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TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

CANADA

This report, prepared for the twelfth Trade Policy Review of Canada, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Canada on its trade policies and practices.

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CONTENTS

SUMMARY 8

1 ECONOMIC ENVIRONMENT 14

1.1 Main features of the economy 14

1.2 Recent economic developments 16

1.3 Developments in trade and investment 22

1.3.1 Trends and patterns in merchandise and services trade 22

1.3.1.1 Merchandise trade 22

1.3.1.2 Trade in services 27

1.3.2 Trends and patterns in FDI 30

2 TRADE AND INVESTMENT REGIMES 33

2.1 General framework 33

2.2 Trade policy formulation and objectives 34

2.3 Trade agreements and arrangements 37

2.3.1 WTO 37

2.3.2 Regional and preferential agreements 38

2.3.2.1 Reciprocal agreements 38

2.3.2.2 Unilateral preferential schemes 40

2.4 Investment regime 40

3 TRADE POLICIES AND PRACTICES BY MEASURE 46

3.1 Measures directly affecting imports 46

3.1.1 Customs procedures, valuation, and requirements 46

3.1.1.1 Recent developments 46

3.1.1.2 Customs valuation 50

3.1.2 Rules of origin 51

3.1.3 Tariffs 53

3.1.3.1 WTO bound tariffs 53

3.1.3.2 Applied MFN tariffs 54

3.1.3.3 Tariff concessions 58

3.1.3.4 Preferential tariffs 59

3.1.4 Other charges affecting imports 60

3.1.4.1 Federal Goods and Services Tax (GST) and provincial sales taxes 60

3.1.4.2 Federal excise duties and taxes 62

3.1.4.3 Provincial product-specific taxes 63

3.1.4.4 Other charges 65

3.1.5 Import prohibitions, restrictions, and licensing 67

3.1.6 Anti-dumping, countervailing measures, and safeguard measures 70

3.1.6.1 Anti-dumping and countervailing measures 70

3.1.6.1.1 Regulatory and policy developments 70

3.1.6.1.2 Use of measures 73

3.1.6.2 Safeguard measures 75
3.1.7 Other measures affecting imports 77
3.2 Measures directly affecting exports 77
3.2.1 Customs procedures and requirements 77
3.2.2 Export taxes, charges, and levies 78
3.2.3 Export prohibitions, restrictions, and licensing 78
3.2.4 Export support and promotion 80
3.2.5 Export finance, insurance, and guarantees 81
3.3 Measures affecting production and trade 84
3.3.1 Incentives 84
3.3.1.1 Overview 84
3.3.1.2 Recent developments 86
3.3.2 Standards and other technical regulations 90
3.3.2.1 Standards 90
3.3.2.2 Technical regulations 92
3.3.2.3 Accreditation and conformity assessment 94
3.3.3 Sanitary and phytosanitary requirements 95
3.3.4 Competition policy and price controls 99
3.3.4.1 Competition policy 99
3.3.4.1.1 Legislative developments 99
3.3.4.1.2 Other developments, including in enforcement 101
3.3.4.1.3 Cooperation 102
3.3.4.2 Price controls 103
3.3.5 State trading, state-owned enterprises, and privatization 104
3.3.6 Government procurement 105
3.3.6.1 Overview 105
3.3.6.2 Recent policy and legislative developments 107
3.3.6.3 Interprovincial and international procurement agreements 109
3.3.7 Intellectual property rights 111
3.3.7.1 Overview 111
3.3.7.2 Policies on promotion and commercialization of innovation 113
3.3.7.3 International context 116
3.3.7.4 Patents 116
3.3.7.5 Industrial designs 120
3.3.7.6 Trademarks 120
3.3.7.7 Geographical indications 123
3.3.7.8 Undisclosed information 124
3.3.7.9 Plant variety protection 124
3.3.7.10 Copyright 125
3.3.7.11 IP enforcement 127

3.3.7.12 COVID-19 related IP measures 128

4 TRADE POLICIES BY SECTOR 130

4.1 Agriculture, forestry, and fisheries 130

4.1.1 Agriculture 130

4.1.1.1 Main features and recent developments 130

4.1.1.2 Regulatory, institutional, and policy developments 132

4.1.1.2.1 Border measures 133

4.1.1.2.2 Export measures 136

4.1.1.2.3 Domestic programmes 136

4.1.1.2.4 Domestic support 140

4.1.2 Forestry 142

4.1.2.1 Main features and recent developments 142

4.1.2.2 Regulatory, institutional, and policy developments 143

4.1.2.3 Border measures 144

4.1.2.4 Domestic support 144

4.1.3 Fisheries 145

4.1.3.1 Main features and recent development 145

4.1.3.2 Regulatory, institutional, and policy developments 146

4.1.3.2.1 Policy tools 147

4.1.3.2.2 Border measures 148

4.1.3.2.3 International arrangements 149

4.1.3.2.4 Domestic support 151

4.2 Mining and energy 152

4.2.1 Minerals 152

4.2.2 Energy 154

4.2.2.1 Main features and recent development 154

4.2.2.2 Regulatory, institutional, and policy developments 157

4.2.2.2.1 Regulatory and institutional framework 157

4.2.2.2.2 Policy developments 159

4.3 Services 163

4.3.1 Financial services 163

4.3.1.1 Main features and recent developments 163

4.3.1.2 Regulatory, institutional, and policy developments 164

4.3.1.3 Banking 166

4.3.1.4 Insurance 168

4.3.1.5 Securities 170

4.3.2 Telecommunications and broadcasting services 171

4.3.2.1 Main features and recent developments 171

4.3.2.2 Regulatory, institutional, and policy developments 173

4.3.3 Transportation services 178

4.3.3.1 Air transport....................178
4.3.3.2 Maritime transport....................182
5 APPENDIX TABLES....................187

CHARTS

Chart 1.1 Contributions to percentage change in real GDP, 2016-22....................15
Chart 1.2 Real GDP, 2019 Q1-2023 Q3....................17
Chart 1.3 Consumer price inflation and policy interest rate, 2019-23....................18
Chart 1.4 Exchange rates against real effective exchange rate, terms of trade, and USD, 2017-23....................21
Chart 1.5 Merchandise trade by main HS section, 2018 and 2022....................23
Chart 1.6 Merchandise trade by main origin and destination, 2018 and 2022....................24
Chart 1.7 Canada's trade with CUSMA parties and the rest of world, January 2013-October 2023....................25
Chart 1.8 Canada's top 10 traders of automobile products, by end-use, 2018-23....................26
Chart 1.9 Canada's top 10 traders in ICT products, by end-use, 2018-23....................27
Chart 1.10 Selected categories of trade in other commercial services, 2018-22....................30
Chart 3.1 Average applied MFN tariff and bound rates, by HS section, 2023....................53
Chart 3.2 Distribution of applied MFN tariffs, 2019 and 2023....................55
Chart 3.3 GST/HST and provincial sales tax rates, 2023....................61
Chart 3.4 Anti-dumping and countervailing duty decisions and measures, 2010-22....................73
Chart 3.5 New anti-dumping and countervailing duty investigations by region, 2019-22....................74
Chart 3.6 New anti-dumping and countervailing duty investigations by product category, 2019-22....................74
Chart 3.7 Value of subsidies, 2011-21....................85
Chart 3.8 Trade in technology-intensive services, 2015-21....................111
Chart 3.9 Charges for the use of intellectual property rights, 2015-21....................112
Chart 4.1 Agriculture and agri-food system's contribution to GDP and employment, 2022....................130
Chart 4.2 Forest ownership, 2021....................143
Chart 4.3 Exports and imports of energy products, 2019Q1-2023Q3....................155
Chart 4.4 Total energy supply and primary energy consumption, 2021....................155
Chart 4.5 Electricity generation and use, 2019 and 2020....................157
Chart 4.6 Selected indicators of air transportation, 2019-22....................178

TABLES

Table 1.1 Gross domestic product at constant prices, 2018-23 Q3....................14
Table 1.2 Balance of payments, 2018-23 Q3....................21
Table 1.3 Trade in services, 2018-23 Q3....................28
Table 1.4 International transactions in services by main partner, 2018-23 Q3....................29
Table 1.5 International investment position by partner, 2018-22....................31

Table 1.6 International investment position by sector, 2018-22 32
Table 2.1 Power division between federation and provinces on trade- and trade-related policies 33
Table 2.2 RTAs in force, 2023 38
Table 2.3 Total value of notified investments, FY2018/19-FY2022/23 41
Table 2.4 Thresholds for investments subject to "net benefit" review, 2024 42
Table 2.5 Investment Canada Act enforcement statistics, FY2018/19-FY2022/23 43
Table 3.1 Options for the release of imported goods, 2023 46
Table 3.2 Time frames for submitting pre-arrival information 48
Table 3.3 Priority goods for targeted verification of tariff classification 49
Table 3.4 Federal tax revenues, FY2018/19–FY2022/23 53
Table 3.5 Structure of tariff schedule, 2019 and 2023 54
Table 3.6 Summary analysis of MFN tariff, 2023 56
Table 3.7 Tariff lines where applied rates exceed bound rates, 2023 58
Table 3.8 Value of tariff concessions, FY2019/20–FY2022/23 59
Table 3.9 Tariffs under preferential agreements, 2023 59
Table 3.10 Carbon pricing systems, 2023 66
Table 3.11 Main import controls for non-economic reasons, August 2023 68
Table 3.12 Import controls for economic and trade reasons, August 2023 69
Table 3.13 Tariff quotas on certain steel products, May 2019-October 2021 76
Table 3.14 Export controls for economic and trade reasons, September 2023 79
Table 3.15 EDC financing, investment, and insurance programmes, September 2023 82
Table 3.16 EDC Connections Program support and exposure, 2019-22 83
Table 3.17 Government programmes and services listed in the Business Benefits Finder, November 2023 84
Table 3.18 Overview of subsidies notified to the WTO, 2023 85
Table 3.19 Selected regulatory reform initiatives in the SPS area, September 2023 98
Table 3.20 Competition policy enforcement, FY2018/19-FY2022/23 101
Table 3.21 10 largest federal crown corporations, by assets, 2021-22 104
Table 3.22 Performance indicators on PSPC-managed procurement, FY2018/19-FY2022/23 106
Table 3.23 Government procurement in Canada, 2018-19 110
Table 4.1 WTO TQ level and fill rates, FY2016/17 and FY2021/22 134
Table 4.2 Export subsidies: commitment levels, annual outlays, and quantities of subsidized exports, marketing years 2018/19-2019/20, and 1 August-31 December 2020 136
Table 4.3 Sustainable Canadian Agricultural Partnership, 2023-28 137
Table 4.4 Canada's domestic support, 2018-20 140
Table 4.5 Evolution of support and protection, 2018-22 141
Table 4.6 Agriculture subsidies – federal level, FY2020/21 – FY2021/22 141
Table 4.7 Forest sector selected figures, 2018-22 142
Table 4.8 Forest sector subsidies – federal level 145
Table 4.9 Fisheries sector selected figures, 2018-22 145

Table 4.10 Fisheries sector subsidies, FY2020/21-FY2021/22 151
Table 4.11 Shared responsibilities between federal and provincial governments, 2024 158
Table 4.12 Selected financial soundness and other banking system indicators, 2019-22 166
Table 4.13 Key insurance indicators 2019-22 168
Table 4.14 Main requirements for establishing an insurance business, 2023 169
Table 4.15 Selected telecommunications indicators, 2019-22 171
Table 4.16 Broadcasting revenues, 2019-22 broadcast years 172

BOXES

Box 3.1 Low-value shipment policy 49
Box 3.2 A close-up look at non-zero-rated Non-Agricultural Market Access (NAMA) tariffs, 2023 56
Box 3.3 The "Made-in-Canada" Plan 88
Box 3.4 Regulatory Reviews 93

APPENDIX TABLES

Table A1.1 Selected economic indicators, 2018-23 Q3 187
Table A1.2 Merchandise exports by HS section and main chapter, 2018-22 188
Table A1.3 Merchandise imports by HS section and main chapter, 2018-22 190
Table A1.4 Merchandise exports and by trading partner, 2018-22 192
Table A1.5 Merchandise imports by trading partner, 2018-22 193
Table A3.1 IP Legislation 194
Table A3.2 Applications for and registrations of patents, trademarks, and industrial designs, 2017-21 197

SUMMARY

1. During the period under review (2019-23), Canada took steps to continue improving its generally open and highly transparent trade regime, reflecting the centrality of international trade and the global rules-based trading system to Canada's economy and high living standards. Canada's trade strategy seeks to revitalize exports and promote diversification, not just of export markets and products, but also of the businesses and people engaged in trade, including women, Indigenous Peoples, and other traditionally under-represented groups. In line with these goals, the review period saw Canada adopt measures to facilitate trade, strengthen its competition policy and intellectual property (IP) frameworks, promote R&D, modernize its regulations in key sectors, and expand its network of free trade agreements.

2. Since 2019, Canada has also taken measures to capitalize on emerging trade opportunities, especially those resulting from the global transition to net-zero emissions. Along with measures to strengthen its carbon pricing scheme, Canada adopted a package of green incentives and a critical minerals strategy. At the same time, Canada has introduced trade- and investment-related instruments to respond to perceived unfair trade practices abroad. For example, Canada adopted a new policy on the review of foreign SOE investments in critical minerals, introduced legislative amendments to improve the effectiveness of Canada's trade remedy system, and announced a shift away from an open to a reciprocal government procurement policy.

3. To ensure that international trade plays an even bigger role in its future prosperity, Canada would benefit from addressing long-standing trade and investment barriers, including those caused by regulatory differences at the sub-federal level. Doing so could help further reduce trade costs, increase competition, and accelerate lagging productivity growth, which is essential to sustain continued improvements in Canadian living standards. In the absence of rapid productivity growth, Canada has relied on skill-based immigration to bolster GDP growth, which averaged 1.5% per year in real terms between 2018 and 2022 against the backdrop of several shocks, not least the COVID-19 pandemic, the war in Ukraine, a global surge in inflation, and record wildfires in 2023. Initiatives undertaken during the period under review to improve housing affordability and provide subsidized childcare should exert a positive impact on Canada's labour force participation and productivity.

4. Trade in goods and services represented about 67% of Canada's GDP in 2022. Canada's merchandise trade remains geographically concentrated in the US market, which is the destination for three quarters of Canada's exports and the origin of half of its imports. A substantial part of this comprises intra-industry trade in vehicles and transport equipment, reflecting Canada's successful integration into North America's tightly knit automotive supply chain, which has been facilitated by NAFTA and, since July 2020, the Canada–United States–Mexico Agreement (CUSMA). Canadian industries have also integrated successfully into global value chains. The information and communications technology sector (ICT) is a case in point, as most of Canada's ICT product exports are in intermediate goods to a broad range of destinations beyond North America. Canada, a net services importer, is a strong performer in services trade involving highly skilled labour. At the same time, Canada continues to run a deficit in IP revenue.

5. FDI, both inward and outward, is an important aspect of Canada's economy. In general, non-Canadian investors must submit a notification whenever they establish a new business in Canada or acquire control of an existing Canadian business. Moreover, investments by non-Canadians to acquire control of a Canadian business valued above certain thresholds are subject to a "net benefit" review. The thresholds depend partly on the origin of the investment. All foreign investments are subject to a separate national security review. During the period under review, Canada revised the 2016 Guidelines on the National Security Review of Investments with the goal of providing more information to potential investors on the factors considered in national security reviews. The number of cases deemed potentially injurious to national security and referred to "extended" national security review was up more than threefold between FY2018/19 and FY2022/23 but represented a negligible share of all notified foreign investments. Most long-standing foreign ownership restrictions, including those affecting essential inputs such as telecommunications, remain in place. Canada includes investment chapters in its FTAs, and negotiates stand-alone investment treaties, referred to as Foreign Investment Promotion and Protection Agreements (FIPAs), which seek to protect and promote foreign investment between parties through legally binding provisions. Canada updated its model FIPA in 2021.

6. One of Canada's trade policy priorities is to safeguard and strengthen an open, stable, and inclusive rules-based global trading system. In line with this, Canada actively participates in the WTO, including the Joint Statement Initiatives, and has taken a leadership role in advancing discussions on WTO reform and seeking to increase the WTO's contribution to environmental sustainability, women's economic empowerment, and the participation of MSMEs in global trade. Canada deposited its instrument of acceptance for the Agreement on Fisheries Subsidies in May 2023. Reflecting the transparent nature of its trade policy regime, Canada is up to date with its WTO notification obligations.

7. Canada considers that multilateral, regional, and bilateral trade initiatives are mutually reinforcing. During the period under review, two new FTAs signed by Canada entered into force, CUSMA on 1 July 2020 and the Canada–United Kingdom Trade Continuity Agreement (CUKTCA) on 1 April 2021, bringing the total number of FTAs to which Canada is a party to 15. In 2022, 55% of Canada's total merchandise trade took place under CUSMA. Canada maintains unilateral preferential tariff programmes for developing countries. During the period under review, Canada announced their renewal, along with the creation of the General Preferential Tariff Plus programme, which seeks to create incentives for beneficiaries to meet international standards on human rights, labour, gender equality, and climate change. New regulations that will come into force in January 2025 will simplify certain rules of origin and direct shipment requirements under Canada's preferential tariff schemes, and extend duty-free treatment to textiles and apparel products under its preferential tariff scheme for 18 Caribbean trading partners.

8. Another focus of Canadian trade and economic policy is to reduce or eliminate barriers to the free movement of persons, goods, services, and investments within Canada. To this end, Canada's federal, provincial, and territorial (FPT) governments signed the Canadian Free Trade Agreement (CFTA), which entered into force in 2017 and was amended twice during the period under review. In the context of the CFTA, Canada has made progress in addressing regulations that act as barriers to internal trade. Accelerating this work would be important, as it is estimated that regulatory barriers increase internal trade costs by 21% on average, and that removing them would result in a 3.8% increase in GDP per capita.

9. During the period under review, Canada continued to pursue trade-facilitative customs initiatives. For example, Canada expanded its Authorized Economic Operator regime by signing four new mutual recognition agreements with trading partners, took steps to streamline its customs release system, which currently offers five different options to transmit import documentation, and moved closer to rolling out a digital tool for paying customs duties and taxes. In addition, Canada fully implemented its eManifest programme, which involves an Internet-based portal specially developed to facilitate advance electronic reporting of cargo information by small- and medium-sized businesses. Canada also introduced new tools for faster and more targeted post-clearance customs verifications on goods that present a high risk of misclassification or undervaluation. Under Canada's low value shipment policy, the *de minimis* threshold below which courier imports are not subject to customs duties and/or taxes is higher for qualifying goods from Mexico and the United States than for qualifying goods from other trading partners.

10. The 2023 average applied MFN tariff rate, at 6%, remains virtually unchanged with respect to Canada's previous Review (6.1%). Around 71% of tariff lines are duty-free on an MFN basis. Canada continues to apply non-*ad valorem* duties on agricultural products representing 3.6% of total tariff lines. The applied MFN tariff on agricultural products (WTO definition) averaged 21.8%, compared with 2.5% for non-agricultural products. Tariff rate quotas are applied on 191 tariff lines, including dairy products, poultry and egg products, beef and veal, and certain wheat and barley products. All but 35 tariff lines are bound, with applied rates close to or coinciding with their bound rates, which adds stability and predictability to Canada's tariff regime. The applied MFN rates for eight tariff lines related to agricultural products appear to exceed their corresponding bound rates. Canada continues to provide a wide range of tariff and tax exemptions under specific regulations.

11. Canada's system of indirect taxation includes a VAT comprising a federal component in the form of a Goods and Services Tax (GST), and, depending on the destination of the supply or import of the taxable good or service, normally also a provincial component in the form of either a Harmonized Sales Tax (HST) or a Provincial Sales Tax. A major change during the period under review was the introduction in July 2021 of new rules to ensure that GST/HST applies to digital economy businesses, including those supplying cross-border digital products (such as e-books) or services (such as online music streaming or digitally delivered legal and accounting services), mobile

app stores and online marketplaces facilitating those cross-border supplies, and accommodation platform operators.

12. Canada levies federal excise taxes at the same rate on imported and domestic products, except for certain quantities of beer brewed in Canada each year, which is subject to lower excise duties than imported beer, and 100% Canadian cider and mead, which are exempt. A federal excise duty exemption on 100% Canadian wine was eliminated in June 2022. Provinces and territories also levy product-specific taxes. Alcoholic beverages are subject to a particularly complex system of provincial taxes and mark-ups, which vary across provinces and may involve tax and mark-up reductions to in-province producers. Some provinces eliminated such preferential treatment during the period under review.

13. A carbon price system applies in every province and territory, which can opt for the federal system or design their own pricing systems tailored to local needs, provided that the systems meet the minimum requirements in the so-called "federal benchmark". In August 2021, Canada published an updated federal benchmark for the period 2023-30. The updated benchmark requires that measures to prevent carbon leakage be adopted only for sectors that risk experiencing carbon leakage and negative competitiveness effects from a carbon price. The benchmark also prohibits measures that would undermine carbon pricing, including rebates tied to the amount of the carbon price or fuel tax reductions to offset the carbon price. Canada does not apply border carbon adjustments on imports.

14. Canada remains an active user of trade remedies. At the end of 2022, 115 anti-dumping measures were in force (up from 83 in December 2018) across a larger group of trading partners (41 trading partners in December 2022 compared with 29 in December 2018). The number of countervailing duties in force has also increased, from 28 in December 2018 to 34 in December 2022. The iron and steel sector is the most affected by trade remedy investigations and measures. Most Canadian investigations involve exports of the same product from several trading partners, and the same products and trading partners are frequently subject to both anti-dumping and countervailing duty investigations.

15. During the period under review, Canada amended its trade remedy legislation in response to stakeholders' perceived need to increase its effectiveness in the face of changes in the global economy. The legislative amendments relate to anti-circumvention investigations, massive importation inquiries, injury assessments, expiry reviews, and the rights of labour unions to file trade remedy complaints. Canada also applied safeguard measures on certain steel products between 2018 and 2021 and amended related legislation to, *inter alia*, allow labour unions to file global safeguard complaints.

16. Canada has long maintained programmes to assist Canadian exporters. Its main export credit agency, EDC, "facilitated" an average of CAD 111 billion in exports and related activities each year between 2018 and 2022, predominantly through credit insurance programmes. In addition to its more traditional role as an export credit agency, EDC develops financing relationships with foreign buyers to expand and diversify Canada's exports. The Federal Government may also support, under the so-called Canada Account, export transactions that are judged to be in the "national interest" but too risky or large to be approved under EDC's corporate account. As at end-March 2022, the Canada Account held about CAD 65 billion in contingent liabilities, much of it related to emergency liquidity provided to Canadian businesses in the context of the COVID-19 pandemic.

17. Canada also offers a wide range of support programmes that seek to encourage investment, spur innovation, foster employment, promote regional economic development and cultural priorities, and more recently, mitigate the effects of the COVID-19 pandemic. During the period under review, Canada introduced new support measures targeted at priority areas of the clean economy, partly in response to the adoption of similar measures in Canada's main trading partners. Support includes five investment tax credits valued at CAD 60 billion over the next 10 years, along with CAD 20 billion in strategic financing by the Canada Infrastructure Bank. The authorities are of the view that such support is needed for Canada to capitalize on the "race to build the clean economies of the 21st century" and growing efforts by Canada's allies to shift economic dependencies towards partners with shared interests and values.

18. Canada has a transparent standards regime underpinned by a well-developed infrastructure with broad participation of standards development organizations, conformity assessment bodies, and many other stakeholders. Since its last Review, Canada has updated its National Standards Strategy, which highlights the need to foster harmonization, including across FPT and municipal levels of government to facilitate internal trade. As part of broader plans to modernize Canada's regulatory system, Canada launched regulatory reviews in existing and emerging areas to reduce bottlenecks to innovation, growth, and competitiveness, while continuing to protect health, safety, and security.

19. Canada's food safety control system underwent its most significant revision in 25 years with the entry into force of the Safe Food for Canadians Act and the Safe Food for Canadians Regulations in January 2019. The new system seeks to ensure that imported food is made in a manner and under conditions that provide the same level of protection as food made in Canada. To obtain a food import licence, importers are required to prepare a preventive control plan, along with complaints and recall procedures, and must keep traceability records for all imported food. In May 2022, Health Canada published new guidance for novel food regulations focused on plant breeding.

20. During the period under review, Canada took important steps to modernize its Competition Act. A first set of amendments addressed certain perceived shortcomings in the Act to bring Canada more in line with international best practices, for example by increasing penalties for companies that contravene the Act and rendering wage-fixing and no-poach agreements between employers criminal offences. A second set of amendments included granting the Competition Bureau compulsory information-gathering powers to conduct market studies. A bill that would make further amendments to the Competition Act was introduced in Parliament in November 2023. During the period under review, the Bureau signed three international cooperation instruments.

21. Public procurement, which represented approximately 13% of GDP in 2022, is governed by a framework of regulations, policies, and guidelines that differ across provinces and territories, and between them and the Federal Government. In a significant policy shift announced in Budget 2021, Canada stated its intention to replace its long-standing "open-by-default" government procurement policy with reciprocal procurement policies, whereby goods and services would only be procured from partners that grant Canadian businesses a similar level of access to their procurement markets. The main policy governing federal government procurement is the Directive on the Management of Procurement, which took effect in May 2021 and includes requirements to integrate principles on human rights, environmental sustainability, social and corporate governance, and supply chain transparency into all procurements. Canada has public procurement policies and programmes that seek to promote domestic production and the participation of Indigenous businesses and businesses from under-represented groups in federal government procurement.

22. In addition to initiating programmes and legislative reforms aimed at promoting R&D and the commercialization of innovation, Canada took steps to align its IP regime more closely with international practice and those of its primary trading partners by amending the Copyright Act, the Patent Act, the Trademarks Act, and the Criminal Code. Additional amendments to the Trademarks Act expanded the eligibility of non-traditional signs for registration and streamlined application procedures, and they aim to counter abuse of the trademark regime. No substantive changes were made to systems of protection for industrial designs, geographical indications, or plant varieties during the review period. With respect to Canada's registration systems, patenting activity remained relatively stable during the review period. Trademark applications surged following Canada's accession to the Madrid Protocol in 2019, slowing average turnaround times at the Canadian Intellectual Property Office (CIPO). Applications and registrations for design protection filed with CIPO – and by Canadians abroad – also increased after Canada joined the Hague System in 2018.

23. Canada is a large exporter of agriculture and agri-food products, and its agriculture and agri-food sector remains a major contributor to the economy. Agricultural policies aim to achieve sustainability, deal with the effects of climate change, reduce regulatory and other barriers, and improve access to healthy food. Partly in response to the economic impact of the COVID-19 pandemic and adverse weather conditions, Canada increased its Amber Box support to the agricultural sector during the period under review, though such support remains well below WTO bound levels. The dairy, poultry, and egg sectors are subject to supply management, which seeks to ensure that domestic demand is matched by regulated production and regulated imports with the goal of promoting stable farm incomes. In contrast to the rest of Canada's agricultural sector, which is relatively more open and highly outward-oriented, supply-managed products continue receiving

trade protection through high out-of-quota tariff rates (frequently exceeding 100%). For these products, access to the domestic market is available through reduced or zero in-quota tariff rates, including under Canada's preferential arrangements. Border measures, along with the production quotas and pricing mechanisms that underpin supply management, affect the prices Canadian consumers pay for supply-managed products relative to world levels. Canada eliminated its export subsidies as of end-2020, in accordance with the Nairobi Ministerial Decision.

24. Forestry, which represents 1.4% of Canada's GDP, contributed about 7% to total merchandise exports. As a net exporter of forest products, Canada remains a leading exporter of softwood lumber, while its exports of paper declined as the pandemic accelerated digitalization and reduced demand. Softwood lumber and logs are subject to export controls. Nearly 90% of Canada's forest is owned by provincial and territorial governments, which manage licences of forest companies and collect royalties for timber harvested. Domestic support has been provided for planting trees, collaborating with Indigenous Peoples on forest conservation, and applying advanced technologies to increase value added to forest products.

25. Canada is a net exporter of fish and fish products. Trade policy in respect of the fisheries sector is geared towards the sustainability and conservation of marine resources. Canada is undertaking operations on the high seas to detect and deter IUU fishing and has implemented the FAO Agreement on Port State Measures. The Freshwater Fish Marketing Corporation remains a state trading enterprise with exclusive rights to market and trade freshwater fish in the Northwest Territories and export markets. Foreign presence across commercial fisheries is low, at only 2% of licence holders and vessel owners. Foreign ownership restrictions on commercial fisheries take the form of residence requirements and foreign equity restrictions.

26. Canada is a net exporter of energy and mineral products. All of Canada's natural gas and electricity exports, and most of its crude oil exports are to the United States. To foster diversification, Canada is building two LNG export terminals, both targeting the Asian market. Canada must import natural gas and crude oil for refining in the eastern part of the country, partly reflecting the limited interconnection of the electricity grid and the oil and gas pipeline network between western and eastern Canada. Exports of energy products, including crude oil and refined petroleum products, natural gas (including LNG and propane), and electricity, require authorization.

27. Canada committed to increasing the share of renewable electricity to 90%, phase out coal from the energy mix, and ban thermal coal exports by 2030. To reduce carbon emissions, Canada relies on a broad range of market and regulatory approaches that seek to price carbon emissions, support the development of clean fuels such as low-carbon hydrogen and biofuels, promote the use of renewable energy, and improve energy efficiency. Crown corporations continue to play a major role in the energy sector (particularly the electricity sector), and prices are often regulated (electricity in some provinces, and refined oil). Under a new policy announced in October 2022, non-minority investments in critical minerals by a foreign SOE (or private investors deemed to be "foreign State-influenced") are unlikely to pass the "net benefit" review, and are more likely to be subject to the more rigorous "extended" national security review.

28. Canada's financial sector remains resilient but is relatively concentrated, with a few leading banking and insurance service providers accounting for the bulk of total assets in each sector. Requirements regarding foreign participation in the banking sector have remained unchanged since the previous Review. The Office of the Superintendent of Financial Institutions (OSFI) revised prudential requirements for banks to incorporate Basel III banking reform results. A Canada Recovery Dividend Tax, a one-time tax on taxable income above a certain threshold, has been levied on banks since 2022.

29. Insurance companies can incorporate either federally or provincially. The regulatory framework at the federal level has remained largely unchanged since the previous Review. In general, the same restrictions on insurance activities apply on foreign and domestic insurers under federal insurance legislation. No national securities regulator exists, with each Canadian province and territory having its own. Provincial and territorial securities regulators cooperate through an umbrella organization to develop a harmonized approach to securities regulations across Canada. During the period under review, the two self-regulatory organizations overseeing investment dealers and mutual fund dealers amalgamated into one national self-regulatory organization, which is expected to reduce regulatory duplication and burden.

30. During the period under review, the Canadian Radio-television and Telecommunications Commission (CRTC) issued several policies to enhance competition in telecommunications. Although foreign investment restrictions in telecommunications and broadcasting services remain, they do not apply to those telecommunications service providers (TSPs) with less than 10% revenue share of the telecommunications market or over-the-top broadcasters, which have been developing rapidly with the use of Internet and mobile devices.

31. As part of its Digital Agenda, Canada introduced two new pieces of legislation. The Online Streaming Act, the first major reform of the Broadcasting Act in three decades, aims to ensure that Canadian content is widely available on streaming platforms. The Government has issued policy directions on how to implement the Online Streaming Act to the CRTC, which has held consultations with domestic and foreign stakeholders to define the specific requirements to support the production of Canadian content on streaming platforms under the Act. Another major legislative change during the period under review was the adoption of the Online News Act, which aims to ensure that dominant platforms compensate news businesses when their content is made available on their services. To that end, the Act encourages platforms to reach voluntary commercial agreements with a range of news businesses; failing that, it provides for mandatory negotiation, backstopped by final offer arbitration, which will be overseen by the CRTC.

32. Since Canada's previous Review, the foreign ownership limit in voting interests of Canadian air carriers that provide passenger air and all-cargo services was raised from 25% to 49%, with accompanying safeguards. Regarding maritime transport, Canadian-flagged vessels must be manned by persons holding a Canadian certificate of competency, which is only issued to Canadian citizens or permanent residents; foreign seafarer competency certificates may be accepted and recognized under reciprocal agreements signed by Transport Canada. Cabotage for air and marine transport is not permitted, though in the case of marine transport, foreign vessels may be used temporarily when domestic vessels are not available.

1 ECONOMIC ENVIRONMENT

1.1 Main features of the economy

1.1. Canada is an advanced economy dominated by the services sector, which represents more than 70% of real GDP (Table 1.1). Within the services sector, the segments of housing (i.e. real estate and rental and leasing) and wholesale and retail trade contribute more than 10% of the real economy. In addition, the segments of finance and insurance; professional, scientific, and technical services; and information and cultural industries are important contributors to the economy, as well as services exports (Table 1.3).

Table 1.1 Gross domestic product at constant prices, 2018-23 Q3

	2018	2019	2020	2021	2022	2023 Q3
General indicators						
GDP (CAD billion, constant 2017 prices)[a]	2,048	2,090	1,992	2,099	2,180	2,210
Real GDP growth (%, constant 2017 price)	2.8	2.0	-4.7	5.4	3.9	1.5
Business sector labour productivity[b]	100.2	100.7	109.6	103.3	102.0	100.0
Sectoral distribution of GDP (%)[c]						
Agriculture, forestry, fishing and hunting	2.0	2.0	2.1	1.9	2.0	1.9
Mining, quarrying, and oil and gas extraction	5.4	5.2	5.0	5.1	5.1	5.1
Utilities	2.2	2.2	2.3	2.1	2.1	2.0
Construction	7.6	7.5	7.7	7.8	7.6	7.5
Manufacturing	10.4	10.2	9.7	9.8	9.8	9.6
Services	72.5	72.9	73.1	73.3	73.3	73.8
Wholesale and retail trade	10.4	10.5	10.8	11	10.8	10.7
Transportation and warehousing	4.6	4.7	3.8	3.7	3.9	4.0
Information and cultural industries	3.2	3.3	3.4	3.4	3.4	3.4
Finance and insurance	6.8	6.8	7.4	7.3	7.2	7.2
Real estate and rental and leasing	12.9	13.0	13.8	13.6	13.2	13.2
Professional, scientific and technical services	6.1	6.3	6.5	6.7	7.0	7.2
Management of companies and enterprises	0.3	0.3	0.2	0.1	0.1	0.1
Administrative and support, waste management and remediation services	2.8	2.8	2.5	2.5	2.5	2.5
Educational services	5.5	5.5	5.5	5.6	5.5	5.5
Health care and social assistance	7.5	7.5	7.7	7.9	7.8	7.8
Arts, entertainment and recreation	0.8	0.8	0.5	0.5	0.7	0.8
Accommodation and food services	2.3	2.3	1.6	1.7	2.0	2.0
Other services (except public administration)	2.0	2.0	1.9	1.9	2.0	2.0
Public administration	7.2	7.2	7.4	7.4	7.3	7.4

a Seasonally adjusted, at annual rate.
b Labour productivity is a measure of real GDP per hour worked (2012 = 100).
c According to the North American Industry Classification System (NAICS), 2002. Aggregates are not always equal to the sum of their components.

Source: Statistics Canada, Tables 36-10-0104-01, 36-10-0206-01, 36-10-0434-03, 36-10-0449-01, 17-10-0005-01, and 17-10-0009-01.

1.2. The forestry and petroleum industries are the most prominent components of Canada's primary sector, although their share in real GDP is relatively small (approximately 8% combined). Many towns in northern Canada, where agriculture is difficult, rely on nearby mineral mines or timber resources.[1] Indeed, Canada is one of the few developed nations that is a net exporter of energy. Mineral fuels (e.g. oil sand) accounted for 32.5% of total merchandise exports in 2022 (Chart 1.5).

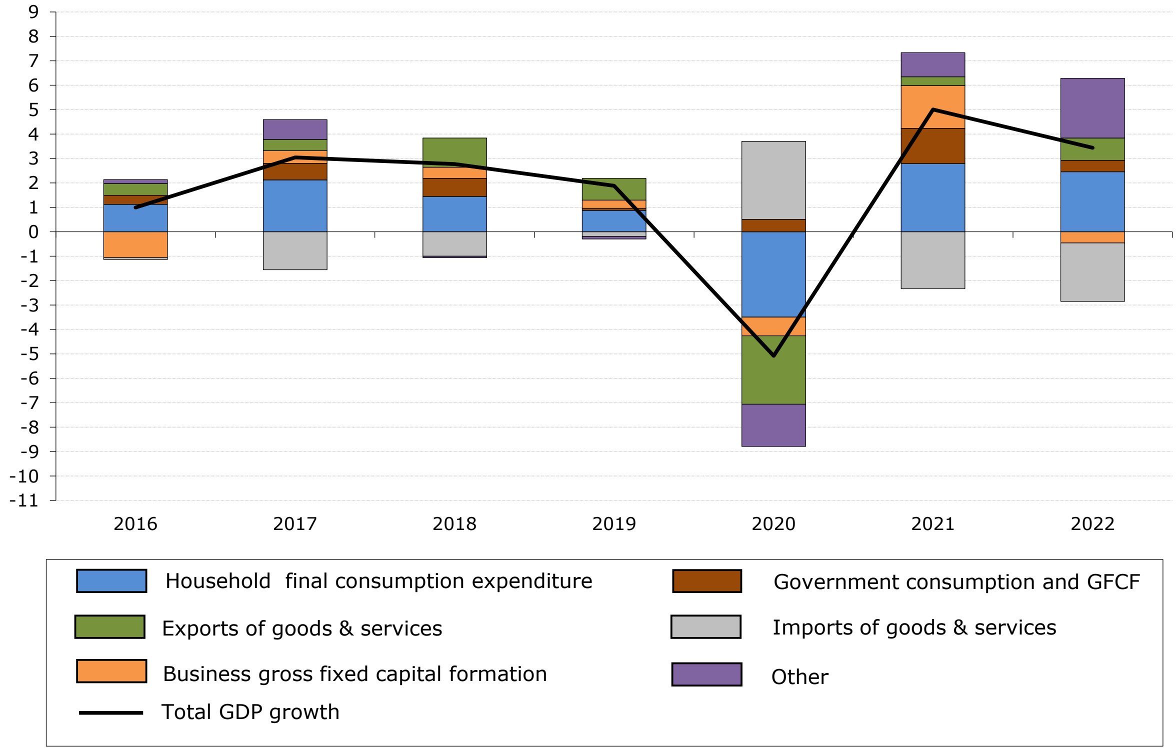
1.3. Trade plays an important role in Canada's economy. The sum of total imports and exports of goods and services is equivalent to over 60% of GDP each year (Table A1.1). During the review period (2019–23), net exports contributed about 10% to economic growth, on average (Chart 1.1).[2] Canada, like other open economies, is susceptible to external shocks such as slowing global demand, and heightened volatility in commodity and financial markets caused by global health emergencies and geo-economic fragmentation.

[1] Warren, F. and Lulham, N., eds. (2021), *Canada in a Changing Climate*. Viewed at: https://natural-resources.canada.ca/sites/nrcan/files/pdf/National_Issues_Report_Final_EN.pdf.

[2] The estimated contribution is similar to the estimate by Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*, IMF Working Paper WP/19/158. Viewed at: https://www.imf.org/-/media/Files/Publications/WP/2019/WPIEA2019158.ashx.

Chart 1.1 Contributions to percentage change in real GDP, 2016-22

(Percentage points)



Note: Data are seasonally adjusted, at annual rate, at market price.

Source: WTO Secretariat, based on Statistics Canada, Table 36-10-0128-01.

1.4. In terms of total area (including its waters), Canada is the second-largest country in the world. The vast land constitutes a natural barrier to internal trade. Geographic distance accounts for more than half of total trading cost for internal trade.[3] It is estimated that an extra 1,000 km of distance between trading partners within Canada may reduce between 3% and 13% of internal trade[4], in value terms, for agricultural and food products and most manufactured goods. The geographic distance impedes utilities and retail trade services in particular.[5] For instance, the east-west connection of the electricity grid is limited while major electricity exporting provinces are well connected to nearby US markets, reflecting smaller transmission costs. Trade in electricity between Canadian provinces/territories is often smaller than power sales to the US markets (Section 4.2.2).

1.5. In addition, interprovincial trade across province borders may face barriers due to different policy and regulatory requirements, such as different technical standards and non-recognition of qualifications (Section 2.1).[6] These regulatory-related barriers, estimated to increase internal trade costs by 21% on average[7], hamper competition, and thus exacerbate Canada's weakened

[3] Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*. IMF Working Paper WP/19/158.

[4] Another source argues that the estimate of the distance effect was sensitive to how the distance was measured. See Bemrose et al. (2017), *Going the Distance: Estimating the Effect of Provincial Borders on Trade when Geography Matters*, Statistics Canada, Analytical Studies Branch Research Paper Series. Viewed at: https://www150.statcan.gc.ca/n1/pub/11f0019m/11f0019m2017394-eng.pdf.

[5] Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*. IMF Working Paper WP/19/158.

[6] Canadian Federation of Independent Business (CFIB) categorized these non-geographic barriers into three types: prohibitive barriers, technical barriers, and regulatory and administrative barriers. CFIB (2015), *Transforming Trade: Reforming Our Economic Union to Remove Barriers to Internal Trade*, p. 2. Viewed at: https://www.cfib-fcei.ca/hubfs/legacy/2017-12/rr3356.pdf.

[7] Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*. IMF Working Paper WP/19/158.

productivity and investment growth. Removing internal trade barriers and ensuring sound competition policy would boost investment and productivity, and thus living standards in Canada.[8]

1.6. Canada's productivity growth has been relatively weak in recent decades, driven by a range of factors such as internal trade barriers and low corporate investment.[9] Investment experienced a downward shift after oil prices collapsed in June 2014. During the review period, private investment (i.e. business gross fixed capital formation (GFCF)) contributed 15% on average to economic growth. Canada's GFCF is in the lowest quartile of OECD countries.[10] In the absence of rapid productivity growth, Canada has relied heavily on skills-based immigration to bolster GDP growth.

1.7. Regarding Canada's relatively weak productivity and investment performance, it has been suggested, by the OECD and the IMF in their 2023 reports[11], that the Canadian economy has not fully capitalized on opportunities to increase output through capital investment and innovation in both products and processes. The authorities pointed out that the slow growth of Canada's productivity largely reflects the sluggish growth in total factor productivity (TFP) driven by the small size of the Canadian market and the prevalence of smaller, less productive firms; regulatory barriers to competition; and a lack of innovation related to investment and skills. Indeed, the capital deepening contribution to productivity growth in Canada was about the same as in the United States for the period 1999-2019 while the TFP contribution was much weaker in Canada than in the United States in the same period.[12] Related to this, it has been noted that restrictions in foreign investment in the telecommunication sector limit competition, and consequently hamper productivity performance in other sectors, given the key role of telecommunications as an intermediate input.[13]

1.2 Recent economic developments

1.8. During the review period, Canada's real economy grew modestly at 1.5% each year on average (Chart 1.1).[14] According to IMF estimates, Canada's economy fluctuated closely around its full capacity.[15] In the first quarter of 2023, the demand in the economy was estimated 0.4% higher than its potential output, while the demand fell below potential supply by a range between 0.25% and 1.25% in the fourth quarter of 2023.[16] The modest economic performance reflected that Canada, like other economies, navigated through several external shocks in the past years, namely the COVID-19 pandemic, the war in Ukraine, and global surging inflation/cost-of-living crisis. Preliminary results showed that the economy grew slightly by 0.2% in the last quarter of 2023.[17]

1.9. During the COVID-19 pandemic, Canada's GDP first experienced a sharp dip of around 15% between February and April 2020. The Federal Government took the lead in coordinating response policies, provided most direct financial support to households and businesses, and imposed restrictions on international travel.[18] These measures helped limit economic scars and reduce damage to the labour market, hence the economy rebounded robustly and surpassed its pre-pandemic level in the second half of 2021 (Chart 1.2).

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[8] OECD (2023), *OECD Economic Surveys: Canada*. Viewed at: https://www.oecd-ilibrary.org/deliver/7eb16f83-en.pdf?itemId=%2Fcontent%2Fpublication%2F7eb16f83-en&mimeType=pdf.

[9] Both labour productivity and multifactor productivity grew slowly in the last four decades. For details, see IMF (2023), *Canada: Staff Report for the 2023 Article IV Consultation*, IMF Country Report No. 23/286. Viewed at: https://www.elibrary.imf.org/view/journals/002/2023/286/002.2023.issue-286-en.xml.

[10] OECD (2023), *OECD Economic Surveys: Canada*.

[11] IMF (2023), IMF Country Report No. 23/286; and OECD (2023), *OECD Economic Surveys: Canada*.

[12] Rosell et al. (2023), "A Critical Juncture: Assessing Canada's Productivity Performance and Future Prospects", *International Productivity Monitor*, No. 45. Viewed at: http://www.csls.ca/ipm/45/IPM_45_Rossel.pdf.

[13] Gu, W. and Willox, M. (2023), "The Post-2001 Productivity Growth Divergence between Canada and the United States", *International Productivity Monitor*, No. 45. Viewed at: http://www.csls.ca/ipm/45/IPM_45_Gu.pdf.

[14] Calculated using GDP data at basic prices chained in 2017.

[15] IMF, *Canada: Staff Report for the Article IV Consultation*, 2019, 2021, and 2022.

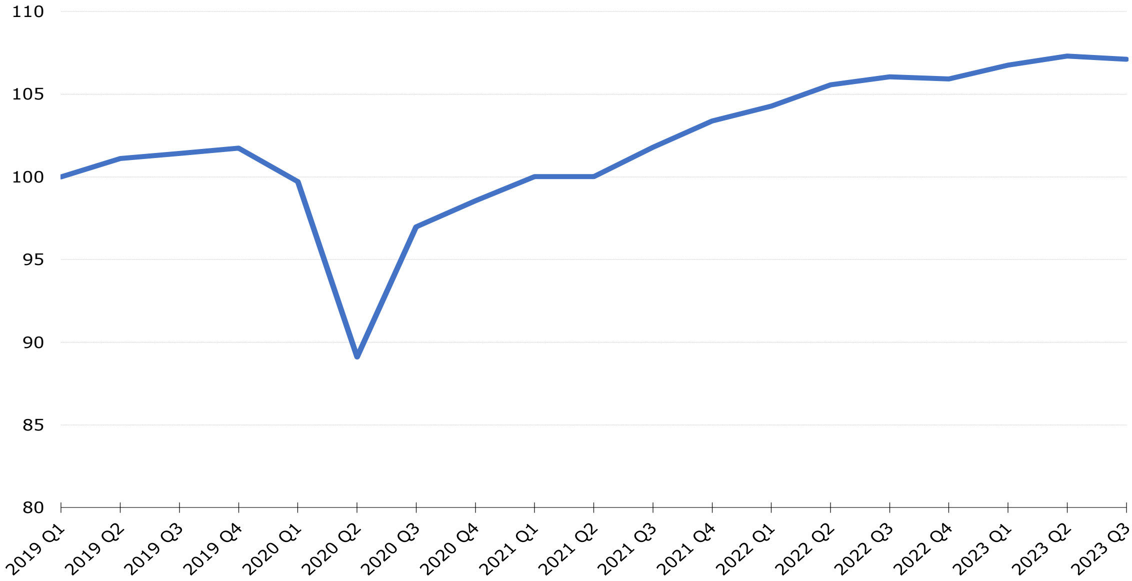
[16] Bank of Canada (2024), *Monetary Policy Report: January 2024*. Viewed at: https://www.bankofcanada.ca/wp-content/uploads/2024/01/mpr-2024-01-24.pdf.

[17] Statistics Canada (2024), *Gross Domestic Product, Income and Expenditure, Fourth Quarter 2023*. Viewed at: https://www150.statcan.gc.ca/n1/daily-quotidien/240229/dq240229a-eng.htm.

[18] Under the decentralized governance structure, the provincial and territorial governments have the competence to introduce virus containment measures such as restrictions on business and social distance rules. For details, see Section 2.1.

Chart 1.2 Real GDP, 2019 Q1-2023 Q3

(2019 Q1 = 100)



Source: WTO Secretariat, based on Statistics Canada, Table 36-10-0123-01.

1.10. Although the direct impact of the COVID-19 pandemic on output was transitory, the effects on other parts of the economy, such as the price level lasted longer. As the economy reopened, the price of goods, which had registered a sharp decline since March 2020, bounced back (Chart 1.3). In addition, the global supply chain disruptions for grains and microchips triggered by the pandemic pushed up prices for food and motor vehicles[19] in early 2021. Meanwhile, as social distance measures were lifted, demand for high-contact services rebounded and remained high, which propelled consumer prices higher.

1.11. As a major commodity exporter, Canada was less impacted by the worst effects of the ongoing war in Ukraine that started in February 2022. Because of the jump in commodity prices, the value of Canadian agricultural exports in 2022 increased 25% compared to their value in 2020, and 155% for the value of energy exports. In the same period, high gasoline prices became a prominent driver of inflation[20], as the majority of Canada's energy exports are crude oil while most of the refined petroleum products must be imported (Section 4.2.2).

1.12. The Bank of Canada announced its renewed five-year monetary policy framework with the Government on 13 December 2021.[21] The renewed framework, valid from 2022 through 2026, remains focused on targeting inflation at 2% with a control range of ±1%. Compared to the previous framework, the renewed framework emphasizes attaining maximum sustainable employment that is consistent with price stability. The Bank indicates that the latest update reflects important economic shifts including an ageing population, technological changes, globalization, and the shift in the nature of work.[22] Headline consumer price inflation went above 3% in April 2021 and peaked at 8.1% in June 2022. The price and wage pressures prompted monetary tightening (Chart 1.3) and other government measures to ease the impacts of cost increases on households and businesses.

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[19] Demand for motor vehicles was insensitive to interest rates being increased by the Bank of Canada because of the short supply of motor vehicles due to semiconductor shortages. For details, see the Bank of Canada's *Monetary Policy Report: October 2023*. Viewed at: https://www.bankofcanada.ca/wp-content/uploads/2023/10/mpr-2023-10-25.pdf.

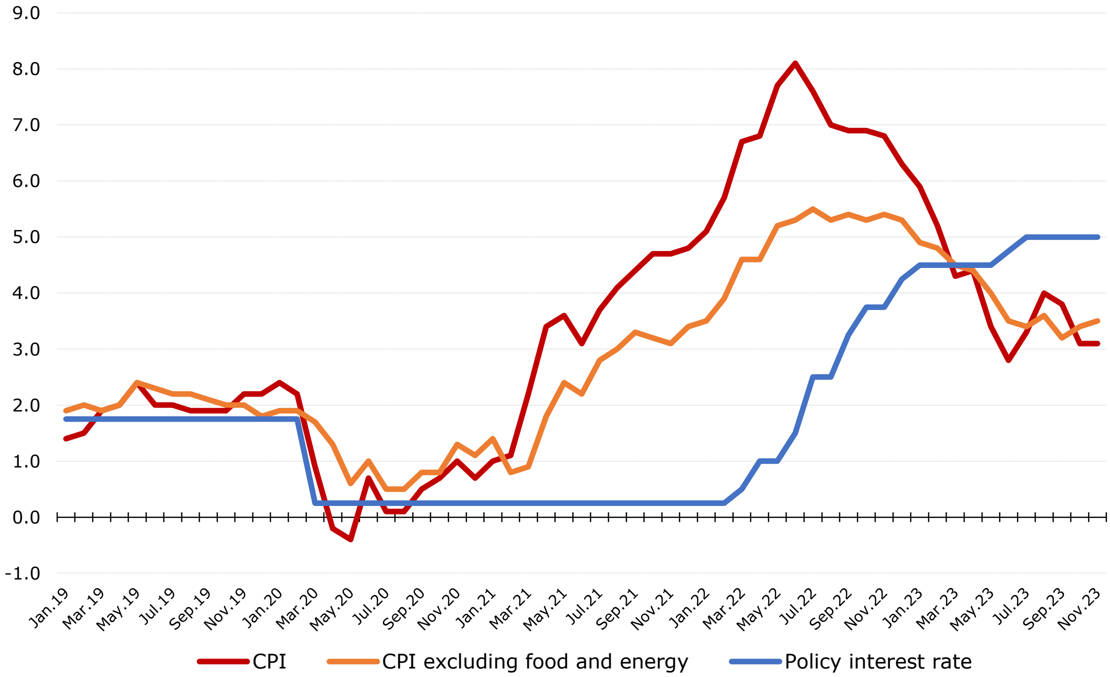
[20] Bank of Canada (2023), *Monetary Policy Report: October 2023*.

[21] Bank of Canada (2021), "Joint Statement of the Government of Canada and the Bank of Canada on the Renewal of the Monetary Policy Framework", 13 December. Viewed at: https://www.bankofcanada.ca/2021/12/joint-statement-of-the-government-of-canada-and-the-bank-of-canada-on-the-renewal-of-the-monetary-policy-framework/.

[22] Bank of Canada, *Our Renewed Monetary Policy Framework*. Viewed at: https://www.bankofcanada.ca/core-functions/monetary-policy/monetary-policy-framework-renewal/.

Chart 1.3 Consumer price inflation and policy interest rate, 2019-23

(annual percentage change)



Source: Statistics Canada, Table 18-10-0004-01; and the Bank of Canada, Policy interest rate.

1.13. In March 2022, the Bank of Canada reduced the monetary stimulus that had been introduced to support the pandemic-hit economy since March 2020. In April 2022, the Bank began quantitative tightening, in addition to increasing the policy interest rate. As of December 2023, the policy interest rate remained at 5% (up from 0.25% in the period between March 2020 and February 2022). Monetary tightening tempered demand. For instance, investment in machinery and equipment fell by 10% between June 2022 and September 2023, as a result of elevated borrowing costs and tight credit conditions. Inflation has declined significantly since the second half of 2022, reaching 3.3% in the fourth quarter of 2023. Recent decreases in the price level were largely attributed to falling energy prices and improvements in the global supply chain.[23] However, inflation decreased more slowly than anticipated due to persistent inflation in shelter and food price.

1.14. Although tightening monetary policy caused a brief correction in the housing market in 2022, house prices rose again in early 2023, which subsequently exacerbated the already high rent, deepening the cost-of-living crisis. Hence, the Government has been making efforts to improve housing affordability, e.g. spending CAD 10 billion over five years to increase the housing supply. These efforts are expected to achieve more than a relief to the cost-of-living crisis. As suggested in an IMF working paper, high real estate prices hinder productivity growth due to the investment crowding out effect and the locking-in effect on labour mobility.[24] Therefore, housing affordability also addresses more structural problems such as labour force participation and productivity growth.

1.15. Moreover, a federal-provincial initiative on affordable childcare is being implemented, with a view to reducing childcare costs and making the economy more gender-inclusive thus promoting growth. Under the initiative, the Federal Government provides funding of a total CAD 30 billion over five years (equivalent to 1% of annual GDP) for provincial/territorial governments, to cover at least half of childcare fees. It is expected that providing subsidized childcare will raise women's participation in the labour force and that this initiative may help boost productivity growth.

1.16. In addition to the challenges mentioned above, Canada faces another long-term structural challenge: climate change. In 2023, a record 18.5 million hectares burned across Canada, more

[23] Bank of Canada (2024), *Monetary Policy Report: January 2024*. Viewed at: https://www.bankofcanada.ca/wp-content/uploads/2024/01/mpr-2024-01-24.pdf.

[24] IMF (2023), IMF Country Report No. 23/286.

than double the previous record in 1995.[25] The fires were fuelled by record-high temperatures and widespread drought. The possibility of highly disruptive extreme weather events presents another risk to the economic outlook. Environment and Climate Change Canada (ECCC) estimates that natural disasters caused by climate change will cost the Canadian economy about CAD 25 billion in 2025.[26]

1.17. Canada announced in March 2022 its 2030 Emissions Reduction Plan, as endorsed by the Canadian Net-Zero Emissions Accountability Act (which entered into force on 29 June 2021)[27], with legally binding targets to reduce greenhouse gas (GHG) emissions by at least 40% below their 2005 level by 2030 and to reach carbon neutrality by 2050.[28] Emissions from oil and gas extraction (especially oil sands) accounted for 27% of Canada's GHG emissions in 2020, closely followed by emissions from the transport sector with over 20%. Major energy saving and near economy-wide replacement of fossil fuels with clean energy are crucial to achieving the Plan's ambitious targets.

1.18. Carbon pricing has a central place in the national emissions reduction plan. Although provinces/territories may adopt different approaches to emissions pricing, a pan-Canada approach was implemented in 2019, under which the Federal Government sets minimum national stringency requirements (also known as the federal benchmark) that all provincial/territorial systems must meet. If the benchmark is not met, a set of policies dubbed as the federal backstop will be applied. The federal backstop is a price-based system, consisting of a minimum carbon price (the fuel charge) and a large-emitter scheme (the federal Output-Based Pricing System (OBPS))[29], applicable in the provinces/territories that opt for the federal backstop (Section 3.1.4.4). Effective on 1 January 2023, the federal pricing system was updated. With the update, the minimum price was set at CAD 65 per tonne of carbon dioxide equivalent (CO_2e) in 2023, up from CAD 50 in 2022 and CAD 20 in 2019. This rising trend reflects the proposal of an annual increase in the carbon price at a rate of CAD 15 per tonne for the period 2023-30, to reach CAD 170 in 2030.[30] Moreover, the update revised the benchmarks of the federal OBPS in accordance with the changes in the minimum carbon price.[31] The authorities estimate that the carbon pricing scheme accounts for about one third of projected emissions reductions in 2030.[32]

1.19. Direct proceeds from the federal backstop are returned to the provincial/territorial governments where the federal system is voluntarily adopted. In the provinces/territories where the federal stringency requirements are not met, 90% of direct proceeds from the federal fuel charge is returned to residents through quarterly lump-sum transfers while the remaining 10% is used for supporting small businesses and Indigenous groups. Proceeds from the federal OBPS are recycled

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[25] Canadian Interagency Forest Fire Centre, *Wildfire Graphs*. Viewed at: https://ciffc.net/statistics.

[26] Environment and Climate Change Canada (2023), *Canada's National Adaptation Strategy: Building Resilient Communities and a Strong Economy*. Viewed at: https://publications.gc.ca/collections/collection_2023/eccc/en4/En4-544-2023-eng.pdf.

[27] Canadian Net-Zero Emissions Accountability Act. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/c-19.3/fulltext.html.

[28] Compared to Canada's Nationally Determined Contribution under the UNFCCC Paris Agreement, the target of cutting emissions by 2030 was revised as 40%-45% of the 2005 level (up from 30%).

[29] The output-based pricing system exempts eligible firms in large industries from fuel charges but requires them to pay a charge, or submit offset credits, to account for emissions above the federally set benchmark. Offset credits may be bought from other firms, earned by outperforming the benchmarks, or generated through recognized offsets.

[30] Environment and Climate Change Canada (2020), *A Healthy Environment and a Healthy Economy: Canada's Strengthened Climate Plan to Create Jobs and Support People, Communities and the Planet*. Viewed at: https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/healthy_environment_healthy_economy_plan.pdf.

[31] The Canadian Greenhouse Gas Offset Credit System, created in June 2022, was complementary to the federal backstop, enabling industries with difficulties in emissions reduction to offset their pollution. This system "extends the carbon price signal and creates opportunities" for low emitters (e.g. foresters, Indigenous communities) to earn revenues from selling offset credits. Department of Energy and Natural Resources, *Government of Canada Response to Recommendations in the Tenth Report of the Standing Committee on Environment and Sustainable Development: Support for Clean Technologies in Canada To Reduce Domestic and International Greenhouse Gas Emissions*. Viewed at: https://www.ourcommons.ca/content/Committee/441/ENVI/GovResponse/RP12900029/441_ENVI_Rpt10_GR//DepartmentOfEnergyAndNaturalRessouces-e.pdf.

[32] Environment and Climate Change Canada (2023), *2023 Progress Report on the 2030 Emissions Reduction Plan*. Viewed at: https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/erp-pr/2023%20Progress%20Report%20-%20FINAL%20-%20EN.pdf.

via federal programmes that support clean technology projects in the industrial and electricity sectors.

1.20. Although the carbon pricing system prompted concerns from some industries over worsening terms of trade (ToT) as certain domestic firms face increased production costs while trading partners adopt divergent climate policies, an IMF working paper suggests that the design of Canada's federal backstop (specifically, the OBPS and the revenue recycling schemes) and the flexible exchange rates attenuate the competitiveness concerns, avoiding the "beggar-thyself" and "beggar-thy-neighbour" dilemma.[33] A report by ECCC notes that although competitiveness considerations for large final emitters (especially those trade exposed) have been taken into account when developing the carbon pricing system, Canada will continue to explore how and whether carbon border adjustments could complement the domestic carbon pricing system.[34]

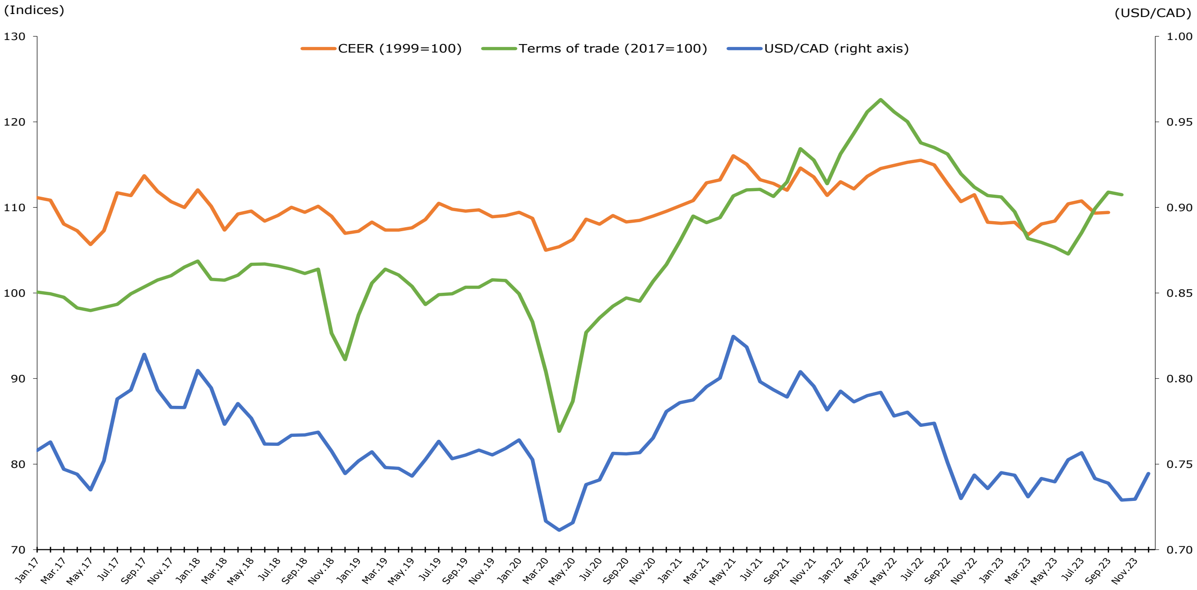
1.21. In addition, Canada provides incentives at the sector level to mitigate the impact of climate change (Section 3.3.1), including tax credits for zero-emission vehicles and public funding to support low-carbon investments. Public funds are also provided to the building sector in order to improve energy efficiency, including through various building retrofit programmes and grants for heat pump purchases.[35]

1.22. Canada maintains a "free floating" exchange rate regime, with no restrictions on making payments or transfers for current international transactions and multiple currency practices.[36] There are no taxes or subsidies on purchases or sales of foreign exchange.

1.23. During the review period, the real Canadian Effective Exchange Rate (CEER) fluctuated within a range about 10%, with the lowest level in March 2020 and the peak in May 2021, coinciding with the timing of the COVID-19 pandemic's impact on the economy. In nominal terms, the exchange rate against the US dollar has been more volatile, reflecting the appreciation of the US dollar especially in the post-pandemic recovery. Canada's ToT evolved in a trend similar to the change in CEER; the higher volatility in ToT reflected the sharp changes in the world's commodity prices, notably for energy products (Chart 1.4). The IMF estimates that the real effective exchange rate was somewhat overvalued.[37]

[33] IMF (2023), IMF Country Report No. 23/286, Box 7.
[34] Environment and Climate Change Canada (2023), *2023 Progress Report on the 2030 Emissions Reduction Plan*.
[35] Environment and Climate Change Canada (2023), *2023 Progress Report on the 2030 Emissions Reduction Plan*.
[36] Exchange restrictions are maintained for security reasons based on UN Security Council Resolutions.
[37] IMF, *Canada: Staff Report for the Article IV Consolation*, various years.

Chart 1.4 Exchange rates against real effective exchange rate, terms of trade, and USD, 2017-23



Source: WTO Secretariat calculations, based on data from the Bank of Canada, Monthly Exchange Rates, and Canadian Effective Exchange Rates; and Statistics Canada, various tables.

1.24. In general, the balance of payments remained broadly stable. The deficit in the current account shrank from 2.0% of GDP in 2019 to 0.4% of GDP in 2022 (Table A1.1). The improvement in the current account was largely driven by the recovery of global demand and stronger ToT. As commodity prices were expected to be softened in 2023, the current account deficit was expected to widen to 1.5% of GDP.[38]

1.25. The deficits of trade in goods and services decreased significantly from almost CAD 34 billion to CAD 20 billion in the third quarter of 2023. The surplus in 2021 and 2022 reflects the strong performance of energy exports. The current account deficit was financed by non-FDI net financial inflows (Table 1.2).

Table 1.2 Balance of payments, 2018-23 Q3

(CAD billion)

	2018	2019	2020	2021	2022	2023 Q3
Current account	**-53.1**	**-45.2**	**-44.8**	**0.4**	**-10.3**	**-23.5**
Goods and services	-43.6	-33.9	-49.1	0.2	3.7	-19.7
Goods	-21.8	-18.8	-40.6	2.5	19.7	-5.6
Services	-21.8	-15.1	-8.4	-2.2	-16.0	-14.0
Exports of goods	586.2	595.6	522.5	636.8	779.2	571.6
Exports of services	136.5	152.9	132.0	149.0	173.0	145.0
Travel	35.4	39.5	18.6	19.2	36.5	35.2
Transportation	18.1	18.6	13.7	14.9	18.8	14.7
Other services	83.1	94.8	99.7	114.9	117.6	95.2
Imports of goods	608.0	614.4	563.1	634.3	759.5	577.3
Imports of services	158.3	168.0	140.4	151.2	189.0	156.5
Travel	44.7	46.9	16.2	10.2	37.3	38.6
Transportation	32.0	32.6	23.5	27.2	36.1	26.1
Other services	81.5	88.5	100.7	113.9	115.7	91.8
Primary income	-6.3	-8.3	10.7	4.9	-10.0	2.4
Compensation of employees	-4.6	-6.2	-5.2	-5.4	-5.8	-4.7
Investment income	-1.6	-2.1	15.8	10.4	-4.3	7.1

[38] IMF (2023), IMF Country Report No. 23/286, Annex II.

	2018	2019	2020	2021	2022	2023 Q3
Direct investment income	27.4	27.7	44.5	38.9	35.4	43.8
Portfolio investment income	-27.4	-27.5	-24.8	-21.5	-31.4	-32.5
Other investment income	-1.7	-2.2	-3.8	-7.0	-8.2	-4.2
Secondary income	-3.3	-3.0	-6.4	-4.8	-4.0	-6.3
Private transfers	-7.5	-8.2	-8.9	-9.0	-9.3	-10.2
Government transfers	4.2	5.2	2.5	4.2	5.3	3.9
Capital account	**-0.1**	**-0.1**	**0.0**	**0.0**	**-0.1**	**0.2**
Financial account	**-46.4**	**-50.3**	**-46.0**	**10.4**	**-3.2**	**-12.0**
Net acquisition of financial assets	169.6	271.7	216.9	426.3	278.9	192.3
Direct investment assets	81.7	100.8	63.5	130.0	112.8	98.6
Canadian portfolio investment	57.6	33.4	44.0	161.5	-11.5	22.4
Official international reserves	-1.9	0.1	1.8	25.3	13.8	8.7
Other Canadian investment	32.2	137.4	107.6	109.4	163.8	62.5
Net incurrence of liabilities	216.0	322.1	262.9	415.9	282.1	204.3
Direct investment liabilities	55.2	65.0	39.3	74.3	64.8	49.7
Foreign portfolio investment	53.2	35.6	134.9	217.5	137.6	20.5
Other foreign investment	107.6	221.5	88.8	124.2	79.7	134.1
Discrepancy (net errors and omissions)	6.8	-5.1	-1.2	10.0	7.2	11.3

Note: Other services include both commercial services and government services.

Source: Statistics Canada, Tables 36-10-0014-01, 36-10-0471-01, and 36-10-0021-01.

1.3 Developments in trade and investment

1.3.1 Trends and patterns in merchandise and services trade

1.3.1.1 Merchandise trade

1.26. The long-standing deficit in Canada's merchandise trade balance turned into a marginal surplus in 2021 and 2022, driven largely by the post-pandemic hike in energy prices. As supply chain disruptions eased and the global demand for commodities slowed, the balance of Canada's merchandise trade reversed again to a small deficit in the second quarter of 2023, and expected to remain in deficit in 2023 (Table 1.2).[39]

1.27. Canada is a big exporter of commodities. The value share of mineral products and base metals in total exports stood at 40.4% in 2022, up from 32% in 2018 (Chart 1.5). In 2022, energy products alone accounted for 30.3% of total exports (Table A1.2), most of which were crude oil and gas, sold to the United States, Japan, China, the Republic of Korea, and the United Kingdom. Other major mineral products exported by Canada include iron ores and copper ores, most of which went to China, Japan, and the Republic of Korea. Machinery and electrical equipment accounted for almost a quarter of Canada's import, followed by vehicles and transport equipment (Table A1.3).

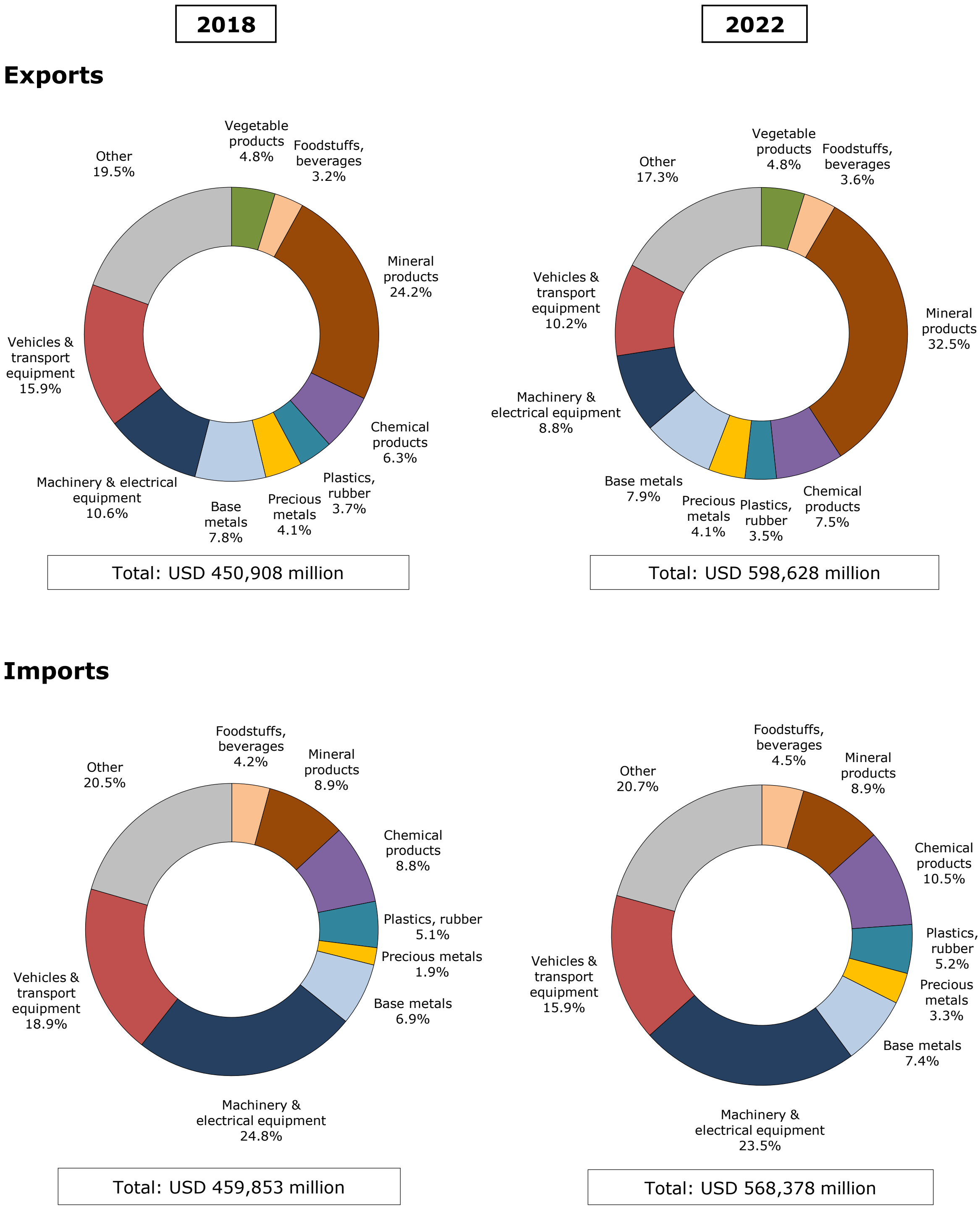
1.28. Given its rich natural endowments and its reputation as a trading partner committed to high environmental, social, and governance (ESG) standards, Canada is poised to play a crucial role in the mining of the "critical minerals" that are increasingly necessary for many green technologies (e.g. solar panels, wind turbines, batteries, and electric vehicles) under the scenarios of possible geo-economic fragmentation. In this regard, Canada in December 2022 issued a Critical Minerals Strategy to harness new industrial opportunities (Section 4.2).[40]

[39] At the time of writing the report, Canada's merchandise trade statistics for 2023 were incomplete/preliminary and the statistics in 2022 were subject to revision.

[40] Natural Resources Canada (2022), *The Canadian Critical Minerals Strategy – From Exploration to Recycling: Powering the Green and Digital Economy for Canada and the World*. Viewed at: https://www.canada.ca/content/dam/nrcan-rncan/site/critical-minerals/Critical-minerals-strategyDec09.pdf.

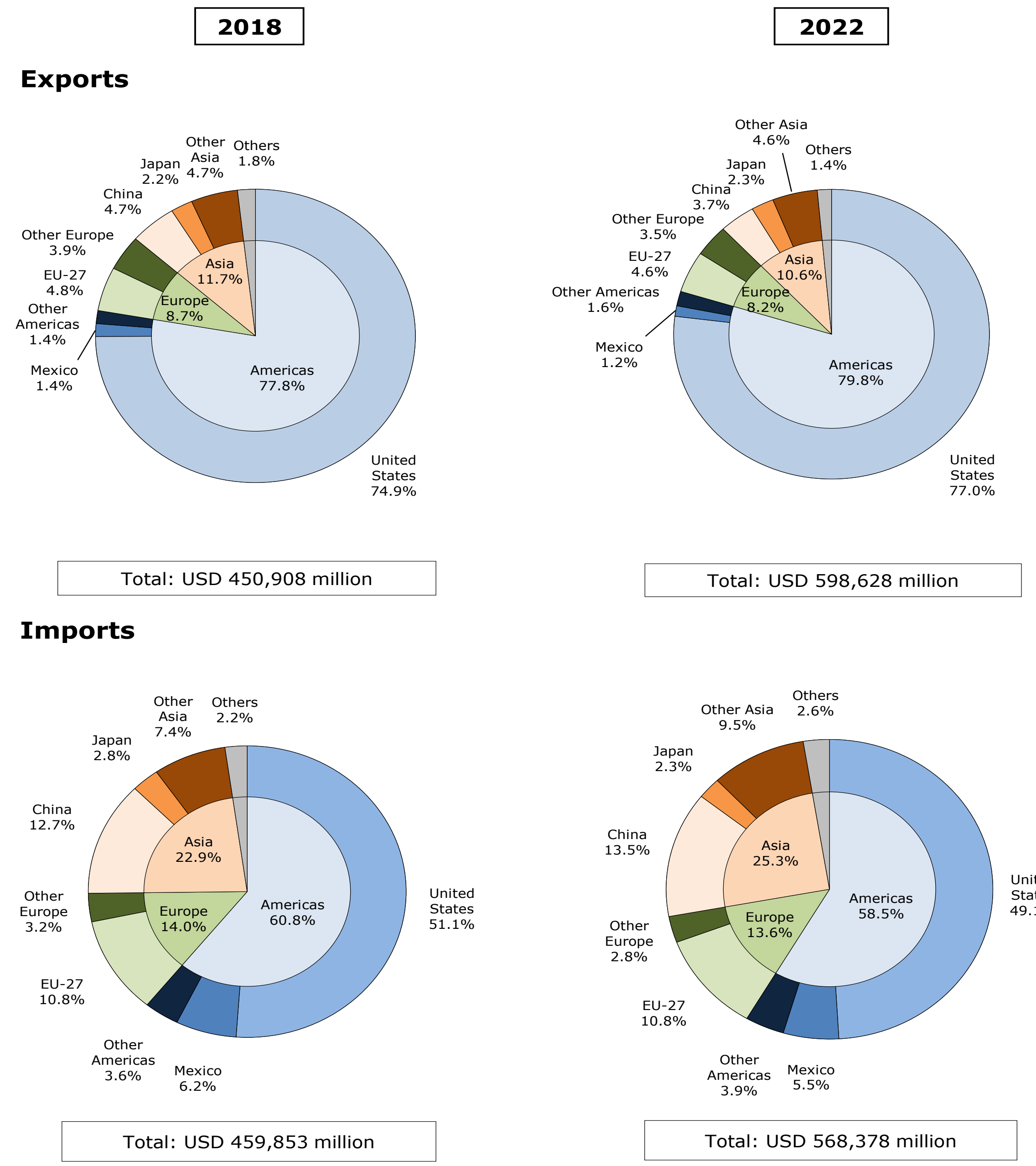
1.29. A majority of Canada's merchandise trade occurred with its North American neighbours (Chart 1.6). The United States remains the largest trading partner, by a big margin, accounting for three quarters of Canada's exports and half of its imports, in value terms (Table A1.4 and Table A1.5). Outside of North America, the European Union was the second-largest trading partner, supplying over 10% of Canada's imports and buying less than 5% of Canadian exports. On average, some 4% of Canadian exports went to China while over 13% of imports came from China.

Chart 1.5 Merchandise trade by main HS section, 2018 and 2022



Source: WTO Secretariat calculations, based on Canada International Merchandise Trade Web Application.

Chart 1.6 Merchandise trade by main origin and destination, 2018 and 2022

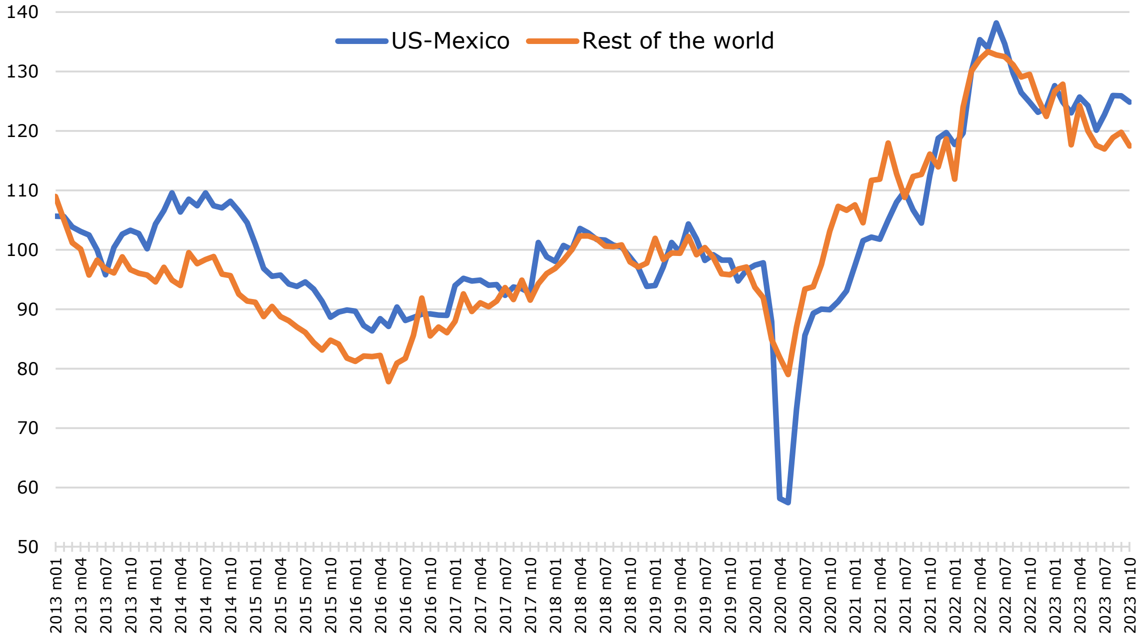


Source: WTO Secretariat calculations, based on Canada Trade Online.

1.30. On 1 July 2020, the Canada–United States–Mexico Agreement (CUSMA) entered into force, replacing the North American Free Trade Agreement (NAFTA). Comparing the trade flows between Canada and CUSMA parties to those between Canada and the rest of the world (i.e. all economies other than CUSMA parties), it does not appear that Canada's trade with the rest of the world has been diverted to the trade within CUSMA (Chart 1.7). This may be attributed to the fact that the majority of Canadian trade with North America has already taken place under NAFTA or even earlier. The concentration of trade has prompted Canada to pursue an export diversification strategy (Section 2.2).

Chart 1.7 Canada's trade with CUSMA parties and the rest of world, January 2013-October 2023

(March 2018 = 100)



Note: Data are seasonally adjusted.

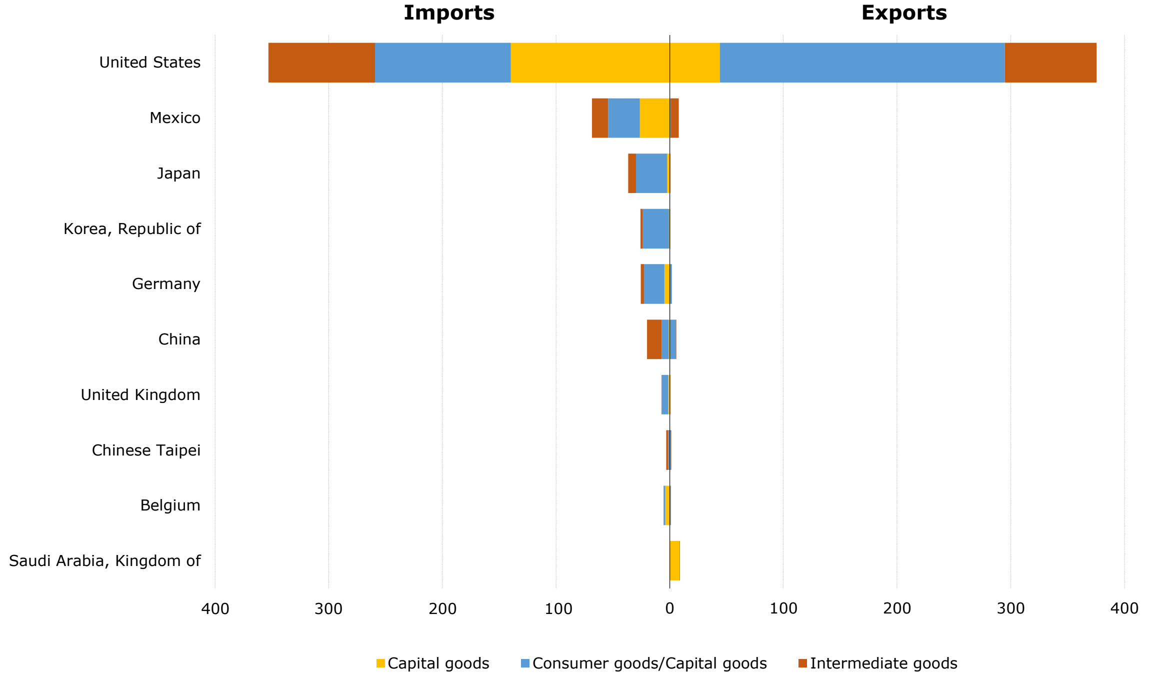
Source: WTO Secretariat calculations, based on monthly data from Trade Data Monitor.

1.31. Since February 2022, Canada has banned Russian crude oil imports, revoked the Russian Federation's MFN trade status, and prohibited exports to the Russian Federation of certain good technologies and financial services (Sections 3.1.5 and 3.2.3).

