheries

212. Commercial fishing accounts for approximately 0.5 per cent of Canada's GDP and employs over 120,000 people. It encompasses the groundfish, shellfish, pelagic, freshwater and aquaculture subsectors. Commercial fishing is an extremely important industry when considered on a regional basis. In Atlantic Canada, the fishery supports over 40,000 processing jobs and has a total production value of CAN\$2.1 billion.

213. In 1990, Canada had 90,000 registered fishermen and 39,000 registered commercial fishing vessels, with total landings valued at CAN\$1.5 billion. Processed fish products were valued at CAN\$3.2 billion. The rapidly growing aquaculture sector's commercial production was valued at CAN\$190 million for 1990, an increase of 40 per cent from 1989. Recent forecasts suggest that by the year 2000 the value of Canadian aquaculture industry's production could exceed CAN\$500 million.

214. Canada exports over 80 per cent by value of its commercial production. In 1990, Canadian exports amounted to CAN\$2.6 billion, with the United States being the major market (45 per cent share). Other important markets include Japan (17 per cent) and the EEC (15 per cent). In 1990, Canada's imports of fish and fish products were valued at CAN\$730 million.

215. Canada's basic fisheries objectives are to provide for the conservation, development and sustained economic utilization of the country's fisheries resources in marine and inland waters, for the benefit of those who depend on these resources. The fisheries sector is governed by 15 acts of Parliament, including the Fisheries Act, the Coastal Fisheries Protection Act, the Fish Inspection Act, the North Pacific Fisheries Convention Act, and the Canada Oceans Act, under the general direction of the Department of Fisheries and Oceans (DFO).

216. In May 1990, the Government introduced a five-year, CAN\$584 million Atlantic Fisheries Adjustment Program (AFAP), which is designed to ensure a viable fishery and to help the fishing industry in Atlantic Canada adjust to significantly reduced groundfish quotas. AFAP is administered by DFO and the Atlantic Canada Opportunities Agency (ACOA) and focuses on generating economic activities outside the fishery. The Program's major component parts and financial allocations are: Rebuilding Fish Stocks (CAN\$150 million); Adjusting to Current Realities (CAN\$130 million); and Economic Diversification (CAN\$146 million).

217. Interprovincial and international trade in fish, including importation, is governed by the Fish Inspection Act and its regulations administered by DFC. The aim of this legislation is to ensure the production of safe and wholesome fishery products. In 1991, the Department of Fisheries and Oceans initiated the revision of the Fish Inspection Regulations in order to allow for more harmonization with international obligations relating, among others, to labelling and grading requirements.

218. In 1991, the Department of Fisheries and Oceans introduced a new in-plant "Quality Management Program" (QMP), which is designed to shift responsibility for quality management to the private sector while providing added assurance that Canadian fish and fish products meet Canadian requirements for safety and quality.

219. In order to promote the harmonization of fish inspection standards in fisheries trade between the United States and Canada, a Technical Working Group on Fish and Fishery Products Inspection was established in 1989 under Article 708 of the Canada-U.S. Free Trade Agreement (FTA). The main objectives of this working group are to work towards equivalent standards, technical regulations, tolerances, and removal of unnecessary technical barriers to trade.

220. The FTA provides a mechanism for dealing with bilateral disputes involving fisheries trade. In 1990, Canada and the United States agreed on a new arrangement governing exports of Pacific salmon and roe herring from Canada to the United States, based on an FTA Dispute Settlement Panel ruling. This arrangement allows Canada to maintain a landing requirement for these species, for conservation reasons, while allowing up to 25 per cent of the fish catches to be exported directly at-sea, subject to official monitoring. A second dispute, involving U.S. minimum size requirements for live lobster imports, was also referred to an FTA Dispute Panel in 1990. However, the U.S. Administration has decided not to proceed with the full range of size increases originally envisaged, thus reducing the adverse impact on Canadian exports.

Forestry and Forest Products

221. Canada's forest area is estimated at 453 million hectares, representing just over 10 per cent of the world total. Of the Canadian total, 244 million hectares are classified as productive forest land. The provinces own approximately 80 per cent of the productive forest, with the balance owned by the federal government (11 per cent) and 430,000 private woodlots (9 per cent). Canada's existing stock of timber is estimated to be over 23 billion cubic metres, 75 per cent of which is softwood timber. The current total annual allowable cut (AAC) for all provinces is approximately 233.4 million cubic metres, or about 1 per cent of the stock of timber.

222. Canada's forestry and forest products sector is comprised of three sub-sectors: the logging industry; the wood industries, which includes the sawmilling and wood panels industries; and the paper and allied industries, which includes the pulping, newsprint and converted paper products industries. For these three sub-sectors, direct employment in 1989 was 56,000, 135,000, and 145,000 persons respectively. Lumber, wood pulp, and newsprint are the three major forest products produced by the Canadian forest sector. Approximately two-thirds of Canada's lumber output is exported, mostly to the United States (85 per cent), Japan (5 per cent), and the EC (5 per cent). In the case of wood pulp, Canada exports about two-thirds of its output, primarily to the United States and the EC. About 80 per cent of Canada's newsprint production is exported.

223. Canada's forest sector was affected by domestic and international policy developments during the past few years. Since January 1987, British Columbia, Quebec, and Alberta have made significant changes to their forest policies which have increased the costs of private sector timber harvesting. On October 1, 1987, British Columbia implemented its Comparative Value Pricing (CVP) system which is designed to obtain a pre-determined amount of revenue from timber sales. The CVP system is sensitive to market conditions and adjusts stumpage rates in response to end product prices. British Columbia's forest policies were also modified to transfer basic forest management responsibilities to the private sector, and to eliminate the stumpage credits for silviculture and road building paid to the forest industry. Quebec's newest Forest Act came into effect April 1, 1987 and resulted in significant cost increases for the provincial forest industry. The new timber pricing system is based on a parity system; private market transactions are surveyed and the observed prices are assigned to Crown timber of similar species, location, and quality. Alberta's new reforestation regulations became law in November 1990. In addition to the 'Free to Grow' policy which specifies mandatory regeneration standards, scaling changes and increased stumpage rates indexed to the cost of silviculture have resulted in cost increases for the provincial forest industry.