1.32. Vehicles and transport equipment comprise a substantial part of Canada's merchandise trade (Chart 1.5). NAFTA and CUSMA have facilitated Canada's successful integration into the regional value chain of the automobile industry. During the review period, Canada imported complete motor vehicles, as capital goods and/or consumer goods, mainly from the United States (accounting for 62% of total complete vehicle imports in value terms) and from Mexico (13%). Canada also imported completed vehicles from Japan (7%), the Republic of Korea (6%), and Germany (5%). With regard to parts and components as intermediate goods to manufacture automobiles, Canada sourced them from the United States (66% of total imports of intermediate goods for automobiles), Mexico (10%), China (9%), and Japan (5%). Once processed, a majority of Canada's complete vehicle exports (94%) were destined for the United States. Twenty-two percent of total automobile product exports to the United States were intermediate goods, and for goods destinated for Mexico, intermediate goods accounted for 84%. The large share of trade in intermediate goods for automobiles between Canada and CUSMA parties, compared to those between Canada and other trading partners, partially reflects a tightly knit automobile supply chain within North America, characterized by parts and components crossing borders multiple times before reaching the final consumer (Chart 1.8).

Chart 1.8 Canada's top 10 traders of automobile products, by end-use, 2018-23

(USD billion)



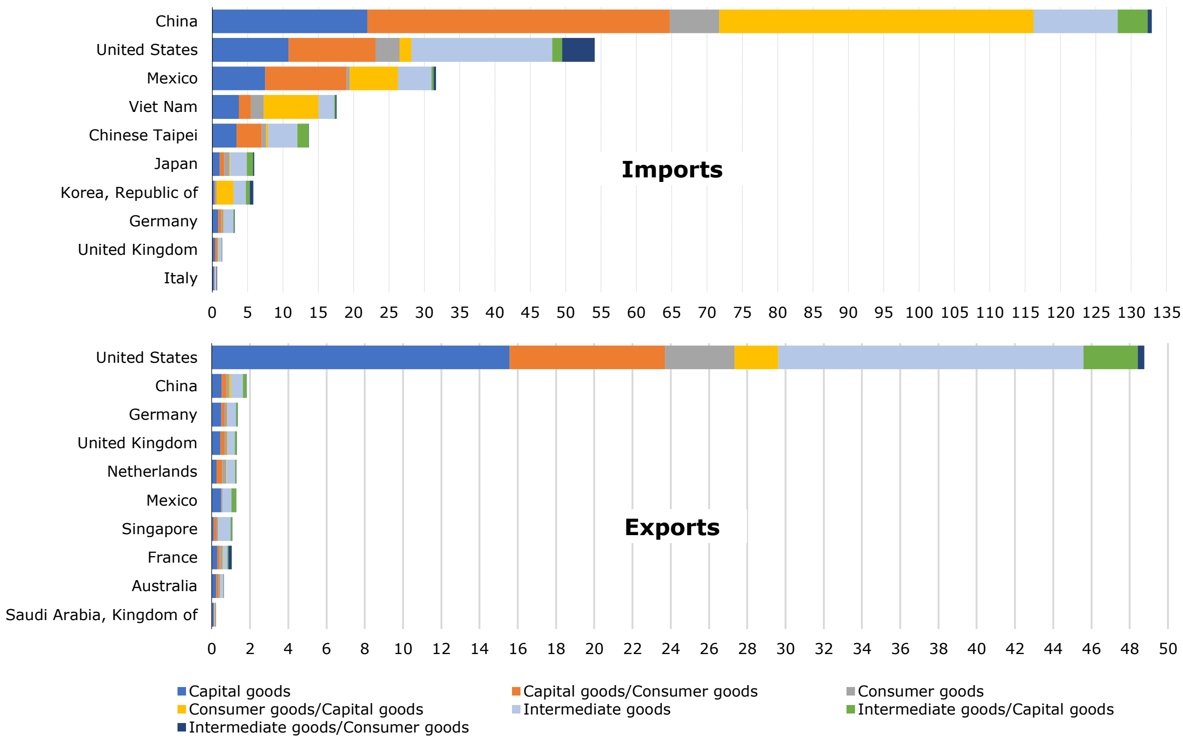
Note: End-use is classified in accordance with the Broad Economic Categories, Rev.5. Data of 2023 cover until November 2023.

Source: WTO Secretariat calculations, based on Canada International Merchandise Trade Web Application.

1.33. Information and communications technology (ICT) products, as recorded under trade of machinery and electrical equipment, constitute an important product group of Canada's merchandise trade (Chart 1.5). In contrast to the highly regional concentration for automobile trade, trade of ICT products exhibits a more diversified pattern, reflecting the more globalized nature of cross-border value chains for ICT products (Chart 1.9). With regard to ICT products that may be used as capital goods, Canada imported mainly from China, the United States, Mexico, Viet Nam, and Chinese Taipei. The United States, China, Mexico, Chinese Taipei, Japan, the Republic of Korea, and Germany are the main suppliers of intermediate goods for ICT products while China and Viet Nam provide most ICT products that may be used as final consumer goods. A majority of Canadian ICT product exports are products that may be used as intermediate goods, with the United States as the largest market, followed by China, Germany, the United Kingdom, the Netherlands, Mexico, and Singapore. About 70% of Canadian exports of final-use ICT products were destined for the United States.

Chart 1.9 Canada's top 10 traders in ICT products, by end-use, 2018-23

(USD billion)



Note: End-use is classified in accordance with the Broad Economic Categories, Rev.5. ICT products are defined by the OECD classification of ICT Sector and Products. Data cover until November 2023.

Source: WTO Secretariat calculations, based on Canada International Merchandise Trade Web Application.

1.3.1.2 Trade in services

1.34. Canada is a net services importer. However, Canada had a modest surplus on other commercial services, which accounted for over 60% of total trade in commercial services, on average during the review period (Table 1.3).

1.35. Trade in services that require high human contact, such as travel and transport, experienced a steep decline during the COVID-19 pandemic. As the global economy reopened, demand for these services rebounded in 2022: Canadian demand for travel grew almost three times compared to 2021 while foreign demand approximately reached its pre-pandemic level. Canada maintains a deficit in insurance services, and the deficit in financial services has turned into a surplus since 2021.

1.36. Canada maintains a strong performance in services trade involving highly skilled labour. During the review period, trade in telecommunications, computer, and information services; research and development (R&D) services; and technical, trade-related, and other business services continue registering surpluses. Audiovisual services also recorded a surplus throughout. On intellectual property rights (IPRs), Canada paid more for fees, commissions, and royalties for using patents, industrial process and designs, trademarks, franchises, and copyrights than it received for the same purpose.

1.37. The surplus of trade in R&D services and the deficit of charges for using IPRs exemplify Canada's participation in knowledge-based value chains and digitally delivered services trade. Around three quarters of Canada's payments for using IPRs were spent on patent and industrial design licences and software royalties (Chart 3.9). It appears that Canadian firms utilize such IPRs to provide their clients with customized and/or non-customized solutions under R&D activities, though others have observed that such a pattern of IPR trade reflects the commercialization deficit of IP in Canada.[41] The surplus of computer and information services steadily increased during the review period. Against this backdrop, the Government has taken a number of IPR-related initiatives to encourage Canadian firms, especially small and medium-sized enterprises (SMEs), to further commercialize their innovative activities (Section 3.3.7.2).

Table 1.3 Trade in services, 2018-23 Q3

(CAD billion)

	2018	2019	2020	2021	2022	2023 Q3
Services exports	**136.5**	**152.9**	**132.0**	**149.0**	**173.0**	**145.0**
Maintenance and repair services	2.5	3.0	2.3	1.9	2.2	2.2
Travel	35.4	39.5	18.6	19.2	36.5	35.2
Transportation	18.1	18.6	13.7	14.9	18.8	14.7
Other commercial services	78.9	90.0	96.0	111.4	113.8	91.6
Construction services	0.3	0.4	0.5	0.5	0.7	0.5
Insurance services	1.7	1.7	1.9	1.8	1.9	1.5
Financial services	11.7	12.1	13.2	14.8	16.4	12.1
Telecommunications, computer, and information services	13.7	17.9	19.2	24.0	24.6	19.5
Charges for the use of intellectual property	8.2	9.2	9.8	9.5	9.0	7.4
Professional and management consulting services[a]	18.0	21.2	22.4	26.3	26.4	22.2
Research and development services	8.2	9.3	9.8	12.4	13.3	11.2
Technical, trade-related and other business services[b]	11.9	13.0	13.7	15.3	15.7	12.9
Personal, cultural, and recreational services[c]	5.2	5.3	5.5	6.8	5.8	4.3
Government services	1.7	1.8	1.3	1.6	1.7	1.3
Services imports	**158.3**	**168.0**	**140.4**	**151.2**	**189.0**	**156.5**
Maintenance and repair services	1.0	1.1	0.6	0.5	0.8	1.1
Travel	44.7	46.9	16.2	10.2	37.3	38.6
Transportation	32.0	32.6	23.5	27.2	36.1	26.1
Other commercial services	79.0	85.9	98.5	111.7	113.1	89.3
Construction services	0.3	0.5	0.8	1.4	1.3	1.0
Insurance services	5.2	5.2	6.0	6.7	6.8	5.2
Financial services	12.2	11.7	14.1	14.3	12.0	8.1
Telecommunications, computer, and information services	9.4	10.6	10.9	15.2	15.9	13.6
Charges for the use of intellectual property	16.5	18.0	18.6	19.6	19.7	16.8
Professional and management consulting services[a]	18.0	20.3	28.9	33.9	36.5	28.1
Research and development services	2.7	3.3	2.9	2.9	3.4	2.7
Technical, trade-related and other business services[b]	11.4	12.6	12.3	12.3	12.0	9.2
Personal, cultural, and recreational services[c]	3.3	3.5	4.2	5.2	5.5	4.7
Government services	1.5	1.5	1.5	1.7	1.8	1.4

a Including management services and advertising and related services.
b Including architecture, engineering, and other technical services; non-financial commissions; and equipment rentals.
c Including audiovisual services and other personnel, cultural, and recreational services.

Source: WTO Secretariat, based on Statistics Canada, Table 36-10-0021-01.

1.38. Similar to the situation in merchandise trade, trade in services is also highly concentrated; especially, trade in other commercial services is moderately more concentrated than the situation of overall trade in services, though they are more diverse than merchandise trade.[42] The United States is the largest partner for services trade, followed by the European Union. Services exports to India, most of which were attributed to education exports, increased significantly during the review period (Table 1.4).

[41] Schwanen, D. (2021), *Canada's Commercialization Deficit*, Intelligence Memos, C.D. Howe Institute. Viewed at: https://www.cdhowe.org/sites/default/files/2021-12/IM_Schwanen_2021_1217.pdf.
[42] Global Affairs Canada (2019), *Geographic Export Diversity*. Viewed at: https://www.international.gc.ca/trade-commerce/economist-economiste/analysis-analyse/diversity-export-diversite.aspx?lang=eng.

Table 1.4 International transactions in services by main partner, 2018-23 Q3

(CAD billion)

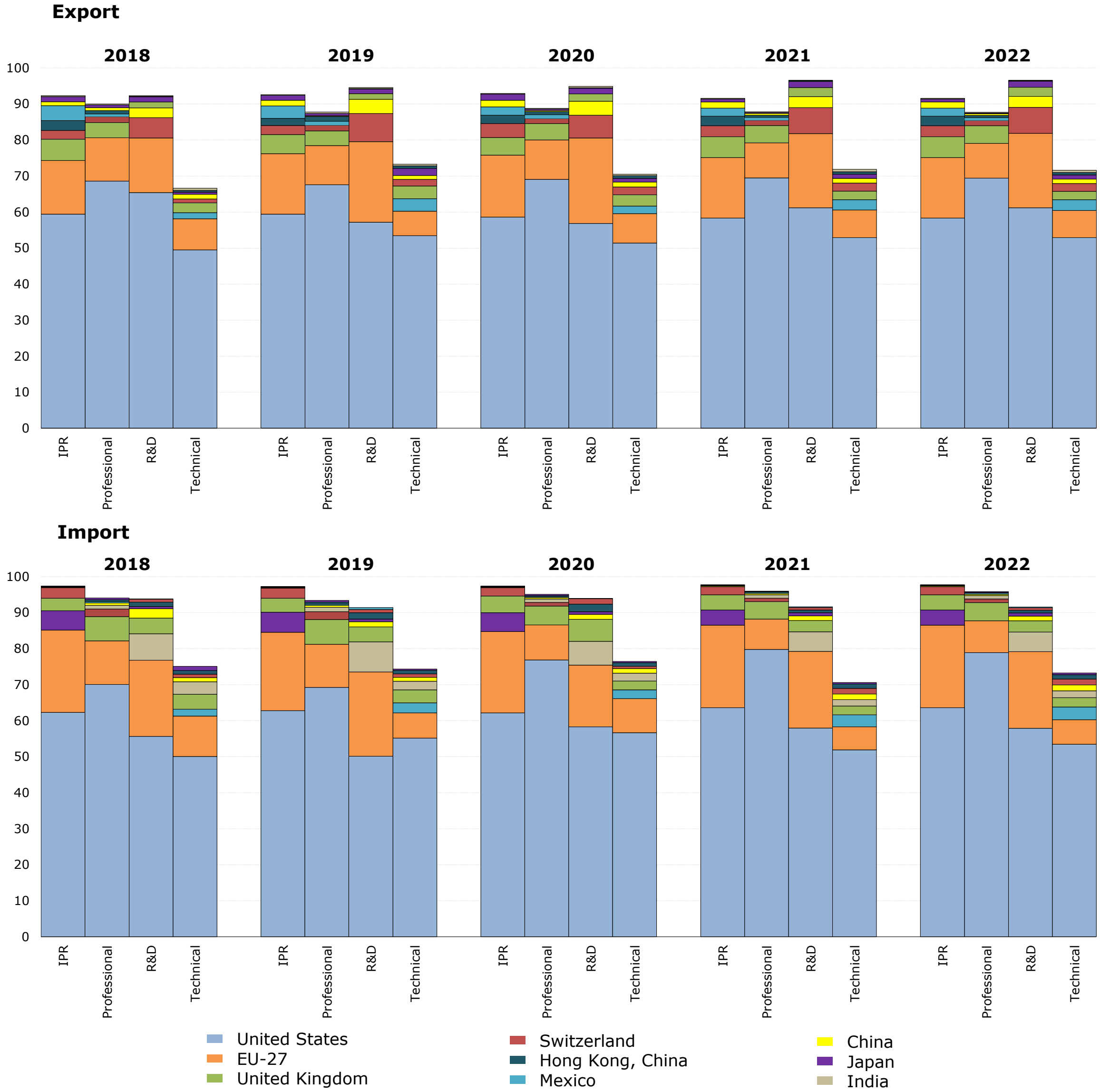
	2018	2019	2020	2021	2022	2023 Q3
Services exports	**136.5**	**152.9**	**132.0**	**149.0**	**173.0**	**145.0**
United States	74.2	81.7	72.1	84.4	93.2	77.2
EU-27	16.0	17.9	14.8	16.3	18.7	15.8
France	4.2	4.5	3.5	3.5	4.5	4.0
Germany	3.3	3.5	2.6	2.9	3.5	3.0
Netherlands	1.5	1.6	1.5	1.8	1.9	1.6
India	3.7	5.3	5.2	5.8	8.4	7.6
United Kingdom	7.3	7.5	6.4	7.0	8.1	6.5
China	7.7	8.6	6.1	5.6	6.2	5.5
Switzerland	1.9	2.2	2.1	2.6	2.7	2.2
Hong Kong, China	1.9	2.0	1.8	2.1	2.4	2.0
Mexico	1.9	2.6	1.4	1.5	2.1	1.9
Australia	1.9	1.9	1.3	1.4	2.0	1.8
Japan	1.9	2.2	1.5	1.5	1.9	1.7
Services imports	**158.3**	**168.0**	**140.4**	**151.2**	**189.0**	**156.5**
United States	86.0	92.2	81.1	88.0	111.1	93.3
EU-27	20.6	21.3	16.7	18.2	22.5	19.5
Germany	3.2	3.4	3.0	3.0	3.5	3.0
France	3.6	3.5	2.6	2.4	3.5	3.0
Netherlands	2.1	2.2	1.7	1.9	2.2	1.8
United Kingdom	8.3	8.9	8.6	8.4	9.9	7.1
Hong Kong, China	5.4	5.1	4.0	5.3	6.4	4.1
China	3.2	3.7	2.8	3.4	3.9	2.6
Mexico	3.6	3.8	2.3	1.8	3.6	3.0
Singapore	2.3	2.3	2.1	2.7	3.2	2.1
India	2.2	2.7	2.5	2.7	2.9	2.6
Japan	2.9	3.3	2.5	2.2	2.4	2.4
Switzerland	1.7	1.9	1.5	2.1	2.3	1.7

Source: Statistics Canada, Table 12-10-0157-01.

1.39. With respect to importing IPRs, the United States is the largest source, followed by the European Union, Japan, the United Kingdom, and Switzerland. On export of R&D services, the United States is also the largest market, followed by the European Union, Switzerland, China, and the United Kingdom (Chart 1.10).

Chart 1.10 Selected categories of trade in other commercial services, 2018-22

(% of the value in each category)



Source: WTO Secretariat, based on Statistics Canada, various tables.

1.3.2 Trends and patterns in FDI

1.40. Canada remained a net creditor to the rest of the world. Foreign direct investment (FDI) recorded net outflows throughout the review period (Table 1.5).

1.41. Canada maintains close investment relations with North America and Europe. The United States remained by far the largest capital source for inward investment into Canada and the destination for Canadians investing abroad. Canada was a net capital supplier to the rest of North America. By contrast, more European capitals invested in Canada than in the opposite direction. The European Union, as a whole, was the second-largest capital source for foreign investment in Canada, and remained as a net creditor. The United Kingdom increased its investment in Canada; British investments in Canada overtook Canadian investment in the United Kingdom in 2021 (Table 1.5).

Table 1.5 International investment position by partner, 2018-22

(CAD billion)

	2018	2019	2020	2021	2022
Direct investment abroad	**1,409.7**	**1,613.7**	**1,666.7**	**1,789.7**	**1,989.6**
North America	694.8	758.4	823.2	938.0	1,074.0
United States	668.3	728.3	796.3	910.0	1,041.1
Europe	334.3	378.9	366.3	374.0	383.6
EU-27	208.2	232.3	227.4	240.2	248.8
United Kingdom	104.2	120.8	113.5	92.2	93.0
Caribbean	..	261.3	258.1	270.2	299.0
Asia/Oceania	107.8	122.2	133.4	126.0	141.8
South and Central America	70.8	80.0	70.7	65.3	73.5
Africa	9.8	11.9	13.6	14.6	16.0
Unallocated partners[a]	..	1.0	1.3	1.7	1.7
Direct investment in Canada	**977.7**	**1,137.8**	**1,079.1**	**1,192.3**	**1,263.9**
North America	467.0	468.8	465.3	553.9	583.7
United States	464.6	466.4	463.3	551.2	581.0
Europe	352.8	425.4	396.1	415.4	446.7
EU-27	243.8	289.0	262.0	284.6	308.6
United Kingdom	61.6	77.1	86.2	92.3	99.3
Caribbean	..	38.0	28.6	25.0	28.1
Asia/Oceania	106.7	145.2	129.3	128.6	132.0
South and Central America	15.3	3.3	6.2	8.5	12.1
Africa	2.5	0.2	0.2	0.4	0.9
Unallocated partners[a]	..	57.0	53.2	60.4	60.3

.. Not available.

a Includes all stakes that could not be allocated to a particular country.

Source: Statistics Canada, Table 36-10-0008-01.

1.42. In general, Canada's investment environment is friendly with a reputation of policy certainty and sound governance. However, compared to the FDI regimes in other G7 countries, Canada's is relatively restrictive (Section 2.4). Barriers to FDI are also obstacles to further productivity growth. The OECD identified foreign ownership restrictions in network sectors (e.g. telecommunications and airlines) and banking as a major challenge (Sections 4.3.2 and 4.3.1.3).[43]

1.43. Following the collapse of oil prices in mid-2014, foreign investment in the sectors of oil and gas extraction and their supporting activities declined significantly. Reflecting the recent increase in commodity prices, the investment in oil gas gradually rebounded from 2021 (Table 1.6). But with the expectation of falling commodity prices in the near future as well as the possible deepening of geo-economic fragmentation, investment in the oil and gas sector will continue seeing increases but not likely a full bounce-back.

1.44. Investment in mining sectors other than oil and gas remained relatively stable during the review period. As Canada advances its strategy to become a reliable supplier of "critical minerals" to support green technology, investment in this sector may see significant growth in the future. Investments in the mining sector are heavily impacted by screening and approval procedures (e.g. national security reviews), which were identified by the OECD as another prominent investment barrier (Section 2.4).[44]

1.45. Foreign investment in transportation equipment manufacturing was stable, standing at around CAD 20 billion (Table 1.6). As Canada implements its plan for a clean economy, including through investment incentives for clean technology manufacturing, investment in the manufacturing sector is expected to increase. For instance, Volkswagen committed to invest CAD 20 billion to establish an electric-vehicle battery factory in Ontario[45], partly in response to fiscal incentives (Section 3.3.1).

[43] OECD (2023), *OECD Economic Surveys: Canada*. Viewed at: https://www.oecd-ilibrary.org/deliver/7eb16f83-en.pdf?itemId=%2Fcontent%2Fpublication%2F7eb16f83-en&mimeType=pdf.

[44] OECD, *FDI Regulatory Restrictiveness Index*. Viewed at: https://www.oecd.org/investment/fdiindex.htm.

[45] Reuters (2023), "Canada, Volkswagen to Invest More than C$20 Billion in EV Battery Gigafactory", 22 April. Viewed at: https://www.reuters.com/business/autos-transportation/volkswagen-canada-battery-plant-targets-90-gwh-capacity-its-biggest-yet-2023-04-21/.

1.46. The finance and insurance sector is the most attractive destination for Canadian businesses investing abroad, followed by management of companies, mining (including oil and gas extraction), manufacturing, and transport and warehousing services.

Table 1.6 International investment position by sector, 2018-22

(CAD billion)

	2018	2019	2020	2021	2022
Canadian direct investment abroad	**1,409.7**	**1,613.7**	**1,666.7**	**1,789.7**	**1,989.6**
Finance and insurance	493.8	544.0	566.3	496.5	584.7
Management of companies	220.5	305.1	301.6	447.9	486.9
Mining and oil and gas extraction, of which:	168.7	197.8	201.9	214.0	233.2
Oil and gas extraction	59.6	72.3	43.4	22.6	31.8
Mining (except oil and gas)	79.8	95.6	123.7	100.3	107.4
Support activities for mining and oil and gas extraction	29.3	29.8	34.7	91.2	94.0
Manufacturing, of which:	104.5	99.8	113.4	125.4	135.6
Transportation equipment manufacturing	26.2	25.3	29.4	30.7	31.7
Food manufacturing	14.7	13.4	19.1	25.8	29.0
Miscellaneous manufacturing	11.9	7.2	7.6	25.6	26.1
Chemical manufacturing	12.6	13.9	18.7	11.7	11.5
Transportation and warehousing	100.7	98.9	99.4	121.9	134.7
Real estate, rental, and leasing	86.6	101.4	105.8	108.9	114.4
Professional, scientific, and technical services	44.8	39.5	61.6	76.0	81.4
Information and cultural industries	48.9	54.9	58.0	43.4	48.8
Utilities	72.7	70.2	74.5	42.9	46.8
Wholesale trade	22.8	35.4	27.2	41.6	44.7
All other industries	19.4	34.5	27.3	40.8	43.7
Retail trade	16.5	19.0	20.3	16.1	18.5
Accommodation and food services	3.2	4.2	4.0	6.5	6.5
Construction	4.7	4.6	3.0	5.2	6.0
Agriculture, forestry, fishing, and hunting	1.8	4.4	2.4	2.6	3.6
FDI in Canada	**977.7**	**1,137.8**	**1,079.1**	**1,192.3**	**1,263.9**
Management of companies	269.1	337.1	320.9	380.1	394.2
Manufacturing, of which:	184.0	178.7	187.5	207.5	227.9
Chemical manufacturing	39.6	43.0	44.5	39.2	41.8
Food manufacturing	25.9	31.0	32.3	30.4	35.1
Petroleum and coal products manufacturing	42.9	13.5	13.9	27.1	33.1
Transportation equipment manufacturing	19.4	21.3	21.7	21.5	18.9
Finance and insurance	128.9	149.5	139.4	154.0	164.8
Mining and oil and gas extraction, of which:	177.0	159.1	109.7	119.2	130.1
Oil and gas extraction	136.1	103.0	75.8	83.9	90.0
Mining (except oil and gas)	23.2	33.1	13.1	24.4	26.3
Support activities for mining and oil and gas extraction	17.8	23.0	20.8	10.9	13.7
Wholesale trade	94.2	115.5	119.1	117.2	125.1
All other industries	8.6	49.3	44.6	52.5	53.0
Professional, scientific, and technical services	20.1	28.9	35.6	43.4	44.5
Real estate, rental, and leasing	17.5	30.3	28.4	29.9	31.6
Information and cultural industries	9.6	14.3	15.0	23.5	24.7
Transportation and warehousing	16.6	16.0	17.1	19.8	21.4
Retail trade	25.1	33.8	36.3	17.7	19.1
Construction	5.7	9.8	9.6	10.2	10.5
Utilities	8.6	6.0	8.9	8.6	9.2
Accommodation and food services	6.7	6.7	4.4	4.3	4.4
Agriculture, forestry, fishing, and hunting	5.7	2.7	2.5	4.5	3.4

Source: Statistics Canada, Table 36-10-0009-01.

2 TRADE AND INVESTMENT REGIMES

2.1 General framework

2.1. Canada is a federation, made up of 10 provinces and 3 territories. In broad terms, federal and provincial/territorial governments have both exclusive powers and shared jurisdiction over trade- and trade-related policy matters (Table 2.1).

Table 2.1 Power division between federation and provinces on trade- and trade-related policies

<table>
<tr><th></th><th>Exclusive competence</th><th>Shared competence</th></tr>
<tr><td>Provincial power</td><td>• Direct taxation within the province (including provincial incentives)
• Businesses regulation and permits
• Local transport
• Professional services
• Contracts and private law</td><td rowspan="2">• Fiscal policy (including taxation and incentives)
• Government procurement
• Technical regulations and standards
• Sanitary and phytosanitary requirements
• Environmental protection
• Labour standards
• Agriculture and forest
• Fisheries
• Energy and mining</td></tr>
<tr><td>Federal power</td><td>• International and interprovincial trade
• Monetary and foreign exchange policies
• Intellectual property
• International and interprovincial transport
• Telecommunications
• Aviation
• Competition policy</td></tr>
</table>

Source: Information provided by the authorities, based on the Constitution Acts of 1867 and 1982.

2.2. International and interprovincial trade falls under the exclusive powers of the federal Government, which sets trade policies at the national level, maintains tariff schedules, manages import and export controls, and administers trade remedies. However, provinces and territories regulate trade and other activities within their boundaries and have other powers that can also affect international trade and investment. For instance, provincial/territorial governments have the power to establish technical regulations and standards on matters of health and safety within their jurisdictions.

2.3. Canada is a single market, nonetheless, regulatory differences among provinces continue to pose barriers to internal trade. The IMF estimates that regulatory differences cause the prices of interprovincially traded goods to be 21% higher on average, and that removing all internal regulatory barriers would theoretically increase GDP per capita by 3.8% nationally and up to 16% for specific provinces/territories.[1]

2.4. Internal trade within Canada is governed by the Canadian Free Trade Agreement (CFTA), a domestic intergovernmental trade agreement signed between the federal Government and all provincial and territorial governments. The CFTA came into force on 1 July 2017 and replaced the Agreement on Internal Trade (AIT), which had been in force since 1995. The CFTA, in contrast to its predecessor the AIT, adopts an approach of negative listing; this approach requires the federal Government, provinces, and territories to lift all trade barriers across all sectors unless specifically identified as an exception, such that if a government measure is not listed as an exception, no trade restrictions exist. Accordingly, the CFTA covers almost all areas of economic activity, including most of the service economy as well as the energy sector and many energy utilities. However, the CFTA includes a long list of exceptions that some observers see as a substantial challenge to more integrated internal trade in Canada, as areas that are most affected by internal trade barriers are part of this list of exceptions.[2]

2.5. In general, the CFTA provides a framework that aims to eliminate trade barriers between provinces/territories, promote regulatory cooperation, and enhance interprovincial flows of goods, services, capital, and labour; in this regard, the CFTA also establishes the Regulatory Reconciliation

[1] The estimate was based on 2015 statistics. Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*, IMF Working Paper WP/19/158. Viewed at: https://www.imf.org/-/media/Files/Publications/WP/2019/WPIEA2019158.ashx.

[2] Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*, IMF Working Paper WP/19/158.

and Cooperation Table to address the matter of regulatory divergence across provinces/territories (Section 3.3.2), with exceptions for provincial/territorial governments choosing to opt out.[3] The authorities maintain that the CFTA aligns with Canada's commitments under international agreements, thus reducing compliance costs for Canadian firms that do business both at home and internationally.

2.6. The CFTA was amended twice on 10 December 2019 and 16 January 2024, with an aim to reduce barriers in internal trade. The 2019 amendment allows CFTA parties to remove their own specific exceptions concerning government procurement more quickly and efficiently (i.e. without requiring the approval of all parties), and to narrow their exceptions through a more streamlined process. The CFTA amendment process also included negotiations to expand the CFTA scope to cover non-medical cannabis and financial services that were originally on the exception list. The negotiations for rules applicable to non-medical cannabis trade were concluded in December 2022, and the sector was subsequently incorporated under the CFTA on 16 January 2024; negotiations on financial services continue to progress.

2.7. The CFTA also includes a stand-alone annex (Annex 309) on electricity transmission and sets out specific obligations and rules to enable open, transparent, and non-discriminatory access to electricity transmission services within provincial and territorial boundaries, including a stand-alone dispute resolution roster. Sections 2 through 4 of Annex 309 came into force on 23 September 2020.

2.8. The federal Government, under the Crown Prerogative, negotiates international trade agreements on behalf of Canada's provinces and territories. Through the domestic intergovernmental mechanisms, e.g. the Federal-Provincial-Territorial Committee on Trade Policy (C-Trade), the federal Government obtains consensus from provincial/territorial governments on the scope of negotiations and advises provincial/territorial governments of developments in negotiations. International trade agreements require approval by the Minister of Foreign Affairs and the Cabinet and are subject to 21 days' tabling in Parliament before entry into force. Amendments to international trade agreements that are already in force also follow the same process. If an international trade agreement requires Canada to update its relevant domestic legislation to fulfil its new international legal obligations through the agreement, these changes need to be made before the new agreement is tabled and must pass through the same process as domestic legislation.[4]

2.2 Trade policy formulation and objectives

2.9. Canada continued pursuing its overall economic policy agenda – building a strong middle class, making life more affordable, combating climate change, and promoting investment to drive inclusive and sustainable growth – which was initiated in 2015.

2.10. Canada's trade policy contains three priorities, namely: (i) supporting a strong, rules-based multilateral trading system; (ii) diversifying trade; and (iii) promoting inclusive and sustainable trade. Canada considers that pursuing sustainable, transparent, and inclusive trade policies is the best response to the criticism of international trade and globalization that "has led to protectionist movements and a retreat from the international rules-based system that has provided unparalleled prosperity to Canada and others for decades".[5]

2.11. In November 2018, Canada introduced the Export Diversification Strategy, which aims to help Canadian exporters become more resilient during times of uncertainty in international trade and facilitate future growth opportunities by making Canada one of the world's most globally connected

[3] Courts in Canada have generally held that Section 121 of the Constitution Act 1867 prohibits only interprovincial tariff barriers but "not other impediments to interprovincial trade, or that it should be interpreted based on the historical, legislative and constitutional context in Canada that respects an appropriate balance between federal and provincial powers". Alvarez et al. (2019), *Internal Trade in Canada: Case for Liberalization*, IMF Working Paper WP/19/158. For further information, see Supreme Court of Canada judgement *R v Comeau*, 2018 SCC 15. Viewed at: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17059/index.do.

[4] Global Affairs Canada, *Policy on Tabling of Treaties in Parliament*. Viewed at: https://www.treaty-accord.gc.ca/procedures.aspx?lang=eng.

[5] Global Affairs Canada (2020), *Canada's Inclusive Approach to Trade*. Viewed at: https://www.international.gc.ca/trade-commerce/gender_equality-egalite_genres/approach-can-approche.aspx?lang=eng.

economies.[6] The authorities are of the view that a strong multilateral trading system, complemented by comprehensive free trade agreements, facilitates efforts to reduce uncertainties and potential disruptions faced by businesses in international trade, to help them seize the opportunities from the global market.[7] To implement the Strategy, Canada plans to accelerate investments in trade infrastructure, including investments worth CAD 774 million in transport facilities (e.g. marine ports, rails, and highway corridors), and CAD 14 million in transport data improvement projects.

2.12. As indicated in the Strategy, trade diversification means that Canada seeks not only to diversify its export categories and destinations but also, in broad terms, to increase the number of exporters regardless of their ownership and their domestic production location. The Strategy sets a target of increasing by 50% Canada's overseas exports by 2025; this implies a target of a 5.2% average annual growth rate of export, in value terms. Despite the strong rebound of exports in 2022 after the challenges caused by the COVID-19 pandemic, Canada's exports remain highly concentrated in a few groups of products and services.[8] Nonetheless, merchandise exports are considered diversified when products are grouped by HS chapters[9]; in terms of destination, the majority of Canada's exports are heavily dependent on the United States, though Canada's geographic concentration ranking dropped when the export destinations are grouped as regions rather than individual economies (Section 1.3).[10] According to the Trade Commissioner Service (TCS), Canada's exports to both China and the European Union have more product diversity than those to the United States, the traditional and nearest international market.[11]

2.13. Further to the overall economic policy agenda, Canada adopts an inclusive approach to trade.[12] The authorities consider that this inclusive approach ensures that the benefits from trade are shared widely, including with under-represented groups such as women, small and medium-sized enterprises (SMEs), and Indigenous Peoples.

2.14. Against this backdrop, incorporating gender perspectives into trade policy formulation and free trade agreement (FTA) negotiations is a key trade policy priority. Gender-related factors are taken into account during FTA assessments and negotiations to better understand the risks and opportunities for particular demographics in the economy[13]; this includes conducting a Gender-Based Analysis Plus (GBA+) on each chapter of an FTA before, during, and after negotiations, and incorporating a quantitative labour module that has a gender lens into economic impact assessments. Moreover, Global Affairs Canada established the Gender and Trade Advisory Group (GTAG) in October 2020 to deliver on a commitment in Canada's inclusive approach to trade to conduct inclusive stakeholder consultations.[14] In addition, the authorities are of the view that

[6] Department of Finance Canada (2018), *The Fall 2018 Economic Statement*. Viewed at: https://www.budget.canada.ca/fes-eea/2018/docs/statement-enonce/fes-eea-2018-eng.pdf.

[7] See various government webpages: *Canada and the World Trade Organization (WTO)* (https://www.international.gc.ca/world-monde/international_relations-relations_internationales/wto-omc/index.aspx?lang=eng#a1); *Export Diversification and Canada's Major Trading Partners* (https://www.tradecommissioner.gc.ca/canadexport/0006893.aspx?lang=eng); and *Trade Policy 101* (https://www.international.gc.ca/trade-commerce/trade_topics-domaines_commerce/policy_101_fondements_politique.aspx?lang=eng).

[8] According to Global Affairs Canada, Canada is the fourth in the world most concentrated in terms of merchandise exports, while the exports of other commercial services are slightly less concentrated in terms of destination. See Global Affairs Canada (2019), *Canada's Geographic Export Diversity*. Viewed at: https://www.international.gc.ca/trade-commerce/economist-economiste/analysis-analyse/diversity-export-diversite.aspx?lang=eng

[9] Global Affairs Canada (2019), *Canada's Export Diversity by Product.* Viewed at: https://www.international.gc.ca/trade-commerce/economist-economiste/analysis-analyse/diversity_product-export-diversite_produit.aspx?lang=eng.

[10] Global Affairs Canada (2019), *Canada's Geographic Export Diversity*.

[11] Trade Commissioner Service (2022), *Export Diversification and Canada's Major Trading Partners*. Viewed at: https://www.tradecommissioner.gc.ca/canadexport/0006893.aspx?lang=eng.

[12] Global Affairs Canada (2023), *Canada's Inclusive Approach to Trade.* Viewed at: https://www.international.gc.ca/gac-amc/campaign-campagne/inclusive_trade/index.aspx?lang=eng.

[13] For example, price reductions could have a more positive impact on women's lives than on men's, as this could free up a higher percentage of disposable incomes.

[14] The GTAG includes a subgroup of external experts and academics that provide expertise and key advice to the Government.

"increasing the number of women-owned SMEs that export has important socio-economic benefits for both society in general and the businesses themselves".[15]

2.15. Even though only about 12% of SMEs export goods and services, SME exporters are significant innovators and that decreased telecommunications and transportation costs, reduced tariffs, and more open trade policies have helped them to export.[16] The Government believes that "incorporating a SME perspective into macroeconomic policy, including trade policy, is key to pursuing inclusive and sustainable economic development"; it will support the growth and development of SMEs, and thus enhance their ability of exporting products and services to foreign markets.[17] As spelled in the 2018 Fall Statement, Canada plans to invest a total of CAD 198 million to help Canadian SMEs export, including programmes to enhance CanExport and other initiatives that are operated by the TCS (Section 3.2.4).[18] The authorities further indicate that pursuing a dedicated SME chapter also represents a key priority in Canada's recent ongoing FTA negotiations.

2.16. Canada considers that electronic commerce (e-commerce) is a new way of doing business rather than a new sector, which gives businesses, and in particular SMEs, access to much wider geographical markets, and provides consumers with the benefits of increased competition and product choice.[19] Canada is of the view that facilitating access and removing barriers to e-commerce, as well as an online environment of trust and security, is essential for reaping the benefits of e-commerce. In terms of trade policy, Canada seeks to develop new international trade rules to support the continued growth of e-commerce.[20]

2.17. Canada's obligations to Indigenous Peoples under the Canadian Constitution[21] cannot be superseded or undermined by international commitments under an FTA.[22] Also, there are programmes or set-asides in the FTAs that seek to advance the interests of Indigenous Peoples and Indigenous-owned businesses, "including in the areas of services, investment, environment, government procurement, and state-owned enterprises".[23] The Indigenous Working Group (IWG), established by Global Affairs Canada in September 2017, is the focus group where the Government engages with Indigenous Peoples, Indigenous organizations, and business associations on trade and investment matters; in particular, the IWG played an active role in developing the Indigenous general exception in the Canada-United States–Mexico Agreement (CUSMA).

2.18. Global Affairs Canada is the federal government department responsible for coordinating the development of Canada's international trade policy. It takes the lead in the negotiation and implementation of international trade, investment, and air transportation agreements; carries out litigation and dispute settlement; and administers trade controls. Other federal departments and agencies that develop and implement trade-related policies in their respective policy subject areas include Agriculture and Agri-food Canada (AAFC), Canadian Food Inspection Agency (CFIA), Canadian Border Services Agency (CBSA), Finance Canada, Innovation Science and Economic Development Canada (ISED), Environment and Climate Change Canada (ECCC), Natural Resources Canada (NRCan), the Treasury Board of Canada Secretariat (TBS), and Employment and Social

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[15] Global Affairs Canada (2019), *Trade and Gender Connection*. Viewed at: https://www.international.gc.ca/trade-commerce/gender_equality-egalite_genres/trade_gender-commerce_genre.aspx?lang=eng.

[16] Global Affairs Canada (2019), *Trade and Small and Medium-Sized Enterprises*. Viewed at: https://www.international.gc.ca/trade-commerce/sme-pme/sme-roles-pme.aspx?lang=eng.

[17] Global Affairs Canada (2019), *Trade and Small and Medium-Sized Enterprises.*

[18] Department of Finance Canada (2018), *The Fall 2018 Economic Statement*. Viewed at: https://www.budget.canada.ca/fes-eea/2018/docs/statement-enonce/fes-eea-2018-eng.pdf.

[19] Global Affairs Canada (2020), *Electronic Commerce*. Viewed at: https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/ecomm-comme.aspx?lang=eng.

[20] WTO document INF/ECOM/29, 9 May 2019.

[21] These legal obligations include those recognized and affirmed by Section 35 of the Constitution Act, 1982, and those set out in modern treaties and those self-government agreements are protected by Section 35.

[22] Global Affairs Canada (2020), *International Trade Agreements and Indigenous Peoples: The Canadian Approach*. Viewed at: https://www.international.gc.ca/trade-commerce/indigenous_peoples-peuples_autochtones/approach-approche.aspx?lang=eng.

[23] Global Affairs Canada (2020), *International Trade Agreements and Indigenous Peoples: The Canadian Approach*.

Development Canada (ESDC). The TCS under Global Affairs Canada is responsible for export promotion.

2.19. Trade policies are formulated through a consultative process. C-Trade, led by Global Affairs Canada, is the forum for federal and provincial/territorial governments at the working level to coordinate and discuss trade- and trade-related policies. C-Trade meets quarterly. Global Affairs Canada also engages in dialogues on trade policy with citizens, civil society organizations, and industry groups through a variety of consultative mechanisms. Trade and trade-related policies are implemented throughout the Government.

2.3 Trade agreements and arrangements

2.3.1 WTO

2.20. Canada is a founding Member of the WTO, and its trade and trade-related policies and practices have been reviewed 11 times, most recently in 2019. It considers the WTO as the cornerstone of its trade policy and is willing to play a leadership role in WTO reform.[24] In addition to actively participating in the multilateral negotiations on agriculture and on fisheries subsidies, Canada also participates in several Joint Statement Initiatives (JSIs), including E-Commerce, Investment Facilitation for Development, and Services Domestic Regulation. Canada co-chairs the Trade and Environmental Sustainability Structured Discussions and participates in the Informal Working Groups on Trade and Gender, and MSMEs; and the Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (DPP).

2.21. Together with 13 Members[25], Canada formed the Ottawa Group on WTO Reform in 2018, to contribute ideas and analysis towards achieving meaningful, realistic, and pragmatic reforms over the short, medium, and long term. Since its establishment, the Ottawa Group have focused on reinvigorating the negotiating function, strengthening the deliberative function of the WTO, and safeguarding and strengthening the dispute settlement mechanism, which also represents core priorities and objectives for Canada.[26] More broadly, under various Ottawa Group subgroup configurations and with other Members, Canada has co-sponsored proposals through several committees to achieve "a well-functioning and modernized WTO that supports an open, free, inclusive and sustainable multilateral trading system".[27]

2.22. The Ottawa Group submitted a proposal on trade and health in November 2020, calling on WTO Members to make a collaborative effort to prevent disruption in global supply chains and facilitate the flow of essential medical goods amid the pandemic. These efforts included implementing trade-facilitating measures, exercising restraint in the imposition of export restrictions, and improving transparency.[28] Moreover, through its leadership in the Ottawa Group, Canada actively facilitated work and engagement in the lead-up to the WTO 12th Ministerial Conference (MC12), and contributed to meaningful outcomes.

2.23. Canada maintains a strong notification record at the WTO, as notifications during the review period were numerous and covered a wide range of WTO and GATT instruments. However, some regular notifications are outstanding, such as in the areas of domestic support to agriculture.

2.24. During the review period, Canada, as the complainant, brought four cases before the WTO Dispute Settlement Body (DSB), was the respondent in three cases, and was a third party

[24] Global Affairs Canada (2020), *Trade Policy 101*. Viewed at: https://www.international.gc.ca/trade-commerce/trade_topics-domaines_commerce/policy_101_fondements_politique.aspx?lang=eng.

[25] These 13 Members are Australia, Brazil, Chile, the European Union, Japan, Kenya, the Republic of Korea, Mexico, New Zealand, Norway, Singapore, Switzerland, and the United Kingdom.

[26] Government of Canada (2022), *Ottawa Group Ministerial Statement on WTO Reform*. Viewed at: https://www.international.gc.ca/world-monde/international_relations-relations_internationales/wto-omc/news-nouvelles/2022-06-17-ottawa-group-groupe.aspx?lang=eng.

[27] Government of Canada (2022), *Ottawa Group Ministerial Statement on WTO Reform*.

[28] WTO document WT/GC/223, 24 November 2020.

in 54 cases.[29] Canada is a participant in the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) in the absence of a functioning Appellate Body.

2.3.2 Regional and preferential agreements

2.3.2.1 Reciprocal agreements

2.25. During the review period, two new regional trade agreements (RTAs) entered into force: the Canada–United States–Mexico Agreement (CUSMA) on 1 July 2020 and the Canada–United Kingdom Trade Continuity Agreement (CUKTCA) on 1 April 2021. Two existing RTAs were also updated: the updated Canada-Chile Free Trade Agreement (CCFTA) entered into force on 5 February 2019, and the updated Canada-Israel Free Trade Agreement (CIFTA) entered into force on 1 September 2019. As of end-2023, Canada maintains 15 RTAs with 49 WTO Members (Table 2.2). Among these RTAs, 4 cover only trade in goods and the other 11 cover both goods and services.

Table 2.2 RTAs in force, 2023

Agreement	Coverage	Date of entry into force	Date of full implementation
Canada – Israel (CIFTA)	Goods	1 January 1997	1 January 2023
Canada – Chile (CCFTA)	Goods & Services	5 July 1997	1 January 2014
Canada – Costa Rica (CCRFTA)	Goods	1 November 2002	1 January 2016
Canada – EFTA	Goods	1 July 2009	1 January 2024
Canada – Peru	Goods & Services	1 August 2009	1 January 2025
Canada – Colombia (CCoFTA)	Goods & Services	15 August 2011	1 January 2032
Canada – Jordan	Goods	1 October 2012	1 January 2016
Canada – Panama	Goods & Services	1 April 2013	1 January 2031
Canada – Honduras	Goods & Services	1 October 2014	1 January 2028
Canada – Republic of Korea (CKFTA)	Goods & Services	1 January 2015	1 January 2032
Canada – Ukraine (CUFTA)	Goods	1 August 2017	1 January 2024
Canada – European Union (CETA)	Goods & Services	21 September 2017	1 January 2024
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	Goods & Services	30 December 2018	1 January 2039
Canada – United States – Mexico (CUSMA)	Goods & Services	1 July 2020	1 January 2025
Canada – United Kingdom (CUKTCA)	Goods & Services	1 January 2021 (G) 1 April 2021 (S)	1 January 2024

Source: WTO Secretariat, based on notifications to CRTA.

2.26. Based on merchandise trade data for 2022, 83% of Canada's total trade occurred with its RTA trading partners, among which 55% of total trade took place with the United States and Mexico under the CUSMA, followed by the partners under CPTPP (12%), and the EU partners under CETA (11%) (Section 1.3).

2.27. CUSMA, which replaced the North American Free Trade Agreement (NAFTA), maintains duty-free trade for the vast majority of goods originating from the other CUSMA parties[30]; the remaining dutiable lines are a small number of certain agricultural products. For most products, CUSMA rules of origin remain unchanged from those of NAFTA; however, for passenger vehicles and trucks as well as some automotive parts, CUSMA increases the thresholds of local/regional value content including labour values to encourage increased sourcing of North American parts and materials. In addition, CUSMA includes a new chapter on customs administration and trade facilitation that modernizes customs procedures throughout North America.

2.28. According to the authorities, the CUKTCA preserves the main features of CETA, providing continuity, predictability, and stability for trade. The CUKTCA incorporates the relevant provisions of the CETA concerning liberalization of trade and tariff lines, though with several modifications. This includes replication of most CETA tariff rate quotas, with commitments adjusted to the levels of

[29] WTO, *Disputes by Member*. Viewed at: https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm.

[30] At the end of implementation, Canada will retain duties on 103 lines (1.5% of total tariff lines) for imports from the United States and 146 lines (2.1% of total tariff lines) for imports from Mexico.

bilateral trade between Canada and the United Kingdom. The provisions on investment dispute resolution are suspended pending a review by both parties.

2.29. During the review period, Canada also updated its FTA with Ukraine. The negotiation was concluded on 23 September 2023, but the updated Agreement has not yet entered into force. Upon entry into force, the newly-negotiated Agreement (the "modernized CUFTA") will replace and expand the scope of the existing FTA between Canada and Ukraine (2017 CUFTA). The "modernized CUFTA" continues the provisions of the 2017 CUFTA including the market access and tariff commitments, upgrades several existing provisions, and adds new and upgraded commitments between the parties with regards to cross-border trade in services and investment, among other issues.

2.30. According to the authorities, most RTAs that entered into force (or were "updated") after 2015 contain WTO-extra provisions, including on environment, labour, and electronic commerce. In addition, Canada's inclusive approach to trade has also been reflected in its recently signed/implemented RTAs. This approach aims to prioritize inclusive content in RTAs through improving labour and environmental protections with innovative provisions, mainstreaming inclusive provisions, and seeking to include new chapters that are focused on cooperation and information sharing; the Government expects that such provisions will improve the market access condition for and the capacity of under-represented groups so that they can better benefit from the opportunities of RTAs.[31]

2.31. Canada's first dedicated trade and gender chapter in an RTA was introduced during the "modernization" process of the RTA with Chile in June 2017. Since then, Canada has included a dedicated trade and gender chapter in recently modernized or concluded RTAS, including with Israel (CIFTA) and with the European Union (CETA). In September 2018, both Canada and the European Union adopted the recommendations of the CETA Joint Committee on Trade and Gender, including to integrate gender-related considerations and activities into the work of bodies established under CETA. Additionally, there is a stand-alone trade and gender chapter in the "modernized CUFTA". The authorities indicate that this CUFTA chapter represents a new-generation trade and gender chapter, by including provisions on women's economic rights and on non-derogation, under which both parties commit "to enforce and not weaken their domestic laws and protections afforded to women to attract trade and investment". The chapter may also be subject to dispute settlement if the parties agree.

2.32. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was Canada's first RTA that includes a stand-alone chapter on SMEs. Two subsequent agreements also have dedicated SME chapters: the updated CIFTA with Israel and the CUSMA. Moreover, the CETA Joint Committee adopted in September 2018 a recommendation on SMEs that contains similar provisions. A stand-alone trade and SMEs chapter under the recently negotiated "modernized CUFTA" commits both parties to work together to remove barriers for SMEs so that they can better enjoy the benefits of the Agreement; the chapter also requires both parties to make relevant trade-related information available through a digital medium.

2.33. In Canada's RTAs, reservations and exceptions related to Indigenous Peoples and Indigenous businesses are spelled out in the relevant chapters. In addition, the CUSMA provides an Indigenous general exception (IGE) that ensures that Canada's commitments under the Agreement do not impact its ability to adopt or maintain measures to meet its obligations to Indigenous Peoples under Section 35 of the Constitution Act, 1982, as well as those set out in self-government agreements. The first-ever dedicated trade and Indigenous Peoples chapter was introduced in the "modernized CUFTA"; this chapter acknowledges the importance of enhancing the ability of Indigenous Peoples and Indigenous-owned businesses to benefit from opportunities created by international trade and commits both parties not to weaken or reduce protections for Indigenous Peoples to attract trade and investment.

2.34. During the review period, Canada also engaged in RTA negotiations with the Association of Southeast Asian Nations (ASEAN), India, Indonesia, MERCOSUR, and the Pacific Alliance countries

[31] Government of Canada, *Minister of Trade – Briefing Book*. Viewed at: https://www.international.gc.ca/transparency-transparence/briefing-documents-information/briefing-books-cahiers-breffage/2021-10-trade-commerce.aspx?lang=eng.

(i.e. Chile, Ecuador, Mexico, and Peru). Some of these activities have been notified to the WTO. In addition, Canada launched FTA negotiations with the United Kingdom to replace the CUKTCA.

2.3.2.2 Unilateral preferential schemes

2.35. Unilateral preferences for developing countries and least developed countries (LDCs) remained largely unchanged during the review period. The unilateral preferential schemes, implemented through the Customs Tariff, are the General Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT), and the Commonwealth Caribbean Country Tariff (CCCT). As of end-2023, 119 countries and territories benefited from one or more of these regimes.

2.36. The GPT, modelled on UNCTAD's Generalized System of Preferences (GSP), is a long-standing programme offering autonomous and non-reciprocal tariff preferences to beneficiaries. The preferences cover more than 80% of total tariff lines with duty-free treatment; the exceptions are mainly for the agricultural, apparel, and footwear sectors.

2.37. The GPT is subject to review approximately every 10 years, and its latest review was completed in 2023. The review proposed to introduce a new General Preferential Tariff Plus (GPT+) scheme to replace the GPT; the GPT+ will enter into force on 1 January 2025, and expire on 31 December 2034. Also, as part of the GPT review conclusion, WTO Members such as Armenia, Belize, Fiji, Georgia, Guatemala, Guyana, the Republic of Moldova, Paraguay, Tonga, and Viet Nam will no longer be beneficiaries of the GPT, while Tunisia will become a GPT beneficiary[32], effective on 1 January 2025.

2.38. The LDCT provides duty-free, quota-free access for goods originating from LDCs, covering 98% of total tariff lines except for certain dairy, poultry, and egg products. The LDCT expires on 31 December 2024, and will be replaced by the GPT+. Effective on 1 January 2025, Cabo Verde and Vanuatu will no longer enjoy LDCT benefits.[33]

2.39. The CCCT accords duty-free treatment to Caribbean countries' exports except for textiles, apparel, and certain agricultural goods. At present, Canada has a WTO waiver in place for the implementation of these tariff preferences.[34] The CCCT will be extended after its expiration on 31 December 2024, and expand its duty-free coverage to textiles and apparel products, effective on 1 January 2025.[35]

2.4 Investment regime

2.40. During the review period, the institutional and legal framework for foreign investment remained largely unchanged. The principal legislation on FDI continues to be the Investment Canada Act (ICA), governing all investment by non-Canadians[36] who acquire control of an existing Canadian business or who wish to establish a new Canadian business. A new bill to "modernize" the ICA was tabled in Parliament on 7 December 2022 and remained at the committee stage as at the end of 2023.[37] The Regulations Respecting Investment in Canada and the National Security Review of Investment Regulations are associated regulations to implement the ICA. ISED is the department responsible for the overall administration of the ICA.

2.41. Non-Canadian investors must notify ISED whenever they establish a new business in Canada or acquire control of an existing Canadian business, unless a specific exemption applies[38], before or

[32] The full list of changes in GPT beneficiary countries/territories was published in *Canada Gazette*, Part II, 25 October 2023. Viewed at: https://www.canadagazette.gc.ca/rp-pr/p2/2023/2023-10-25/pdf/g2-15722.pdf.

[33] LDCT benefits for Samoa and Tuvalu (neither is a WTO Member) were also withdrawn.

[34] WTO document WT/L/1166, 10 May 2023.

[35] Order Amending the Schedule to the Customs Tariff (Commonwealth Caribbean Countries Tariff): SOR2023/209. Viewed at: https://www.gazette.gc.ca/rp-pr/p2/2023/2023-10-25/html/sor-dors209-eng.html.

[36] A non-Canadian is anyone who is not a Canadian citizen or a permanent resident. The ICA defines a non-Canadian business as any entity (e.g. a corporation, government, partnership, trust or joint venture) that is not controlled or beneficially owned by Canadians (Sections 26-27).

[37] Business and Industry (2023), *Investment Canada Act – Modernization*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/modernization.

[38] Exemptions are spelled in Section 10 of the ICA, covering, *inter alia*, transactions in the ordinary course of securities trading or dealing, transactions in connection with the realization of security granted for a

within 30 days after implementing the investment. Also, a notification to ISED is required each and every time a foreign investor commences a new business activity unrelated to the foreign investor's present activity in Canada.[39]

2.42. Investments by non-Canadians to acquire control of a Canadian business above certain defined thresholds are subject to a "net benefit" review before implementing the proposed investment, hence, investors must apply to ISED[40] for review. The "net benefit" review, focused on economic benefits, factors in the investment's beneficial effects on domestic economic enhancement (e.g. job creation and export competitiveness), productivity gains, and strengthening competition within and outside Canada. As stipulated in the ICA, the "net benefit" review may take 45 days with an extension of 30 days to complete[41] and reach a conclusion; however, the average length of "net benefit" reviews and the median review period increased over the last five years, reaching 97 and 93 days in FY2022/23, respectively. ISED notes that the prolonging in the average length of "net benefit" review "reflects specific investment that were subject to review in this period rather than signalling a new trend in the timelines".[42] ISED indicate that the increase in average time to complete reviews reflects increasing complexity both in the nature of the investment projects and in the extended consultations involved in the review process. If an investment fails to demonstrate a "net benefit" to Canada, the investment project must not go forward, or divest itself if the investment has already been implemented. The conclusions of "net benefit" reviews are available online for public reference.[43] During the review period, all proposed investments subject to "net benefit" reviews were approved (Table 2.5), accounting for around 30% of total notified investment, in value terms (Table 2.3).

Table 2.3 Total value of notified investments, FY2018/19-FY2022/23

(CAD billion)

	2018/19	2019/20	2020/21	2021/22	2022/23
Notified investments	**104**	**65**	**59**	**89**	**62**
Investments subject to "net benefit" reviews	21	50	50	31	18

Note: "Total value" includes values measured by asset value and measured by enterprise value. The values of investment subject to "net benefit" review in FY2020/21 and FY2022/23 excluded the asset value for the transaction in the corresponding year due to commercial confidentiality.

Source: ISED, *Investment Canada Act Annual Report*, various years.

2.43. Reflecting the 2017 amendment to the ICA, from 1 January 2019 onwards the threshold levels for "net benefit" reviewable investments are adjusted annually based on growth in nominal GDP in accordance with the formula set out in the Act. The threshold levels are dependent upon the type and origin of the investment. Usually, the threshold levels for private investment originating from FTA partners are higher than the ones for private investment from other WTO Members. There is a threshold specific for state-owned enterprises (SOEs), regardless of whether they are from FTA partners (Table 2.4). The authorities maintain that the review mechanism for SOE investments is not different from the one for private investment.

2.44. The thresholds for investment in cultural business[44] are CAD 5 million in the case of direct investment, and CAD 50 million in the case of indirect transactions. The same threshold is applicable

loan or other financial assistance, and financial transactions subject to approval under the Bank Act, the Cooperative Credit Associations Act, the Insurance Companies Act, or the Trust and Loan Companies Act.

[39] ISED's Related-Business Guidelines explain the relatedness of a new business to an existing business. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/guidelines/all-guidelines#p1.

[40] If the investments are related to cultural industries, the application is submitted to the Department of Canadian Heritage.

[41] In the case of investments in cultural businesses, the review will usually require at least 75 days to complete. ISED, *Investment Canada Act: Frequently Asked Questions*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/frequently-asked-questions#s9.

[42] ISED (2023), *Investment Canada Act: Annual Report 2022-2023*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/home/annual-report-2022-2023.

[43] ISED, *Investment Canada Act: Decisions*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/decisions.

[44] "Cultural business" refers to the items in Schedule IV of the Regulations Respecting Investment in Canada. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-85-611/page-6.html#h-887719.

for any reviewable investment from non-WTO Members. These threshold levels are not adjusted annually.

Table 2.4 Thresholds for investments subject to "net benefit" review, 2024

(CAD million)

Investment type/origin		Threshold
Private-sector from WTO Members		1,326
Private-sector from FTA parties		1,989
Investment by SOEs		528
Investment in a cultural business	(direct investment)	5
	(indirect transaction)	50
Investment from non-WTO Members	(direct investment)	5
	(indirect transaction)	50

Source: *Canada Gazette*, Part I, Vol. 158, No. 5. Viewed at: https://www.gazette.gc.ca/rp-pr/p1/2024/2024-02-03/pdf/g1-15805.pdf.

2.45. When applying for a "net benefit" review, investors must disclose their controller, including any direct or indirect state ownership. Under the Guidelines of Investment by State-owned Enterprises, an SOE is defined as "an enterprise that is owned, controlled or influenced, directly or indirectly by a foreign government".[45] In addition to assessing the economic effects, the review examines whether foreign SOEs present certain risks, taking into consideration how and the extent to which the non-Canadian SOE investors operate on a commercial basis, where the invested business exports, where it processes, and the participation of Canadians in its operations in Canada and elsewhere.

2.46. National security reviews apply to any foreign investments, regardless of value, whether the investment is greenfield, results in the acquisition of control, or is a minority investment.[46] The multi-step national security review process is separate from the "net benefit" review process. If at the stage of initial national security review an investment is considered to be potentially injurious to national security, the investor is notified that the proposed investment may be referred to an extended national security review.

2.47. A Guideline for National Security Review was first published in December 2016, and updated on in 2021 and 2022. Compared to the 2016 Guideline, the revised Guideline identifies factors under consideration in national security reviews[47], including sensitive technologies and know-how, critical minerals, critical infrastructure, sensitive personal data, and investments by state-owned or state-influenced investors. Sensitive technologies, which are mentioned in Annex A to the Guidelines, are mostly in areas having military or dual applications. Natural Resources Canada lists 31 minerals and metals deemed critical for renewable energy production and storage, electric vehicle batteries and motors, consumer electronics, and critical infrastructure. According to the National Strategy for Critical Infrastructure, critical infrastructure may be processes, systems, facilities, technologies, networks, assets, and services essential to the well-being of Canadians and the effective functioning of the Government; sectors related to critical infrastructures include utilities, finance, food, transport, health, and telecommunications.

2.48. The Minister of Innovation, Science and Industry (MISI), in consultation with the Minister of Public Safety, is responsible for conducting national security reviews and coordinating with investigative bodies. If investors are notified that their proposed investment is considered to be potentially injurious to national security, the Minister must decide within 45 days whether to refer the investment for an extended national security review.[48] National security reviews for notified transactions take up to 45 days to complete, with a possible extension for another 45 days.[49]

2.49. The National Security Review of Investments Regulations were amended on 2 August 2022. The amended Regulations provide a new voluntary filing mechanism for non-Canadian investments described in Sections 25.1(c) of the ICA (e.g. minority investments). Though non-controlling investments are not required to be notified to ISED, such investments are still subject to national

[45] ISED, *Industry Canada – Investment Canada Act: All Guidelines*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/guidelines/all-guidelines.

[46] Investment Canada Act, Section 25.1.

[47] The authorities note that the factors listed in the Guideline are illustrative and not exhaustive.

[48] Investment Canada Act, Section 25.2(4).

[49] National Security Review of Investments Regulations, Sections 25 and 25.1.

security reviews. ISED strongly encourages overseas investors, particularly if they are state-owned or subject to state influence, to file a voluntary notification at least 45 days prior to the planned implementation of the investment. By doing so, the overseas minority investors trigger the same statutory deadlines as a mandatory filing (i.e. an investment to establish a new business or to acquire control of an existing Canadian business), hence obtaining pre-implementation regulatory certainty with respect to a national security review. Otherwise, the Government may take up to five years to complete a review.[50]

2.50. If an investment is considered to pose a risk to national security, the investment under review may not proceed, or proceed with terms and conditions specified in the order by the Governor in Council, or the investors are ordered to divest if the investment has already been implemented.[51] Specific decisions regarding national security review are traditionally not published, except in general aggregate terms in the Investment Canada Act Annual Report.[52] However, the Government recently announced its decision to order three foreign investors to divest themselves from their investment in the critical minerals sector, following a national security review. Such a change in practice is "part of overall efforts to modernize and improve the administration of Canada's investment review regime" and further indicate "such decisions will continue to be announced going forward for greater transparency".[53]

2.51. Between April 2018 and March 2023, a total of 98 investments were considered to be potentially injurious to national security and the investors received a notice from MISI for an order for extended national security review. On average over the review period, 59% of these cases were cleared of national security concerns (i.e. they were either not referred to extended national security review or cleared by the extended national security review), which allowed the investment to proceed to its implementation phase, while 10 cases were ordered to divest, accounting 24% of the total cases. About 26% of the cases were withdrawn before or during the national security review process (Table 2.5).

Table 2.5 Investment Canada Act enforcement statistics, FY2018/19-FY2022/23

	2018/19	2019/20	2020/21	2021/22	2022/23
Total filing of foreign investment	**962**	**1,032**	**826**	**1,255**	**1,010**
Notification	953	1,023	823	1,247	1,005
Applications for "net benefit" review	9	9	3	8	5
Approval of "net benefit" review	9	9	3	8	5
Cases considered potentially injurious to national security and received a MISI notice	**9**	**10**	**23**	**24**	**32**
Cases not referred to extended national security review	2	3	12	9	10
Cases withdrawn by applicants following the MISI notice	0	0	1	3	0
Cases referred to extended national security review	**7**	**7**	**11**	**12**	**22**
Approval of national security review	3	1	4	7	10
Divesture order	2	3	2	0	3
Investment blocked	0	0	1	0	0
Review extension	0	0	0	1	1
Withdrawn by applicants during the extended national security reviews	2	3	4	4	8

Source: ISED, *Investment Canada Act Annual Report*, various years.

2.52. Investors may seek "binding opinions" from ISED concerning any matter of ICA interpretation. In general, opinions are sought with respect to the "Canadian" status of an individual or entity, general questions of interpretation, and whether or not there are grounds for early implementation of investment.

2.53. On 8 March 2022, a new "Policy Statement on Foreign Investment Review and the Ukraine Crisis" was issued, impacting the investment environment for Russian entities and/or Russian investors. Under this policy, the authorities find "the acquisition of control of a Canadian business

[50] National Security Review of Investments Regulations, Section 2(c)(ii).
[51] Investment Canada Act, Section 25.4(1).
[52] Reasons are communicated to the investor, but not to the public.
[53] *Investment Canada Act: Frequently Asked Questions*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/frequently-asked-questions#s17.

[by investors from the Russian Federation] to be of net benefit to Canada on an exceptional basis only", although "each case will continue to be examined on its own merits".[54] With respect to national security reviews, investments "controlled by or subject to influence by the Russian state" would support a finding "injurious to Canada's national security".[55]

2.54. Further to the "Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals" announced in October 2022, foreign SOE investments in acquisitions of control of a Canadian business involving critical minerals will only be approved in the "net benefit" review on an exceptional basis, and that investments by foreign SOEs or foreign state-influenced private investors are likely to be subject to extended national security reviews as they could be found injurious to Canada's national security. Such considerations are given on the grounds of the strategic importance of critical minerals and inherent economic risks posed by such investors.[56] This policy reflects Canada's Critical Mineral Strategy, which aims to position Canada as a reliable supplier of such materials for the supply chains, according to the authorities.

2.55. The Canadian economy is generally open to foreign investment, however, there remain long-standing barriers (e.g. licence limitation and foreign ownership caps) in several sectors such as mining, transport, and cultural industries.[57] According to the OECD FDI Regulatory Restrictiveness Index, Canada's investment environment is more restrictive than the average of OECD economies.[58] The OECD identified that the sectors of agri-processing, mining, machinery manufacturing, distribution, and communications have high overall regulatory restrictions across all economic sectors; with respect to the types of regulatory measures, the high score of the Index was attributed to screening and approval measures as well as foreign equity limitations.[59] The Office of the Chief Economist at Global Affairs Canada notes that "the restrictiveness index is not a measure of FDI attractiveness", and further suggest that Canada does well in terms of investor confidence as exemplified by Canada's ranking in the Kearney FDI Confidence Index.[60]

2.56. Businesses that want to directly invest in Canada may be incorporated federally or locally at the provincial/territorial level. Federal incorporation is governed by the Canada Business Corporations Act (CBCA) and allows a business to operate nationwide without needing to incorporate separately in each province or territory.[61] Federal incorporation typically involves higher initial costs and compliance costs, compared to provincial incorporation.

2.57. Invest in Canada remains the investment attraction and promotion agency, providing one-stop services for foreign investment.[62] In alignment with recent policy developments, Invest in Canada showcases on its website innovative sectors as the organization's priority industries for investment promotion. These priority industries include agribusiness, advanced manufacturing, cleantech, EV supply chain, life sciences, natural resources, and technology.[63]

2.58. Canada offers a range of incentive and tax credit programmes to investors (Section 3.3.1), including the Accelerated Investment Incentive, and the Scientific Research and Experimental

[54] ISED, *Policy Statement on Foreign Investment Review and the Ukraine Crisis*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/policy-statement-foreign-investment-review-and-ukraine-crisis.

[55] ISED, *Policy Statement on Foreign Investment Review and the Ukraine Crisis*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/policy-statement-foreign-investment-review-and-ukraine-crisis.

[56] ISED, *Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals under the Investment Canada Act*.

[57] For details, see WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 2.4.

[58] OECD, *FDI Regulatory Restrictiveness Index*. Viewed at: https://www.oecd.org/investment/fdiindex.htm. The latest data available were for 2020.

[59] OECD, *FDI Regulatory Restrictiveness Index*.

[60] Blais-Morisset, P. and Rao, S. (2023), *Understanding Canada's Performance on the OECD's FDI Regulatory Restrictiveness Index*. Viewed at: https://www.international.gc.ca/trade-commerce/assets/pdfs/economist-economiste/fdi-performance-canada-ide-eng.pdf.

[61] While federal incorporation allows a business to operate nationwide, it does not eliminate the need for additional registration in provinces or territories where the business has a physical presence or conducts significant activities.

[62] Invest in Canada (2023), *Our Services*. Viewed at: https://www.investcanada.ca/our-services.

[63] Invest in Canada (2023), *Priority Industries*. Viewed at: https://www.investcanada.ca/industries.

Development (SR&ED) Tax Incentives.[64] The Strategic Innovation Fund (SIF) also provides some assistance for major investments in innovative projects; assistance is mainly in the form of repayable and non-repayable contributions to the projects. The Business Benefits Finder, an online tool maintained and updated by Innovation Canada, lists federal, provincial, and territorial support programmes that are available to businesses.[65] During the previous Review, the authorities indicated that all levels of government in Canada are responsible for ensuring that any subsidies granted comply with Canada's international trade obligations, and for assessing the effects of subsidies on competition when relevant.[66]

2.59. Bilateral investment treaties (BITs) are known as Foreign Investment Promotion and Protection Agreements (FIPAs) in Canada. Canada updated the FIPA model in 2021, and will use the updated text as the basis for its future BIT negotiations. The authorities indicate that the new FIPA model benefits from the experiences of recent FTA negotiations (e.g. CETA, CPTPP, and CUSMA). New features in the FIPA model text include clarifying national treatment (i.e. the treatment accorded by a subnational government can only be compared with treatment by that same government) and MFN provisions (i.e. investors cannot "treaty shop" by accessing the provisions of other treaties through MFN), disciplines on requirements that prohibit or restrict cross-border transfer of information, and modernizing the provisions on investor-state dispute settlement (ISDS). The new model text also reflects Canada's inclusive approach to trade.[67] On 23 August 2019, the FIPA with the Republic of Moldova entered into force. As of end-October 2023, there were approximately 40 FIPAs in force.

[64] Invest in Canada (2023), *Programs and Incentives*. Viewed at: https://www.investcanada.ca/programs-incentives.

[65] Innovation Canada (2023), *Business Benefits Finder.* Viewed at: https://innovation.ised-isde.canada.ca/innovation/s/list-liste?language=en_CA&token=a0BOG000000tf2X2AQ.

[66] WTO document WT/TPR/M/389/Add.1, 23 August 2023.

[67] Global Affairs Canada (2021), *2021 FIPA Model – Summary of Main Changes*. Viewed at: https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/2021_model_fipa_summary-2021_modele_apie_resume.aspx?lang=eng.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Customs procedures, valuation, and requirements

3.1.1.1 Recent developments

3.1. During the period under review, Canada continued to pursue customs initiatives to facilitate legitimate trade. For example, Canada expanded its Authorized Economic Operator (AEO) regime by signing four new mutual recognition agreements (MRAs) with trading partners, took steps to streamline its customs release system, which currently offers five different options to transmit import documentation, and moved closer to rolling out a digital tool for paying customs duties and taxes. In addition, Canada implemented its eManifest programme, which involves an Internet-based portal especially developed to facilitate advance electronic reporting of cargo information by small- and medium-sized businesses. Canada introduced new tools for faster and more targeted post-clearance customs verifications on goods that present a high risk of misclassification or undervaluation.

3.2. The main legislation on customs procedures is the Customs Act[1] and its implementing regulations, including the Reporting of Imported Goods Regulations[2], Accounting for Imported Goods and Payment of Duties Regulations[3], and the Transportation of Goods Regulations.[4] The Canadian Border Services Agency (CBSA) is responsible for enforcing customs legislation.

3.3. The CBSA informs traders about proposed changes to its policies and procedures in Customs Notices. Information contained in Customs Notices and serving as reference is incorporated into departmental memoranda, also called D-memos. D-memos are organized into 23 categories.[5] The CBSA also publishes advance rulings for tariff classification, valuation, and origin (with the applicant's consent).[6]

3.4. The CBSA offers five options for submitting documents to obtain the release of imported goods from customs control (Table 3.1), including the Integrated Import Declaration (IID), one of the service options available under Canada's Single Window Initiative (SWI). The SWI enables importers or customs service providers to submit all import information and documents required by the CBSA and 9 other participating government departments and agencies (PGAs), representing 38 government programmes. The number of PGAs participating in the SWI has not changed since Canada's last Review, and according to the authorities, there are no plans to incorporate additional government departments, agencies, or programmes.[7]

Table 3.1 Options for the release of imported goods, 2023

	Time frame to transmit documents	Goods released prior to payment of duties?	Means of document transmission	Time for release decision
Integrated Import Declaration	Maximum 90 calendar days before arrival of goods and 40 days after arrival	Yes, once provisional documentation has been submitted	Electronic Data Interchange (EDI); paper copies required by some agencies can be transmitted electronically as images.	Approximately 80% of transactions are released within 15 minutes

[1] Customs Act (R.S.C., 1985, c. 1 (2nd Supp.)), last amended on 1 October 2020.
[2] Reporting of Imported Goods Regulations (SOR/86-873), last amended on 24 October 2015.
[3] Accounting for Imported Goods and Payment of Duties Regulations (SOR/86-1062), last amended 12 June 2018.
[4] Transportation of Goods Regulations (SOR/86-1064), last amended on 24 October 2015.
[5] Both Customs Notices and D-memos are available online at: https://www.cbsa-asfc.gc.ca/publications/cn-ad/menu-eng.html (Customs Notices) and https://www.cbsa-asfc.gc.ca/publications/dm-md/menu-eng.html (D-memos).
[6] CBSA, *Rulings Issued by the CBSA*. Viewed at: https://ccp-pcc.cbsa-asfc.cloud-nuage.canada.ca/en/national-rulings.
[7] For a full list of SWI participating government departments and agencies and their programmes, see WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 3.3.

	Time frame to transmit documents	Goods released prior to payment of duties?	Means of document transmission	Time for release decision
Pre-arrival Review System (PARS)	Maximum 30 calendar days before arrival of goods and 40 days after	Yes, once provisional documentation has been submitted	EDI or paper under certain exceptions	..
Release on Minimum Documentation (RMD)	Maximum 30 calendar days before arrival of goods and 40 days after	Yes, once provisional documentation has been submitted	EDI or paper under certain exceptions	Within 45 minutes
Form B3-3	After arrival of goods	No; goods are released only after definitive documentation has been submitted	Paper	..
Customs Self-Assessment (CSA) clearance	Upon arrival of the goods	Yes, if the goods have been authorized for delivery to, and have been received at, the place of business of the importer, owner, or consignee of the goods	3 bar codes presented for scanning	Immediately following the scanning of the bar codes (if information provided is validated)

.. Not available.

Source: CBSA, Memorandum D17-1-4, 9 August 2022; and information provided by the authorities.

3.5. Data provided by the authorities for the period January-December 2023 show that IID is by far the most frequently used release service option, with 90.8% of releases, followed by PARS with 4.8% (4.7% EDI-PARS and 0.1% Paper-PARS), RMD with 1% (0.7% EDI-RMD and 0.3% Paper-RMD), CSA with 3.2%, and Form B3-3 with the rest.

3.6. During the period under review, the CBSA took steps to streamline its electronic systems to obtain the release of goods. More specifically, in August 2020 the CBSA decommissioned two legacy release service options that had supported three PGA programmes and replaced them with the IID.[8] IID is now the sole electronic system to obtain the release of goods under those three programmes.

3.7. The elimination of two additional release service options (EDI-RMD and Paper-PARS) is planned for FY2024/25. The authorities note that, though no timeline has been set, their end goal still is the elimination of EDI-PARS so that IID is left as the only remaining EDI option. Requests for the release of goods using paper documents under PARS and RMD are allowed in exceptional circumstances only.[9] Importers who are not equipped to transmit electronic documentation to the CBSA may use so-called "Form B3-3", which is fully paper-based, to obtain release of their goods, but only after the goods have arrived in Canada and duties have been paid.

3.8. CBSA offices at all main ports of entry across Canada offer "e-longroom", an email and digital stamping service that importers and customs service providers can use instead of submitting certain paper documents (including Form B3-3) in person. E-longroom, which was being piloted prior to the outbreak of the COVID-19 pandemic, was found to be an effective tool to deal with some of the challenges customs offices faced during the pandemic.[10] As a result, the use of e-longroom spread rapidly across Canadian ports of entry and has been formalized as a permanent process. As at early 2024, 100 CBSA offices offered e-longroom import release services across Canada.[11] Permits required under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Kimberley Process certificates (for imports and exports of rough diamonds) cannot be submitted using e-longroom but must still be submitted in hard copy.

3.9. During the period under review, the CBSA continued to develop eManifest, which is part of its Advance Commercial Information (ACI) programme and was fully implemented in July 2021. Under ACI, carriers and freight forwarders in all transport modes (air, maritime, rail, and highway) must transmit cargo and related information to the CBSA within specified periods (Table 3.2). Cargo information must be transmitted electronically, either through EDI or the eManifest Portal. The

[8] Customs Notice 20-21 of 19 June 2020. Viewed at: https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn20-21-eng.html.

[9] The list of exceptions is contained in Memorandum D17-1-4 of 9 August 2022.

[10] CBSA, *Submitting Import Documents Using the Electronic Longroom*. Viewed at: https://www.cbsa-asfc.gc.ca/services/border-tech-frontiere/longroom-sal-comp-eng.html.

[11] CBSA, *List of Services*. Viewed at: https://www.cbsa-asfc.gc.ca/do-rb/services/menu-eng.html.

authorities note that the eManifest Portal was developed to facilitate the transition from paper-based to electronic reporting of cargo information by small- and medium-sized businesses, and to reduce the financial burden associated with the development and implementation of an EDI system. ACI/eManifest is mandatory in all transport modes and seeks to strengthen the CBSA's capacity to undertake pre-arrival risk assessment of shipments arriving to Canada, while facilitating legitimate trade. Information on the criteria used to determine shipment risk levels is not publicly available.

Table 3.2 Time frames for submitting pre-arrival information

<table>
<tr><th>Mode/ Destination</th><th>Time frame</th><th>Data required from carriers</th><th>Data required from freight forwarders</th></tr>
<tr><td>Maritime</td><td>24-96 hours, depending on the type and origin of the goods</td><td rowspan="4">Cargo/conveyance[a] data (and CACM[b] upon arrival at the first point of entry)</td><td rowspan="4">House bill[c], house bill close message[d], and/or supplementary cargo data</td></tr>
<tr><td>Air</td><td>4 hours prior to arrival, or before time of departure if the flight is less than 4 hours</td></tr>
<tr><td>Rail</td><td>2 hours prior to arrival</td></tr>
<tr><td>Highway</td><td>1 hour prior to arrival</td></tr>
<tr><td>Sufferance warehouse[e]</td><td>Upon arrival of the goods in the warehouse</td><td colspan="2">Warehouse Arrival Certification Message (WACM)</td></tr>
</table>

a Any vehicle, aircraft, or water-borne craft or any other contrivance that is used to move persons or goods.
b Conveyance Arrival Certification Message.
c Initial record of a shipment that will arrive in Canada.
d Provides information about the shipments arriving to Canada by linking various house bills together.
e Privately owned and operated facilities licensed by the CBSA for the control, short-term storage, transfer, delivery, and examination of in-bond goods until the goods are released or exported.

Source: Memorandum D3-1-1 (importation and transportation of goods), Memorandum D3-2-1 (air), Memorandum D3-3-1 (freight forwarders), Memorandum D3-4-3 (highway), Memorandum D3-5-1 (maritime), Memorandum D3-6-6 (rail), and Memorandum D4-1-4 (warehouses).

3.10. Work towards the full implementation of the CBSA Assessment and Revenue Management (CARM) has continued since Canada's previous Review. CARM is a multi-year digital initiative that seeks to modernize the assessment and revenue processes relating to goods imports. The authorities note that work is on schedule so that from May 2024 CARM becomes Canada's "official system of record" for paying import duties and taxes.[12]

3.11. During the period under review, Canada continued to expand the coverage of its AEO programme, known as Partners in Protection (PIP), by signing four AEO MRAs, with Hong Kong, China (June 2019); New Zealand (June 2019); Peru (June 2022); and the European Union (October 2022). Under the new MRAs, the CBSA treats members of these four trading partners' AEO programmes as low risk for customs purposes. The agreements signed since Canada's last Review come on top of seven AEO MRAs that the CBSA had signed previously, with Australia, Israel, Japan, the Republic of Korea, Mexico, Singapore, and the United States.

3.12. The CBSA publishes the list of companies that are PIP members and have given permission for their names to be published.[13] In August 2023, the list comprised 1,532 companies. The declared value of imports by PIP members between January and October 2022 totalled CAD 191.6 billion. Of the 1,532 companies that were PIP members in August 2023, 785 also held CSA membership. CSA provides simplified accounting, payment, and clearance processes. Only goods shipped directly from the United States or Mexico by preapproved importers, carriers, or registered drivers are eligible for CSA benefits. The CBSA has announced its intention to integrate CSA into PIP.[14]

3.13. During the period under review, Canada made changes to its low-value shipment policy (Box 3.1).

[12] Government of Canada (2023), "CBSA Kicks Off Final Phase Before CARM Becomes the New System of Record for the Collection of Duties and Taxes for Commercial Goods Imported into Canada", 14 August. Viewed at: https://www.canada.ca/en/border-services-agency/news/2023/08/cbsa-kicks-off-final-phase-before-carm-becomes-the-new-system-of-record-for-the-collection-of-duties-and-taxes-for-commercial-goods-imported-into-c.html.

[13] CBSA, *Partners in Protection Members*. Viewed at: https://www.cbsa-asfc.gc.ca/services/security-securite/business-affaires/ttp-pndc/pip-pep/list-liste-eng.html.

[14] CBSA, *Customs Self Assessment Program*. Viewed at: https://www.cbsa-asfc.gc.ca/prog/csa-pad/menu-eng.html.

Box 3.1 Low-value shipment policy

Under Canada's *de minimis* framework, imports of qualifying goods valued at or below a certain threshold are not subject to customs duties and/or taxes. Certain types of goods are ineligible for the remission of customs duties and/or taxes such as alcohol and tobacco products; gifts; and books, newspapers, magazines, periodicals, and similar publications. During the previous Review, the authorities noted that this threshold is set at a level intended to reduce the administrative burden for customs officials without creating competitive inequity for Canadian retailers, who must pay all applicable customs duties and taxes on goods they import for sale and collect federal and provincial sales taxes on the products they sell in Canada, regardless of value.

For goods imported by mail, the applicable *de minimis* threshold is CAD 20, regardless of the source of importation of the goods. The same *de minimis* threshold applies to goods imported by courier from countries other than Mexico and the United States.

For goods imported by courier from Mexico and the United States, Canada agreed under CUSMA to increase the *de minimis* thresholds for waiving customs duties and taxes. Accordingly, goods imported from Mexico or the United States with a customs value of CAD 40 or less are not subject to customs duties or taxes, while goods valued at between CAD 40 and CAD 150 are free of customs duties but subject to taxes. Goods with a customs value of CAD 150.01 or more are subject to all applicable customs duties and taxes. To qualify for the *de minimis* thresholds under CUSMA, goods must meet certain conditions.

Qualifying postal and courier imports valued at less than CAD 500 may also benefit from a simplified tariff classification process under the so-called Generic Harmonized System (GHS), subject to certain conditions. The GHS comprises three generic most-favoured-nation (MFN) tariff rates of 0%, 8%, and 20% found in Chapter 98 of the Customs Tariff. The use of the special classification process is optional and replaces the regular provisions under Chapters 1-97 of the Customs Tariff.

Canada also offers simplified customs procedures for express (highway and air) shipments of qualifying goods valued at CAD 3,300 or less, including immediate release upon arrival. In June 2019, Canada placed a moratorium on applications to the CLVS Program, pending its modernization for an e-commerce environment. CLVS remains in effect for existing participants.

Source: WTO Secretariat, based on Courier Imports Remission Order (SI/85-182), Postal Imports Remission Order (SI/85-181), Memorandum D17-4-0 (Courier Low Value Shipment Program), Customs Tariff, and information provided by the authorities.

3.14. Since Canada's last Review, the CBSA has adopted new tools for post-clearance verifications. Under Section 42.01 of the Customs Act, the CBSA can conduct post-clearance verifications of the declared origin and value of imported goods, as well as their tariff classification. Such verifications have typically been in the form of comprehensive audits of a trader's import transactions over a certain period, normally one year. In January 2022, the CBSA added three targeted verification tools focused on specific import transactions. These new compliance tools, which are less resource-intensive and can be completed faster than comprehensive verifications, seek to promote voluntary compliance and enable traders to correct errors promptly. The CBSA intends to use both comprehensive and targeted verifications as needed to ensure compliance with import requirements.

3.15. The CBSA's new targeted verification tools may take the form of (i) a request that an importer review a declaration based on guidance resources identified by the CBSA ("trade advisory notice"); (ii) a request for additional information on an import transaction ("compliance validation letter"); or (iii) a monetary penalty ("directed compliance letter"). Based on risk analysis, the CBSA periodically compiles and publishes a list of priority goods that are subject to targeted verifications (Table 3.3).

Table 3.3 Priority goods for targeted verification of tariff classification

HS heading	Product	Non-compliant cases (% of total cases)[a]	Date for the latest round of verifications
84.18	Freezers and other freezing equipment	..	May 2023
84.50 and 84.51	Washers and dryers	..	May 2023
02.07, 16.01, and 16.02	Spent fowl	38%	May 2020
85.39	Light-emitting diode (LED) lamps	92%	October 2022
94.01 and 94.03	Furniture for non-domestic purposes	64%	April 2022
94.05	Parts of lamps	81%	May 2020
39.26, 42.02, and 85.17	Cell phone cases	93%	March 2021
20.01	Pickled vegetables	57%	March 2021
84.79	Parts of machines and mechanical appliances	75%	December 2018
87.14	Bicycle parts	100%	June 2021

HS heading	Product	Non-compliant cases (% of total cases)[a]	Date for the latest round of verifications
84.31	Parts for use with machinery of HS Chapter 84	50%	June 2021
85.31 and 85.41	Indicator panels and LEDs	83%	March 2022
Subheading 6506.10	Safety headgear	50%	July 2022
Subheadings 3926.20 and 4015.19	Disposable and protective gloves	85%	November 2022

.. Not available.

a Data are for the latest verification round(s) conducted by the CBSA for which data are available.

Source: CBSA, *Trade Compliance Verifications: July 2023*. Viewed at: https://www.cbsa-asfc.gc.ca/import/verification/menu-eng.html#s1 [accessed on 13 October 2023].

3.16. Generally, CBSA decisions can be appealed to the CBSA's Recourse Directorate within 90 days. From 1 January 2019 to 31 December 2023, there were 2,305 requests to the Recourse Directorate for "re-determination" of decisions on tariff classification, origin, or valuation under Section 60 of the Customs Act. Trade matters can be typically appealed to the Canadian International Trade Tribunal (CITT), whose decisions may be appealed to the Federal Court of Appeal. Between January 2019 and December 2023, 208 appeals were filed in the CITT under the Customs Act, of which the majority related to tariff classification.

3.17. As a developed WTO Member, Canada has been bound by all commitments in the WTO Trade Facilitation Agreement (TFA) since the TFA's entry into force in 2017. In the context of Canada's previous Review, the authorities clarified that Canada uses existing interdepartmental networks and stakeholder consultation mechanisms, including the Border Commercial Consultative Committees (BCCCs), for trade facilitation planning and coordination purposes.[15] The BCCCs are forums where officials and stakeholders discuss border-related policies and programmes and related technical and operation issues. The BCCCs serve as Canada's National Committee on Trade Facilitation under the WTO TFA.[16]

3.18. Canada strongly supports the WTO's work on trade facilitation and has donated to the Trade Facilitation Agreement Facility (TFAF). Between 2019 and 2022, Canada disbursed around CAD 16 million in capacity-building support for the implementation of the TFA in developing and least-developed country Members.[17]

3.1.1.2 Customs valuation

3.19. Customs valuation in Canada is governed by the Customs Act (Sections 44-56), Valuation for Duty Regulations, Direct Shipment of Goods Regulations, Currency Exchange for Customs Valuation Regulations, and CBSA D-memos (D-13 series). The primary customs valuation method is the transaction value method. If the transaction value cannot be used, the legislation establishes five alternative valuation methods and their order of application, reflecting the hierarchy established by the WTO Customs Valuation Agreement.

3.20. During the period under review, the CBSA revised some of its policies and procedural information related to customs valuation. For example, the CBSA updated its policy regarding the sources that may be used to determine the customs value of used vehicles and boats under the residual method, and added information to its guidelines on how sales between related persons should be treated when determining the customs value under the transaction value method.[18] The CBSA is also proposing to amend the Valuation for Duty Regulations to fill a perceived regulatory gap that, in the CBSA's view, "puts Canadian businesses at a competitive disadvantage".[19] To this end, it published draft regulations in the Canada Gazette, Part I, on 27 May 2023 for public

[15] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 165.
[16] UNCTAD, *National Trade Facilitation Committee Canada*. Viewed at: https://unctad.org/topic/transport-and-trade-logistics/trade-facilitation/national-trade-facilitation-bodies/country-detail?country=CA.
[17] WTO documents G/TFA/N/CAN/4, 8 October 2020; and G/TFA/N/CAN/5, 10 February 2023.
[18] Memorandum D13-10-2, Used automobiles, motor vehicles, boats, and other vessels, 19 July 2021; and Memorandum D13-4-5, Transaction value method for related persons, 6 December 2021.
[19] *Canada Gazette*, Part I, Vol. 157, No. 21: Regulations Amending the Valuation for Duty Regulations, 27 May 2023. Viewed at: https://gazette.gc.ca/rp-pr/p1/2023/2023-05-27/html/reg1-eng.html.

comment. Prior to that, the CBSA had launched a preliminary consultation on the proposed amendments in July 2021.[20]

3.21. According to the CBSA, the proposed amendment to the Valuation for Duty Regulations is necessary because in their current form, the Regulations allow businesses located outside of Canada that ship goods to customers in Canada (known as "non-resident importers" or NRIs), to declare a lower customs value for their imports, and therefore pay less duty, than importers based in Canada. The CBSA notes that this situation arises because NRIs are allowed to declare a sale price in the earlier stages of the supply chain, rather than the sale price to the actual buyer in Canada. The proposed amendment seeks to correct this situation, which the CBSA perceives as "unfair".[21]

3.22. In its cost-benefit analysis of the proposed regulation, the CBSA estimates that the proposed changes would, if adopted, increase government revenue by an average of around CAD 225 million per year during the period 2023-31.[22] On the cost side, the CBSA states that NRIs would pay more in import duties under the proposed regulation. Nonetheless, the CBSA does not consider these or any other costs to NRIs in its cost-benefit analysis, noting that this is not required by the Cabinet Directive on Regulation as NRIs are not deemed Canadian companies under the Directive. The CBSA states that NRIs, which represent only around 11% of the total customs value declared to the CBSA under the transaction value method during the period 2016-19, lack sufficient market power to pass the higher costs to Canadian consumers. According to the CBSA, if adopted, the proposal would provide importers and the CBSA with the tools needed to determine customs value "in a manner consistent with Canada's obligations under the WTO's Customs Valuation Agreement".[23]

3.23. Regarding enforcement, the CBSA has identified apparel in HS Chapters 61 and 62 as a priority good for targeted verification with respect to customs valuation.[24] The latest verification round (April 2021) for apparel revealed that, of the 24 companies targeted for verification, 10 were found by the CBSA to be non-compliant with respect to customs valuation requirements.[25]

3.1.2 Rules of origin

3.24. Canada has both preferential and non-preferential rules of origin. The non-preferential rules serve to differentiate most-favoured-nation (MFN) imports from those subject to the General Tariff. Non-preferential rules of origin, which are described in the previous Review, have remained unchanged since then.[26]

3.25. Canada applies preferential rules of origin in the context of its RTAs and unilateral preference programmes (General Preferential Tariff (GPT), Least-Developed Country Tariff (LDCT), and Commonwealth Caribbean Countries Tariff (CCCT)).

3.26. Since Canada's last Review, two new sets of preferential rules or origin apply as part of the Canada–United States–Mexico Agreement (CUSMA) and the Canada–United Kingdom Trade Continuity Agreement (CUKTCA). The CUKTCA largely replicates the rules of origin under the EU-Canada Comprehensive Economic and Trade Agreement.[27] Nonetheless, Canada and the United Kingdom have agreed to continue working towards "mutually beneficial and more liberal rules

[20] CBSA, *Consultation Notice: Potential Regulatory Amendments to the Valuation for Duty Regulations*, 4 June 2021. Viewed at: https://cbsa-asfc.gc.ca/agency-agence/consult/consultations/2021-2-eng.html.
[21] *Canada Gazette*, Part I, Vol. 157, No. 21: Regulations Amending the Valuation for Duty Regulations, 27 May 2023.
[22] The benefits and costs associated with the proposed regulatory amendment are described in detail in the corresponding Regulatory Impact Analysis Statement, which is contained in *Canada Gazette*, Part I, Vol. 157, No. 21: Regulations Amending the Valuation for Duty Regulations, 27 May 2023.
[23] *Canada Gazette*, Part I, Vol. 157, No. 21: Regulations Amending the Valuation for Duty Regulations, 27 May 2023.
[24] The CBSA also conducts targeted verifications in relation to tariff classification (Section 3.1.1.1).
[25] CBSA, *Trade Compliance Verifications: July 2023*. Viewed at: https://www.cbsa-asfc.gc.ca/import/verification/menu-eng.html#s1 [accessed on 13 October 2023].
[26] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.2.
[27] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.2, for a detailed description of the rules of origin under the EU-Canada Comprehensive Economic and Trade Agreement.

of origin that best reflect Canada's and the UK's supply chains and sectoral interests".[28] The authorities note that, as at early 2024, this work is ongoing.

3.27. Under the CUKTCA, origin cumulation with the European Union is allowed for a transitional period of three years ending in April 2024. In addition, specific quantities of certain products may also qualify as originating under so-called "origin quotas".[29] Under the CUKTCA's origin quotas, products may qualify as originating and receive preferential tariff treatment, up to a specified quantity under a less restrictive rule of origin. Origin quotas exist for high-sugar-containing products, sugar confectionery and chocolate preparations, certain processed foods, dog and cat food, certain fish and seafood, textiles, apparel, and passenger vehicles.

3.28. The CUSMA introduced stricter rules of origin for the automotive sector from July 2020. For a passenger vehicle or light truck to qualify as originating under the new rules, five requirements must be fulfilled: 75% regional value content (RVC) for the vehicle; 75% RVC for core parts (engine, transmission, body and chassis, axle, suspension system, steering system, and advanced batteries); 70% of the steel purchased by the automaker must qualify as originating; 70% of the aluminium purchased by the automaker must qualify as originating; and 40% of the content in the vehicle (45% for a light truck) must qualify under the labour value content provision, which requires that the workers directly responsible for the content earn at least USD 16 per hour. In response to a question during Canada's previous Review regarding the impact of CUSMA's automotive rules of origin on regional value chains in the automotive sector, the authorities responded that the new preferential rules of origin for vehicles and automotive parts would "support production in the North American region and reaffirm Canada's attractiveness as an investment destination".[30]

3.29. Revised rules of origin provisions also entered into force in October 2021 under the "modernized" Canada-Chile Free Trade Agreement (which entered into force in February 2019).[31]

3.30. During the period under review, Canada approved measures amending its unilateral preference programmes (Section 2.3.2.2). Regarding rules of origin, the regulatory amendments will simplify the rules of origin for apparel products under the LDCT programme and harmonize them with the rules of origin for apparel products under the GPT and CCCT programmes with the goal of facilitating compliance and maximizing preference utilization. Under the new rules of origin, cutting and sewing of non-originating fabrics in developing countries will confer origin. These changes will enter into force on 1 January 2025.

3.31. All imports into Canada must be accompanied by proof of origin in the form of a commercial invoice, Form CI1 (Canada Customs Invoice), Form A (Certificate of Origin), Exporter's Statement of Origin, or any other document that indicates the country of origin of the goods. Canada's FTAs contain agreement-specific requirements for origin certificates.

3.32. Certain imported goods are subject to country of origin marking requirements. According to the authorities, the primary purpose is to help inform the ultimate purchaser in Canada of the country in which a particular imported article was made. The goods that require marking belong to one of the following product categories: goods for personal or household use; hardware; novelties and sporting goods; paper products; apparel; horticultural products; and goods of steel or aluminium.[32] The legislation specifies certain exemptions to these requirements.[33]

[28] Annex A, Canada–United Kingdom Trade Continuity Agreement. Viewed at: https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cuktca-acccru/ab.aspx?lang=eng.

[29] Memorandum D11-4-37, Origin Quotas and Alternatives to the Product-Specific Rules of Origin under the Canada–European Union Comprehensive Economic and Trade Agreement and the Canada–United Kingdom Trade Continuity Agreement, 4 November 2021.

[30] WTO document WT/TPR/M/389/Add.1, 23 August 2019, pp. 17-18.

[31] Memorandum D11-5-4, Canada-Chile Free Trade Agreement (CCFTA) Rules of Origin, 9 January 2022.

[32] Schedule I of the Determination of Country of Origin for the Purpose of Marking Goods (CUSMA Countries) Regulations; and Schedule I of the Determination of Country of Origin for the Purpose of Marking Goods (Non-CUSMA Countries) Regulations.

[33] The exemptions are listed in Schedule II of the Determination of Country of Origin for the Purpose of Marking Goods (CUSMA Countries) Regulations; and Schedule II of the Determination of Country of Origin for the Purpose of Marking Goods (Non-CUSMA Countries) Regulations.

3.33. Different rules apply to determine the country of origin for marking purposes depending on whether the goods are imported from Mexico or the United States, or from elsewhere.[34] Broadly, for goods imported from Mexico or the United States, the country of origin for marking purposes is the country in which the goods are wholly obtained or produced; the goods are produced exclusively from domestic materials; the foreign materials incorporated into the goods undergo a specific tariff classification change; or the single material that gives the goods their essential character was produced. For goods imported from elsewhere, the country of origin for marking purposes is the country in which the goods are substantially manufactured, meaning the country where the major part of production or manufacturing takes place.

3.1.3 Tariffs

3.34. Tariffs account for a small fraction of Canada's tax revenue. During the review period, customs duties contributed less than 2% of federal tax revenue each year (Table 3.4).

Table 3.4 Federal tax revenues, FY2018/19–FY2022/23

(CAD billion)

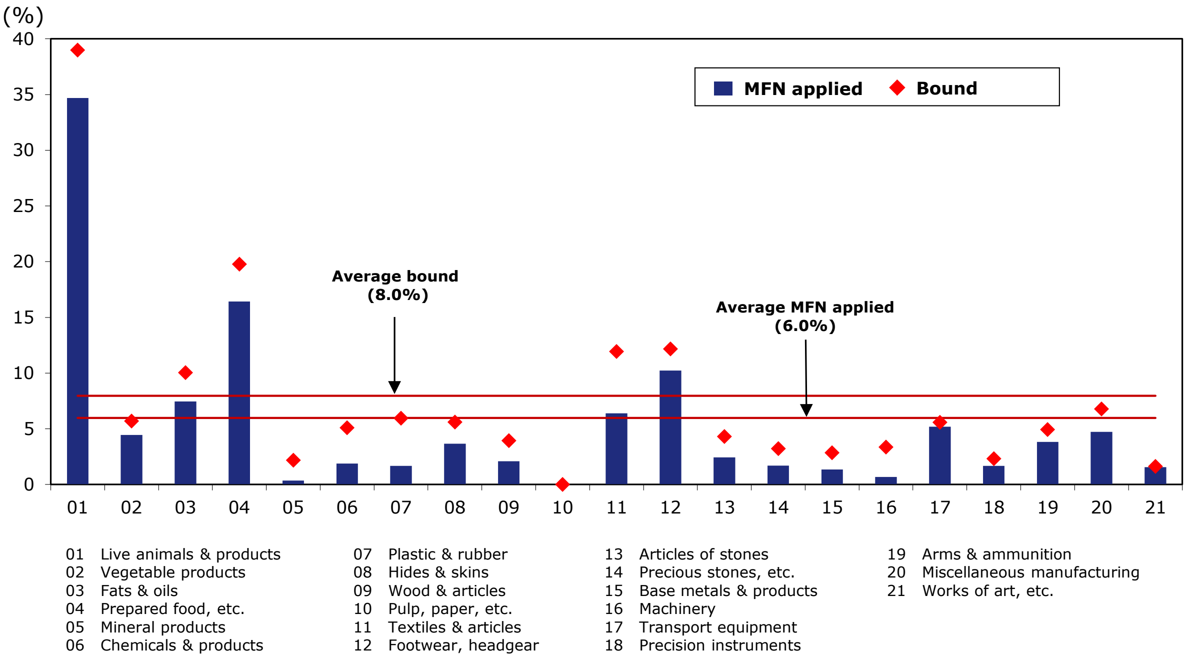
	FY2018/19	FY2019/20	FY2020/21	FY2021/22	FY2022/23
Income tax	223.6	227.1	237.0	288.0	315.0
Other taxes and duties	57.2	53.9	47.0	62.7	64.2
Custom import duties	6.9	4.9	4.3	5.2	6.1
Total tax revenues	**280.8**	**281.0**	**284.0**	**350.7**	**379.2**

Source: Department of Finance Canada, Annual Financial Report of the Government of Canada, various fiscal years.

3.1.3.1 WTO bound tariffs

3.35. Almost all tariff lines (i.e. 99.7% lines in Canada's tariff schedule) are bound. Applied rates are close to or coincide with their bound rates, with a simple average bound tariff rate of 8%, compared to a simple average applied rate of 6% (Chart 3.1). The absence of a large gap between applied and bound rates increases the predictability of Canada's tariff.

Chart 3.1 Average applied MFN tariff and bound rates, by HS section, 2023



Note: Bound rates are provided in HS12 nomenclature and MFN applied rates in HS22; therefore average calculations are based on different numbers of tariff lines.

[34] The proper method and manner of marking goods is set out in the Marking of Imported Goods Regulations.

Source: WTO Secretariat calculations, based on data provided by the authorities, and data from the WTO Consolidated Tariff Schedule (CTS) database.

3.36. The simple average bound rate for agriculture lines (WTO definition) was 23.6%, compared to 21.8% as the simple average applied rate. The highest bound *ad valorem* rates cover products of preparations of meats, and cereals. The largest differences between the bound and the applied rates are found in mineral products (HS Section 05), machineries (HS Section 16), plastic and rubber products (HS Section 07), and chemical products (HS Section 06), where the average rates of bound tariffs are at least two-fold higher than the corresponding average rates of MFN applied tariffs (Chart 3.1).

3.37. There are 35 lines that are unbound. The unbound lines are related to the oil sector (Section 4.2.2.2.2) and the ship building sector.

3.38. The latest certified bound tariff schedule is in the nomenclature of the fifth amendment to the Harmonized Commodity Description and Coding System (HS12).

3.1.3.2 Applied MFN tariffs

3.39. Canada provides at least MFN treatment to all countries and customs territories with which it trades, other than the Russian Federation[35], Belarus, and the Democratic People's Republic of Korea.

3.40. Canada's current tariff nomenclature is based on HS22, and further specified at the 8-digit level. The authorities maintain a public online database of tariff rates applied to imports.[36]

3.41. The 2023 tariff schedule contains a total of 7,266 tariff lines including in-quota tariff lines and 7,106 excluding in-quota tariff lines at the 8-digit level[37], of which 257 are lines with non-*ad valorem* rates, accounting for 3.6% of total tariff lines (Table 3.5). Tariff quotas are applicable to 191 lines, accounting for 2.7% of total lines. For the tariff analysis, in-quota tariff lines are not taken into account in tariff calculations. A majority of the out-of-quota rates for the lines subject to tariff quotas are non-*ad valorem* rates. All lines with non-*ad valorem* rates and subject to tariff quotas are related to the agriculture sector (Section 4.1.1.2.1). Around one third of the non-*ad valorem* rated lines have no imports, which makes it impossible to estimate their *ad valorem* equivalents (AVEs). There are a small number of tariff lines with nuisance rates (i.e. the associated rates are 2% or lower), most of which are the lines with non-*ad valorem* rates. The authorities note that Canada does not apply any rates under 2%. Indeed, the lowest *ad valorem* rate is 2%, associated with 18 lines.

Table 3.5 Structure of tariff schedule, 2019 and 2023

	2019 (HS17)	2023 (HS22)	Final bound (HS12)
Total number of tariff lines	6,827	7,106	8,223
Ad valorem rates (> 0%)	1,764	1,836	5,193
Duty-free	4,805	5,007	2,842
Non-*ad valorem* rates	252	257	188
Non-*ad valorem* rates (% of all tariff lines)	3.7	3.6	5.2
Non-*ad valorem* rates with no AVEs (% of all tariff lines)	1.0	1.0	2.0
Tariff quotas (% of all tariff lines)	2.8	2.7	2.3
Duty-free tariff lines (% of all tariff lines)	70.4	70.5	34.6
Simple average of dutiable lines only (%)	20.5	20.3	12.2
Simple average rate (%)	6.1	6.0	8.0
WTO agricultural products (%)	21.8	21.8	23.6
WTO non-agricultural products (including petroleum, %)	2.5	2.5	5.2
Domestic tariff "peaks" (% of all tariff lines)	2.3	5.3	1.5

[35] WTO documents WT/L/1131, 17 March 2022; and WT/L/1131/Add.1, 6 February 2023.
[36] CBSA (2023), *Canadian Customs Tariff*. Viewed at: https://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/menu-eng.html.
[37] The figure of total tariff lines includes six lines related to sugar (1701.91.10, 1701.99.10, 1702.90.21, 1702.90.61, 1702.90.70, and 1702.90.81) that do not have associated MFN tariffs and are only applicable for the Canada-Peru and Canada-Honduras FTAs.

	2019 (HS17)	2023 (HS22)	Final bound (HS12)
International tariff "peaks" (% of all tariff lines)	7.5	7.1	6.3
Overall standard deviation	28.7	28.6	26.4
Coefficient of variation	4.7	4.8	3.3
Nuisance applied rates (% of all tariff lines)	0.7	0.7	1.7

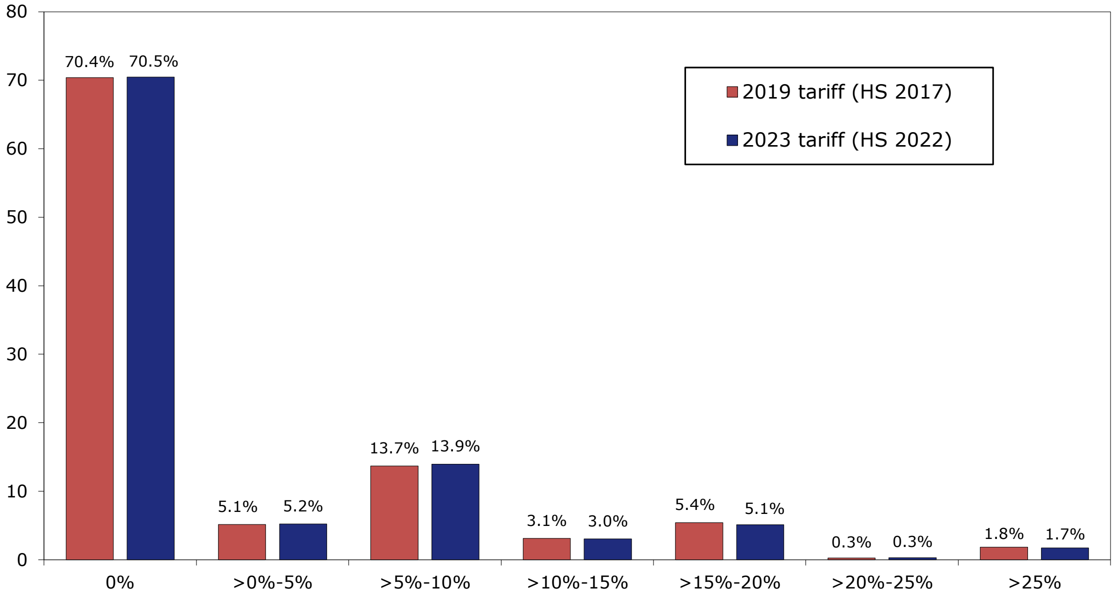
Note: The total number of tariff lines include six lines without rates on the MFN schedule but only applicable to imports under the Canada-Peru and Canada-Honduras preferential agreements.
Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
International tariff peaks area defined as those exceeding 15%.
Nuisance rates are those greater than zero but less than or equal to 2%.

Source: WTO Secretariat calculations, based on CBSA data and the CTS database.

3.42. About 71% of tariff lines in the 2023 tariff schedule are duty-free, and about 19% of total lines are rated 10% or below (Chart 3.2). This brought the simple average rate of applied tariff in 2023 to 6%, slightly lower than the average of 6.1% in 2019 (Table 3.5). This reflects the change of nomenclature, and associated tariff lines moved, split, and merged. Changes to the tariff schedule are enacted and promulgated through a legislative procedure.

Chart 3.2 Distribution of applied MFN tariffs, 2019 and 2023

(% of all tariff lines)



Source: WTO Secretariat calculations, based on CBSA information.

3.43. All tariffs on non-agricultural products, including petroleum, are at *ad valorem* rates. The simple average rate of applied MFN tariff on non-agricultural products was 2.5% in 2023, half of its corresponding bound rate (Table 3.5). The highest *ad valorem* rate on manufactured goods is 25%, applicable to transport equipment of ships and boats; these tariffs are unbound. Albeit more than half of the tariff lines for rubber, leather, and footwear are duty-free, the highest bound tariff for manufactured products at 20% is applicable to rubber and plastic footwear/boots. The apparel sector receives relatively high tariff protection, with tariff rates of up to 18% on clothing products. With 0.3 as the coefficient of variance for the 250 lines of the sector, the average MFN tariff rate was 16% in 2023, the highest among all non-agricultural goods (Table 3.6). In 2022, imports into Canada under MFN tariffs accounted for less than 17% of total imports in the year. Considering that 71% of lines on the MFN schedule are already duty-free, this could suggest that Canada does not primarily rely on its tariffs on non-agricultural products as an instrument for industrial policy purposes *per se* (Box 3.2).

Table 3.6 Summary analysis of MFN tariff, 2023

Description	No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Duty-free lines (%)	NAV lines (%)
Total	**7,106**	**6.0**	**0 – 532.2**	**4.8**	**70.5**	**3.6**
HS 01-24	1,529	18.0	0 – 497.9	3.2	57.5	16.6
HS 25-97	5,577	2.7	0 – 532.2	3.6	74.0	0.1
By WTO category						
WTO agriculture	**1,293**	**21.8**	**0 – 532.2**	**2.9**	**55.1**	**19.9**
– Live animals and meat	175	44.0	0 – 284.9	1.9	50.3	18.3
– Dairy products	45	213.7	0 – 313.5	0.4	6.7	86.7
– Fruits and vegetables	313	3.5	0 – 17	1.4	62.0	16.9
– Coffee, tea, cocoa and spices	62	9.1	0 – 265	5.1	87.1	3.2
– Cereals and food preparations	205	20.4	0 – 274.5	2.6	33.2	28.8
– Oilseeds, fats and oils	87	10.5	0 – 249	3.7	64.4	4.6
– Sugars and confectionery	43	3.8	0 – 12.5	1.1	20.9	34.9
– Beverages and tobacco	153	4.5	0 – 256	4.7	50.3	25.5
– Cotton, silk and wool	25	0.0	0	0.0	100.0	0.0
– Other agricultural products	185	16.6	0 – 532.2	4.0	74.6	7.6
WTO non-agriculture (incl. petroleum)	**5,813**	**2.5**	**0 – 25**	**2.0**	**73.9**	**0.0**
– Fish and fish products	306	1.2	0 – 11	1.9	74.8	0.0
– Minerals and metals	1,011	1.3	0 – 15.5	2.1	79.8	0.0
– Petroleum	13	1.2	0 – 5	1.8	76.9	0.0
– Chemicals	1,104	0.9	0 – 15.5	2.5	85.6	0.0
– Wood, paper, furniture	368	1.6	0 – 11	1.9	75.5	0.0
– Textiles	669	3.0	0 – 18	1.9	77.4	0.0
– Clothing	250	16.0	0 – 18	0.3	7.6	0.0
– Rubber, leather and footwear	223	5.4	0 – 20	1.3	57.8	0.0
– Mechanical, office and computing machinery	601	0.2	0 – 9	6.1	97.3	0.0
– Electric machinery and electronic equipment	467	1.6	0 – 9	1.8	75.6	0.0
– Transport equipment	283	5.2	0 – 25	1.2	42.4	0.0
– Other manufactures	518	2.9	0 – 18	1.4	58.3	0.0

Source: WTO Secretariat calculations, based on CSBA information and the WTO CTS database.

Box 3.2 A close-up look at non-zero-rated Non-Agricultural Market Access (NAMA) tariffs, 2023

Canada's 2023 tariff schedule contains 7,266 lines at the 8-digit level including in-quota tariff lines, among which 5,813 lines are applicable to NAMA products defined by the WTO. All NAMA tariffs are at *ad valorem* rates, with almost three quarters of NAMA tariffs being rated at zero percent, which led to 2.5% as the simple average rate of tariffs across all lines for non-agriculture goods. 1,518 lines remain dutiable, and the simple average rate across these dutiable lines is 9.5%.

Among the dutiable lines, under the Broad Economic Categories (BEC Rev.5) classification, 461 lines are considered by end use as intermediates goods, 176 lines as capital goods, and 881 lines as final goods. In general, the tariff rates applied to final goods (with a simple average at 11%) are higher than the ones applied to goods for capital formation (8.7%) and for intermediate consumption (6.8%). The authorities indicate that the relatively lower tariffs on intermediate goods reflect Canada's continued policy to reduce tariffs on manufacturing inputs and machinery, with an aim at enhancing the competitiveness and productivity of Canadian manufacturers (WTO document G/MA/W/101, 19 April 2010).

Referenced to the International Standard of Industrial Classification of All Economic Activities (ISIC Rev. 4), dutiable lines may be grouped into several related industries, namely, fisheries, forest, energy, garments and footwear, chemical, metal, non-metal, ICT products manufacture, machinery manufacture, automobile, transport equipment manufacture, and other manufacture (see table below).

Statistical summary of non-zero-rated NAMA MFN tariffs, by industry and end use, 2023

Related industry	BEC End Use	Tariff range (%)	Simple average (%)	Standard deviation (%)	Count of tariff lines	Total tariff lines
Fisheries	Intermediate	3 - 5	3.7	1.2	3	77
	Capital	..	..	..	..	
	Final consumption	2 - 11	4.7	1.7	74	
Forest	Intermediate	3 - 18	7.2	4.7	37	96
	Capital	8	8	..	1	
	Final consumption	2.5 - 11	7.1	2.5	58	
Energy	Intermediate	2.5 - 7	4.8	3.2	2	8
	Capital	..	..	..	..	
	Final consumption	5 - 12.5	7.8	3.7	6	
Garments and footwear	Intermediate	5 - 18	12	4.1	29	439
	Capital	12	12	..	1	
	Final consumption	3 - 20	16	3.3	409	
Chemical	Intermediate	4.5 - 15.5	6.6	1.1	108	179
	Capital	..	..	..	..	

	Final consumption	2.5 - 18	7.1	2.2	71	
Metal	Intermediate	2 - 15.5	5.9	2.2	57	148
	Capital	2.5 - 15.5	6.6	2.1	44	
	Final consumption	3 - 11	6.9	2.2	47	
Non-metal	Intermediate	2.5 - 15.5	6.2	2	64	71
	Capital	..	..	..	..	
	Final consumption	5.5 - 7	6.6	0.6	7	
ICT manufacture	Intermediate	2 - 7	4.9	1.5	26	88
	Capital	2.5 - 14	5.6	2.5	19	
	Final consumption	3.5 - 14	6.7	3.3	43	
Machinery manufacture	Intermediate	2 - 8	6.1	2	28	117
	Capital	5 - 9	6.4	0.9	24	
	Final consumption	3.5 - 17	7.4	1.5	65	
Automobile	Intermediate	4.5 - 8.5	6.1	0.5	42	98
	Capital	5 - 9.5	6.4	1	38	
	Final consumption	6.1 - 6.5	6.1	0.1	18	
Other transport equipment	Intermediate	2.5 - 11	7.7	2.8	12	63
	Capital	4.5 - 25	15.2	7.4	46	
	Final consumption	8 - 13	9.9	1.9	5	
Other manufacture	Intermediate	2.5 - 18	7.5	3.5	53	134
	Capital	6.5 - 9	7.3	1.4	3	
	Final consumption	5 - 15.5	7.3	2.3	78	

.. Not applicable.

Source: WTO Secretariat calculations, based on CSBA information, and the WTO CTS database.

With regard to the automobile industry, which has successfully integrated into a tightly knit North American value chain (Section 1.3), there are 98 lines subject to MFN duties, among which four-fifths of lines are applicable to products for immediate use (e.g. parts and components) and for capital goods (e.g. coaches, trucks). However, the authorities note that Canada offers ultimately duty-free market access to all products from its FTA partners, although some of these tariffs are subject to transitional phase-out (e.g. certain vans, coaches, and trucks from CPTPP partners).

With respect to ICT products, Canada, as a signatory to the WTO Information Technology Agreement (ITA) and the ITA expansion (known as ITA II), has eliminated tariffs for products listed on the ITA and ITA II. Based on a broad classification of ICT products which include more products than the coverage in the ITA and ITA II, there are 88 lines remained dutiable on MFN basis, accounting for almost one quarter of lines related to ICT products. Half of dutiable lines cover ICT goods for final consumption such as OLED monitors and wearable electronic devices. Some optical instruments and photographic equipment that may be used as intermediate inputs for manufacturing ICT product are subject to an import duty up to 7%. ICT products imported from FTA partners have duty-free treatment.

Although over 85% lines for machinery products (based on the ISIC Rev. 4 grouping) are duty-free, there are 117 lines subject to tariff at a rate up to 17%. Over half the non-zero-rated MFN tariffs fall on household appliances of white goods (e.g. refrigerators, dishwashers, washing machines). FTA preferential rates for the same products are zero.

MFN tariffs are applied to 148 lines of metal products, most of which are hand-operated tools made of metal (e.g. saws, drills, and screwdrivers) and household products such as cutleries. The simple average tariff for metal products is 6.4%. All metal products have FTA preferential rates at zero.

Traditionally, the garments and footwear industry received high MFN tariff protection. Including textiles, apparel, fur processing, and footwear, 54% of the tariff lines related to the industry are duty-free. The simple average tariff for the industry is 15.8%. Most intermediate inputs may be imported duty-free. Although products for final consumption such as apparel and footwear face relatively high MFN rates (i.e. 18% and 20%, respectively), importation of such final goods may be duty-free as long as they are originating from FTA partners under the terms of the FTA.

The imports subject to the MFN tariff schedule, in value terms, accounted for less than 17% of total imports in 2022. Indeed, 154 WTO Members have preferential access to the Canadian market, in part or in full (i.e. only 9 WTO Members are subject to Canada's MFN tariff schedule). Import duties contributed less than 2% to federal tax revenue in FY2022/23 (Table 3.4). Given that 71% of lines on the MFN schedule (Table 3.6) and at least 93% of lines on reciprocal preferential schedule (Table 3.9) are duty-free, this could suggest that Canada does not primarily rely on its tariffs on NAMA products as an instrument for industrial policy purposes *per se*, but as a tool for other policy objectives, for instance, as incentives to promote economic integration with its FTA partners and to enhance resilience of supply chains.

Source: WTO Secretariat, based on CBSA data.

3.44. Tariff protection for agricultural products (WTO definition) is much higher than for non-agricultural products. In 2023, the simple average tariff rate for agricultural goods was 21.8%, compared to 2.5% for non-agricultural goods (Table 3.3). Dairy is subject to the highest average tariff rates (213.7%), followed by live animals and meat (44%), and cereals and prepared food (20.4%). The *ad valorem* rates higher than 100% are the out-of-quota rates for poultry products. With the application of non-*ad valorem* rates and tariff quotas, the tariffs for agriculture thus appear complex, and tend to conceal relatively high AVEs (Section 4.1.1.2.1). All AVEs higher than 100% are the out-of-quota rates for agricultural products subject to tariff quotas.

3.45. It appears that the applied MFN rates of certain tariff lines related to agricultural products continue exceeding their corresponding bound rates (Table 3.7). A majority of applied MFN tariff rates higher than the corresponding bound rates pertain to tariff lines with mix rates, where the rates of specific components are slightly higher than the corresponding specific component in the bound rates. With regard to the lines where AVEs can be calculated, the AVEs for those lines in the 2023 schedule are also slightly higher than the AVEs based on the bound schedule.

Table 3.7 Tariff lines where applied rates exceed bound rates, 2023

HS code	Product description	2023 applied MFN tariff		Bound tariff	
		as reported	AVEs (%)	as reported	AVEs (%)
16023991	Other prepared or preserved meat of ducks, geese or guinea fowls, in cans or glass jars	9.5%	n.a.	8% but not less than CAD 0.0705/kg or greater than CAD 0.1411/kg	3.7
19059039	Bread	4.5%	n.a.	4.3%	n.a.
23099020	Preparations of a kind used in animal feed (containing eggs)	10.5%	n.a.	CAD 0.0988/kg	1.8
02071493	Cuts and offals of poultry, boneless: Over access commitment	249% but not less than CAD 6.74/kg	273.3	249% but not less than CAD 6.735/kg	273.1
16023214	Other prepared or preserved meat of fowls of the species *Gallus domesticus*: Over access commitment	253% but not less than CAD 10.54/kg	284.9	253.2%, but not less than CAD 10.538/kg	284.8
04081920	Egg yolks (excl. dried): Over access commitment	CAD 1.52/kg	53.7	CAD 1.517/kg	53.6
04089920	Birds' eggs (excl. dried): Over access commitment	CAD 1.52/kg	22.7	CAD 1.517/kg	22.7
35021920	Egg albumin (excl. Dried): Over access commitment	CAD 1.52/kg	168.9	CAD 1.517/kg	168.6

n.a. Not applicable.

Note: Bound rates are provided in HS12 nomenclature and applied rates in HS22.

Source: WTO Secretariat calculations, based on CSBA information and the WTO CTS database.

3.1.3.3 Tariff concessions

3.46. Canada continues providing a variety of duty and tax concessions under different schemes, which bring down the effective tariff rate, to 0.8% in FY2022/23, for instance. The concessions may take the form of relief/refund of customs duties by recommendation of the Minister of Finance or the Minister of Public Safety and Emergency Preparedness. Tariff relief may be granted to goods for outward processing activities, goods for re-export, goods that are further processed and then exported, and goods used in the processing of other goods that are subsequently exported.[38] Duty refunds are available for goods under temporary admissions, and a duty drawback scheme is in place for imported goods that meet certain conditions and are subsequently exported. Goods entering customs bonded warehouses may enjoy a complete deferral of customs duties, anti-dumping and countervailing duties, and other taxes until the goods are released for domestic consumption or export.[39]

[38] Canada Border Services Agency (2015), *Duties Relief Program Memorandum D7-4-1*. Viewed at: https://www.cbsa-asfc.gc.ca/publications/dm-md/d7/d7-4-1-eng.html. Also see Section 89(1), Customs Tariff. Viewed at: https://laws.justice.gc.ca/eng/acts/C-54.011/section-89-20170921.html#wb-cont.

[39] Key features of various tariff concession programmes are summarized in WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 3.11.

3.47. The policies and procedures regarding tariff concessions remain largely unchanged, except for two temporary relief measures provided under the Goods for Emergency Use Remission Order and the Certain Goods Remission Order in response to the COVID-19 emergency; both temporary measures ended before the summer 2022. During the review period, a total of CAD 4.6 billion was granted under various tariff concession programme (Table 3.8).

Table 3.8 Value of tariff concessions, FY2019/20–FY2022/23

(CAD million)

	FY2019/20	FY2020/21	FY2021/22	FY2022/23
Duty relief programme	249.7	326.1	482.0	577.9
Duty drawback programme	158.1	150.3	136.2	157.5
Customs bonded warehouse	344.9	333.1	404.4	472.9
Certain Goods Remission Order (COVID-19)	n.a.	361.5	333.6	117.0
Total	752.7	1,171.0	1,356.3	1,325.3

n.a. Not applicable.

Source: Information provided by the authorities.

3.1.3.4 Preferential tariffs

3.48. Preferential tariffs are applicable to goods if they satisfy the rules of origin set out in the FTAs and unilateral preferential arrangements (Section 3.1.2).

3.49. In addition to the 70% of tariff lines that receive duty-free treatment on an MFN basis, goods originating from FTA partners enjoy further liberalization by the Canadian preferential regimes, with at least 90% of total tariff lines being duty-free (Table 3.9). This brought the simple average tariff for goods from FTA partners to less than 4%, compared to 6% MFN average rate.

3.50. All non-agricultural products from Chile, Colombia, Costa Rica, Honduras, Jordan, Mexico, Panama, Peru, and the United States enter the Canadian market duty-free. A very small proportion (around 1%) of non-agricultural goods from the European Union, Israel, Korea, Ukraine, the United Kingdom, EFTA members, and signatories of the CPTPP remain dutiable. The dutiable non-agricultural goods from these FTA partners are mainly transport equipment such as vehicles (HS 87) and marine vessels (HS 89), preparations of meat (HS 16), and footwear (HS 64).

Table 3.9 Tariffs under preferential agreements, 2023

	Share of lines with preference	Total		Agricultural products		Non-agricultural products	
		Average	Duty-free lines	Average	Duty-free lines	Average	Duty-free lines
MFN	..	6.0	70.5	21.8	55.1	2.5	73.9
CUSMA							
Mexico	27.5	3.2	97.9	17.5	88.6	0.0	100.0
United States	28.1	3.1	98.5	17.1	91.7	0.0	100.0
EFTA							
Iceland	25.2	3.7	95.5	20.2	75.5	0.0	99.9
Norway	23.2	3.8	93.4	21.2	64.4	0.0	99.9
Switzerland	22.9	3.8	93.2	21.3	63.0	0.0	99.9
Other reciprocal treatment							
Chile	28.0	3.1	98.5	17.2	91.7	0.0	100.0
Colombia	27.8	3.2	98.3	17.7	90.6	0.0	100.0
Costa Rica	28.0	3.2	98.4	17.5	91.3	0.0	100.0
CPTPP	27.9	3.2	96.7	17.7	84.5	0.0	99.4
European Union	28.0	3.2	98.3	17.4	91.6	0.0	99.8
Honduras	27.9	3.2	98.4	17.5	91.1	0.0	100.0
Israel	23.7	3.7	94.1	20.3	72.5	0.1	98.9
Jordan	28.0	3.2	98.5	17.6	91.7	0.0	100.0
Korea, Rep. of	28.0	3.2	98.1	17.6	91.6	0.0	99.6
Panama	27.7	3.2	98.0	17.8	89.2	0.0	100.0
Peru	27.9	3.2	98.4	17.6	91.1	0.0	100.0
Ukraine	27.9	3.2	98.1	17.6	90.9	0.0	99.7
United Kingdom	28.0	3.2	98.3	17.4	91.6	0.0	99.8
Non-reciprocal treatment							
Commonwealth Caribbean Countries	21.4	4.4	91.9	19.3	87.2	1.1	92.9
General Preferential Tariff	17.7	5.3	76.6	21.3	59.4	1.8	80.4
Least Developed Countries	28.0	3.2	98.5	17.4	91.8	0.0	100.0

.. Not applicable.

Source: WTO Secretariat calculations, based on CBSA data.

3.51. Certain agricultural products, in particular meat products (HS 02), dairy products (HS 04), and preparations of meat (HS 16), continue having tariff protection under preferential arrangements (Section 4.1.1.2.1). The average rates for agricultural products under FTAs remain high (ranging from 17.1% to 21.6%), albeit they are lower than the average MFN tariff rate (21.8%).

3.52. With regard to unilateral preferential regimes, more than 98% of total lines for goods originating from least developed countries (LDCs) are granted duty-free, quota-free treatment. Unilateral preferential treatments are also given to almost 92% of tariff lines for goods from Caribbean countries. About 77% of tariff line are duty-free under the GPT, the Canadian equivalent of the GSP (Table 3.9).

3.1.4 Other charges affecting imports

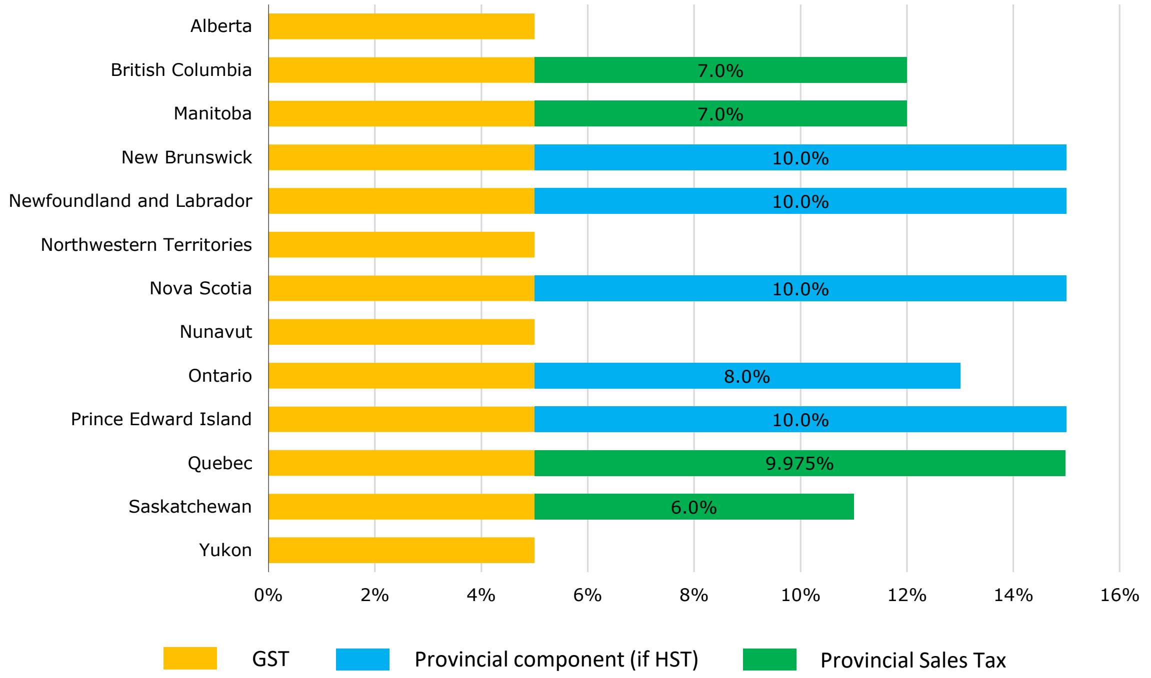
3.1.4.1 Federal Goods and Services Tax (GST) and provincial sales taxes

3.53. Canada continues to apply a value added tax – referred to as GST – at a rate of 5% on most goods and services. GST also applies on real property (land and buildings) and intangible personal property (including intellectual property rights and digitized products downloaded over the Internet). On imports, GST is calculated based on the Canadian dollar value of the goods, including any applicable duties and excise taxes, and it is collected at the border simultaneously with these other taxes. Certain items, such as basic groceries, farm livestock and fishery products for human consumption, farm equipment, prescription drugs, medical devices, feminine hygiene products, and international transport services are zero-rated, while certain services, including most financial services, insurance, education, health care services, legal aid, and childcare services are generally GST-exempt. In FY2022/23, the GST generated close to CAD 46 billion in revenue, representing around 12% of total federal revenues.[40]

3.54. In five provinces (New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island), the Federal Government applies a provincial tax in addition to the GST on the same taxable base. This combined tax is called the Harmonized Sales Tax (HST). Four provinces (British Columbia, Manitoba, Quebec, and Saskatchewan) have their own separate sales tax (known as Provincial Sales Tax (PST)), which is in addition to the GST, but levied on a tax base that may be different. Alberta and the three territories (Northwest Territories, Nunavut, and Yukon) do not impose any PST. HST and PST tax rates have remained unchanged since Canada's previous Review, except in Manitoba, which reduced its PST from 8% to 7% in 2019 (Chart 3.3). The applicable HST and PST rates are determined by the "place of supply", that is, generally, the province or territory that is the "destination" of the supply or import of the taxable good or service.

[40] Department of Finance Canada (2023), *Annual Financial Report of the Government of Canada 2022-2023*. Viewed at: https://publications.gc.ca/site/eng/342164/publication.html.

Chart 3.3 GST/HST and provincial sales tax rates, 2023



Source: Canada Revenue Agency. Viewed at: https://canadabusiness.ca/government/taxes-gst-hst/federal-tax-information/overview-of-charging-and-collecting-sales-tax/.

3.55. Goods and services exported from Canada are typically subject to a zero rate for GST/HST purposes. There are two programmes that provide relief from GST/HST on certain inputs for exported goods: the Export Distribution Centre Program (EDCP) and the Exporters of Processing Services Program (EOPS). Both programmes are authorized under the Excise Tax Act[41], which governs the GST/HST and is administered by the Canada Revenue Agency.

3.56. Under the EDCP, eligible businesses that do not manufacture or produce goods do not pay GST or HST on most imported goods or domestic purchases of goods worth CAD 1,000 or more. To qualify, businesses must be exclusively engaged in commercial activities, generate at least 90% of their revenues from exports, and perform "basic services" as defined in the legislation. Basic services involve minor processing such as disassembly, reassembly, labelling, inspection, testing, packing, cleaning, sorting, grading, filing, or cutting. In response to a question during Canada's previous Review, the authorities specified that the EDCP's main benefit is that EDCP "improves cash flow" for participants, who would otherwise need to "pay GST/HST up front, claim an input tax credit to recover the taxes on their GST/HST return, and then wait for their net tax refund to arrive".[42] The authorities further noted that the EDCP is deemed not to be a subsidy under WTO rules, as it "does not exempt exported products from indirect taxes in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption".[43]

3.57. The EOPS allows eligible businesses to import goods belonging to non-residents without paying GST/HST, provided that these goods are imported for processing, distribution, or storage, and are subsequently exported. Goods imported under the EOPS must not be transferred to another Canadian business (except for storage or transportation purposes) and must be exported within four years of importation.

3.58. A major change during the period under review was the introduction of new rules, under the Excise Tax Act, on GST/HST for digital economy businesses. The purpose of the new rules, which entered into force on 1 July 2021, is to "ensure that the GST/HST applies in a fair and effective

[41] Excise Tax Act (R.S.C., 1985, c. E-15), last amended on 22 June 2023.
[42] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 65.
[43] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 65.

manner to the growing digital economy".[44] In FY2022/23, GST revenue raised from digital economy businesses was around CAD 900 million, exceeding the authorities' expectations.

3.59. Under the new rules, digital economy businesses, including digital platform operators, may be subject to GST/HST obligations in Canada. More specifically:

- Non-resident vendors supplying digital products (such as e-books) or services (such as online music streaming or digitally delivered legal and accounting services) to consumers in Canada must register under the normal GST/HST rules and collect and remit the tax on their taxable supplies to Canadian consumers. Non-resident distribution platform operators (such as mobile app stores and online marketplaces) that facilitate such supplies are subject to the same requirements. A simplified GST/HST registration, reporting, and remittance system is available to non-resident vendors and non-resident distribution platform operators under these rules. Simplified registration is required if the vendor's or the platform operator's total taxable supplies of digital products or services to consumers in Canada exceed or are expected to exceed CAD 30,000 over a 12-month period. In the case of platform operators, this threshold includes supplies by non-resident vendors through their platforms.

- Distribution platform operators must register under the normal GST/HST rules and collect and remit the tax in respect of sales of goods shipped from a "fulfilment warehouse" or another place in Canada to consumers in Canada when those supplies are made by non-GST/HST registered vendors through distribution platforms. Non-resident vendors who sell goods directly to consumers (that is, not through a distribution platform) are subject to the same requirements in respect of sales of goods shipped from a fulfilment warehouse or another place in Canada. Fulfilment warehouses must maintain records regarding their non-resident clients (vendors) and the goods they store in their facilities on behalf of these clients. Normal registration is required if the vendor's or the platform operator's total qualifying supplies of goods to consumers in Canada, including supplies made through their platforms by third-party vendors exceed CAD 30,000 over a 12-month period.

- Property owners or accommodation platform operators must register under the normal GST/HST rules and collect and remit the GST/HST on supplies of short-term accommodation supplied in Canada through an accommodation platform. A simplified GST/HST registration, reporting, and remittance system is available to non-resident accommodation platform operators under this measure.

3.1.4.2 Federal excise duties and taxes

3.60. Canada continues to charge excise duties and taxes on certain goods. Excise duties are imposed under the Excise Act, 2001[45] on spirits, wine, tobacco, cannabis, and vaping products, and under the Excise Act[46], on beer. The Canada Revenue Agency maintains a webpage that specifies the latest excise duty rates, along with those in effect during the previous four years.[47]

3.61. Excise duty rates are identical for imports and domestically produced goods except in the case of beer and some types of wine. For beer, reduced excise duty rates apply on the first 75,000 hectolitres of beer brewed in Canada each calendar year by a licensed brewer.[48] In addition, 100% Canadian mead and cider are not subject to excise duty.[49] Canada eliminated the preferential treatment for 100% Canadian wine in June 2022. Prior to that date, wine produced in Canada and composed wholly of agricultural or plant products grown in Canada was exempt from excise duty.[50]

[44] Government of Canada, *Budget 2021: A Recovery Plan for Jobs, Growth and Resilience*, Annex 6. Viewed at: https://www.budget.canada.ca/2021/home-accueil-en.html.
[45] Excise Act, 2001 (S.C. 2002, c. 22), last amended on 1 January 2024.
[46] Excise Act (R.S.C., 1985, c. E-14), last amended on 1 January 2024.
[47] Government of Canada, *Excise Duty Rates*. Viewed at: https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/edrates/excise-duty-rates.html#_Toc527013648.
[48] Excise Act, 2001, Section 170.1(1).
[49] Excise Act, 2001, Sections 134(3)(b) and 135(2)(a),
[50] Budget Implementation Act, 2022, No. 1 S.C. 2022, c. 10, assented to on 23 June 2022.

3.62. Wine packaged in Canada is not subject to excise tax if produced by a small producer of wine and packaged by them or on their behalf.[51] Producers or packagers of wine in Canada must be licensed. Wine licence holders qualify as small producers for a particular fiscal month if the total sales of wine that they have produced and packaged in Canada do not exceed CAD 50,000 in both the previous fiscal year and the current fiscal year (up to the fiscal month in question). A small producer of wine cannot claim an excise duty exemption for packaged wine that it does not produce, including imported wine and blends of imported and domestic wines.[52]

3.63. During the period under review, Canada introduced a new excise duty on vaping products to help "curtail harmful consumption of these products".[53] The duty, implemented in October 2022, applies to both imported and domestically produced vaping products at the same rates. Cannabis-based vaping products are exempt from this duty, as they are already subject to cannabis excise duties under the Excise Act, 2001.

3.64. Under the Excise Tax Act, Canada continues to charge excise taxes on fuel-inefficient vehicles, automobile air conditioners, and certain petroleum products. The tax rates, which are set out in Sections 9 and 9.1 of Schedule I of the Excise Tax Act, remain unchanged from the time of Canada's previous Review and are applied equally to imported and domestically produced goods.

3.65. As of September 2022, Canada applies a tax on retail sales of new luxury cars and personal aircraft priced over CAD 100,000 and boats priced over CAD 250,000 (not including the GST/HST or provincial sales tax).[54] This new luxury tax applies equally to imported and domestically produced goods. The amount of the tax is 10% of the total price paid for the vehicle or 20% of the amount above the price threshold, whichever is lower.

3.1.4.3 Provincial product-specific taxes

3.66. Canada's provinces and territories apply their own product-specific taxes, including on fuels, tobacco, and alcoholic beverages. Alcoholic beverages are subject to a particularly complex system of taxes and mark-ups, which vary across provinces and are calculated based on value, quantity, or volume of pure alcohol (or a combination of these). During Canada's previous Review, several Members sought clarification on the provinces' tax and mark-up systems on wine, beer, and spirits.[55]

3.67. Several provincial mark-up and tax systems offer reduced rates for small-scale producers of alcoholic beverages. For example, in Alberta spirits manufacturers with total annual worldwide production of 160,000 litres of absolute alcohol or less and beer manufacturers with annual worldwide production of 400,000 hectolitres or less qualify for reduced mark-up rates.[56] In Manitoba, reduced mark-up rates apply to producers with total annual worldwide production of less than 25,000 hectolitres of beer, spirits, mead and wine, or refreshment beverage products, and less than 50,000 litres in the case of cider.[57]

3.68. The mark-up and tax systems on alcoholic beverages maintained by provinces sometimes differentiate based on origin. For example:

- In Ontario, wine and wine coolers sold in winery stores located on the winery's production site (known as "on-site winery retail stores") are subject to a reduced tax rate of 6.1% if the wine is an "Ontario wine" or the wine cooler is an "Ontario wine cooler". Ontario wine is defined in the legislation as "wine produced from agricultural products grown in Ontario, and may include

[51] These obligations are contained in Excise Duty Memorandum EDM4-1-1, Producers and Packagers of Wine, June 2022.
[52] Government of Canada, Small Producers of Wine, Excise Duty Memorandum EDM4-1-2, November 2022.
[53] Government of Canada, *Taxation of Vaping Products*. Viewed at: https://www.canada.ca/en/department-finance/programs/consultations/2021/taxation-vaping-products.html.
[54] Select Luxury Items Tax Act (S.C. 2022, c. 10, s. 135), last amended on 1 September 2022.
[55] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 151.
[56] AGLC, Markup Rate Schedule, effective 21 December 2022. Viewed at: https://aglc.ca/liquor/about-liquor-alberta/liquor-markup-rate-schedule.
[57] Manitoba Liquor & Lotteries (2021), *Pricing Information*, p. 9. Viewed at: https://www.mbllpartners.ca/sites/mbll-pa/files/pdf_pamphlets/Pricing%20Information%20Manual%202021_1.pdf.

agricultural products grown outside of Ontario in the prescribed amounts".[58] Ontario wine cooler is defined as "Ontario wine, or a beverage containing Ontario wine, that contains not more than 7% alcohol by volume produced from agricultural products grown in Ontario, and may include agricultural products grown outside of Ontario in the prescribed amounts".[59] Otherwise, the applicable tax rate is 19.1%. This is in addition to Ontario's volume tax (CAD 0.29 per litre for wine, or CAD 0.28 per litre for wine coolers) and environmental tax (CAD 0.0893 per non-refillable container), both of which are levied regardless of origin.

- In New Brunswick, spirits are subject to a mark-up consisting of a flat rate and a percentage of the landed cost. Spirits produced on-site by in-province "craft distillers" and sold to ANBL, New Brunswick's liquor control authority, are charged a reduced mark-up equivalent to 70% of the standard mark-up if produced from New Brunswick raw materials (or 80% if not produced from New Brunswick raw materials).[60] Craft distillers are defined as distillers with an annual production of 50,000 litres or less.

3.69. Some provinces also offer tax and mark-up preferences for direct delivery by local producers. For example, in British Columbia, wine produced from 100% British Columbia grapes or certified as BC VQA (Vintners Quality Alliance) and delivered directly to private retailers, restaurants, bars, and hotels is exempt from the mark-up charged by BCLDB (British Columbia's Liquor Distribution Branch).[61]

3.70. During the period under review, several provinces adopted measures to eliminate certain origin-based differential mark-up and taxes. For example:

- Quebec issued a decree in April 2021 to bring its mark-up on wines produced by small-scale wine producers and sold directly to grocery or convenience stores into line with the standard mark-up for wines by 1 December 2023. Prior to the adoption of this measure, the Société des Alcools du Québec, the province's liquor control authority, offered a reduced mark-up to small-scale wine producers who sold their wine directly to groceries or convenience stores.

- Nova Scotia has announced that it would discontinue its Emerging Wine Regions Policy (EWRP) by 30 June 2024.[62] Under the EWRP, wines produced in specific viticultural areas that produce less than 50,000 hectolitres of wine per year are subject to a reduced mark-up.

- Ontario has applied a uniform tax rate of 12% on wine sold in "off-site winery retail stores" regardless of the origin of the wine since July 2023.[63] An off-site winery retail store is defined as a "winery retail stores that is not located on the Ontario winery's production site", including "standalone off-site stores and stores located inside the shopping area of a grocery store" (also known as "wine boutiques").[64] Prior to the adoption of this measure, Ontario wine sold in standalone off-site winery retail stores had been subject to a reduced rate of 6.1%, compared with a 19.1% rate charged to non-Ontario wine. For wine sold in wine boutiques, the preferential rate for Ontario wine had been 9.6%, compared with 22.6% for non-Ontario wine.

3.71. Provincial liquor control authorities generally apply a cost-of-services charge. This charge may be higher for imported than for domestically produced liquor. In the context of Canada's previous Review, the authorities clarified that "cost of services differentials are applied on a cost recovery

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[58] Section 1(1), Ontario Liquor Licence and Control Act, 2019, S.O. 2019, c. 15, Sched. 22, 2019.
[59] Government of Ontario, Wine and Wine Coolers from On-site Winery Retail Stores. Viewed at: https://www.ontario.ca/document/beer-and-wine-tax/wine-tax-information-sheet-site-winery-retail-stores#section-0.
[60] ANBL, Markup Rates 2022-2023, 4 April 2022. Viewed at: https://www.anbl.com/medias/I-General-Markup-Policy-2022-EN-2022.pdf.
[61] Food and Agricultural Products Classification Act, Wines of Marked Quality Regulation, B.C. Reg. 168/2018, last amended 27 June 2022 by B.C. Reg. 158/2022.
[62] Government of Nova Scotia (2020), "Province to Phase Out Wine Regions Policy", 27 July. Viewed at: https://novascotia.ca/news/release/?id=20200727001.
[63] 2023 Ontario Budget: Building a Strong Ontario. Viewed at: https://budget.ontario.ca/2023/index.html.
[64] Government of Ontario, *Wine Tax Information Sheet — Off-site Winery Retail Stores*. Viewed at: https://www.ontario.ca/document/beer-and-wine-tax/wine-tax-information-sheet-site-winery-retail-stores-0#:~:text=Pursuant%20to%20the%202023%20Ontario,off%2Dsite%20winery%20retail%20store.

basis where the fee is directly linked to extra operations and expenses incurred by the liquor boards applying the fee".[65] The authorities further noted that cost-of-services differentials are "fixed amounts (not *ad valorem*) based on auditing mechanisms and are reviewed periodically to ensure accuracy".

3.72. Under some of its preferential trade agreements, Canada is required to undertake periodic audits by an internationally recognized audit firm of the cost-of-services associated with importation, transport, handling, warehousing, and marketing of alcoholic beverages. Following a request from the European Union pursuant to Comprehensive Economic and Trade Agreement (CETA) in November 2018, Canada conducted audits of the cost-of-services differentials in Ontario and Quebec on wines imported from the European Union. The results of these audits showed a decrease in the cost-of-services related to the marketing of EU alcoholic beverages in both provinces. In 2021, liquor control authorities of Ontario and Quebec adjusted their cost-of-services rates to incorporate the results of the audits.[66]

3.73. During Canada's previous Review, the authorities said that the Federal Government was "committed to working with provinces to improve trade in alcoholic beverages within Canada".[67] They noted that, following a proposal in Canada's 2019 budget, the federal requirement under the Importation of Intoxicating Liquors Act, which required alcohol moving from one province to another to be sold or consigned to a provincial liquor authority, had been eliminated. Nonetheless, they also said that, for direct-to-consumer shipping of alcohol across Canada to be allowed, provinces and territories would need to make additional changes to the way they regulate the sale and distribution of alcohol within their boundaries.

3.74. In the context of the Alcoholic Beverages Working Group (ABWG), Canada has launched a website (alcohollaws.ca) to improve transparency on the regulations governing alcohol retail and distribution systems in Canada. The purpose of the ABWG, which was established under the Canadian Free Trade Agreement in 2017 and comprises representatives from the federal, provincial, and territorial governments, is to identify ways to improve trade in alcoholic beverages within Canada, while "being mindful of social responsibility, international obligations, and fiscal considerations".[68]

3.1.4.4 Other charges

3.75. A carbon price system applies in every province and territory in Canada (November 2023). Under Canada's approach to carbon pricing, provinces and territories can design their own pricing systems tailored to local needs or opt for the federal system. The federal carbon pricing system (known as the "federal backstop") has two parts: (i) a fuel charge that is generally payable by fuel producers or distributors; and (ii) a performance-based system known as the "output-based pricing system".[69] These parts can be applied individually or together in a jurisdiction. A federal benchmark establishes minimum requirements that carbon pricing systems at the provincial and territorial levels must meet. If a province or territory does not price carbon or proposes a system that does not meet the federal benchmark, the federal backstop kicks in.

3.76. In August 2021, Canada published an updated federal benchmark for the period 2023-30.[70] The updated benchmark, which replaces the one for the period 2018-22, seeks to make carbon

[65] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 263.

[66] Government of Canada, *Joint Progress Report – Outcome of the Review Process in Annex 30-C of CETA*. Viewed at: https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/2022-joint-report-wine-vins-rapport-conjoint.aspx?lang=eng#a6.

[67] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 79.

[68] Canadian Free Trade Agreement, Federal-Provincial-Territorial Action Plan: Trade in Alcoholic Beverages. Viewed at: https://www.cfta-alec.ca/trade-in-alcoholic-beverages/.

[69] According to the Government, an output-based pricing system (OBPS) operates as follows: "The OBPS sets an emissions limit for each facility subject to the OBPS (covered facilities). This emissions limit is calculated using an emissions-intensity performance standard (i.e. a set level of greenhouse gas (GHG) emissions per unit of output) for a given product or activity. Facilities that emit less than their emissions limit earn surplus credits they can sell or save for later use. Facilities that emit more than their annual emissions limit must provide compensation for the excess emissions by a prescribed deadline". Government of Canada, *Review of the Federal Output-Based Pricing System Regulations*. Viewed at: https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work/output-based-pricing-system/review.html.

[70] Government of Canada, *Update to the Pan-Canadian Approach to Carbon Pollution Pricing 2023-2030*. Viewed at: https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-

pollution systems across Canada more comparable and more effective in achieving emissions reductions and promoting innovation. For example, the benchmark requires that measures to prevent carbon leakage be adopted only for sectors that risk experiencing carbon leakage and negative competitiveness effects from a carbon price. The benchmark also prohibits measures that would undermine carbon pricing, including rebates tied to the amount of the carbon price or fuel tax reductions that seek to offset the carbon price.

3.77. Under the updated benchmark, Canada has defined a minimum national carbon price (for direct carbon pricing systems[71]) of CAD 65 per tonne of CO_2 equivalent (CO_2e), with annual increases of CAD 15 per tonne of CO_2e until 2030, when the carbon price will have reached CAD 170 per tonne of CO_2e. The rates of the federal fuel charge are set out in Schedule 2 to the Greenhouse Gas Pollution Pricing Act.[72]

3.78. Provinces and territories had until September 2022 to present a carbon pricing plan for 2023-30 that met the minimum requirements contained in the updated benchmark or request the federal system. Following this, the federal carbon pricing system applies in its entirety in four jurisdictions, while three jurisdictions apply fully provincial/territorial carbon pricing systems. The rest have hybrid systems (Table 3.10).

Table 3.10 Carbon pricing systems, 2023

Jurisdiction	System
Alberta	Federal fuel charge and provincial carbon pollution pricing system for industry
British Columbia	Provincial carbon tax, transitioning to provincial carbon tax and provincial output-based pricing system in 2024
Manitoba	Full federal carbon pricing system
New Brunswick	Federal fuel charge as of 1 July 2023 and provincial carbon pollution pricing system for industry since January 2021
Newfoundland and Labrador	Federal fuel charge as of 1 July 2023 and provincial carbon pollution pricing system for industry
Northwest Territories	Territorial carbon tax
Nova Scotia	Federal fuel charge as of 1 July 2023 and provincial carbon pollution pricing system for industry
Nunavut	Full federal carbon pricing system
Ontario	Federal fuel charge and provincial carbon pollution pricing system for industry since January 2022
Prince Edward Island	Full federal carbon pricing system
Quebec	Provincial cap-and-trade system
Saskatchewan	Federal fuel charge and provincial carbon pollution pricing system for all sectors since January 2023
Yukon	Full federal carbon pricing system

Source: Government of Canada, *Carbon Pollution Pricing Systems across Canada*. Viewed at: https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work.html.

3.79. Canada does not apply border carbon adjustments on imports at either the federal or provincial levels. Canada's 2021 budget announced the government's intention to launch a consultation process on the potential of border carbon adjustments to help Canada achieve its climate goals while making sure that carbon pricing regulations "apply fairly between trading partners".[73] Public consultations were completed in January 2022, and according to the authorities, analysis is ongoing regarding the potential role of border carbon adjustments in supporting Canada's climate goals, while providing a fair and predictable environment for businesses. A recent paper noted that the implementation of a border carbon adjustment regime in Canada would face

how-it-will-work/carbon-pollution-pricing-federal-benchmark-information/federal-benchmark-2023-2030.html#toc1.

[71] For cap-and-trade systems, the emissions caps from 2023 to 2030 must correspond, at a minimum, to the projected emissions levels that would result from applying the minimum carbon price in direct pricing systems.

[72] Greenhouse Gas Pollution Pricing Act (S.C. 2018, c. 12, s. 186), last amended on 1 July 2023.

[73] Government of Canada, *Budget 2021: A Recovery Plan for Jobs, Growth and Resilience*, p. 176. Viewed at: https://www.budget.canada.ca/2021/home-accueil-en.html.

significant challenges, not least because it would have to "find ways to accommodate or account for the differences in provincial carbon-pricing regimes".[74]

3.1.5 Import prohibitions, restrictions, and licensing

3.80. Canada prohibits imports of certain goods for reasons of public health, safety, the environment, and public morals. The list of products prohibited from entering Canada is contained in Chapter 98 of Canada's Customs Tariff. The CBSA provides further information on prohibited imports in its D9 Memoranda series.[75]

3.81. Imports of used or second-hand motor vehicles, except from Mexico or the United States, are prohibited. According to the authorities, vehicles manufactured outside of Canada are not manufactured in conformity with Canadian safety and environmental standards, except for vehicles manufactured in the United States or Mexico, reflecting the fact that North American motor vehicle standards are quite aligned. The authorities further note that used or second-hand motor vehicles imported from the United States or Mexico must still meet safety and environmental requirements set out in other Canadian laws, which could require some modifications and may not always be possible. Vehicles that are 15 years or older are allowed, provided they meet all applicable import requirements.[76] The authorities note that this measure provides flexibility for collectors to import classic and antique cars while continuing to encourage the purchase of everyday-use cars that are government- and manufacturer-assured to be safe to drive in Canada.

3.82. During the period under review, Canada adopted the Single-use Plastics Prohibition Regulations, which prohibit imports (as well as the manufacture and sale in Canada) of six categories of "single-use" plastic products in support of Canada's Strategy on Zero Plastic Waste, which was approved in November 2018 by federal, provincial, and territorial governments.[77] For single-use plastic checkout bags, cutlery, and straws, the Regulations use performance standards to define the scope of the prohibition and differentiate the prohibited products from reusable items made of plastics, which can continue to be imported into, and manufactured in, Canada. Single-use plastic flexible straws can also continue to be imported into, and manufactured in, Canada, but their sale is subject to special rules to ensure that they are available for people who need them. Plastic items that are waste or that are transiting through Canada are not covered by the Regulations.

3.83. The single-use plastic import and manufacturing prohibition came into force on 20 December 2022 for checkout bags, cutlery, foodservice ware, stir sticks, and straws; and on 20 June 2023 for ring carriers. The sale of these products in Canada will be prohibited starting one year after these dates, that is, on 20 December 2023 for checkout bags, cutlery, foodservice ware, stir sticks, and straws, and on 20 June 2024 for ring carriers. Until 20 December 2025, Canada will continue to allow the manufacture, import, and sale of the six categories of single-use plastic product covered by the Regulations for the purposes of export. After that date, manufacture, import, and sale of the six categories of single-use plastic product covered by the Regulations for the purposes of export will be prohibited.

3.84. According to the cost-benefit analysis conducted as part of the regulatory process related to the Single-use Plastic Prohibition Regulations, the full implementation of the Regulations would reduce plastic waste by approximately 1.3 million tonnes by 2032, roughly 3% of the total estimated plastic waste generated in Canada each year, and plastic pollution by 22,000 tonnes (around 5% of the total).[78] On the cost side, the cost-benefit analysis estimates that the Regulations would result in present value costs by 2032 of around CAD 5 per person in Canada per year. In addition, the

[74] Boessenkool et al. (April 2022), "Policy Forum: Border Carbon Adjustments – Four Practical Challenges", *Canadian Tax Journal/Revue fiscale canadienne*, Vol. 70, No. 1, 2022, pp. 41-56, Viewed at: https://ssrn.com/abstract=4081468.

[75] CBSA, *D Memoranda: D9 – Prohibited Importations*. Viewed at: https://www.cbsa-asfc.gc.ca/publications/dm-md/d9-eng.html.

[76] See Used or Second-Hand Motor Vehicles Regulations, SOR/98-42, 14 January 2024. Viewed at: https://laws-lois.justice.gc.ca/PDF/SOR-98-42.pdf. See also CBSA, *Importation of Used or Second-hand Motor Vehicles: Memorandum D9-1-11*, 25 August 2016. Viewed at: https://www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-11-eng.html.

[77] Single-use Plastics Prohibition Regulations (SOR/2022-138).

[78] Single-use Plastics Prohibition Regulations: SOR/2022-138, *Canada Gazette*, Part II, Vol. 156, No. 13, 20 June 2022. Viewed at: https://www.canadagazette.gc.ca/rp-pr/p2/2022/2022-06-22/html/sor-dors138-eng.html.

prohibition to manufacture single-use plastics would result in CAD 176 million in costs to Canadian manufacturers by 2032, while for the estimated 128 businesses that imported at least one of the six categories of banned single-use plastics in 2019, the authorities consider that the impact of the Regulation would be minimal, as these businesses could easily switch supply lines to import single-use (or reusable) substitutes that comply with the Regulations.

3.85. Canada applies import control measures under several laws to achieve a wide range of economic and non-economic policy goals or meet its international obligations (Table 3.11 and Table 3.12). These import controls involve licensing or permit requirements, which Canada regularly notifies to the WTO. Canada's latest reply to the WTO questionnaire on import licensing procedures was submitted in September 2023.[79]

Table 3.11 Main import controls for non-economic reasons, August 2023

Product	Rationale	Main legal basis
Controlled substances, precursor chemicals, cannabis	To ensure legitimate trade in covered products for medical or scientific purposes; to minimize the risk of diversion to illicit markets.	Controlled Drugs and Substances Act and Cannabis Act
Drugs (incl. pharmaceuticals, active pharmaceutical ingredients, biologics, vaccines, blood products, radiopharmaceuticals), blood, medical devices	To ensure that imported products meet Canadian standards of safety, efficacy, and quality.	Food and Drugs Act
Health products (incl. vitamins, minerals, herbal remedies, homeopathic medicines, traditional medicines, probiotics, amino acids, essential fatty acids)	To ensure that imported products meet Canadian standards of safety, quality, and efficacy.	Food and Drugs Act
Donor sperm and ova	To ensure that imported gametes meet Canadian standards for safety.	Assisted Human Reproduction Act
Pesticides	To ensure that imports do not pose any unacceptable health or environmental risks.	Pest Control Products Act
Explosives	To ensure the same degree of safety with imported explosives as with those of domestic manufacture.	Explosives Act
Uranium, thorium, plutonium, deuterium, radioactive nuclides, and substances being capable of releasing nuclear energy or required for the production or use of nuclear energy	To ensure that products subject to regulatory control are destined to authorized persons or organizations; their use will not pose undue risk to health, safety, security, and the environment; Canada fulfils its international obligations by implementing measures to which Canada has agreed, respecting international control of the development, production, and use of nuclear energy, including the non-proliferation of nuclear weapons and nuclear explosive devices.	Nuclear Safety and Control Act
Plant pests, plants, plant products	To reduce the risk that pests are introduced into and spread in Canada.	Plant Protection Act
Terrestrial live animals and germplasm, susceptible species of live aquatic animals (finfish, molluscs, crustaceans) and their germplasm and products, terrestrial animal products and by-products, animal pathogens, veterinary biologics	To reduce the risk that diseases are introduced and spread in Canada.	Health of Animals Act
Food for human consumption	To ensure that imports meet Canadian standards for safety, quality, labelling; to better target inspections and take enforcement actions.	Safe Food for Canadians Act
Specimens of species regulated under CITES and other species of wildlife	To help control the trade in species of wild animals and plants that are, or may be, threatened with extinction as a result of international trade.	Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act
Rough diamonds	To control imports in line with Canada's international obligations under the Kimberley Process, which establishes minimum requirements for an international certification scheme for the trade in rough diamonds.	Export and Import of Rough Diamonds Act
Shark fins; parts of shark fins	To permit imports for scientific research purposes.	Fisheries Act

[79] WTO document G/LIC/N/CAN/22, 22 September 2023.

Product	Rationale	Main legal basis
Living cetaceans or sperm, eggs, or embryos of a cetacean	To permit imports for scientific research purposes; or to keep the cetacean in captivity if it is in the best interests of the cetacean's welfare to do so.	Fisheries Act
Hazardous waste; hazardous recyclable material	To control imports under internationally agreed conditions.	Canadian Environmental Protection Act
Ozone-depleting substances and hydrofluorocarbons	To control imports under internationally agreed conditions.	Canadian Environmental Protection Act
Small- and large-calibre weapons, ammunition, bombs, torpedoes, rockets and missiles, tanks, and self-propelled guns; components and parts specifically designed for these items; toxic chemicals controlled under the Chemical Weapons Convention	To control imports of certain military goods and firearms and to implement Canada's international obligations under the Chemical Weapons Convention.	Export and Import Permits Act

Source: WTO document G/LIC/N/3/CAN/22, 22 September 2022; and information provided by the authorities.

3.86. The product categories subject to Canada's import controls for economic and trade-related reasons are contained in the Import Control List.[80] The goods affected are dairy products and margarine; chicken, turkey, and eggs; beef and veal; wheat, barley, and their products; and textiles and clothing. The permit requirements applied on these products serve mostly to implement tariff quotas (TQs), tariff preference levels (TPLs), or origin quotas in accordance with Canada's commitments under the WTO and FTAs (Table 3.12). Global Affairs Canada is responsible for issuing import permits in accordance with the Import Permit Regulations. Import permit applications can be submitted through the New Export-Import Controls System (NEICs) and the New Export Controls Online System (NEXCOL) for import permit applications specifically related to arms and munitions.

Table 3.12 Import controls for economic and trade reasons, August 2023

Product coverage	Purpose
Fluid milk, cream, milk and cream powders, condensed milk, yoghurt and buttermilk, whey powder, products consisting of natural milk constituents, butter, cheese, other various dairy-based products, ice cream, milk protein substances, margarine, and butter substitutes	To implement TQs under the WTO Agreement on Agriculture, CETA, CPTPP, and CUSMA; CUSMA TQs apply only to goods originating in, and imported from, the United States.
Chicken, turkey, eggs and egg products, broiler hatching eggs, chicks	To implement TQs under the WTO Agreement on Agriculture, CPTPP, and CUSMA (only for goods originating in and imported from the United States).
Beef and veal	To implement TQs under the WTO Agreement on Agriculture; no import licence is required for products originating in and imported from the United States, Mexico, Chile, the European Union, or the United Kingdom pursuant to applicable FTAs.
Wheat, barley, and their products	To implement TQs under the WTO Agreement on Agriculture.
Textiles	To implement TPLs[a] under CUSMA and FTAs with Chile, Costa Rica, and Honduras. To implement origin quotas[b] under CETA and the Canada-UK Trade Continuity Agreement.
Clothing	To implement TPLs under CUSMA and FTAs with Chile, Costa Rica, and Honduras. To implement origin quotas under CETA and the Canada-UK Trade Continuity Agreement.
Carbon and specialty steel	To monitor the volume and origin of imported products.
Aluminium products	To monitor the volume and origin of imported products.

a TPLs are special FTA provisions that provide tariff preferences for imports of non-originating textile and apparel goods up to a specified quantity.
b Origin quotas are alternative rules of origin that enable preferential tariff access for imports of eligible textile goods up to a specified quantity.

Source: WTO document G/LIC/N/3/CAN/21, 8 March 2023; and information provided by the authorities.

[80] The Import Control List (C.R.C., c. 604) is established under the authority of the Export and Import Permits Act (R.S.C., 1985, c. E-19), last amended on 1 April 2021.

3.87. During the period under review, Canada adopted the Canadian Energy Regulator Act[81], which repealed the National Energy Board Act. As a result, imports of natural gas are no longer subject to authorization requirements from 28 August 2022. Prior to that date, an authorization was required to import natural gas (in gaseous or liquid state) by pipeline, railway tank cars, and tank trucks or tankers into Canada. According to the authorities, the purpose of the authorization requirement was to ensure that "long-term imports of gas are in the public interest".[82]

3.1.6 Anti-dumping, countervailing measures, and safeguard measures

3.1.6.1 Anti-dumping and countervailing measures

3.88. Canada continued to make significant use of anti-dumping and countervailing duties during the period under review. In June 2022, Canada adopted several changes to its framework on anti-dumping and countervailing measures, which comprises the Special Import Measures Act (SIMA), Canadian International Trade Tribunal Act, Special Import Measures Regulations (SIMR), and the Canadian International Trade Tribunal Regulations.[83] Canada notified these changes to the WTO in August 2022.[84] As explained in the previous Review, dumping and subsidy investigations are subject to a bifurcated process, with the CBSA in charge of dumping and subsidy investigations, and the CITT determining whether dumping or subsidization has caused injury to the Canadian industry.[85]

3.1.6.1.1 Regulatory and policy developments

3.89. The legislative, regulatory, and administrative amendments adopted in June 2022 relate to anti-circumvention investigations, massive importation inquiries, injury assessments, expiry reviews, and the rights of labour unions to file trade remedy complaints. The amendments, which build on earlier changes to Canada's trade remedy framework, came in response to Canadian stakeholders' perceived need to increase the effectiveness of Canada's trade remedy system in the face of significant changes in the global economy to ensure that dumped and unfairly subsidized imports do not enter the domestic market without the appropriate payment of anti-dumping or countervailing duties.[86]

3.90. Canada adopted anti-circumvention rules in April 2018, as described in the previous Review.[87] The purpose of anti-circumvention rules is to address situations where foreign producers alter their business and trade practices to avoid paying anti-dumping or countervailing duties imposed on their imports into Canada. If the CBSA finds circumvention, it can extend anti-dumping or countervailing duties to cover the circumventing goods.

3.91. With the latest amendments, Canada modified the threshold to initiate an anti-circumvention investigation. Specifically, since June 2022 the CBSA can initiate an investigation if the evidence reveals a "reasonable indication" that circumvention is taking place.[88] Previously, the CBSA could initiate an anti-circumvention investigation if it had evidence that circumvention was taking place. The CBSA may initiate an anti-circumvention investigation on its own initiative or following a complaint. In the case of a complaint, it has 45 days from the time it receives the complaint to decide whether it should start the investigation. The entire process from the receipt of the complaint to the CBSA's final decision regarding circumvention takes about 225 days.

3.92. The SIMA specifies three conditions that must hold for circumvention to be present.[89] First, a change in the pattern of trade must have taken place after a dumping or subsidy investigation was

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[81] Canadian Energy Regulator Act (S.C. 2019, c. 28, s. 10), last amended on 23 June 2022.
[82] WTO document G/LIC/N/3/CAN/17, 1 October 2018.
[83] Special Import Measures Act (R.S.C., 1985, c. S-15), last amended on 23 June 2022; Canadian International Trade Tribunal Act (R.S.C., 1985, c. 47 (4th Supp.)), last amended on 23 June 2022; Special Import Measures Regulations (SOR/84-927); and Canadian International Trade Tribunal Regulations (SOR/89-35).
[84] WTO document G/ADP/N/1/CAN/4/Suppl.5, G/SCM/N/1/CAN/4/Suppl.4, G/SG/N/1/CAN/3/Suppl.3, 3 August 2022.
[85] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.6.1.
[86] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 55.
[87] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.6.1.
[88] SIMA, Section 72(1).
[89] SIMA, Section 71.

initiated. Second, a "prescribed" activity must be taking place and the imports of the goods affected by such an activity must be undermining the intended effect of existing duties. A list of prescribed activities is contained in Section 57.12 of the SIMR and includes situations in which a foreign producer uses parts and components from the country subject to anti-dumping or countervailing duties to assemble the "like" good in Canada or in a third country; or a situation in which the foreign producer makes a slight modification to its goods so that they are no longer covered by anti-dumping or countervailing duties.

3.93. The third condition that must be met under the SIMA for circumvention to be present is a change in trade pattern caused by the imposition of anti-dumping or countervailing duties. Before the 2022 amendments, the imposition of anti-dumping or countervailing duties had to be the principal cause of the change in trade pattern for circumvention to occur. The amendment gives the CBSA more discretion to find circumvention in cases where the imposition of duties is a cause of the change in trade pattern, even though it may not be the principal cause. The SIMR identifies several factors that the CBSA can consider when determining whether the three conditions for circumvention are met.[90] No anti-circumvention investigations have been initiated by the CBSA since the adoption in 2018 of anti-circumvention rules (January 2024).