224. On December 4, 1991, the federal government announced its Pulp and Paper Regulatory Package which contained new regulations under the Canadian Environmental Protection Act (CEPA) and amendments to regulations under the Fisheries Act. The new CEPA regulations required that there be no measurable discharges of dioxins and furans from any pulp or paper mill as of January 1, 1994, and immediately banned the use of defoamers and impregnated woodchips which lead to the formation of dioxins and furans. In effect, these regulations limit the level of chlorinated organics (as measured by AOX) to be less than 2 kg/air dry tonne (ADT) of pulp produced. The amendments to regulations under the Fisheries Act set the following new limits on effluent discharges from all pulp and paper mills in Canada: 7.5 kg/ADT of pulp produced for Biological Oxygen Demand (BOD); and 11.3 kg/ADT of pulp produced for Total Suspended Solids (TSS).

225. On September 3, 1991, the Canadian government informed the U.S. government of its intention to terminate a December 1986 Memorandum of Understanding (MOU) on softwood lumber, effective October 4, 1991. The MOU required Canada to impose an export charge of 15 per cent on selected softwood lumber products which Canada exported to the United States. On October 31, 1991, the U.S. responded to this termination by self-initiating a countervailing duty (CVD) investigation and by imposing an interim bonding requirement on softwood lumber imports from Canada. The U.S. Department of Commerce included in the investigation Canadian log export policies, which allegedly provide a subsidy to B.C. lumber exporters. Canada firmly rejects both U.S. claims; neither provincial stumpage policies nor log export restrictions constitute subsidies to the Canadian forest products industry. At Canada's request the GATT Subsidies Committee established a panel to examine if the U.S. decisions to impose the bonding requirement and to self-initiate a CVD investigation were consistent with U.S. obligations under the Code.

226. Wastepaper recycling legislation is in the initial stages in some countries. The impetus so far has been aimed at production processes rather than on waste collection and segregation to make rejected materials economically available for recycling. In the United States, at the national level and in almost every state, bills have been introduced which specify minimum recycled fibre levels for newsprint being sold there. As of October 1991, the following 10 states had passed such legislation with the per cent recycled fibre content and target year in parentheses: Illinois (28 per cent, 1992); Oregon (7.5 per cent, 1995); North Carolina (40 per cent, 1997); Maryland (40 per cent, 1998); Arizona (50 per cent, 2000); California (50 per cent, 2000); Connecticut (50 per cent, 2000); Missouri (50 per cent, 2000); Rhode Island (40 per cent, 2001); and Wisconsin (45 per cent, 2001).

Textiles and Clothing

227. Canada maintains special measures of protection for its domestic industries from market disruption caused by imports from low-cost sources. They usually take the form of bilateral restraint agreements (Memoranda of Understanding/MOUs) concluded under the Multi-Fibre Arrangement (MFA). A broad range of textile and clothing products is included in the Import Control List (ICL), established under the Export and Import Permits Act, for the purpose of implementing these MOUs.

228. The Canadian Government's current priorities for the textile and clothing sector were originally presented in its textile policy announcement of July 30, 1986, which had three main objectives: (1) substantial moderation in the import growth rate; (2) better control over import surges; and (3) differentiation between dominant, newly industrialized suppliers and smaller, newer entrants to the market, while

ensuring that steps are taken to respond promptly when new unrestrained imports disrupt the market.

229. Bilateral restraint levels are the product of negotiations with exporting countries which take account of a number of factors, including historical trade performance, the domestic market situation, and domestic and import prices. Most agreements provide specific annual growth rates for quotas and allow flexibility in the use of quotas within certain limits (e.g. "swing" between particular categories of products within the current year, "carry-forward" of a portion of the quota from the year ahead to the same category in the current year, and "carry-over" of a portion of unused quota from the previous year to the same category in the current year). Some agreements have aggregate restraint levels for groups of categories, and some have sub-quotas on particular types of products.

230. Most MOUs are administered by the exporting country through the issuance of export licences. There are currently three exceptions where the measures are administered by Canada with quota shares allocated to Canadian importers (the unilateral restraints on imports from North Korea and the United Arab Emirates, and the agreement with South Africa). In these three instances, the annual allocation of quota shares among Canadian importers for specific products is based upon the historical performance of these importers.

231. For each shipment of non-restrained imports, Canadian import permits are issued upon application. For restrained products, import permit applications must be accompanied by an original export license issued by the authorities of the exporting country. Permits for restrained items are automatically issued upon application, properly documented, unless restraint levels are exceeded. It rests with the exporting country to decide whether and how to exercise any of the quota flexibility allowed in the MOU whenever restraint levels are about to be exceeded. In the case of unilateral restraints where quotas have been allocated to importers, permits are issued only to quota holders, provided they have not fully used their allocations.

232. In 1990, no new MOUs were concluded. However, existing agreements with Turkey and Mauritius were extended a further twelve months to the end of 1991 in line with Canada's other MOUs. Cotton terry towels were added to the MOU with Thailand. The agreement with the Maldives, which expired at the end of 1990, was allowed to lapse in view of the low volume of exports to Canada, and the MOU with the former German Democratic Republic was discontinued following the unification of eastern Germany with the Federal Republic of Germany. Canada imposed unilateral restraints on a number of clothing products and on bedsheets and pillowcases from the United Arab Emirates when negotiations to reach a bilateral agreement were unsuccessful.

233. The only new agreement concluded in 1991 was with Colombia on cotton terry towels. Existing MOUs were amended to include additional products: underwear from Malaysia; bedsheets from India; winter outerwear from Pakistan; and bedsheets from Sri Lanka. By the end of 1991, Canada had 27 bilateral agreements in place and imposed restraints unilaterally on two additional suppliers. All measures were notified to the Textiles Surveillance Body (TSB) established under the MFA. In January 1992, following a request by India for review under MFA Article 11:4, the TSB recommended the removal of restraints on underwear and further bilateral talks on restraints on winter outerwear from India, both of which Canada had introduced in 1991. Canada subsequently accepted these recommendations.

234. With the decision to extend the Multilateral Trade Negotiations (MTNs), Canada sought to extend its bilateral agreements and the MFA to December 31, 1992. The Textiles Committee of GATT agreed in July 1991 to extend the MFA without changes to the end of 1992. Canada acceded formally to the protocol of extension of the MFA on December 4, 1991. Canada also reached agreement with its bilateral partners on the extension of MOUs a further year to the end of 1992. The extensions were, for the most part, simple roll-overs with no other changes. As bridging mechanisms, these extensions will help alleviate uncertainties within the trade pending the expected commencement of the MTN Agreement on Textiles and Clothing at the beginning of 1993.