3.94. An additional change to the trade remedy framework as part of the 2022 amendments relates to massive importation inquiries. As a result of the latest amendments, the CITT must now conduct a "massive importation inquiry" in all dumping and subsidy investigations. Previously, a massive importation inquiry took place only at the request of domestic producers. The SIMA defines massive importation as including "a series of importations into Canada that in the aggregate are massive and have occurred within a relatively short period of time" (Part I). Massive importation inquiries are part of the CITT's final inquiry on material injury to the Canadian industry.

3.95. In a massive importation inquiry, the CITT must determine if dumped goods that were imported close to or after the initiation of a dumping or subsidy investigation constitute massive importations over a relatively short period and have caused injury to the Canadian industry. If so, the CBSA can apply retroactive anti-dumping or countervailing duties on imports of such goods released in the 90 days preceding the day of the preliminary determination. There have been no positive findings by the CITT of massive importation since the adoption of the 2022 amendments on massive importation (January 2024).

3.96. The legislation specifies several factors that the CITT can consider in determining the existence of massive importation.[91] First, an increase of 15% or more in the import volume of dumped or subsidized goods from the country under investigation. Such an increase must be relative to a preceding representative period within the investigation period. Moreover, it must have happened during a representative period starting 90 days before the initiation of the investigation and ending on the day of the CBSA's preliminary determination and benchmarked against. Second, the importer, producer, or exporter of the dumped goods has a history of importing or exporting into Canada dumped goods that have been found to cause injury or threat of injury. Third, the authorities of another country have found that dumping of the same or similar goods by the exporter being investigated has caused injury to their own domestic industry. Fourth, there has been a significant increase in the volume of domestic inventories of the dumped or subsidized goods within a relatively short period of time. The CITT may consider any other relevant factor in its massive importation inquiry.

3.97. Under the 2022 amendments, the CBSA must notify the country of export at least 7 days (for complaints related to dumping) or 20 days (for complaints related to subsidies) before it decides to initiate (or not) an anti-dumping or countervailing duty investigation.[92] Previously, foreign governments were notified at the time of receipt of a properly documented complaint, generally 30 days before initiation. According to the authorities, the amendments mitigate the risk that exporters "rush goods to market" prior to the imposition of provisional duties while providing greater flexibility for the CBSA to manage its caseload under one of the shortest investigation timelines of all WTO Members.[93] The CBSA has 21 days after receiving a complaint to determine if the complaint is properly documented and 30 days after that determination to decide whether to initiate an

[90] SIMR, Sections 57.11-57.16.
[91] SIMR, Section 37.11.
[92] SIMA, Sections 32(1.1) and 32(1.2).
[93] WTO document G/ADP/Q1/CAN/21, G/SCM/Q1/CAN/21, G/SG/Q1/CAN/5, 3 November 2022.

investigation, for a total period of 51 days between receipt of a complaint and the initiation of an investigation. In the context of Canada's previous Review, the authorities indicated that the average anti-dumping and countervailing duty investigation takes about 260 days on average.[94]

3.98. The 2022 amendments also clarify that the assessment of injury to the domestic industry under the SIMA must include the impacts on workers.[95] In line with this, employment considerations have been added to the SIMR as a factor that the CITT can consider in its injury inquiries. Specifically, the CITT can consider "any actual or potential negative effects of the dumped or subsidized goods on employment levels or the conditions of employment of the workers in the domestic industry, including their wages, hours worked, pension plans, benefits, or worker training and safety".[96] The CITT can also consider the potential negative effects of the dumped or subsidized goods on domestic hiring.[97]

3.99. During the period under review, Canada also adopted changes to its expiry reviews. Under the SIMA, anti-dumping and countervailing duty orders or findings generally expire at the end of five years unless they are extended after an expiry review. Expiry reviews are conducted by both the CBSA and the CITT and serve to determine whether anti-dumping or countervailing duties are still needed. The CBSA's portion of the expiry review must be completed within 150 days of the initiation date, and the CITT's portion within 160 days of the CBSA's determination (if a positive determination is made). Given the statutory timelines, expiry reviews may continue beyond the original expiry date of a finding or order. During this time, the measure remains in force. If a finding or order is rescinded after its original expiry date, any duties collected after the original expiry date will be refunded by the CBSA.

3.100. Prior to the 2022 amendments, the CITT had to issue a notice no later than two months before the expiry of the anti-dumping or countervailing duty finding or order. The purpose of the notice was to solicit views from interested parties to help the CITT determine whether an expiry review was warranted. The 2022 amendments eliminate this requirement and make expiry reviews automatic for all anti-dumping and countervailing duty findings or orders. This means that expiry reviews will now be initiated within five years of the date of an anti-dumping and countervailing duty finding or order without the need to invite comments on whether the CITT should initiate such a review.[98] Under the amended legislation, the CITT must still issue a notice informing interested parties of the initiation of a review. The CITT can terminate an expiry review when it considers that the review lacks the support of domestic producers.

3.101. During the period between 2019 and 2022, the CITT initiated 62 expiry reviews, 7 more than during the previous period (2015-18). Of these, 49 related to anti-dumping duties and 13 to countervailing duties. All but two measures have been extended following the completion of the expiry reviews, compared with three measures rescinded during the previous period. The expiry reviews conducted between 2019 and 2022 led to the withdrawal of anti-dumping duties applied on certain oil country tubular goods from the Philippines in 2020 and on certain hot-rolled steel sheet from Ukraine in 2022.[99]

3.102. The authorities have indicated that, as part of the implementation of the 2022 Budget announcement of measures to increase the participation of workers in Canada's trade remedy system, trade unions now have the right to file anti-dumping and countervailing duty complaints. According to the authorities, allowing trade unions to file complaints is part of the implementation of the 2022 Budget announcement to increase the participation of workers in Canada's trade remedy system. This policy change follows the amendment to the SIMR in 2018 to grant labour unions the explicit right to participate in dumping and subsidy investigations. Specifically, the SIMR now stipulates that domestic producers include a list of relevant unions in their complaints and add unions to the list of parties that may make representations to the CITT in public interest inquiries.

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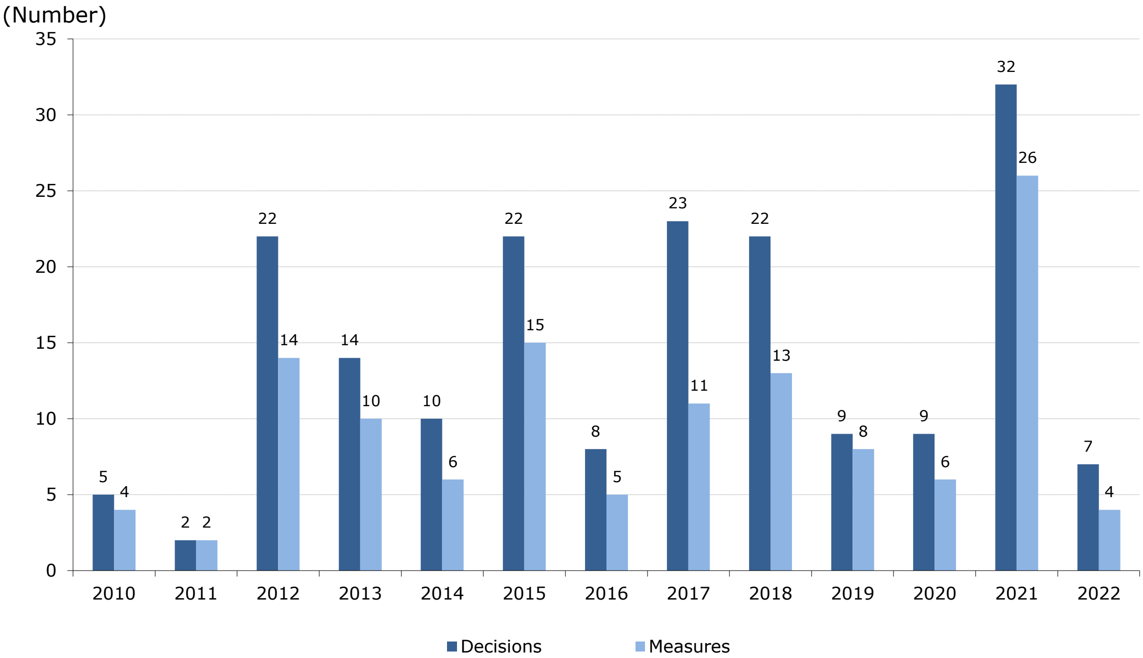
[94] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 7.
[95] SIMA, Section 2(11).
[96] SIMR, Section 37.1(1)(c)(i.1).
[97] SIMR, Section 37.1(2)(g).
[98] SIMA, Section 76.03(1).
[99] CITT, Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip, Expiry Review RR 2021-001, 13 May 2022; and CITT, Oil Country Tubular Goods, Expiry Review RR 2019-006, 30 December 2020.

3.103. During the period under review, Canada also amended the SIMR to add Belarus and the Russian Federation as "prescribed" countries for the use of non-market economy methodologies in anti-dumping proceedings.[100] According to the authorities, this amendment was in response to increasing government intervention and price distortions in both countries. The amendment allows the CBSA to employ non-market economy methodologies in anti-dumping proceedings involving goods from the Russian Federation and Belarus without the need to demonstrate that their respective governments have a monopoly or substantial monopoly of their export trade.

3.1.6.1.2 Use of measures

3.104. Canada is an active user of trade remedy measures. Among WTO Members, it ranks eighth in the number of anti-dumping measures adopted since the WTO was established in 1995, and third in the number of countervailing duty measures. Though the number of anti-dumping and countervailing duty investigation initiations has declined over the past decade or so, the number of measures adopted has steadily increased, suggesting an increase in the share of investigations that involve affirmative determinations and result in measures being imposed (Chart 3.4). In line with global trends, the bulk of anti-dumping and countervailing duty measures imposed by Canada involve iron and steel products, mostly from Asia.

Chart 3.4 Anti-dumping and countervailing duty decisions and measures, 2010-22



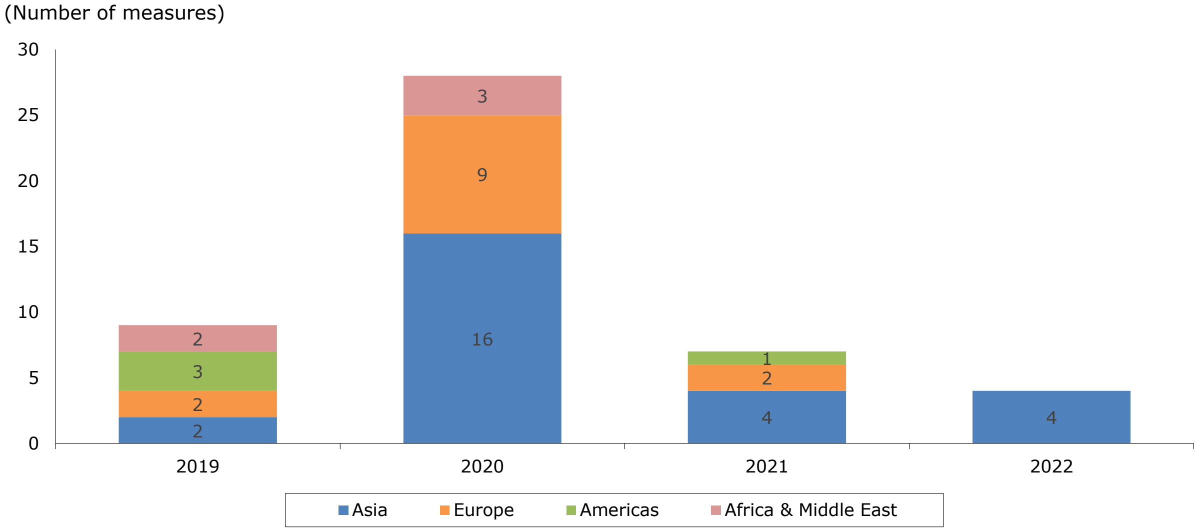
Note: The term "decisions" refers to the number of both affirmative and negative decisions during an anti-dumping or countervailing duty investigation each year. The term "measures" refers to the number of anti-dumping and countervailing duty measures adopted each year.

Source: CBSA, *Historical Listing*. Viewed at: https://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev/hist-eng.html#wb-auto-4.

3.105. During the period under review (2019-22), Canada initiated 48 anti-dumping and countervailing duty investigations, down from 65 during the previous period (2015-18), and 66 during the period before last (2011-14). Some 54% of anti-dumping and countervailing duty investigation initiations during the period 2019-22 involve exports from Asia, with the remainder spread across Europe (27% of all initiations), Africa and the Middle East (10%), and the Americas (8%) (Chart 3.5).

[100] Regulations Amending the Special Import Measures Regulations (SOR/2023-26), *Canada Gazette*, Part II, Vol. 157, No. 5, 15 February 2023.

Chart 3.5 New anti-dumping and countervailing duty investigations by region, 2019-22

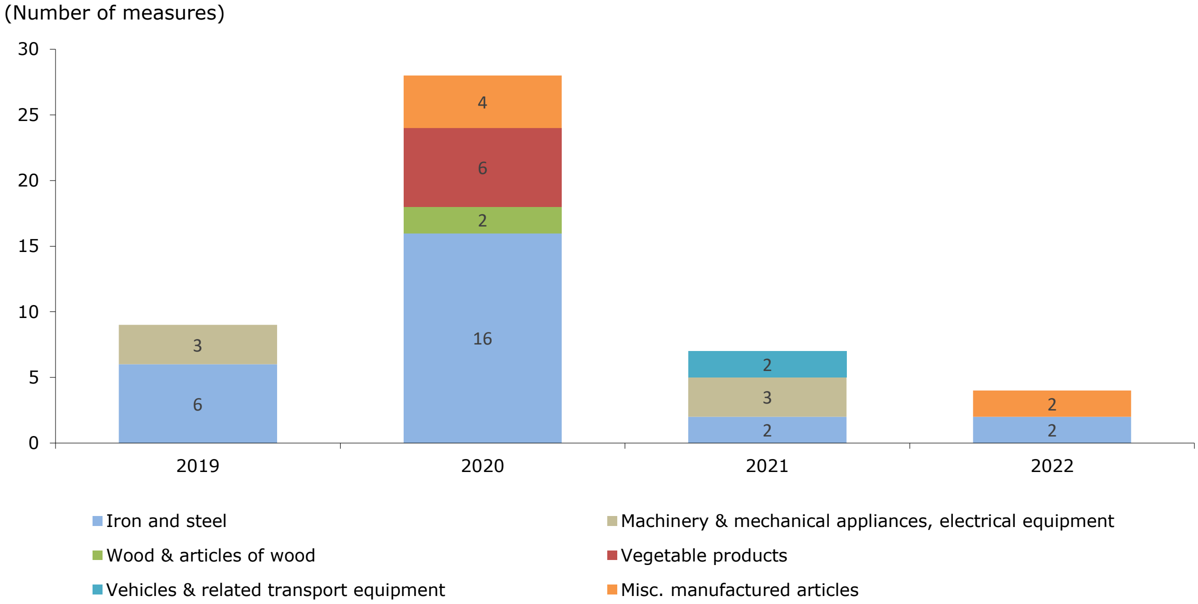


Note: Kazakhstan, the Russian Federation, and Türkiye are included in Europe. Asia includes Oceania.

Source: WTO, Trade Remedies Data Portal. Viewed at: https://trade-remedies.wto.org/en.

3.106. The iron and steel sector is by far the most affected by anti-dumping and countervailing duty investigations, with more than half of all initiations during the period under review (Chart 3.6). Other sectors that feature relatively frequently in anti-dumping and countervailing duty investigations include vegetable products, machinery and electrical equipment, and other manufactured articles, each with almost 13% of all initiations. Both the geographical and sectoral distributions of anti-dumping and countervailing duty investigations during the period under review have been broadly consistent with the trend observed in past Reviews, reflecting the prevalence of iron and steel exports from China in Canada's trade remedy investigations for many years.

Chart 3.6 New anti-dumping and countervailing duty investigations by product category, 2019-22



Source: WTO, Trade Remedies Data Portal. Viewed at: https://trade-remedies.wto.org/en.

3.107. Another trend observed during the period under review that is consistent with past Reviews is that most Canadian investigations involve exports of the same product from several countries. In addition, the same products and countries are frequently subject to both anti-dumping and countervailing duty investigations. Ten anti-dumping duty investigations initiated during the period under review were accompanied by a corresponding countervailing duty investigation for the same products and countries. The products subject to both anti-dumping and countervailing duty investigations during 2019-22 are drill pipe, mattresses, container chassis, upholstered domestic seating, grinding media, decorative and other non-structural plywood, and corrosion-resistant steel sheet.

3.108. The number of anti-dumping measures adopted by Canada has steadily increased over the past decade. During the period under review, Canada adopted 37 anti-dumping measures, up from 33 in 2015-18 and 24 in 2011-14. The higher number of measures adopted during the period under review largely reflects a peak of 22 measures adopted in 2021. At the same time, five anti-dumping measures have been terminated since 2019. As a result, 115 anti-dumping measures were in force at end-2022, up from 83 in December 2018, and 53 in December 2014. Roughly two-thirds apply on steel products and 10% on other metals. Anti-dumping measures are being applied across a larger group of trading partners (41 trading partners in December 2022 compared with 29 in December 2018). China represents 23% of measures in force, followed by the Republic of Korea with 10%, Viet Nam and Chinese Taipei with 6% each, and Türkiye with 5%.

3.109. Anti-dumping measures in force at the end of 2022 had been in place for 8.6 years on average. The longest-lasting measure (on potatoes from the United States) has been in place for almost 39 years and the second longest-lasting (on refined sugar from Germany, the Netherlands, the United Kingdom, and the United States) for 27 years.

3.110. Regarding countervailing duties, there were 34 measures in force in December 2022, up from 28 in December 2018 and 17 in December 2014. Some 53% affect steel products and another 15% other metals. Three other sectors (food, machinery and electric equipment, and other manufactured goods) each represent 9% of countervailing duties in force. Slightly more than two-thirds of measures apply on exports from China. Another 18% of measures affect exports from both India and Viet Nam. Countervailing duty measures in force at the end of 2022 had been in place for 8.7 years. The longest-lasting measure (on refined sugar from the European Union) has been in place for 27 years.

3.1.6.2 Safeguard measures

3.111. Canada's legislative framework for safeguards includes the Canadian International Trade Tribunal Act, the Customs Tariff[101], and the Canadian International Trade Tribunal Regulations. As explained in the Secretariat report for Canada's previous Review, the CITT is responsible for conducting global safeguard inquiries.[102] The Federal Government makes the final decision to apply safeguard measures.

3.112. During the period under review, Canada amended the Canadian International Trade Tribunal Act to allow labour unions to file global safeguard complaints.[103] Canada notified these amendments to the WTO in August 2022.[104]

3.113. Canada also amended the Customs Tariff and the Canadian International Trade Tribunal Act to modify the conditions for imposing safeguards. The amendments entered into force on 21 June 2019 and were notified to the WTO.[105] The amendments repealed Sections 55(5) and 55(6) of the Customs Tariff for two years, that is, until 21 June 2021. Before it was amended, the Customs Tariff prohibited reimposing safeguard measures on goods that had previously been subject to safeguards for a period of two years. With the amendment, Canada suspended this two-year moratorium, making it possible to reimpose safeguards before April 2021 on the five steel products that had been subject to provisional safeguard measures between 25 October 2018 and 29 April 2019 (see below). In the context of this Review, the authorities noted that this action reflected the challenging situation facing the Canadian steel industry due to underlying issues of concern, such as global excess capacity and other disruptions in the market. They further said that

[101] Customs Tariff (S.C. 1997, c. 36).
[102] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.6.2.
[103] Canadian International Trade Tribunal Act, Section 23(1).
[104] WTO document G/ADP/N/1/CAN/4/Suppl.5, G/SCM/N/1/CAN/4/Suppl.4, G/SG/N/1/CAN/3/Suppl.3, 3 August 2022.
[105] WTO document G/SG/N/1/CAN/3/Suppl.2, 25 June 2019.

the amendments provided additional flexibility to the Government to respond quickly and appropriately to situations where a substantiated surge of imports harms, or could harm, Canadian producers and workers.

3.114. During the period under review, Canada applied final safeguard measures on imports of heavy plate and stainless steel wire. Canada submitted a notification specifying the product coverage of these measures in August 2019.[106] The final safeguards, which were in force between 13 May 2019 and 24 October 2021, were in the form of TQs (Table 3.13).[107] Imports from Chile, Colombia, Israel, the Republic of Korea, Mexico, Panama, Peru, and the United States are not subject to the safeguard measures under Canada's FTAs, which provide preferential treatment to certain trading partners regarding the imposition of safeguards. Imports from developing countries benefitting from Canada's GPT are not subject to safeguard measures either.

Table 3.13 Tariff quotas on certain steel products, May 2019-October 2021

Period	Quota volume (t)	Out-of-quota surtax (%)	Simple average applied MFN duty rate (%)
Heavy plate			
13 May 2019 to 12 May 2020	100,000	20	0
13 May 2020 to 12 May 2021	110,000	15	
13 May 2021 to 24 October 2021	54,699	10	
Stainless steel wire			
13 May 2019 to 12 May 2020	2,800	25	0
13 May 2020 to 12 May 2021	3,080	15	
13 May 2021 to 24 October 2021	1,532	5	

Source: WTO document G/SG/N/8/CAN/3/Suppl.1, 13 May 2019.

3.115. The imposition of final safeguard measures was preceded by the Government's instruction to the CITT to conduct a global safeguard investigation, along with a decision to impose provisional safeguard measures on imports of seven classes of steel goods (heavy plate, concrete reinforcing bar (rebar), energy tubular products, hot-rolled sheet, pre-painted steel, stainless steel wire, and wire rod) under Section 55 of the Customs Tariff.[108] The provisional safeguard measures, which entered into force on 25 October 2018 and expired on 29 April 2019, took the form of a 200-day TQ reflecting historic import volumes and trade patterns, with a 25% surtax on out-of-quota imports. On 5 April 2019, the CITT circulated the report with the results of its investigation, which found that final safeguard measures were justified only for imports of heavy plate and stainless steel wire.[109] According to the CITT, this global safeguard investigation was one of the most complex it has ever conducted, comprising 119 participants, including Canadian and foreign steel producers, steel importers, trade unions, and governments, and the submission of over 38,000 pages of documents.[110]

3.116. In the context of Canada's provisional safeguard measures on seven classes of steel goods, Canada notified that it had established a separate surtax-free quota for energy tubular products and wire rod originating in Mexico.[111] The decision by Canada to modify its provisional safeguard measures followed consultations with Mexico under the North American Free Trade Agreement.

3.117. In November 2020, Canada notified the WTO that it reserved its rights to suspend the application of substantially equivalent concessions or other obligations to imports from Costa Rica under Article 8 of the WTO Safeguards Agreement.[112] The notification followed consultations between Canada and Costa Rica in the context of the latter's adoption of a safeguard measure on imports of sugar. On 7 June 2021, Canada and Costa Rica reached an understanding to exempt a certain annual volume of imports of Canadian refined sugar from the application of this safeguard measure.[113]

[106] WTO document G/SG/N/10/CAN/1/Suppl.1, 29 August 2019.
[107] Customs Notice 19-08; and WTO document G/SG/N/8/CAN/3/Suppl.1, G/SG/N/10/CAN/1, G/SG/N/11/CAN/1/Suppl.1, 13 May 2019.
[108] WTO document G/SG/N/6/CAN/4, G/SG/N/7/CAN/1, G/SG/N/11/CAN/1, 15 October 2018.
[109] CITT, Certain Steel Goods, GC-2018-001, 3 April 2019.
[110] CITT, Certain Steel Goods, GC-2018-001, 3 April 2019.
[111] WTO document G/SG/N/7/CAN/1/Suppl.1, 5 February 2019.
[112] WTO document G/L/1374/Rev.1, G/SG/N/12/CAN/1/Rev.1, 17 November 2020.
[113] WTO document G/L/1399, 13 September 2021.

3.1.7 Other measures affecting imports

3.118. On 19 May 2019, Canada repealed retaliatory countermeasures on imports of steel and aluminium from the United States. These countermeasures were imposed in response to increased tariffs adopted by the United States in May 2018 under Section 232 of the US Trade Act of 1974.[114] This decision was taken as part of an understanding with the United States, which agreed to eliminate all tariffs imposed under Section 232 on imports of steel and aluminium from Canada.[115]

3.119. Canada's countermeasures, which had been in force since July 2018, comprised surtaxes on CAD 16.6 billion in imports of steel, aluminium, and other products from the United States, representing the value of 2017 Canadian exports affected by the US tariffs.[116] Specifically, Canada had applied, on imports from the United States, surtaxes of 25% on steel classified in 131 tariff items, surtaxes of 10% on aluminium classified in 19 tariff items, and surtaxes of 10% on certain, mainly finished, consumer goods classified in 79 tariff items.[117]

3.120. Following the joint statement by Canada and the United States announcing the elimination of US Section 232 tariffs and Canada's countermeasures, Canada and the United States notified the WTO that they had reached a mutually agreed solution to the dispute that had been initiated by the United States in July 2018 regarding Canada's countermeasures.[118]

3.121. In the context of its previous Review, Canada was asked about measures applied by British Columbia on the sale of wine in grocery stores.[119] In response, the authorities said that British Columbia was moving forward with changes to measures relating to the sale of wine in grocery stores, as committed to in a side letter to the CUSMA. In the context of that 30 November 2018 side letter, British Columbia committed to eliminating by 1 November 2019 measures that restricted sales of wine on grocery store shelves to British Columbia wine only. To this end, British Columbia amended its Liquor Control and Licensing Regulation to eliminate measures that only allowed sales of British Columbia wine on grocery store shelves.[120] The new policy enables licensees who are allowed to sell wine on grocery store shelves to sell all domestic and imported wine, including cider, mead, and saké.[121] British Columbia maintains a moratorium on new wine store licences under the Liquor Control and Licensing Regulation. The authorities state that the purpose of the moratorium is to help protect public health by preventing the proliferation of liquor stores and help maintain the stability of the retail liquor marketplace.

3.2 Measures directly affecting exports

3.2.1 Customs procedures and requirements

3.122. An export declaration is normally required to export commercial goods from Canada.[122] Export declarations serve a double purpose: to provide export data and ensure that exporters comply with export control legislation. No export declaration is needed for goods exported for consumption to the United States, and for goods that are not subject to export controls and valued at CAD 2,000 or less. Goods that are subject to export controls must be accompanied by a licence or permit in addition to the export declaration (Section 3.2.3). Exporters can transact business directly with the CBSA or through customs service providers, subject to a fee. The CBSA does not regulate fees charged by customs service providers. Exporters (like importers) must obtain a valid business

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[114] Order Repealing the United States Surtax Order (Steel and Aluminum) (SOR/2019-143); and Order Repealing the United States Surtax Order (Other Goods) (SOR/2019-144), both dated 19 May 2019.

[115] Joint Statement by Canada and the United States on Section 232 Duties on Steel and Aluminum, 17 May 2019. Viewed at: https://www.canada.ca/en/global-affairs/news/2019/05/joint-statement-by-the-united-states-and-canada-on-section-232-duties-on-steel-and-aluminum.html.

[116] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.1.7.

[117] United States Surtax Order (Steel and Aluminum): SOR/2018-152; and United States Surtax Order (Other Goods): SOR/2018-153, both dated 28 June 2018.

[118] WTO document WT/DS557/4, G/L/1252/Add.1, 27 May 2019.

[119] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 151.

[120] Section 65(1), Liquor Control and Licensing Regulation, last amended on 29 June 2023 by B.C. Reg. 168/2023.

[121] British Columbia, Liquor and Cannabis Regulation Branch, Policy Directive No. 19-08, 10 July 2019.

[122] Customs Act (R.S.C., 1985, c. 1 (2nd Supp.)), Sections 95-97.2.

number and open an export (import) account with the CBSA, which is a prerequisite to submit an export declaration.

3.123. Under the Reporting of Exported Goods Regulations, export declarations must be submitted to the CBSA within the following timeframes, depending on the mode of transport.[123] By air, not less than 2 hours before the goods are loaded onto the aircraft; by marine vessel, not less than 48 hours before the goods are loaded onto the vessel; by rail, not less than 2 hours before the goods are loaded onto the railcar assembled to the train; by mail, not less than 2 hours before the goods are delivered to the post office in Canada that accepts mail for export; and by any other mode transport mode, immediately before the goods are exported.

3.124. Export declarations can be submitted electronically to the CBSA through either the Canadian Exporting Reporting System (CERS), or the G7 Electronic Data Interchange Export Reporting (G7-EDI).[124] Additionally, certain export documentation may be submitted as a PDF by email via the "e-longroom", which allows exporters and customs service providers to submit export and other documents to the CBSA as a PDF by email instead of in person (Section 3.1.1.1). There are nine CBSA offices across Canada offering e-longroom services for exports (February 2024).

3.125. Shipments for exports may be subject to inspection to ensure they comply with all export requirements. The decision to inspect a shipment is based on risk analysis. Inspections are conducted free of charge, but exporters may have to pay for services related to moving, handling, or storing their goods.

3.2.2 Export taxes, charges, and levies

3.126. Canada did not apply export duties during the period under review. Under the Export Act, Canada may impose export duties on certain ores and metals. In addition, Canada may impose export duties on certain logs and pulpwood if another country imposes duties on imports of such goods from Canada.[125]

3.127. Exports of tobacco products manufactured in Canada are subject to the federal excise duty plus a "special duty" of CAD 0.095724 per cigarette or tobacco stick, or CAD 5.98275 per 50 grams (or fraction of 50 grams) in any package for other tobacco products if the exported goods represent more than 1.5% of a manufacturer's production in the preceding calendar year.[126] If that is not the case, the exported goods are not subject to the federal excise duty, but only to a special duty of CAD 0.15832 per cigarette or tobacco stick, or CAD 197.90480 per kilogramme for other tobacco products. In this case, the special duty may be refunded if it can be demonstrated that all taxes and duties applicable in the foreign destination have been paid. No refund is available in respect of special duty payable on exports of excise duty-paid tobacco products. According to the authorities, the purpose of the special duty is to reduce the incentive to illegally bring non-excise duty-paid (i.e. "unstamped") products back into Canada.

3.2.3 Export prohibitions, restrictions, and licensing

3.128. Canada prohibits the export, sale, supply, or shipment of arms and related materials to countries under United Nations decisions. Such prohibitions are adopted through regulations under the United Nations Act.[127] Canada also has autonomous sanctions against certain countries, adopted through regulations under the Special Economic Measures Act (SEMA).[128] Sanctions prohibit certain activities, including exports of specific goods and technology, to sanctioned countries, to any person in those countries, and to specific individuals and entities subject to a ban on Canadians dealing with those individuals and entities. According to the authorities, the following are subject to export bans under SEMA: Belarus, the Democratic People's Republic of Korea, the Islamic Republic of Iran, the Russian Federation, Syria, Ukraine (certain areas), and Zimbabwe.

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[123] Section 3 of the Reporting of Exported Goods Regulations (SOR/2005-23).
[124] Memorandum D20-1-1, Exporter reporting, 5 August 2022.
[125] Sections 2 and 3, Export Act (R.S.C., 1985, c. E-18).
[126] Government of Canada, Excise Duty Rates. Viewed at: https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/edrates/excise-duty-rates.html#_Toc527013632.
[127] United Nations Act (R.S.C., 1985, c. U-2).
[128] Special Economic Measures Act (S.C. 1992, c. 17), last amended on 22 June 2023.

3.129. Canada applies export controls for non-economic and economic reasons, mainly under the Exports and Imports Permits Act (EIPA), which authorizes the Government to establish several "lists", including an Export Control List (ECL) and an Area Control List (ACL).[129] Export controls for non-economic reasons are primarily intended to implement Canada's commitments under intergovernmental export control and non-proliferation regimes, including the Wassenaar Arrangement, Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, and Arms Trade Treaty. The goods and technologies subject to export controls comprise arms, ammunition, implements or munitions of war, and dual-use items, and other strategic items as specified in the ECL and its Guide.[130] According to Global Affairs Canada, export controls of military and strategic goods and technology seek to ensure that "Canadian goods and technologies are not used in a manner that is prejudicial to human rights, peace, security, or stability", in line with Canada's foreign and defence policies.[131]

3.130. The export or transfer of any good or technology to countries listed in the ACL established under the EIPA are subject to controls, irrespective of whether the good or technology is contained in the ECL.[132] The Democratic People's Republic of Korea is the only country listed in the ACL (September 2023). During the period 2019-22, Canada issued three export permits for that country based on humanitarian considerations.[133]

3.131. Other products besides military and strategic goods and technology may also be subject to export controls for non-economic reasons. Such controls, which are mostly derived from inter-governmental agreements, apply to endangered species, cultural property, certain hazardous products (including waste, chemicals, and pesticides), ozone-depleting substances, certain drugs, rough diamonds, and unprocessed logs, among others.

3.132. Canada also applies export controls for economic and trade-related reasons. The goods subject to such export controls are listed in the ECL and comprise softwood lumber products; logs; agri-food products; dairy; sugar, syrups, molasses, and sugar-containing products; peanut butter; dog and cat food; textiles and clothing; and vehicles (Table 3.14).

Table 3.14 Export controls for economic and trade reasons, September 2023

Product	Purpose
Softwood lumber	Monitoring of exports to the United States
Logs	To ensure that there is an adequate supply and distribution of the article in Canada
Pulpwood	To ensure that there is an adequate supply and distribution of the article in Canada
Red cedar	To ensure that there is an adequate supply and distribution of the article in Canada[a]
Peanut butter, certain sugar-containing products, refined sugar	Management of Canada's access to US TQ (under the WTO Agreement on Agriculture and subsequently CUSMA)
Skim milk powder, milk protein concentrate, and infant formulas	Management of Canada's export charge on above-threshold exports under CUSMA
Textiles and clothing	Implementation of TPLs[b] under CUSMA

[129] Export and Import Permits Act (R.S.C., 1985, c. E-19), last amended on 1 April 2021.
[130] Export Control List (SOR/89-202); and Government of Canada, *A Guide to Canada's Export Control List*, January 2023 version. Viewed at: https://www.international.gc.ca/trade-commerce/controls-controles/ecl-lec/index.aspx?lang=eng.
[131] Global Affairs Canada, *Military and Strategic Goods and Technology*. Viewed at: https://www.international.gc.ca/controls-controles/military-militaires/index.aspx?lang=eng.
[132] Area Control List (SOR/81-543), last amended on 20 June 2017.
[133] Global Affairs Canada, *Annual Report to Parliament on the Administration of the Export and Import Permits Act*, various editions. Viewed at: https://www.international.gc.ca/controls-controles/report-rapports/index.aspx?lang=eng.

Product	Purpose
High-sugar-containing products, sugar confectionery and chocolate preparations, processed foods, dog and cat food, vehicles, and certain apparel products	Implementation or origin quotas[c] under CETA
Vehicles	Implementation of origin quotas under Canada-UK Trade Continuity Agreement

a The authorities note that Canada's practice is not to require permits for the export of red cedar as defined in the ECL under item 5103.
b Tariff Preference Levels (TPLs) are special FTA provisions that provide tariff preferences for exports of non-originating textile and apparel goods up to a specified quantity.
c Origin quotas are alternative rules of origin that enable preferential tariff access for exports of eligible textile goods up to a specified quantity.

Source: WTO Secretariat, based on Global Affairs Canada (2022), *Annual Report to Parliament on the Administration of the Export and Import Permits Act*. Viewed at: https://www.international.gc.ca/transparency-transparence/assets/pdfs/controls-controles/reports-rapports/eipa-2022-llei_eng.pdf.

3.133. In most cases, exporters must obtain a permit before they can export an item included in the ECL. Exports to any destination other than the United States are subject to this requirement, with some exceptions, including nuclear material and equipment, prohibited firearms, and conventional weapons, which require a permit when exported to the United States. The Minister of Foreign Affairs is responsible for issuing export permits for military and strategic items on the ECL. For export controls applied for economic and trade-related reasons, the Minister for International Trade, Export Promotion, Small Business, and Economic Development may assist the Minister of Foreign Affairs in issuing export permits.

3.134. The Export Permits Regulations set out the information requirements that exporters must fulfil when applying for a permit, and the procedures governing the issuance and use of exports permits for strategic and military goods and technology, and for certain forest products listed in the ECL.[134] Separate regulations address other items on the ECL, including the Export Permits Regulations (Non-strategic Products).

3.135. The latest Export Permit Regulations amendments entered into force in June 2023[135] and are intended to align the Regulations with existing permit application processes, including those related to the New Export Controls Online System (NEXCOL). NEXCOL is a web-based application that allows users to submit applications online for export permits, make changes to them, submit reports on the use of military goods, and print selected permits.

3.2.4 Export support and promotion

3.136. Canada has an extensive government-based export promotion system with programmes operating at the federal and sub-federal levels. These programmes offer services such as helping businesses enter international markets, facilitating networking and business contacts, and addressing market access issues. The Trade Commissioner Service (TCS), which is part of Global Affairs Canada, plays a central role in supporting and promoting exports through its network of over 1,000 professionals in 160 cities across Canada and around the world.

3.137. The TCS organizes trade missions and coordinates participation at trade shows, publishes export guides and market research, provides foreign market-entry advice and export-related problem-solving assistance, and facilitates connections with foreign buyers. These services are provided at no cost. In addition, the TCS delivers financial support to small- and medium-sized enterprises (SMEs) registered in Canada through CanExport, in partnership with the National Research Council Industrial Research Assistance Program.

3.138. CanExport provides up to CAD 50,000 to assist SMEs in global market development activities, including gathering market intelligence, applying for certification and intellectual property protection abroad, and expanding their presence in e-commerce platforms. Canadian national industry associations and trade organizations may receive up to CAD 250,000 in annual funding from

[134] Export Permits Regulations (SOR/97-204), last amended on 2 June 2023.
[135] Regulations Amending the Export Permits Regulations: SOR/2023-118, *Canada Gazette*, Part II, Vol. 157, No. 13, 2 June 2023.

CanExport to cover up to 50% of eligible costs to support export development activities that benefit an entire industry.

3.139. CanExport provided about CAD 37.5 million in funding in FY2019/20 (for 1,600 projects), CAD 35.4 million in FY2020/21 (for 1,300 projects), CAD 33.6 million in FY2021/22 (for 1,400 projects), and CAD 36.8 million in FY2022/23 (for 1,700 projects). This amount comprised funding for SMEs and national industry associations, as well as innovators (to develop research and development (R&D) partnerships with foreign partners), and local communities (to help attract, retain, and expand foreign direct investment).[136]

3.2.5 Export finance, insurance, and guarantees

3.140. Canadian exporters can obtain finance, insurance, and guarantees from Export Development Canada (EDC), a Crown corporation that is Canada's official export credit agency. EDC, which is regulated by the Federal Government through the Export Development Act and the Financial Administration Act, was created to support and develop Canada's exports and help Canadian businesses to respond to international business opportunities.[137] Under the Export Development Act, EDC must undergo a legislative review every 10 years. The last legislative review took place in 2018.

3.141. EDC's clients range from micro-sized enterprises to large companies. In its 2030 Strategy, EDC set the goal to help Canada's exports grow by 60% by 2030 relative to 2021.[138] To this end, it intends to focus on facilitating the growth of medium-sized companies (those with annual revenues totalling between CAD 10 million and CAD 300 million) in high-growth markets and priority sectors such as cleantech, advanced manufacturing and technology, and agri-food.[139]

3.142. During the period under review, Canada temporarily expanded the EDC's mandate to include supporting and developing domestic business at the request of the Minister of Small Business, Export Promotion, and International Trade and the Minister of Finance. This change was part of a series of measures to deal with the economic impact of the COVID-19 pandemic (see below).

3.143. EDC offers a wide range of financing, insurance, and guarantee programmes (Table 3.15). In addition, it provides trade knowledge and facilitates contacts between Canadian and foreign companies. EDC support is targeted at Canadian exporters and their international customers, and Canadian direct investment abroad and investment into Canada. EDC normally funds itself in global capital markets but may also, if need be, seek additional capital from the Ministry of Finance. In 2020, EDC received two capital injections from the Federal Government, totalling approximately CAD 11 billion, to address the economic impacts of the COVID-19 pandemic. EDC is in the process of returning this additional capital.

3.144. According to the EDC's latest legislative review, EDC's mandate and operations are "commercially oriented in that its financing and insurance capacities are based on its own balance sheet and risk appetite".[140] The legislative review also notes that while EDC competes with commercial providers of foreign buyer financing, export credit insurance, and bonding, EDC's domestic finance and insurance offers must be "complementary" to the products and services available from commercial financial institutions and insurance providers, and the Business Development Bank of Canada (Section 3.3.1.2).

[136] Government of Canada (2022), "A look back at the TCS in 2022", 21 December. Viewed at: https://www.tradecommissioner.gc.ca/canadexport/0007225.aspx?lang=eng.
[137] Export Development Act (R.S.C., 1985, c. E-20), last amended on 1 September 2022; Financial Administration Act (R.S.C., 1985, c. F-11), last amended on 26 July 2023.
[138] EDC (2023), "Year in Review: EDC Supports Canadian Businesses through a Year of Turbulence and Recovery", 5 April. Viewed at: https://www.edc.ca/en/about-us/newsroom/edc-year-in-review-2022.html.
[139] EDC, *Make Canada and the World Better Through Trade: EDC's 2030 Strategy*. Viewed at: https://www.edc.ca/en/about-us/corporate/corporate-reports/2030-strategy.html.
[140] Global Affairs Canada (2018), *Export Development Canada Legislative Review*, p. 3.

Table 3.15 EDC financing, investment, and insurance programmes, September 2023

Programme	Description
Financing and investments	
Direct lending	Secured or unsecured loans directed at financing the purchase of Canadian goods or services, and at supporting the international expansion of Canadian companies/investors or their foreign affiliates
Structured and project finance	Limited recourse financing of long-term, capital-intensive projects
Export guarantee programme	Provides up to 100% guarantee on working capital loans by various financial institutions to Canadian exporters to increase their ability to engage in international trade
Buyer financing	Financing provided to an international buyer in connection with an export transaction by a Canadian company
Investments	Direct equity investments, co-investments, and investment fund commitments in Canadian companies with strong international growth potential
Insurance	
Credit insurance	Covers 90% of insured losses against a variety or risks when selling products and services internationally
Financial institution insurance	Non-payment insurance provided to Canadian financial institutions on their short-term trade finance and supply chain financing solutions
Account Performance Security Guarantee	100% guarantee to financial institution to replace exporter's collateral requirement for the issuance of letters of guarantee
Foreign Exchange Facility Guarantee	Guarantee to financial institutions to cover foreign exchange derivative contracts for a Canadian company
Surety Bond Insurance	Risk share solution with surety companies to increase bonding capacity of exporters for their contractual obligations bonds
Performance Security Insurance	Insurance against losses from a letter of guarantee being called wrongfully or because Canadian exporter was not able to meet its obligations due to political risks (95% of insured losses)
Political risk insurance[a]	Insurance of Canadian direct investment abroad on losses due to political risk (90% cover)

a EDC's Political Risk Insurance programme was phased out in April 2019.

Source: WTO Secretariat, based on EDC (2018), *2018 Export Development Canada Legislative Review* and information provided by the authorities.

3.145. EDC's exposure totalled around CAD 120 billion as at end-2022, up from CAD 114 billion at end-2019. Financing, which totalled CAD 76 billion as at end-2022, continues to be the largest part of EDC's portfolio, though both credit insurance and trade guarantees have increased significantly since Canada's last Review, both in absolute and relative terms. The top countries in terms of EDC's exposure were Canada and the United States, representing 28% and 24%, respectively, of EDC's total exposure at the end of 2022. These were followed by the United Kingdom, Chile, Australia, Mexico, India, Germany, China, and Spain, each with between 2% and 7% of EDC's total exposure.

3.146. In terms of sectors, EDC's exposure is concentrated in finance and insurance, manufacturing, transportation and storage, and utilities, which together represented around 63% of EDC's total exposure at the end of 2022. In 2019, EDC set a target to reduce exposure to what it considers its six most carbon-intensive sectors: cement manufacturing; thermal power generation; metals smelting and processing; petrochemicals, refining, and chemicals manufacturing; upstream oil and gas operations; and airlines. According to EDC, by end-2022 it had reduced its exposure to these six sectors by 57% relative to a 2018 baseline, exceeding its current reduction target of 45%.[141] In 2022, EDC's total oil and gas exposure was CAD 5.24 billion.

3.147. In terms of new Canadian "business" facilitated by EDC transactions, credit insurance is the largest product segment.[142] In 2022, credit insurance totalled close to CAD 87 billion, almost 65% of total business facilitated. In 2017, the latest year included in the Secretariat report for Canada's previous Review, the value of new Canadian business facilitated by EDC credit insurance totalled close to CAD 56 billion, or about 54% of total business facilitated.

[141] EDC (2022), *Better Through Trade: 2022 Integrated Annual Report.* Viewed at: https://www.edc.ca/en/about-us/corporate/corporate-reports.html.

[142] To calculate the value of new Canadian business facilitated by EDC transactions, different indicators are used for each product, including exports, foreign investment, and trade development activities. For credit insurance, the value of new Canadian business facilitated represents the value of exports covered by credit insurance.

3.148. In addition to its more traditional role as an export credit agency, EDC uses its credit and risk management capabilities to develop financing relationships with foreign buyers and use such relationships to create new, or expand existing, export opportunities for Canadian companies. The most common tool used by EDC in this regard is its Connections Program (formerly known as Pull Strategy), a financing commitment by EDC that aims to influence an international buyer to procure goods or services from Canadian suppliers.

3.149. The Connections Program, which involves commercial loans to international buyers at market prices, is preceded by a written (though not legally binding) commitment by the foreign buyer to consider Canadian companies as suppliers and work with EDC to develop opportunities for Canadian exporters, for example by providing access to their procurement personnel, or participating in matchmaking events or trade shows to meet potential Canadian suppliers. In response to a question during Canada's previous Review, the authorities stated that transactions concluded under EDC's Pull Strategy are "not tied to specific, identified export contracts and therefore are not export credits governed by the OECD Arrangement on Officially Supported Export Credits, or the Nairobi Decision on Export Competition".[143] Exposure under the Connections Program decreased significantly during the period under review (Table 3.16). The authorities attribute the decrease in EDC's exposure of Connection Financing to the shift in EDC's strategy to focus on specific regions and strategic sectors.

Table 3.16 EDC Connections Program support and exposure, 2019-22

(CAD billion)

	2019	2020	2021	2022
Support	4.88	1.68	2.49	4.38
Exposure	18.88	15.38	10.70	11.69

Source: Information provided by the authorities.

3.150. Under Section 23 of the Export Development Act, the Government may authorize support for transactions that are judged to be in the national interest but too risky or large to be approved under the EDC's corporate account. Such transactions, which are referred to as Canada Account transactions, are assessed, entered, and managed by EDC, but they are undertaken on the Government's balance sheet, and all associated costs, risks, and revenues are backstopped by loss provisions in the Government's accounts.

3.151. Transactions supported by the Canada Account must be in line with EDC's mandate and may be in the form of any EDC programme other than investment transactions. Like EDC corporate account transactions, Canada Account transactions are structured in such a way that loans are fully repayable and subject to interest and fees. When considering whether a specific transaction would be in the national interest and could therefore be supported by the Canada Account, the Federal Government considers the transaction's economic benefits and its foreign policy implications. All Canada Account transactions must be authorized by the Minister of Small Business, Export Promotion, and International Trade with the agreement of the Minister of Finance, and may require additional Cabinet consideration if the transaction exceeds CAD 50 million. EDC receives a fee for administering the Canada Account.

3.152. The Canada Account has played a key role in Canada's response to the economic impacts of the COVID-19 pandemic. In March 2020 Canada amended the Export Development Act to expand the EDC's mandate and suspend the statutory limit of CAD 20 billion on total liabilities and obligations that could be held by the Canada Account. This was followed by additional measures that progressively raised the limit on total liabilities and obligations allowed in the Canada Account to CAD 115 billion and authorized up to CAD 73 billion in emergency liquidity to Canadian businesses under the Canada Emergency Business Account (CEBA). The CEBA programme, funding for which ended in December 2021, provided loans from CAD 40,000 to CAD 60,000 to MSMEs. These loans are partially forgivable and interest-free if repaid by 18 January 2024.

3.153. As at end-March 2022, the Canada Account held around CAD 64.6 billion in contingent liabilities, up from CAD 11 billion two years earlier. This sharp increase over the COVID-19 pandemic period is largely due to disbursements under the CEBA programme. Canada Account exposure (both commercial and sovereign) is largely domestic, representing 99% of total exposure, with the CEBA

[143] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 267.

alone representing about 69%.[144] Other than CEBA, the Canada Account's commercial exposure is concentrated in the automotive, aerospace, and resource sectors. Other than Canada, sovereign exposure is concentrated in China, the United States, Türkiye, Iraq, Morocco, Argentina, India, and Pakistan.

3.3 Measures affecting production and trade

3.3.1 Incentives

3.3.1.1 Overview

3.154. Canada offers a wide range of business support programmes that seek to encourage investment, spur innovation, foster employment, promote regional economic development and cultural priorities, and more recently, mitigate the effects of the COVID-19 pandemic and bolster Canada's participation in clean energy technology supply chains. Support takes many forms, including tax credits, grants and funding, loans and capital investments, wage subsidies, expert advice, and schemes to facilitate the formation of partnerships and to access research and other facilities. While many support programmes are available across the economy, others are targeted at specific sectors (e.g. agriculture, fisheries, energy and mining, film and video production, and the automotive, aerospace and defence industries) or "clusters" (digital technologies, plant protein, advanced manufacturing, artificial intelligence (AI), and ocean technologies). There are also specific support programmes for small businesses and women entrepreneurs. Support programmes are managed at the federal or sub-federal level, sometimes on a cost-sharing basis between the federal and provincial/territorial governments.

3.155. The Business Benefits Finder, a regularly updated government online tool to help businesses identify benefits and services they may be eligible to receive, lists 1,636 federal, provincial, and territorial support programmes (Table 3.17).[145] As noted in the previous Review, not all programmes in the Business Benefits Finder are targeted at for-profit companies.[146]

Table 3.17 Government programmes and services listed in the Business Benefits Finder, November 2023

Support type	Number of programmes
Funding	688
Loans and capital investments	194
Tax credits	83
Wage subsidies	129
Expert advice	327
Partnering and collaboration	5
Access to research and other facilities	276
Other support	66
Total (unique support programmes)	**1,636**

Note: The total number of programmes does not correspond to the sum of the programmes across the different types of support, as programmes that involve more than one type of support are counted only once.

Source: Compiled by the WTO Secretariat, based on Government of Canada, *Business Benefits Finder*. Viewed at: https://innovation.ised-isde.canada.ca/innovation/s/list-liste?language=en_CA&token=a0BOG000001pTU22AM.

3.156. While official data are not available on the amount of support provided under each programme or category listed in the Business Benefits Finder, the Public Accounts of Canada, published annually, include the audited consolidated financial statements of the Government of Canada, including programme support.[147] Using the IMF's Government Finance Statistics, which

[144] EDC, *Canada Account Annual Report for the Government of Canada Year Ended March 31, 2022*. Viewed at: https://www.edc.ca/content/dam/edc/en/corporate/corporate-reports/canada-account/canada-account-annual-report-2021-2022.pdf.

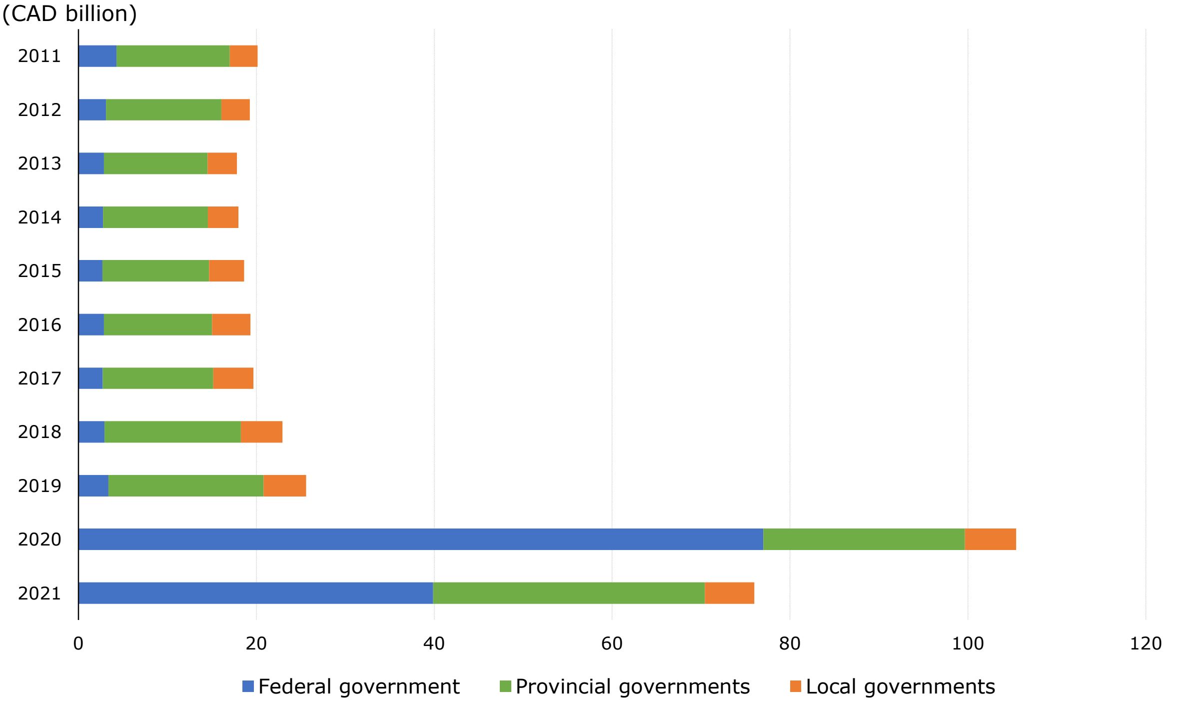
[145] Government of Canada, *Business Benefits Finder*. Viewed at: https://innovation.ised-isde.canada.ca/innovation/s/list-liste?language=en_CA&token=a0BOG000001pTU22AM.

[146] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

[147] See, e.g. Government of Canada, *Public Accounts of Canada 2023*. Viewed at: https://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/2023/index-eng.html.

provides internationally comparable subsidies data, subsidies granted to enterprises by Canada's federal, provincial, territorial, and local governments totalled close to CAD 76 billion in 2021, the latest year for which data are available.[148] This is almost three times the value of subsidies in 2019. The sharp increase in government subsidies between 2019 and 2021 was driven by the adoption of several fiscal and other measures at the federal level to help mitigate the economic effects of the COVID-19 pandemic (Section 3.2.4). Prior to the pandemic, the value of subsidies granted by federal and sub-federal governments had been broadly stable, averaging around CAD 20 billion per year between 2011 and 2019 (Chart 3.7). Subsidies granted by provincial governments averaged around CAD 13 billion per year and those by the Federal Government around CAD 3 billion per year during the same period. Reflecting pandemic-related support, the share of federal subsidies in total subsidies jumped to 73% in 2020 and 52% in 2021, up from an average of around 15% in the years prior to the pandemic (2011-19).

Chart 3.7 Value of subsidies, 2011-21



Note: The data are based on the definition of subsidy in para. 6.84 of the IMF's *Government Finance Statistics Manual 2014*.

Source: Compiled by the WTO Secretariat, based on IMF data.

3.157. Information on subsidy programmes is also contained in Canada's notifications under the WTO Agreement on Subsidies and Countervailing Measures. The most recent notification covers FY2020/21 and FY2021/22.[149] It lists 110 subsidy programmes at the federal level and 91 at the provincial/territorial level (Table 3.18).

Table 3.18 Overview of subsidies notified to the WTO, 2023

(CAD million)

Category	Number of programmes	Outlays FY2020/21	Outlays FY2021/22
Federal			
Industry	51	5,148.2	4,599.2

[148] The IMF Government Finance Statistics Manual defines subsidies as "current unrequited transfers that government units make to enterprises on the basis of the level of their production activities or the quantities or values of the goods or services they produce, sell, export, or import. Subsidies are receivable by resident producers or importers, and in exceptional cases, non-resident producers of goods and services". IMF (2014), *Government Finance Statistics Manual 2014*, para. 6.84. Viewed at: https://www.imf.org/en/Data/Manuals-and-Guides.

[149] WTO document G/SCM/N/401/CAN, 21 July 2023.

Category	Number of programmes	Outlays FY2020/21	Outlays FY2021/22
Agriculture	24	539.8	985.5
Fisheries	9	239.2	439.7
Natural resources	23	933.5	1,173.0
Other	3	194.7	162.2
Provincial/territorial[a]			
Alberta	1	..	..
British Columbia	8	62.8	68.0
Manitoba	3	146.6	137.6
New Brunswick	3	5.8	5.9
Newfoundland and Labrador	3	7.1	7.9
Nova Scotia	4	5.1	11.0
Ontario	33	1,076.4	1,403.6
Prince Edward Island	3	12.3	12.2
Quebec	20	..	..
Saskatchewan	8	17.4	7.0
Yukon	5	8.4	8.3

.. Not available.

a No information on the Northwest Territories or Nunavut is included in Canada's latest notification.

Note: Total outlays may be higher for some categories, as Canada's notification does not provide monetary values for all programmes listed in the notification. Outlays provided for calendar year 2021 (2022) were included under the columns for FY2020/21 (FY2021/22).

Source: WTO document G/SCM/N/401/CAN, 21 July 2023.

3.158. Data on government support for R&D specifically are available from the OECD. According to those data, Canada's direct government funding and tax support for R&D (including at the sub-federal level) is among the highest in the OECD, at 0.27% of GDP in 2020 (latest year available).[150] Nonetheless, gross domestic spending on R&D in Canada, at 1.55% of GDP in 2022, remains well below the OECD average.[151] This largely reflects relatively low levels of private spending on R&D in Canada. Indeed, Canada's business expenditure on R&D, which at 0.86% of GDP in 2022 represents the largest share of gross domestic spending on R&D, has been falling in recent years and remains well below the OECD average of about 2% of GDP (2021, latest year).[152]

3.159. Canada's support programmes are governed by specific legislation adopted at the federal or sub-federal levels, with no overarching system to control their implementation. In response to a question posed during Canada's previous Review, the authorities indicated that "federal, provincial, and territorial governments are responsible for ensuring that any subsidies provided comply with Canada's international obligations".[153] In addition, the authorities noted that the Federal Government offers periodic information sessions for officials from provincial and territorial governments to provide information on WTO subsidy disciplines and holds consultations with them to ensure that sub-federal subsidy programmes are notified if they meet WTO notification requirements.

3.160. Canada's various federal incentives, like other government programs, are subject to both structured and *ad hoc* reviews to monitor results achieved and value-for-money, and to consider potential refinements to their design. Reviews can take the form of specified evaluations as planned for when these initiatives are initially authorized or can be considered through exceptional mechanisms such as performance audits by Canada's Office of the Auditor General. Certain legislative incentives outlined in Canadian law may also be subject to periodic legislative reviews over fixed review periods to ensure they remain relevant, effective, and fit for purpose.

3.3.1.2 Recent developments

3.161. During the period under review, Canada sought to strengthen its support for innovation, including by allocating additional funds to its Strategic Innovation Fund (SIF) and the Global

[150] OECD, *Indicators and Analysis on the Use, Cost and Impacts of R&D Tax Incentives*. Viewed at: https://www.oecd.org/innovation/tax-incentives-RD-innovation.

[151] OECD (2024), *Gross Domestic Spending on R&D* (indicator). Viewed at: https://data.oecd.org/rd/gross-domestic-spending-on-r-d.htm.

[152] OECD.Stat, *Main Science and Technology Indicators*, GERD as a percentage of GDP. Viewed at: https://stats.oecd.org/Index.aspx?DataSetCode=MSTI_PUB.

[153] WTO document WT/TPR/M/389/Add.1, 23 August 2023, p. 191.

Innovation Clusters, and by announcing a review of its Scientific Research and Experimental Development (SR&ED) programme. Canada also introduced new tax credits and offered funding support for investments in the production of clean energy and the manufacturing of clean technologies in Canada, partly in response to the adoption of similar support measures in Canada's main trading partners.

3.162. The SIF provides funding to for-profit and not-for-profit organizations engaged in projects deemed to promote innovation. It was created in 2017 through the consolidation of several legacy programmes administered by Innovation, Science, and Economic Development Canada (ISED). SIF provides funding for two project categories: (i) Business Innovation and Growth, which covers R&D projects aimed at accelerating technology transfer and commercialization of products, processes and services deemed innovative; projects that facilitate the growth and expansion of businesses in Canada; and projects that attract and retain large-scale investments to Canada; and (ii) Collaborations and Networks, which covers industrial research, development, and technology demonstration through collaboration between academia, non-profit organizations, and the private sector; and projects that support large-scale, national innovation ecosystems through collaboration across Canada.

3.163. Funding for Business Innovation and Growth projects is provided in the form of conditionally or unconditionally repayable contributions, non-repayable contributions, or a combination of the two. Assistance for Collaborations and Networks projects is provided in the form of non-repayable contributions. To be eligible for support under SIF, projects must comprise at least CAD 20 million in eligible costs, which include direct labour costs, direct material and equipment costs, other direct costs, overhead costs, subcontracts and consultant costs, and land and building costs. The minimum SIF contribution is CAD 10 million. Disbursements under SIF averaged close to CAD 667 million per year between FY2019/20 and FY2022/23. Since its inception in 2017, SIF has funded 119 projects totalling CAD 8.2 billion in contributions and, according to the authorities, generating CAD 72 billion in sector investment.

3.164. Canada's 2021 Budget allocated CAD 2.2 billion over seven years to SIF, including for projects in biomanufacturing and life sciences, and automotive and aerospace sectors.[154] Budget 2021 also provided SIF with CAD 511.4 million in ongoing funding from FY2030/31 to continue supporting innovation projects across the economy. In addition, the 2021 Budget provided another CAD 5 billion over seven years to increase funding for the SIF's Net Zero Accelerator, launched as part of Canada's Strengthened Climate Plan[155] in December 2020 (this was on top of CAD 3 billion allocated to the Net Zero Accelerator when it was launched). The Net Zero Accelerator seeks to support large-scale investments that result in near-term reduction of carbon emissions, help established industries (such as automotive and aerospace) to reduce emissions, and foster the development of emerging clean technologies and a domestic battery ecosystem and supply chain.

3.165. The 2022 Budget allocated CAD 1 billion over six years in new critical minerals projects, with priority given to manufacturing, processing, and recycling applications. The 2023 Budget allocated to the SIF an additional CAD 500 million over 10 years to support the development and application of clean technologies in Canada, and directed CAD 1.5 billion of existing SIF resources towards projects in clean technologies, critical minerals, and industrial transformation.[156]

3.166. In Budget 2022, Canada announced that it would review the SR&ED programme, the largest tax incentive programme supporting R&D in Canada.[157] The goal of the review is two-fold: (i) ensure that the SR&ED programme is effective in encouraging R&D that benefits Canada; and (ii) explore opportunities to modernize and simplify it. Canada also announced that it would consider the suitability of adopting a patent box regime (Section 3.3.7.2). As part of this Review, in January 2024

[154] Government of Canada, *Budget 2021: A Recovery Plan for Jobs, Growth and Resilience*, p. 146. Viewed at: https://www.budget.canada.ca/2021/home-accueil-en.html.

[155] Environment and Natural Resources Canada, *Canada's Climate Actions for a Healthy Environment and a Healthy Economy*. Viewed at: https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/climate-plan-overview/actions-healthy-environment-economy.html.

[156] Government of Canada, *Budget 2023: A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, p. 90. Viewed at: https://www.budget.canada.ca/2023/home-accueil-en.html.

[157] Government of Canada, *Budget 2022: A Plan to Grow our Economy and Make Life More Affordable*. Viewed at: https://www.budget.canada.ca/2022/home-accueil-en.html.

the Government launched consultations on the SR&ED programme and potential adoption of a patent box regime.

3.167. SR&ED is administered by the Canada Revenue Agency. The value of tax credits granted under the SR&ED programme totalled about CAD 3.3 billion for some 22,350 businesses in 2020 and approximately CAD 3.9 billion for about 22,000 businesses in 2021. Under the programme, businesses that conduct SR&ED work in Canada can both claim an income tax deduction and earn an income tax credit. At the federal level, the programme provides a non-refundable investment tax credit at a rate of 15% on eligible SR&ED expenditures. Businesses with unused investment tax credits may carry them back 3 years or forward 20 years. Small Canadian-controlled private corporations can qualify for an enhanced refundable 35% rate on up to CAD 3 million of annual eligible expenditures. Businesses may also benefit from tax credits offered in certain provinces and territories, many of which can also be refundable in certain cases. Provincial/territorial credits range from 3.5% in Ontario to 30% in Quebec.

3.168. During the period under review, Canada announced new investment tax credits to support investment in the production of clean electricity; clean hydrogen; carbon capture, utilization, and storage; clean technology adoption; and the manufacturing of clean technologies. These tax credits, collectively referred to as Clean Economy Investment Tax Credits, are part of a larger, "Made-in-Canada" Plan comprising, in addition to tax incentives, financial instruments to encourage private investment in low-carbon projects and targeted support for clean technologies (Box 3.3).

Box 3.3 The "Made-in-Canada" Plan

Canada's 2023 Budget, "A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future", proposes a broad range of existing and new tax, financing, and investment measures targeted at priority areas of the "clean economy". The measures in the Plan are considered part of Canada's response to "two fundamental shifts" in the global economy: first, the "race to build the clean economies of the 21st century"; and second, growing efforts by Canada's allies to shift economic dependencies toward countries with shared interests and values (Foreword, p. v).

The Plan is centred on the following five major investment tax credits, many of which will be accompanied by labour requirements to ensure that workers share in the benefits of the investments:

- The Clean Electricity Investment Tax Credit is a refundable tax credit of up to 15% for eligible investments in technologies required for the generation and storage of clean electricity and its transmission between provinces and territories. The tax credit would be available from the day of Budget 2024 for projects that did not begin construction before 28 March 2023, and would not be available after 2034.
- The Clean Hydrogen Investment Tax Credit is a refundable tax credit of up to 40% for eligible hydrogen project costs, with projects that produce the cleanest hydrogen receiving the highest levels of support. A 15% tax credit also extends to equipment needed to convert hydrogen into ammonia. The tax credit would be available from 28 March 2023, reduced by half in 2034, and would not be available after 2034.
- The Clean Technology Investment Tax Credit is a refundable tax credit of up to 30% to support the adoption of eligible clean technologies by Canadian businesses. The tax credit would be available from 28 March 2023, and would be reduced to 15% in 2034 and not be available after 2034.
- The Clean Technology Manufacturing Tax Credit is a refundable tax credit of up to 30% for new machinery and equipment used to manufacture or process clean technologies and extract, process, or recycle critical minerals. The tax credit would be available from 1 January 2024, phased out in 2032 and not be available after 2034.
- The Carbon Capture, Utilization, and Storage Investment Tax Credit is a refundable tax credit of 60% for eligible expenditures for direct air capture equipment, 50% for other capture equipment, and 37.5% for eligible expenditures for transportation, storage, and use equipment. The tax credit would be available from 1 January 2022, reduced by half from 2031 to 2040, and would not be available after 2040.

All in all, the investment tax credits are estimated to cost CAD 28.4 billion between FY2023/24 and FY2027/28 (or CAD 60 billion over 10 years). Enabling legislation and regulations need to receive Royal Assent before the investment tax credits can be claimed by investors. Canada has indicated it plans to implement all the investment tax credits in 2024.

The investment tax credits are complemented by strategic financing from the Canada Infrastructure Bank (CIB) and the Canada Growth Fund, and more targeted programming like the SIF and the Smart Renewables and Electrification Pathways Program. More specifically, the Plan:

- Proposes that the CIB provide at least CAD 20 billion in financing for clean electricity generation, transmission, and storage projects. This comes on top of measures announced in the 2022 Budget

to give the CIB a greater role in supporting private-sector-led infrastructure projects that help Canada meet its emission reduction targets. The CIB, a federal Crown corporation created in 2017, seeks to attract private capital to major infrastructure projects in Canada. • Proposes CAD 3 billion over 13 years to recapitalize funding for the Smart Renewables and Electrification Pathways Program (a federal programme that provides up to CAD 25 million for the construction of renewable energy and grid modernization projects); renew the Smart Grid programme (a federal programme that invests in projects involving the demonstration of smart grid technologies and the deployment of smart grid integrated systems); and create new investments in science-based activities that support the development of offshore wind, particularly off the coasts of Nova Scotia and Newfoundland and Labrador. • Commits to delivering the Canada Growth Fund, a CAD 15 billion public investment vehicle that seeks to reduce the risk for the private sector of investing in Canada's clean economy. • Seeks to promote private investment in the supply chain for electric vehicles, including battery manufacturing, critical minerals, and high-value midstream components in Canada. The purpose is to help Canada "capitalize" on the shift of major automobile manufacturers towards electric vehicles and the jobs that come with them.
The Federal Government announced in April 2023 that it would provide funding support for Volkswagen's planned electric vehicle battery manufacturing plant in St Thomas, Ontario, including up to CAD 13.2 billion in production subsidies, along with a CAD 700 million contribution through the SIF to support plant construction.
In July 2023, the Federal Government and the Government of Ontario announced production support for the planned Stellantis-LG Energy Solutions electric vehicle battery manufacturing plant in Windsor, Ontario. The production support for this plant is subject to an overall cap of CAD 15 billion, to be provided in addition to a CAD 500 million contribution through the SIF to support plant construction. Under a cost-sharing agreement between the Federal and Ontario Governments, the Federal Government will cover two-thirds of the total CAD 28.2 billion in production support for the two plants, while Ontario will cover the rest.
In September 2023, the Federal Government announced that it would provide funding for Northvolt's electric vehicle battery manufacturing facility in Saint-Basile-le-Grand and McMasterville, Quebec. The production support is subject to a cap of CAD 4.6 billion with an additional CAD 1.34 billion contribution through the SIF for construction of the facility. For this project, the Federal Government will cover two-thirds of the production support, with Quebec covering the remaining one-third.
The Plan also comprises measures to improve the efficiency of impact assessment and permitting processes for clean electricity and critical minerals projects.
Through Budget 2023, the Plan reinforced the Federal Government's commitment to pursue reciprocal government procurement policies (Section 3.3.6.2).

Source: Government of Canada, *Budget 2023: A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*. Viewed at: https://www.budget.canada.ca/2023/home-accueil-en.html; and information provided by the authorities.

3.169. Budget 2022 allocated CAD 750 million over five years to Canada's Global Innovation Clusters. Formerly known as Innovation Superclusters Initiative and announced in 2018, the Global Innovation Clusters seek to encourage collaboration among large and small companies, post-secondary institutions, and not-for-profit organizations on large-scale projects in one of five industries (digital technologies, plant protein, advanced manufacturing, AI, and ocean technologies). A key goal of the Global Innovation Clusters is to enable cluster members to develop and invest in the commercialization of Canadian-owned intellectual property (Section 3.3.7.2). Since the inception of the Global Innovation Clusters, the Federal Government has provided nearly CAD 2 billion in matching funds. Membership across the five clusters totals some 8,600 stakeholders (September 2023). ISED publishes data on the clusters' performance against programme targets.[158]

3.170. Additional support for the promotion and commercialization of innovation is available under Canada's Innovation and Skills Plan, Intellectual Property Strategy and innovation-focused programmes specifically targeted at SMEs and startups delivered by the Federal Government, its agencies, Crown corporations, and non-profits and other third parties (Section 3.3.7.2).

3.171. Regarding support programmes for SMEs and women entrepreneurs, Canada's 2021 Budget proposed to provide CAD 2.6 billion over four years to the Business Development Bank of Canada (BDC). The purpose of these funds is to help SMEs finance technology adoption. The BDC, a federal Crown corporation that provides financing and other services to businesses, in particular SMEs, has

[158] ISED, The Objectives of the Global Innovation Clusters. Viewed: https://ised-isde.canada.ca/site/global-innovation-clusters/en/objectives-innovation-clusters-initiative.

a loan portfolio of around CAD 34 billion.[159] Interest rates charged by the BDC exceed those offered by commercial banks, reflecting its more flexible repayment terms and other risk factors. Support for women entrepreneurs is available through the Women Entrepreneurship Strategy, a "whole-of-government" approach launched in 2018 to support women entrepreneurs. The Strategy has grown to nearly CAD 7 billion in federal investments and commitments.[160]

3.3.2 Standards and other technical regulations

3.172. Canada has a transparent standards regime underpinned by a well-developed infrastructure with participation from standards development organizations, conformity assessment bodies, and many other stakeholders. Since its last Review, Canada updated its National Standards Strategy, which identifies priority sectors for standards development and highlights the need to foster standards harmonization, including across federal, provincial, territorial, and municipal levels of government, to facilitate internal trade without compromising health, safety, and security. Canada's regulatory system ranks well above the OECD average in terms of stakeholder engagement, impact assessment, and *ex post* evaluation.[161] During the period under review, Canada has continued to carry out targeted regulatory reviews to address regulations and practices that may cause bottlenecks to innovation, growth, and competitiveness.

3.3.2.1 Standards

3.173. Canada has a decentralized national standards system, which includes the Standards Council of Canada (SCC); standards development organizations (SDOs); conformity assessment bodies (CABs); federal, provincial/territorial, and municipal authorities; industry; non-governmental organizations; and technical experts. The SCC, a federal Crown corporation mandated to promote efficient and effective standardization in Canada, serves as custodian of the system.[162] As such, the SCC defines policies and procedures for the development of national standards; provides accreditation services for both SDOs and CABs; and represents Canada in international standards activities. The SCC, which reports to Parliament through the Minister of Innovation, Science, and Economic Development, does not itself develop national standards.

3.174. During the period under review, the SCC updated the National Standards Strategy.[163] The last time the Strategy had been updated was in 2009. The updated Strategy, which is the result of broad-based consultations with stakeholders and interested parties, identifies the priorities and sectors that should be the focus of Canada's standards system over the next decade.

3.175. One of the four system priorities set out in the Strategy is to "support facilitation of trade in goods and services through harmonized standards solutions".[164] Moreover, the Strategy notes the continued need for standards work related to the alignment of standards across federal, provincial, territorial, and municipal levels of government, including in the context of the Regulatory Reconciliation and Cooperation Table (RCT).

3.176. The RCT is a federal-provincial-territorial body established under the Canadian Free Trade Agreement (CFTA) to help address barriers to trade, investment, and labour mobility across provincial and territorial borders. Since its inception, the RCT has negotiated three reconciliation agreements on standards and codes (Energy Efficiency Standards for Household Appliances, Canadian Registration Number for Pressure Equipment, and Construction Codes). Reconciliation agreements specify the approach to deal with specific trade barriers, including mutual recognition and harmonization, the participating governments, and the implementation timelines. Governments that do not have an existing measure to reconcile or determine that reconciliation is not a desirable

[159] BDC (2023), *2023 Annual Report*. Viewed at: https://www.bdc.ca/en/about/corporate-governance/financial-results.

[160] Government of Canada, *Women Entrepreneurship Strategy: Progress Report 2022*. Viewed at: https://ised-isde.canada.ca/site/women-entrepreneurship-strategy/en/women-entrepreneurship-strategy-progress-report-2022#s4.1.

[161] OECD, *Regulatory Policy: Canada*. Viewed at: https://www.oecd.org/gov/regulatory-policy/canada-country-profile-regulatory-policy-2021.pdf.

[162] Standards Council of Canada Act (R.S.C., 1985, c. S-16), last amended on 17 June 2019.

[163] SCC (2022), "Standards Council of Canada Launches a New National Standards Strategy", 8 July. Viewed at: https://www.scc.ca/en/news-events/news/2022/standards-council-canada-launches-a-new-national-standards-strategy.

[164] SCC (2022), *Development of a National Standards Strategy*, p. 17.

option for their jurisdiction may decide not to participate in negotiations. Two additional reconciliation agreements (Canadian Electrical Codes and Energy Using and Saving Products) were under negotiation with a target completion date of December 2024.[165]

3.177. In addition to system priorities, the 2022 National Standards Strategy identifies five priority sectors for the Canadian standards system: (i) climate change mitigation, adaptation, and resilience; (ii) environmental, social, and corporate governance; (iii) health, well-being, and safety; (iv) digital economy and advanced manufacturing; and (v) supply chain stability. The SCC intends to monitor actions to implement the updated Strategy and report on progress, while itself seeking to implement the Strategy through its corporate plan and work with SDOs and other national standards system participants.

3.178. Since Canada's last Review, the SCC accredited five new SDOs for a total of 15 accredited SDOs (January 2024). The SCC publishes the full list of accredited SDOs online.[166]

3.179. When developing a standard, SCC-accredited SDOs must follow SCC requirements, which incorporate Annex 3 of the WTO Agreement on Technical Barriers to Trade (Code of Good Practice).[167] Standards are developed through consensus by technical committees managed by each SDO. In response to a question posed in the context of Canada's previous Review whether foreign companies or individuals could participate in technical committees, Canada replied that "SCC requirements did not prevent the participation of anyone with appropriate technical expertise to the subject matter of the standard".[168]

3.180. The SCC has a centralized online notification system with information on standardization work by SCC-accredited SDOs.[169] The notification system is publicly available and allows these SDOs to identify and resolve potential duplication of standards and effort. It also provides SDO contact information and links to SDO work programmes.

3.181. SCC-accredited SDOs may submit their standards to SCC for evaluation against the criteria of a National Standard of Canada (NSC). The criteria have not changed since Canada's previous Review.[170] Since 2017, SCC-accredited SDOs have been able to apply to the SCC for self-declaration status, which allows them to self-declare compliance with SCC requirements for the publication of their standards as NSCs. This means that, for SDOs that have obtained self-declaration status, the SCC does not have to review and approve its standards prior to their publication as NSCs. The SCC has granted self-declaration status to five SDOs.[171] The specific criteria that SDOs must meet to achieve and maintain self-declaration status were amended in 2019.[172] According to the authorities, the amendments were the result of improvements previously made to the processes and criteria related to the achievement and maintenance of self-declaration status by SCC-accredited SDOs.

3.182. The SCC maintains an online searchable list of standards published by accredited SDOs.[173] According to this database, there were 3,377 NSCs as at 31 December 2023. The top areas with NSCs are information technology (39% of NSCs); electrical engineering (11%); environment, health protection, and safety (10%); health care technology (7%); and construction materials and building (5%).

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[165] Government of Canada, Canadian Free Trade Agreement: Regulatory Reconciliation and Cooperation Table, Work Plans, Work Plans Archives – Regulatory Reconciliation and Cooperation Table (RCT). Viewed at: https://rct-tccr.ca/.

[166] SCC, *Directory of Accredited Standards Development Organizations*. Viewed at: https://www.scc.ca/en/accreditation/standards/directory-of-accredited-standards-development-organizations.

[167] SCC (2019), *Requirements & Guidance – Accreditation of Standards Development Organizations*. Viewed at: https://www.scc.ca/en/about-scc/publications/requirements-and-procedures-accreditation/requirements-guidance-accreditation-standards-development-organizations.

[168] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 34.

[169] SCC, *Notices of Intent*. Viewed at: https://www.scc.ca/en/standards/notices-of-intent.

[170] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.2.1.

[171] SCC, *SCC Accreditation Program for Standards Development Organizations*. Viewed at: https://www.scc.ca/en/accreditation/programs/standards/directory.

[172] SCC (2019), *Requirements & Guidance – Accreditation of Standards Development Organizations*.

[173] SCC, *Standards*. Viewed at: https://www.scc.ca/en/search/standardsdb.

3.183. Canada participates actively in international standardization activities. As the Canadian member of the ISO and the IEC, the SCC oversees Canadian participation in 330 ISO technical committees[174] and 111 IEC technical committees.[175] During the period under review, the SCC renewed its existing bilateral cooperation agreements with Brazil's Associação Brasileira de Normas Técnicas (ABNT, signed in 2018, renewed in March 2022); British Standards Institution (BSI, signed in 2018, renewed in March 2022); Costa Rica's Instituto de Normas Técnicas de Costa Rica (INTECO, signed in 2016, renewed in 2020); European Committee for Standardization and European Committee for Electrotechnical Standardization (CEN and CENELEC, signed in 2012, renewed in 2019); European co-operation for Accreditation (EA, signed in 2017, renewed in 2022); Peru's Instituto Nacional de Calidad (INACAL, signed in 2017, renewed in December 2021); and the United Kingdom Accreditation Service (UKAS, signed in 2017, renewed in December 2020). SCC concluded a new Memorandum of Understanding with the Standards Coordination Office of the National Institute of Standards and Technology (NIST) of the United States in April 2022. In addition, the SCC is a signatory to several regional and international accreditation agreements (Section 3.3.2.3).

3.3.2.2 Technical regulations

3.184. Technical regulations in Canada are adopted at the federal and provincial levels. The development of technical regulations at the federal level is subject to the Cabinet Directive on Regulation (CDR) and the Policy on Regulatory Development. The Treasury Board of Canada Secretariat oversees the development of regulations at the federal level and supports the work of the Treasury Board, a Cabinet committee responsible for considering and approving regulations proposed by federal departments and agencies.

3.185. Regarding proposed legislation presented before Parliament, the Privy Council Office (PCO) assesses whether the legislative proposal's instrument selection and regulatory implications are consistent with the CDR, the Policy on Regulatory Development, and the Cabinet Directive on Law-making. PCO assessments of proposed legislation are not publicly available. In the context of its previous Review, Canada noted that legislation "does not typically constitute technical regulations or conformity assessment procedures", but instead sets out "objectives and outcomes", leaving the details to subsequent regulations.[176]

3.186. Since Canada's last Review, there have been no amendments to the CDR, which sets out guiding principles and requirements for the development, management, and review of federal regulations. Regulatory impact analysis (RIA) is mandatory for all federal regulatory proposals that are subject to the CDR. In the context of the RIA, regulators must examine potential positive and negative effects of a proposed regulation and demonstrate that the benefits to Canadians of the proposed regulation outweigh the costs, based on a combination of monetized, quantitative, and qualitative data. Examples of the impacts to be considered as part of RIA include impacts on the health, safety, and security of Canadians; impacts on prices for consumers; compliance costs and innovation opportunities for businesses; implementation and revenues costs for government; and profitability impacts on businesses. According to the authorities, proportionality is key in deciding the extent of the analysis: the greater the potential impact of a proposed regulation, as determined by estimated costs, the greater the level of effort with respect to the supporting analysis is required. The CDR reinforced the requirements for the analysis in the RIA of the environmental and gender-based impacts of regulatory proposals.

3.187. Pursuant to the CDR, certain aspects related to the trade impacts of proposed regulations must be considered in the RIA. For example, as part of the RIA, federal departments and agencies must examine the regulatory systems of "relevant jurisdictions", which may include "domestic partners or key trading partners, particularly those with whom Canada has a coordinated regulatory cooperation arrangement".[177] The purpose of this requirement is to help regulators identify potential areas for regulatory alignment or cooperation. In addition, federal departments and agencies must consider Canada's international obligations, including whether Canada's international trade

[174] Refers to participation as "participating member" and "observing member", and Policy Development Committee participation.
[175] Refers to participation as "participant" and "observer".
[176] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 24.
[177] CDR, Section 5.2.5.

agreements affect the proposed regulation. The purpose is to ensure that when carrying out regulatory activities, regulators ensure that Canada's international commitments are met.

3.188. The text of a proposed regulations must normally be pre-published in the Canada Gazette, Part I, though some exceptions can be made. The standard comment periods specified in Canada's last Review remain unchanged.[178] In September 2022, a new function was released on the Canada Gazette, Part I, allowing stakeholders to comment online on proposed regulations. The authorities note that this new function, which allows the publication of stakeholder comments that abide by the terms of use, has increased the transparency of the consultation process. A catalogue of technical regulations is not available. Nonetheless, technical regulations are contained in the Canada Gazette's Consolidated Index of Federal Statutory Instruments, though they are not specifically indicated or categorized there.

3.189. Pursuant to the CDR, federal departments and agencies should publish Forward Regulatory Plans containing upcoming regulatory changes over a period of 24 months to give stakeholders an early opportunity to provide input. An additional opportunity for consultation should be given to affected stakeholders (including trading partners) prior to pre-publication of a regulatory proposal.

3.190. The CDR recognizes that "incorporation by reference" of internationally accepted standards can be an effective tool to achieve regulatory outcomes. For example, the CDR requires federal departments and agencies to "examine the regulatory systems of relevant jurisdictions, such as those of domestic partners or key trading partners, particularly those with whom Canada has a coordinated regulatory cooperation arrangement, to identify potential areas for alignment or cooperation to identify potential areas for alignment or cooperation".[179] The examination should include a review of work by international standard development organizations for possible incorporation by reference.

3.191. In addition, during the period under review, the Federal Government outlined specific proposals to make better use of international standards in regulation with the goal of supporting regulatory cooperation, facilitating trade, and fostering innovation. The proposals are contained in the "international standards regulatory roadmap", which was published in June 2021 and is part of a broader regulatory review initiative (Box 3.4). The international standards regulatory roadmap, which is led by Transport Canada in collaboration with other federal departments and agencies, contains 11 initiatives to promote the use of international standards in Canadian regulations; help Canada assume a stronger leadership role in international standards development; and make international standards used in regulations more accessible for stakeholders.[180]

Box 3.4 Regulatory Reviews

In Budget 2018, Canada launched Regulatory Reviews to modernize Canada's regulatory system. The Treasury Board of Canada Secretariat is responsible for coordinating Regulatory Reviews in partnership with federal departments and agencies. The purpose of the Regulatory Reviews is to address regulatory requirements and practices that cause bottlenecks to innovation, growth, and competitiveness, without compromising their effectiveness to protect health, safety, and security.

Three rounds of Regulatory Reviews have been launched so far. Round 1 was completed in 2019 and focused on agri-food and aquaculture, health and biosciences, and transportation and infrastructure. Round 2, completed in 2021, focused on clean technology, digitalization and technology neutrality, and international standards. A third round focusing on the blue economy (i.e. Canada's marine-based economy) and supply chains was launched in 2022. This round, which is ongoing, focuses on identifying opportunities to remove regulatory barriers to Canada's ocean industries and support stronger and more resilient supply chains through regulatory frameworks. Regulatory Reviews result in action plans called "regulatory roadmaps".

The authorities note that transparency and accountability are key elements of Regulatory Reviews. In line with this, in 2023 Canada published a progress update on the implementation of rounds 1 and 2. According to the progress update, since 2018, six regulatory roadmaps have been produced under rounds 1 and 2, identifying over 100 concrete actions from 14 departments and agencies. Such actions comprise regulatory and legislative changes, updates to policies and practices, and support for the adoption of new technologies. The roadmaps are available online.

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[178] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.2.2.

[179] CDR, Section 5.2.5.

[180] Transport Canada, *International Standards: Targeted Regulatory Review – Regulatory Roadmap*. Viewed at: https://tc.canada.ca/en/corporate-services/acts-regulations/international-standards-targeted-regulatory-review-regulatory-roadmap.

Canada committed up to CAD 207 million over five years to support the implementation of initiatives from first-round regulatory roadmaps in Budget 2019, and up to CAD 56 million over five years to support implementation of initiatives from second-round regulatory roadmaps in Budget 2021. Almost 40% of initiatives under the six regulatory roadmaps have been completed. According to the authorities, key outcomes across rounds 1 and 2 include reducing administrative burden on businesses, including through the adoption of digital tools and enhanced service delivery; minimizing prescriptive regulatory requirements and promoting risk-based regulatory approaches, enhancing flexibility, and supporting market access for new products and technologies; strengthening coordination and harmonization of regulations and practices; and advancing regulatory innovation and supporting the adoption of new technologies to boost productivity and competitiveness.

Source: Government of Canada, *Targeted Regulatory Reviews*. Viewed at: https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/targeted-regulatory-reviews.html; and Regulatory Reviews Progress Update (Rounds 1 and 2). Viewed at: https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/targeted-regulatory-reviews/regulatory-reviews-progress-update-round-1-2.html.

3.192. One of the initiatives under the international standards regulatory roadmap refers to the design of a digital tool to give regulators tailored information about the status of standards referenced in regulations. This design package was created to explore how to better help regulators monitor references to standards in regulations, identify outdated references, and keep references up to date. The authorities note that this initiative helped to inform possible future improvements to the SCC's Monitoring Standards in Regulation project, which identifies references to standards in Canada's federal, provincial, and territorial regulations. As at March 2023, the latest available date, the SCC had identified and tracked some 5,400 references to standards in federal, provincial, and territorial regulations. Regarding federal regulations, the SCC found 1,616 references to standards in 144 federal regulations. Of these, 365 or about 23% were references to international standards.

3.193. Canada ranks well above the OECD average in all three areas covered by the OECD's Regulatory Policy and Governance Indicators (stakeholder engagement in developing regulations, RIA, and *ex post* evaluation of regulations). The latest OECD Regulatory Policy Outlook from 2021 notes that Canada could "enhance existing oversight by regularly evaluating the quality of consultations and of ex post evaluations" and that "the results of these evaluation could be made publicly available along with suggestions for improvement".[181]

3.3.2.3 Accreditation and conformity assessment

3.194. The broad contours of Canada's accreditation and conformity assessment system, which were described in the previous Review, remain unchanged.[182]

3.195. The SCC, which is Canada's national accreditation body, has online directories and an online searchable database of SCC-accredited laboratories, certification bodies, and other accredited bodies.[183] As at November 2023, there were 410 active accredited laboratories, of which 369 are testing laboratories (including medical testing laboratories), 33 calibration laboratories, and 8 proficiency testing providers. This includes several laboratories that are headquartered abroad: seven in the United States; four in Cote d'Ivoire; three in Peru; two each in Mexico, Sweden, China, and Senegal; and one each in Chile, Romania, France, Burkina Faso, Lao People's Democratic Republic, and Türkiye. The SCC has also accredited 106 bodies besides laboratories (and SDOs): 45 product, process, and service certification bodies; 31 inspection bodies; 19 management system certification bodies; 6 greenhouse gas validation/verification bodies; and 5 bodies performing certification of persons. Of these, almost 50% are headquartered abroad: 40 bodies in the United States; 3 in India; 2 in the United Kingdom; and 1 each in China, France, Germany, Ireland, the Netherlands, the Republic of Korea, and the United Arab Emirates.

3.196. Canada participates in several international conformity assessment agreements.[184] In addition, the SCC is a member of several international and regional accreditation organizations that

[181] OECD, *Regulatory Policy: Canada*. Viewed at: https://www.oecd.org/gov/regulatory-policy/canada-country-profile-regulatory-policy-2021.pdf.
[182] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.2.3.
[183] SCC, *Find an Accredited Body*. Viewed at: https://www.scc.ca/en/accreditation/find-accredited-or-certified-body.
[184] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table A3.3.

have MRAs in place to support international acceptance of conformity assessment results. These organizations include the International Accreditation Forum, International Laboratory Accreditation Cooperation, and Asia Pacific Accreditation Cooperation.[185]

3.197. During the period under review, one new MRA, with the United Kingdom, entered into force. The MRA, which is contained in a Protocol to the Canada-United Kingdom Trade Continuity Agreement (TCA), covers certification for Good Manufacturing Practices (GMP) for pharmaceutical facilities located in Canada and the United Kingdom. It entered into force in April 2021. As of September 2022, Canada and the United Kingdom agreed to expand the existing approach of recognizing GMP inspection results to inspections that are conducted in third countries for human and veterinary finished products covered in the Protocol. In addition, under the Canada-United Kingdom TCA, a Protocol on the mutual acceptance of the results of conformity assessment, based on a similar protocol under the Canada–European Union CETA, entered into force. This protocol is supported by a Cooperation Agreement between the SCC and the United Kingdom Accreditation Service.

3.198. Canada has also continued to notify regularly draft technical regulations, ordinances, and conformity assessment procedures to the WTO Committee on Technical Barriers to Trade (TBT). Between 1 January 2019 and 31 December 2023, Canada submitted 224 notifications, including revisions to regular notifications and appendices (but not corrections). Of these, 138 were new technical regulation notifications. In addition, Canada submitted a revised notification on the implementation and administration of the WTO TBT Agreement in February 2019.[186] Canada did not submit any notifications under Article 10.7 of the TBT Agreement (agreements on issues related to technical regulations, standards, or conformity assessment procedures). Its MRA with the United Kingdom, in force since April 2021, has not been notified to the WTO (August 2023).

3.199. Between 2019 and 2023, specific trade concerns were raised in the TBT Committee regarding five Canadian measures relating to certain toxic substances, pest control products, cannabis and cannabis-based products for medicinal use, vaping products, and medical devices.

3.3.3 Sanitary and phytosanitary requirements

3.200. The Health of Animals Act and the Plant Protection Act and their regulations are the main federal statutes governing animal and plant health issues.[187] The main federal legislation governing food safety is the Food and Drugs Act and the Safe Food for Canadians Act (SFCA).[188] These Acts are supplemented by the Food and Drug Regulations and the Safe Food for Canadians Regulations (SFCR).[189] Other main federal SPS legislation includes the Pest Control Products Act, Seeds Act, Fertilizers Act, and Feeds Act, with their associated regulations.

3.201. Health Canada regulates the safety and nutrition quality of food sold in Canada and conducts risk assessments related to food. The Canadian Food Inspection Agency (CFIA) enforces federally-mandated inspection, compliance, and quarantine requirements related to food, animal health, and plant health, and is the lead agency for risk assessment for animal health and plant health. The CFIA also regulates imports of food, agricultural inputs and products, live animals, animal products and by-products, and plants and plant products.

3.202. Provinces and territories may adopt SPS measures only in respect of food, animals, or plants that are sold within their borders. This means that provincial and territorial governments may impose SPS requirements on top of those that exist at the federal level, but these only apply to businesses that sell within the respective province or territory. For businesses that trade across provincial, territorial, or international borders, federal regulations apply. In the context of Canada's previous Review, the authorities said that they were not aware of any sub-federal SPS measures with an

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[185] Canada withdrew from the Inter-American Accreditation Cooperation on 31 December 2023.

[186] WTO document G/TBT/2/Add.6/Rev.4, 18 February 2019.

[187] Health of Animals Act (S.C. 1990, c. 21), last amended on 15 January 2019; and Plant Protection Act (S.C. 1990, c. 22), last amended on 15 January 2019.

[188] Food and Drugs Act (R.S.C., 1985, c. F-27), last amended on 22 December 2023; and Safe Food for Canadians Act (S.C. 2012, c. 24), last amended on 14 January 2023.

[189] Food and Drug Regulations (C.R.C., c. 870), last amended on 24 November 2023; and Safe Food for Canadians Regulations (SOR/2018-108), last amended on 21 June 2022.

impact on international trade.[190] They also noted that, if a province or territory were to apply SPS measures with a significant effect on international trade, Canada would notify them to the WTO.

3.203. The CFIA maintains an online searchable tool listing the SPS requirements that must be met to import plants, animals, and food into Canada.[191] The CFIA uses risk assessment methodology to determine such requirements, which may include treatment at origin, testing, inspection, quarantine, and/or certification. Animals, plants, and their products imported for the first time into Canada, and previously imported animals, plants, and their products from a new origin, are subject to full risk assessment. The authorities note that a full risk assessment for plant commodities is typically completed within 6 to 12 months but may take several years. For meat and live or raw shellfish, a full risk assessment may take from 12 to 36 months. According to the authorities, the exact time needed to complete risk assessments depends on a wide range of factors, including the time it takes for foreign competent authorities to submit the necessary information.

3.204. During the period under review, Canada adopted the SFCA and the SFCR, both of which entered into force in January 2019. The authorities consider this to be the most important revision of Canada's food safety legislation in a quarter century. They further note that the SFCR replaces 14 sets of food regulations and helps to apply a consistent risk-based inspection approach across all types of foods and food businesses, reduce administrative burden by supporting the increased use of electronic data transmission and automation of import admissibility decisions, and enable food businesses to be innovative while continuing to meet required regulatory outcomes.[192] In Canada's view, the recent revision of Canada's food safety regulations was needed because Canada's previous food safety system was designed during an era when most food consumed in Canada also originated there, food technology was less advanced, supply chains were less complex, and risks to food and the health of animals and plants were different.[193]

3.205. Under the SFCA and SFCR, food that is imported into Canada must have been made in a manner and under conditions that provide the same level of protection as food made in Canada. More specifically, any imported food must be "manufactured, prepared, stored, packaged, and labelled in a manner and under conditions providing at least the same level of protection as meat products produced in Canada".[194] The information that food importers must obtain from their foreign suppliers to demonstrate that this is the case varies, depending on the food being imported, the types of activities or processes the food is subject to before being imported, and whether oversight measures on the foreign supplier are in place. In the context of Canada's previous Review, the authorities stated that "the SFCR applies the same level of rigour to imported, exported, and domestic products".[195]

3.206. In general, the SFCR does not restrict food imports from specific countries or suppliers except in the case of meat and shellfish. Meat and shellfish can be imported only from countries that have a food safety system that the CFIA has approved and recognized as providing the same level of protection as that provided by the SFCA and SFCR. The list of approved meat and shellfish inspection systems and approved establishments for meat and shellfish is available online.[196]

3.207. To import food (and food ingredients) into Canada, importers must normally obtain a Safe Food for Canadians (SFC) licence. Licences can be obtained through the CFIA's online service portal, MyCFIA. The cost of the food import licence, which is valid for a renewable period of two years, is CAD 260.61. To obtain an SFC licence, importers must meet the requirements established in

[190] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 81.
[191] CFIA, *Automated Import Reference System (AIRS)*. Viewed at: https://inspection.canada.ca/importing-food-plants-or-animals/plant-and-plant-product-imports/airs/eng/1300127512994/1300127627409.
[192] WTO document WT/TPR/G/389, 17 April 2019, p. 18.
[193] CFIA (2018), *Understanding the Safe Food for Canadians Regulations: A Handbook for Food Businesses*.
[194] CFIA, *Importing Food into Canada: A Step-by-Step Guide*. Viewed at: https://inspection.canada.ca/importing-food-plants-or-animals/food-imports/step-by-step-guide/eng/1523979839705/1523979840095#a2.4.
[195] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 36.
[196] CFIA, *Foreign Countries Establishments Eligible to Export Meat Products to Canada*. Viewed at: https://active.inspection.gc.ca/netapp/meatforeign-viandeetranger/forliste.aspx; and *Importing Live and Raw Molluscan Shellfish*. Viewed at: https://inspection.canada.ca/importing-food-plants-or-animals/food-imports/food-specific-requirements/importing-fish-and-shellfish/molluscan-shellfish/eng/1377987441620/1377987693551.

relevant legislation, including: (i) creating and implementing a Preventive Control Plan (PCP); (ii) developing recall and complaints procedures; and (iii) keeping traceability records of where the imported food was sourced from and who it was sold to.

3.208. A PCP is a written document specifying the measures and controls taken to ensure that imported food is safe and fit for human consumption, and that it complies with all Canadian requirements. According to the authorities, PCPs are based on the principles contained in Codex Alimentarius General Principles of Food Hygiene CAC/RCP 1-1969. The CFIA has made available materials to assist importers with the preparation of their PCPs, including a guide[197], interactive tool[198], and templates.[199] Importers with CAD 100,000 or less in gross annual food sales are exempt from the requirement to have a written PCP, unless the business in question conducts an activity in relation to food animals, meat products, dairy products, fish, eggs, processed egg products, or processed fruits and vegetables. Businesses that are not required to have a written PCP still need to have preventive controls in place.

3.209. The required components of a PCP are described in specific parts of Section 89 of the SFCR and relevant regulatory requirements.[200] For import licence holders/applicants, they include (i) description of consumer protection and packaging and labelling controls; (ii) description of hazards and associated control measures; procedure for verifying that the PCP is effective; (iii) documents showing that the PCP has been implemented; (iv) description of foreign supplier food safety controls and procedures; and (v) supporting documents, as required. Documents showing that the PCP has been implemented must be kept for two years.

3.210. The specific documentation that must be included in a PCP differs depending on the type of foreign supplier from whom the imported food is sourced. CFIA guidance specifies documentation requirements for three types of foreign suppliers.[201] First, foreign suppliers in countries that have a recognition arrangement with the CFIA that covers the food being imported into Canada. Such an arrangement exists with the United States (for foods overseen by the US Food and Drug Administration), and for meat and shellfish, with several other countries. Second, foreign suppliers that are part of an "internationally recognized third-party food safety certification programme" (and the imported food is covered by such a programme) such as the Global Food Safety Initiative. Third, other foreign suppliers. For the latter category of suppliers, importers may rely on on-site audits (conducted by the importers themselves or a technically competent third party) to demonstrate that their foreign suppliers are implementing controls effectively.

3.211. In addition to the PCP, importers must develop a written complaints and recall procedure showing how the importer receives, investigates, and responds to complaints and how a recall will be conducted if a complaint results in a recall. Importers are also required to keep traceability records for the foods they import. Such records must allow importers to "trace imported food forward to the immediate customer and back to the immediate supplier".[202] According to the authorities, the SFCR traceability requirements are based on the international standard established by Codex Alimentarius.[203] Their purpose is to reduce the costs associated with recalls, protect consumers against risk of injury from food hazards, and increase consumer trust in the safety of food.

3.212. Foreign suppliers cannot normally apply for an SFC licence directly but can import food into Canada through an SFC-licensed (resident) importer. Foreign suppliers may apply for an SFC licence

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[197] CFIA, *Regulatory Requirements: Preventive Control Plan (PCP)*. Viewed at: https://inspection.canada.ca/preventive-controls/preventive-control-plans/regulatory-requirements/eng/1526502822129/1526502868878.

[198] CFIA, *Preventive Control Plan (PCP) Interactive Tool – Safe Food for Canadians Regulations*. Viewed at: https://na1se.voxco.com/SE/93/SFCR_PCP/?&lang=en.

[199] CFIA, *Preventive Control Plan Templates for Importers*. Viewed at: https://inspection.canada.ca/preventive-controls/preventive-control-plans/pcp-templates/eng/1537244466236/1537244504627.

[200] CFIA, *Regulatory Requirements: Preventive Control Plan*. Viewed at: https://inspection.canada.ca/preventive-controls/preventive-control-plans/regulatory-requirements/eng/1526502822129/1526502868878.

[201] CFIA, *Importing Food into Canada: A Step-by-Step Guide*. Viewed at: https://inspection.canada.ca/importing-food-plants-or-animals/food-imports/step-by-step-guide/eng/1523979839705/1523979840095#a2.4.

[202] SFCR, Part 5.

[203] CFIA, *Regulatory Requirements: Traceability*. Viewed at: https://inspection.canada.ca/food-safety-for-industry/traceability/traceability/eng/1522294721005/1522294781171.

(and import food into Canada without the need to go through an SFC-licensed resident importer) only if they qualify as a non-resident importer (NRI). To qualify as an NRI, a foreign food supplier's fixed place of business must be in a country that the CFIA has recognized as having a food safety system that provides at least the same level of protection as Canada.

3.213. The CFIA relies on a risk management strategy – the Importer Risk Assessment (IRA) model – to set priorities regarding inspection, oversight, and planning related to food imports. According to the authorities, the IRA will be operational from April 2024. The CFIA has published the scientific approach and practical applications used to develop the IRA model.[204]

3.214. During Canada's previous Review, WTO Members raised several questions on Canada's MRLs, including whether MRLs are based on international standards and how Canada approaches default tolerances for MRLs.[205] In response, the Canadian authorities said that: (i) the determination of MRLs is based on an extensive review of scientific studies, including crop field trials, submitted by the applicants in the context of a pesticide registration process, and a thorough risk assessment to determine that there are no health concerns to any segment of the Canadian population, when all possible food sources are eaten every day, over a lifetime; (ii) all proposals to replace or add to an existing MRL are subject to consultations through a Proposed Maximum Residue Limit document, which addresses trade implications, including any differences with Codex MRLs; and (iii) Canadian MRLs may vary from those adopted by Codex for several reasons, including differences in pesticide use patterns and the locations of the crop field trials. The authorities also noted that, in the absence of scientific evidence required to set specific MRLs for each pesticide-crop combination, a general maximum residue limit of 0.1 ppm for residues of pesticides applies on both domestically grown and imported food.[206]

3.215. During the period under review, Agriculture and Agri-Food Canada (AAFC), the CFIA, Fisheries and Oceans Canada, Health Canada, and the Public Health Agency of Canada (PHAC) launched several regulatory reform initiatives to advance work under the Regulatory Review of the agri-food and aquaculture sector (Section 3.3.2.2). Many of the initiatives being considered focus on the SPS regime and several are related to international and internal trade (Table 3.19).

Table 3.19 Selected regulatory reform initiatives in the SPS area, September 2023

Initiative	Scope and purpose	Lead	Latest development
Pre-market assessment for certain food products	Explore collaboration with like-minded jurisdictions to use foreign reviews in pre-market assessments, and determine whether it is feasible to conduct joint assessments to bring innovative food products not previously sold in Canada and requiring pre-market safety assessments to market in a timely manner.	Health Canada	Canada considers information from international or foreign assessments as it undertakes its pre-market safety assessment. In 2021, Health Canada and Food Standards Australia New Zealand completed the first pilot to share the assessment of a genetically modified food product; work is underway to confirm the value of this work and formalize the full implementation of the process.
Food safety oversight	Develop a domestic food safety recognition framework to enable provinces and territories to self-assess against federal criteria and determine if there is room for aligning their food safety systems.	CFIA	CFIA developed a Domestic Comparability Assessment Tool (DCAT); Saskatchewan has assessed its provincial meat inspection system using DCAT; other provinces are in the process of doing so.
Food grades, food packaging, food labelling and organic products	Address internal trade barriers on certification of organic standards, packaging, labelling, and grading requirements to improve interprovincial commerce.	CFIA	The food grades and organic standards were deemed complete when the SFCR came into force in January 2019; food packaging and labelling changes were part of regulatory amendments made in support of the Food Product Innovation initiative.
Clarification regarding triggers for plant breeding innovation	Reduce uncertainty regarding which new varieties are subject to pre-market assessments, including by improving draft guidance and consultation process with regulatory authorities.	AAFC, CFIA, Health Canada	Health Canada published guidance on the Novelty Interpretation of Products of Plant Breeding in May 2022; this included the implementation of a transparency process for those products that do not require pre-market food safety assessment. CFIA updated regulatory guidance for novel seeds in May 2023; a consultation on proposed guidance for

[204] CFIA, *The Importer Risk Assessment (IRA) Model: The Science Behind It*. Viewed at: https://inspection.canada.ca/about-the-cfia/cfia-2025/era-models/ira/ira-model-the-science-behind-it/eng/1647549761010/1647549761799.
[205] WTO document WT/TPR/M/389/Add.1, 23 August 2019, pp. 26, 142, and 255.
[206] Food and Drug Regulations, Section B.15.002(1).

Initiative	Scope and purpose	Lead	Latest development
			novel seeds was made available until 27 November 2023.
Third-party oversight in food safety system	Recognize investments that industry has made in third-party certification systems through the application of a risk-based approach to oversight that gives industry "credit" for implementing such programmes.	CFIA	CFIA developed and piloted a tool designed to assess voluntary third-party oversight programs.
Food safety oversight	Reduce regulatory burden for business resulting from duplication of food safety oversight between federal, provincial, and territorial requirements.	CFIA	CFIA has signed umbrella memoranda of understanding with six provinces and territories, and has engaged with the remaining ones on information sharing, emergency management, and regulatory and scientific collaboration.
Traceability	Explore use of blockchain to improve transparency of food supply chains.	CFIA	CFIA completed examination of the use of blockchain in existing regulations on livestock traceability.
Food regulatory modernization	Proposed amendments to the Food and Drug Regulations to modernize the regulatory frameworks governing: (i) microbiological criteria for food; (ii) methods of analysis for food; (iii) food additives; and (iv) food compositional standards.	CFIA and Health Canada	The proposed Regulations Amending Certain Regulations Concerning Food Additives and Compositional Standards, Microbiological Criteria and Methods of Analysis for Food were pre-published in the Canada Gazette, Part I, on 4 November 2023; the proposal was open for comment until 2 February 2024.

Source: CFIA, *Agri-Food and Aquaculture: Targeted Regulatory Review – Policy and Program Initiatives and Novel Approaches*. Viewed at: https://inspection.canada.ca/about-cfia/acts-and-regulations/forward-regulatory-plan/policy-and-program-initiatives-and-novel-approache/eng/1612284909727/1612284909961.

3.216. During the period under review, Canada has continued to notify regularly SPS measures to the WTO SPS Committee. Between 1 January 2019 and 31 December 2023, Canada submitted 565 notifications, including revisions to regular notifications and appendices (but not corrections). Of these, 311 were new SPS notifications, including 1 emergency notification. The Technical Barriers to Trade and Regulations Division of Global Affairs Canada is Canada's enquiry point and national notification authority under the WTO SPS Agreement.

3.217. During the same period, one specific trade concern (STC) was raised in the WTO SPS Committee against Canada. The concern in question relates to measures on Brazilian pork from internationally recognized foot and mouth disease (FMD) free zones without vaccination. At the same time, Canada has raised seven STCs against its trading partners, and supported several STCs raised by other WTO members.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.3.4.1.1 Legislative developments

3.218. The Competition Act is the legal basis for federal competition policy.[207] It covers most businesses and sectors of the economy. Sectors or activities that are expressly excluded include collective bargaining, securities underwriting, and amateur sports. Canada's previous Review provides a detailed explanation of the regulatory and institutional framework on competition policy.[208]

3.219. During the period under review, Canada amended the Competition Act.[209] The amendments that became law on 23 June 2022 increased the maximum amount of fines and penalties that can be imposed under the Act, made wage-fixing and no-poach agreements between employers criminal offences, and broadened the definition of what constitutes an anti-competitive act for the purposes of abuse of dominance to "any act intended to have a predatory, exclusionary or disciplinary negative effect on a competitor, or to have an adverse effect on competition".[210] In addition, private parties

[207] Competition Act (R.S.C., 1985, c. C-34), last amended on 23 June 2023.
[208] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.
[209] Bill C-19, Budget Implementation Act, 2022, Division 15, paras. 256-275, pp. 318-327. Viewed at: https://www.parl.ca/Content/Bills/441/Government/C-19/C-19_3/C-19_3. PDF.
[210] Competition Act, Section 79.

can now apply to the Competition Tribunal for relief against abuses of dominance, though they still cannot seek compensatory damages.

3.220. On merger review, the 2022 amendments added a new anti-avoidance provision. Under this provision, transactions that have been "designed to avoid" the pre-merger notification regime, by being structured in such a way as to fall below the thresholds for notification to the Competition Bureau, have been brought within the scope of the notification requirements. According to the authorities, no data on the prevalence of merger transactions structured to avoid notification to the Competition Bureau have been collected. Other amendments to the Competition Act expanded the list of factors to be considered when assessing the competitive impact of mergers, competitor collaborations, and abuse of dominance to include new considerations such as network effects, and more emphasis on non-price dimensions of competition, including quality, choice, and consumer privacy. While these amendments were reportedly included to account for developments in the digital economy, they apply generally.

3.221. In November 2022, the Department of Innovation, Science, and Economic Development (ISED) launched a consultation on a broader review of the Competition Act and its enforcement framework.[211] ISED published a discussion paper setting out proposed areas of reform, hosted roundtables with stakeholders, and received written submissions. The Competition Bureau made a submission with over 50 recommendations, including to revise the merger review framework with the goal of more effectively identifying, challenging, and temporarily blocking potentially anti-competitive mergers. According to a speech by the Commissioner of Competition in October 2022, Canada's merger provisions "enable high levels of economic concentration – even monopolies – in the Canadian economy".[212] The Bureau also made several recommendations on the Competition Act's other major enforcement provisions, and on administration and enforcement processes. ISED has issued a report that summarizes the more than 500 submissions received during the consultation.[213]

3.222. In December 2023, the Canadian Parliament passed Bill C-56 – the Affordable Housing and Groceries Act.[214] As a first legislative step following the ISED consultation, the Bill made additional amendments to the Competition Act. Some of the proposed amendments in the Bill were consistent with the proposals submitted by stakeholders, including the Competition Bureau. The amendments contained in Bill C-56 include (i) granting the Competition Bureau compulsory information-gathering powers to conduct market studies; (ii) allowing the Competition Tribunal to make a remedial order against an anti-competitive agreement or arrangement that has a significant purpose to prevent or lessen competition in any market, even if the parties are not competitors or potential competitors; and (iii) repealing the Act's "efficiencies exceptions", which permit otherwise anti-competitive mergers and collaborations to withstand legal challenge where they generate sufficient efficiencies to exceed and offset the competitive harm brought about; and (iv) recalibrating the legal test for abuse of dominance to allow prohibition orders based on of anti-competitive intent or effects alone, while also broadening the class of actions demonstrating intent and raising the maximum fixed penalties.

3.223. The 2023 Fall Economic Statement announced that Canada would make further amendments to the Competition Act.[215] Bill C-59, the Fall Economic Statement Implementation Act, 2023, was introduced in Parliament in November 2023 and was not yet in force as at February 2024. The Bill contains extensive measures affecting competition law enforcement, including (i) modernizing

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[211] Government of Canada (2022), "Statement from Minister Champagne on the Launch of the Competition Act Review", 17 November. Viewed at: https://www.canada.ca/en/innovation-science-economic-development/news/2022/11/statement-from-minister-champagne-on-the-launch-of-the-competition-act-review.html.

[212] Competition Bureau Canada (2022), "Seizing the Moment to Build a More Competitive Canada", Remarks from Matthew Boswell, Commissioner of Competition at the Canadian Bar Association Competition Law Fall Conference Ottawa, Ontario, 20 October. Viewed at: https://www.canada.ca/en/competition-bureau/news/2022/10/seizing-the-moment-to-build-a-more-competitive-canada.html.

[213] ISED (2023), *Future of Canada's Competition Policy Consultation – What We Heard Report*. Viewed at: https://ised-isde.canada.ca/site/strategic-policy-sector/en/marketplace-framework-policy/competition-policy/consultation-future-competition-policy-canada/future-canadas-competition-policy-consultation-what-we-heard-report.

[214] Parliament of Canada, C-56, An Act to Amend the Excise Tax Act and the Competition Act. Viewed at: https://www.parl.ca/legisinfo/en/bill/44-1/c-56.

[215] Government of Canada, *2023 Fall Economic Statement: Building a Strong Economy that Works for Everyone*, p. 37. Viewed at: https://www.budget.canada.ca/fes-eea/2023/home-accueil-en.html.

merger notification rules, extending the limitation period for non-notified mergers, placing a temporary restraint on the completion of mergers facing an application for an interim order, and allowing the Competition Tribunal to consider the effect of changes in market share; (ii) strengthening enforcement and remedies by allowing the Commissioner of Competition to review the effects of past competitor collaborations and seek monetary penalties, ensuring that certain anti-competitive refusals to supply a means of diagnosis or repair can be remedied, and requiring adequate and proper tests to support environmental claims; (iii) broadening the private enforcement framework before the Competition Tribunal, allowing more potential applicants for a wider range of orders, and providing for the availability of monetary payments as a remedy in many of those cases; and (iv) providing for new procedures, such as the certification of benign collaborations related to protecting the environment, a remedial process for reprisal actions and breach of consent agreements, and immunizing the Commissioner from cost awards in most cases.

3.3.4.1.2 Other developments, including in enforcement

3.224. As part of its mandate to promote competition, the Bureau published 25 position statements and 7 technical guidance documents between January 2019 and November 2023.[216] Position statements are a transparency tool used by the Bureau to disseminate the results of its investigations, inquiries, and merger reviews where possible. In addition, the Bureau completed a comprehensive study into the broadband industry[217] and made submissions to the Canadian Radio-television and Telecommunications Commission as part of the latter's review of mobile wireless services.[218] The Bureau published a market study on Canada's digital health care sector in 2022.[219] More recently, the Bureau published a market study report entitled *Canada Needs More Grocery Competition*.[220] The Bureau has also issued a competition assessment toolkit that provides a step-by-step guide to assist policymakers in identifying policies that may impact competition.[221]

3.225. Regarding enforcement, the Bureau has continued to use a broad range of enforcement tools to address anti-competitive activity and examine mergers (Table 3.20).

Table 3.20 Competition policy enforcement, FY2018/19-FY2022/23

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
1. Initiation of case investigations (number)					
Cartels enforcement[a]	13	21	14	14	30
Deceptive marketing practices enforcement[a]	35	55	67	30	13
Monopolistic practices enforcement[a]	9	11	19	17	14
Leniency applications	0	0	0	0	0
Merger reviews[b]	217	243	193	256	202
2. Completed cases (number)					
Cartels enforcement[c]	12	26	15	19	21
Deceptive marketing practices enforcement[c]	24	37	65	57	12
Monopolistic practices enforcement[c]	5	9	14	11	14

[216] Competition Bureau Canada, Position Statements. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/position-statements; and Publication and Guidelines. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/publications#wb-auto-4.

[217] Competition Bureau Canada (2019), *Delivering Choice: A Study of Competition in Canada's Broadband Industry*, 7 August. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/promotion-and-advocacy/reports-and-studies/delivering-choice-study-competition-canadas-broadband-industry.

[218] Competition Bureau Canada (2019), *Review of Mobile Wireless Services: Comments of the Competition Bureau on Telecom Notice of Consultation CRTC 2019-57*, 15 May. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/promotion-and-advocacy/regulatory-adviceinterventions-competition-bureau/review-mobile-wireless-services.

[219] Competition Bureau Canada, *Digital Health Care Market Study*. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/digital-health-care-market-study.

[220] Competition Bureau Canada (2023), *Canada Needs More Grocery Competition*. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/canada-needs-more-grocery-competition.

[221] Competition Bureau Canada (2020), *Strengthening Canada's Economy through Pro-Competitive Policies: A Step-by-Step Guide to Competition Assessment*. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/publications/strengthening-canadas-economy-through-pro-competitive-policies.

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Settlements[d]	2	1	0	0	1
Merger reviews[e]	230	234	192	252	208
Proposed mergers abandoned[f]	1	0	3	3	2
Merger reviews resolved (following an application for a remedial order)[g]	0	1	0	0	3
3. Infringement penalties (number and CAD '000)[h]	2 2,000	2 9,300	3 29,800	2 3,762	2 125
4. Appeals (number of completed judicial review decisions)	0	0	0	0	1

a Number of investigations and compliance assessments that were commenced; not all complaints and information requests will become investigations.
b Number of merger reviews that were opened during the period.
c Number of investigations and compliance assessments that were closed.
d Number of registered consent agreements (non-merger).
e Number of merger reviews that were completed during the period.
f Number of transactions abandoned after parties informed a transaction raised issues under the Competition Act (refer to Table 3.2.2 "Transactions abandoned due to competition concerns" of the of the Competition Bureau's 2022-2023 Performance Measurement and Statistics Report).
g Number of Competition Tribunal merger reviews resolved following Competition Bureau's application; this includes Orders issued by the Competition Tribunal, reviews where the Competition Bureau's application is withdrawn, and final resolutions following appeal. This does not include matters resolved with a consent agreement (refer to Table 3.2.4 "Section 92 reviews" of the Competition Bureau's 2022-2023 Performance Measurement and Statistics Report).
h Figures include both fines and administrative monetary penalties.

Source: ISED, *Competition Bureau Performance Measurement & Statistics Report 2022-2023*. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/competition-bureau-performance-measurement-statistics-report-2022-2023#sec03); and information provided by the authorities.

3.226. During the period under review, the Bureau updated the Immunity and Leniency Programmes under the Competition Act with the goal of collecting evidence sooner in the investigative process. The purpose of the Immunity and Leniency Programmes is to uncover and stop criminal anti-competitive activity prohibited by the Competition Act and to deter others from engaging in similar behaviour. Regarding merger review, the Bureau increased litigation capacity, brought more injunctions, and improved its intelligence-gathering work to detect anti-competitive transactions that do not meet thresholds for notification.

3.3.4.1.3 Cooperation

3.227. During the period under review, the Bureau entered several cooperation arrangements with domestic partners. These include a Memorandum of Understanding (MOU) with the Spectrum and Telecommunications Sector of ISED to support cooperation in reviews of mergers in the domestic telecommunications market involving transfers of spectrum licences[222]; an MOU with Defence Construction Canada (DCC) to set out a framework for collaboration in detecting and addressing possible cartel activity during DCC procurements[223]; and an MOU with the Ontario Energy Board to make it easier to share information about competition issues in the Ontario energy market.[224] In addition, the Bureau, the Canadian Radio-television and Telecommunications Commission (CRTC), and the Office of the Privacy Commissioner formed the Canadian Digital Regulators Forum.[225] The

[222] Competition Bureau Canada (2018), "The Competition Bureau and Spectrum and Telecommunications Sector Enhance Co-operation", 5 April. Viewed at: https://www.canada.ca/en/competition-bureau/news/2018/03/the-competition-bureau-and-spectrum-and-telecommunications-sector-enhance-cooperation0.html.

[223] Competition Bureau Canada, Memorandum of Understanding between the Competition Bureau and Defence Construction Canada. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/collaboration-and-partnerships/agreements-domestic-partners/memorandum-understanding-between-competition-bureau-and-defence-construction-canada.

[224] Competition Bureau Canada, Memorandum of Understanding between the Ontario Energy Board and the Commissioner of Competition of the Competition Bureau. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/collaboration-and-partnerships/agreements-domestic-partners/memorandum-understanding-between-ontario-energy-board-and-commissioner-competition-competition.

[225] Competition Bureau Canada (2023), "Canadian Digital Regulators Forum Established to Better Serve Canadians in the Digital Era", 9 June. Viewed at: https://www.canada.ca/en/competition-bureau/news/2023/06/canadian-digital-regulators-forum-established-to-better-serve-canadians-in-the-digital-era.html.

goal of this Forum is to improve information sharing and collaboration on issues such as AI and data portability.

3.228. The Bureau has signed three international cooperation instruments during the period under review. In 2019, the Bureau concluded an MOU with the Peruvian National Institute for the Defence of Competition and the Protection of Intellectual Property.[226] The Bureau also signed an MOU with the Competition and Consumer Commission of Singapore in 2019.[227] In 2020, the Bureau signed a Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities (MMAC) with the Australian Competition and Consumer Commission, the New Zealand Commerce Commission, the United Kingdom Competition and Markets Authority, the United States Department of Justice, and the United States Federal Trade Commission.[228] The MMAC helps signatories to cooperate more effectively on investigations, share their experiences, and work on joint projects, including inter-organizational training initiatives. The MMAC also provides a model agreement that signatories can use as the basis for providing investigative assistance.

3.229. In February 2022, the Competition Bureau joined the competition authorities of Australia, New Zealand, the United Kingdom, and the United States to form a working group on the global supply and distribution of goods.[229] The working group focuses on sharing information to identify and prevent potentially anti-competitive conduct affecting global and domestic supply chains. The goal is to help identify attempts by businesses to use supply chain disruptions as a cover for price-fixing or other collusive activities that involve competitors cooperating instead of competing.

3.230. Two agreements to which Canada is a party and that contain provisions on competition policy entered into force since Canada's last Review: the Canada–United States–Mexico Agreement (CUSMA) and the Canada–United Kingdom TCA. The competition-related provisions of these agreements generally focus on cooperation and procedural fairness.

3.3.4.2 Price controls

3.231. Canada does not generally impose price controls. Exceptions include supporting prices of some agricultural commodities (Section 4.1.1.2.4); minimum, maximum, or fixed prices of some energy products; and regulated electricity tariffs in several provinces (Section 4.2.2.2.2). A detailed description of Canada's price control regime can be found in Canada's previous Review.[230] During the period under review, existing price controls for patented medicines have been revised, with amendments to the Patented Medicines Regulations coming into force in July 2022. These amendments included an updated basket of comparator countries and reduced reporting requirements for lowest risk medicines.

[226] Competition Bureau Canada, Memorandum of Understanding between the Canadian Competition Bureau and the Peruvian National Institute for the Defence of Competition and the Protection of Intellectual Property on the Application of Competition Laws. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/collaboration-and-partnerships/cooperation-instruments-international-partners/memorandum-understanding-between-canadian-competition-bureau-and-peruvian-national-institute-defence.

[227] Competition Bureau Canada, Memorandum of Understanding between the Commissioner of Competition, Competition Bureau Canada and the Competition and Consumer Commission of Singapore Regarding the Application of Competition and Consumer Laws. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/collaboration-and-partnerships/agreements-domestic-partners/memorandum-understanding-between-commissioner-competition-competition-bureau-canada-and-competition.

[228] Competition Bureau Canada, Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities – Memorandum of Understanding. Viewed at: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/collaboration-and-partnerships/cooperation-instruments-international-partners/multilateral-mutual-assistance-and-cooperation-framework-competition-authorities-memorandum.

[229] Competition Bureau (2022), "International Working Group Targets Potential Collusion by Competitors in Supply and Distribution of Goods", 17 February. Viewed at: https://www.canada.ca/en/competition-bureau/news/2022/02/international-working-group-targets-potential-collusion-by-competitors-in-supply-and-distribution-of-goods.html.

[230] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

3.3.5 State trading, state-owned enterprises, and privatization

3.232. Several wholly-owned federal and provincial organizations, known as Crown corporations, operate in Canada. As noted in the previous Review, Crown corporations operate "at arm's length from the Government, but the degree of government control and financial support varies" from one Crown corporation to another.[231] In response to a question during Canada's previous Review, the authorities noted that "although crown corporations have more autonomy than other types of government entities, they remain government organizations and instruments of government policy for which Ministers are ultimately accountable". They also said that "Ministers retain important levers and control to ensure that the overall direction and performance of these organizations align with the policies for which the Government creates and maintains them".[232]

3.233. Federal Crown corporations are subject to the Financial Administration Act (FAA), and in some cases, their own constituent acts. Their boards of directors, and in some cases, their president and chief executive officer, are appointed by the Government. Most federal Crown corporations must seek approval from the Treasury Board (a Cabinet committee) for their annual corporate plans and budgets.

3.234. Canada has a publicly available inventory of Crown corporations and other entities in which the Government holds an interest.[233] The number of federal parent Crown corporations, at 44, has remained unchanged since Canada's last Review. The largest are active in financial services, employment and social development, agriculture (including marketing boards), and postal and courier services (Table 3.21). There are also 10 federal Crown corporations with mandates related to the preservation and promotion of Canadian heritage, including the audiovisual industry. Several federal Crown corporations are actively involved in trade-related matters, including EDC (Section 3.2.5) and the BDC (Section 3.3.1.2), and the SCC (Section 3.3.2.1).

Table 3.21 10 largest federal crown corporations, by assets, 2021-22

Name	Sector	Total assets (CAD billion)[a]
Canada Pension Plan Investment Board	Pensions	687.7
Bank of Canada	Monetary policy and financial supervision	486.9
Canada Mortgage and Housing Corporation	Mortgage loan insurance and affordable housing funding	299.7
Public Sector Pension Investment Board	Pensions	264.0
Export Development Canada	Export credit, insurance, and guarantees	61.7
Farm Credit Canada	Finance to agriculture and agri-food	47.3
Business Development Bank of Canada	Finance to businesses	41.6
Canada Development Investment Corporation	Investment management	19.0
Canada Post Corporation	Postal and courier services	13.3
Canada Deposit Insurance Corporation	Deposit insurance	7.3

a Total assets at 2021-22 financial year-end.

Source: Government of Canada, Crown Corporations Financial Data. Viewed at: https://www.canada.ca/en/treasury-board-secretariat/services/reporting-government-spending/inventory-government-organizations/crown-corporations-financial-data/2021-2022-annual-report.html.

3.235. At the sub-federal level, Crown corporations operate in all provinces and territories. The Secretariat is not aware of any comprehensive official listing of provincial and territorial Crown corporations. Provincial Crown corporations are active in a wide range of sectors, including electricity generation and transmission (e.g. Ontario Power Generation), financial services (e.g. Caisse de dépôt et placement du Québec), railways (e.g. British Columbia Railway Company), automobile insurance (e.g. Société de l'assurance automobile du Québec), telecommunications (e.g. SaskTel),

[231] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.5.
[232] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 268.
[233] GC Info Base, *Inventory of Federal Organizations and Interests*. Viewed at: https://www.tbs-sct.canada.ca/ems-sgd/edb-bdd/index-eng.html#igoc/inst_form.

liquor distribution and sale (e.g. BC Liquor Stores), lotteries (e.g. Atlantic Lottery Corporation), and culture (e.g. Manitoba Film and Music).

3.236. During the period under review, the combined assets of federal and provincial Crown corporations increased sharply, from around 38% of GDP in 2018 to close to 60% of GDP in 2021, the latest year for which data are available.[234] This increase was driven largely by an increase in the assets of federal Crown corporations, reflecting largely the large-scale asset purchases undertaken by the Bank of Canada to support the economy during the COVID-19 pandemic. Even though the assets of federal Crown corporations are many times the assets of provincial Crown corporations, their revenues are significantly smaller, reflecting the higher contribution to the output of provincial Crown corporations.

3.237. The Government also holds an interest in about 80 shared-governance corporations, most of which operate in the transport sector as airport or port authorities (Section 4.3.3). Shared-governance corporations do not have share capital.

3.238. During the period under review, Canada completed the privatization of Ridley Terminals, Inc., which operates a bulk commodity terminal handling coal and petroleum coke. The authorities note that they are not aware of any plans to privatize additional Crown corporations, either at federal or provincial levels.

3.239. Under the CUSMA, Parties built on the disciplines of the original NAFTA by requiring both state-owned enterprises (SOEs) and designated monopolies to operate in accordance with commercial considerations and non-discrimination. The rules do not apply to SOEs that mainly serve a public benefit, such as museums and public health authorities, even if those entities have some commercial activities or charge for some of their services. The Agreement prohibits certain non-commercial assistance if provided to an SOE primarily engaged in the production or sale of goods other than electricity or general infrastructure. Moreover, a CUSMA member must not cause harm to another CUSMA member through the use of non-commercial assistance provided to its SOEs. The Agreement also sets out rules on the promotion of transparency. SOEs with annual revenue below a certain threshold are exempt from CUSMA's rules on SOEs and designated monopolies, while SOEs or designated monopolies that are owned or controlled by a provincial, territorial, or local government are exempt from certain rules.

3.240. During the period under review, Canada submitted two notifications about its state trading enterprises according to Article XVII (4)(a) of the GATT 1994 or paragraph 1 of the Understanding on the Interpretation of Article XVII. The latest covers the period 2019-20 and 2020-21 and contains information on the activities of the Canadian Dairy Commission and the Freshwater Fish Marketing Corporation and the 13 provincial and territorial liquor control authorities, which deal with the importation and sale of alcoholic beverages within their jurisdictions.[235]

3.3.6 Government procurement

3.3.6.1 Overview

3.241. In 2022, the value of Canada's government procurement totalled approximately 13% of GDP.[236] Procurement by federal departments and agencies is a small part of total procurement. In FY2022/23, procurement by federal departments and agencies accounted for CAD 34 billion or slightly less than 1.6% of GDP during the same period.

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[234] This figure is an estimate based on data available for "government business enterprises", which overlaps with, but is not identical to, federal, provincial, and territorial Crown corporations. See Statistics Canada, "Canadian government finance statistics for government business enterprises, by industry", Table 10-10-0023-01 (formerly CANSIM 385-0039). Viewed at: https://doi.org/10.25318/1010002301-eng.

[235] WTO document G/STR/N/19/CAN, 22 June 2022.

[236] OECD Data Explorer, *Size of Public Procurement – Government at a Glance Quantitative Indicators, 2023 Edition*. Viewed at: https://data-explorer.oecd.org/vis?tm=public%20procurement&pg=0&snb=13&vw=tb&df[ds]=dsDisseminateFinalDMZ&df[id]=DSD_GOV%40DF_GOV_PPROC_2023&df[ag]=OECD. GOV. GIP&df[vs]=1.0&pd=2007%2C&dq=A. CAN. GPROC....&ly[rw]=UNIT_MEASURE&ly[cl]=TIME_PERIOD&to[TIME_PERIOD]=false.

3.242. Public procurement activities are governed by a framework of regulations, policies, and guidelines that differ across provinces and territories, and between them and the federal Government. At the federal level, the main legislation on procurement is the FAA[237] and the Government Contracts Regulations (GCRs).[238] The main policy governing Canadian federal procurement is the Directive on the Management of Procurement, which took effect in May 2021 and applies to all federal government procurement.

3.243. The objective of Canada's Directive on the Management of Procurement is that procurement of goods, services, and construction results in obtaining the necessary assets and services to support the delivery of programmes and services to Canadians, while ensuring the best value to the Crown. Moreover, the Directive requires that federal government actions related to the management of procurement are "fair, open, and transparent, and meet public expectations in matters of prudence and probity".[239] In addition, federal government procurement must "support long-term industrial and regional development and other appropriate national objectives, including contracts awarded to Indigenous businesses; and comply with the Government's obligations under [Canada's] trade agreements".[240]

3.244. Public Services and Procurement Canada (PSPC), a federal department, serves as a central purchasing agent for federal departments and agencies. It manages procurement of goods and services worth approximately CAD 25 billion per year. PSPC contracting activities are guided by the Supply Manual and the Standard Acquisition Clauses and Conditions (SACC) Manual.[241] While other federal government departments may choose to reference and follow these tools, it is not mandatory for them to do so. PSPC also runs the Integrity Regime on behalf of the Federal Government. The Integrity Regime applies to procurements undertaken by federal departments and agencies with a value of over CAD 10,000.

3.245. PSPC also maintains CanadaBuys, an online portal that provides access to public procurement guides and information on tender opportunities from the Federal Government. CanadaBuys also covers tender opportunities from provincial and territorial governments, and municipalities, academic institutions, schools, and hospitals covered under the EU-Canada CETA and the Canada–United Kingdom TCA.[242] PSPC publishes key performance indicators on the procurement of goods and services that it manages (Table 3.22).

Table 3.22 Performance indicators on PSPC-managed procurement, FY2018/19-FY2022/23

	FY2018/19	FY2019/20	FY2020/21	FY2021/22	FY2022/23
Original contracts of "basic" complexity awarded within established timeframes (% of contracts of basic complexity)	80.8	78	78	75	64
Original contracts of "standard" complexity awarded within established timeframes (% of contracts of standard complexity)	71.1	75	81	78	75
Competitive procurement processes (% of total contract value)	..	..	76	79	80
"Complex" competitive procurement processes for which at least two qualified bids were received (% of total complex procurements)	..	..	..	..	67
Contracts awarded to small and medium businesses (% of total contract value)	49	52	47	32	24

237 Financial Administration Act (R.S.C., 1985, c. F-11), last amended on 10 November 2023.
238 Government Contracts Regulations (SOR/87-402), last amended on 28 April 2023.
239 Directive on the Management of Procurement, Section 3.2.6.
240 Public Services and Procurement Canada, *The Procurement Rules and Process*. Viewed at: https://buyandsell.gc.ca/for-government/buying-for-the-government-of-canada/the-procurement-rules-and-process.
241 Public Services and Procurement Canada. Viewed at: https://buyandsell.gc.ca/.
242 Government of Canada, *CanadaBuys*. Viewed at: https://canadabuys.canada.ca/en.

	FY2018/19	FY2019/20	FY2020/21	FY2021/22	FY2022/23
Contracts that include "green" goods and services (% of total contracts)	40	43	42.6	45	45
Bids received from Indigenous owned businesses (% of total bids submitted)	..	..	..	..	7
Bids received from women-owned businesses (% of total bids submitted)	..	..	..	..	14
Valid complaints filed (% of total contracts awarded)	0.07	0.04	0.14	0.05	..

.. Not available.

Source: PSPC, *Departmental Results Report* (various years). Viewed at: https://www.tpsgc-pwgsc.gc.ca/rapports-reports/index-eng.html.

3.246. The CITT has jurisdiction to decide complaints made by suppliers regarding the procurement process in federal government procurements covered by the CFTA, the GPA 2012, and other international trade agreements that include government procurement obligations. During the fiscal years from 1 April 2019 to 31 March 2023, a total of 342 complaints concerning government procurement were received by the CITT.[243] Not all complaints received are accepted for inquiry by the CITT (e.g. due to lack of jurisdiction or no reasonable indication of a trade agreement breach) or are determined to be valid. For instance, in FY2022/23, of 79 complaints received, 22 were accepted for inquiry, and only 4 were determined to be valid or valid in part. According to the authorities, on average, only 0.075% of contracts awarded by the Federal Government result in a valid complaint at the CITT. PSPC notes that information on the procurement value covered by these complaints is not available.

3.3.6.2 Recent policy and legislative developments

3.247. Federal government procurement follows an "open-by-default" policy, meaning that it is generally open to all foreign suppliers and goods, irrespective of whether government procurement-related obligations apply between Canada and the country in question. In Budget 2021, Canada announced its intention to implement reciprocal procurement policies, whereby goods and services would only be procured "from countries that grant Canadian businesses a similar level of access to their procurement markets".[244]

3.248. Global Affairs Canada and Finance Canada held consultations between March and May 2022 to obtain feedback from stakeholders on three potential approaches towards reciprocal procurement policies. The potential approaches being explored are (i) applying reciprocity to federal procurement based on Canada's international trade obligations; (ii) placing conditions on the participation of foreign suppliers in federally funded infrastructure projects undertaken by provinces and territories; and (iii) creating a federal set-aside programme for Canadian small businesses.[245] The authorities state that the implementation of any reciprocal procurement policies would be conducted in a manner consistent with Canada's existing trade obligations.

3.249. Canada's commitment to pursue reciprocal procurement policies is reinforced under the Made-in-Canada Plan announced in Budget 2023. Budget 2023 also announced the Federal Government's intent to undertake targeted engagement with provinces and territories, industry, workers, and unions on concrete reciprocal procurement measures, with the goal of implementing them in the near term. The Plan also notes the Federal Government's intention to explore with provinces and territories the possibility of extending reciprocal treatment to sub-federal procurement opportunities.

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[243] Canadian International Trade Tribunal Annual Report 2023. Viewed at: https://citt-tcce.gc.ca/en/publications/annual-report-march-31-2023-caseload [accessed on 18 December 2023]. This figure reflects the number of requests received, not the number that were accepted for inquiry or the number of complaints that were deemed to be valid.

[244] Government of Canada (2021), *A Recovery Plan for Jobs, Growth, and Resilience*, p. 138. Viewed at: https://www.budget.canada.ca/2021/home-accueil-en.html.

[245] Government of Canada, *Share Your Views: Consultations on Reciprocal Procurement Policies in Canada*. Viewed at: https://www.international.gc.ca/trade-commerce/consultations/RP-AR/index.aspx?lang=eng.

3.250. During the period under review, Canada clarified certain requirements of its Canadian Content Policy (CCP), a policy of the Federal Government that seeks to encourage domestic industrial development "by limiting, in specific circumstances, competition for government procurement opportunities to suppliers of Canadian goods and services".[246] The CCP applies to competitive procurements by PSPC and defence supply procurements by the Department of National Defence with an estimated value of CAD 25,000 or more. The following are exempt from the CCP: (i) procurements subject to international trade agreements, including the GPA 2012; (ii) select procurements related to developing country aid; (iii) procurements made by PSPC offices located outside Canada; and (iv) certain other procurements, including sourcing related to industrial and regional benefits, shipbuilding, and ship repair, refit, and mid-life modernization.

3.251. The authorities note that the clarifications were made to address vague language in the guidance and clauses of the CCP, in particular, that competition can only be limited to bids offering Canadian goods or services (or both) if there are at least two bids from two or more different, unaffiliated bidders with valid Canadian content certification, as defined in the Supply Manual.[247] In that case, only the bids with valid Canadian content certification are eligible to be awarded a contract. Otherwise, all bids, including those without valid Canadian content certification, are eligible to be awarded a contract.[248] The amendments also clarify that the validation of Canadian content certification can occur at any time during the bid evaluation process. Neither of these changes were substantive changes to the requirements of the CCP.

3.252. In addition to the CCP, there are other government procurement policies, programmes, and strategies that seek to promote domestic production. For example, under the Industrial and Technological Benefits (ITB) Policy, companies awarded defence procurement contracts that are valued above certain thresholds and that are not subject to international trade agreements must undertake "business activity in Canada equal to the value of the contracts they have won".[249] The authorities note that these contracts are open to foreign suppliers and goods. The Munitions Supply Program establishes a framework under which the Federal Government sources ammunition and small arms for the Department of National Defence from domestic industrial facilities that have been designated as strategic sources of supply. Under the National Shipbuilding Strategy, sourcing arrangements are set up with domestic shipyards to build and repair vessels in Canada.

3.253. During the period under review, Canada sought to strengthen controls and uphold probity in government procurement. For example, following the latest amendment to the Directive on the Management of Procurement, since June 2023 federal departments and agencies have been required to include in their procurement management frameworks "risk-based internal controls to ensure the accuracy, completeness, and timely proactive publishing of information on contracts over CAD 10,000".[250]

3.254. Moreover, under an earlier amendment to the Directive on the Management of Procurement, all government procurements must incorporate the PSPC's Code of Conduct for Procurement, along with principles on human rights, the environment, social and corporate governance, and supply chain transparency.[251] This amendment became effective in April 2023. The PSPC Code of Conduct for Procurement sets out principles, standards, and guidelines for federal government procurement, including on conflict of interest, anti-corruption, and other requirements on government procurement.

3.255. Since its previous Review, Canada has modified some of its government procurement policies to increase opportunities for Indigenous businesses in federal government procurement. For example, under the Directive on the Management of Procurement, federal departments and agencies

[246] PSPC, *Canadian Content Policy: Conditionally Limited Evaluation Clause*. Viewed at: https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications/PN-144.

[247] Supply Manual, Chapter 3, Section 130. Viewed at: https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-130.

[248] Standard Acquisition Clauses and Conditions (SACC) Manual, Clause A3070T, Evaluation Procedures for Procurement Conditionally Limited to Canadian Content. Viewed at: https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual/5/A/A3070T/3.

[249] Government of Canada, *Industrial and Technological Benefits*. Viewed at: https://ised-isde.canada.ca/site/industrial-technological-benefits/en.

[250] Directive on the Management of Procurement, Subsections 4.1.2.15 and 4.1.2.16.

[251] Directive on the Management of Procurement, Subsections 4.1.2.14, 4.2.3.3, 4.2.7.4, 4.3.9, 4.17.1, and 4.17.4, and Annex D.6.

must award at least 5% of the value of their contracts to Indigenous businesses each year.[252] This requirement is being phased in and will have to be fully implemented by the end of FY2024/25. In April 2022, a new appendix was added to the Directive on the Management of Procurement with oversight, planning, and reporting provisions related to the 5% target.[253]

3.256. Canada also adopted the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area. The Directive, which came into force in December 2019, is intended to provide "reasonable support and assistance to Inuit firms in order to enable them to compete for government contracts, including real property leases".[254] Under the Directive, Inuit firms receive preferential treatment in the evaluation of bids for contracts subject to the Directive. In addition, contracts subject to the Directive can be set aside solely for Inuit firms under certain circumstances.

3.257. In January 2022, PSPC introduced the Supplier Diversity Action Plan, which aims to increase the participation of businesses from under-represented groups in federal government procurement. Initiatives under the Plan include the Policy on Social Procurement, which calls for the inclusion of socio-economic measures in federal government procurement and provides the Federal Government with the authority to enhance data collection to monitor progress towards inclusivity goals.

3.258. Other changes to Canada's federal government procurement framework include the 2019 amendment to the GCRs. Under the GCRs, which set out the specific provisions for soliciting bids, a contracting authority must solicit bids on procurements above a certain threshold by giving public notice or inviting bids on a proposed contract from suppliers on a list. The 2019 amendments to the GCRs increased the threshold applied to services and construction contracts from CAD 25,000 to CAD 40,000. The purpose is to adjust the threshold for inflation. The threshold that applies to goods contracts was left unchanged at CAD 25,000.[255] The amendments also added a "deemed term" to goods, services, and construction contracts to reduce the risk of corruption and collusion.

3.259. At the provincial level, Ontario launched the Building Ontario Businesses Initiative, which aims to "reduce barriers and provide companies in Ontario with greater access to public procurement opportunities, helping them sell more goods and services".[256] In support of this initiative, Ontario adopted the Building Ontario Business Initiative Act (BOBIA) 2022. The Act requires public sector entities to give preference to Ontario businesses when conducting procurements for goods and services below trade agreement thresholds applicable to Ontario as specified through its regulations. The Government of Ontario has stated that it would seek to spend at least CAD 3 billion annually through 2026 on contracts to be awarded to Ontario businesses. The BOBIA was proclaimed on 1 January 2024. A regulation under the Act, which provides for the circumstances under which public sector entities are required to give preference to Ontario businesses when conducting procurement processes, will be effective as of 1 April 2024.

3.3.6.3 Interprovincial and international procurement agreements

3.260. Canada is a Party to the GPA 2012. The most recent procurement data notified by Canada under the GPA is for the years 2018-19 and does not include detailed information on sub-federal and "other" procurement (Table 3.23). According to the authorities, Canada collects procurement data consistent with its GPA obligations.

[252] Government of Canada (2021), "Government of Canada Announces Federal-Wide Measures to Increase Opportunities for Indigenous Businesses", 6 August. Viewed at: https://www.canada.ca/en/public-services-procurement/news/2021/08/government-of-canada-announces-federal-wide-measures-to-increase-opportunities-for-indigenous-businesses.html.

[253] Government of Canada, *Directive on the Management of Procurement*. Viewed at: https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32692.

[254] Government of Canada, Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area. Viewed at: https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32610.

[255] Contracting Policy Notice 2019-02: Amendments to the Government Contracts Regulations, 10 June 2019. Viewed at: https://www.canada.ca/en/treasury-board-secretariat/services/policy-notice/contracting-policy-notice-2019-2-amendments-government-contracts-regulations.html.

[256] Ontario Government and Consumer Services (2022), "Province Launches Building Ontario Businesses Initiative", 9 March. Viewed at: https://news.ontario.ca/en/release/1001729/province-launches-building-ontario-businesses-initiative.

Table 3.23 Government procurement in Canada, 2018-19

(CAD million)

Year	Level	Total value of procurement (GPA-covered and non-covered)	Share (%) of GDP	GPA-covered procurement					
				Total value	Share of total procurement	Awarded under open and selective tendering		Awarded under limited tendering	
						Total value	Ratio	Total value	Ratio
2018	Central government[a]	..	..	2,321	..	2,120	91%	201	9%
	Subcentral government	..	..	13,125	..	..	..	..	..
	Other[b]	..	..	2,454	..	..	..	..	..
	Total	..	..	17,900	..	..	..	..	..
2019	Central government	..	..	3,187	..	3,040	95%	147	5%
	Subcentral government	..	..	12,012	..	..	..	..	..
	Other	..	..	2,035	..	..	..	..	..
	Total	..	..	17,234	..	..	..	..	..

.. Not available.

a "Central government" refers to the government entities listed in Annex 1 to Appendix I of the GPA 2012.
b Other entities listed in Annex 3 to Appendix I of GPA 2012.

Note: The terms "open tendering", "selective tendering", and "limited tendering" are used here as they have been defined in the GPA 2012.

Source: WTO documents GPA/STAT(18)/CAN/1, 31 July 2023; and GPA/STAT(19)/CAN/1, 31 July 2023.

3.261. The Secretariat report for Canada's previous TPR contains a description of the government procurement chapter under the CFTA, which entered into force in July 2017.[257] In line with the CFTA's overall goal to reduce barriers to internal trade, the chapter on government procurement establishes a framework that seeks to ensure "fair and open access" by suppliers in one province or territory to government procurement opportunities in other provinces or territories.[258] The CFTA's procurement chapter contains schedules listing procurement exceptions by each party. In August 2019, the CFTA was amended to allow parties to remove their own specific exceptions on government procurement without requiring the approval of all parties, as had been the case before the amendment was adopted, and to narrow their exceptions through a more streamlined process.

3.262. In addition to the CFTA, there are several other interprovincial procurement arrangements, as described in the previous Review.[259]

3.263. Regarding FTAs negotiated by Canada since its previous Review, Canada is not a party to the government procurement chapter of the CUSMA. This chapter applies only between the United States and Mexico. Canada and the United States maintain access to each other's government procurement markets through their GPA 2012 commitments. The government procurement obligations between Mexico and Canada are governed by the CPTPP, which entered into force at the end of 2018.

3.264. The Canada-UK TCA incorporates the government procurement obligations of the CETA by reference. As a result, Canada's government procurement obligations in the Canada-UK TCA are the same as those already contained in the CETA.

3.265. The negotiations to modernize the CUFTA were concluded in April 2023 and resulted in a revised chapter on government procurement. The original CUFTA continues to apply until the entry into force of the modernized agreement.

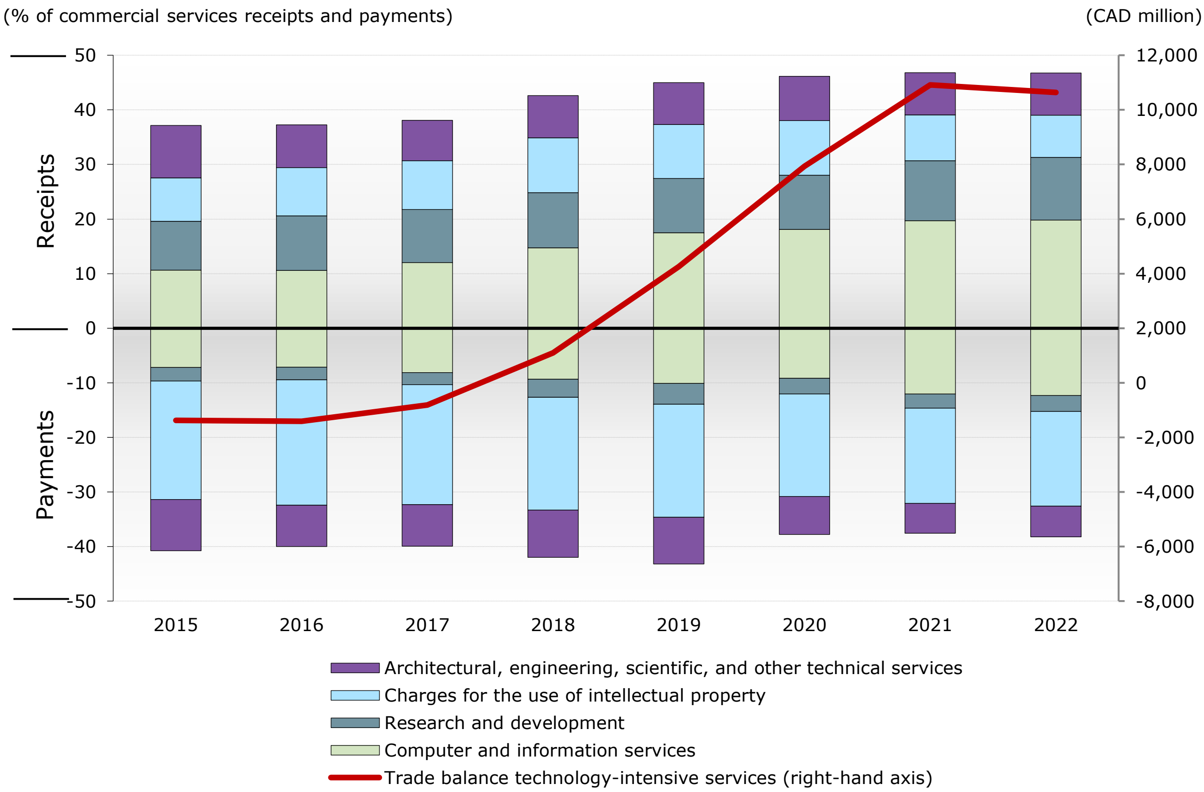
[257] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.6.2.
[258] CFTA, Chapter Five.
[259] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.6.3.

3.3.7 Intellectual property rights

3.3.7.1 Overview

3.266. Intellectual property (IP) issues continue to play an important role in Canada's international trade policy. During the period under review, Canada's overall trade balance in technology-intensive services improved, turning positive in 2018 and reaching CAD 10.9 billion in 2021, before decreasing slightly to CAD 10.6 billion in 2022, the latest year for which data are available. Both imports and exports increased, with exports exceeding imports in all categories except "charges for the use of IP", where the deficit increased to around CAD 10.7 billion in 2022. Exports of technology-intensive services more than doubled from 2015 to 2022, reaching CAD 54.2 billion in 2022. Exports in the category "computer and information services" grew particularly fast, at an annual average rate of 19% between 2015 and 2022. On the import side, "charges for the use of IP" represent 45% of total imports of technology-intensive services, by far the largest import category (Chart 3.8). Within "charges for the use of IP", slightly more than half of Canada's receipts derive from "software and other royalties", followed by "patents and industrial design". The trade deficit in this category stems largely from payments for "patents and industrial designs". Annual payments for "trademarks" and "copyrights and related rights", which almost doubled from 2015 to 2022, also contributed to the trade deficit (Chart 3.9).

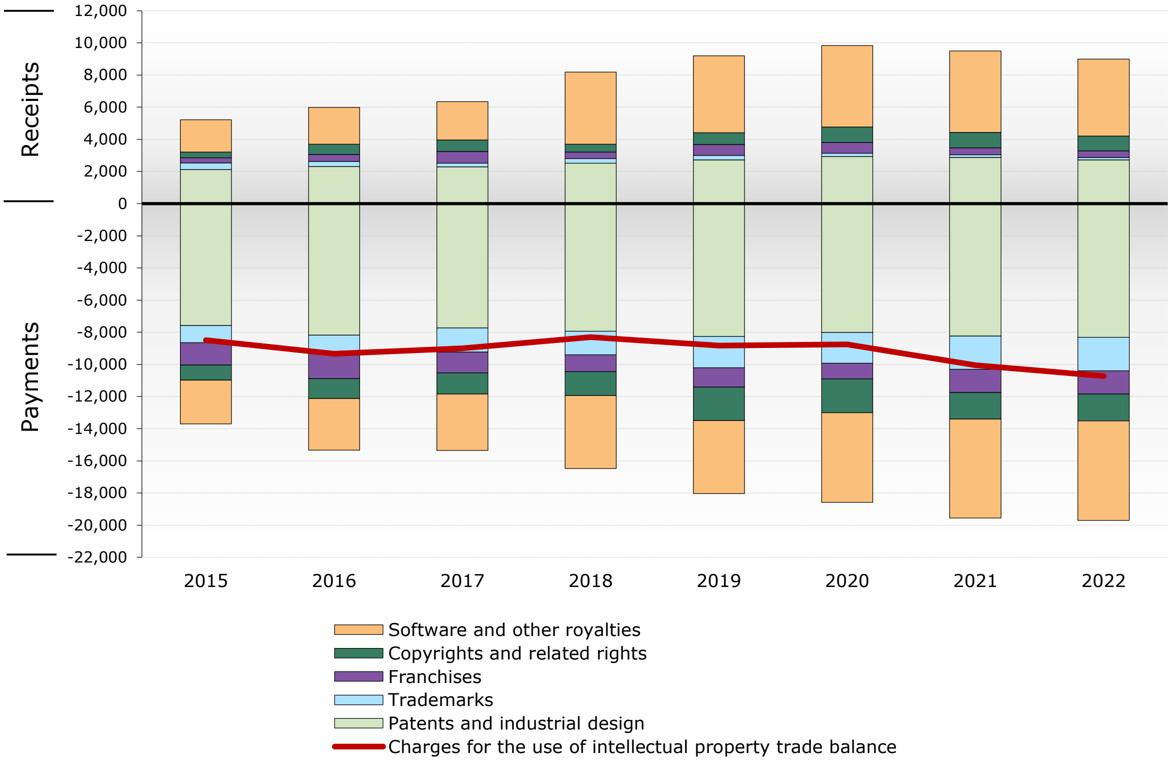
Chart 3.8 Trade in technology-intensive services, 2015-21



Source: Statistics Canada, Table 36-10-0006-01 (International transactions in services, commercial services by category).

Chart 3.9 Charges for the use of intellectual property rights, 2015-21

(CAD million)



Source: Statistics Canada, Table 36-10-0006-01 (International transactions in services, commercial services by category).

3.267. The institutional framework of Canada's IP regime did not change significantly during the review period. The Canadian Intellectual Property Office (CIPO, a part of ISED) continues to be responsible for the administration and processing of the greater part of IP in Canada. CIPO's areas of activity include trademarks, geographical indications (GIs), patents, copyright, industrial designs, and integrated circuit topographies. In 2021, the College of Patent Agents and Trademark Agents (CPATA), an independent regulator established to protect the public interest by strengthening the competencies of patent and trademark agents, acquired responsibility from CIPO for regulating the patent and trademark agent profession.[260] Associated regulations were promulgated the same year.[261] The 2022 amendments to the College of Patent Agents and Trademark Agents Act granted CPATA greater independence and immunity, as well as investigative powers.[262]

3.268. Canada updated several of its IP laws during the review period, including to implement certain WIPO agreements and FTA commitments, and thereby align its IP regime more closely with international practices in these areas, such as those of its primary trading partners. During the review period, Canada amended the Copyright Act to extend the general term of protection from 50 to 70 years after the life of the author and also amended certain terms of protection that are calculated on a basis other than the life of a natural person. Canada also amended the Patent Act to grant an additional term for a patent if certain conditions are met, the Copyright Act and Trademarks Act to provide *ex officio* authority to detain pirated copyright and counterfeit trademark goods in transit, and the Criminal Code in respect of trade secret offences, including clarifying the scope of

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[260] Government of Canada, *College of Patent Agents and Trademark Agents*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/college-patent-agents-and-trademark-agents. The College of Patent Agents and Trademark Agents Act was notified to the TRIPS Council in WTO document IP/N/1/CAN/28, IP/N/1/CAN/P/17, IP/N/1/CAN/T/9, 19 December 2019.

[261] The College of Patent Agents and Trademark Agents Regulations were notified to the TRIPS Council in WTO document IP/N/1/CAN/36, 6 March 2024.

[262] Bill C-19 (An Act to implement certain provisions of the budget tabled in Parliament on 7 April 2022 and other measures) was notified to the TRIPS Council in WTO document IP/N/1/CAN/32, IP/N/1/CAN/C/10, 11 August 2023.

these offences. In 2023, Canada released its Action Plan for the implementation of the UN Declaration on the Rights of Indigenous Peoples (UN Declaration), where the Government made a commitment to review its IP laws and regulations to ensure consistency with the UN Declaration.[263]

3.269. The main legal and regulatory framework at the federal level is composed of six different laws and regulations: the Patent Act; the Trademarks Act; the Copyright Act; the Industrial Design Act; the Integrated Circuit Topography Act; and the Plant Breeders' Rights Act (PBR Act) (Table A3.1). All of these Acts (save the PBR Act) are within ISED's responsibility and are administered by CIPO. CIPO also maintains databases of registered patents, copyright, trademarks, industrial designs, and integrated circuit topographies, as well as a list of protected GIs. The CFIA administers the PBR Act, which applies to certain new plant varieties. ISED and Canadian Heritage share responsibility for copyright policy.

3.3.7.2 Policies on promotion and commercialization of innovation

3.270. Canada remains among the top 20 countries in international innovation rankings, and regained ground lost during the prior review period, moving from 18th place in the Global Innovation Index in 2018, to 15th in 2023.[264] Nonetheless, over the longer term, Canada's gross domestic expenditure on R&D – an indicator of innovative activity – has fallen behind the OECD average, reaching a 30-year low of 1.553% in 2022.[265] Canada's Business Expenditure on Research and Development (BERD), at 0.93% of GDP in 2021, also remains well below the OECD average of 1.99% of GDP.[266] Canada's below-par performance on both indicators has been mainly driven by low business expenditure on R&D (Section 3.3.1.1).[267] A 2017 study found that Canada struggles to commercialize and generate a return on its innovative activities, with a growing proportion of patents on Canadian inventions assigned to foreign entities.[268]

3.271. The Government's goals with respect to IP and innovation policy are primarily found in two documents. The Innovation and Skills Plan[269] (IS Plan), announced in Budget 2017, calls for ensuring that Canadian businesses and innovators have the support they need to grow. As part of the Plan, ISED launched Canada's Intellectual Property Strategy on 26 April 2018. The five-year Strategy was primarily focused on helping Canadian innovators and entrepreneurs better understand, protect, and monetize their IP.[270] Several of the legislative reforms observed during the review period were referenced in the IP Strategy. As of January 2024, the Government had not developed a successor to the 2018 IP Strategy. Several individual programmes borne from the IP Strategy have, however, been extended.

3.272. ISED leads a number of programmes that fund and provide advisory support for R&D, innovation, and commercialization projects. Several new initiatives were undertaken during the review period. For example, the IS Plan called for the creation of innovation superclusters (renamed Global Innovation Clusters) intended to foster connections between startups, SMEs, large anchor firms, post-secondary institutions, and research and government partners with the goal of driving innovation and commercialization. Funding is provided on a matched basis to industry-led consortia with strategic plans, including an IP strategy. Five superclusters in different regions have been established, each dedicated to a focus area: digital technology, protein industries, advanced

[263] Government of Canada, United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan 2023-2028. Viewed at: https://www.justice.gc.ca/eng/declaration/ap-pa/index.html#:~:text=The%20Action%20Plan%20includes%20181,by%20the%20UN%20Declaration%20Act.

[264] *Global Innovation Index 2023: Canada*. Viewed at: https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023/ca.pdf.

[265] OECD data, Gross domestic spending on R&D, Total, % of GDP, 1989-2022. Viewed at: https://data.oecd.org/rd/gross-domestic-spending-on-r-d.htm.

[266] OECD (2022), *Main Science and Technology Indicators*, Vol. 2022, Issue 2, Table 24. Business enterprise expenditure on R&D (BERD) as a percentage of GDP. Viewed at: https://doi.org/10.1787/1cdcb031-en.

[267] Government of Canada, *Indicators and Targets: Growing Business Investment in Research and Development*. Viewed at: https://ised-isde.canada.ca/site/innovation-better-canada/en/jobs-and-innovation-tracking-progress-and-results/indicators-and-targets-growing-business-investment-research-and-development.

[268] University of Toronto and Impact Centre Venture Analytics (2017), *Canada's Patent Puzzle*. Viewed at: https://narwhalproject.org/wp-content/uploads/2017/10/Canadas_Patent_Puzzle.pdf.

[269] Government of Canada, *Innovation for a Better Canada*. Viewed at: https://ised-isde.canada.ca/site/innovation-better-canada/en.

[270] Government of Canada, *Intellectual Property Strategy*. Viewed at: https://ised-isde.canada.ca/site/intellectual-property-strategy/en.

manufacturing, AI and robotics, and maritime industries.[271] Over CAD 2 billion has been invested to date, and ISED reports that the superclusters are on track to meet or exceed projected socio-economic contributions.[272]

3.273. ISED launched a number of new programmes during the review period pursuant to the IP Strategy: (i) IP Centre of Expertise[273] for federal public servants, to promote collaboration and ensure IP is addressed and managed in a way that adds value for Canadian businesses and the Canadian public; (ii) an Indigenous IP Program to support Indigenous awareness, education, and participation in discussions about the relationship between the IP system and the protection of Indigenous knowledge and cultural expressions[274]; (iii) IP Legal Clinics within Canadian law schools to support low-cost funding of IP information to businesses and individuals, and familiarize students with practical IP-related issues; (iv) the Patent Collective Pilot Program[275] (Innovation Asset Collective), which brings together SMEs through a membership model, to promote collaboration and facilitate better IP outcomes; and (v) ExploreIP (formerly, Canada's IP Marketplace)[276], an online tool to help businesses, entrepreneurs, and innovators find IP held by government, academia, and other public sector institutions that is available for licensing and/or commercialization. Although a review of the IP Strategy published in June 2023 found opportunities for improvement, the available data showed that these programmes were contributing to increased IP literacy and awareness, increased access to IP services and/or support, and increased collaboration among federal officials, SMEs, and under-represented groups.[277] The Government continues to invest in IP, as evidenced by several of these programmes being extended.

3.274. In 2021, the Government built upon the IP Strategy by allocating CAD 165 million to two additional complementary initiatives. ElevateIP seeks to help business accelerators and incubators provide expert IP services to startups so they can strategically manage and leverage their IP, including through educational programmes and funding.[278] IP Assist, offered through the National Research Council of Canada Industrial Research Assistance Program (NRC IRAP), provides high-growth SMEs access to expert IP services.[279] Bill C-19 accompanying Budget 2022 also provided for a new national lab-to-market platform to assist graduate students and researchers in taking their work to market, and continued funding for the CanExport programme, which provides funding for SME exporters, innovators, associations, and communities to help Canadian businesses secure their IP in foreign markets.[280]

3.275. ISED also established Innovation Canada, an online platform designed to serve as a one-stop shop to coordinate and simplify support available to Canadian innovators, which is spread across dozens of programmes and departments.[281] The platform links to some of the initiatives that were established pursuant to the IP Strategy. In 2021, the Government announced a Strategic IP Program Review, which aims to examine ISED innovation and science programmes through an IP lens and consider ways to further develop and commercialize IP. Focus groups were conducted in 2022, and

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[271] WTO document IP/C/M/91/Add.1, 2 April 2019, paras. 323-338.
[272] Government of Canada, *Global Innovation Clusters*. Viewed at: https://ised-isde.canada.ca/site/global-innovation-clusters/en.
[273] Government of Canada, *Intellectual Property Centre of Expertise*. Viewed at: https://www.canada.ca/en/services/business/ip/intellectual-property-centre-of-expertise.html.
[274] Government of Canada, *Indigenous Intellectual Property Program Grant*. Viewed at: https://ised-isde.canada.ca/site/intellectual-property-strategy/en/indigenous-intellectual-property-program-grant.
[275] Government of Canada, *Patent Collective Pilot Program*. Viewed at: https://ised-isde.canada.ca/site/patent-collective-pilot-program/en.
[276] Government of Canada, *ExploreIP*. Viewed at: https://ised-isde.canada.ca/ipm-mcpi/?lang=en.
[277] Government of Canada, Evaluation of the National Intellectual Property Strategy. Viewed at: https://ised-isde.canada.ca/site/audits-evaluations/en/evaluation/evaluation-national-intellectual-property-strategy.
[278] Government of Canada, *ElevateIP*. Viewed at: https://ised-isde.canada.ca/site/elevateip/en.
[279] Government of Canada, *NRC IRAP Support for Intellectual Property*. Viewed at: https://nrc.canada.ca/en/support-technology-innovation/nrc-irap-support-intellectual-property.
[280] Government of Canada, *Funding and Support Programs for Doing International Business*. Viewed at: https://www.tradecommissioner.gc.ca/funding-financement/canexport/index.aspx?lang=eng.
[281] Government of Canada, *Innovation Canada*. Viewed at: https://ised-isde.canada.ca/site/innovation-canada/en.

a public consultation was conducted in the spring of 2023. As of October 2023, the results of the Review had not yet been announced.[282]

3.276. In 2023, Parliament enacted the Canada Innovation Corporation Act, which will create the Canada Innovation Corporation (CIC), a new subsidiary of the Canada Development Investment Corporation, with an initial budget of CAD 2.6 billion over four years. The CIC, which will absorb NRC IRAP, will be led by private-sector experts with the aim of providing targeted funding and advisory support, including for the creation and protection of IP, to new and existing Canadian business to promote investment in R&D.[283]

3.277. Canada has also sought to increase the availability of financing for SMEs and startups, which are often rich in intangible – but difficult to value – assets. The OECD ranked Canada third in venture capital investments, which reached CAD 14.7 billion in 2021.[284] During the review period, the Government has contributed CAD 850 million via the Venture Capital Catalyst Initiative through the BDC, a federal government corporation.[285] In 2020, the BDB launched a separate IP-backed financing programme to provide capital to high-potential companies in knowledge-based industries, with a CAD 160 million financing envelope.[286]

3.278. Canada also uses tax policy to promote R&D and IP commercialization. Under the SR&ED programme, Canada has been considering a possible "patent box" regime, which would reduce the income tax rate on profits earned from IP below the statutory corporate income tax rate (Section 3.3.1.2). Such regimes have already been adopted at the provincial level in British Columbia, Québec, and Saskatchewan. Québec also funded, from 2015-2018, a popular First Patent Program, which allowed SMEs with 250 or fewer employees to apply for reimbursement of up to 50% of eligible expenses, up to a maximum of CAD 25,000 for a patent, industrial design, or integrated circuit topography application.[287]

3.279. CIPO has developed a number of programmes and policies aimed at supporting startups and SMEs. The online IP Academy[288] features a suite of information materials and interactive learning resources for businesses and entrepreneurs. An IP Toolbox[289] invites users to customize a kit with available guides, roadmaps, case studies, and other information materials. Another section of the CIPO site is dedicated to tools and resources to help businesses leverage and manage IP.[290] IP advisors are also available to help SMEs, entrepreneurs, post-secondary stakeholders, government stakeholders, and intermediaries.[291] Certain fees for obtaining and maintaining a patent are halved for small entities, with the Patent Rules defining a small entity as one that employs 50 or fewer employees or is a university.[292]

3.280. In 2022, CIPO joined with BDB, EDC, Global Affairs Canada's TCS, Intellectual Property Institute of Canada, NRC IRAP, and ISED to create the IP Village, a working group where best

[282] Government of Canada, *Strategic Intellectual Property Program Review*. Viewed at: https://ised-isde.canada.ca/site/intellectual-property-strategy/en/strategic-intellectual-property-program-review.

[283] Canada Innovation Corporation Act (S.C. 2023, c. 26, s. 238).

[284] OECD (2017), *SME and Entrepreneurship Policy in Canada*, OECD Studies on SMEs and Entrepreneurship. Viewed at: https://doi.org/10.1787/9789264273467-en.

[285] Government of Canada, *Venture Capital Catalyst Initiative*. Viewed at: https://ised-isde.canada.ca/site/sme-research-statistics/en/venture-capital-catalyst-initiative.

[286] WIPO Magazine (2023), "The Future Looks Brighter for IP-Backed Financing", July. Viewed at: https://www.wipo.int/wipo_magazine_digital/en/2023/article_0021.html.

[287] Government of Quebec, Ministère de l'Économie, des Sciences et de l'Innovation (MESI), February 2024. Viewed at: https://www.csmotextile.qc.ca/wp-content/uploads/2018/09/ministere-economie-sciences-innovation-en-bref.pdf.