235. The MTN Agreement, which is intended to succeed the MFA, was the outcome of intensive discussions in the MTN Negotiating Group on Textiles and Clothing, in which Canada participated actively in 1990 and 1991. In this context, Canada remained committed to the achievement of the MTN mandate to formulate "modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade".

236. Canada is taking steps to convert the textile and clothing product classification currently employed in its MOUs to one based on the Harmonized System (HS), effective January 1, 1993. These preparations entailed detailed consultations in 1991 with suppliers, which will continue into 1992. The conversion is intended to be neutral in its effect on restraint levels.

237. The Canada-U.S. Free Trade Agreement (FTA) rules of origin require that textile and clothing products undergo "double transformation" to qualify for FTA tariff treatment. In light of the Canadian industry's greater dependence on imported yarns and fabric, Canada negotiated tariff-rate quotas (TRQs) for non-wool apparel, wool apparel and non-wool fabric and made-up articles. These provide for FTA duty treatment up to

specific annual quantities for goods that do not meet the FTA rules of origin.

238. Several outstanding technical details in the administration of the FTA have required further discussion. Generally, the basis for tariff classification in the FTA is the HS. In several areas, however, procedures deviate from this approach: the definition of wool, and mixed determinations for outershells and mixed yarns/fabrics. These matters, as well as the re-negotiation of TRQs, are currently being addressed in the context of the North American Free Trade Agreement (NAFTA) negotiations by Canada, the United States and Mexico.

C. Trade Consultations and Disputes

Under the GATT

239. Canada supports and relies on the effective operation of a GATT dispute settlement mechanism. As a medium-sized trading country its interests depend on the effectiveness of the GATT as an institution providing the legal framework and effective dispute settlement procedures.

240. Canada has played a strong role in the current Uruguay Round negotiations on an improved and integrated dispute settlement mechanism. Since September 1990 Canada has also been a party to seven disputes. These include: two Article XXIII panels; one panel under Articles VI and XVI; three panels under the Subsidies Code; and one matter arbitrated through recourse to the Arbitration procedures as provided by the Mid-Term Agreement on Dispute Settlement.

241. In July 1990, Canada and the EC agreed to arbitration on the issue of Canada's ordinary wheat and quality wheat rights dating from Article XXIV:6 negotiations concluded in 1962. The arbitrator ruled that Canada maintained all negotiating rights provided through the 1962 bilateral agreement for quality wheat while rights under the agreement on ordinary wheat had been extinguished.

242. In September 1990, Canada brought a complaint against a U.S. ruling that deemed subsidies given to farmers were automatically passed on to pork producers. As a result of this ruling the United States had applied a countervailing duty on Canadian pork. The panel ruled that the United States had acted contrary to its obligations and recommended that excess duties paid be refunded. The panel was adopted July 11, 1991.

243. The September 18, 1991 GATT panel report on provincial beer marketing practices was adopted by the Contracting Parties at the February 18, 1992 GATT Council meeting. The panel ruled on several practices related to the pricing, distribution and sale of beer. It found a number of these practices inconsistent with Canada's GATT obligations while it upheld

others. At the time of adoption, Canada stated that it would report to GATT on action taken by the provinces by the end of March 1992 and July 1992 as recommended by the panel report.

244. A GATT panel, established at Canada's request, considered U.S. federal and state excise taxes and a range of state measures related to beer, wine and cider which Canada considered inconsistent with U.S. obligations. The panel provided its report to the parties to the dispute on February 7, 1992.

245. A GATT panel, established under the Subsidies Code, examined a U.S. complaint that Canada had inconsistently applied a countervailing duty on U.S. corn. The panel report was provided to the parties to the dispute in January 1992. The panel found that the determination of injury by Canadian authorities was not consistent with Article VI of the Code. The panel report was adopted by the Subsidies Committee in March 1992. Collection of countervailing duties on corn imports from the United States had already ceased, prior to adoption of the report, under the automatic sunset provision in Canada's countervailing duty law.

246. Further to the United States self-initiation of an investigation on certain softwood lumber products from Canada, on October 31, 1991, Canada formally requested, on December 2, 1991, that a panel be established under the GATT subsidies code. The panel held its first meeting March 18, 1992.

247. In September 1991, the United States initiated a countervailing duty investigation against imports of pure and alloy magnesium from Canada. Canada has challenged initiation of the investigation under the Subsidies and Countervailing Measures Code; following a request submitted December 20, 1991, a panel was established in January 1992.

Under the Canada-U.S. Free Trade Agreement

248. Two chapters of the Canada-U.S. Free Trade Agreement contain general dispute settlement provisions and special arrangements for dealing with anti-dumping and countervailing duty cases.

249. Chapter 18 contains institutional provisions that allow for flexibility in the management of bilateral trade issues at the government-to-government level. Identification of the facts of a trade problem through to settlement of an actual dispute is a graduated process from official consultations, to formal Commission meetings and, if required, establishment of a five-person bilateral panel.

250. Chapter 19 sets out special arrangements for anti-dumping and countervailing duty cases that allow for the establishment of binational panels to replace domestic judicial review of final determination. Interested parties in either country can invoke the review procedures

through complaints made to domestic administrative bodies or tribunals concerning imported goods. These bodies determine (a) whether a foreign firm is benefitting from subsidies, or selling its products at below fair market value, and (b) whether such subsidized or dumped imports are causing or threatening to cause material injury to the domestic industry. The binational panels reviewing final determinations are required to arrive at a decision (final determination) within 31⁵ days and the decisions are binding. FTA implementing legislation requires the domestic administrative authority or tribunal to enforce the panel decision.