[288] Government of Canada, *IP Academy*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/ip-academy.

[289] Government of Canada, *IP Toolbox*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/ip-toolbox.

[290] Government of Canada, *Manage and Commercialize Your Intellectual Property*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/manage-your-intellectual-property.

[291] Government of Canada, *Intellectual Property Advisors*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/intellectual-property-advisors.

[292] Government of Canada, *Reduced Fees for Small Entities*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/patents/reduced-fees-small-entities.

practices, practical intelligence, and questions and answers are shared in an effort to help Canadian SMEs use IP effectively, gain a competitive edge in the marketplace, and manage IP-related risks.[293]

3.281. Some Canadian provinces have developed their own initiatives to stimulate innovation and complement federal initiatives. In 2022, Ontario launched a new IP agency providing expert IP education, financial support, and mentorship to businesses, innovators, and researchers.[294] In 2023, British Columbia launched its own Intellectual Property Strategy. The BC IP Strategy aims to build a robust IP foundation through IP training, and a virtual IP hub for businesses seeking information and tools, as well as increase awareness of the importance of IP and the availability of resources through provincial programmes.[295]

3.3.7.3 International context

3.282. Canada participates in a number of WIPO-administered treaties and bilateral IP treaties, as described in the previous Review.[296] In 2019, Canada acceded to three WIPO trademark treaties: (i) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol); (ii) the Singapore Treaty on the Law of Trademarks (Singapore Treaty); and (iii) the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement). It also acceded to the Patent Law Treaty (PLT). Canada actively participates in WIPO bodies.

3.283. Canada is also party to a range of bilateral, regional, and multilateral instruments, including RTAs, investment treaties, framework agreements, MOUs, and cooperation agreements that address IP. IP provisions are included in most of Canada's FTAs, including those that entered into force during the period under review (CUSMA and the Canada-UK TCA). CIPO continues to strengthen its links with other IP offices and is a signatory to 19 MOUs with other countries and organizations. CIPO is a member of the Global Patent Prosecution Highway (PPH) pilot programme, through which it has partnerships with 25 IP offices, and has bilateral PPH pilot programmes with 5 other IP offices.[297] It also collaborates with other IP offices in the context of the G7 and Vancouver Group.

3.284. Canada continues to actively participate in the TRIPS Council and has regularly co-sponsored items on the Council's agenda relating to IP and innovation. Canada submitted its most recent reports on the Implementation of Article 66.2 of the TRIPS Agreement (technology transfer to LDCs) and Technical Cooperation Activities to the TRIPS Council in September 2023.[298] Canada submitted responses to the Checklist of Issues on Enforcement in 1997[299] but has not updated them since. Canada has notified the TRIPS Council of all new and amended IP legislation and regulations discussed in this report pursuant to Article 63.2 of the TRIPS Agreement.

3.3.7.4 Patents

3.285. Since 2014 Canada has undertaken to modernize its patent regime to align with international best practice and implement the PLT, CETA, and CUSMA. The primary legal instruments governing patent law in Canada during the review period were the Patent Act 1985 and the Patent Rules 1996, subsequently replaced by the Patent Rules 2019.

3.286. Canada introduced a certificate of supplementary protection (CSP) system in 2017, allowing an application for an additional *sui generis* period of protection of up to two years for eligible patents on new pharmaceutical products, to compensate patent owners for time spent during the patent term researching and obtaining regulatory approval for new drugs. As in the European Union, a CSP

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[293] CIPO (2023), *2021-2022 Annual Report*, p. 26. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/2021-2022-annual-report-message-ceo.

[294] Intellectual Property Ontario. Viewed at: https://www.ip-ontario.ca/.

[295] Government of British Columbia, *British Columbia's Intellectual Property Strategy*, p. 4. Viewed at: https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/initiatives-plans-strategies/technology-industry/intellectual-property/bc_ip_strategy_final_july_2023.pdf.

[296] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 3.27.

[297] Government of Canada, *Patent Prosecution Highway*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/expedited-examination-patent-prosecution-highway.

[298] WTO documents IP/C/R/TTI/CAN/4, 26 September 2023; and IP/C/R/TC/CAN/4, 22 September 2023, respectively.

[299] WTO document IP/N/6/CAN/1, 18 February 1997.

does not protect activities related to manufacturing and selling the covered drug for export purposes.[300] During the review period, Canada amended the associated Certificate of Supplementary Protection Regulations four times. A CSP may be granted only if the Canadian regulatory drug marketing approval application was made within 12 months after the earliest regulatory drug marketing approval application in a set of "prescribed countries". In 2021, the United Kingdom was added as a prescribed country. In 2023, Canada updated the CSP application process, and amended the definition of "authorization for sale" to exclude certain types of limited-purpose prior drug authorizations from disqualifying an otherwise eligible patent from obtaining a CSP.[301] Health Canada's associated Guidance Document for CSPs was also updated regularly during the review period.[302]

3.287. Additional amendments to the Patent Act entered into force in December 2018.[303] One such amendment binds transferees of standard essential patents and holders of CSPs setting out such a patent to the licensing obligations of the transferor. Two exceptions to exclusive patent rights were also expanded and codified in 2018. First, the experimental use exception was codified to provide that an "act committed for the purpose of experimentation relating to the subject-matter of a patent is not an infringement …".[304] This may cover experimental use for commercial purposes, which was excluded from the previous common law version of the exception. Second, otherwise infringing acts, or "serious and effective" preparations to commit such acts, made in good faith prior to the patent claim date, and not attributable to knowledge knowingly sourced from the patentee, may be subsequently performed and avail of a "prior use" defence.[305]

3.288. In order to align with the PLT, additional amendments were made to the Patent Act, and the Patent Rules 1996 were repealed and replaced with the Patent Rules 2019.[306] Among other changes:

- a new "due care" requirement was instituted for certain reinstatements after a failure to act; late entry (up to 42 months) of a Patent Cooperation Treaty (PCT) application into the national phase as a matter of right was removed but is available if the failure to enter on time was determined to be unintentional[307];
- a system of "third party rights" as a defence to infringement when third party actions are taken during periods of uncertainty due to failure to request examination or pay maintenance fees was introduced;
- the deferred examination period was shortened to four years from the filing date of the application;
- response timelines for requesting examination, responding to an examiner's requisition, and paying final fees were shortened;

[300] Bill C-30 (An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and to provide for certain other measures). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/18/Rev.1, IP/N/1/CAN/P/13/Rev.1, 5 April 2019. The amended Patent Act, incorporating the amendments of Bill C-30, was notified to the TRIPS Council in WTO document IP/N/1/CAN/21, IP/N/1/CAN/P/14, 8 April 2019.

[301] The Certificate of Supplementary Protection Regulations were notified to the TRIPS Council in WTO document IP/N/1/CAN/34, IP/N/1/CAN/P/22, 6 March 2024.

[302] Guidance Document – Certificates of Supplementary Protection. Viewed at: https://www.canada.ca/en/health-canada/services/drugs-health-products/drug-products/applications-submissions/guidance-documents/register-certificates/certificate-supplementary-protection-regulations.html.

[303] Bill C-86 (A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7, 16 October 2019. The amended Patent Act, incorporating the amendments of Bill C-86, was notified to the TRIPS Council in document IP/N/1/CAN/26, IP/N/1/CAN/P/16, 19 December 2019.

[304] Patent Act, Section 55(3).

[305] Patent Act, Section 56(1). See also *Kobold v. NCS*, 2021 FC 1437, which interpreted and applied the new "prior use" defence.

[306] The Patent Rules 2019 were notified to the TRIPS Council in WTO document IP/N/1/CAN/29, IP/N/1/CAN/P/18, 24 January 2020.

[307] Patent Rules, Section 154(3)(a)(i).

- the ability to amend patents to correct obvious errors was limited to a period of time after the grant of the patent;

- requirements to obtain a filing date for non-PCT applications were simplified;

- CIPO became required to notify applicants and patentees of missed deadlines to provide them an opportunity to remedy the failure before loss of rights;

- the process to return an application to examination to make amendments, after allowance of the application, was streamlined;

- certified copies of priority documents for priority claims and priority restoration were required; and

- the process for changing patent ownership was simplified.

3.289. On 1 January 2021, and annually thereafter, many fees related to patent applications and patents began being adjusted annually for inflation, as required by the Service Fees Act.[308] In accordance with this Act, CIPO implemented a Remission Policy[309] effective for services requested on or after 1 April 2021. The policy ensures that if certain service standards are not met, clients are eligible for fee remissions.

3.290. In 2023 amendments to the Patent Act introduced a framework for an additional term, which will enter into force on or before 1 January 2025. These amendments provide for the possibility of an additional term of a patent after 20 years from filing.[310] An additional term is available, upon application and the payment of a fee, to compensate for "unreasonable delays" attributable to CIPO in issuing a patent based on an application filed on or after 1 December 2020. An unreasonable delay may occur when a patent is issued more than three years from a request for examination or, for a patent issued on the basis of an application for a patent other than a divisional application and a PCT national phase application, five years from the filing date[311], whichever comes later. In determining if an unreasonable delay has occurred, the Commissioner of Patents would determine a number of days to be subtracted in the process of determining if an additional term must be granted. The forthcoming regulations will set out the process for determining the number of days. Annual fees are required to maintain the patent in force during the period of additional term. An additional term begins upon the expiration of the regular term of the (valid) patent and could be shortened by the Commissioner or at the request of any person through an application to the Commissioner or a Federal Court action if the Commissioner is satisfied that the duration of the additional term is longer than is authorized by the Patent Act. Unlike CSPs, the availability of an additional term is not limited to pharmaceutical patents. An additional term on a patent and a CSP on the same ingredient(s) covered by the patent run concurrently, rather than consecutively.[312] Additional details regarding the additional term will be determined by forthcoming regulations.

3.291. In an effort to reduce patent pendency and streamline the patent examination process, the Patent Rules 2019 were amended in 2022. Excess claim fees were introduced, payable at the time of the request for examination and at allowance. A limit was set on the number of examination reports that may be issued before the applicant is required to request continued examination and pay a prescribed fee. The 2022 amendments also created a new conditional notice of allowance, which invites the applicant to remedy minor defects in the application and pay the final fee to proceed to grant, instead of another round of examination for minor amendments. New safeguards were also introduced to facilitate correcting fee payment errors attributable to erroneous information provided by the Commissioner and to permit waivers of fees for requests for extension of time in certain

[308] Service Fees Act. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/S-8.4/.

[309] Government of Canada, *Remissions at CIPO*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/corporate-information/performance-targets/remissions-cipo.

[310] Bill C-47 (An Act to implement certain provisions of the budget tabled in Parliament on 28 March 2023). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/33, IP/N/1/CAN/P/21, 11 August 2023.

[311] The equivalent of the filing date for patents that issue on the basis of a divisional application or a PCT national phase application remains to determined.

[312] Budget Implementation Act, 2023 No. 1, Bill C-47, Part 4, Division 26. This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/33, IP/N/1/CAN/P/21, 11 August 2023.

circumstances.[313] Additional 2022 amendments to the Patent Rules 2019 derived from obligations under the PCT.[314]

3.292. Further amendments to the Patent Rules 2019 that increase fees related to patent applications and patents will come into effect on 1 January 2024. Trademark, industrial design, copyright, and integrated circuit topography fees will increase at the same time, as part of CIPO's first substantial comprehensive fee adjustment in 20 years. The adjustment aims to address inflation, growing demand, and trade and treaty obligations, as well as enable CIPO to provide internationally comparable services and make capacity and technological investments. Most fees, except for small entities, will increase by 25%, although inflation-adjustment provisions may lead to even higher realized increases.[315]

3.293. CIPO adjusted its approach to assessing patentable subject matter following a 2020 Federal Court decision. The Court rejected the "problem-solution approach", which determined the essential elements of a claim as those required to achieve a disclosed solution.[316] CIPO subsequently adopted an "actual invention approach", which identifies the essential elements of the claim using purposive construction, and then determines an actual invention of the claim, which may consist of a single element or a combination of elements that cooperate together to provide a solution.[317] The Court decision was taken in the context of a computer-implemented invention. One study found, based on Canadian Patent Appeals Board data, that claims for computer-implemented inventions have been more frequently allowed under this new approach.[318]

3.294. In 2021, CIPO addressed the question whether AI can be an inventor in the context of patent law. Although the Patent Act does not define "inventor", Canadian jurisprudence may presume that an inventor is a natural person. Accordingly, CIPO issued a notice of non-compliance for a patent application listing AI machine "DABUS" as the inventor. CIPO noted, however, that the application could be remedied by the applicant submitting a statement on behalf of the AI machine identifying himself as the legal representative of the machine.[319] Canadian courts have yet to consider the matter.

3.295. A new Manual of Patent Office Practice[320] was launched in October 2019, and has been revised regularly to reflect amendments to the Patent Act and Patent Rules, jurisprudence, and other changes to CIPO administrative and examination practices.

3.296. Patenting activity remained fairly stable in Canada during the review period. The total number of applications received annually by CIPO, and filed abroad by Canadians, temporarily declined in 2020, but recovered in 2021. Annual grants by CIPO declined nearly 6% from 2017 to 2021, but recovered in 2022 and further growth is projected for 2023.[321] During the review period, Canadians continued to file from 4.5 to 5 times as many annual applications abroad than domestically, and domestic filings continued to be dominated by foreign applicants (87% in 2021) (Table A3.2). In 2021, over half of foreign applications – more than the total number of domestic applications – originated from the United States (52%), followed by Germany (6%) and

[313] The amended Patent Rules were notified to the TRIPS Council in WTO document IP/N/1/CAN/31, IP/N/1/CAN/P/20, 19 October 2022. Regulatory Impact Analysis Statement, *Canada Gazette*, Part I, Vol. 155, No. 27: Rules Amending the Patent Rules. Viewed at: https://gazette.gc.ca/rp-pr/p1/2021/2021-07-03/html/reg3-eng.html; and Government of Canada, *Frequently Asked Questions about Amendments to the Patent Rules*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/patents/patent-branch/frequently-asked-questions-about-amendments-patent-rules.

[314] Government of Canada, *Frequently Asked Questions about Amendments to the Patent Rules*.

[315] Government of Canada, *What You Need to Know About Changes to CIPO's Fees*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/what-you-need-know-about-upcoming-changes-cipos-fees.

[316] *Yves Choueifaty v. Attorney General of Canada*, 2020 FC 837.

[317] CIPO, *Patentable Subject-Matter under the Patent Act*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/patentable-subject-matter-under-patent-act.

[318] Gray, L (2022), "One Step Forward: Canadian Software Patents". 9 June. Viewed at: https://brionraffoul.com/2022/news/one-step-forward-canadian-software-patents/.

[319] Canadian Patent Application 3137161 Office Letter, 8 November 2021. Viewed at: https://www.ic.gc.ca/opic-cipo/cpd/eng/patent/3137161/summary.html?type=number_search&tabs1Index=tabs1_1.

[320] CIPO, *Manual of Patent Office Practice (MOPOP)*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/manual-patent-office-practice-mopop.

[321] Information provided by the authorities.

China (5.7%). In turn, almost 60% of Canadian applications abroad were filed in the United States, followed by the European Patent Office (9.8%) and China (5.8%).[322]

3.297. In 2021, the top three fields of technology for CIPO patent grants were medical technology (8%), pharmaceuticals (7.7%), and civil engineering (6.5%) – the same top fields as in 2017. The percentage of grants in the area of biotechnology grew over the review period (from 3.2% in 2017 to 4.8% in 2021), while grants in digital communications and electrical machinery, apparatus, and energy declined. In 2021, international patent grants to Canadian filers most frequently involved digital communications, computer technology, civil engineering, and medical technology.[323]

3.298. The average pendency from request for examination to the first office action was 349 days in 2021, compared to 320 days in 2017.[324] Expedited examination is available (i) for green technologies; (ii) if the regular patent approval processing time is likely to prejudice the applicant's or a third party's IP rights; (iii) if the applicant has a corresponding patent application or grant with one of Canada's PPH partners; or (iv) for small entity applicants for inventions related to medical products and processes supporting the health-related response to COVID-19.[325]

3.3.7.5 Industrial designs

3.299. The Industrial Design Act 1985 and the Industrial Design Regulations 2018 continue to regulate the protection of industrial designs in Canada. No substantive amendments to the Act or the Regulations have been made since 2018, when amendments to enable Canada to accede to the Hague Agreement and modernize its industrial design regime entered into force.

3.300. Annual designs in applications filed with CIPO increased by 8%, and designs in registrations by 14%, from 2017 to 2021. The vast majority of the designs in both applications and registrations during this period were from non-residents (91% in 2021) (Table A3.2). Just under half of the designs from non-resident registrations originated from the United States (46.2%), followed by China (10.3%), Switzerland (6.2%), and Germany (5.5%). The annual rate at which Canadians filed for industrial designs abroad jumped 32% in 2018 when Canada joined the Hague Agreement. By 2021, Canadians annually filed more than 10 times as many industrial designs abroad than domestically, with most designs filed in the United States (39.6%), the European Union IP Office (EUIPO) (21.3%), and the United Kingdom (15.1%).

3.3.7.6 Trademarks

3.301. The Trademarks Act 1985 and the Trademarks Regulations 2018 continue to provide the legal framework for trademark protection in Canada. In 2019 significant amendments described in the prior review[326] entered into force, aiming to adopt the standard procedures of the Singapore Treaty, the Nice Agreement, and the Madrid Protocol, and align Canadian trademark law with that of its major trading partners.

3.302. Among other changes, the 2019 amendments eliminated the requirement to supply a declaration of use as a condition for registration, introduced new types of trademarks, provided greater flexibility in correcting errors, reduced evidentiary requirements in certain cases when transferring ownership, and provided for the option to divide applications and merge registrations. This effort to streamline trademark prosecution, together with becoming a member of the Madrid System, and the overall increased global demand in trademark applications, has been cited as among the reasons why trademark applications surged during the review period (Table A3.2).

3.303. Several initiatives were undertaken during the review period to combat abuse of the trademark regime. First, in 2019, a new practice notice was published on the CIPO website, allowing

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[322] WIPO, *Intellectual Property Statistical Country Profile 2021 – Canada*. Viewed at: https://www.wipo.int/edocs/statistics-country-profile/en/ca.pdf [accessed on 13 October 2023].

[323] WIPO Statistics database. Viewed at: https://www3.wipo.int/ipstats/ips-search/patent.

[324] WIPO Statistics database. Viewed at: https://www3.wipo.int/ipstats/ips-search/patent. CIPO's service standard.

[325] Government of Canada, *Expedite Your Patent Application*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/patents/expedite-your-patent-application.

[326] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.7.5.

for notification of third-party rights as an informal way for third parties to bring to the attention of the Registrar of Trademarks information bearing on the registrability of a pending trademark application. This correspondence procedure is limited to three grounds, does not create an *inter partes* proceeding between the applicant and the third party, and does not replace opposition proceedings.[327] If the trademark is at the examination stage, examiners may consider the information provided in the notification when assessing the registrability of a trademark and only as it relates to the limited three grounds. Second, "bad faith" was added as an independent basis for invalidation and opposition.[328] Further, the Trademark Registrar has new authority to initiate non-use cancellation proceedings *ex officio* three years from the registration date. Finally, newly registered trademarks cannot be enforced during their first three years unless the trademark was used in Canada during that period, or good reasons excuse non-use. Entry into force of this particular provision has been delayed until 2024.[329]

3.304. The 2019 amendments also introduced lack of inherent distinctiveness as a possible bar to registration during examination. A distinctive trademark "actually distinguishes the goods or services in association with which it is used by its owner from the goods or services of others " or "is adapted so to distinguish them".[330] At the examination stage, this criterion is assessed by examiners on a case-by-case basis, as guided by the Trademarks Examination Manual and jurisprudence.[331]

3.305. Almost 22,000 applications for non-traditional marks have been filed with CIPO since the definition of a trademark was expanded in 2019 to include signs consisting of a colour, three-dimensional shape, position, hologram, sound, scent, taste, texture, mode of packaging, or a combination thereof. Approximately one third of these have progressed beyond preliminary examination and 76 (23 of which are position marks) have been registered as of November 2023.

3.306. Other amendments introduced as part of the IP Strategy concern "official marks", which are a type of prohibited mark, adopted and used by a public authority. Official marks are not limited to specifically identified goods or services, do not undergo substantive examination, and are not subject to renewal.[332] They are not subject to opposition, and once advertised can only be voluntarily withdrawn by the relevant public authority or cancelled by the Federal Court. Subparagraph 9(1)(n)(iii) of the Trademarks Act provides that marks consisting of or likely to be mistaken for an official mark cannot be adopted in connection with a business, as a trademark or otherwise, without the consent of the relevant public authority. The amendment provides that the Registrar may, on his or her own initiative or at the request of a person who pays the prescribed fee, give public notice that subparagraph 9(1)(n)(iii) does not apply with respect to a particular official mark. This notice may be given if the relevant entity that made the request under subparagraph 9(1)(n)(iii) of the Act for the public notice is not a public authority or no longer

[327] Third parties may submit information relating only to the following grounds: (i) the applicant's trademark is confusing in light of a registered trademark; (ii) the applicant's trademark is confusing in light of an earlier-filed trademark application; or (iii) a registered trademark is used to describe the goods or services. Written arguments or evidence of prior use may not be submitted through this process.

[328] Bill C-86 (A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures), notified to the TRIPS Council in WTO document IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7, 16 October 2019. In 2022, two 2022 Federal Court cases interpreted and applied this provision for the first time, with both referencing the "bad faith" jurisprudence of the European Union and the United Kingdom. See *Beijing Judian Restaurant Co Ltd v Meng*, 2022 FC 743 and *Blossman Gas, Inc. v Alliance Autopropane Inc.*, 2022 FC 1794.

[329] Bill C-86 (A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures), notified to the TRIPS Council in WTO document IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7, 16 October 2019.

[330] Trademarks Act 1985, S.2. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/t-13/page-2.html#docCont.

[331] Government of Canada, *Trademarks Examination Manual*. Viewed at: https://manuels-manuals.opic-cipo.gc.ca/w/ic/TM-en#!fragment/zoupio-_Toc75335093/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgHYBWAZh64AMATh4BKADTJspQhACKiQrgCe0AORrxEQmFwIFS1Rq069IAMp5SAIVUAlAKIAZBwDUAggDkAwg-GkwACNoUnZRUSA.

[332] Trademarks Act 1985, S.9. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/t-13/page-2.html#docCont.

exists.[333] CIPO has prepared a draft practice notice regarding its proposed implementation of these amendments.[334]

3.307. At the end of 2022, CIPO opened a public consultation on proposed amendments to the Trademarks Regulations and associated draft practice notices pertaining to proceedings before the Trademarks Opposition Board (TMOB). The proposed amendments were developed to carry out the further amendments to the Trademarks Act, which conferred to the Registrar of Trademarks the authority to award costs, grant confidentiality orders, and explicitly practice case management.[335]

3.308. In 2022, the Québec legislature adopted amendments to the Charter of the French Language, which will impose new requirements for the use of non-French trademarks in the province. The purpose is to further recognize French as the official language of Québec, and to reinforce its use in daily life. The amendments narrow the exception to the translation requirement for non-French trademarks for which a French version has not been registered from those that are "recognized" to those that are "registered" – newly requiring French translations for common law trademarks and those with pending applications that appear on products and packaging, in commercial publications (including websites), on signs and posters, and in commercial advertising. Consequently, following the amendments a non-French trademark may be used without a French translation only if (i) it is registered; and (ii) there is no corresponding French version in the Trademark Register.

3.309. Additionally, the amendments require that all non-French generic or descriptive terms that are part of a trademark used on a product be translated and appear in French on the product or on a medium permanently attached to it. This requirement will apply to all trademarks used on a product, including those that are registered. Finally, requirements with respect to the use of French text accompanying non-French trademarks on signs and posters and commercial advertising will be strengthened. Currently, French terminology must have a "sufficient presence" accompanying non-French trademarks (even if registered). Once the amendments enter into force, the "sufficient presence" of the French language requirement will be replaced with a higher obligation: French language has to be "markedly predominant". With respect to enforcement, the amendments give the Office Québécois de la langue française new powers to order offenders to comply with or cease contravening the Charter. Civil, administrative, and penal remedies will also be available.[336] Forthcoming regulations may provide guidance on the interpretation, implementation, and enforcement of the new requirements.

3.310. In 2021, the CIPO received 82,084 trademark applications and registered 46,088 trademarks. From 2015 to 2021, the volume of trademark applications filed at CIPO increased by over 50%. Applications grew at an annual average rate of 17% from 2019 to 2021 (Table A3.2). Indeed, in 2021 the proportion of CIPO's non-resident applications and registrations increased steadily during the review period, reaching 64% and 84%, respectively. Registrations have been granted at disproportionately high rates to non-residents since 2019, likely due to CIPO prioritizing applications made through the Madrid Protocol, whose examination period is limited to 18 months from the date of recording.

3.311. At the same time that foreign nationals were increasingly choosing to register their marks in Canada, Canadians were increasingly seeking protection for their own marks abroad. Annual global foreign filings of Canadian origin increased 36% and grants 52% from 2017 to 2021 (Table A3.2). Since 2018, Canadians have annually filed more than twice as many foreign than domestic trademark applications, with 39% of 2021 foreign applications destined for the United States,

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[333] Bill C-86 (A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures), notified to the TRIPS Council in WTO document IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7, 16 October 2019.

[334] Government of Canada, *Draft – Request to Give Public Notice Under Subsection 9(4) of the Trademarks Act*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/public-consultation-new-trademark-practice-notice/draft-request-give-public-notice-under-subsection-94-trademarks-act.

[335] Government of Canada, *Public Consultation on Proposed Amendments to the Trademarks Regulations and Draft Practice Notices of the Trademarks Opposition Board*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/public-consultation-proposed-amendments-trademarks-regulations-and-draft-practice-notices-trademarks.

[336] Bill 96 (2022, Ch. 14), National Assembly of Québec. Viewed at: https://www.publicationsduquebec.gouv.qc.ca/fileadmin/Fichiers_client/lois_et_reglements/LoisAnnuelles/en/2022/2022C14A. PDF.

followed by China (9.3%), the United Kingdom (8.7%), and EUIPO (8.5%).[337] Foreign filings made to CIPO originated at similar rates from the same countries.[338]

3.312. CIPO pendency periods steadily increased during the review period along with filings. Average trademark "turnaround time", the wait time between application filing and examination, for FY2022/23 was 33.8 months, compared to 26.5 months for FY2016/17.[339] CIPO attributes the delays to the 2019 implementation of the Madrid Protocol, Singapore Treaty, and Nice Agreement and increased demand.[340]

3.313. CIPO has taken measures to address the delays. In 2022, it started fast-tracking applications that are filed using the preapproved list of goods and services, as these applications are 70% more likely to proceed to approval without an examiner's first report.[341] It also began to send automated pre-assessment letters to applicants advising them – based upon the results of an automated assessment tool – of whether amendments to the statement of goods and services may be required and identifying any missing or improper Nice Classification information. In response, applicants can voluntarily opt to amend their applications, address misclassification issues, or ask CIPO to add certain goods and services to the Goods and Services Manual – possibly leading to accelerated examination. CIPO has also hired over 140 additional trademark examiners since May 2022. Efforts were also made to streamline examination by reducing the availability of extensions of time in examination and decreasing the number of times arguments can be submitted against a given objection raised in examination. Efficiencies are also expected from the digitization of correspondence and other IT solutions.[342] Canada aims to restore turnaround times to "internationally comparable standards" by 2026.[343]

3.314. In light of examination delays, in 2021 CIPO began to offer upon request expedited examination in the following circumstances: (i) a court action is expected or underway in Canada with respect to the applicant's trademark in association with the goods or services listed in the application; (ii) the applicant is in the process of combating counterfeit products at the Canadian border with respect to its trademark in association with the goods or services listed in the application; (iii) the applicant requires registration in order to protect its IP rights from being severely disadvantaged in online marketplaces; or (iv) the applicant requires registration in order to preserve its claim to priority within a defined deadline and following a request by a foreign IP office.[344]

3.3.7.7 Geographical indications

3.315. The Canadian legislation governing the protection of GIs did not change during the review period. In Canada, GIs are protected under the Trademarks Act 1985 (amended). Canada maintains a list of protected GIs, including those that acquired protection through international agreements (e.g. CETA) and those that acquired protection via a request to CIPO. As of 23 September 2023, 853 GIs were in force in Canada, 77% for wines and spirits, and the remainder for agricultural

[337] WIPO, Intellectual Property Statistical Country Profile 2021 – Canada. Viewed at: https://www.wipo.int/edocs/statistics-country-profile/en/ca.pdf [accessed on 13 October 2023].

[338] WIPO, Intellectual Property Statistical Country Profile 2021 – Canada. Viewed at: https://www.wipo.int/edocs/statistics-country-profile/en/ca.pdf [accessed on 13 October 2023].

[339] Government of Canada, *Trademark Statistics: 2022 to 2023*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/canadian-intellectual-property-statistics/trademark-statistics-2022-2023.

[340] CIPO, *2023-2028 Business Strategy*, p. 13. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/sites/default/files/attachments/2023/CIPOCS-1884_Business_Strategy-eng.pdf.

[341] Canada requires applicants to describe the goods and services to which the trademark would apply in ordinary commercial terms – in addition to grouping them according to the Nice Classification. CIPO maintains a list of preapproved terms for goods and services for this purpose. See CIPO, *Goods and Services Manual*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/trademarks/goods-and-services-manual.

[342] CIPO, *2021-2022 Annual Report*, p. 17. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/sites/default/files/attachments/2023/pub-annual-report-2021-2022_eng.pdf.

[343] CIPO, *2023-2028 Business Strategy*, p. 11. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/sites/default/files/attachments/2023/CIPOCS-1884_Business_Strategy-eng.pdf.

[344] Government of Canada, *Requests for Expedited Examination*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/trademarks/practice-notices/requests-expedited-examination.

products and foodstuffs. From January 2019 to September 2023, 19 GIs were added to the list via requests to CIPO: 3 from Canada, and 16 from the European Union.[345]

3.3.7.8 Undisclosed information

3.316. In Canada, breaches of trade secret protection can be pursued by way of civil litigation, criminal prosecution, or both. Depending on the facts, misuse of information communicated in confidence may be enforced on a number of common law bases at the provincial level, such as breach of contract, misappropriation (theft), breach of fiduciary duty, and breach of confidence. In Québec, civil law principles enforce torts such as breach of contract and breach of confidence. In litigation, the trade secret owner can advance an action for trade secret infringement. For criminal trade secret theft, the Crown decides whether to prosecute, following an investigation by the police.

3.317. In Canada, civil trade secrets protection is a matter of provincial jurisdiction. Canada also protects certain forms of undisclosed information at the federal level through the Security of Information Act and the Personal Information and Protection of Electronic Documents Act. Trade secrets are also referenced in the Access to Information Act, Canadian Space Agency Act, National Energy Board Act, and the Telecommunications Act. In addition, in 2020, Canada criminalized trade secret misappropriation. The Criminal Code was amended to make it an offence to, by deceit, falsehood, or other fraudulent means, knowingly obtain a trade secret, or communicate or make available a trade secret. Knowingly obtaining a trade secret or communicating or making available a trade secret knowing that it was obtained illegally is also an offence. Independent development and reverse engineering of the subject matter of a trade secret are expressly excluded.[346]

3.318. Data protection for innovative drugs set forth in the Food and Drug Regulations remains unchanged.[347] Amendments to the Pest Control Products Regulations (Test Data Protection)[348] set to enter into force by the end of 2023[349] clarify the process to be followed and compensation payable for reliance on another registrant's data during post-market re-evaluations and special reviews conducted by Health Canada's Pest Management Regulatory Agency.

3.3.7.9 Plant variety protection

3.319. The PBR Act and the Plant Breeders' Rights Regulations 1991 continue to be the main instruments governing plant variety protection. The Act was modernized in 2015[350] to strengthen breeders' rights, improve access to protection, and extend the term of protection.[351] No substantive amendments were undertaken during the review period.

3.320. In June 2023, the Government published a study on the impact of the 2015 amendments and ratification of UPOV (1991). An economic analysis comparing production, yield, farm cash receipts, and export value of selected crop types showed increases as compared to the pre-amendment period. Applications for protection to the PBR Office also increased after the 2015 amendments, reversing a downward trend. A stakeholder survey and case studies provided mostly positive feedback but identified areas for improvement. Concerns were expressed regarding the

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[345] Government of Canada, *List of Geographical Indications*. Viewed at: https://www.ic.gc.ca/cipo/listgiws.nsf/gimenu-eng?readForm; and WIPO, *Intellectual Property Statistical Country Profile 2021 – Canada*. Viewed at: https://www.wipo.int/edocs/statistics-country-profile/en/ca.pdf [accessed on 13 October 2023].

[346] Bill C-4 (An Act to implement the Agreement between Canada, the United States of America and the United Mexican States), notified to the TRIPS Council in WTO document IP/N/1/CAN/35, 6 March 2024.

[347] Government of Canada, *Assessing Impacts of the 2015 Legislative Amendments to Canada's Plant Breeders' Rights Act and UPOV'91 Ratification*. Viewed at: https://agriculture.canada.ca/en/department/transparency/assessing-impacts-2015-legislative-amendments-canadas-plant-breeders-rights-act-and-upov91.

[348] Pest Control Products Regulations (SOR/2006-124). Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2006-124/index.html. Canada has not yet notified these regulations to the TRIPS Council.

[349] *Canada Gazette*, Part I, Vol. 154, No. 24: Regulations Amending the Pest Control Products Regulations (Protection of Test Data). Viewed at: https://www.gazette.gc.ca/rp-pr/p1/2022/2022-06-11/html/reg4-eng.html.

[350] Canadian Plant Breeders' Rights Act, notified to the TRIPS Council in WTO document IP/N/1/CAN/14, IP/N/1/CAN/P/11, 7 June 2016.

[351] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.7.8.

application of the "farmer's privilege" exception to asexually propagated varieties and the absence of a farm-saved seed or harvested material royalty system.[352]

3.3.7.10 Copyright

3.321. The Copyright Act 1985 and the Copyright Regulations 1997 comprise the main legislation with respect to copyright protection. Section 92 of the Copyright Act mandates that it be reviewed every five years by a parliamentary committee. In 2019, the Standing Committee on Canadian Heritage and the Standing Committee on Industry, Science and Technology each released reports recommending certain amendments.[353] Some of these recommendations were implemented during the review period.

3.322. The most significant amendments to the Copyright Act extended Canada's terms of protection. Amendments that entered into force at the end of 2022 extended the general term of protection in literary, dramatic, musical, and artistic works from 50 years to 70 years after the end of the year of the author's death.[354] Earlier amendments that entered into force in 2020 addressed terms of protection not tied to the author's life. The term of protection for anonymous and pseudonymous works became 75 years from creation or, when published before the copyright expires, the earlier of 75 years from publication and 100 years from creation. The term of protection for non-dramatic cinematographic works, performer's performances in sound recordings, and sound recordings became 70 years from creation/fixation – unless published before the copyright term expires, in which case protection continues until the earlier of 75 years from publication or 100 years from creation.[355] The term of Crown Copyright, which applies to works prepared or published by the Government, subject to any agreement with the author, remains unchanged at 50 years following the end of the calendar year of first publication.

3.323. In 2019, amendments to the Copyright Act modernized the legislative framework relating to the Copyright Board, which approves tariffs for content whose rights are managed by collective societies, grants licences for the use of content for which right owners cannot be found, and conducts arbitration in the event of disagreements between a collective society and a user on royalties. The amendments sought to improve the timeliness and clarity of the Copyright Board's proceedings and decision-making processes. They introduced statutory rate-setting criteria that require the Board to consider, among other things, the "willing buyer, willing seller" principle in setting rates.[356]

3.324. Consequential amendments were made to the Copyright Act by Bill C-11, the Online Streaming Act (OSA), which received Royal Assent on 27 April 2023. The OSA amends the Broadcasting Act to create a new class of broadcast undertaking ("online undertakings") and subjects them to similar requirements already imposed on traditional radio and television broadcasters, such as contributing to the financing of Canadian programming. The consequential amendments to the Copyright Act update its references to the Broadcasting Act to ensure that the Copyright Act maintains the same scope as before.[357]

3.325. In 2020, Canada also made amendments to the Statement Limiting the Right to Equitable Remuneration of Certain Rome Convention or WPPT Countries, in order to provide national treatment

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[352] Government of Canada, *Assessing Impacts of the 2015 Legislative Amendments to Canada's Plant Breeders' Rights Act and UPOV'91 Ratification*.

[353] Canada House of Commons (2019), *Shifting Paradigms: Report of the Standing Committee on Canadian Heritage*. Viewed at: https://www.ourcommons.ca/Content/Committee/421/CHPC/Reports/RP10481650/chpcrp19/chpcrp19-e.pdf; and (2019) *Statutory Review of the Copyright Act, Report of the Standing Committee on Industry, Science and Technology*. Viewed at: https://www.ourcommons.ca/Content/Committee/421/INDU/Reports/RP10537003/indurp16/indurp16-e.pdf.

[354] Bill C-19 (An Act to implement certain provisions of the budget tabled in Parliament on 7 April 2022 and other measures). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/32, IP/N/1/CAN/C/10, 11 August 2023.

[355] Bill C-4 (An Act to implement the Agreement between Canada, the United States of America and the United Mexican States), notified to the TRIPS Council in WTO document IP/N/1/CAN/35, 6 March 2024.

[356] Bill C-86 (A second Act to implement certain provisions of the budget tabled in Parliament on 27 February 2018 and other measures). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7, 16 October 2019. The amended Copyright Act, incorporating the amendments of Bill C-86, was notified to the TRIPS Council in document IP/N/1/CAN/25, IP/N/1/CAN/C/9, 19 December 2019.

[357] Parliament of Canada, Bill C-11. Viewed at: https://www.parl.ca/DocumentViewer/en/44-1/bill/C-11/royal-assent.

in respect of certain uses of sound recordings whose makers were nationals of the United States at relevant times.[358]

3.326. In 2022, two private members' bills were introduced to create an exception, and to amend an existing exception to the Copyright Act's prohibition on circumventing technological protection measures (TPMs or digital locks). Bill C-244 proposes a new exception allowing the circumvention of TPMs for the sole purpose of maintaining or repairing a product, including any related diagnosing, if the work, performer's performance fixed in a sound recording or sound recording to which the TPM controls access forms a part of the product. The amendment seeks to promote sustainability and provide consumer repair options beyond the offerings of original equipment manufacturers. Relatedly Bill C-294 would amend an existing exception permitting circumvention of TPMs to achieve interoperability to ensure the exception applies when making a computer program, or a device in which it is embedded, interoperable with another computer program, device, or component. This amendment seeks to promote follow-on innovation. As of February 2024, both bills were continuing to make their way through the legislative process.[359]

3.327. The Supreme Court issued two important decisions with respect to copyright during the review period. A 2021 decision confirmed that educational tariffs set by the Copyright Board for the use of copyrighted material bind only those who voluntarily accept the licensing terms. Unlicensed use beyond the bounds of the fair dealing exception by educational institutions that opted out of the tariffs could be addressed by individual copyright owners via infringement actions. The Court declined to determine whether the fair dealing guidelines of the university in question were consistent with the exception but found that the lower courts erred in their findings on fair dealing by approaching the analysis from an institutional perspective only, leaving out the perspective of the students who use the materials.[360]

3.328. In 2022, the Supreme Court interpreted subsection 2.4(1.1) of the Copyright Act, which provides that "communication to the public by telecommunication" includes making a work available for on-demand access. The Supreme Court held that the "making available" of a work is not separately compensable from a subsequent stream of the work.[361]

3.329. In 2021, the Government undertook public consultations in relation to (i) the extension of the copyright general term of protection; (ii) AI and the Internet of Things (IoT); and (iii) online intermediaries.[362] The consultation on AI and IoT notably focused on the use of copyright-protected works in the training of AI systems; the authorship and ownership rights related to AI-generated content[363]; and copyright liability, especially when AI-generated content could infringe existing copyright-protected works. The consultation on online intermediaries focused on the liabilities and obligations of entities that facilitate access to copyrighted content on the Internet. As of February 2024, the Government has yet to introduce legislation in relation to its consultations on AI and the IoT, and on online intermediaries.

3.330. Given recent technological developments, most notably the rapid development of generative AI tools, in the fall of 2023 the Government of Canada launched a public Consultation on Copyright in the Age of Generative Artificial Intelligence. The consultation, which closed in January 2024, was part of the Government's ongoing efforts to update and improve Canada's copyright framework. It

[358] Statement Limiting the Right to Equitable Remuneration of Certain Rome Convention or WPPT Countries, SOR/2014-181. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-181/index.html. See also *Canada Gazette*, Part II, Vol. 154, No. 9. Viewed at: https://gazette.gc.ca/rp-pr/p2/2020/2020-04-29/html/sor-dors82-eng.html.

[359] Parliament of Canada, Bill C-244. Viewed at: https://www.parl.ca/LegisInfo/en/bill/44-1/c-244. Bill C-294. Viewed at: https://www.parl.ca/legisinfo/en/bill/44-1/c-294.

[360] *York University v. Canadian Copyright Licensing Agency (Access Copyright)*, 2021 SCC 32. Viewed at: https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18972/index.do. The Supreme Court set forth the factors to be considered when assessing whether a given use is "fair" in *CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004 SCC 13. Viewed at: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2125/index.do.

[361] *Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30.

[362] Government of Canada, *Copyright Policy*. Viewed at: https://ised-isde.canada.ca/site/strategic-policy-sector/en/marketplace-framework-policy/copyright-policy.

[363] In 2021, CIPO, which does not substantively examine copyright applications, issued a copyright registration that lists a human and an AI "painting app" as co-authors of an artistic work. Canadian Copyright Database, Reg. No. 1188619. Viewed at: https://www.ic.gc.ca/app/opic-cipo/cpyrghts/dtls.do?fileNum=1188619&type=1&lang=eng.

focused on the impacts of recent developments in generative AI on the creative industries and considered whether any changes are required to appropriately balance copyright and technological development for an evolving Canadian economy.[364]

3.3.7.11 IP enforcement

3.331. The Combating Counterfeit Products Act and CETA Implementation Act afforded the CBSA new authority to detain commercial shipments that contain suspected trademark, GI, or copyright-infringing goods, as explained in the previous Review.[365] In 2018, Canada amended the Trademarks Act to extend court authority to order, upon the application of a trademark owner, the temporary detention of goods that have been or are to be imported, released, or distributed in Canada that bear a trademark that is confusing with – not merely identical to – the registered mark.[366] In 2020, the CBSA's authority to detain suspected infringing goods *ex officio* was extended to goods in transit.

3.332. By the end of 2022, over 260 rights holders, covering over 3,700 rights, had filed a Request for Assistance (RFA) asking the CBSA to temporarily detain suspected infringing goods at the border. Between 2020 and 2022, overall detentions increased by 120%. In 2022, 90% of rights holders took action when informed by the CBSA of a detention, and among them 83% secured a settlement with the importer.[367]

3.333. In 2020, Canada criminalized removing or altering rights management information (RMI) from copyrighted works and sound recordings for commercial purposes when the person knows that the removal or alteration will facilitate or conceal infringement or adversely affect the owner's right to remuneration. Those who subsequently distribute or commit other acts for commercial purposes with the associated work or sound recording are also criminally liable in certain circumstances. Violations are punishable by a fine of up to CAD 1,000,000 and/or imprisonment for up to five years.[368]

3.334. Since its last Review, Canada has legitimized the use of judicial site blocking orders as a tool to counter online infringement. In March 2022, the Supreme Court denied a request to appeal a Federal Court of Appeal decision affirming a 2019 order obliging Canada's main Internet service providers (ISPs) to disable access to websites hosting allegedly infringing content.[369] Later in May 2022, the Federal Court issued its first dynamic site blocking order requiring Canadian ISPs to disable access to illegal live streaming of National Hockey League matches identified by the rights holders in real time. The plaintiffs had made a *prima facie* case that the unknown defendants were engaged in ongoing infringement that evaded traditional remedies. The temporary order required independent expert monitoring and verification to ensure transparency and appropriate execution, as well as indemnification of the third-party respondents for implementation costs.[370]

3.335. A number of cases have successfully been brought in recent years by Canadian media companies against vendors of preloaded set-top boxes and private IPTV services that use private Internet servers to stream unauthorized re-transmissions of television broadcasts. The Federal Court is increasingly levying substantial statutory and punitive damage awards against infringers who blatantly engage in activities that result in direct or indirect copyright infringement,

[364] Government of Canada, *Copyright Policy*. Viewed at: https://ised-isde.canada.ca/site/strategic-policy-sector/en/marketplace-framework-policy/copyright-policy.

[365] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Section 3.3.7.10.

[366] Bill C-79 (An Act to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership between Canada, Australia, Brunei Darussalam, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam), notified to the TRIPS Council in WTO document IP/N/1/CAN/22, IP/N/1/CAN/T/6, 3 July 2019.

[367] Information provided by the authorities.

[368] Bill C-4 (An Act to implement the Agreement between Canada, the United States of America and the United Mexican States), notified to the TRIPS Council in WTO document IP/N/1/CAN/35, 6 March 2024.

[369] *Teksavvy Solutions Inc. v. Bell Media Inc., et al.*, Docket No. 39876. Viewed at: https://www.scc-csc.ca/case-dossier/info/dock-regi-eng.aspx?cas=39876.

[370] *Rogers Media Inv. v. John Doe #1*, 2022 FC 775.

even where the quantity and extent of the harm arising from the infringement was difficult to precisely quantify.[371]

3.336. In 2023, the Federal Court launched a pilot project involving the creation of a specialty IP and competition chambers. Case assignments to the IP chambers, which consist of 24 judges, will be made automatically by the Judicial Administrator, who will also consider IP practice area sub-specialties.[372]

3.3.7.12 COVID-19 related IP measures

3.337. CIPO remained open during the pandemic, although services were temporarily delayed while systems and staff adapted to remote working. Like many other jurisdictions, CIPO offered extensions for certain filing deadlines relating to patents, industrial designs, and trademarks due to COVID-19. These automated extensions expired on 28 August 2020. In 2020, CIPO launched a pilot programme for small entities and universities offering accelerated examination of patent applications at no additional cost for inventions related to medical products and processes supporting the response to COVID-19.[373] In late 2020 CIPO also began accepting requests for expedited examination of trademark applications associated with medical goods or services related to COVID-19.[374] A new "COVID-19 related" category of technologies was also added to ExploreIP, the searchable database of public sector patents available for licence.[375]

3.338. In November 2020, Canada announced the results of "Project Purify", a joint effort of the CBSA, Health Canada, and the RCMP to combat unauthorized or counterfeit health products from crossing the border from 20 March to 30 June 2020. During that period, over 380 shipments were detained, including 48,000 COVID-19 test kits, 4.5 million units of PPE, and 33,000 prescription drugs.[376]

3.339. On 25 March 2020, Canada temporarily supplemented its existing compulsory licensing regime by amending the Patent Act to authorize the Commissioner of Patents, on the application of the Minister of Health, to authorize the Government and any person specified in the application to supply a patented invention to the extent necessary to respond to a public health emergency that is a matter of international concern. The ability of the Commissioner of Patents to authorize the Government of Canada or another specified person to make, construct, use, and sell a patented invention to the extent necessary to respond to the COVID-19 pandemic was in effect until 30 September 2020.[377]

[371] See e.g. *Bell Canada v. Nie*, 2022 CanLII 7552 (FC). Viewed at: https://www.canlii.org/en/ca/fct/doc/2022/2022canlii7552/2022canlii7552.html?searchUrlHash=AAAAAQAJQ29weXJpZ2h0AAAAAAE; and *2424508 Ontario Ltd. v. Rallysport Direct LLC*, 2022 FCA 24. Viewed at: https://www.canlii.org/en/ca/fca/doc/2022/2022fca24/2022fca24.html?autocompleteStr=2424508%20Ontario%20Ltd.%20v.%20Rallysport%20Direct%20LLC&autocompletePos=3.

[372] Federal Court, Notice to the Parties and the Profession, Pilot Project: Chambers of the Court (2 March 2023). Viewed at: https://app.cyberimpact.com/newsletter-view-online?ct=bqNpTRx_UdAeFQ-ifyW1fBp2DQmJXtd9jnC9tBTffEaA8i88Gg6Ojow7ucTGuXokydR8bBi97UdlfXpjwDlbfQ~~.

[373] Government of Canada, *Accelerate Examination for Canadian Patent Applications related to COVID-19 Relief*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/accelerate-examination-canadian-patent-applications-related-covid-19-relief.

[374] Government of Canada, *Requests for Expedited Examination in the Context of the COVID-19 Pandemic*. Viewed at: https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/trademarks/practice-notices/requests-expedited-examination-context-covid-19-pandemic.

[375] TRIPS Council, Minutes of the meeting held 15-16 October 2020, paras. 102-103.

[376] Government of Canada (2020), "Combating Unauthorized and Counterfeit Goods during the COVID-19 Pandemic: The CBSA, Health Canada and RCMP Announce the Results of Project Purify", 5 November. Viewed at: https://www.canada.ca/en/border-services-agency/news/2020/11/combating-unauthorized-and-counterfeit-goods-during-the-covid-19-pandemic-the-cbsa-health-canada-and-rcmp-announce-the-results-of-project-purify.html. The Government did not distinguish between counterfeit and unauthorized products.

[377] Bill C-13 (An Act respecting certain measures in response to COVID-19). This bill was notified to the TRIPS Council in WTO document IP/N/1/CAN/30, IP/N/1/CAN/P/19, 23 April 2020.

3.340. To date, no COVID-19 vaccines or therapeutics have been added to the list of drugs eligible for export in Schedule 1 of Canada's Access to Medicines Regime (CAMR).[378] CAMR authorizes the manufacture and export of patented medicines in order to facilitate access to pharmaceutical products by developing and least developed Members with insufficient or no manufacturing capacity facing public health crisis. The regime implements the 2003 General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement[379] and the subsequent 2005 Protocol Amending the TRIPS Agreement.[380]

[378] Patent Act, Schedule 1.
[379] WTO documents WT/L/540, 2 September 2003; and WT/L/540/Corr.1, 29 July 2005.
[380] WTO document WT/L/641, 6 December 2005.

4 TRADE POLICIES BY SECTOR

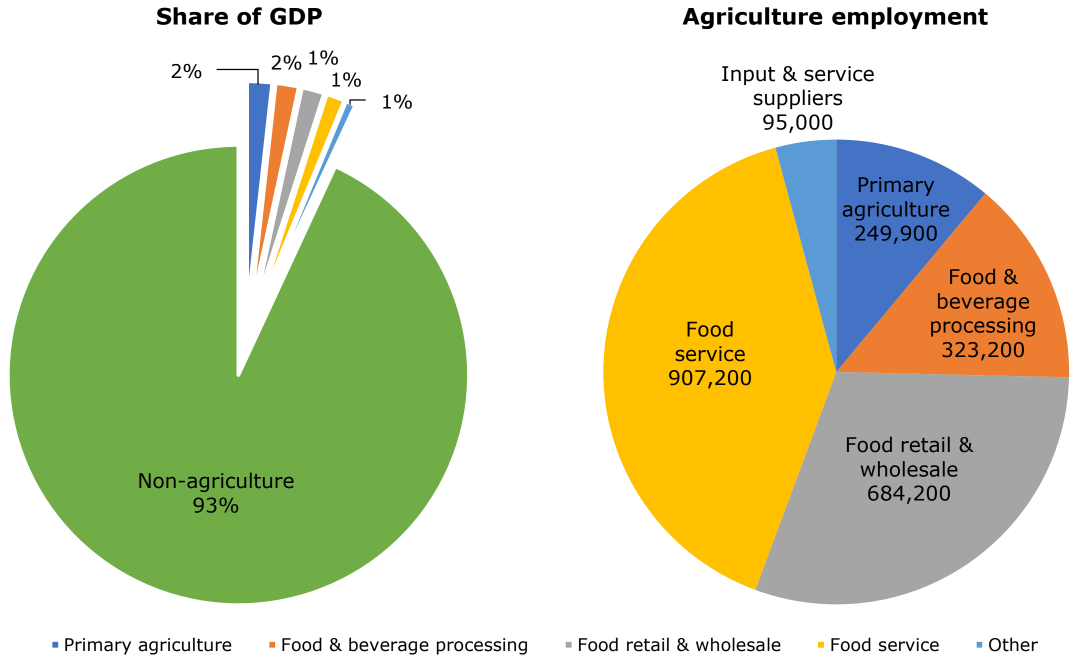
4.1 Agriculture, forestry, and fisheries

4.1.1 Agriculture

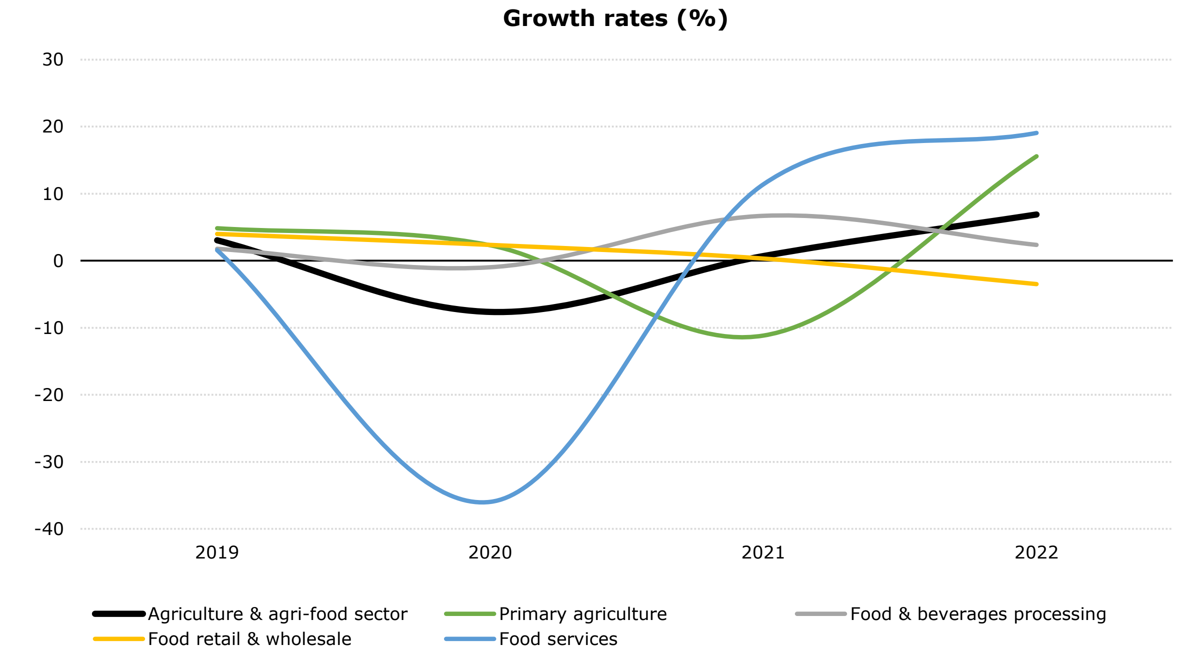
4.1.1.1 Main features and recent developments

4.1. The agriculture and agri-food sector, comprising primary agriculture, food and beverage processing, food retail and wholesale, and food service, remains a major contributor to the economy, accounting for about 7% of GDP in 2022 (Chart 4.1). In 2022, the sector employed 2.3 million people, providing 1 in 9 jobs in Canada.[1] The sector, in particular food services, contracted in 2020, reflecting the impact of the COVID-19 pandemic. Since then, it has been recovering and reached a growth rate at 6.9% in 2022 (Chart 4.1).

Chart 4.1 Agriculture and agri-food system's contribution to GDP and employment, 2022



[1] Agriculture and Agri-Food Canada (AAFC), *Overview of Canada's Agriculture and Agri-Food Sector*. Viewed at: https://agriculture.canada.ca/en/sector/overview.



Source: WTO Secretariat, based on Agriculture and Agri-Food Canada (AAFC), *Overview of Canada's Agriculture and Agri-Food Sector*. Viewed at: https://agriculture.canada.ca/en/sector/overview. Statistics Canada, Table 36-10-0434-06.

4.2. According to the 2021 Census of Agriculture[2], Canada's total area of farmland continued its slight decline (by 3% between 2016 and 2021), resulting from, *inter alia*, residential development and farmland abandonment. The total area of cropland remained the same, while the area for pasture and for other uses decreased.

4.3. In 2021, 189,874 farms engaged in primary agriculture (a decrease of 1.9% from 2016), covering 62.2 million hectares (ha) (6.2% of Canada's total land area). The drop in the number of farms was mainly due to industry consolidation and the ageing of farmers. The number of farm operators decreased from 271,935 in 2016 to 262,455 in 2021. Nonetheless, the number of female operators increased from 77,970 in 2016 (28.7% of total farm operators) to 79,795 in 2021 (30.4%). In 2021, farms reporting CAD 2 million or more in sales accounted for over half (51.5%) of total farm operating revenues, up from 41.5% in 2016. At the same time, there remains a significant number of small and very small farms.

4.4. The Census also found that the agriculture sector is adapting to meet climate challenges by modernizing and applying more sustainable farming practices.[3] For example, the proportion of farms that reported renewable energy production in 2021 (11.9%) has more than doubled since 2016 (5.3%). In particular, the number of farms using solar energy production increased by 68.5% from 2016 to 2021.

4.5. Canada maintains a surplus in agricultural trade. According to Canadian International Merchandise Trade Web Application (CIMTWA) data, in 2022, Canada exported CAD 86.2 billion in agricultural products (WTO definition) (11.1% of total merchandise exports) and imported CAD 62.3 billion (8.4% of total merchandise imports[4]). The main agricultural products exported were cereals (17.4% of agriculture exports), food preparations (13.0%), meat (11.7%), and oilseeds, fats, and oils (11.4%). The main imports were food preparations (15.2% of agriculture imports), fruits (11.7%), alcohols (11.4%), and vegetables (7.7%). In 2022, the top three export markets were the United States (over half of Canada's agricultural exports), China (8%), and Japan (6.7%),

[2] Statistics Canada, *Canada's 2021 Census of Agriculture: A Story about the Transformation of the Agriculture Industry and Adaptiveness of Canadian Farmers*. Viewed at: https://www150.statcan.gc.ca/n1/daily-quotidien/220511/dq220511a-eng.htm.

[3] Statistics Canada, *Canada's 2021 Census of Agriculture: A Story about the Transformation of the Agriculture Industry and Adaptiveness of Canadian Farmers*.

[4] Statistics Canada, *Canadian International Merchandise Trade Web Application*. Viewed at: https://www150.statcan.gc.ca/n1/pub/71-607-x/71-607-x2021004-eng.htm.

while the top three sources of imports were the United States (over half of Canada's agricultural imports), the European Union (12%), and Mexico (6%).

4.6. Canada committed to providing at least CAD 250 million annually in food assistance under the 2013 Food Assistance Convention (FAC). According to its notifications to the WTO, Canada provided CAD 351 million in 2019, CAD 443.3 million in 2020, and CAD 517.6 million in 2021.[5] In 2021, 72.6% of Canada's food aid went to LDCs and Net Food-Importing Developing Countries (NFIDCs).

4.1.1.2 Regulatory, institutional, and policy developments

4.7. Agricultural policy remains a shared responsibility between federal and provincial/territorial (FPT) governments. Since the previous Review in 2019, there has not been any significant change to the legislative or institutional framework for agriculture. Agriculture and Agri-Food Canada (AAFC) is responsible for administering and enforcing, *inter alia*, the Agricultural Marketing Programs Act, the Agricultural Products Marketing Act, the Canada Grain Act, the Canadian Agricultural Loans Act, and the Farm Income Protection Act.[6] The Canadian Food Inspection Agency (CFIA) is in charge of, *inter alia*, the Feeds Act, the Fertilizers Act, the Food and Drugs Act, the Health of Animals Act, the Plant Protection Act, and the Safe Food for Canadians Act (Section 3.3.3).[7]

4.8. Canada has been using a wide range of policy tools, including border protection and domestic support, to promote the development of the agricultural sector (see below). In particular, the dairy, poultry, and egg sectors remain subject to supply management. The authorities are of the view that the purpose of supply management is to ensure that domestic demand is matched by regulated production and regulated imports. Supply management comprises:

- Production quotas: For dairy, the National Milk Marketing Plan establishes a national target for the production of industrial milk, and the Canadian Dairy Commission (CDC) calculates monthly quotas by comparing domestic demand and domestic supply, with a view to ensuring that Canada is self-sufficient in milk fat.[8] For poultry and eggs, the Farm Products Agencies Act allows relevant agencies (on chicken, turkey, and eggs) to allocate production quotas. This includes an "export policy quota" on turkey[9], intending to allow sufficient production to cover planned exports. For turkeys exported, production quotas are allocated by the Turkey Farmers of Canada, a farm product marketing agency, to turkey farms to allow for sufficient domestic production of processed, further processed, or live turkeys.

- Pricing mechanisms: The CDC establishes support prices for butter, i.e. the prices at which it purchases butter for onward sale to processors. Additionally, milk prices for Classes 1 to 4 (with the exception of non-fat solids class 4(a)) are adjusted annually based on the cost of production (as calculated/commissioned by the CDC) and on the CPI, while prices for special milk classes are based on "external reference prices" (e.g. US milk and dairy component prices in Classes III and IV, announced by the US Department of Agriculture) and are calculated monthly. Provincial boards set turkey prices based on input costs, the supply and demand situation, prices of competing meats, and storage levels.

- Import measures consisting of a combination of high customs tariffs, tariff quotas, import licensing and restrictions, and state trading arrangements (Section 4.1.1.2.1).

[5] WTO documents G/AG/N/CAN/154, 25 January 2023; G/AG/N/CAN/155, 25 January 2023; G/AG/N/CAN/156, 24 March 2023; and G/AG/W/125/Rev.19/Add.3, 26 July 2023.
[6] AAFC, *List of Acts and Regulations*. Viewed at: https://agriculture.canada.ca/en/department/transparency/acts-regulations/list.
[7] CFIA, *List of Acts and Regulations*. Viewed at: https://inspection.canada.ca/about-cfia/acts-and-regulations/list-of-acts-and-regulations/eng/1419029096537/1419029097256.
[8] WTO documents WT/TPR/S/389/Rev.1 and WT/TPR/M/389/Add.1, 23 August 2019.
[9] Justice Laws, *Canadian Turkey Marketing Quota Regulation, 1990*. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-90-231/page-1.html.

4.9. The Farm Product Agencies Act (FPAA) 1993 created the Farm Product Council of Canada (FPCC), and allows for the creation of farm products marketing agencies, and farm products promotion and research agencies. According to Section 32 of the FPAA, the Competition Act does not apply to farm products marketing agencies (e.g. the Egg Farmers of Canada, the Chicken Farmers of Canada, the Turkey Farmers of Canada, and the Canadian Hatching Egg Producers). This exemption does not extend to farm products promotion and research agencies (e.g. the Canadian Beef Cattle Research Market Development and Promotion Agency), nor to the FPCC and the CDC (created under the Canadian Dairy Commission Act[10]).

4.10. The Government continues to provide domestic support to the agriculture sector. According to Canada's notification to the WTO, its aggregate measurement of support (AMS) support remains within the bound level, but increased between 2018 and 2020. The OECD calculation suggested that Canada's support to agricultural producers went up in 2021 by 54% from the previous year.[11] This increase was due to payments to crop insurance caused by weather challenges and to a lesser extent to an increase in market price support (MPS). It went down by 27% in 2022. MPS, the potentially most distorting form of support predominates, although its share in producer support estimate (PSE) fell from 68% during the 2015-17 period to 50% during the 2018-22 period (Section 4.1.2.4).

4.1.1.2.1 Border measures

4.11. In 2023, Canada's average applied MFN tariff on agricultural products (WTO definition) was 21.8% (the same as in 2019), almost 9 times the average MFN tariff applied on non-agricultural products (2.5%). The agricultural products subject to above-average MFN tariffs include dairy (188.4% on average), meat products (49.9%), and preparations of meat (65.9%). The calculations of average tariffs include estimated *ad valorem* equivalents (AVEs) of non-*ad valorem* rates. AVEs may vary from one year to the next because of changes in import prices and volumes for goods that are subject to non-*ad valorem* tariffs. The highest AVE applies to egg albumin (HS 3502.11.20) at 532.2% (the same as in 2019), followed by bran, sharps and other residues of wheat (HS 2302.30.20) at 497.9% (up 10 times from 49.5% in 2019), and other fats derived from milk (HS 0405.90.20) at 313.5% (the same as in 2019). Their non-*ad valorem* tariffs are in the form of CAD 6.12/kg (HS 3502.11.20), CAD 98.60 per tonne plus 4% (HS 2302.30.20), and 313.5% but not less than CAD 5.12 per kg (HS 0405.90.20).

4.12. For those goods subject to WTO tariff quotas (TQs, see below), only out-of-quota tariff rates were used to calculate the averages presented in this section, unless otherwise specified. Market access for goods subject to WTO TQs is provided through lower in-quota tariff rates and, under Canada's preferential arrangements, lower or zero in-quota tariff rates and, in few cases, additional in-quota volumes. The out-of-quota rates of some products subject to supply management have generally been excluded from tariff elimination in Canada's various regional and preferential agreements, and are thus subject to MFN but not preferential tariff, though in-quota rates have generally been subject to phased-out tariff elimination for RTAs while some agreements provide additional in-quota volumes.

4.13. As part of its WTO commitments, Canada maintains 22 TQs, mostly on imports of goods subject to the supply management system (i.e. milk and dairy products, poultry, and eggs) (Table 4.1). Canada's WTO TQs cover 160 tariff lines at the HS 8-digit level. Most in-quota tariffs are *ad valorem* (103 lines), of which 42 lines are subject to zero duty. Fifty-seven lines are non-*ad valorem*, and their AVEs range from 0.1% to 8.1%.[12] Some TQs are allocated for particular trade partners under Canada's RTAs. A few of Canada's TQs include reserved access at the in-quota rate in favour of some WTO Members. In addition, the entire quota for fluid milk is for personal cross-border purchases, in practice from the United States.

[10] Justice Laws, *Canadian Dairy Commission Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/c-15/.

[11] OECD, *Agricultural Policy Monitoring and Evaluation – Country Data: Canada*. Viewed at: https://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/#tables.

[12] Nine lines subject to compound or mixed duties have no AVEs.

4.14. Whereas in-quota tariff rates are much lower than out-of-quota rates, a number of out-of-quota rates remain very high and peak at 532.2%. The number of in-quota lines does not equal the corresponding out-of-quota lines; in some cases, two out-of-quota lines correspond to one in-quota line. The authorities state that, most of the instances where Canada has more out-of-quota lines than in-quota ones is for poultry meat, and to a lesser extent, for pasta and bread. For poultry meat, out-of-quota lines cover both bone-in and boneless products separately, while the in-quota line is on an eviscerated basis. Thus, 191 tariff lines at the HS 8-digit level have out-of-quota duties, of which 42 lines carry *ad valorem* duties (6 lines duty-free) ranging from 0% to 238% (on sausages of the species *Gallus domesticus*, other than spent fowl). Another 149 lines are subject to non-*ad valorem* duties, with AVEs ranging from 0.8% to 532.2% (egg albumin). Among these 149 lines, 23 lines subject to compound or mixed tariffs have no AVEs (as there was no trade in 2022), and the *ad valorem* component ranges from 7% to 295.5% (on cream).

4.15. TQ allocation methods remain unchanged.[13] Information related to the TQ application process is contained in the Notices to Importers associated with the respective TQ, published on Global Affairs Canada's (GAC) website.[14]

4.16. Table 4.1 lists products subject to WTO TQs and their fill rates for FY2016/17 and FY2021/22. For wheat products and barley products, fill rates reached 100%. Fill rates were high for chickens (99.8%), butter (99.6%), cheese (96.8%), and broiler hatching eggs and chicks (90.6%). On the other hand, fill rates were zero for concentrated condensed milk and cream (100% reserved for Australia), and powdered buttermilk (100% reserved for New Zealand). The authorities indicate that a variety of market circumstances and economic factors can influence TQ fill rates.

Table 4.1 WTO TQ level and fill rates, FY2016/17 and FY2021/22

Products	WTO TRQ level	Reservations under preferential agreements	Fill rate (%)	Fill rate (%)
Administered on a marketing-year basis (1 August to 31 July)			**2016/17**	**2021/22**
Cream	394 tonnes		99	65
Dry whey	3,198 tonnes		1	9.5
Butter	3,274 tonnes	61% reserved for New Zealand	100	99.6
Wheat	226,883 tonnes		46	71.6
Barley	399,000 tonnes		16	55.3
Wheat products	123,557 tonnes		158	100[c]
Barley products	19,131 tonnes		219	100[c]
Administered on a calendar-year basis			**2017**	**2022**
Broiler hatched eggs and chicks	14,712,025 dozen egg equivalent		168	90.6
Chicken: live, meat and products	39,844 tonnes (eviscerated)		213	99.8
Turkey: live, meat and products	5,588 tonnes (eviscerated)		97	78.8
Beef and veal	76,409 tonnes	45.8% reserved for Australia and 38.7% for New Zealand; the rest applies to imports from countries with which Canada does not have a bilateral trade agreement that covers these products	63	40.7
Fluid milk	64,500 tonnes		100	[a]
Concentrated and condensed milk/cream	11.7 tonnes	100% reserved for Australia	0	0
Yoghurt	332 tonnes		50	57.5
Powdered buttermilk	908 tonnes	100% reserved for New Zealand	24	0
Other products of milk constituents	4,345 tonnes		62	82.7
Cheese[b]	20,411.866 tonnes	69.9% reserved for the European Union	99	96.8
Other dairy	70 tonnes		100	71.4

[13] WTO document WT/TPR/S/389/Rev.1, 23 August 2019, paras. 4.10-4.12.
[14] Global Affairs Canada, *List of Notices to Importers, Exporters and Brokers*. Viewed at: https://www.international.gc.ca/controls-controles/notices_avis/exp/list_liste/index.aspx?lang=eng.

Products	WTO TRQ level	Reservations under preferential agreements	Fill rate (%)	Fill rate (%)
Ice cream	484 tonnes		83	84.5
Eggs and egg products	21,370,000 dozen egg equivalent		97	67
Margarine	7,558 tonnes		39	29.6
Administered on a quota-year basis (1 April to 31 March)			**2016/17**	**2021/22**
Milk protein substances	10,000 tonnes		27	22.8

a Imports of fluid milk by consumers are not counted, as Canadian residents are free to carry milk for personal consumption upon their return to Canada (GIP No. 1).

b For cheese and curd, 69.9% of the TQ is reserved for imports from the European Union. Cheese originating from the United Kingdom was eligible to be imported under the EU reserve until 31 December 2023. After this date, cheese originating from the United Kingdom will be eligible to be imported under the allocation for all other sources (WTO document G/AG/N/CAN/141, 19 April 2021).

c Fill rates are capped at 100% in cases where in-quota imports exceed TQ quantities.

Note: The count of in-quota imports for wheat, barley, and their products is based on statistics provided by the Canada Border Services Agency. The count of in-quota imports for other products is based on permits issued by the GAC against Canada's tariff quota commitments.

Source: WTO documents G/AG/N/CAN/157, 13 April 2023; G/AG/N/CAN/141, 19 April 2021; WT/TPR/S/389/Rev.1, 23 August 2019; the CTS Database; and information provided by the authorities.

4.17. Since the entry into force of the Canada–United States–Mexico Agreement (CUSMA) on 1 July 2020, Canada introduced 16 new bilateral TQs with the United States: 14 for dairy and 2 for chicken and egg/egg products. Effective 1 April 2021, the Canada–United Kingdom Trade Continuity Agreement (CUKTCA) entered into force. This agreement provides Canadian and UK exporters with continued preferential access following the United Kingdom's withdrawal from the CETA.[15]

4.18. Under various regional and preferential agreements and arrangements (RTAs and PTAs), Canada grants preferential tariff treatment to agricultural products originating from a number of its trade partners. On an MFN basis, more than half (55.1%) of Canada's agriculture tariff lines are duty-free. This jumped to an average of 85.7% of all agricultural tariff lines for goods originating from Canada's trade partners under RTAs, and to an average of 70.6% for goods originating from those trade partners under its PTAs. As at 2023, average applied tariff rates under Canada's RTAs and PTAs (calculated according to the methodology described above) were between 0.2 and 4.7 percentage points lower than the simple average MFN tariff rate of 21.8%. This largely reflects Canada's general practice under its RTAs and PTAs of granting access to the in-quota volumes of WTO TQs or, in a few cases, additional in-quota volumes at lower or zero rates, while leaving high out-of-quota tariff rates intact.

4.19. Canada notified to the WTO that it has not taken any special safeguard actions between calendar years 2019 and 2022, nor in marketing years from 2018/19 to 2021/22 for imports of products for which TQs are administered.[16]

4.20. Canada notified to the WTO that in accordance with the Export and Import Permits Act, the CDC remains a state trading enterprise that receives import permits for the TQ on butter, under the condition that these imports be directed for further processing (Section 3.3.5).[17] Import permits are issued by the Supply-Managed Trade Controls Division at GAC. The allocation of import permits for all TQs is administered by the GAC.

4.21. Apart from those covered by the WTO TQ requirements, some agricultural products are subject to import controls, including, for example, skim milk, whole milk, and cream powders (Section 3.1.5).

[15] WTO document G/LIC/N/3/CAN/22, 22 September 2023.
[16] WTO documents G/AG/N/CAN/134, 30 April 2020; G/AG/N/CAN/145, 27 January 2022; G/AG/N/CAN/146, 27 January 2022; and G/AG/N/CAN/153, 12 January 2023.
[17] WTO document G/STR/N/19/CAN, 22 June 2022.

4.1.1.2.2 Export measures

4.22. A number of agricultural and food products are subject to export controls, including certain dairy products and infant formula; peanut butter; sugar-containing products; sugars, syrups and molasses; processed foods; and dog and cat food[18] (Section 3.2.3).

4.23. Pursuant to the Nairobi Ministerial Decision on Export Competition (WTO documents WT/MIN(15)/45 and WT/L/980), Canada eliminated its export subsidies as of 31 December 2020.[19] Before that, Canada's export subsidy commitments covered five products, of which three received subsidies during this review period (Table 4.2). Canada's revised draft schedule was circulated on 1 December 2017[20] but has not yet been certified.

Table 4.2 Export subsidies: commitment levels, annual outlays, and quantities of subsidized exports, marketing years 2018/19-2019/20, and 1 August-31 December 2020

(CAD '000)

Products	Annual commitment	Export subsidies			Subsidized exports (tonnes)		
		2018/19	2019/20	01/08–31/12/20	2018/19	2019/20	01/08–31/12/20
Butter	11,025	585	0	0	151	0	0
Skim milk powder	31,149	0	0	0	0	0	0
Cheese	16,228	9,299	11,696	3,559.1	4,293	4,582	1,421
Other milk products	22,505	89	37	11.7	324	640	196
Incorporated products	20,276	0	0	0	n.a.	n.a.	n.a.

n.a. Quantity of subsidized exports for incorporated products is not applicable.

Note: Marketing year is from 1 August to 31 July.

Source: WTO documents G/AG/N/CAN/135, 5 May 2020; G/AG/N/CAN/139, 8 April 2021; and G/AG/N/CAN/143, 8 October 2021.

4.1.1.2.3 Domestic programmes

Sustainable Canadian Agricultural Partnership

4.24. The five-year Canadian Agricultural Partnership (2018-23) ended on 31 March 2023. This CAD 3 billion investment programme is composed of activities at the federal and provincial or territorial levels, and those aimed at improving business risk management.[21]

4.25. On 10 November 2021, agriculture ministers in FPT governments jointly issued the Guelph Statement, setting out the direction for the next agriculture policy framework. On 1 April 2023, the five-year (1 April 2023-31 March 2028) Sustainable Canadian Agricultural Partnership (Sustainable CAP) was announced.[22] It focuses on five priority areas agreed to in the Guelph Statement: tackling climate change and environmental protection; facilitating science, research, and innovation; creating the conditions for Canadian businesses to meet evolving challenges; building sector capacity and growth; and enhancing resilience to anticipate, mitigate, and respond to risks. This CAD 3.5 billion programme aims to achieve those targets through various programmes (Table 4.3).[23]

[18] Justice Laws, *Export Control List*. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-89-202/section-sched918671.html?txthl=additional+foods+food.
[19] WTO document G/AG/CAN/147, 24 March 2022.
[20] WTO document G/MA/TAR/RS/512, 11 December 2017.
[21] AAFC, *Canadian Agricultural Partnership*. Viewed at: https://agriculture.canada.ca/en/department/initiatives/canadian-agricultural-partnership.
[22] AAFC, *Sustainable Canadian Agricultural Partnership*. Viewed at: https://agriculture.canada.ca/en/department/initiatives/sustainable-canadian-agricultural-partnership.
[23] AAFC, *Sustainable Canadian Agricultural Partnership*.

Table 4.3 Sustainable Canadian Agricultural Partnership, 2023-28

Programme	Description	Purpose
Federally funded programmes		
AgriMarketing	Provides matching contributions to support industry-led market development activities to expand and diversify exports of agriculture and agri-food products	Growing trade and expanding markets
AgriCompetitiveness	Provides producers with information to build capacity and support development	Growing trade and expanding markets
AgriInnovate	Provides repayable contributions on projects that accelerate the commercialization, adoption, and/or demonstration of innovative products, technologies, processes, or services	Innovative and sustainable growth of the sector
AgriScience	Supports pre-commercialization and cutting-edge research	Innovative and sustainable growth of the sector
AgriDiversity	Provides grants and contributions to help build skills and leadership for under-represented groups	Supporting diversity and helping the sector adapt to evolving demands
AgriAssurance	Provides contributions that enable industry to make meaningful and verifiable claims about the health and safety of Canadian agricultural products	Supporting diversity and helping the sector adapt to evolving demands
Cost-shared programmes by FPT governments		
Resilient Agricultural Landscape Programme		Help producers conserve and enhance the resilience of agricultural landscapes
Business risk management programmes		
AgriStability	Provides financial support when producers experience a large margin decline	
AgriInsurance	Makes available subsidized insurance, providing coverage for production losses due to natural disasters	
AgriInvest	Allows farmers to deposit proceeds from allowable net sales in accounts at participating financial institutions. The funds may be used to reduce risks, cover moderate declines in producer margins, or invest in farm-related improvements	
AgriRecovery	A disaster relief framework to help producers recover from natural disaster events	

Source: AAFC, *Sustainable Canadian Agricultural Partnership*. Viewed at: https://agriculture.canada.ca/en/department/initiatives/sustainable-canadian-agricultural-partnership; and WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

Climate challenges

4.26. The agriculture sector accounts for about 10% of Canada's total greenhouse gas (GHG) emissions, through, *inter alia*, animal production, on-farm fuel use, and fertilizer application.[24]

4.27. Started in 2017, Canada's carbon pricing policy requires all FPT governments to implement either a carbon pricing system that priced carbon at CAD 10 per tonne before 2022 and CAD 50 per tonne from 2022, or a cap-and-trade system that meets an emissions reduction equivalent to the one achieved with the set carbon price.[25] The OECD considers that Canada has one of the most stringent carbon pricing systems in the world, although the agriculture sector is largely excluded for the following reasons[26]:

- First, only a small portion of total agricultural-based emissions are directly affected by carbon pricing. Unlike other sectors where emissions are mostly energy related, in agriculture GHG emissions come mainly from biological processes in animal and crop production, which are exempt from carbon pricing.

[24] Government of Canada, *A Healthy Environment and A Healthy Economy – Annex on Climate-Smart Agriculture*. Viewed at: https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/climate-plan/annex_climate-smart_agriculture.pdf.

[25] Government of Canada, *Agriculture and Climate Change Policy: Financial Impacts of Carbon Pricing on Canadian Farms, 2018*. Viewed at: https://agriculture.canada.ca/en/sector/data-reports/climate-change-policy-financial-impacts-carbon-pricing and https://agriculture.canada.ca/sites/default/files/legacy/pack/pdf/carbon_price_presentation1-eng.pdf.

[26] OECD, *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*.

- Second, while on-farm fuel use may be subject to carbon pricing, exemptions and rebates are provided by some FPT governments.

- Third, land-use change, including the adoption of conservation tillage and reduction in summer fallow, may offer opportunities for carbon sequestration.

4.28. According to the OECD, based on data from 2008 to 2020, Canada has had one of the highest reductions of agricultural GHG emission intensity within OECD countries, and its reduction has been well above the OECD average.[27] Canada has been implementing initiatives that could have contributed to this result, including the GHG Offset Credit System[28], under which several protocols were put into development for the agriculture sector (e.g. Enhanced Soil Organic Carbon).[29] Various emission targets were set up, including a national target to reduce absolute emissions from fertilizer application by 30% below 2020 levels by 2030. These initiatives include:

- The Global Methane Pledge, which Canada joined in October 2021. It calls for collective action to reduce global methane emissions by 30% below 2020 levels by 2030. Building on the Pledge, Canada's Methane Strategy, which includes a chapter on agriculture, was published in November 2022.

- The 2030 Emissions Reduction Plan (ERP), which Canada tabled in March 2022. The ERP outlined steps to take to meet the 2030 emissions reduction targets. It also announced additional funding of CAD 1 billion over six years to support sustainable agriculture and reduce GHG emissions, through on-farm programmes on climate-change mitigation practices (including nitrogen management, cover cropping, and rotational grazing); and clean technologies (green energy and energy efficiency, precision agriculture, and the bioeconomy).[30] As part of the funding, CAD 100 million is reserved for transformative science to support fundamental and applied research, knowledge transfer, and the development of metrics.[31]

- The "climate-smart" agriculture approach, which aims at transforming agri-food systems to green and climate-resilient practices, by supporting the use of cleaner practices and technologies and practices enhancing carbon sinks.[32]

- The Agricultural Clean Technology Program (a CAD 165.7 million programme), which supports the development and adoption of clean technologies in the agriculture sector.

- The Resilient Agricultural Landscape Program, which uses an ecological goods and services payment approach to support the adoption of on-farm practices.

- The Agricultural Climate Solutions (ACS), a CAD 250 million cost-shared programme, which is part of a larger Government Natural Climate Solutions Fund (CAD 4 billion) that addresses climate change.[33] The ACS consists of two subprogrammes: the ACS – Living Labs (a CAD 185 million programme) and the On-Farm Climate Action Fund (a CAD 200 million

[27] OECD (2023), *Measuring the Environmental Performance of Agriculture Across OECD Countries.* Viewed at: https://www.oecd-ilibrary.org/agriculture-and-food/measuring-the-environmental-performance-of-agriculture-across-oecd-countries_4edcd747-en.

[28] Government of Canada, *Federal Greenhouse Gas Offset System.* Viewed at: https://www.canada.ca/en/environment-climate-change/news/2021/03/federal-greenhouse-gas-offset-system.html.

[29] Government of Canada, *Faster and Further: Canada's Methane Strategy*. Viewed at: https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/reducing-methane-emissions/faster-further-strategy.html.

[30] OECD (2023), *Agriculture Policy Monitoring and Evaluation 2023: Adapting Agriculture to Climate Change*. Viewed at: https://www.oecd.org/publications/agricultural-policy-monitoring-and-evaluation-22217371.htm.

[31] Government of Canada, *2030 Emissions Reduction Plan: Clean Air, Strong Economy*. Viewed at: https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/climate-plan-overview/emissions-reduction-2030.html.

[32] Government of Canada, *A Healthy Environment and A Healthy Economy*. Viewed at: https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/climate-plan-overview/healthy-environment-healthy-economy.html.

[33] AAFC, *Sustainable Canadian Agricultural Partnership*. Viewed at: https://agriculture.canada.ca/en/department/initiatives/sustainable-canadian-agricultural-partnership.

fund).[34] The first is a 10-year programme bringing together farmers, scientists, and other sector partners to co-develop and test beneficial on-farm practices to enhance climate resilience, while the latter supports farmers in adopting management practices that store carbon and mitigate GHG emissions.[35]

4.29. In addition, AAFC's Strategic Plan for Science has four missions (i.e. mitigating and adapting to climate change; increasing the resilience of agro-ecosystems; advancing the circular economy; and accelerating the digital transformation of the agriculture sector), all of which could contribute to the sustainability of the agriculture sector.[36]

Regulatory and other non-tariff measures

4.30. In 2018, the Government announced the "Economic Strategy Tables" as a new model for industry-government collaboration, with a view to supporting economic growth in six key sectors including agri-food. It aims to build Canada as one of the top five competitors in the agri-food sector in the world by 2025, with two specific targets: (i) the value of domestic sales would rise from CAD 110 billion in 2017 to CAD 140 billion in 2025; and (ii) the export value would rise from CAD 64.6 billion to CAD 85 billion during the same period.[37]

4.31. Obstacles identified to achieve these targets include internal regulatory barriers, lagging investment, lack of strong Canadian firms to lead in global markets, infrastructure bottlenecks, lack of reliable broadband, and tight labour markets with restricted access to foreign workers.[38] For example, certain truck configurations can be driven in British Columbia only at night and in Alberta during the day. The lack of broadband services in rural areas prevents farmers from applying precision agriculture and other digital tools.[39]

4.32. According to a government report, redundant regulations may have "unintended" consequences in preventing the smooth movement of goods within the country.[40] Hence, a number of suggestions were made to address these barriers, through building a regulatory system that supports innovation, provides certainty to industry, and protects health and safety; developing a business climate that supports the scaling up of Canadian companies; improving the transport system and the broadband and IT infrastructure; enhancing labour markets; and improving access to global and domestic markets. In particular, the Canadian Free Trade Agreement (CFTA) came into force with a view to creating a path to free trade of agricultural products between provinces and territories by, *inter alia*, harmonizing standards and regulatory requirements at the provincial level.

Other

4.33. Canada's first Food Policy[41] was announced in 2019, to deal with food-related challenges. Its targets over the first five-year period (2019-24) are (i) helping Canadian communities access healthy food; (ii) making Canadian food the top choice at home and abroad; (iii) supporting food security in northern and Indigenous communities; and (iv) reducing food waste. In February 2021, the Canadian Food Policy Advisory Council was established, with members appointed by the Minister

[34] AAFC, *Agricultural Climate Solutions – Living Labs*. Viewed at: https://agriculture.canada.ca/en/environment/climate-change/agricultural-climate-solutions/agricultural-climate-solutions-living-labs.
AAFC, *Agricultural Climate Solutions – On-Farm Climate Action Fund*. Viewed at: https://agriculture.canada.ca/en/programs/agricultural-climate-solutions-farm-climate-action-fund.
[35] Government of Canada, *Agricultural Climate Solutions*. Viewed at: https://agriculture.canada.ca/en/environment/climate-change/climate-solutions.
[36] AAFC, *Agriculture and Agri-Food Canada's Strategic Plan for Science*. Viewed at: https://agriculture.canada.ca/en/science/scientific-research-and-collaboration-agriculture/agriculture-and-agri-food-canadas-strategic-plan-science.
[37] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*. Viewed at: https://ised-isde.canada.ca/site/economic-strategy-tables/en/report-2018/report-canadas-economic-strategy-tables-agri-food.
[38] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*.
[39] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*.
[40] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*.
[41] AAFC, *The Food Policy for Canada*. Viewed at: https://agriculture.canada.ca/en/department/initiatives/food-policy/food-policy-canada.

of Agriculture and Agri-Food. It was charged with providing advice to the Government on future action areas.

4.34. In addition, AAFC implements many other programmes with a view to supporting innovation and business development, as well as trade and market development.[42]

4.1.1.2.4 Domestic support

4.35. Canada submitted its latest notification on domestic support to agriculture in August 2023, covering calendar year 2020. From 2018 to 2020, Green Box support remained relatively stable, at about CAD 2.3 billion, while its AMS went up from CAD 727 million to CAD 1.2 billion, although still within the bound level (CAD 4.3 billion per year) (Table 4.4).

4.36. Product-specific AMS to milk and sheep continues to exceed the 5% *de minimis* level. Butter was the only item subject to MPS, while direct payments to milk explained the fast increase in this item – the value increased from CAD 0 to CAD 339 million in 2019 and CAD 459 million in 2020. In 2020, *de minimis* support included direct payments, other product-specific budgetary outlays, and non-product-specific support of CAD 2.3 billion (mainly AgriInsurance, AgriInvest, Emergency Food Security Fund (COVID-19), and provincial programmes).

Table 4.4 Canada's domestic support, 2018-20

(CAD million)

	2018	2019	2020
Measures exempt from the reduction commitment (Green Box)			
Federal and federal/provincial	1,571	1,777	1,804.2
Provincial	639	470	511
Total green box	2,210	2,247	2,315.2
Aggregate measurement of support (Amber Box)			
Product-specific AMS	1,017	1,243	1,453
- Market price support	655	633	682
- Direct payments	282	537	714
- Other supports	80	73	57
Non-product-specific AMS	1,714	1,738	2,352
Total Amber Box	2,731	2,981	3,805
Less *de minimis*			
- Product-specific	290	197	253
- Non-product-specific	1,714	1,738	2,352
Current total AMS	**727**	**1,046**	**1,199**
Bound total AMS	**4,301**	**4,301**	**4,301**

Source: WTO documents G/AG/N/CAN/151, 22 April 2022; G/AG/N/CAN/158, 28 August 2023; and G/AG/N/CAN/159, 28 August 2023.

4.37. According to OECD calculations, total support estimate (TSE) went up significantly in 2021 but declined in 2022; the rise reflected mainly increases in the PSE (Table 4.5).[43] The share of PSE in total farm receipts rose from 7.9% in 2018 to 11.7% in 2021 before it fell to 7.6% in 2022; the spike in 2021 again was due mainly to increase in payments based on area/animal numbers/receipts/income (A/An/R/I) and to a lesser extent to MPS.[44] MPS was given to milk, poultry, and eggs, the domestic prices of which were above world levels as they are under supply management (Section 4.1.1.2). In 2022, MPS given to poultry and eggs fell to zero. As the most distorting support, MPS averaged 50% of PSE over the period 2018-22, down from 68% from 2015 to 2017. This reflected an increase in the PSE, not a decline in MPS. The sharp increase in the payments based on A/An/R/I in 2021 was mainly caused by payments to crop insurance due to severe weather conditions.[45]

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[42] AAFC, *Agricultural Programs and Services*. Viewed at: https://agriculture.canada.ca/en/programs.

[43] The OECD has published reviews of agricultural policies in OECD countries and some other economies. The methodology for calculating the TSE and PSE is different from that used to calculate the AMS, and the two sets of data are neither compatible nor comparable.

[44] OECD, *Agricultural Policy Monitoring and Evaluation – Country Data: Canada*. Viewed at: https://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/#tables.

[45] Record high temperatures and lack of rainfall in 2021 affected agriculture including livestock farmers. OECD, *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change*

4.38. The OECD also estimates that budgetary payments to general services (general services support estimate (GSSE)) declined relative to the size of total support, from about 30% in 2018 to 25% in 2022. Its main elements remain government funding for inspection and control, and agricultural knowledge and innovation, each accounting for about 40% of GSSE in 2022.[46]

Table 4.5 Evolution of support and protection, 2018-22

(CAD million)

	2018	2019	2020	2021	2022
Producer support estimate (PSE)	4,969.91	6,004.02	6,339.91	9,788.20	7,113.96
Support based on:					
- Commodity outputs	2,587.03	3,007.19	3,189.44	3,834.43	2,228.31
- MPS on milk	2,490.91	2,536.22	2,306.32	2,973.93	2,228.31
- MPS on poultry	96.12	177.60	757.04	594.57	0.00
- MPS on eggs	0.00	293.36	126.08	265.93	0.00
- Payments based on input use	556.89	657.82	782.24	759.76	867.82
- Payments based on A/An/R/I	1,756.38	2,276.98	2,308.36	5,134.17	3,989.11
PSE (as a percentage of total value of agricultural receipts)	7.9	9.1	8.8	11.8	7.6
Producer NPC	1.04	1.05	1.05	1.05	1.03
Producer NAC	1.09	1.10	1.10	1.13	1.08
Total value of production (at farm gate)	60,472.61	63,250.12	68,667.34	77,220.68	88,420.91
General services support estimate (GSSE)	2,180.93	2,175.55	2,341.48	2,431.70	2,314.96
Total support estimate (TSE)	7,150.85	8,205.44	8,882.45	12,370.61	9,439.40

A/An/R/I: Area/Animal numbers/Receipts/Income.

NPC: Nominal Protection Coefficient. Ratio between the average price received by producers and the border price (average producer price includes payments based on current output, e.g. deficiency payments).

NAC: Nominal Assistance Coefficient. Producer NAC is the ratio between the value of gross farm receipts (including support) and gross farm receipts valued at border prices (measured at farm gate).

Note: Payments based on A/An/R/I include payments based on current A/An/R/I, production required; payments based on non-current A/An/R/I, production required; and payments based on non-current A/An/R/I, production not required.

Source: Information provided by the authorities; and OECD, Producer and Consumer Support Estimates database. Viewed at: https://stats.oecd.org/Index.aspx?QueryId=114545.

4.39. Canada also notified to the WTO its subsidy programmes for agriculture, covering FY2020/21 and FY2021/22 (Table 4.6).

Table 4.6 Agriculture subsidies – federal level, FY2020/21 – FY2021/22

Title	Purpose	Form of subsidy	Value
Dairy Direct Payment Programme Began in 2018	Support dairy milk producers to adjust as a result of market access commitments made under the CETA and the CPTPP	Non-repayable grant	FY2020/21: CAD 459 million FY2021/22: CAD 460 million
Dairy Farm Investment Programme: Five-year, CAD 250 million programme (FY2017/18–31 March 2022)	Assist dairy farmers to adapt to the impacts from the CETA, by upgrading their equipment	Non-repayable compensation	FY2020/21: CAD 44 million FY2021/22: CAD 33 million
Dairy Processing Investment Fund Established in FY2017/18	Assist dairy processors to adapt to market changes resulting from the CETA	Non-repayable contribution	FY2020/21: CAD 13 million FY2021/22: CAD 7 million
Indigenous Agriculture and Food Systems Initiative Established in FY2018/19	Increase economic development opportunities for Indigenous Peoples by building their capacity to participate and succeed in the agriculture and agri-food sector	Non-repayable contribution	FY2020/21: CAD 2 million FY2021/22: CAD 2 million
Poultry and Egg On-Farm Investment Program Established in FY2021/22	Help poultry and egg producers adapt to market changes resulting from the CPTPP	Non-repayable contributions	FY2021/22: CAD 38 million

Mitigation. Viewed at: https://www.oecd-ilibrary.org/sites/c8e3df5d-en/index.html?itemId=/content/component/c8e3df5d-en.

[46] OECD (2023), *Agriculture Policy Monitoring and Evaluation 2023: Adapting Agriculture to Climate Change*. Viewed at: https://www.oecd.org/publications/agricultural-policy-monitoring-and-evaluation-22217371.htm.

Title	Purpose	Form of subsidy	Value
Market Development Program for Turkey and Chicken Established in FY2021/22	Deliver the Government's commitment to provide full and fair compensation due to market access concessions made under the CPTPP	Non-repayable contributions	FY2021/22: CAD 3.5 million
Hog Industry Loan Loss Reserve Program Established in FY2009/10, ongoing	Help hog producers get better loan terms by sharing the risk with financial institutions in consolidating short-term debt into long-term loans	Government guaranteed loans	FY2020/21: CAD 0 million FY2021/22: CAD 0.3 million

Source: WTO document G/SCM/N/401/CAN, 21 July 2023.

4.1.2 Forestry

4.1.2.1 Main features and recent developments

4.40. Canada has the third-largest forest area in the world, and forests cover 362 million ha of the land surface area.[47] The forest sector employed, both directly and indirectly, 345,825 people in 2021, up by 12% from the 2020 level and by 14% from the 2018 and 2019 levels (Table 4.7). In 2022, its contribution to GDP went up to CAD 33.4 billion, or 1.2% of Canada's nominal GDP. The export value also went up from previous years, and reached CAD 45.6 billion, accounting for about 6% of Canada's total merchandise exports in 2022.

Table 4.7 Forest sector selected figures, 2018-22

	2018	2019	2020	2021	2022
Forest land (million ha)	347.0	347.0	361.8	361.7	..
Total wood volume (billion m^3)	50.6	50.5	50.6	50.2	..
Deforestation ('000 ha)	50.0	50.8	50.6	50.5	..
Area harvested ('000 ha)	792.1	758.6	715.2	698.0	..
Third-party certification (million ha)	164.5	168.0	164.3	158.4	155.3
Employment (direct and indirect)	302,489	302,489	309,110	345,825	..
Contribution to GDP (CAD billion)	27.1	22.8	23.7	31.3	33.4
% of nominal GDP	1.3	1.1	1.2	1.3	1.2
Area burned ('000 ha)	2,328.8	1,786.2	218.2	4,078.9	1,654.2
Imports (CAD billion)	11.9	11.8	11.5	12.9	15.3
Exports (CAD billion)	38.5	33.2	33.3	44.9	45.6

.. Not available.

Source: Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*. Viewed at: https://natural-resources.canada.ca/sites/nrcan/files/forest/sof2022/SoF_Annual2022_EN_access.pdf; Canadian Forest Service. Viewed at: https://cfs.nrcan.gc.ca/statsprofile/forest/ca?_gl=1*175zoya*_ga*MTk3NTcxODUxNi4xNjk0NTAxODI4*_ga_C2N57Y7DX5*MTY5NTA0MTQ4Ny4yLjEuMTY5NTA0MjYyMC4wLjAuMA; and information from the authorities.

4.41. Canada is a net exporter of forest products, which include newsprint, printing and writing paper, softwood lumber, structural panels, and wood pulp. In 2021, it was the third-largest forest product exporter (by value) in the world, and the leading exporter of softwood lumber. When the global economy started to recover from the impact of the COVID-19 pandemic, both the demand and the prices for certain forest products surged, reflecting partly the elevated home construction and renovation activities in North America. Hence, the export values of some of Canada's main forest products – softwood lumber, structural panels, and wood pulp – all went up. The upward trend continued in 2022.

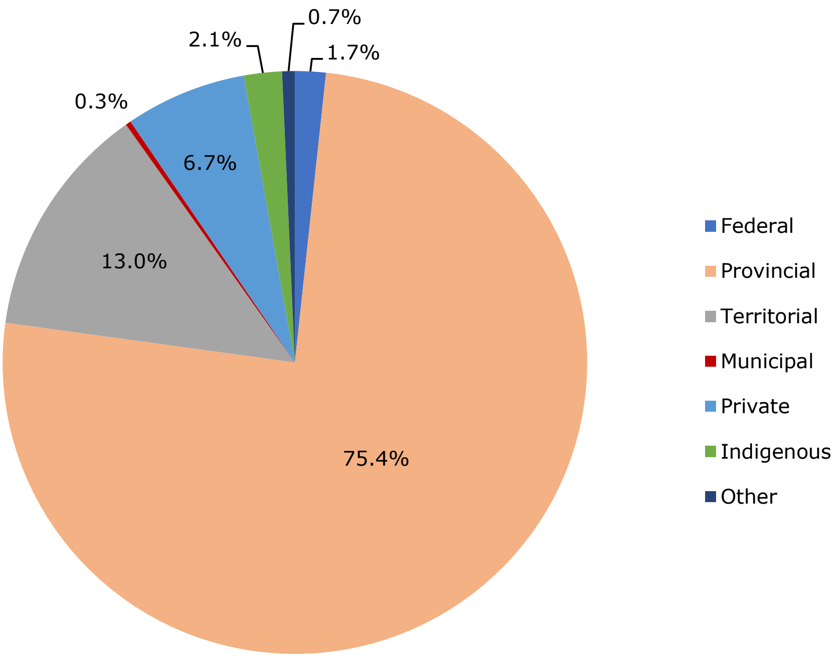
4.42. The export value of newsprint went up slightly in 2021, while that of printing and writing paper declined.[48] Demand for printing and writing paper remained below pre-pandemic levels, as the pandemic accelerated digitalization and reduced demand for printed papers.

[47] Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*. Viewed at: https://natural-resources.canada.ca/sites/nrcan/files/forest/sof2022/SoF_Annual2022_EN_access.pdf.
[48] Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*.

4.1.2.2 Regulatory, institutional, and policy developments

4.43. The majority of Canada's forest land (93.3%) is publicly owned, and only 6.7% is privately owned. Among all publicly owned forest, the Federal Government owns a very small share while the provincial and territorial governments own and are responsible for managing nearly 90% (Chart 4.2).

Chart 4.2 Forest ownership, 2021



Source: WTO Secretariat, based on data in Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*. Viewed at: https://natural-resources.canada.ca/sites/nrcan/files/forest/sof2022/SoF_Annual2022_EN_access.pdf.

4.44. Federal-level legislation includes mainly the Forestry Act, the Timber Regulations, the Indian Act, the First Nations Land Management Act, and the National Parks Act. Other relevant federal laws include the Species at Risk Act, the Fisheries Act, the Migratory Birds Convention Act, and the Plant Protection Act.[49] Some international agreements also govern forest operations in Canada, such as the Convention on Biological Diversity and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

4.45. The provincial and territorial governments develop and enforce forest laws; specify responsibilities of forest companies, set up a licence or timber supply agreement[50] with forest companies that want to harvest timber in publicly owned forests, and monitor their activities; collect stumpage fees (royalties) for timber harvested from public forests; and manage designated protected areas.[51]

[49] Government of Canada, *Canada's Forest Laws*. Viewed at: https://natural-resources.canada.ca/our-natural-resources/forests/sustainable-forest-management/canadas-forest-laws/17497.

[50] The framework for licences and timber supply agreements varies by province. In general, the licences and timber supply agreements make a specific volume of timber or area of trees from Crown-owned land available for commercial use by a company for a specific time period, typically 5 to 10 years.

[51] Government of Canada, *Forest Land Ownership*. Viewed at: https://natural-resources.canada.ca/our-natural-resources/forests/sustainable-forest-management/forest-land-ownership/17495.

4.46. Institutions involved in forest management also include the Canadian Forest Service (CFS)[52], which is part of Natural Resources Canada; and the Canadian Council of Forest Ministers (CCFM)[53], which is a forum for FPT governments to exchange information and work cooperatively. There are also mechanisms tracing and collecting data: the National Deforestation Monitoring System (NDMS) tracks changes from forest land to other land uses across Canada, and the National Forest Inventory (NFI) collects standardized sample data on the state of and changes in all Canada's forests.

4.47. There are no marketing boards at the national level for Canadian forest products coming from public lands. However, New Brunswick and Nova Scotia have regional marketing boards that handle forest products coming from privately owned woodlots. These boards manage the registration of bargaining agents, supervise collective bargaining between stakeholder groups (producers, mill owners) within the region, and negotiate the terms of sale of their members' forest products.

4.1.2.3 Border measures

4.48. Based on tariff information on forest products as listed in HS Chapters 44, 47, and 48, all 265 tariff lines at the HS 8-digit level carry *ad valorem* duties, of which 223 lines are duty-free. The simple average MFN tariff on forest products was 0.9% in 2023.

4.49. Logs, pulpwood, and red cedar are subject to export controls; according to the authorities, this is to ensure an adequate supply and distribution in Canada for defence or other needs. Softwood lumber products are also subject to export controls[54] to monitor their exports to the United States (Section 3.2.3).

4.1.2.4 Domestic support

4.50. The area of forest harvested each year is less than 0.5% of Canada's forest land. The Government has been implementing its 2 Billion Trees programme, to increase the rate of additional tree planting by up to 40% over 10 years from 2020 to 2030.[55]

4.51. The impacts of climate change, including fires and the spread of insects, pose significant challenges to the forest sector. The authorities state that climate change during the 21st century is expected to result in more extensive areas burned in boreal forests, with severe environmental and economic consequences. In 2022, more than 1.6 million ha of forest area was burned (Table 4.8). Since the 1970s, the average area burned annually has doubled, and wildfire experts predict that the number will double again by the end of the century.

4.52. The Government recognizes that conserving, protecting, and restoring nature are the best solutions to mitigate the impacts of climate change on Canada's forests, and aims to designate 25% of the land as protected space by 2025 and 30% by 2030. To achieve these targets, the Government considers that advancing Indigenous-led conservation and finding new ways to collaborate with Indigenous Peoples are critical. In Budget 2021, the Government announced up to CAD 100 million over five years (2021-26) to support new and existing Indigenous guardian initiatives. To date, funding has been provided to more than 50 Indigenous communities to either establish Indigenous Protected and Conserved Areas (IPCAs), or to undertake early planning that could result in additional IPCAs.[56]

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[52] Natural Resources Canada, *About the Canadian Forest Service*. Viewed at: https://natural-resources.canada.ca/our-natural-resources/forests-forestry/the-canadian-forest-service/about-canadian-forest-service/17545.

[53] CCFM, *About the Canadian Council of Forest Ministers*. Viewed at: https://www.ccfm.org/about/#:~:text=Established%20in%201985%2C%20the%20Canadian,issues%20of%20Canadian%20public%20and. A 2019 report by the CCFM outlines the agency's aims to "maintain resilient, healthy forests that support vibrant communities, stronger collaboration with Indigenous Peoples and competitive economies". CCFM, *A Shared Vision for Canada's Forests: Toward 2030*, p. 4. Viewed at: https://www.ccfm.org/wp-content/uploads/2020/08/A-Shared-Vision-for-Canada%E2%80%99s-Forests-Toward-2030.pdf.

[54] Justice Laws, *Export Control List*. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-89-202/section-sched918671.html?txthl=additional+foods+food.

[55] Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*.

[56] Natural Resources Canada (2022), *The State of Canada's Forests, Annual Report 2022*.

4.53. Canada notified to the WTO its subsidy programmes for the forest sector, covering FY2020/21 to FY2021/22 (Table 4.8).

Table 4.8 Forest sector subsidies – federal level

Title	Purpose	Form of subsidy	Value
Forest Innovation Program 2020-2023	Support pre-competitive R&D and technology transfer activities to help to position the sector to participate in niche products areas such as bioenergy, biochemicals, nanotechnology, and advanced construction materials	Non-repayable contributions	FY2020/21: CAD 30.6 million FY2021/22: CAD 30.6 million
Investments in Forest Industry Transformation Program 2 August 2010-31 March 2023	Invest in projects that implement new technologies leading to non-traditional high-value forest products including bioenergy, biomaterials, biochemicals, and next-generation building products	Non-repayable contributions	FY2020/21: CAD 27.6 million FY2021/22: CAD 47.9 million
Clean Growth Program 1 April 2018-FY2021/22	Support clean technology R&D and demonstration projects in energy, mining, and forest sectors	Both conditionally repayable and non-repayable contributions	FY2020/21: CAD 35.9 million FY2021/22: CAD 26.7 million

Source: WTO document G/SCM/N/401/CAN, 21 July 2023.

4.1.3 Fisheries

4.1.3.1 Main features and recent development

4.54. Canada's fisheries, comprising wild capture fisheries, aquaculture, and fish processing, contributed CAD 6.5 billion or less than 1% to GDP and provided direct employment for more than 71,000 people in 2021. Its Exclusive Economic Zone (EEZ) extends across 5.75 million km^2 of the Pacific, Arctic, and Atlantic Oceans, with a 247,007 km coastline, the longest in the world.[57]

4.55. Canada remains a net fish exporter. In 2021 and 2022, exports of fish and seafood recovered from the impact of the COVID-19 pandemic and reached CAD 8.9 billion and CAD 8.5 billion, respectively (Table 4.9).[58] Its main export markets in 2022 were the United States (65% by value of total fisheries exports), China (15%), and the European Union (6%).[59] Major fish products were lobster (37% of total fisheries exports), crab (24%), and salmon (14%). Canada imported CAD 5.5 billion of fish and seafood products in 2022, mainly from the United States, China, and Viet Nam, together accounting for half of its total fisheries import value. The top species imported were salmon, shrimp and prawns, and tuna, together accounting for 44% of total fisheries import value.

Table 4.9 Fisheries sector selected figures, 2018-22

(CAD million)

	2018	2019	2020	2021	2022
Gross value of output	**11,849.9**	**12,181.3**	**9,515.9**	**13,772.5**	**13707.5**
Commercial sea and freshwater fisheries landings	3,747.7	3,701.5	2,536.1	4,712.7	4,819.4
Aquaculture production	1,431.3	1,230.1	1,043.1	1,344.7	1,342.6
Seafood product preparation and packaging revenues	6,670.9	7,249.7	5,936.7	7,715.1	7,545.5
Employment (number of persons)	**75,843**	**83,663**	**68,100**	**71,319**	**69,173**
Commercial fish harvest and crew	45,907	51,381	44,450	46,492	45,064
Aquaculture	3,507	3,785	3,934	3,825	3,845
Seafood product preparation and packaging	26,429	28,497	19,716	21,002	20,264

57 Statistics Canada, *Canada's Oceans and the Economic Contribution of Marine Sectors*. Viewed at: https://www150.statcan.gc.ca/n1/pub/16-002-x/2021001/article/00001-eng.htm.
58 Trade performance data from UN Comtrade present similar information and include 2022 trade data. However, data from national sources are used here, as more categories of information are accessible.
59 Fisheries and Oceans Canada, *Canada's Fish and Seafood Trade in 2022: Overview*. Viewed at: https://www.dfo-mpo.gc.ca/ea-ae/trade-commerce/fish-seafood-trade-commerce-poisson-fruit-mer-eng.htm.

	2018	2019	2020	2021	2022
Fish and seafood imports	**3,983.0**	**4,283.1**	**3,984.3**	**5,026.5**	**5,522.4**
Fish and seafood exports	**6,922.4**	**7,464.5**	**6,438.7**	**8,878.3**	**8,450.8**
Registered fishing vessels (number)	18,580	17,061	17,041	16,513	16,703
Aquaculture establishments (number)	894	1,396	881	848	858

Source: Fisheries and Oceans Canada, *Canada's Fisheries Fast Facts*, various years. Viewed at: https://www.dfo-mpo.gc.ca/stats/publications-eng.htm.

4.56. On 2 May 2023, Canada deposited its instrument of acceptance for the WTO Agreement on Fisheries Subsidies.[60] Canada is also party to multiple trade agreements that include provisions on fisheries subsidies (Section 4.1.3.2.3). The authorities state that in support of sustainable fisheries and oceans, Canada invests heavily in monitoring, control, and surveillance both domestically and internationally. Fishery officers are stationed across Canada, enforcing the Fisheries Act, the Coastal Fisheries Protection Act, and other related acts and regulations.

4.1.3.2 Regulatory, institutional, and policy developments

4.57. The principal legislation – the Fisheries Act 2012 – was amended in 2019.[61] Continuing to govern the management of fisheries resources in Canada, the amended Act introduced changes to, *inter alia*, protect all fish and fish habitat (the previous Act protected commercial, recreational, or aboriginal fisheries); strengthen the role of Indigenous Peoples in reviewing/monitoring/developing fisheries policies; and prohibit imports of cetaceans and shark finning (Section 4.1.3.2.2).

4.58. Other relevant legislation includes the Oceans Act, which provides for the development and implementation of an ocean management strategy; the Species at Risk Act, which provides legal protection for species considered at risk of extinction[62]; and the Coastal Fisheries Protection Act and its Regulations, which were amended in 2019 to incorporate and implement the Port State Measures Agreement.

4.59. The federal department, Fisheries and Oceans Canada (also referred to as the DFO), remains responsible for formulating and enforcing rules and regulations, and manages capture fisheries (marine and freshwater). It also shares management responsibility with provincial and territorial governments for inland fisheries and aquaculture. DFO helps to ensure healthy and sustainable aquatic ecosystems through habitat protection. It supports economic growth in the marine and fisheries sectors, and innovation in areas such as aquaculture and biotechnology, as well as combats IUU fishing.

4.60. According to a government report, the aquaculture sector has the potential to nearly double production from 200,565 tonnes in 2016 to 381,900 tonnes in 2028.[63] However, the Report found that "[a] complex regulatory framework with no uniform set of regulations across governments" has been shifting the sector from its long-term growth trajectory.[64] DFO is currently working on an Aquaculture Act[65], intending to create long-term conditions for the development of a thriving, environmentally sustainable, and competitive aquaculture sector that benefits the economic development of coastal communities and Indigenous Peoples.

[60] WTO, "Canada Formally Accepts Agreement on Fisheries Subsidies", 2 May 2023. Viewed at: https://www.wto.org/english/news_e/news23_e/fish_02may23_e.htm.
[61] Fisheries and Oceans Canada, *Introducing Canada's Modernized Fisheries Act*. Viewed at: https://www.dfo-mpo.gc.ca/campaign-campagne/fisheries-act-loi-sur-les-peches/introduction-eng.html.
[62] Fisheries and Oceans Canada, *Regulatory Analysis and Guidance*. Viewed at: https://www.dfo-mpo.gc.ca/ea-ae/guidance-directives/regulatory-guidance-directives-reglementaires-eng.htm#oceansAct.
[63] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*. Viewed at: https://ised-isde.canada.ca/site/economic-strategy-tables/en/report-2018/report-canadas-economic-strategy-tables-agri-food.
[64] Government of Canada, *Report of Canada's Economic Strategy Tables: Agri-food*, p. 14.
[65] Fisheries and Oceans Canada, *Federal Aquaculture Act*. Viewed at: https://www.dfo-mpo.gc.ca/aquaculture/act-loi/index-eng.html; and *Proposed Federal Aquaculture Act*. Viewed at: https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40986688.pdf.

4.1.3.2.1 Policy tools

4.61. DFO's fisheries management regime includes various instruments to support Canada's conservation and sustainable management objectives. Examples include fisheries management plans, stock assessments, input/output controls (e.g. total allowable catch (TAC), permits and quota schemes, and licence requirements for access to fisheries), and monitoring systems (e.g. observers, dockside monitoring, and vessel monitoring) and catch certification systems.

4.62. The TAC system, which intends to control harvests for key fish stocks, was established under DFO's Fishery Decision-Making Framework Incorporating the Precautionary Approach (PA Policy).[66] This Policy is part of DFO's Sustainable Fisheries Framework[67], and aims to keep the removal rate moderate when the stock status is healthy, reduce fishing mortality, and promote stock growth if a stock declines to the critical zone. The 2019 Fisheries Act introduced provisions, which formalize the objectives of the PA Policy into binding legislative obligations to maintain stocks at sustainable levels and to develop and implement rebuilding plans for depleted stocks. These obligations apply only to stocks prescribed in the regulation. In April 2022, DFO prescribed the first group of 30 stocks to these provisions and is working to prescribe additional stocks. DFO also introduced a catch certification programme in response to the European Union's IUU fishing regulations, which require fish exports to the European Union to be accompanied by a catch certificate issued by the DFO. This programme now extends to exports to Chile, Japan, Ukraine, and the United Kingdom.[68]

4.63. DFO's management decisions are generally divided by species (or species group) and fishing areas, via the setting up of opening and closing dates for the season, multi-year integrated fisheries management plans, or rebuilding plans. DFO allocates quotas to different fleet sectors. Quota allocation could be in the form of competitive quota, individual quota, individual transferable quota, enterprise allocation, or individual vessel quota. Allocation decisions may take into consideration fishers' catch histories (for individual quotas), or may be managed using input controls including the number and size of the vessels, gear restrictions, trip limits, and closed areas (for competitive quota).

4.64. Licences issued by DFO are required for businesses to engage in commercial fishing activities, and fisher registration cards are required for fish harvesters (including crew members). Applications for licences and registration cards are made through the National Online Licensing System (NOLS), managed by DFO. Catch reporting is among the conditions of the licence. In addition, the "at-sea observer" and dockside monitoring programmes provide third-party verification of fish harvesting activities, and the "vessel monitoring" system tracks the positions and movements of vessels.[69]

4.65. Foreign fishing vessels have limited access to Canadian waters and ports. In accordance with the Coastal Fisheries Protection Act and the Coastal Fisheries Protection Regulations (CFPR), they must obtain licences[70] to enter Canadian fisheries waters, fish, or engage in other fishing-related activities[71] including commercial fishing, transporting fish, and processing fish at sea. The authorities confirm that foreign fishing licences are granted with certain limitations, including times and areas of fishing activities, the number of gear and equipment on board to be used for fishing, and specific species and quantities allowed for fishing.

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[66] Fisheries and Oceans Canada. *A Fishery Decision-making Framework Incorporating the Precautionary Approach*. Viewed at: http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/precaution-eng.htm.

[67] Fisheries and Oceans Canada, *Sustainable Fisheries Framework*. Viewed at: https://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/overview-cadre-eng.htm.

[68] Fisheries and Oceans Canada, *Catch Certification Program*. Viewed at: https://www.dfo-mpo.gc.ca/fisheries-peches/ccp-pcc/export/catch-program-captures-eng.html.

[69] Fisheries and Oceans Canada, *Commercial Fishery Requirements*. Viewed at: https://www.dfo-mpo.gc.ca/fisheries-peches/sdc-cps/index-eng.html.

[70] Fees applicable to licences issued to foreign vessels pursuant to the CFPR are set out under Schedule I of the Regulations. Viewed at: https://laws-lois.justice.gc.ca/PDF/C.R.C.,_c._413.pdf.

[71] Justice Laws, Coastal Fisheries Protection Regulations (C.R.C., c. 413), last amended on 27 September 2022. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C_c._413/page-2.html#docCont.

4.66. Foreign ownership restrictions access to commercial fisheries vary, and are established through licensing policies, in the form of residence requirements and foreign equity restrictions.[72] For example, fishery participants that are licensed under the Commercial Fisheries Licensing Policy for Eastern Canada must be at least 51% owned by Canadians.[73] All commercial fishing vessels in Canada must be registered with Transport Canada, and their owners must be either a Canadian resident or corporation, or a foreign-registered corporation with a Canadian subsidiary or representative entity.[74] The 2022 Beneficial Ownership Survey found that foreign ownership of commercial access holders is "very low": 2% of licence holders and vessel owners have some degree of foreign ownership within their corporate structure.[75]

4.67. In addition, Canada has a strong port access governance framework under the Coastal Fisheries Protection Act and Regulations, which were amended in 2019 to fully align with the FAO's Agreement on Port State Measures (Section 4.1.3.2.3). Under the amended Act, access to Canadian ports continues to be restricted, while the Minister of the Fisheries, Oceans and the Canadian Coast Guard has discretionary authority to grant licences to foreign fishing vessels to enter Canadian fishing waters and ports. This discretion is subject to certain limitations set out in the Coastal Fisheries Protection Regulations.[76] For example, unless the Minister determines that the Government has favourable fisheries relations with the government of the vessel's flag state (e.g. based primarily on adherence to Canadian and international conservation practices and policies), the Minister must not issue a licence authorizing that vessel to enter Canadian fisheries waters.[77] The authorities indicate that no foreign vessels have been denied port access since the last review in 2019. Canada may, however, authorize entry into its ports for a vessel that was previously not authorized to enter, exclusively for the purposes of inspection and potentially taking appropriate actions in conformity with international law (i.e. IUU fishing and other fishing-related activities).

4.68. DFO charges a number of fees on fishing activities, in accordance with the Services Fees Act and the Fisheries and Oceans Canada Department-Wide Policy on Remissions (effective as of 1 April 2021).[78] These include fees for commercial fishing licences, fisher registration cards, vessel registration and certificates, transfer permits, or fish transport licences; quota fee; icebreaking service fee; maintenance dredging services fee and tonnage fee; marine navigation services fee; Pacific aquaculture licensing fee; and small craft harbour fees.

4.1.3.2.2 Border measures

4.69. Tariff protection in the fisheries sector is relatively low, with an applied average MFN tariff of 1.2% (1.1% in 2019[79]). Nearly three quarters (74.8%) of total fishery tariff lines are duty-free; applied MFN rates range from zero to 11%, the same as in 2019.[80] All lines carry *ad valorem* duties.

4.70. Import prohibitions apply to live freshwater pufferfish and Chinese mitten crab; according to the authorities, this is to reduce human health risks.[81] The Fisheries Act stipulates that, in order to end the practice of having cetaceans in captivity and to address the practice of shark finning, restrictions were established on keeping and breeding cetaceans in captivity in Canada and also prohibiting the import into Canada or export from Canada of shark fins that are not attached to a shark carcass solely for scientific research purposes related to shark conservation and the survival of shark species. For cetaceans or the reproductive material of cetaceans, a permit may be issued solely to conduct scientific research or keep the cetacean in captivity if it is in the best interest of

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[72] Fisheries and Oceans Canada, *2022 Beneficial Ownership Survey Results*. Viewed at: https://www.dfo-mpo.gc.ca/about-notre-sujet/publications/fisheries-peches/bos-spe/index-eng.html.
[73] Fisheries and Oceans Canada, *2022 Beneficial Ownership Survey Results*.
[74] Fisheries and Oceans Canada, *2022 Beneficial Ownership Survey Results*.
[75] Fisheries and Oceans Canada, *2022 Beneficial Ownership Survey Results*, p. 6.
[76] Justice Laws website, *Costal Fisheries Protection Regulations.* Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C_c._413/FullText.html.
[77] Fisheries and Oceans Canada, *Port State Measures*. Viewed at: https://www.dfo-mpo.gc.ca/international/isu-iuu-09a-eng.htm.
[78] Fisheries and Oceans Canada, *Policy on Remissions*. Viewed at: https://www.dfo-mpo.gc.ca/publications/policy-politiques/remissions-remises/policy-politique-eng.html.
[79] Fish and fish products refer to HS 03, HS 0508, HS 051191, HS 150410, HS 150420, HS1603-05, and HS 230120.
[80] An applied MFN rate of 11% is applied to prepared fish meals (HS 16042010).
[81] CFIA, *Regulatory Requirements: Fish*. Viewed at: https://inspection.canada.ca/food-guidance-by-commodity/fish/regulatory-requirements/eng/1525439146935/1525439147715.

the cetacean's welfare to do so. A permit may be issued for the import or export of shark fins or parts of shark fins that are not attached to a shark carcass solely for scientific research purposes related to shark conservation and the survival of shark species.[82]

4.71. When importing fish and fish products into Canada, in accordance with the Safe Food for Canadians Act (SFCA) and its Regulations, and the Health of Animals Act (HAA) and its Regulations, a Safe Food for Canadians (SFC) licence and an aquatic animal health import permit from the CFIA are required (Section 3.3.3).[83] In addition, live or raw molluscan shellfish must be imported from an authorized trading partner of harvest that has been approved to export to Canada.[84]

4.72. When importing aquatic animals (finfish, molluscs, and crustaceans) and their products, if they are not considered susceptible to diseases of concern, or if they are considered safe in accordance with international standards of the World Organisation for Animal Health (WOAH, formerly OIE) or as a result of a CFIA risk assessment, import permits are not required. If the imports are susceptible to diseases of concern regulated by the CFIA, they must come from trading partners with which Canada has negotiated export market access, and comply with the negotiated health conditions. An Aquatic Animal Health Import Permit and a Zoosanitary Export Certificate (if required) are necessary.[85]

4.73. Canada notified the WTO that in accordance with the Freshwater Fish Marketing Act, the Freshwater Fish Marketing Corporation (FFMC) remains a state trading enterprise with the exclusive right to market and trade freshwater fish in Northwest Territories and export markets (Section 3.3.5).[86]

4.1.3.2.3 International arrangements

4.74. From a global governance perspective, Canada advocates for sustainable fisheries and oceans through active membership in various international forums including multiple Regional Fisheries Management Organizations and Arrangements (RFMO/As), the United Nations FAO, the OECD, the High Level Panel for a Sustainable Ocean Economy, and the WTO. Priorities on the international stage include combating IUU fishing, preventing overfishing, protecting endangered species, improving the management of global fish stocks, ensuring healthy ocean ecosystems, addressing harmful subsidies, and enhancing a global trade and commercial system that guards and promotes Canada's interests, including the sustainability of fisheries and oceans. Canada's fishing strategy incorporates sustainable fisheries, industries, and ecosystems.[87]

4.75. Canada is party to several agreements that include provisions related to trade and sustainable fisheries and/or aquaculture issues, including the WTO Agreement on Fisheries Subsidies, the CUSMA, the CPTPP, the CETA, the CUKTCA, and the CITES. Some of these agreements contain provisions on fisheries subsidies (such as Article 24.20 of the CUSMA, and Article 20.16 of the CPTPP). Canada also maintains several arrangements and partnerships with other fishing nations to respond to global problems such as overfishing, IUU fishing, and ocean degradation.[88]

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[82] WTO document G/LIC/N/3/CAN/22, 22 September 2023.

[83] Details on the SFC licence are listed in WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

[84] CFIA, *Importing Live and Raw Molluscan Shellfish*. Viewed at: https://inspection.canada.ca/importing-food-plants-or-animals/food-imports/food-specific-requirements/importing-fish-and-shellfish/molluscan-shellfish/eng/1377987441620/1377987693551.

[85] CFIA, *Susceptible Species of Aquatic Animals*. Viewed at: http://www.inspection.gc.ca/animals/aquatic-animals/diseases/susceptible-species/eng/1327162574928/1327162766981.

[86] WTO document G/STR/N/19/CAN, 22 June 2022.

[87] Fisheries and Oceans Canada, *Overview*. Viewed at: https://www.dfo-mpo.gc.ca/international/issue-enjeu-eng.htm.

[88] Fisheries and Oceans Canada, *Governance and Diplomacy*. Viewed at: https://www.dfo-mpo.gc.ca/international/dip-eng.htm.

4.76. On 20 June 2019, Canada ratified the FAO's Agreement on Port State Measures, which entered into force in Canada on 20 July 2019. Under domestic legislation, access to Canadian ports is *prima facie* restricted; however, the Minister of Fisheries and Oceans has the authority to permit entry of a foreign fishing vessel, subject to certain limitations. Notably, the foreign fishing vessel must, among other criteria, be compliant with relevant conservation and management requirements, including those of RFMOs. To decide if a foreign fishing vessel meets these requirements, Canada uses various sources in its assessment, including the IUU vessel list developed by RFMOs such as the Northwest Atlantic Fisheries Organization (NAFO), the North Pacific Fisheries Commission (NPFC), and the International Commission for the Conservation of Atlantic Tunas (ICCAT). Fishing vessels on these lists are denied entry into Canadian fishing waters and ports except in exceptional circumstances or for enforcement purposes.

4.77. Canada is party to several international agreements on fisheries. On 2 December 2020, Canada endorsed the High Level Panel for Sustainable Ocean Economy's transformation vision, and affirmed the Government's target of sustainably managing 100% of Canada's ocean area by 2025. The Government is developing its Blue Economy Strategy to fulfil this commitment.[89] In December 2022, the Minister of Fisheries, Oceans and the Canadian Coast Guard announced the beginning of a Blue Economy Regulatory Review, with a view to removing barriers for Canada's ocean industries to promote innovation and sustainable growth.[90] Canada is also a member of the Global Ocean Alliance, the Global Fishing Watch, and the OECD Committee on Fisheries.

4.78. Canada is a member of seven regional fishery management organizations: the NAFO, ICCAT, the Inter-American Tropical Tuna Commission (IATTC), the North Atlantic Salmon Conservation Organization (NASCO), the North Pacific Anadromous Fish Commission (NPAFC), the NPFC, and the Western and Central Pacific Fisheries Commission (WCPFC).[91] Bilaterally, the Government works with fisheries departments in some other coastal trading partners to address overfishing and international fisheries governance issues.[92]

4.79. In addition, the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, signed by Canada and nine other parties in 2018, and subsequently entered into force on 25 June 2021, continues to prohibit commercial fishing in the high seas of the Central Arctic Ocean for at least 16 years.[93]

4.80. In June 2022, at the United Nations Oceans Conference, Canada, in conjunction with the United States and the United Kingdom, launched the IUU Fishing Action Alliance to drive global efforts to address this harmful activity through greater transparency, the use of technology, and through supporting State and non-State partnerships.

4.81. As part of its Indo-Pacific Strategy, Canada is investing CAD 84.3 million in the Shared Ocean fund over five years starting from 2023, to help increase maritime cooperation and create a healthy marine environment in the Indo-Pacific while supporting measures against IUU fishing. Through this initiative, Canada will work to strengthen and enforce the rules-based order in the region to regulate fisheries and fishing activity, protect fish stocks, advance ecosystem conservation, reduce the use of plastic fish aggregating devices, and put in place strong monitoring, control, and surveillance to combat IUU fishing.

[89] Fisheries and Oceans Canada, *The High Level Panel for a Sustainable Ocean Economy*. Viewed at: https://www.dfo-mpo.gc.ca/international/hlp-ghn-eng.html.

[90] Fisheries and Oceans Canada (2022), "Removing Barriers for Canada's Ocean Industries to Promote Innovation and Sustainable Growth", 14 December. Viewed at: https://www.canada.ca/en/fisheries-oceans/news/2022/12/removing-barriers-for-canadas-oceans-industries-to-promote-innovation-and-sustainable-growth.html.

[91] Fisheries and Oceans Canada, *Regional Fisheries Management Organizations*. Viewed at: https://www.dfo-mpo.gc.ca/international/dip-rfmo-eng.htm.

[92] Fisheries and Oceans Canada, *Partnerships*. Viewed at: https://www.dfo-mpo.gc.ca/international/dip-prtn-eng.htm.

[93] Government of Canada (2018), "Canada Signs International Agreement to Prevent Unregulated Fishing in the High Seas of the Central Arctic Ocean", 3 October. Viewed at: https://www.canada.ca/en/fisheries-oceans/news/2018/10/canada-signs-international-agreement-to-prevent-unregulated-fishing-in-the-high-seas-of-the-central-arctic-ocean.html.

4.1.3.2.4 Domestic support

4.82. In addition to policies applied at the border, the Government has been providing support to the fisheries sector. Canada's most recent notification[94] to the WTO under the Agreement on Subsidies and Countervailing Measures included nine programmes, covering FY2020/21 to FY2021/22 (Table 4.10).

Table 4.10 Fisheries sector subsidies, FY2020/21-FY2021/22

Title	Purpose	Form of subsidy	Value
Atlantic Fisheries Fund August 2017–March 2024	Meet growing market demands for products that are high quality, value added, and sustainably sourced	Funding: non-repayable, conditionally repayable, or unconditionally repayable	FY2020/21: CAD 41 million FY2021/22: CAD 36 million
Atlantic Integrated Commercial Fisheries Initiative Began in 2007, ongoing	Support capacity-building in certain First Nations commercial fishing enterprises	Training and other skill development activities, through grants and contributions funding	FY2020/21: CAD 14 million FY2021/22: CAD 10 million
British Columbia Salmon Restoration and Innovation Fund March 2019-March 2026	Help improve the economic and environmental sustainability, focusing on the restoration of wild Pacific salmon	Funding: non-repayable, conditionally repayable, or unconditionally repayable	FY2020/21: CAD 13 million FY2021/22: CAD 23 million
Contributions to support Indigenous Reconciliation Agreements Began in 2019/20, ongoing	Provide for stable, predictable, and sustainable fisheries for all harvesters in the regions associated with the Reconciliation Agreements	Financial transfer payments	FY2020/21: CAD 8 million FY2021/22: CAD 303 million
Fisheries and Aquaculture Clean Technology Adoption Program CAD 35 million financial contribution spread over 2017-2024	Assist fisheries and aquaculture industries in improving their environmental performance	Non-repayable contribution funds up to 75% of the cost for purchasing and installing equipment aimed at improving environmental performance	FY2020/21: CAD 5 million FY2021/22: CAD 2 million
Fish Harvester Benefit and Grant Program August 2020-March 2023	Part of the Government's COVID-19 response strategy and targeted self-employed fish harvesters and crew not eligible for other COVID-19 relief initiatives	Non-deferrable business expenses, and income support to self-employed fish harvesters and crew	FY2020/21: CAD 130 million FY2021/22: CAD 33 million
Northern Integrated Commercial Fisheries Initiative Began in 2018, no end date	Assist Indigenous-owned commercial fishing enterprises	Providing business development support, harvester training and funding for communal commercial fishing enterprise and aquaculture development through grants and contributions funding	FY2020/21: CAD 5 million FY2021/22: CAD 7 million
Pacific Integrated Commercial Fisheries Initiative Began in 2007, ongoing	Increase First Nations' access to the commercial fisheries in British Columbia	Providing business development support, harvester training and funding for communal commercial fishing enterprise and aquaculture development through grants and contributions funding	FY2020/21: CAD 21 million FY2021/22: CAD 22 million
Québec Fisheries Fund April 2019-March 2024	Help Québec-based fish and seafood sector transition to meet growing market demands for high quality, value added, and sustainably sourced products	Funding: non-repayable, conditionally repayable, or unconditionally repayable	FY2020/21: CAD 2 million FY 2021/22: CAD 4 million

Source: WTO document G/SCM/N/401/CAN, 21 July 2023.

[94] WTO document G/SCM/N/401/CAN, 21 July 2023.

4.83. In general, support to the fishing sector is administered under its Transfer Payments Policy[95] and Directive[96], as well as under the authority of other pieces of legislation including the Fisheries Act[97] and Fisheries Development Act.[98] Support programmes are implemented within a management and accountability framework, which encompasses laws, regulations, and administrative procedures governing the provision of support.

4.84. The Government also provided the Canadian Seafood Stabilization Fund (ended on 31 March 2022), as a financial support of CAD 62.5 million for the fish and seafood processing sector to help mitigate the loss of markets for fresh products.[99]

4.85. The authorities state that, at the subnational level, fuel tax rebates may be available for gasoline consumed in, or by, fishing.

4.2 Mining and energy

4.86. As a resource-rich country, Canada is a net exporter of many energy and mineral products. Natural gas, oil, and hydroelectricity are the major sources of energy supply and also the major components of energy consumption. Currently, all of Canada's natural gas exports, the majority of its crude oil exports, and all of its electricity exports are to the United States. It is building two LNG export terminals, both targeting the Asian market. In 2019, the Canada Energy Regulator (CER) was established and replaced the National Energy Board, and the Impact Assessment Agency of Canada (IAAC) was established and replaced the Canadian Environment Assessment Agency.

4.87. The pipeline transport of natural gas and crude oil, as well as electricity grids, all face the problem of limited interconnection between provinces, particularly between west and east Canada. Partly reflecting this infrastructure constraint, Canada imports natural gas and crude oil for refining in the eastern part of the country. The simple average MFN tariff on energy products is low, and some are unbound although all unbound lines are duty-free, except for one. Exports of many energy products require authorization from the CER, while imports do not.

4.88. Canada's highly clean electricity system relies largely on hydropower. The Government committed to increase the share of renewable electricity to 90%, phase out coal from the energy mix, and ban thermal coal exports by 2030. As energy production and consumption are the largest sources of Canada's GHG emissions, the Government has adopted a series of measures including carbon pricing, supporting the development of clean fuels such as low-carbon hydrogen and biofuels, promoting the use of renewable energy, and improving energy efficiency.

4.89. Crown corporations continue to play a major role in the energy sector (particularly the electricity sector), and prices are often regulated (electricity in some provinces, and refined oil). Regarding FDI, the Minister of Innovation, Science and Industry will find the acquisition or control of a Canadian business on oil sands, and critical minerals, by a foreign SOE, or a foreign state-influenced private investor, to be of "net benefit" to Canada only on an exceptional basis.

4.2.1 Minerals

4.90. Canada is one of the world's leaders in mining, mining over 60 metals and minerals. The authorities indicate that in 2022 the minerals sector directly and indirectly accounted for 694,000 jobs and about 6% of GDP.

4.91. Canada is the global leader in the production of potash, the second-largest producer of niobium; the second-largest producer and fourth-largest exporter of uranium; the third-largest producer of diamonds; the fourth-largest producer of aluminium, gold, indium, platinum group metals, and tellurium; and the fifth-largest producer of cobalt and titanium. As a resource-rich

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[95] Government of Canada, *Policy on Transfer Payments*. Viewed at: https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=13525.

[96] Government of Canada, *Directive on Transfer Payments*. Viewed at: https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=14208.

[97] Justice of Laws, *Fisheries Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/f-14/.

[98] Justice of Laws, *Fisheries Development Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/F-21/.

[99] Fisheries and Oceans Canada, *Fisheries Programs and Initiatives*. Viewed at: https://www.dfo-mpo.gc.ca/fisheries-peches/initiatives/programs-eng.html.

country, Canada is a net exporter of many mineral commodities: the minerals sector contributed about 21% of total merchandise exports and 17% of total merchandise imports in 2022. According to NRCan, Canada's mineral and metal export value went up by 21% in 2022 from the 2021 level, partly due to price increases.[100] The value of mineral imports also increased by 18% in 2022.[101] More than half of Canada's mineral exports go to the United States.[102]

4.92. Mining activities fall within provincial jurisdiction, while mining projects are subject to both provincial and federal environmental assessments conducted by the IAAC. NRCan remains responsible for implementing Canada's international commitments regarding various minerals, including under the Kimberley Process Certification Scheme (KPCS) for trade in rough diamonds.

4.93. The Canadian Nuclear Safety Commission (CNSC) regulates, at the federal level, uranium mining, refining, processing, fuel fabrication, and nuclear reactor operation. In accordance with the Non-Resident Ownership Policy in the Uranium Mining Sector, foreign ownership of uranium mining properties is limited to 49%. Ownership levels of more than 49% are permitted on a project-by-project basis if it can be clearly established that the project is Canadian-controlled. Exemptions may also be granted in cases where it can be demonstrated that Canadian partners cannot be found. In addition, when considering a request for an exemption from the policy, an investor from the European Union or a CPTPP-signatory country is not required to demonstrate that a Canadian partner cannot be found.

4.94. Restrictions on the processing of minerals remain, at the provincial level. For example, the Mining Act in Ontario requires that all minerals extracted in Ontario be processed within Canada; the Mining Act in New Brunswick stipulates that, if required by the Minister at the time a mining lease is granted or at any time thereafter, a lessee must process, or further process, in the province any minerals mined in the province under the mining lease. The Mineral Resources Act in Nova Scotia requires that, except for testing, no person shall remove from the province to a place outside Canada for processing an output from a mine in the province without first obtaining the consent of the Minister in charge of mineral resources there.

4.95. In 2019, the Government issued the Canadian Minerals and Metals Plan (CMMP) with a view to addressing regulatory and market challenges, including market weakness and volatility and supply chain challenges, faced by the mining industry.[103] In 2021, an action plan was published under the CMMP and, in order to implement the CMMP, it outlines measures focusing on competitiveness, the participation of Indigenous Peoples, community benefits, environmental protection, scientific and technological innovation, and global leadership.[104]

4.96. Corporations engaging in mining operations are subject to federal, provincial, and territorial income taxes – the federal corporate tax (15%) and provincial tax (from 8% to 16%).[105] They are also subject to provincial mining taxes and royalties. While in some provinces royalties vary according to the specific mineral, in other provinces they are calculated based on mining profits.[106] Companies in the energy and mining industries may use the flow through shares (FTS) mechanism, which allows them to issue new equity (shares) to investors at a higher price than "normal" shares, thus assisting these companies in raising money for eligible exploration, development, and project start-up expenses.[107]

4.97. Canada has an abundance of cobalt, graphite, lithium, and nickel, which are essential components for batteries, including for electric vehicles. Its niobium is an important metal for the aerospace industry, and indium is a key input in semiconductors and vehicles. Canada ranks fifth globally in the production of graphite and nickel and is an emerging supplier of many other critical minerals. In March 2021, the Government released a list of 31 minerals that Canada considers

[100] NRCan, *Mineral Trade*. Viewed at: https://natural-resources.canada.ca/maps-tools-and-publications/publications/minerals-mining-publications/mineral-trade/19310.
[101] NRCan, *Mineral Trade*.
[102] NRCan, *Mineral Trade*.
[103] NRCan, *Canadian Minerals and Metals Plan*. Viewed at: https://www.minescanada.ca/en.
[104] NRCan (2021), *Action Plan 2021*. Viewed at: https://www.minescanada.ca/en/about-plan/action-plan-2021.
[105] Cassels Brock & Blackwell LLP, "At a Glance: Mining Duties, Royalties and Taxes in Canada", 31 May. Viewed at: https://www.lexology.com/library/detail.aspx?g=9256edc9-8d2c-4531-889c-a633bac47066.
[106] Cassels Brock & Blackwell LLP, "At a Glance: Mining Duties, Royalties and Taxes in Canada", 31 May.
[107] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

"critical", i.e. minerals deemed essential to Canada's economic security and whose supply is threatened; required for the national transition to a low-carbon economy; or considered as a sustainable source of highly strategic critical minerals for Canada's partners and allies.[108]

4.98. Canada issued its Critical Minerals Strategy in 2022, aiming to support economic growth, competitiveness, and job creation; promote climate action and environmental protection; advance reconciliation with Indigenous Peoples; foster diverse and inclusive workforce and communities; and enhance global security and partnerships with allies.[109] According to the Strategy, these objectives are to be achieved by focusing on, *inter alia*, driving research, innovation, and exploration; accelerating project development; building sustainable infrastructure; and strengthening global leadership and security.

4.99. The Government has allocated budget support in 2021-23 to facilitate the implementation of this Strategy, which covers different aspects of the critical minerals value chain (from exploration to processing and refining, to the manufacturing of more advanced products). These support initiatives include CAD 79 million for public geoscience and exploration; a 30% critical mineral exploration tax credit for targeted critical minerals; CAD 47.7 million for targeted upstream critical mineral R&D; and CAD 144.4 million for critical mineral R&D and the deployment of technologies and materials to support their development for upstream and midstream segments of the value chain. Other initiatives include the Strategic Innovation Fund (SIF), which is already making significant investments in the electric vehicle battery industry.

4.100. The Strategy also aims to ensure Canada's FDI review regime is "positioned to respond to the evolving threat landscape".[110] Hence, the Government issued recently a Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals[111], with a view to improving "critical mineral supply chain security"[112] (Section 2.4). Under the new policy, and as in the case of oil sands (Section 4.2.1.2), the Minister of Innovation, Science and Industry will find the acquisition or control of a Canadian business on critical minerals by a foreign SOE, or a foreign state-influenced private investor, to be of "net benefit" to Canada only on an exceptional basis.

4.2.2 Energy

4.2.2.1 Main features and recent development

4.101. Canada is a resource-rich economy, accounting for a large share of the world's proven oil and gas reserves. According to the International Energy Agency (IEA), Canada possesses the third-largest oil reserves in the world.[113] It is the fourth-largest crude oil producer, the fifth-largest natural gas producer, and the third-largest producer of hydroelectricity.[114]

4.102. Canada is a net exporter of many energy products (Chart 4.3). In 2022, the energy sector (HS Chapter 27) contributed 30.2% of total merchandise exports (up from 22.1% in 2019), and 7.9% of total merchandise imports (up from 7.3% in 2019) (Tables A1.1 and A1.2). Both export and import values fell in 2020 and 2021 before recovering in 2023, reflecting supply chain disruptions and global price fluctuations. Most of Canada's energy exports are directed towards the United States.

[108] NRCan (2022), *The Canadian Critical Minerals Strategy*. Viewed at: https://www.canada.ca/content/dam/nrcan-rncan/site/critical-minerals/Critical-minerals-strategyDec09.pdf.
[109] NRCan (2022), *The Canadian Critical Minerals Strategy*.
[110] NRCan (2022), *The Canadian Critical Minerals Strategy*.
[111] ISED, *Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals under the Investment Canada Act*. Viewed at: https://ised-isde.canada.ca/site/investment-canada-act/en/policy-regarding-foreign-investments-state-owned-enterprises-critical-minerals-under-investment.
[112] NRCan (2022), *The Canadian Critical Minerals Strategy*.
[113] Another source indicates that Canada possessed 168 billion barrels of proved oil reserves in 2022, ranking fourth globally. US Energy Information Administration (EIA), *Canada*. Viewed at: https://www.eia.gov/international/analysis/country/CAN.
[114] IEA (2022), *Canada 2022: Energy Policy Review*. Viewed at: https://www.iea.org/reports/canada-2022.

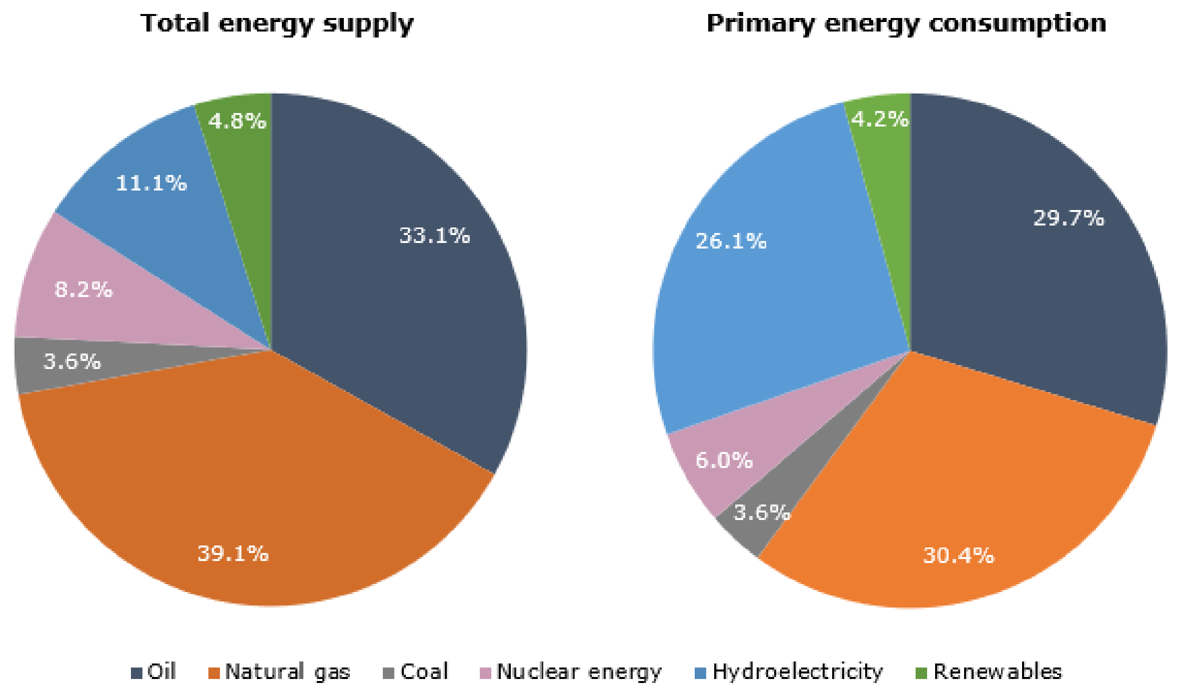
Chart 4.3 Exports and imports of energy products, 2019Q1-2023Q3

(CAD billion)

Source: Canadian Centre for Energy Information, *Energy and the Economy*. Viewed at: https://energy-information.canada.ca/en/subjects/energy-and-economy.

4.103. Natural gas, oil, and hydroelectricity are not only the major sources of energy supply, but also major components of energy consumption (Chart 4.4).

Chart 4.4 Total energy supply and primary energy consumption, 2021



Source: IEA, *IEA World Energy Balances 2022*. Viewed at: *https://www.iea.org/data-and-statistics/data-product/world-energy-statistics-and-balances*; and Energy Institute (2023), *Statistical Review of World Energy*, 72nd edition. Viewed at: https://www.energyinst.org/__data/assets/pdf_file/0004/1055542/EI_Stat_Review_PDF_single_3.pdf.

4.104. Canada's natural gas production is concentrated in the Western Canadian Basin. Its transmission pipeline system is thus divided into western and eastern parts, with a few pipelines connecting the two parts.[115] Approximately half of Canada's natural gas production is exported, to the United States through pipelines from the western part of Canada.[116] The transportation of natural gas to customers in the eastern part of Canada relies mainly on the Canadian Mainline, a pipeline that stretches from the Alberta/Saskatchewan border to the Québec/Vermont border, and also connects with the United States.[117]

4.105. Canada also imports natural gas. In 2022, 20% of Canadian end-use demand for natural gas was imported from the United States, in addition to small amounts of LNG imports from Trinidad and Tobago, Peru, and the Netherlands through Canada's only LNG import terminal – the Saint John LNG facility. Canada also imports small volumes of LNG from the United States for ship refuelling ("bunkering") at the Port of Hamilton, Ontario.

4.106. Canada is building its first two LNG export terminals in British Columbia. LNG Canada Phase 1 is expected to commence operation in 2025, with exports bound for Asian markets. As part of this project, the Coastal GasLink pipeline project, a 670 km pipeline connecting natural gas production in north-eastern British Columbia to the LNG terminal, achieved mechanical completion in 2023.[118] The Woodfibre LNG project began construction in late 2023, targeting first exports by late 2027. Once this project is fully electrified, it will be a leader in low-emissions LNG production for export to Asia. These LNG projects signal Canada's support to diversify energy markets[119] to those beyond the United States.

4.107. Canada is also an exporter of propane and other natural gas liquids. Exports of propane increased in 2019, when Canada started to export propane by marine tankers from British Columbia to markets in Asia. In 2022, Canadian exports of propane averaged approximately 175,000 barrels per day. In 2022, Canada was the second-largest supplier of propane to Japan, after the United States.

4.108. Oil sands account for over 97% of Canada's oil reserves, and approximately 80% of total output in 2021. In 2021, Canada was the third-largest exporter of crude oil in the world, with 97% of its exports to the United States.[120] Oil sands production is dominated by Suncor Energy, Imperial Oil Ltd, Cenovus Energy, and Canadian Natural Resources Ltd, which collectively control more than 85% of oil sands production. All four companies are publicly traded on the Toronto Stock Exchange (TSX) and are Canadian-owned or controlled. The remaining 15% is divided among smaller domestic firms and international oil companies.[121]

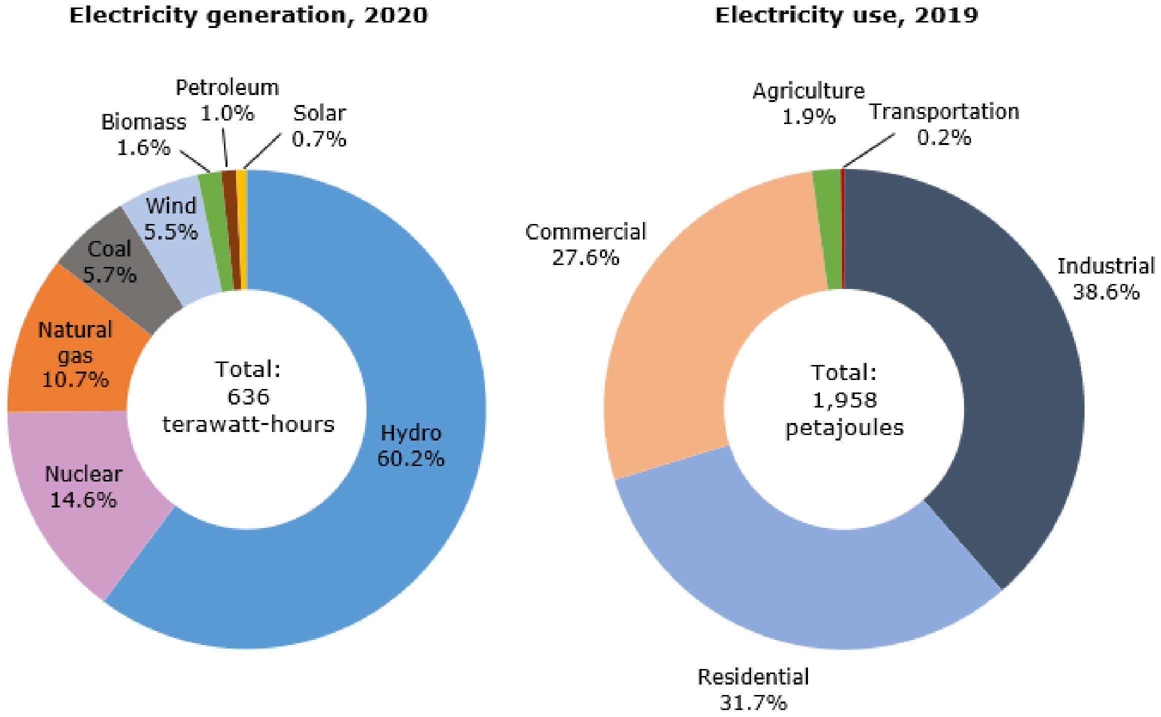
4.109. As crude oil production is concentrated in the west, Canada imports oil to meet consumption demands in the eastern part of the country. In both parts, crude oil transport relies primarily on pipelines, complemented by rail and trucks. In 2022, Canada had 17 refineries with a collective refining capacity of 1.85 million barrels per day. The nine refineries in Western Canada accounted for 42% of Canada's total crude oil refining capacity, and the eight eastern refineries, relying on imported oil, accounted for 58%.[122] In 2022, Canada had a network of 11,893 retail gasoline stations managed by 65 companies.[123] Twenty-two per cent of all gas stations are managed by "refiner-marketers" (i.e. companies involved in both the refining and marketing of petroleum

[115] IEA (2022), *Canada 2022: Energy Policy Review*, p. 219.
[116] IEA (2022), *Canada 2022: Energy Policy Review*.
[117] EIA, *Canada*. Viewed at: https://www.eia.gov/international/analysis/country/CAN.
[118] IEA, *Canada Natural Gas Security Policy – Analysis*. Viewed at: https://www.iea.org/articles/canada-natural-gas-security-policy-2.
[119] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 43.
[120] Observatory of Economic Complexity, *Crude Petroleum in Canada*. Viewed at: https://oec.world/en/profile/bilateral-product/crude-petroleum/reporter/can#:~:text=About,-%23permalink%20to%20section&text=Overview%20In%20May%202023%20Canada,balance%20of%20C%249.77B.
[121] IEA (2022), *Canada 2022: Energy Policy Review*.
[122] Canadian Association of Petroleum Producers (2019), *2019 Crude Oil Forecast, Markets and Transportation*.
[123] Canadian Fuels Association, *Fuel Retailing*. Viewed at: https://www.canadianfuels.ca/our-industry/fuel-retailing/.

products), while 78% are managed by individual proprietors or companies not involved in the refining process.[124]

4.110. Canada has a highly clean electricity system, with a large share of its electricity production coming from renewable energy (Chart 4.5). The Government aims to increase this to 90% by 2030, to phase out traditional coal power plants nationwide by 2030[125], and committed to ban thermal coal exports by 2030. Canada is a net exporter of electricity. According to the IEA, Canada trades electricity only with the United States, and exports about 10% of electricity generated in Canada to the United States.[126]

Chart 4.5 Electricity generation and use, 2019 and 2020



Source: Natural Resources Canada (NRCan) (2023), *Energy Fact Book 2022-2023*. Viewed at: https://publications.gc.ca/collections/collection_2022/rncan-nrcan/M136-1-2022-eng.pdf.

4.2.2.2 Regulatory, institutional, and policy developments

4.2.2.2.1 Regulatory and institutional framework

4.111. Regulatory responsibilities in the energy sector remain shared among the FPT governments (Table 4.11). International trade falls within the jurisdiction of the Federal Government, while provincial and territorial governments have regulatory oversight on, *inter alia*, royalty regimes on energy resources (including electricity) within their boundaries.

[124] Canadian Fuels Association, *Fuel Retailing*.
[125] IEA (2022), *Canada 2022: Energy Policy Review*.
[126] IEA (2022), *Canada 2022: Energy Policy Review*.

Table 4.11 Shared responsibilities between federal and provincial governments, 2024

	Responsibilities	Shared responsibility
Provincial	• Jurisdiction and management of energy resources • Royalty design and collection • Electricity production, distribution, and regulation • Land-use planning and allocation • Laws and regulations on exploration, development, conservation, and energy use • Adoption and enforcement of houses and building energy codes	• Environmental regulation of energy projects • Research developments • Management of offshore under accords • Regulations for energy-using products (federal regulations of cross-border trade, provincial regulations of products manufactured and sold in a province) • Development of houses and building energy codes
Federal	• International and interprovincial energy trade • International and interprovincial energy infrastructure (e.g. pipelines, power lines) • Nuclear energy and uranium • Energy resources on federal Crown land, offshore, and north of 60° latitude • Research and funding for building energy codes for homes and buildings	

Source: IEA (2022), *Canada 2022: Energy Policy Review*, pp. 30-31. Viewed at: https://www.iea.org/reports/canada-2022. And confirmed by the authorities.

4.112. Canada's legislation on the energy sector regarding its regulatory institutions, international trade, efficiency and safety, environmental protection, and climate change, as well as its national emergency strategy, among others, is described in its previous Review.[127] Over the review period, major changes made to the legislative and institutional framework include the repeal of the National Energy Board Act and the replacement by the Canadian Energy Regulator Act[128], and the repeal of the Canadian Environmental Assessment Act and its replacement by the Impact Assessment Act[129], both in 2019.

4.113. Under the Canadian Energy Regulator Act, the CER was established in 2019 and replaced the National Energy Board (NEB).[130] In contrast to the NEB, the CER, as an independent federal energy regulator, places a stronger emphasis on safety, environmental protection, reconciliation with Indigenous Peoples, innovation, and competitiveness.[131] The CER also plays a role in regulating pipeline tolls and tariffs, overseeing energy exports and imports, and regulating oil and gas exploration and drilling in specific northern and offshore regions, as well as offshore renewable energy projects.[132]

4.114. Also in 2019, the IAAC was established and replaced the Canadian Environment Assessment Agency. The IAAC reports to the Minister of Environment and Climate Change, and conducts impact assessments that are mandated by legislation as part of the decision-making process, with a view to supporting sustainable development. Compared with the previous environmental assessments, impact assessments have a more inclusive participation process and establish shorter statutory timelines. These assessments aim to minimize redundancy with other jurisdictions through a "one project, one review" approach.[133]

4.115. Other federal level institutions involved in shaping energy policies include Natural Resources Canada (NRCan), Environment and Climate Change Canada (ECCC), the Canadian Centre for Energy Information (CCEI), Transport Canada (TC), and Innovation, Science and Economic Development Canada (ISED).

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[127] WTO document WT/TPR/S/389/Rev.1, 23 August 2023; and IEA (2022), *Canada 2022: Energy Policy Review*.
[128] Government of Canada, *Canadian Energy Regulator Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/C-15.1/.
[129] Parliament of Canada, *Bill C-69*. Viewed at: https://www.parl.ca/DocumentViewer/en/42-1/bill/C-69/royal-assent.
[130] Parliament of Canada, *Bill C-69*.
[131] CER (2019), *2019-20 Annual Report of the Canada Energy Regulator*. Viewed at: https://www.cer-rec.gc.ca/en/about/publications-reports/annual-report/2019/2019-20_Annual_Report_of_CER.pdf.
[132] CER (2019), *2019-20 Annual Report of the Canada Energy Regulator.*
[133] IEA (2022), *Canada 2022: Energy Policy Review*.

- NRCan aims to ensure Canada's natural resources are developed sustainably, competitively, and inclusively.[134] Its Indigenous Affairs Unit, called Nòkwewashk, acts as a single window for investors for major resource projects involving Indigenous communities. NRCan also administers an array of funding programmes, with a view to promoting renewables, clean fuels, energy efficiency, and zero-emission vehicles.[135]

- ECCC is in charge of strategic actions on environmental issues, such as GHG and air pollutant emissions, clean growth, climate change, and conservation of renewable resources.[136]

- In 2020, the CCEI was established, as a new one-stop shop for energy data and analysis.

4.116. Offshore energy resources are mainly regulated by the Canada-Nova Scotia Offshore Petroleum Board (CNSOPB) and the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB). They are jointly managed by the federal and their respective provincial governments. In 2022, the relevant governments decided to expand the mandates of these two offshore boards, to include offshore renewables such as wind.[137]

4.117. Electricity management rests at the provincial level. Most provinces have provincial Crown corporations that regulate electricity generation, internal transmission, and distribution. Exceptions are Alberta, which has an open electricity market, and Ontario, which has a hybrid market. Each province has its own legal framework for IPPs (independent power producers), with whom the Crown corporation enters into power purchase agreements. The Federal Government is in charge of regulating nuclear power generation, electricity exports, and interprovincial and international electricity transmission. In May 2023, the Canada Electric Advisory Council was set up as an independent body with experts to provide advice to the Government to accelerate the development of clean electricity.[138] Electricity markets remain fragmented with limited interconnection between provinces.[139] Under the CFTA, plans were set up to enhance electricity transmission within provincial and territorial boundaries (Section 2.1).

4.118. Canada's electricity tariffs, in general, are among the lowest among IEA members, ranking eighth lowest in industrial electricity and fourth lowest in household electricity, in 2020.[140] Electricity tariffs vary from province to province, depending on the type of generation, the cost of transmission and local distribution, and whether the tariffs are market-determined or regulated.

4.2.2.2.2 Policy developments

4.119. Following the endorsement of the Energy Strategy in 2015 and the issuance of the policy on Generation Energy in 2017, Canada's energy policy has focused on four areas to achieve a clean, affordable, and reliable energy system: clean power, energy efficiency, cleaner oil and gas, and renewables.[141] Relevant policy tools include border measures and domestic taxation, pricing and incentive schemes, and carbon pricing mechanisms.

4.120. At the border, the simple average tariff on energy products is low, at 0.9% in 2023. Crude oil and related bitumen, electricity, and nuclear fuels and related products are duty-free. The simple averages for non-crude oil and refined products; natural gas, liquefied gas, and related products; and coal and coal-related products are 1.2%, 2.8%, and 0.3%, respectively.

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[134] Government of Canada, *Natural Resources Canada*. Viewed at: https://www.nrcan.gc.ca/home.
[135] IEA (2022), *Canada 2022: Energy Policy Review*.
[136] IEA (2022), *Canada 2022: Energy Policy Review*.
[137] NRCan, *The Accord Acts and the Joint Management Regimes in Nova Scotia and Newfoundland and Labrador*. Viewed at: https://www.canada.ca/en/natural-resources-canada/news/2023/05/the-accord-acts-and-the-joint-management-regimes-in-nova-scotia-and-newfoundland-and-labrador.html.
[138] NRCan (2023), "Minister Wilkinson Launches Canada Electricity Advisory Council to Help Build Canada's Clean Electricity Future", 5 May. Viewed at: https://www.canada.ca/en/natural-resources-canada/news/2023/05/minister-wilkinson-launches-canada-electricity-advisory-council-to-help-buildcanadas-clean-electricity-future.html.
[139] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.
[140] IEA, *Canada 2022 – Analysis*. Viewed at: https://www.iea.org/reports/canada-2022.
[141] IEA (2022), *Canada 2022: Energy Policy Review*.

4.121. Tariffs on 14 types of energy products remain unbound. These cover petroleum oils and oils obtained from bituminous minerals; natural gas; butanes; ethylene, propylene, butylene, and butadiene; other residues of petroleum oils or of oils obtained from bituminous minerals; and electrical energy.[142] These energy products are duty-free, except for propane in containers ready for use (HS 27111210), which is subject to a tariff at 12.5%. The authorities indicate that the reason for keeping them unbound is that these tariff line outcomes reflect the balance of concessions from the Uruguay Round.

4.122. Imports of crude oil and electricity do not require authorization or licence. Starting in August 2022, import licensing requirements on natural gas were discontinued (Section 3.1.5). Exports of energy products, including crude oil and refined petroleum products, natural gas (including LNG and propane), and electricity, require authorization from the CER.

4.123. Canada maintains restrictions on foreign investment in the energy sector. According to the Investment Canada Act, the Minister of Innovation, Science and Industry will find the acquisition or control of a Canadian oil sands business by a foreign SOE to be of "net benefit" to Canada only on an exceptional basis based on its "benefit plan". This "benefit plan" is required when oil and gas project developers apply for approval from the Minister of Energy and Natural Resources to proceed with oil and gas development project. It contains arrangements for the employment of Canadians, and for providing Canadian manufacturers, consultants, contractors, and service companies with opportunities to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

4.124. The same requirements apply to the benefit plans of two offshore accords (Canada-Nova Scotia Offshore Petroleum Accord and the Canada-Newfoundland Atlantic Accord). In addition, both benefit plans also require that first consideration be given to goods produced, or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality, and delivery.

4.125. Canada may also impose requirements, or enforce commitments, on the transfer of technology, a production process, or other knowledge to a Canadian in connection with the approval of development projects under the applicable accords. Similar provisions are included in the Yukon Oil and Gas Accord and the Northwest Territories Oil and Gas Accord.

4.126. Certain activities are reserved for Canadians. Persons who hold oil and gas production licences, or shares therein, must be Canadian citizens residing in Canada, permanent residents, or corporations incorporated in Canada.[143] No production licence may be issued unless the Minister is satisfied that the Canadian ownership rate of the interest-owner is not less than 50%.[144]

4.127. The Government's participation also takes the form of price controls on certain energy products (Section 3.3.4.2). Some provinces regulate retail fuel prices; for example, the Quebec Energy Board (Régie de l'énergie) sets minimum price levels, and the Utility and Review Board in Nova Scotia fixes wholesale prices, maximum retail prices, and minimum and maximum retail mark-ups for petroleum products. With a few exceptions, all pipelines in Canada are privately owned and operated.[145] Transmission tolls and tariffs (interprovincial/international) must be approved by the CER, to ensure open and non-discriminatory access for all shippers.

[142] HS Section 27, lines 27090000, 27101290, 27101910, 27101999, 27102090, 27109100, 27109900, 27111100, 27111210, 27111300, 27111400, 27111900, 27139000, and 27160000.

[143] These are for discoveries made after 5 March 1982. For prior discoveries, the Canadian ownership requirements for oil and gas production licences are set out in the Canada Oil and Gas Land Regulations. WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 4.15.

[144] "Interest-owner", defined in the Canada Petroleum Resources Act, means "the interest holder who owns an interest or the group of interest holders who hold all the shares of an interest". WTO document WT/TPR/S/389/Rev.1, 23 August 2019, Table 4.15.

[145] Exceptions include the natural gas transmission systems in Saskatchewan; one transmission line between Saskatchewan and Manitoba, owned and operated by subsidiaries of the provincial Crown corporation Sask Energy; and the Trans Mountain Pipeline.

4.128. Certain petroleum products are subject to excise duties and provincial product-specific taxes including sales tax, fuel tax, and carbon levies (Section 3.1.4).[146] Federally, diesel fuel and aviation fuel can be subject to a CAD 0.04 per litre federal excise tax, and gasoline to a CAD 0.10 per litre federal excise tax, upon importation, under certain conditions. Importations of fuel in Canada can also be subject to the federal fuel charge, under the Greenhouse Gas Pollution Pricing Act (GGPPA) Section 4.29, where the delivery occurs in a province or territory in which the federal fuel charge applies. The federal excise tax on motive fuels and the federal fuel charge are generally relieved from exports. Provincial fuel taxes and/or charges may also apply.

4.129. Provincial governments collect royalties from oil and gas companies. Royalty rates rise when commodity prices increase. For example, in Alberta, royalty rates on oil sands range from 25% to 40% of net revenues:

- The royalty rate reaches 40% when oil prices increase to CAD 120 per barrel or higher;
- The royalty rate is 25% when oil prices are CAD 55 per barrel or lower; and
- When oil prices fluctuate between CAD 55 and CAD 120 per barrel, the royalty rate gradually increases from 25% to 40%.[147]

4.130. Over the review period, reflecting increased global prices of energy products, royalties collected by oil- and gas-producing provinces grew substantially. According to the Canadian Association of Petroleum Producers (CAAP), total royalties collected spiked by 283% from FY 2021/22 to FY2022/23.[148]

4.131. Energy production and consumption are by far the largest sources of Canada's GHG emissions (more than 80%). In particular, fuel combustion in energy industries, such as oil and gas extraction, electricity and heat generation, and refining, accounts for 26% of GHG emissions, while transportation is responsible for another 26%. These are followed by building (13%), manufacturing (9%), and fugitive emissions (i.e. unintentional equipment leaks and intentional venting and flaring from the oil and gas sector) (7%).[149] The Government has been making efforts to reduce carbon emissions by adopting carbon pricing systems, promoting the use of renewable energy, achieving cleaner oil and gas (such as low-carbon hydrogen and biofuels) and cleaner power, and improving energy efficiency.

4.132. Since 2019, every jurisdiction in Canada has had a price on carbon pollution. Any province or territory can design its own pricing system tailored to local needs or can choose the federal pricing system. The Federal Government sets minimum national stringency standards that all systems must meet to ensure they are comparable and contribute their fair share to reducing GHG emissions. If a province decides not to price pollution or proposes a system that does not meet these standards, the federal system is put in place. The federal system includes a fuel charge, and a trading system for industry – the Output-based Pricing System (OBPS).[150] The federal OBPS is designed to ensure there is a price incentive for industrial emitters to reduce their GHG emissions and spur innovation while maintaining competitiveness and protecting against "carbon leakage" (i.e. the risk of industrial facilities moving from one region to another to avoid paying a price on carbon pollution).

[146] Government of Canada, *Fuel Consumption Levies in Canada*. Viewed at: https://natural-resources.canada.ca/our-natural-resources/domestic-and-international-markets/transportation-fuel-prices/fuel-consumption-taxes-canada/18885.

[147] CAPP (2022), "Frequently Asked Questions (FAQ): How Provincial Royalties Account for Higher Commodity Prices", 29 July.

[148] CAPP (2022), "Frequently Asked Questions (FAQ): How Provincial Royalties Account for Higher Commodity Prices", 29 July.

[149] IEA (2022), *Canada 2022: Energy Policy Review*.

[150] Government of Canada, How Carbon Pricing Works. Viewed at: https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work/putting-price-on-carbon-pollution.html.

4.133. Renewable energy in Canada is dominated by hydropower, which accounts for 62% of electricity generation in 2022 and 14% of total final energy consumption in 2019.[151] Over the review period, several new large-scale hydro projects were commissioned and are expected to be in service by 2024, while some small hydro projects are also progressing.

4.134. In August 2023, the Government released a paper titled "Powering Canada Forward", which serves as a vision document outlining plans to decarbonize the electricity grids by 2035. It launched a consultation process for the preparation of Canada's first clean electricity strategy to be released in 2024.[152] The Government has committed more than CAD 40 billion in Budget 2023 to support its clean electricity programmes. They take the form of tax incentives, funds and grants, and contributions.[153] These initiatives include the Smart Renewables and Electrification Pathways Programme, the Strengthened Climate Plan, and the Clean Investment Tax Credits (Section 3.3.1).