251. Annex VIII sets out the details of dispute settlement under the FTA from its inception until January 1992.

ANNEXES

- I. Canadian Trade Law Statutes
- II. Procedures in Anti-dumping and Countervail Investigations
- III. Canada: Anti-dumping Duty Investigations Initiated during 1990 and 1991
- IV. Canada: Comprehensive List of Anti-Dumping Duty Investigations, 1990 and 1991
- V. Canada: Comprehensive List of Expiries or Reviews of Anti-dumping or Countervailing Duty Injury Findings, 1990 and 1991
- VI. Products Subject to Import Licensing
- VII. International Marketing Assistance
- VIII. Canada: Details of Dispute Settlement under the FTA, 1989 to January 1992

ANNEX I

CANADIAN TRADE LAW STATUTES

The following are the principal laws of Canada which may affect trade:

Agricultural Products Cooperative Marketing Act, R.S.C. 1985, c.A-5

Agricultural Products Board Act, R.S.C. 1985, c.A-4

Agricultural Products Marketing Act, R.S.C. 1985, c.A-6

Animal Disease and Protection Act, R.S.C. 1985, c.A-11

Atomic Energy Control Act, R.S.C. 1985, c.A-16

Bank Act, R.S.C. 1985, c.B-1

Broadcasting Act, R.S.C. 1985, c.B-9

Canada Agricultural Products Standards Act, R.S.C. 1985, c.A-7

Canada Business Corporations Act, R.S.C. 1985, c.C-44

Canada - U.S. Free Trade Implementation Act, S.C., 1989

Canadian International Trade Tribunal Act, R.S.C. 1988

Canadian Commercial Corporation Act, R.S.C. 1985, c.C-14

Canadian Dairy Commission Act, R.S.C. 1985, c.C-15

Canadian Wheat Board Act, R.S.C. 1985, c.C-24

Cape Breton Development Corporation Act, R.S.C. 1985, c.C-25

Combines Investigation Act, R.S.C. 1985, c.C-34

Constitution Act, 1867

Cultural Property Export and Import Act, R.S.C. 1985, c.C-51

Customs and Excise Offshore Application Act, R.S.C. 1985, c.C-53

Customs Tariff, R.S. c.41 (3rd Supp.)

Customs Act, R.S. c. N-15

Department of External Affairs Act, R.S.C. 1985, c.E-22

Department of Industry Science and Technology Act, S.C. 1990, c.R-5

Energy Administration Act, R.S.C. 1985, c.E-6

Explosives Act, R.S.C. 1985, c.E-17

Export Act, R.S.C. 1985, c.E-18

Export Development Act, R.S.C. 1985, c.E-20

Export and Import Permits Act, R.S.C. 1985, c.E-19

Feeds Act, R.S.C. 1985, c.F-9

Fertilizers Act, R.S.C. 1985, c.F-10

Financial Administration Act, R.S.C. 1985, c.F-11

Fisheries Act, R.S.C. 1985, c.F-14

Fish Inspection Act, R.S.C. 1985, c.F-12

Freshwater Fish Marketing Corporation Act, R.S.C. 1985, c.F-13

Food and Drugs Act, R.S.C. 1985, c.F-25

Game Export Act, R.S.C. 1985, c.G-1

Hazardous Products Act, R.S.C. 1985, c.H-3

Importation of Intoxicating Liquors Act, R.S.C. 1985, c.I-3

Investment Canada Act, S.C. 1985, c.20

Investment Companies Act, R.S.C. 1985, c.I-22

Livestock and Livestock Products Act, R.S.C. 1985, c.L-9

Meat Import Act, R.S.C. 1985, M-3

Motor Vehicle Safety Act, R.S.C. 1985, c.M-10

National Energy Board Act, R.S.C. 1985, c.N-7

National Transportation Act, R.S.C. 1985, c.N-17 Pest Control Products Act,
R.S.C. 1985, c.P-9

Radiation Emitting Devices Act, R.S.C. 1985, c.R-1

Seeds Act, R.S.C. 1985, c.S-8

Special Import Measures Act, R.S.C. 1985, and as amended 1988

Textile Labelling Act, R.S.C. 1985, c.T-10

ANNEX II

PROCEDURES IN ANTI-DUMPING AND COUNTERVAIL INVESTIGATIONS

1. Anti-dumping and countervailing investigations are generally initiated as a result of a complaint from Canadian manufacturers or producers. Written complaints are filed with Revenue Canada (Customs and Excise). Revenue Canada, within 21 days of receipt, advises the complainant whether or not the complaint is properly documented.
2. A properly documented complaint must allege that certain imported goods are being dumped or subsidized and that the dumping or subsidizing has caused, is causing, or is likely to cause material injury to the production of like goods in Canada or has caused or is causing retardation. The complainant must state in reasonable detail the facts upon which these allegations are based. In addition, the complainant must provide all of the information available in support of the complaint, including detailed information regarding Canadian production of the goods, the market for the goods, detailed evidence of dumping or subsidizing, and detailed evidence of material injury.
3. Consideration of whether there is sufficient evidence to warrant initiation of an investigation is generally made only after a properly documented complaint is submitted to Revenue Canada.
4. If the complaint does not constitute a properly documented complaint, the Department will specify in detail what additional information or evidence is required in order for the complaint to be properly documented. If no additional information is submitted, the case is closed. When the complainant submits any additional information, Revenue Canada is deemed to have received a new complaint consisting of the original written submissions plus the new additional information. The 21 day time limit in which Revenue Canada must decide if the complaint is properly documented again applies.
5. Once the complainant has been given notice that the complaint is properly documented, the SIMA stipulates that Revenue Canada has 30 days to decide whether to initiate an investigation. If the evidence provides a reasonable indication of dumping or subsidizing resulting in injury to Canadian producers, Revenue Canada opens an investigation. In this respect, the complaint must be supported by producers that account for a major proportion of Canadian output before an initiation may be commenced.
6. Where it is decided not to initiate an investigation following receipt of a properly documented complaint, Revenue Canada is required to issue a written notice of the decision to the complainant. In addition, in subsidy complaints where the foreign government was notified of the receipt

of a properly documented complaint, the foreign government also must be notified of the rejection of the complaint.

7. If a decision is made to initiate an investigation, the SIMA provides 90 days for a preliminary investigation to be conducted. During this period, departmental officers contact all identifiable exporters and importers to solicit the information necessary to establish preliminary normal values and export prices. Ongoing liaison with the complainant is maintained during this period to establish that the prima facie case of material injury originally alleged in the complaint is continuing. At the conclusion of this period, Revenue Canada may decide to terminate the action because of insufficient evidence of dumping or subsidy or injury, or may decide to issue a preliminary determination of dumping or subsidization.

8. The SIMA also contains a provision to extend the 90-day time limit for this phase of the investigation to 135 days. Extensions are permitted under very limited circumstances.

9. Following a preliminary determination of dumping and/or subsidization, all imports of the said goods are subject to a provisional duty. This duty is payable until the provisional period is ended, by either a termination of the proceedings by Revenue Canada or by the conclusion of the injury inquiry conducted by the Canadian International Trade Tribunal (CITT; see para. 24). This period cannot last more than 120 days after the notice of a preliminary determination is given.

10. A provisional duty will be assessed in an amount equal to the amount by which the estimated normal value exceeds the export price. In a case of subsidized goods, the amount of the provisional duty will be the estimated amount of the subsidy.

11. The provisional duty may be paid at the time the goods are released from Customs control, when assessed by a Customs officer. The importer may provide a bond to Customs to cover the amount of the provisional duty.

12. Should the CITT find that material injury has been caused by the dumped or subsidized imports, the provisional duty collected will be retained, in whole or in part, as anti-dumping duty or countervailing duty in accordance with a final assessment which must be made within six months of the Tribunal's finding. On the other hand, a finding of no injury, or future injury only, will result in the return of all provisional duties collected to the importer and the cancellation of all bonds.

13. Written undertakings to revise the selling prices of goods imported into Canada can be submitted by foreign exporters to the Deputy Minister before a preliminary determination is issued. Similarly, undertakings from a foreign government to limit or eliminate a subsidy or to limit the amount

of subsidized goods exported to Canada can be submitted once an investigation is launched, but before a preliminary decision is issued.

14. To be acceptable, the undertakings must either eliminate the dumping or subsidizing or must eliminate the injury to Canadian production.

15. Before accepting any undertaking, Revenue Canada consults with importers and Canadian producers. Once undertakings are accepted by the Deputy Minister, all proceedings in the investigation are suspended and as long as undertakings are in force, no duties are collected. Undertakings are normally valid for three years and can be renewed.

16. The SIMA allows no more than 90 days from the date of the preliminary determination for Revenue Canada to make a final determination with respect to dumping or subsidization only. If the investigation reveals that there is insufficient evidence of dumping or subsidization, the proceedings are terminated."

17. If a preliminary determination is made, the question of material injury is referred to the CITT. After Revenue Canada has issued a final determination of dumping or subsidizing, the CITT is required to make its finding with respect to whether the dumping or subsidization of imported goods has caused, is causing, or is likely to cause material injury to Canadian production of like goods or has caused or is causing retardation. The CITT must issue its finding no longer than 120 days after it receives notice of the preliminary determination. Moreover, the CITT, within 15 days of its finding, must issue a statement giving the reasons for the decision.

18. If a no injury finding is issued by the CITT, Revenue Canada is required to terminate all proceedings and refund any provisional duty paid and cancel any bonds that were given. If a finding of past injury is made, however, Revenue Canada is required to make, within 6 months of the finding, a final assessment for each of the importations made during the provisional period. If the injury finding is applicable to future importations, then all subsequent importations will be subject to an anti-dumping or countervailing duty.

19. Assessments of anti-dumping/countervailing duties are made at the time of importation of the subject goods (i.e. a customs officer determines whether the goods are subject to a finding of injury and, if so, will calculate the appropriate amount of duty applicable to that importation based on a comparison of the normal values and export prices, or the amount of subsidy, established either in the final determination or in subsequent reviews). The determination of whether the goods are subject to a finding, or the calculation of the normal value, export price or amount of subsidy may be appealed by the importer to two levels within Revenue Canada (i.e. a designated officer and then the Deputy Minister). Parties who remain

aggrieved following this process, may appeal the Deputy Minister's decision to the CITT. The SIMA provides that an appeal of that CITT decision may be made to the Federal Court and, with leave, the Supreme Court of Canada.

20. Apart from the actual assessment of anti-dumping and/or countervailing duties, the SIMA contains legislative provisions for an application to the Federal Court of Appeal to review and set aside certain decisions taken by Revenue Canada, such as a final determination of dumping or subsidizing, and by the CITT, such as an order of material injury. For goods of the United States, an appellant may appeal to a Binational Panel to review a definitive decision rather than the Federal Court of Appeal. Under SIMA, all decisions by Revenue Canada and the CITT can be appealed on grounds of law, principle of natural justice and error in fact.

21. The SIMA provides for the CITT, at its own initiative or at the request of any interested party that must convince the Tribunal that a review of the finding is warranted, to review its findings of injury at any time following the making of that finding. If a review is conducted, the CITT may rescind the finding, or continue the finding with or without amendments. Any injury finding not reviewed by the CITT within 5 years of the original finding or the date of the latest review, is deemed to have been rescinded at the end of that 5 year period.

22. Revenue Canada administrative reviews are generally conducted on or about the anniversary of the finding or the initiation of the last review. The reviews consist of updating normal values and the amount of subsidization.

23. Section 45 of SIMA permits the CITT, when it makes a finding of injury, to hear arguments which allege that the imposition of an anti-dumping or countervailing duty may not be in the Canadian public interest. The CITT will report to the Minister of Finance its opinion as to whether the imposition of the full amount of the countervailing or anti-dumping duty is in the public interest. The Minister may, as a consequence, reduce or eliminate the duty.

24. The Canadian International Trade Tribunal is an independent quasi-judicial body comprised of nine full-time members supported by a staff of just over 80 people. The Tribunal has both judicial and advisory functions, and a number of its programs fall into each category. The Tribunal acts as an administrative court to hear appeals from Revenue Canada's decisions with respect to the application of the Customs and Excise Acts and SIMA. In addition, the CITT conducts inquiries into the existence of material injury and investigates complaints by domestic producers into allegations of serious injury because of increased imports.

25. The CITT, in its advisory functions, acts almost as a standing commission of inquiry with power to conduct research, find facts, hold

public hearing and report on a broad range of trade-related matters. This mandate relates to various import safeguard inquiries and general inquiries into trade and tariff matters. Inquiries are carried out at the request of the Minister of Finance for tariff matters, or the Governor in Council for general trade and economic matters.

ANNEX III

CANADA: ANTI-DUMPING DUTY INVESTIGATIONS INITIATED DURING
THE PERIOD JANUARY 1, 1990 TO DECEMBER 31, 1991

COUNTRY	NUMBER INITIATED	NUMBER OF DEFINITIVE DUTIES ¹	NUMBER OF PRICE UNDERTAKINGS ²
Argentina	1	1	
Austria	1		
Brazil	1		
Germany	2		
France	1		
India	2	1	
Indonesia	1	1	
Japan	1		
Luxembourg	1		
Philippines	1	1	
Poland	1		
Romania	1	1	
Spain	1		
Sweden	1		
Taiwan	2	2	
Thailand	2	2	
Turkey	1		
United States	7	1	1
Venezuela	1	1	
Yugoslavia	1		
Totals	30	11 ³	1

- 1 Makes reference to number of injury findings found in relation to the actions initiated during the same timeframe period and not to the number of injury findings issued by the CITT during that time period.
- 2 Makes reference to number of price undertakings accepted in relation to the actions initiated during the same timeframe period and not to the number of price undertakings accepted during that time period.
- 3 At the end of 1991, 11 actions initiated in 1991 were still in progress.

ANNEX IV

CANADA: COMPREHENSIVE LIST OF ANTI-DUMPING DUTY INVESTIGATIONS
JANUARY 1, 1990 TO DECEMBER 31, 1991

PRODUCT DESCRIPTION	HS CLASSIFICATION	COUNTRIES	DATE INITIATED	RESULT
Carbon Steel Welded Pipe*	7306.30.00.14 7306.30.00.24	Brazil Luxembourg Poland Turkey Yugoslavia	16.09.87	I.
Municipal Tractor	8701.90.19.10	Germany	21.03.90	N.I.
Dry Dog Food	2309.10.00.20 2309.10.00.99	United States	28.03.09	T.
Certain Stainless Steel Bars	7222.10.00 7222.20.00 7222.30.00	India	03.05.90	N.I.
Photo Albums with Self-adhesive Leaves	4820.50.90.00 4820.90.90.20 4820.90.90.90	Indonesia	08.06.90	D.D.
Lint Rollers	4823.90.99.90 9603.29.00.90 9603.90.30.90 9603.90.90.00	United States	06.07.90	N.I.
Photo Albums with Self-adhesive Leaves	4820.50.90.00 4820.90.90.20 4820.90.90.90	Phillipines Thailand	10.07.90	D.D.
Wedge Clamps	8205.70.10.00 8205.70.90.00	United States	14.11.90	U.
Carbon Steel Welded Pipe	7306.30.00.14 7306.30.00.24	Argentina India Romania Taiwan Thailand Venezuela	16.11.90	D.D.
Stainless Steel Welded Pipe	7306.40.00	Taiwan	24.12.90	D.D.
Malt Beverages (Beer)	2203.00.00.11 2203.00.00.12 2203.00.00.19 2203.00.00.21 2203.00.00.22 2203.00.00.29 2300.00.00.31 2300.00.00.32 2203.00.00.39	United States	06.03.91	D.D.

(cont'd)

ANNEX IV (cont'd)

PRODUCT DESCRIPTION	HS CLASSIFICATION	COUNTRIES	DATE INITIATED	RESULT
Aluminum Venetian Blind Materials	7606.11.20.11 7606.11.20.13 7606.12.29.11 7606.12.29.13 7616.90.99.90 8302.49.90.90	Sweden	19.07.91	I.
Machine Tufted Carpeting	5703.20.20.00 5703.30.10.10 5703.30.10.20	United States	06.08.91	I.
Flat Wooden Toothpicks	4421.90.90.30	United States	19.08.91	I.
Artificial Graphite Electrodes	8545.11.12 8545.90.92 8645.11.22	Austria France Germany Spain	20.09.91	T.
Christmas Trees	0604.91.30.00	United States	15.11.91	I.
Tapered Roller Bearings	8482.20.10.00 8482.99.10.21 8482.99.10.29	Japan	12.12.91	I.

* An initial price undertaking was violated by Brazil in the first half of 1991, which precipitated a preliminary determination on September 25, 1991.

- D.D. - Definitive Duties applicable as a result of an injury finding by CITT.
- I. - Investigation still in progress.
- N.I. - Tribunal finding of no injury. Case closed.
- T. - Investigation terminated rather than issue a preliminary or final determination of dumping. Case closed.
- U. - Price undertaking.

ANNEX V

**CANADA: COMPREHENSIVE LIST OF EXPIRIES OR REVIEWS OF
ANTI-DUMPING OR COUNTERVAILING DUTY, INJURY FINDINGS
JANUARY 1, 1990 TO DECEMBER 31, 1991**

PRODUCT DESCRIPTION	COUNTRIES	DATE OF EXPIRY, REVIEW, OR DECISION	RESULT
Canned ham and canned pork-based luncheon meat	Denmark (2) Netherlands (2)	March 16, 1990	Continued
Carbon steel plates	Belgium Brazil Czechoslovakia Germany France Republic of South Africa Republic of Korea Romania Spain United Kingdom Netherlands	May 1, 1990	Rescinded
Alloy tool steel bars, plates and forgings	Brazil Germany Japan Austria Republic of Korea Sweden United Kingdom	May 10, 1990	Rescinded
Expanded vinyl of coated knitted fabrics	Republic of Korea	May 11, 1990	Rescinded
Carbon steel welded pipe	Republic of Korea	June 5, 1990	Continued
Hydraulic turbines and generators	Union of Soviet Socialist Republics Japan People's Republic of China Italy	June 19, 1990	Rescinded
Stainless steel bars and wire	Brazil Germany France Japan Republic of Korea Spain	July 20, 1990	Rescinded
Charcoal briquets	United States	August 13, 1990	Expired
Rail-car axles	United Kingdom	August 21, 1990	Expired
Photo albums	Republic of Korea Hong Kong People's Republic of China Singapore Malaysia Taiwan Japan United States	September 4, 1990	Continued " " " " " Rescinded "

(cont'd)

ANNEX V (cont'd)

PRODUCT DESCRIPTION	COUNTRIES	DATE OF EXPIRY, REVIEW, OR DECISION	RESULT
Wide flange steel shapes	United Kingdom France Japan Republic of South Africa Belgium Luxembourg Germany Republic of Korea Spain (2)	September 10, 1990	Rescinded
Whole potatoes	United States, State of Washington for use in the Province of B.C.	September 14, 1990	Continued
Small induction motors	United States Brazil(2) Japan Mexico Poland Taiwan United Kingdom	October 10, 1990	Continued
Barbed wire	Argentina Brazil Poland Republic of Korea	November 25, 1990	Expired
Surgical adhesive tapes and plasters, excluding elastic tapes and plasters	Japan	December 3, 1990	Expired
Stainless steel pipe	Japan United Kingdom Sweden United States Germany Republic of Korea	December 14, 1990	Rescinded
Hardboard panels suitable for use as doorskins	Poland	December 19, 1990	Expired
Plain Hardboard sheets or panels	Union of Soviet Socialist Republics Poland	December 19, 1990	Expired
Nickel and nickel alloy seamless tubing	Japan	December 21, 1990	Rescinded
Drywall screws	Japan Singapore Taiwan Republic of Korea France (2)	January 25, 1991	Rescinded

(cont'd)

ANNEX V (cont'd)

PRODUCT DESCRIPTION	COUNTRIES	DATE OF EXPIRY, REVIEW, OR DECISION	RESULT
Vehicle washing equipment	United States	March 6, 1991	Rescinded
Rubber hockey pucks	Czechoslovakia Germany	March 17, 1991	Expiry
Oil and Gas Well Casing	Argentina Germany Korea United States	June 10, 1991	Rescinded " Continued "
Boneless Manufacturing Beef	EEC (2)	July 22, 1991	Continued
ABS Resins	Korea	September 30, 1991	Rescinded
Graphite Electrodes	Belgium Japan Sweden United States	November 11, 1991	Rescinded
Alpine Ski Poles	France Italy	December 22, 1991	Expired

1 As of December 31, 1991, Findings on Onions from the U.S. into British Columbia, and Twisted Rope from Korea were under review. Findings on subsidized grain corn from the U.S. and Power Chain Saws from Sweden were to expire in early 1992.

2 Countervailing duties.

3 Anti-dumping and Countervailing duties.

ANNEX VI

PRODUCTS SUBJECT TO IMPORT LICENSING

The following is a listing of products that are subject to import licensing and the reasons for their control:

1. To restrict, for the purpose of supporting any action under the Farm Products Marketing Agencies Act, the importation in any form of a like article to one produced in Canada the quantities of which are fixed or determined under the Act:

- Turkey, live or eviscerated, turkey parts, whether breaded or battered, and turkey products manufactured wholly thereof, whether breaded or battered;
- Eggs and Egg products;
- Chicken and chicken capons, live or eviscerated, chicken parts whether breaded or battered, and chicken products manufactured wholly thereof, whether breaded or battered; and,
- Broiler hatching eggs and chicks for chicken production.

2. To implement any action taken under the Agricultural Stabilization Act, the Fisheries Products Co-operative Marketing Act, or the Canadian Dairy Commission Act, to support the price of the article or that has the effect of supporting the price of the article:

- Animal feeds containing more than 50 per cent non-fat milk solids (Canadian Dairy Commission Act);
- Butter (Canadian Dairy Commission Act);
- Butter fat in any form either alone or in combination with other substances (Canadian Dairy Commission Act);
- Cheese of all types other than imitation cheese (Agricultural Stabilization Act and Canadian Dairy Commission Act);
- Buttermilk in dry, liquid or other form (Canadian Dairy Commission Act);
- Dry casein and caseinates (Canadian Dairy Commission Act);
- Skimmed milk in dry, liquid or other form (Canadian Dairy Commission Act);

- Dry whey (Canadian Dairy Commission Act);
 - Evaporated and condensed milk (Canadian Dairy Commission Act);
 - Blends in dry, liquid or other form (Canadian Dairy Commission Act and Agricultural Stabilization Act);
 - Ice cream, ice milk, ice cream mix, ice milk mix or any product manufactured mainly of ice cream or ice milk (Canadian Dairy Commission Act); and,
 - Yoghurt (Canadian Dairy Commission Act).
3. To implement an inter-governmental arrangement or commitment:
- Endangered Species (Convention on International Trade in Endangered Species);
 - Goods of Haitian origin and all goods exported from Haiti;
 - Goods of South African origin (Commonwealth Heads of Government Review Meeting, August 3-5, 1986);
 - Raccoon Dogs (Bilateral Arrangement with the U.S.);
 - Textiles and clothing (Multi-Fibre Arrangement and subsidiary agreements and unilateral restraints); and,
 - Black bears.
4. To collect information pursuant to an enquiry by the Canadian International Trade Tribunal:
- Carbon steel.
5. To collect information on the import of steel:
- Specialty steel.

ANNEX VII

INTERNATIONAL MARKETING ASSISTANCE

1. The Program for Export Market Development (PEMD) is the cornerstone of the Federal Government's export trade development support.

2. PEMD offers assistance to Canadian business to undertake or participate in a wide variety of export promotion activities. PEMD covers both projects initiated by industry and those planned by government, and is designed to share the risk of international market development.

Program Objective

3. The main objective of PEMD is increased export sales of Canadian goods and services. The program accomplishes this by sharing the costs of activities that companies normally could not, or would not, undertake alone to reduce the risks involved in penetrating a foreign market. PEMD encourages Canadian companies not previously involved in exporting to become exporters. PEMD also encourages Canadian exporters to enter new geographic markets and to introduce new products to existing markets.

Kinds of Assistance Available

4. The Program offers Canadian businesses recoverable financial assistance to undertake or participate in various types of trade promotion activities. These activities are categorized as either industry-initiated or government-planned.

Industry-Initiated activities include:

- participation in recognized trade fairs outside Canada;
- visits outside Canada to identify markets;
- visits of foreign buyers or foreign sales agents to Canada, or to another approved location;
- project bidding;
- permanent sales offices abroad;
- special activities for non-profit trade associations.

Government-Planned activities include:

- trade missions to markets outside Canada, and for foreign business persons and government officials coming to Canada or to trade shows where Canadian business participation is substantial;
- trade fairs abroad.

5. The financial assistance for export marketing activities initiated by industry is not a grant but a provisionally repayable contribution. Application must be made prior to incurring any costs for the activity as assistance cannot be applied retroactively.

Program Activity in 1990/91

6. **Industry-Initiated:** A steady decline since 1985/86 in usage of the Program's Industry-Initiated component (in response to stricter eligibility criteria and reduced budgets) finally halted in 1988/89. In 1990/91, application submissions rose by 16.9 per cent to 5,249 and approvals by 15 per cent to 3,710. Actual expenditures in 1990/91 projects increased dramatically by 39.1 per cent to CAN\$18.5 million from the previous year.

7. Trade fairs accounted for 40 per cent of approved projects, 30 per cent of approved contribution value, and 44 per cent of reported sales.

8. In terms of client profile, 57 per cent of approvals went to companies with total sales of less than CAN\$2 million. Manufacturing continued to be the major industry user of this support, receiving 63 per cent of all project approvals. First-time users of the Program accounted for nearly 30 per cent of all projects approved during the fiscal year.

9. **Government-Planned:** This PEMD component attracted 2,264 participants in 1990/91, including 577 non-Canadian buyer representatives. The 296 fairs and outgoing/incoming missions cost CAN\$19.8 million, as compared to CAN\$18.9 million the previous year.

10. Advanced technology was the leading industrial sector in 1989/90 in terms of PEMD Government-Planned activities, followed by Agriculture/Food Products, Machinery Products, and Consumer Products.

ANNEX VIII

CANADA: DETAILS OF DISPUTE SETTLEMENT UNDER THE FTA
JANUARY 1, 1989 TO JANUARY 30, 1992CHAPTER 18 BINATIONAL PANELS:U.S. challenge of Canadian landing requirement for West Coast salmon and roe herring.

1. The Panel reported on October 16, 1989 that a landing requirement is a legitimate conservation measure but suggested that the Canadian requirement need not apply to 100 per cent of the catch. The report suggested that Canada allow 10 to 20 per cent of the catch to be exported directly from the grounds. Canada adopted the report on November 6, 1989 and is implementing the panel findings in consultation with the Government of British Columbia and the U.S. government.

Canadian challenge of U.S. minimum size requirements for imported lobsters.

2. The Panel reported on May 25, 1990 that the U.S. federal measure was an "internal measure", not a restriction on importation as Canada had argued.

Canadian challenge of U.S. treatment of non-mortgage interest as territorial content in the FTA Rules of Origin.

3. Canada requested establishment of a panel under Article 1807 of the FTA on January 6, 1992.

CHAPTER 19 BINATIONAL PANELS:**Canadian Challenges**U.S. dumping determination on imported red raspberries.

Panel Request: March 15, 1989

Panel Decision: December 15, 1989

4. Panel affirmed administrative review as to one exporter and remanded with instructions to recalculate dumping margins with respect to two other producers having found that the United State's explanation for excluding home market sales for the latter two was not sufficient. Redetermination led to findings of no dumping for one Canadian producer and to a de minimis margin for the other.

U.S. scope determination on imported parts for paving equipment.

Panel Request: March 16, 1989
Panel Decision: January 25, 1990
Panel review was completed February 26, 1990.

5. Panel affirmed that the replacement parts in question were included in the existing anti-dumping order, i.e. within scope of the order.

U.S. final review results and amendments to 1986-87 administrative review of determination on imported parts for paving equipment.

Panel Request: April 26, 1989
Panel Decision: March 7, 1990
Panel review was completed April 1990.

6. Panel affirmed that U.S. adjustments for Canadian taxes in calculation of dumping margins were correct.

U.S. anti-dumping determination on salted codfish.

Panel Request: April 26, 1989
Case dismissed.

7. Panel review terminated by order of the Panel December 18, 1990 because anti-dumping order was revoked by the United States with consent of U.S. petitioner.

U.S. countervailing duty determination on fresh, chilled and frozen pork.

Panel Request: August 22, 1989
Panel Decision: September 28, 1990

8. Panel affirmed a U.S. determination in counting subsidies to swine producers but remanded the countervailing determinations on several subsidy programs for reconsideration. Determination on remand resulted in a reduction of CVD deposit rate. A review of this determination was ordered. The panel affirmed a U.S. remand determination with respect to certain programs but again requested remand determination with respect to certain payments. Second remand determination issued April 11, 1991 eliminating certain benefits from the subsidy calculation and reducing the allocation of CVD benefits.

U.S. countervailing duty determination on imported steel rails.

Panel Request: September 1, 1989
Panel Decision: June 8, 1990
Panel review was completed August 27, 1990.

9. Panel affirmed in part and remanded in part for recalculation. Redetermination reduced CVD rate which was affirmed by the Panel.

U.S. anti-dumping determination on imported steel rails.

Panel Request: September 1, 1989
Panel Decision: August 30, 1990
Panel review was completed October 1, 1990.

10. Panel affirmed U.S. use of "best information available" which had been challenged by Canadian exporter which claimed that the United States should have used cost of production data supplied by the exporter.

U.S. injury determination on imported steel rails.

Panel Request: October 2, 1989
Panel Decision: August 13, 1990
Panel review was completed September 13, 1990.

11. Panel affirmed the United States on both an affirmative determination on threat of material injury challenged by Canadian exporter and a negative material injury determination challenged by U.S. petitioner.

U.S. injury determination on fresh, chilled and frozen pork.

Panel Request: October 13, 1989
Panel Decision: August 24, 1990

12. Panel remanded to U.S. administrative review to reconsider threat of material injury in light of corrected faulty statistics. U.S. remand results readopting original determination made on October 23, 1990. Panel ordered a review of remand on November 5, 1990. On January 22, 1991, the Panel found that the U.S. failure to follow its own Notice was an error of law and that the majority of the Commissioner's findings of a threat of imminent material injury were not supported by substantial evidence and again remanded to U.S. administrative review. In the second remand determination of February 12, 1991, the United States reversed its finding of threat of injury.

U.S. anti-dumping determination on imported parts for paving equipment.

Panel Request: June 14, 1990
Panel Decision: May 24, 1991

13. Panel remanded in part and affirmed in part a United States final determination. At the United States' request the Panel remanded to administrative review to correct computation errors and very various

elements of the case. Remand determination December 20, 1991. Panel review of remand determination requested January 6, 1992.

U.S. scope determination on imported oil country tubular goods.

Panel Request: November 5, 1990
Panel Decision: January 23, 1991
Panel review terminated at request of participants.

U.S. anti-dumping determination and cancellation of suspension agreement on imported sheet piling.

Panel Request: December 19, 1990
Panel was terminated by consent April 22, 1991.

U.S. scope determination on imported oil country tubular goods.

Panel Request: May 16, 1991
Panel Decision: March 1992

U.S. countervailing duty determination on imported iron construction castings.

Panel Request: June 20, 1991
Panel was terminated July 2, 1991.

U.S. countervailing duty determination on imported live swine.

Panel Request: July 8, 1991
Panel Decision: May 18, 1992

U.S. countervailing duty determination on imported live swine.

Panel Request: October 7, 1991
Panel Decision: August 21, 1992

U.S. Challenges

Canadian subsidy and anti-dumping determination on imported polyphase induction motors.

Panel Request: May 1, 1989
Panel terminated by consent January 10, 1990.

Canadian injury determination on certain imported induction motors.

Panel Request: October 31, 1990
Panel Decision: September 11, 1991
Panel affirmed injury determination.

Canadian anti-dumping determination on imported beer.

Panel Request: September 26, 1991
Panel Decision: August 6, 1992

Canadian injury determination on imported beer.

Panel Request: October 16, 1991
Panel Decision: August 26, 1992.