4.135. Canada has recognized that while electricity is expected to be the dominant source of energy in the years to come, clean fuels – namely hydrogen, biofuels, and biomass – will be critical sources of energy where electricity would be "inefficient or impractical".[154] In December 2020, the Government published the Hydrogen Strategy for Canada[155], which identifies the development of low-carbon hydrogen as a strategic priority for Canada, and notes the potential for Canada to be a major exporter of hydrogen, hydrogen derivatives such as ammonia, and hydrogen technology.

4.136. FPT governments have taken significant steps to reduce emission and improve energy efficiency. Efforts include those dealing with the fragmented electricity markets and those on regulatory barriers. According to the OECD, greater interprovincial electricity trade could promote competition in markets "currently dominated by a small number of large generators".[156] Some provinces made progress to address regulatory hurdles to investment that could reduce returns to investment in clean energy. For example, some provinces lifted bans on offshore wind farms, while some others sped up the permitting process at the provincial level.[157]

4.137. On energy efficiency, according to the IEA, from 2009 to 2019, Canada's GDP grew by around 24% while its total final consumption (TFC) of energy increased by 12%, reflecting improvements in energy efficiency.[158] Nonetheless, in 2019 Canada was the economy with the second-highest energy intensity in the world (after Luxembourg) in terms of TFC per capita, and one of the IEA members with the highest energy intensity in terms of TFC/GDP.[159]

4.138. NRCan has been engaging with provincial governments to advance energy efficiency, including through aligned building codes and equipment regulations. Energy-efficiency measures account for over one third of planned emissions reductions in the Pan-Canadian Framework on Clean Growth and Climate Change (PCF). In particular, the CAD 2 billion federal Low Carbon Economy Fund (launched in 2017) supports the PCF by investing in projects on clean growth and GHG reduction, the Climate Action Incentive Fund (adopted in 2019) allocated CAD 218 million for projects reducing energy use or GHG emissions, and the Small and Medium-Sized Enterprises Project (started in July 2019) provides funds up to 25% of the costs for energy-efficient retrofits and other projects intending to reduce energy use.

[151] IEA (2022), *Canada 2022: Energy Policy Review*.
[152] NRCan (2023), "Government of Canada Releases Vision to Build a Clean, Affordable and Reliable Electricity System to Power Canada Forward", 8 August. Viewed at: https://www.canada.ca/en/natural-resources-canada/news/2023/08/government-of-canada-releases-vision-to-build-a-clean-affordable-and-reliable-electricity-system-to-power-canada-forward.html.
[153] NRCan (2023), *Powering Canada Forward: Building a Clean, Affordable and Reliable Electricity System for Every Region of Canada*. Viewed at: https://natural-resources.canada.ca/sites/nrcan/files/electricityVisionPaper/Electricity%20Paper_ENGLISH.pdf.
[154] Government of Canada, *Budget 2023, Clean Fuels for the Clean Economy*. Viewed at: https://www.budget.canada.ca/2023/report-rapport/chap3-en.html#a5.
[155] NRCan, *The Hydrogen Strategy*. Viewed at: https://natural-resources.canada.ca/climate-change-adapting-impacts-and-reducing-emissions/canadas-green-future/the-hydrogen-strategy/23080.
[156] OECD (2023), *OECD Economic Surveys Canada*. Viewed at: https://www.oecd-ilibrary.org/docserver/7eb16f83-en.pdf?expires=1702308452&id=id&accname=ocid195767&checksum=82713E8B2662E060859E0DE2A0CFD359.
[157] OECD (2023), *OECD Economic Surveys Canada*.
[158] IEA (2022), *Canada 2022: Energy Policy Review*.
[159] IEA (2022), *Canada 2022: Energy Policy Review*.

4.3 Services

4.3.1 Financial services

4.3.1.1 Main features and recent developments

4.139. During the review period, the financial services sector continued to grow, registering an average annual growth rate of 3.4% from 2019 to 2022. The sector's contribution to GDP rose from 6.8% in 2019 to 7.2% in 2022 (Table 1.1). Based on data from the authorities, financial services accounted for about 4.7% of total employment (807,630 employees, up from 749,771 in 2019).[160]

4.140. The financial services system includes both deposit-taking institutions (DTIs) and non-deposit-taking institutions (non-DTIs). The former includes banks (81 in 2023), trust companies (43), loan companies (13), and credit unions (254 credit unions and 271 caisses populaires). In 2023, 92% of the total assets of DTIs in Canada belonged to banks and federally regulated trust and loan companies[161], and the remaining 8% was accounted for by provincially regulated credit unions.[162] Non-DTIs include insurance companies (58 life insurance companies, 8 fraternal benefit societies, and 148 property and casualty (P&C) insurance companies), and other financial institutions.[163]

4.141. Canada's financial services sector remains concentrated. For DTIs, according to an IMF report, the six largest banks (Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, National Bank of Canada, Royal Bank of Canada, and Toronto-Dominion Bank) accounted for 92% of DTIs' total assets in 2022.[164] These banks are considered to be domestic systematically important banks (DSIBs), and two of them are considered to be global systemically important banks (GSIBs). As such, they are subject to enhanced supervision as well as increased capital, resolution, and disclosure requirements.

4.142. Similarly, the three largest life insurance companies (Manulife Financial Corporation, Canada Life Assurance Company, and Sun Life Financial Inc.) accounted for 91% of the assets of federally regulated life and health insurance companies in 2022. These life insurers are designated as internationally active insurance groups (IAIGs), as established by the International Association of Insurance Supervisors (IAIS). The IAIS prescribes additional and heightened oversight standards for IAIGs, which OSFI has implemented as appropriate. These insurers are also subject to supervisory intensity commensurate with their size and complexity under OSFI's supervisory framework. The P&C insurance segment is relatively less concentrated, with the largest five insurers accounting for about 43% of the direct written premiums in 2022.[165] In addition, several large provincial Crown corporations are active in the financial services sector, e.g. Caisse de dépot et placement du Québec, Alberta Heritage Savings Fund, Manitoba Public Insurance, and Insurance Corporation of British Colombia.

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[160] Statistics Canada, *Employment by Industry, Annual*. Viewed at: https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410020201. The number of total "industrial aggregate" employment excluding "unclassified businesses" reached 17.2 million in 2022. Industrial aggregate covers all industrial sectors, except those primarily involved in agriculture, fishing and trapping, private household services, religious organizations, and military personnel of the defence services. Unclassified businesses are businesses for which the industrial classification has yet to be determined.

[161] Trust and loan companies are regulated under the Trust and Loan Companies Act (TLCA), under which commercial lending is capped at 5% of total assets. A higher limit may be approved by OSFI if the company has capital of CAD 25 million or more. Federally regulated trust and loan companies must obtain licences from regulatory authorities in the provinces in which they operate, and are subject to dual regulatory and supervisory frameworks. IMF (2020), *Canada: Financial Sector Assessment Program-Technical Note-Deposit-Taking Sector: Regulation and Supervision*.

[162] IMF (2020), *Canada: Financial Sector Assessment Program-Technical Note-Deposit-Taking Sector: Regulation and Supervision*.

[163] OSFI, *Who We Regulate*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/wwr-er.aspx?sc=1&gc=1#WWRLink11.

[164] IMF (2023), *Canada: Staff Report for the 2023 Article IV Consultation*, IMF Country Report No. 23/286. Viewed at: https://www.elibrary.imf.org/view/journals/002/2023/286/002.2023.issue-286-en.xml.

[165] Data include all, or virtually all, P&C insurers in Canada, including provincials.

4.143. Canada's financial system remains "broadly resilient"[166], despite several vulnerabilities identified by the Central Bank, including relatively high levels of household indebtedness, cyber threats, and "mispricing of assets exposed to climate-related risks".[167] According to the Bank of Canada's Financial System Review[168]:

- Household indebtedness, combined with high interest rates, has put pressure on borrowers (in particular, variable-rate mortgage holders). In 2022, more than one third (35.5%) of Canadians held a mortgage, and two thirds of mortgage holders had difficulties meeting their financial commitments.[169] A negative shock on housing prices could increase loan defaults and lead to credit losses.[170]

- Cyber incidents pose risks to financial stability. The possibility of cyber-attacks has been increasing in the context of rising geopolitical tensions. Because of the interconnectedness of the financial system, damage in one part of the financial system could spread quickly.[171]

- More frequent and extreme natural disasters caused by climate change, together with uncertainties about the transition to a low-carbon economy, also pose risks to financial stability. Globally, there is no consistent approach to measure these risks, and there has been a lack of disclosure of these risks. Consequently, assets exposed to these risks have been "mispriced". A repricing of the assets might result in losses for financial system participants.[172]

4.144. Relevant regulators have been making efforts to deal with these challenges (see below).

4.3.1.2 Regulatory, institutional, and policy developments

4.145. At the federal level, the financial services sector is regulated under, *inter alia*, the Bank Act and Regulations, the Insurance Companies Act and Regulations, and the Trust and Loan Companies Act and Regulations. The federal financial institutions statutes contain sunset provisions that require their regular renewal by Parliament, with a view to ensuring they remain robust and technically sound.

4.146. Other relevant statutes include the Office of the Superintendent of Financial Institutions Act, the Federal Interest Act, the Canadian Payments Act, the Retail Payment Activities Act, the Payment Clearing and Settlement Act, the Pension Benefits Standard Act and Regulations, and the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

4.147. The institutional framework on financial services has remained largely unchanged since the previous Review. The oversight of financial institutions is shared among FPT authorities. The Federal Government has jurisdiction over banks and federal credit unions, FPT governments share regulatory responsibilities on insurance and trust and loan companies, and provincial and territorial governments regulate provincial credit unions and caisses populaires, securities dealers, and other financial services providers.

4.148. At the federal level, relevant financial authorities include the Department of Finance, the Bank of Canada, OSFI, the Canada Deposit Insurance Corporation (CDIC), and the Financial Consumer Agency of Canada (FCAC). The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's financial intelligence unit. It facilitates the detection, prevention, and deterrence of money laundering and the financing of terrorism activities. Payments Canada (PC) owns and operates the main payments clearing and settlement systems in Canada. Its members include the Bank of Canada and all chartered banks as well as trust and loan companies, credit union

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[166] IMF (2023), IMF Country Report No. 23/286, p. 1.

[167] Bank of Canada (2022), *Financial System Review – 2022*. Viewed at: https://www.bankofcanada.ca/2022/06/financial-system-review-2022/.

[168] Bank of Canada (2023), *Financial System Review – 2023*. Viewed at: https://www.bankofcanada.ca/2023/05/financial-system-review-2023/.

[169] Financial Consumer Agency of Canada (FCAC) (2023), *FCAC Report: The Financial Well-Being of Canadian Homeowners with Mortgages*. Viewed at: https://www.canada.ca/en/financial-consumer-agency/programs/research/financial-well-being-mortgages.html.

[170] Bank of Canada (2023), *Financial System Review – 2023*.

[171] Bank of Canada (2023), *Financial System Review – 2023*.

[172] Bank of Canada (2022), *Financial System Review – 2022.*

centrals and cooperative credit associations, life insurance companies, and securities dealers. PC develops, implements, and updates rules and standards governing the clearing and settlement of payments between member financial institutions and facilitates interaction between other national and international payment systems.

4.149. A number of interagency cooperation mechanisms facilitate cooperation and information sharing across various agencies. These include the Financial Institutions Supervisory Committee, the Senior Advisory Committee, and the Head of Agencies Committee.[173]

4.150. Over the review period, relevant regulators have been developing and implementing policies to strengthen the sector (Section 4.3.1.1). For example, in January 2022, the Bank of Canada and OSFI published the results of a pilot project aimed at assessing the impact of climate change on Canada's economy, including its financial system.[174] The study found that underestimating the risks associated with transitioning to a low-carbon economy could lead to significant losses for financial institutions. In response, OSFI introduced Guideline B-15[175] in March 2023, covering, *inter alia*, climate-related financial disclosure obligations.

4.151. In June 2022, the legislation to modernize the Financial Consumer Protection Framework entered into force. It introduced new and enhanced protection to customers of banks, authorized foreign banks, and federal credit unions.[176] The Framework contains provisions on additional and timely information to customers, higher standards for bank sales practices, more effective and timely handling of customer issues, increased limit for cashing a government check, and the introduction of a whistleblowing programme for bank employees.[177]

4.152. In July 2022, OSFI issued its Guidelines on Technology and Cyber Risk Management, which entered into force on 1 January 2024, with a view to improving the ability of federally regulated financial institutions to deal with technology and cyber risks.[178] The Guidelines acknowledge that there is no one-size-fits-all approach to managing these risks, as both the risk profiles and the vulnerabilities of the financial institutions are different, reflecting their market size, nature, scope, and complexity of their operations. The Guidelines are organized around three domains: governance and risk management; technology, operation, and resilience; and cyber security. Each domain has key components on sound technology and cyber risk management to facilitate financial institutions in dealing with relevant risks.

4.153. The Government started to levy a tax on dividends over the review period. In 2022, the Government introduced a temporary "Canada Recovery Dividend", which requires banks and life insurer groups to pay a one-time 15% tax on taxable income above CAD 1 billion on the average of their 2020 and 2021 taxable income. This "Dividend" is to be paid in equal instalments over five years. In addition, the Government also increased the federal corporate income tax rate on the taxable income of banking and life insurance groups above CAD 100 million from 15% to 16.5%.[179] The authorities state that Canada's major financial institutions made significant profits during the pandemic and recovered faster than other parts of the economy – in part due to the federal pandemic support for people and businesses that helped de-risk the balance sheets of some of its largest financial institutions.

[173] IMF (2020), *Canada: Financial Sector Assessment Program-Technical Note-Deposit-Taking Sector: Regulation and Supervision*. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2020/01/23/Canada-Financial-Sector-Assessment-Program-Technical-Note-Deposit-taking-Sector-Regulation-48974.

[174] Bank of Canada (2022), "Bank of Canada/OSFI Pilot Helps Canadian Financial Sector Assess Climate Change Risks", 14 January. Viewed at: https://www.bankofcanada.ca/2022/01/bank-canada-osfi-pilot-helps-canadian-financial-sector-assess-climate-change-risks/.

[175] OSFI (2023), *Guideline B-15 – Climate Risk Management*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/Docs/b15-dft.pdf.

[176] Government of Canada, *Your Banking Rights and New Protections*. Viewed at: https://www.canada.ca/en/financial-consumer-agency/services/banking/rights-new-protections.html#toc2.

[177] Financial Consumer Agency of Canada, *The Financial Consumer Protection Framework: Enhanced Protection for Bank Customers*. Viewed at: https://www.canada.ca/en/financial-consumer-agency/services/banking/rights-new-protections/consumer-protection-framework.html.

[178] OSFI, *Guideline B-13 – Technology and Cyber Risk Management*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/Docs/B13-final.pdf.

[179] Government of Canada, *Budget 2022*. Viewed at: https://www.budget.canada.ca/2022/home-accueil-en.html.

4.154. Budget 2023 proposed to amend the Income Tax Act to treat dividends received on Canadian shares held by financial institutions in the "ordinary" course of their business as business income, so as to subject them to corporate tax. Currently, dividends that financial institutions receive on Canadian shares are not treated as business income and are effectively exempt from corporate tax. According to Budget 2023, this change would increase federal revenues by CAD 3.15 billion over five years starting in FY2024/25, and by CAD 790 million annually going forward.[180]

4.155. These tax policy changes, however, are considered by the Canadian Bankers Association as "inconsistent with the principle of tax neutrality".[181]

4.3.1.3 Banking

4.156. As at 2023, Canada has 81 banks, of which 35 are domestic banks, 15 foreign bank subsidiaries, 27 foreign bank full-service branches, 4 foreign bank lending branches, and 17 foreign bank representative offices.[182]

4.157. Banks remained well capitalized with adequate levels of liquidity over the review period. From 2019 to 2022, total bank assets increased from CAD 6,130 billion to CAD 8,151 billion, and total capital ratio from 15.3% to 17.3%, well above Basel III requirements.[183] Banks continue to be profitable, as evidenced by their return on assets and return on equity figures, while the ratio of non-performing loans (NPLs) to gross loans declined even further from 0.5% to 0.3% (Table 4.12).[184] The highly concentrated nature of the banking sector may indicate that banks can "reprice loans faster than deposits"[185], which would further push interest margins in a high interest environment. The authorities state that net interest margin (NIM) has decreased for the consolidated systematically important bank group since 2019. In 2022, there was more competition for deposits, leading to higher funding costs and lower NIM. Additionally, the shift from demand deposits to term deposits as customers take advantage of higher interest rates has also driven NIM lower.

Table 4.12 Selected financial soundness and other banking system indicators, 2019-22

(%, unless otherwise indicated)

	2019	2020	2021	2022
Total assets (CAD billion)	6,130	6,971	7,267	8,151
Total assets (% of GDP)	265.0	315.5	289.6	292.9
Total capital ratio	15.3	16.1	17.1	17.3
Tier 1 ratio	13.2	13.9	15.1	15.4
Capital to assets ratio	4.7	4.6	4.8	4.8
Liquid assets as share of total assets	9.8	15.4	15.1	13.2
Ratio of non-performing loans to gross loans	0.5	0.5	0.4	0.3
Return on assets (net income/end-period assets)	1.1	0.8	1.1	1.2
Return on equity	16.2	13.2	17.3	18.1
Interest margin to gross income[a]	55.3	56.4	54.0	54.2
Foreign exchange loans as share of total loans	38.5	37.8	35.8	38.2

a "Interest margin to gross income" is a profitability ratio, measuring the relative share of net interest earnings, i.e. interest earned minus interest expenses, to gross income. IMF, *Financial Soundness Indicators (FSIs) – Concepts and Definitions*. Viewed at: https://data.imf.org.

Source: IMF (2023), IMF Country Report No. 23/286.

4.158. Banks are regulated under the Bank Act and supervised by OSFI, and can be incorporated only at the federal level. They may be licensed as Schedule I (domestic banks), Schedule II (foreign bank subsidiaries in Canada), or Schedule III (foreign bank branches in Canada) and are subject to

[180] Government of Canada, *Budget 2023 – A Made-in-Canada Plan*. Viewed at: https://www.budget.canada.ca/2023/pdf/budget-2023-en.pdf.

[181] Canadian Bankers Association, *Bill C-32 – An Act to Implement Certain Provisions of the Fall Economic Statement*, p. 3. Viewed at: https://cba.ca/Assets/CBA/Documents/Files/Article%20Category/PDF/remarks-20221206-senate-finance-committee-C-32-en.pdf.

[182] OSFI, *Who We Regulate*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/wwr-er.aspx?sc=1&gc=1#WWRLink11.

[183] IMF (2023), IMF Country Report No. 23/286.

[184] IMF (2023), IMF Country Report No. 23/286.

[185] IMF (2023), IMF Country Report No. 23/286, p. 14.

approval by the Minister of Finance. Applications must be filed with OSFI. Once approved by the Minister of Finance, OSFI is responsible for issuing an Order to Commence and Carry on Business.

4.159. Rules on the type of operations that foreign banks can carry out have not changed since the previous Review. A foreign bank may operate through a subsidiary, a branch, or a representative office:

- A foreign bank subsidiary is generally subject to the same regulatory and prudential requirements as a domestic bank.[186]

- As a general rule, a full-service foreign bank branch is not permitted to accept deposits of less than CAD 150,000, and it must maintain assets on deposit equal to at least 5% of its liabilities in respect of its business in Canada, or CAD 5 million, whichever is greater, with a Canadian financial institution approved by OSFI.[187]

- A foreign lending branch is generally prohibited from accepting deposits and is required to maintain assets on deposits equal to at least CAD 100,000.

- A foreign bank representative office is not allowed to provide any financial services. It may only promote the services of the foreign bank, and act as a liaison between the foreign bank and its Canadian clients.

4.160. A foreign bank operating in Canada on a branch basis may carry on activities outside of Canada that will not be a part of the Canadian branch's activities and do not fall under OSFI's purview.

4.161. Prudential requirements have been revised. In January 2022, OSFI announced[188] revised capital, leverage, liquidity, and disclosure rules to incorporate the Basel III banking reform results.[189] Most of these revised rules took effect in the second quarter of fiscal year 2023[190], with two notable exceptions:

a. Revisions to the Liquidity Adequacy Requirements (LAR) guideline were implemented on 1 April 2023.

b. The revised rules on credit valuation adjustment risk and market risk will take effect in the first quarter of fiscal year 2024.[191]

4.162. In April 2022, OSFI released its strategic plan for 2022-25, which focuses on policy innovation and supervisory framework; data management and analytics; and risk, strategy, and governance.[192] Key implementation points include those on risk appetite, climate risks, digital innovation and impact, and data collection modernization.

4.163. The Bank of Canada oversees and regulates clearing and settlement systems designated as systematically important financial market infrastructures (FMIs) under the Payment Clearing and Settlement Act. Canada's systematically important FMIs include Lynx, Canada's large value transfer

[186] There are some limited differences (e.g. some related party transactions are permitted between a foreign bank subsidiary and its parent or other member of the group).

[187] OSFI (2022), *Guide to Foreign Bank Branching*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/fi-if/app/aag-gad/Pages/fbbguide.aspx.

[188] OSFI (2022), "OSFI Completes Basel III Reforms, Releases Final Capital and Liquidity Rules to Protect Canadians", 31 January. Viewed at: https://www.osfi-bsif.gc.ca:443/Eng/osfi-bsif/med/Pages/basel23_nr.aspx.

[189] The Basel III reforms were originally published in December 2017 and included these key changes: (i) increased granularity and risk sensitivity of the Standardized Approach for credit risk; (ii) restricted use of the advanced IRB approach; and (iii) updated the credit valuation adjustment framework, and revisions to the leverage ratio framework.

[190] 1 February 2023 for institutions with a 31 October year-end and 1 April 2023 for institutions with a 31 December year-end.

[191] 1 November 2023 for institutions with a 31 October year-end and 1 January 2024 for institutions with a 31 December year-end.

[192] OSFI, *2022-2025 Strategic Plan*. Viewed at: https://www.osfi-bsif.gc.ca/Documents/WET5/SP/eng/2022/index.html.

system – owned and operated by PC; CDSX, a clearing system for debt and securities, operated by the Canadian Depository for Securities Limited; the Canadian Derivatives Clearing Service, operated by the Canadian Derivatives Clearing Corporation; the Continuous Linked Settlement (CLS) Banks, a global payment system for the settlement of foreign exchange transactions; and Swap Clear, a global system for the central clearing of interest rate swaps and other over-the-counter interest rate derivatives denominated in multiple currencies.[193] PC introduced in March 2023 the ISO 20022 (an ISO financial messaging standard) to Lynx, to allow richer data to travel with each payment made through the system.[194]

4.3.1.4 Insurance

4.164. As of second-quarter 2023, of Canada's 58 federally regulated life insurance companies, 25 were branches of foreign companies (accounting for 2% of total assets). Of 148 companies engaged in P&C insurance, 70 were branches of foreign companies (accounting for 24% of total assets). There were also eight fraternal benefit societies, two of which were foreign (accounting for 1% of total assets).[195] The federally regulated life insurance segment accounted for 16% of the combined assets of the federally regulated banking and insurance industries.

4.165. About 26 professional reinsurance companies operate in Canada, all federally regulated. Nineteen of them are foreign branches. "Professional reinsurer" refers to a reinsurer that does not conduct direct insurance writing business. The authorities indicate that there may be some active provincial reinsurers as well.

4.166. According to Swiss Re, Canada ranked as the 8th largest insurance market in 2022, accounting for 2.5% of the world's market share, and total premiums increased from CAD 177 billion in 2019 to CAD 223 billion in 2022, up by 8% annually (Table 4.13).[196] Premiums of life insurance companies went up by 9.6% annually, and those of P&C insurance companies by 6.9% annually. The authorities indicate that reasons for this increase in life insurance premiums included rising wages and interest rates, and hence demand for annuities and pension risk transfer products. In P&C, the main driver of the growth resulted from market hardening in commercial and personal lines, with insurers and reinsurers raising premiums to offset (social and economic) inflation-induced rising costs to claims, climate change (e.g. higher number of natural catastrophic) risk events, geopolitical risks, cyber and technology incidences, and strengthening of the US dollar.

Table 4.13 Key insurance indicators 2019-22

(CAD million)

	2019	2020	2021	2022
Total premium	176,676	186,752	208,477	222,559
Life	70,743	75,537	87,657	93,255
P&C	105,933	111,215	120,820	129,304
Premium as a percentage of GDP (%)	7.7	8.7	8.1	8.0
Life	3.1	3.5	3.3	3.3
P&C	4.6	5.2	4.8	4.6

Source: Swiss Re Institute, *Sigma 3/2023 – World Insurance*. Viewed at: https://www.swissre.com/institute/research/sigma-research/sigma-2023-03.html.

4.167. The regulatory framework at the federal level has remained largely unchanged since the previous Review, including procedures to incorporate a Canadian insurance company, establish a Canadian branch of a foreign company, and set up a provincial insurance company (Table 4.14).[197]

[193] Bank of Canada, *Systemically Important FMIs*. Viewed at: https://www.bankofcanada.ca/core-functions/financial-system/oversight-designated-clearing-settlement-systems/#FMIs.
[194] Payments Canada (2023), "Payments Canada Introduces Data-rich Messages to High-value Payments in Canada with Lynx Release Two", 21 March. Viewed at: https://www.payments.ca/payments-canada-introduces-data-rich-messages-high-value-payments-canada-lynx-release-two.
[195] OSFI, *Who We Regulate*. Viewed at: https://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/wwr-er.aspx?sc=1&gc=1#WWRLink11.
[196] Swiss Re Institute. *Sigma 3/2023 – World Insurance*. Viewed at: https://www.swissre.com/institute/research/sigma-research/sigma-2023-03.html.
[197] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.

At the provincial level, Saskatchewan Province repealed the Saskatchewan Insurance Act and replaced it with The Insurance Act on 1 January 2020.

4.168. The insurance industry is regulated by both federal and provincial legislation. Federal insurers/reinsurers must be licensed both federally and provincially in each province within which they wish to carry out business. Most of the large Canadian insurers are federally incorporated and are prudentially regulated by OSFI. The legislative framework governing branches of foreign insurers requires that they maintain sufficient assets vested in trust in Canada to discharge the liabilities associated with their insurance business in Canada. Generally speaking, under the Insurance Companies Act, foreign insurers are subject to the same restrictions on insurance activities that apply to domestic insurers. A number of smaller insurers are incorporated under provincial laws and regulated by provincial regulators. Provincial and territorial governments are mandated to regulate market conduct and issue licences to insurance intermediaries.

Table 4.14 Main requirements for establishing an insurance business, 2023

	Incorporation of a Canadian insurance company	Establishment of a Canadian branch of a foreign company	Establishment of a provincial insurance company
Application steps	Letters Patent (from the Finance Minister). Issuance of the Order to Commence and Carry on Business (by the OSFI). Application for and obtain licence from provincial jurisdictions in which to operate, as necessary.	Order approving the insuring in Canada of risks by a foreign entity (by the OSFI, with the approval of the Finance Minister). Application for and obtain licence from provincial jurisdictions in which to operate, as necessary.	Incorporate as per the requirements of the province in which incorporating and apply to provincial regulator for licence. Apply for and obtain licence from additional provincial jurisdictions in which to operate, as necessary.
Fees	OSFI service fees: CAD 36,763.76. Provincial licence fees.	OSFI service fees: CAD 36,763.76. Provincial licence fees.	Provincial licence fees, where applicable.
Minimum capital/asset standards	Paid-in capital: minimum of CAD 5 million. Solvency ratio of 300% for non-life insurers and 150% for life insurers for the first three years of operation.	Assets vested in Canada: minimum of CAD 5 million. Solvency ratio of 300% for non-life insurers and 150% for life insurers for the first three years of operation. Consolidated assets of CAD 1 billion for life insurers and CAD 200 million for non-life insurers.	As required by the incorporating province.

Source: Information provided by the authorities.

4.169. Provincial regulations may stipulate more specific restrictions on the activities of foreign insurers and domestic insurers. For example, in British Columbia (BC), foreign insurers, similar to domestic insurers, are prohibited from providing universal compulsory vehicle insurance (Basic vehicle insurance) to vehicles registered and licensed in British Columbia. This service is reserved for a Crown company in the province. In Newfoundland and Labrador (NL), a licence may be issued to an "extra-provincial" insurer, i.e. an insurer incorporated or legally constituted in a jurisdiction other than the province, upon proof of the insurer's ability to provide for the payment at maturity of all of its contracts.

4.170. Authorizing the setting up of a new composite insurance company (i.e. a company that provides both life and P&C insurance) is prohibited, but companies that were authorized to provide both life and P&C insurance prior to this restriction were grandfathered. According to the authorities, this restriction was introduced decades ago.

4.171. Insurance premiums are generally set by insurance companies. Provinces and territories levy their taxes on insurance premiums, and may monitor premium rates for automobile insurances. Provinces and territories may designate different insurance products as compulsory insurance. For example, automobile insurance is mandatory in NL, and automobile insurance rates are regulated by the NL Public Utilities Board. In BC, rates for universal compulsory vehicle insurance are regulated by the BC Utilities Commission.

4.172. In July 2022, OSFI issued its Final Insurance Capital Guidelines 2023, which revised capital guidelines to reflect the transition to IFRS 17.[198] The Guidelines came into effect on 1 January 2023. Some studies found that IFRS 17 standardized accounting treatments for insurance contracts in different jurisdictions, allowing for greater comparability across insurers.[199]

4.3.1.5 Securities

4.173. Since the previous Review, the regulatory framework for the securities subsector has remained largely unchanged. The exchange market in Canada is segmented with trading occurring on exchanges including the Toronto Stock Exchange (TSX), the TSX Venture Exchange (TSXV), Cboe Canada (the previous Neo Exchange), the Canadian Securities Exchange (CSE), and Nasdaq Canada (CXC), and on alternative trading systems including Omega ATS, Lynx ATS, Liquidnet Canada Inc., and Instinet Canada Cross Limited.[200] As of August 2023, Canada accounted for 2.7% of global market capitalization.[201]

4.174. Securities markets are regulated by provincial and territorial securities regulators, and there is no national securities regulator or federal securities legislation in Canada. The Canadian Securities Administrators, an umbrella organization of provincial and territorial securities regulators, works to develop a harmonized approach to securities regulation across Canada through the enactment of coordinated national policies, regulatory instruments, and guidance.

4.175. To further such harmonization, the Canadian Securities Administrators developed the "passport system" in 2016[202], through which market participants access markets in all passport jurisdictions by complying with one set of harmonized laws.[203] All provincial regulators, except Ontario, participated in this system. Ontario Securities Commission's decisions are accepted under the passport system.

4.176. During the review period, a major step was taken towards a greater harmonization within the securities subsector through the merger of two nationally recognized self-regulatory organizations (each an SRO), the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA). Prior to 2023, the IIROC oversaw investment dealers and marketplace activity and the MFDA oversaw mutual fund dealers. The Canadian Securities Administrators embarked on a project to merge the IIROC and the MFDA into a single "New SRO", which was officially named the Canadian Investment Regulatory Organization (CIRO) in June 2023. CIRO became the national SRO that oversees all investment dealers, mutual fund dealers, and trading activity on Canada's debt and equity markets.[204] CIRO considers that having a single SRO will "[r]educe duplicative regulatory burden and complexity, particularly for those running separate IIROC and MFDA platforms, as well as those in Québec".[205]

4.177. Also in January 2023, the IIROC's Canadian Investor Protection Fund (CIPF) and the MFDA's Investor Protection Corporation (MFDA IPC) Fund merged into a single investor protection fund –

[198] OSFI (2022), "OSFI Releases Final Insurance Capital Guidelines for January 1, 2023", 21 July. Viewed at: https://www.osfi-bsif.gc.ca/en/news/osfi-releases-final-insurance-capital-guidelines-january-1-2023.

[199] KPMG (2023), "IFRS 17: Beyond Minimum Compliance", 3 April. Viewed at: https://kpmg.com/ca/en/home/insights/2023/04/ifrs-17-beyond-minimum-compliance.html.

[200] CIRO, *Annual Report 2022-2023*. Viewed at: https://www.ciro.ca/media/1041/download?inline.

[201] Credit Suisse (2023), *Credit Suisse Global Investment Returns Yearbook 2023 Summary Edition*. Viewed at: https://www.credit-suisse.com/media/assets/corporate/docs/about-us/research/publications/credit-suisse-global-investment-returns-yearbook-2023-summary-edition.pdf.

[202] Canadian Securities Administrators (2016), "Canadian Regulators Implement Passport Expansion and Automatic Cease Trade Orders in Multiple Jurisdictions", 3 March. Viewed at: https://www.securities-administrators.ca/news/canadian-regulators-implement-passport-expansion-and-automatic-cease-trade-orders-in-multiple-jurisdictions/.

[203] Canadian Securities Administrators, *Who We Are*. Viewed at: https://www.securities-administrators.ca/about/who-we-are/.

[204] CIRO, *Welcome to Canadian Investment Regulatory Organization*. Viewed at: https://www.ciro.ca/.

[205] CIRO (2023), "New Self-Regulatory Organization of Canada and Canadian Investor Protection Fund Officially Launch", 3 January.

the new CIPF.[206] The aim of the Fund is to protect investors in the event of insolvency or bankruptcy of CIRO members.

4.3.2 Telecommunications and broadcasting services

4.3.2.1 Main features and recent developments

4.178. Canada's communications sector remains composed of two subsectors – telecommunications and broadcasting.[207]

4.179. Canada has high ICT rankings internationally and the sector has continued to grow. In the Network Readiness Index 2022, Canada was ranked 11th of 131 countries.[208] During the review period, although fixed-line subscription numbers continued to go down, mobile phone subscription numbers recovered from the fall in 2020 caused by the COVID-19 pandemic (Table 4.15). Fixed broadband subscriptions continued to go up, and the percentage of individuals using the Internet increased further from an already high base (91.9% in 2019 to 92.8% in 2022). In 2021, 5G was available to around 87.8% of Canadians, up from 53.3% in 2020.[209]

4.180. In terms of revenues, telecommunications services expanded in 2021 by 3.4% from 2020, pushed partly by the application of a hybrid work model (telework and on-site work).[210] Revenues from the mobile sector and from fixed Internet services continued their growth trend, while revenues from other telecom subsectors continued to decline (Table 4.15).

Table 4.15 Selected telecommunications indicators, 2019-22

	2019	2020	2021	2022
Fixed telephone subscriptions (million)	13.6	13.3	11.8	11.3
Mobile-cellular subscriptions (million)	34.4	32.4	33.6	35.1
Fixed broadband subscriptions (per 100 inhabitants)	40.4	41.4	42.1	43.1
Individuals using the Internet (%)	91.9	92.3	92.8	92.8

Telecommunications services revenues (CAD billion)	**2021 revenue (CAD billion)**	**Growth rate from 2020 (%)**	**2017-21 compound annual growth (%)**
Total	**55.3**	**3.4**	**2.4**
Wireless			
Mobile	29.2	4.5%	3.2%
Wireline			
Data			
Fixed Internet	15.8	8.4%	7.3%
Data[a]	3.0	-5.6%	-1.9%
Private line[a]	1.0	-10.1%	-6.6%
Voice			
Local and access	5.6	-4.6%	-5.6%
Long distance	1.3	-4.6%	-4.3%

a "Data" and "private line" refer to services sold by TSPs to business customers providing private and highly secure communications channels between locations.

Source: CRTC (2023), *Annual Highlights of the Telecommunications Sector 2021*. Viewed at: https://crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2022/tel.htm; and ITU, World Telecommunication/ICT Indicators Database. Viewed at: https://datahub.itu.int/data/?e=CAN.

[206] CIRO (2023), "New Self-Regulatory Organization of Canada and Canadian Investor Protection Fund Officially Launch", 3 January.
[207] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.
[208] Portulans Institute, *Network Readiness Index 2022*. Viewed at: https://networkreadinessindex.org/country/canada/.
[209] CRTC (2023), *Annual Highlights of the Telecommunications Sector 2021*. Viewed at: https://crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2022/tel.htm.
[210] CRTC (2023), *Annual Highlights of the Telecommunications Sector 2021*.

4.181. According to a pricing study released by ISED[211] in 2022, Canada tends to have relatively high mobile wireless prices compared with other developed economies.[212] The same study also found that for many Internet price baskets, prices in the European Union and the United States were generally lower than those in Canada.

4.182. The telecommunications sector remains concentrated: the top five service providers (Bell Group, Rogers, TELUS, Shaw[213], and Quebecor) accounted for 87.2% of total revenues in 2021. The top three mobile service providers (Bell Group, Rogers, and TELUS) accounted for 88.3% of retail mobile phone revenues in 2021.[214]

4.183. In the 2022 broadcast year (ending 31 August 2022), broadcasting revenues increased by 1.2% from the 2021 broadcast year. Within broadcasting, revenues for broadcast distribution undertakings (BDUs) declined over the review period, while revenues for streaming audio services, subscription-based video-on-demand service (SVOD) (e.g. Netflix and Amazon Prime Video), and advertising-based video-on-demand service (AVOD) (e.g. YouTube) have been increasing rapidly (Table 4.16).

Table 4.16 Broadcasting revenues, 2019-22 broadcast years

	2019	2020	2021	2022
Broadcasting services revenues				
Radio (CAD million)				
Radio	1,779	1,486	1,437	1,425
Download-based audio services	53	39	30	30
Streaming audio services	429	482	573	810
Total	2,261	2,007	2,040	2,265
TV (CAD million)				
Television	6,735	6,188	6,445	6,572
SVOD	1,697	2,069	2,567	3,065
TVOD	221	283	312	363
AVOD	1,510	1,709	2,195	2,385
Total	10,163	10,249	11,519	12,385
BDU (CAD million)				
Cable + Internet Protocol TV (IPTV)	6,560	6,391	6,242	5,956
Direct-to-Home (DTH)	1,804	1,702	1,597	1,466
Total	8,364	8,093	7,839	7,421
Household BDU subscription rate (%)	66.2	63.5	61.0	58.6
Canadians watching television on any platform (%)	97.0	97.0	97.0	97.0
Canadians watching television exclusively online (%)	16.0	20.0	20.0	18.0

AVOD: Advertising-based video-on-demand service: "an Internet-based service model in which a client typically has free access to content but is exposed to in-stream advertisements (e.g. Youtube)".
SVOD: Subscription-based video-on-demand service: "an Internet-based service model in which a client pays a subscription fee to gain access to a library of content. This category includes services that air the content of the library according to a linear schedule (e.g. Sportsnet Now) and services that permit a user to choose from a catalogue of content that is available at any time (e.g. Amazon Prime Video)".
TVOD: Transactional video-on-demand service: "an Internet-based service model in which a client pays for specific content but generally does not pay to access the service itself (e.g. iTunes, Microsoft Movies & TV, and the PlayStation Network)".

Note: Definitions from CRTC (2023), *Annual Highlights of the Broadcasting Sector 2021-2022*, pp. 23-25.

Source: CRTC, *Communications Market Reports – Open Data*. Viewed at: https://crtc.gc.ca/eng/publications/reports/policyMonitoring/cmrd.htm.

[211] ISED, *Price Comparisons of Wireline, Wireless and Internet Services in Canada and with Foreign Jurisdictions: 2022 Edition*. Viewed at: https://ised-isde.canada.ca/site/strategic-policy-sector/en/telecommunications-policy/price-comparisons-wireline-wireless-and-internet-services-canada-and-foreign-jurisdictions-2022.

[212] ISED, *Price Comparisons of Wireline, Wireless and Internet Services in Canada and with Foreign Jurisdictions: 2022 Edition*.

[213] In April 2023, Shaw was acquired by Rogers, and Shaw's subsidiary Freedom Mobile was divested to Quebecor.

[214] CRTC (2023), *Annual Highlights of the Telecommunications Sector 2021*.

4.184. The Broadcasting Sector is concentrated, with BCE (29%), Corus/Shaw (17%), Rogers (16%), CBC/SRC (9%) and Quebecor (8%) having a combined 80% of the market share in 2022.[215]

4.3.2.2 Regulatory, institutional, and policy developments

4.185. The communications sector is led by two federal departments: ISED for telecommunications, responsible for the Telecommunications Act; and Canadian Heritage (PCH) for broadcasting, responsible for the Broadcasting Act. The PCH develops broadcasting policy as part of its mandate to promote "Canadian identity and values, cultural development and heritage".[216]

4.186. ISED also serves as the regulator of Canada's radiofrequency spectrum, in accordance with the Radiocommunication Act. Under the Act, the Minister of Industry is in charge of issuing a spectrum licence, fixing the related terms and conditions, and planning the allocation and use of the spectrum. Spectrum management is guided by the Spectrum Policy Framework, Framework for Spectrum Auctions, Spectrum Transfer Framework, and Spectrum Utilization Policies[217], and has remained unchanged since the previous Review. However, in 2023, the Minister announced a moratorium on large-scale spectrum transfers, with a view to promoting competition, and directed ISED to launch a review of the Spectrum Transfer Framework.[218]

4.187. The CRTC is the arm's-length regulator that supervises telecommunications and broadcasting in the public interest, focusing on achieving policy objectives established in the two Acts. As the industry regulator, the CRTC's primary regulatory tools relate to the rates charged for telecommunications services, interconnection and access to carrier networks, and control over broadcast content, among others.[219] The CRTC also has enforcement powers and may impose administrative monetary penalties. Its decisions may be appealed to the Federal Court of Appeal. In the telecommunications sector, if the CRTC determines that a service is subject to sufficient competition, it is considered as forborne (Telecommunications Act, Section 34) and the CRTC shall refrain from exercising certain regulatory authorities over the service (e.g. approval of rates and working agreements, imposing conditions of service, etc.). In 2021, about 96.5% of telecommunications revenues were generated from forborne services, which accounted for about 74.7% in private line services, and about 99.7% in mobile services.[220]

4.188. Major legislative changes made during the review period include the entering into force of the Online Streaming Act, which received Royal Assent in April 2023 and aims at ensuring that Canadian content is widely available on streaming platforms, as well as increasing support for Canadian production through modernizing the Broadcasting Act. Following this, the Government issued policy direction to the CRTC in November 2023 regarding the implementation of the new

[215] Note that in the last few years the CRTC has started including CBC-SRC (Canadian Broadcasting Corporation – Société Radio-Canada) in all of their totals (appropriation and all).

[216] Government of Canada, *Department of Canadian Heritage Act.* Viewed at: https://laws-lois.justice.gc.ca/eng/acts/C-17.3/page-1.html.

[217] ISED, *SPFC – Spectrum Policy Framework for Canada*. Viewed at: https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/official-publications/policies/spectrum-utilization-policies-sp/spfc-spectrum-policy-framework-canada; *Framework for Spectrum Auctions in Canada*. Viewed at: https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/spectrum-allocation/framework-spectrum-auctions-canada; *Framework Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licences for Commercial Mobile Spectrum.* Viewed at: https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/learn-more/key-documents/consultations/framework-relating-transfers-divisions-and-subordinate-licensing-spectrum-licences-commercial-mobile; and *Spectrum Utilization Policies*. Viewed at: https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/official-publications/policies/spectrum-utilization-policies-sp.

[218] ISED, Statement from Minister Champagne concerning Competition in the Telecommunication Sector. Viewed at: https://www.canada.ca/en/innovation-science-economic-development/news/2023/03/statement-from-minister-champagne-concerning-competition-in-the-telecommunication-sector.html.

[219] ISED (2020), *Canada's Communications Future – Time to Act*. Viewed at: https://ised-isde.canada.ca/site/broadcasting-telecommunications-legislative-review/en/canadas-communications-future-time-act.

[220] CRTC, *Annual Highlights of the Telecommunications Sector 2021*.

regulatory framework for broadcasting.[221] These directions require that obligations, both financial and non-financial, be equitable given the size and nature of the undertaking, and equitable between online undertakings and Canadian broadcasting undertakings. The specific requirements to support the production of Canadian content are to be determined by the CRTC, which has been conducting several rounds of consultations with stakeholders including foreign streamers and Canadian broadcasters.

4.189. The Online Streaming Act clarified that online broadcasting falls within the scope of the Broadcasting Act, while social media users and their programmes are not regulated under it. The Act aims to:

a. Provide sustainable support for Canadian music and stories in the years ahead, by allowing the CRTC to seek contributions from broadcasters, including online broadcasters, and to impose requirements related to the discoverability and showcasing of programs; and

b. Update the policy objectives of the Broadcasting Act, to make them more inclusive and better reflect the interests of, *inter alia*, Indigenous Peoples, persons with disabilities, and women.

4.190. Another major change was made to the Online News Act, which aims to encourage platforms and Canadian news businesses to reach voluntary agreements. Failing that, it provides for mandatory negotiation, backstopped by final offer arbitration, which will be overseen by the CRTC. Large platforms that have a significant bargaining power imbalance with news businesses are subject to this legislation.

4.191. As a mandatory bargaining framework administered by the CRTC, the Online News Act intends to create fair bargaining between the most dominant tech platforms and the news businesses whose news content (in all formats) is available to users of their services. The Online News Act aims to promote the sustainability of the Canadian news market by providing news businesses with the opportunity to realize fair value for the news content they create. The Act stipulates a series of obligations for dominant tech platforms, as well as exemptions from certain obligations.

4.192. Changes were also made to the Telecommunications Act and the Broadcasting Act. The Radiocommunication Act was most recently amended in 2017[222], while the other two Acts were amended several times during the review period:

a. The Telecommunications Act was amended in 2019, 2021, and 2023, to reflect changes made in the Accessible Canada Act and the Online News Act, as well as certain provisions to implement the 2021 Budget.[223] Amendments to reflect the Accessible Canada Act included providing the CRTC with the authority to inquire into and make determinations related to provisions and requirements of the Act, as well as bring other related authorities in line with the Act (e.g. inspection powers, information sharing, monetary penalties). Amendments to reflect the 2021 Budget Implementation Act related to decisions by the CRTC on funding telecommunications projects in underserved areas, and to expanded information sharing requirements between levels of government. Amendments to reflect the Online News Act clarified that news content made on or by digital news intermediaries is excluded from the provisions of the Telecommunications Act.

b. The Broadcasting Act was amended several times during the review period, reflecting changes made to the Accessible Canada Act, the CUSMA, the Online Streaming Act, the

[221] Government of Canada, *Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework): SOR/2023-239*. Viewed at: https://canadagazette.gc.ca/rp-pr/p2/2023/2023-11-22/html/sor-dors239-eng.html.

[222] Government of Canada, *Radiocommunication Act, 1985*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/r-2/.

[223] Government of Canada, *Telecommunications Act, 1993*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/T-3.4/.

Act for the Substantive Equality of Canada's Official Languages, and the Online News Act.[224]

4.193. In the telecommunications sector, Canada has two broad categories of TSPs: incumbent TSPs, providing local telecommunications services; and other types of service providers, including cable-based carriers, other facilities-based service providers, and wholesale-based service providers.

4.194. Incumbent TSPs and cable-based carriers own and operate infrastructure, while wholesale-based service providers do not have end-to-end facilities of their own. TSPs must register with the CRTC, but they may operate in Canada without licences with certain exceptions. For example, TSPs providing international telecommunications traffic are required to apply for Basic International Telecommunications Services (BITS) licences[225], and those providing international submarine cable-related operations are required to obtain relevant licences.[226] TSPs that use radio equipment and spectrum to provide telecommunications services must obtain authorization from ISED under the Radiocommunication Act. Companies must also comply with the Personal Information Protection and Electronic Documents Act, which regulates the disclosure and use of personal information.[227]

4.195. For matters related to roaming and interconnections, agreements may be arranged between facilities-based and non-facilities-based TSPs. These agreements must be approved by the CRTC. Under the Telecommunications Act, the CRTC may withhold or amend the agreements. If an agreement cannot be reached, the CRTC may order the TSP to allow connections to its telecom infrastructure and establish the monetary terms.

4.196. Foreign ownership of TSPs, as well as of licensed broadcasting programming and distribution undertakings, is limited to 20% of the voting shares, in the case of operating corporations. The CEO and 80% of the board of directors must be Canadian. In the case of holding corporations, foreign ownership is limited to 33 1/3% of the voting shares and there are no restrictions on the nationality of the CEO and board members. However, a non-Canadian parent corporation and its directors must not control or influence any programming decisions of the broadcasting undertaking.[228] BDUs are required by the CRTC to invest about 5% of gross broadcasting service revenues in the creation of programmes made by Canadians.

4.197. Canadian conventional radio and television stations are subject to Canadian content exhibition requirements. Unless authorized otherwise, public TV stations must devote at least 60% of the evening broadcast period (7 p.m.-11 p.m.) to the broadcasting of Canadian programmes, while private television stations must devote at least 50% of that period to the broadcasting of Canadian programmes. Expenditure and exhibition requirements for discretionary television services vary. There are also varying Canadian content requirements for radio, depending on the format or language of stations.

4.198. In addition, the distribution of the CBC, Radio-Canada, educational services, and local and regional Canadian private television stations are given priority over all other TV stations and must be provided in the basic service of distribution undertakings.

4.199. Foreign TV stations and discretionary programming services, once approved by the CRTC, are placed on the CRTC's "list of non-Canadian programming services and stations authorized for distribution".[229] To be approved for the list, the foreign discretionary service must not compete with a comparable Canadian programming service. In addition, the foreign programming service must provide the same signal to Canada as to its home market. As of August 2022, there are a total

[224] Government of Canada, *Broadcasting Act, 1991*. Viewed at: https://laws.justice.gc.ca/eng/acts/B-9.01/index.html#hist.
[225] CRTC, *Basic International Telecommunications Services (BITS) Licensees*. Viewed at: https://crtc.gc.ca/eng/comm/telecom/international.htm.
[226] Government of Canada, *International Submarine Cable Licences Regulations*. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-488/page-1.html#h-1024766.
[227] Government of Canada, *Personal Information Protection and Electronic Documents Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/p-8.6/.
[228] WTO document WT/TPR/S/389/Rev.1, 23 August 2019.
[229] CRTC, *Revised List of Non-Canadian Programming Services and Stations Authorized for Distribution*. Viewed at: https://crtc.gc.ca/eng/publications/satlist.htm.

of 345 foreign signals available for distribution in Canada, including about 100 US services, of which 43 are TV stations.

4.200. There are three exceptions to the foreign investment restrictions:

a. Under the Telecommunications Act (Section 16), owners or operators of terrestrial network facilities who earn less than 10% of Canadian telecom service revenues in a year are exempted. In 2021, 10% of the total annual revenues from telecommunications services (CAD 55.3 billion) was CAD 5.5 billion. Hence, Canada's foreign investment restrictions apply only to three TSPs: Rogers, Bell, and TELUS.

b. Foreign investment restrictions also do not apply to satellite and sub-sea facilities.

c. These restrictions also do not apply to broadcasters that distribute programming only over the Internet or only via mobile devices (over-the-top or OTT). As the number of OTT broadcasters increases rapidly, more and more broadcasters are not subject to such ownership and control requirements.

4.201. Canada's universal service objective is designed by the CRTC. Historically, the service objective targeted wireline voice service. However, in CRTC Telecom Regulatory Policy 2016-496, the service objective was refocused towards mobile wireless and fixed broadband Internet access services. Policy 2016-496 defined these services as basic telecommunications services. The CRTC created its Broadband Fund to support the provision of these services in HCSAs, which are often remote or rural areas. In line with this change, subsidies paid went down from CAD 71.4 million in 2019, to CAD 49.9 million in 2020 and CAD 18 million in 2021.[230] Sources of the subsidy come from contributions by TSPs with a minimum CAD 10 million in annual revenues.

4.202. Additionally, ISED established its own Universal Broadband Fund (UBF) in 2020. The UBF, with a budget of CAD 3.225 billion, provides non-repayable contributions to broadband infrastructure projects to allow households in rural and remote communities to access high-speed Internet. Funding for these projects is available until 31 March 2027.[231]

4.203. Currently, 99.7% of Canadians have access to mobile wireless networks, which includes 98.9% coverage in the north, 98.2% in rural areas, 90.3% in First Nations reserve areas, and 87.2% in major roads and highways.[232] The CRTC targets extending this coverage to 100% of the population and to as many as possible major highways and roads with the latest generally deployed mobile wireless technology (i.e. LTE) by 2026.[233]

4.204. To operate in Canada, conventional broadcasting services generally need to obtain a broadcasting licence from the CRTC whereas online broadcasters do not need to obtain a licence. The CRTC may also exempt certain broadcasting undertakings from the requirement to hold a licence if it is of the view that their licensing would not contribute materially to the implementation of the broadcasting policy set out in the Broadcasting Act. The CRTC imposes conditions of service on regulated broadcasters, ordering them to carry specific types of content (e.g. genres, proportion of Canadian programming that must be broadcast) in order to fulfil the cultural objectives set out in the Broadcasting Act.

[230] CRTC, *Annual Highlights of the Telecommunications Sector 2021*.
[231] WTO document G/SCM/N/401/CAN, 23 July 2023, item 1.43.
[232] CRTC, *Communications Market Reports – Current Trends – Mobile Wireless*. Viewed at: https://crtc.gc.ca/eng/publications/reports/PolicyMonitoring/mob.htm.
[233] CRTC, *Communications Market Reports – Current Trends – Mobile Wireless*.

4.205. In 2018, ISED and the PCH jointly launched a review of the Telecommunications Act, Broadcasting Act, and the Radiocommunication Act. The final report was published in January 2020 and made recommendations in the following areas: "renewing" the institutional framework[234]; reducing barriers for Canadians to access advanced telecommunications networks; supporting the creation, production, and discoverability of Canadian content; and improving the rights of Canadians and enhancing trust in the digital environment.[235] The report was one of the building blocks that led to the tabling of the Online Streaming Act.

4.206. Over the review period, the CRTC issued a number of policies to enhance competition in the sector. Notably, in 2019, the CRTC launched a review of mobile wireless services, CRTC 2019-57[236], which focused on competition in the retail market, the wholesale mobile wireless regulatory framework, and the future of mobile wireless services. Following a public hearing and stakeholder submissions, including from the Competition Bureau, the CRTC issued the Telecom Regulatory Policy 2021-130. This policy allows facilities-based regional TSPs to compete as mobile virtual network operators (MVNOs)[237] across Canada, with a view to encouraging competition.[238] Thus, certain regional wireless carriers may use networks of the incumbent wireless carriers to serve new areas and build their own networks at the same time. Terms and conditions were finalized by the CRTC in 2022[239], while rates are to be commercially negotiated (with the CRTC acting as an arbitrator if negotiations fail). The CRTC set a phase-out period of seven years from the date the tariffed terms and conditions are finalized.

4.207. In May 2022, the Government announced its intention to issue a new policy direction to the CRTC regarding a "renewed" approach to telecommunications policy.[240] It aims at "renewing" its approach for increased competition by requesting the CRTC to create a more effective regulatory framework, improving consumer rights, and promoting universal access.[241] It envisages policies to foster affordability and lower prices; reduce entry barriers for new, regional, or smaller TSPs; enable innovation; and promote investment in R&D. The policy direction was finalized and came into effect in February 2023.

4.208. With respect to cybersecurity, in May 2022, Canada released a policy statement called Securing Canada's Telecommunications System.[242] The policy statement stemmed from a review of 5G wireless technology and led to the Government announcing its intent to prohibit TSPs from deploying Huawei and ZTE products and services in their 5G networks. The policy statement noted that Canada has already excluded Huawei and ZTE in sensitive areas of Canadian 3G/4G and LTE networks.

4.209. There were no significant policy changes to the broadcasting subsector during the review period. The CRTC has only recently started its stakeholder consultations on how to implement the legislative changes introduced by the Online Streaming Act. Among the first policy decisions, the

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[234] ISED (2020), *Canada's Communications Future – Time to Act.* "Renewing" refers to, *inter alia*, expanding responsibilities of the CRTC, i.e. extending "telecommunications" to "electronic communications", and replacing "broadcasting" by "media communications"; providing the CRTC with flexible powers to monitor existing markets and to develop a stronger research and strategic foresight capability; and amending the CRTC Act on the appointment process for Commissioners.

[235] ISED (2020), *Canada's Communications Future – Time to Act.*

[236] Telecom Notice of Consultation CRTC 2019-57. Viewed at: https://crtc.gc.ca/eng/archive/2019/2019-57.htm.

[237] According to the CRTC, "[a]n MVNO is a reseller of wireless services that gains permanent use of a host carrier's network to offer service to end-users. [It] typically pays the host carrier a wholesale rate per call, text, and gigabyte (GB), and rates for other functionalities". CRTC, *Telecom Order CRTC 2023-133*. Viewed at: https://crtc.gc.ca/eng/archive/2023/2023-133.htm.

[238] CRTC, *Telecom Regulatory Policy CRTC 2021-130*. Viewed at: https://crtc.gc.ca/eng/archive/2021/2021-130.htm.

[239] CRTC, Telecom Decision CRTC 2022-288. Viewed at: https://crtc.gc.ca/eng/archive/2022/2022-288.htm.

[240] ISED, *Order Issuing a Direction to the CRTC on a Renewed Approach to Telecommunications Policy*. Viewed at: https://ised-isde.canada.ca/site/mobile-plans/en/order-issuing-direction-crtc-renewed-approach-telecommunications-policy.

[241] ISED, *Policy Direction to the CRTC for Competition, Affordability, Consumer Rights and Universal Access*. Viewed at: https://ised-isde.canada.ca/site/mobile-plans/en/policy-direction-crtc-competition-affordability-consumer-rights-and-universal-access.

[242] ISED, *Policy Statement – Securing Canada's Telecommunications System*. Viewed at: https://www.canada.ca/en/innovation-science-economic-development/news/2022/05/policy-statement--securing-canadas-telecommunications-system.html.

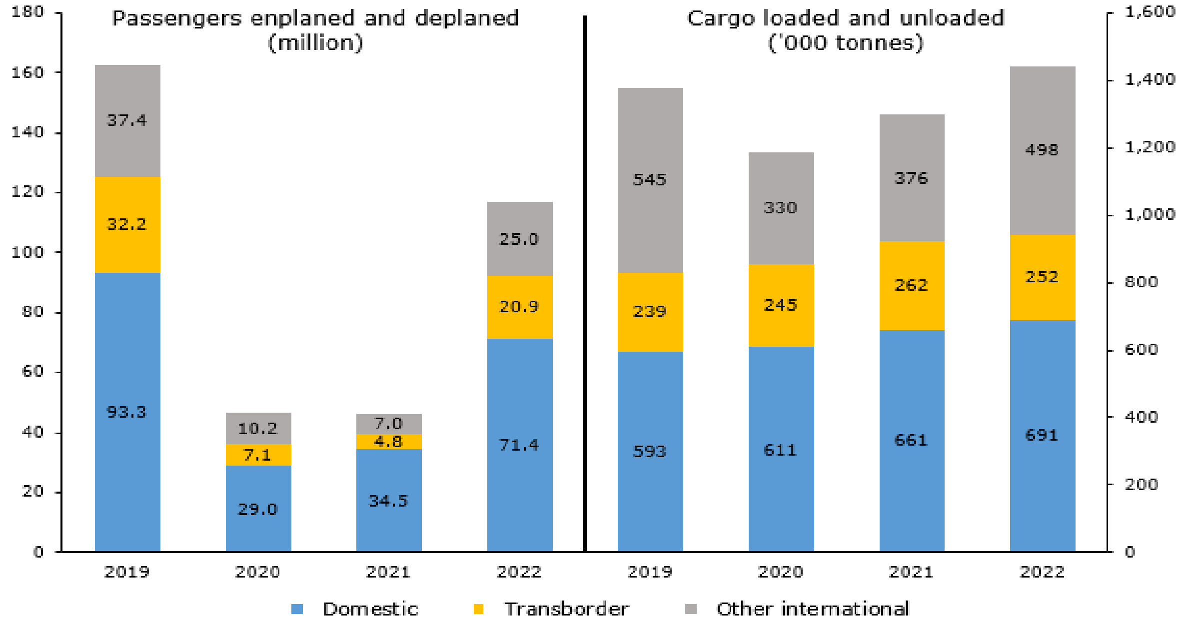
CRTC announced that all online streamers with broadcasting revenues in Canada above CAD 10 million will be required to register with the CRTC by completing a registration form and will be subject to conditions of service relating to "undue preference" and "undue disadvantage".

4.3.3 Transportation services

4.3.3.1 Air transport

4.210. Canada's air transport sector was hard hit by the COVID-19 pandemic. By 2022, domestic and international passenger traffic had not yet recovered from the effects of the pandemic. By contrast, cargo transport, except for "other international" cargo transport, reached larger volumes than pre-pandemic levels (Chart 4.6). "Other international" cargo, i.e. international cargo transport excluding that between Canada and the United States, is also on a recovery trend. This reflects partly the surge in online shopping during the pandemic, and the related cargo-only initiatives proposed by several airlines in 2020 and 2021 to offset reductions in passenger transport. For example, certain airlines operated some of their passenger aircraft seat-free for cargo shipping.[243]

Chart 4.6 Selected indicators of air transportation, 2019-22



Source: Statistics Canada, *Data*. Viewed at: https://www150.statcan.gc.ca/n1/en/type/data?text=air+transportation&freq=12&subject_levels=23%2C2301&sort=releasedate.

4.211. In 2022, 1,444 air carriers were operating in Canada, of which 40% were Canadian and 60% foreign.[244] Major domestic carriers include Air Canada and WestJet, which together accounted for 80% of available seat-kilometres in the domestic air market.[245] Air Canada, the national flag carrier, is a private company. According to the Air Canada Public Participation Act and Section 55 of the Canada Transportation Act, Air Canada must remain Canadian-owned and controlled, and ownership of its voting interests by non-residents is limited to 49%, with no single investor having more than 25% voting interests in the airline.[246]

[243] Deloitte (2022), *Avoiding a Tailspin – The Imperative for Reform in the Canadian Aviation Sector*. Viewed at: https://www2.deloitte.com/content/dam/Deloitte/ca/Documents/public-sector/ca-en-avoiding-a%20tail-spin-oct.pdf.

[244] Transport Canada, *Transportation in Canada 2022*. Viewed at: https://tc.canada.ca/sites/default/files/2023-07/transportation-canada-2022.pdf. The authorities state that no Crown corporation airlines are operating in Canada at any level.

[245] Transport Canada, *Transportation in Canada 2022*.

[246] Parliament of Canada, *Research Publications – Legislative Summary of Bill C-10: An Act to Amend the Air Canada Public Participation Act and to Provide for Certain Other Measures*. Viewed at:

4.212. Canada has two types of airports: (i) those that serve national, provincial, and territorial capitals, which are generally larger, and form the NAS; and (ii) those that offer local, regional, or remote services, and are often smaller. In 2023, Canada had 26 airports under the NAS, accounting for almost all of Canada's air cargo and international passenger traffic, and 91% of passenger traffic in 2022.[247] Among them, 22 are owned by Transport Canada and leased to 21 Canadian airport authorities. Three are owned and operated by territorial governments, and one is owned in part by the Federal Government and in part by a municipality and is operated by the municipality.[248] There are also another 70 airports with scheduled commercial traffic and about 200 other certified airports, which are owned and operated by a variety of entities including municipal or provincial governments or private entities.

4.213. Airport authorities are private, not-for-profit, non-share capital corporations. They are not owned or controlled by the Government, nor are they Crown corporations or their agents.[249] They are responsible for construction, operation, and management decisions at NAS airports. The Federal Government is the safety and security regulator for all airports.[250]

4.214. Revenues for airport authorities come mainly from:

a. aeronautical revenue – landing and terminal fees charged to air carriers and general aviation tenants;

b. non-aeronautical revenue – fees or rents paid by businesses deployed and developed on airport land, or for services or goods not directly related to air transport (hotels, shops, restaurants, parking, etc.); and

c. airport improvement fees (AIF) – fees on airline tickets.

4.215. Airport authorities use aeronautical and non-aeronautical revenues for daily operations and rely on AIF for capital investment in airport infrastructure. Canada's air transport sector is based on the user-pay principle in which those who use the system should pay for the system, as opposed to the system being paid for by taxpayers.[251] As non-profit entities, airport authorities must use all revenues to support their corporate purposes and may not pay dividends. They pay rent, based on gross revenues, to the Federal Government. In 2019, airport authorities paid CAD 411.29 million in federal rent. This declined to CAD 28.1 million in 2021, and CAD 373.6 million in 2022, reflecting the impact of the pandemic and associated relief measures. No rent was paid in 2021 due to waivers and deferrals (see below). The authorities indicate that rent payments are reflected in the overall cost base of airports, and are therefore passed on to the airlines that use the airports. The airport fees are recovered through charges to passengers, as are all other costs incurred by the airline. These costs have an effect on the overall competitiveness of Canada's air transport sector.

4.216. The Government's support to the aviation sector has been in the form of funds and loans. As at November 2023, most of its support programmes in response to the COVID-19 pandemic had been terminated, including financing worth up to CAD 5.4 billion provided to Air Canada under the Large Employer Emergency Financing Facility.[252] The few exceptions include the Airport Critical

https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/421C10E#ftn5.

[247] StatCan, Table 23-10-0253-01.

[248] Transport Canada, *List of Airports Owned by Transport Canada*. Viewed at: https://tc.canada.ca/en/aviation/operating-airports-aerodromes/list-airports-owned-transport-canada#National_Airports_System.

[249] WTO document WT/TPR/M/389/Add.1, 23 August 2019, page 46.

[250] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 46.

[251] Transport Canada, *Overview of Canada's Transport Sector*. Viewed at: https://tc.canada.ca/en/corporate-services/transparency/briefing-documents-transport-canada/2023-dm/overview-canada-s-transport-sector.

[252] CBC News (2021), "Federal Government, Air Canada Reach Deal on Relief Package that Includes Customer Refunds", 13 April. Viewed at: https://www.cbc.ca/news/politics/air-canada-financial-relief-1.5984543; and Department of Finance, *Details of Financial Support to Air Canada*. Viewed at: https://www.canada.ca/en/department-finance/news/2021/04/details-of-financial-support-to-air-canada.html.

Infrastructure programme, which is scheduled to terminate in 2026, and the Rent Relief Program, which is scheduled to terminate in 2024.[253] The rent relief took the form of:

a. a waiver for all airport authorities from March to December 2020;

b. a combination of rent deferrals for the biggest four airports and waivers for the others in 2021; and

c. waivers for the smallest seven airports for 2022 and 2023.

4.217. The total value of the waivers was CAD 162 million, and the value of the deferrals was CAD 151 million. Repayment of the deferred rent begins in 2024.

4.218. The Government also continues investing in airports through initiatives including the Airports Capital Assistance Program and the multi-billion-dollar National Trade Corridors Fund.[254]

4.219. Relevant regulatory institutions include:

- Transport Canada: responsible for transportation policy in federally regulated sectors;
- Transport Canada Civil Aviation Directorate (TCCA): under Transport Canada, oversees the safety of air transport in Canada; and
- Canadian Transportation Agency: an independent, quasi-judicial tribunal, in charge of, *inter alia*, resolving disputes between transport services providers and their clients.[255]

4.220. In addition, the Canadian Air Transport Security Authority (CATSA) is a Crown corporation responsible for security screening at designated Canadian airports, and the NAV CANADA is a privately run, not-for-profit corporation that owns and operates Canada's civil air navigation system.

4.221. The air transport sector remains regulated under, *inter alia*, the Aeronautics Act (last amended in 2018)[256] and the Canada Transportation Act, which was amended several times in 2019 and 2023.[257] In 2019, the definition of "Canadian" in respect to the operation of an air transport service in the Canada Transportation Act (Subsection 55(1)) was amended, to increase the foreign ownership limit from 25% to 49% with accompanying safeguards (i.e. no single investor can have greater than 25% voting shares), for Canadian air carriers that provide passenger air and all-cargo services. The authorities state that raising this limit would make more funding available to air carriers, which could allow for additional services and competition in the Canadian market, including the possibility of facilitating the emergence of new airlines. Access to additional capital could also result in lower financing costs for carriers. In 2019, a new review process for air carrier joint ventures by the Minister of Transport came into force. This process is voluntary and cost recoverable. In 2023, a few amendments were made to transport-related aspects in Bill C-47, such as those that strengthen the Canadian Transportation Agency; increase airline accountability for delays, cancellations, and lost baggage; and ensure passenger compensation for travel disruptions.

4.222. The authorities state that there are no foreign ownership restrictions in aircraft maintenance and repair organizations; however, they must meet Canadian safety standards to be designated as an Approved Maintenance Organization (AMO). Approval from Transport Canada on competence check is required. AMOs must be located within Canadian borders, or in countries that have signed technical arrangements with Canada to perform work on Canadian-registered aircraft outside Canada. That is, Canadian-registered carriers cannot buy maintenance and repair services from

[253] Transport Canada, *Transportation in Canada 2021*. Viewed at: https://tc.canada.ca/sites/default/files/2022-06/transportation-canada-2021.pdf.

[254] Transport Canada, *Transportation in Canada 2022*.

[255] Canadian Transportation Agency, *Organization and Mandate*. Viewed at: https://otc-cta.gc.ca/eng/organization-and-mandate.

[256] Government of Canada, *Aeronautics Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/acts/a-2/.

[257] Government of Canada, *Canada Transportation Act*. Viewed at: https://laws-lois.justice.gc.ca/eng/Acts/C-10.4/index.html.

suppliers located outside Canada, except when they are in countries that have signed technical arrangements with Canada.

4.223. Airport authorities, because of their non-share capital nature, have no equity for foreign investors to invest. They cannot be sold in whole or in part to domestic or foreign investors.

4.224. Parties to any transaction, such as an agreement, joint venture, merger, or acquisition between two or more entities providing air transportation services, must notify the Minister of Transport and the Commissioner of Competition in writing.[258] The Canada Transportation Act stipulates that parties to a proposed transaction must give notice to the Minister of Transport if (i) the party is required to notify the Commissioner of Competition under the Competition Act (Subsection 114(1)); and (ii) the proposed transaction involves a federal transportation undertaking. The requirement to notify the Commissioner of Competition includes whether proposed transactions of the target's assets in Canada or revenues from sales in or from Canada generated from those assets exceed CAD 93 million, and when the combined Canadian assets or revenues of the Parties and their respective affiliates in, from, or into Canada exceed CAD 400 million.[259]

4.225. Air transportation undertakings must also notify the Canada Transportation Agency to assess whether the merged entity would meet the Canadian ownership and control criteria, as stipulated under the Canada Transportation Act (Section 55).[260]

4.226. Cabotage in air transport (i.e. air service provided wholly within Canada) is, in general, prohibited.[261] Domestic air service providers must hold a valid economic licence issued by the Canadian Transportation Agency for domestic air transportation. Only Canadian-owned or controlled operators are eligible for such a licence.

4.227. Take-off and landing slots are allocated by individual airport authorities. Some airports participate in IATA conferences, at which relevant stakeholders discuss schedule adjustments.

4.228. Canada took measures over the review period to support and accelerate the transition of the air transport sector to a low-carbon economy. In August 2022, the Government introduced amendments to the Fuel Charge Regulations, by exempting bio-aviation fuel from the fuel charges.[262] In September 2022, the Government released the Canada Aviation Climate Action Plan 2022-2030[263], aiming to use 10% of all aviation fuel from sustainable sources (Sustainable Aviation Fuel (SAF)) by 2030. SAF refers to a lower-carbon jet fuel derived from non-petroleum sources, such as forestry and agricultural waste. To achieve this target, Budget 2021 committed funding through the CAD 1.75 billion Strategic Innovation Fund for aerospace innovation.[264] From 2023, under the Clean Fuel Regulations, a nationwide credit market for clean fuels was established.[265] Producers and importers of SAF and other low-carbon fuels obtain credits for their production or importation.

[258] Parliament of Canada, *Bill C-49 – Royal Assent – Transportation Modernization Act*. Viewed at: https://www.parl.ca/DocumentViewer/en/42-1/bill/C-49/royal-assent.

[259] Competition Bureau Canada (2023), "Pre-merger Notification Transaction-size Threshold to Remain at $93M in 2023", 3 February. Viewed at: https://www.canada.ca/en/competition-bureau/news/2023/02/pre-merger-notification-transaction-size-threshold-to-remain-at-93m-in-2023.html.

[260] Transport Canada, *Guidelines for Mergers and Acquisitions involving Transportation Undertakings*. Viewed at: https://tc.canada.ca/en/corporate-services/policies/guidelines-mergers-acquisitions-involving-transportation-undertakings.

Transport Canada, *Air Carrier Mergers, Acquisitions, and Joint Ventures*. Viewed at: https://tc.canada.ca/en/aviation/commercial-air-services/air-carrier-mergers-acquisitions-joint-ventures.

[261] Canadian Transportation Agency, *FAQ: Air Licensing*. Viewed at: https://otc-cta.gc.ca/eng/faq-air-licensing.

[262] Government of Canada, *Regulatory Initiative: Draft Regulations Amending the Fuel Charge Regulations – Forward Regulatory Plan 2022-2024*. Viewed at: https://www.canada.ca/en/department-finance/corporate/laws-regulations/forward-regulatory-plan/draft-regulations-amending-fuel-charge-regulations.html.

[263] Transport Canada, *Canada's Aviation Climate Action Plan 2022-2030*. Viewed at: https://tc.canada.ca/sites/default/files/2022-11/canada-aviation-climate-action-plan-2022-2030.pdf.

[264] Transport Canada, *Canada's Aviation Climate Action Plan 2022-2030*.

[265] Government of Canada, *Clean Fuel Regulations*. Viewed at: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2022-140/index.html.

4.229. Over the review period, Transport Canada started to apply ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) scheme, which seeks to reduce emissions from international aviation. Under CORSIA, aircraft operators whose annual emissions exceed 10,000 tonnes of carbon dioxide from international flights between 2019 and 2035, are required to purchase emission units from the open market and offset a portion of GHG emissions.[266]

4.230. International air services are governed by bilateral air transport agreements (ATAs).[267] Canada concluded ATAs with 125 economies as of December 2023, including open skies agreements. As described in Canada's Blue Sky Policy, the main characteristics of an Open Skies-type agreement include:

- Open bilateral markets/access;
- No limit on the number of airlines permitted to operate;
- No limits on the permitted frequency of service or aircraft type;
- Market-based tariff/pricing regime for bilateral and third-country services;
- Open and flexible regime for the operation of code-sharing services;
- Unrestricted services to and from third countries; and
- Rights for stand-alone all-cargo operations.

4.231. Canada has concluded open skies-type ATAs with 23 economies, in addition to the comprehensive ATA with the European Union and its 27 member States. Canada has also concluded ATAs that have unrestricted third and fourth freedom rights for the operation of air services between bilateral partners. In circumstances where the bilateral market is in its early stages of development, Canada may seek to conclude a code-share-only ATA as a first step before negotiating own-aircraft rights. Canada has concluded 28 such code-share-only ATAs.

4.232. For the review period, Canada ratified its ATAs with El Salvador, the European Union, Indonesia, the State of Kuwait, Panama, Switzerland, and Trinidad and Tobago. For much of the period, the impetus to liberalize ATAs was adversely affected by the COVID-19 pandemic. Nevertheless, Canada expanded ATAs with Chile, Colombia, Ecuador, Ethiopia, India, Jordan, Qatar, Türkiye, and the United Arab Emirates; further expanded its ATA with Panama; and concluded new agreements with Grenada and Laos. Following the negotiation of a new ATA or expansion of an existing one, and provided that the bilateral partner agrees, Canada will apply the ATA on an administrative basis until it is ratified, at which point it becomes publicly available.

4.233. Over one third of the 125 ATAs score an Air Liberalization Index (ALI), a synthetic index of the openness of ATAs developed by the WTO Secretariat, of over 30. This score corresponds to "open skies"-like agreements, which generally grant at least 5th freedom traffic rights; do not restrict routes, pricing, or capacity; and allow for multiple designation of airlines. Around half of Canada's ATAs score an ALI of at least 20, reflecting the frequent granting of 5th freedom traffic rights, cooperation clauses, multiple designation, and generally liberal pricing provisions.

4.3.3.2 Maritime transport

4.234. Maritime transport was also interrupted by, *inter alia*, the COVID-19 pandemic and ensuing supply chain disruptions. Containerized throughput (in twenty-foot equivalent units (TEU)) decreased by 2.6% in 2020 from the 2019 level, but went up and peaked in 2021 before it declined again in 2022. Non-containerized throughput decreased by 0.5% in 2022 from the 2021 level.[268]

4.235. According to UNCTAD data, in 2022, Canada ranked 31st in the world by carrying capacity in dead-weight tonnage (DWT) (0.4% of total global DWT). A total of 376 vessels carried 9.7 million DWT, of which 155 foreign-flagged vessels carried 72% of this total tonnage.[269]

[266] Transport Canada, *Transportation in Canada 2022*.
[267] ATAs refer to Air Services Agreements, Memoranda of Understanding, Exchange of Notes, and other such relevant instruments.
[268] Transport Canada, *Transportation in Canada 2022*.
[269] UNCTAD (2023), *Review of Maritime Transport 2023*. Viewed at: https://unctad.org/system/files/official-document/rmt2023_en.pdf.

4.236. The regulatory framework has remained unchanged since the previous Review in 2019.[270] Transport Canada remains the regulatory authority. Major legislation includes:

a. The Canada Shipping Act, which requires that all non-pleasure vessels above 15 gross tonnes be registered with the Canadian Register of Vessels, and those less than or equal to 15 gross tonnes be registered with the Small Vessel Register.[271] Canadian-registered vessels (apart from small vessels) must fly the national flag (Article 64).[272]

b. The Coasting Trade Act, which reserves coastal trade (i.e. commercial marine activity within Canadian waters – cabotage[273]) to Canadian-registered, duty-paid[274] vessels. When such a vessel is not available, a foreign or a Canadian non-duty paid vessel with a coasting trade licence (maximum validity of one year) issued by the Minister of Public Safety may be used temporarily.[275] From 2019 to 28 November 2023, a total of 159 licences were issued to foreign vessels out of 166 applications[276]; the Canadian Transportation Agency determined there was a suitable Canadian vessel to conduct activities in seven cases and denied those licences.

c. The Transportation Modernization Act, which stipulates that all ships (regardless of flag or ownership) may reposition their owned or leased empty containers between locations in Canada on a non-revenue basis without a coasting trade licence.

4.237. Other relevant legislation includes the Canada Transportation Act, the Marine Transportation Security Act, the Navigation Protection Act, the Pilotage Act, and the Canada Marine Act.[277]

4.238. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

a. a Canadian citizen or a permanent resident within the meaning of Subsection 2(1) of the Immigration and Refugee Protection Act;

b. a corporation incorporated under the law of Canada or a province or territory; or

c. a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, if the vessel is not already registered in another country, namely a subsidiary of the corporation that is incorporated under the law of Canada or a province or territory; an employee or director in Canada of any branch office of the corporation that is carrying on business in Canada; or a ship management company incorporated under the law of Canada or a province or territory.

4.239. A vessel registered in a foreign country that has been bareboat chartered may be listed in Canada for the duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

[270] Transport Canada, *List of Acts – Marine*. Viewed at: https://tc.canada.ca/en/corporate-services/acts-regulations/list-acts#video-gallery.

[271] Government of Canada, *Canada Shipping Act, 2001 Licensing and Registration of Vessels*. Viewed at: https://www.canada.ca/en/news/archive/2012/12/canada-shipping-act-2001-licensing-registration-vessels.html.

[272] Government of Canada, *Canada Shipping Act*. Viewed at: https://laws-lois.justice.gc.ca/PDF/C-10.15.pdf. Foreign-flagged vessels do not need to register in Canada, as registration is only required if a vessel "is not registered, listed, or otherwise recorded in a foreign state" (Article 46(1)(c)).

[273] The Act also applies to the exploration, exploitation, or transportation of the mineral or non-living natural resources of the continental shelf, when they occur in the waters above the continental shelf.

[274] Duty refers to import tariffs and excise duties, if applicable.

[275] Transport Canada, *Coasting Trade in Canada*. Viewed at: https://tc.canada.ca/en/corporate-services/policies/coasting-trade-canada.

[276] Canadian Transportation Agency. Viewed at: https://otc-cta.gc.ca/eng/decisions?f%5B0%5D=im_field_mode%3A1346&f%5B1%5D=field_mode%3A1346&f%5B2%5D=field_ruling_type%3A1687.

[277] Transport Canada, *List of Acts*. Viewed at: https://tc.canada.ca/en/corporate-services/acts-regulations/list-acts.

a. a Canadian citizen or permanent resident, as defined in Subsection 2(1) of the Immigration and Refugee Protection Act; or

b. a corporation incorporated under the law of Canada or a province or territory.

4.240. In 2022, Canadian-registered vessels carried around 99% of domestic tonnage. The authorities state that the remaining tonnage was provided by any foreign registered vessels under a coasting trade licence.

4.241. Under the CETA between Canada and the European Union, eligible EU entities may offer a limited number of coasting trade services without a coasting trade licence. They may provide feeder services between Montréal and Halifax under certain conditions, as well as privately procured dredging services. They are required to complete an advance notification form before providing these services without a coasting trade licence. Two categories of EU entities may provide these services:

- Entities incorporated in an EU member State;
- Entities located outside an EU member State if they are owned or controlled by nationals of the European Union or Canada, provided that they must always use vessels on an EU member State registry, and must not be located in the United States.

4.242. These entities include (but are not limited to) non-profit, private or government-owned corporations, trusts, partnerships, sole proprietorships, and joint ventures. The CETA provisions also stipulate which vessel registry is permitted to be used.

- For feeder services between the Ports of Halifax and Montreal:
    - Continuous services – for international cargo onboard vessels that are registered on the first (national) registry of an EU member State. For example, a qualifying EU-registered vessel could provide a weekly scheduled service between the Ports of Halifax and Montreal to move international cargo.
    - Single voyage – solely for international containerized cargo onboard vessels that are registered on the first or second (international) registry of an EU member State. For example, a qualifying EU vessel on an international voyage could load full containers in Montreal as part of one leg of an exportation of goods from Canada, and drop them off in Halifax on its way overseas.
- For dredging services:
    - Canadian companies have the flexibility to hire dredging services from EU entities.
    - EU entities located in an EU member State may use vessels of any registry.
    - EU entities located outside an EU member State, and that are owned or controlled by nationals of the European Union or Canada, must use EU-registered vessels.

4.243. Canada's new transitional agreement with the United Kingdom reflects the terms and conditions of the CETA.

4.244. International shipping is dominated by foreign-registered fleets.

4.245. Transport Canada oversees two types of ports: (i) ports that are independently managed by Canada Port Authorities (17 ports); and (ii) port facilities that are owned and operated by Transport Canada (34 ports).[278] Port authorities are federally incorporated, autonomous, non-share corporations that operate at arm's length from the Federal Government.[279] Operating on a commercial basis and being financially self-sufficient, port authorities are also responsible for certain public policy objectives such as supporting economic development, and meeting regulatory

[278] Transport Canada, *Transportation in Canada 2022*.
[279] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 49.

requirements on safety, security, and environmental protection. While the operation and management of whole ports are reserved for port authorities, foreign port terminal operators may invest in and operate port terminal facilities.[280] As of 2022, approximately 41% of Canada's container terminals are managed by foreign terminal operators.

4.246. In November 2022, after the completion of the Ports Modernization Review, the Minister of Transport introduced Bill C-33 on Strengthening the Port System and Railway Safety in Canada Act, which aims to enable port authorities to better respond to increasingly complex economic, social, and environmental challenges.[281] The Bill envisages expanding the range of domestic and foreign merger and acquisition transactions (as identified in Section 114(1) of the Competition Act) that are subject to review by the Minister of Transport and the Commissioner of Competition, by lowering the threshold (from the current CAD 93 million to CAD 10 million) for transactions to become "notifiable". According to Transportation Canada, this would enhance regulatory oversight.[282] The threshold had not been lowered by the end of 2023.

4.247. In 2019, as a result of the Pilotage Act Review, the Government amended the Pilotage Act through Bill C-97 – the Budget Implementation Act.[283] Bill C-97 introduced a mandatory requirement for the Minister of Transport to review the Act every 10 years. The review covers governance, labour, safety framework, and tariff-related provisions, among others.[284] Under the Pilotage Act, only Canadians or permanent residents may apply for pilotage certificates.

4.248. Canadian-flagged vessels must be manned by persons holding a Canadian Certificate of Competency, which is only issued to Canadian citizens or permanent residents. Foreign nationals, unless they are permanent residents, cannot obtain this certificate to engage in marine transport.

4.249. This provision amplifies Canada's labour shortage problem in marine transport. In 2023, 43% of the marine workforce is set to retire in the next 10 years, including 52% of engineers and 47% of deck officers, and the sector needs to recruit 68% of the entire workforce.[285] The Government suggests countering labour shortages by, *inter alia*:

- Signing reciprocal agreements with economies that issue certificates recognized by Transport Canada; currently, these include Australia, France, Georgia, Norway, the Philippines, Ukraine, and the United Kingdom. A new agreement was signed with Jamaica, in July 2023.[286]

- Supporting a marine training programme to increase the number of participants from under-represented groups, including women and Indigenous Peoples, to join the marine sector.

4.250. Zero-emission is an important target of Canada's maritime transport policy. In 2021, Canada signed the Clydebank Declaration at the 26th Conference of the Parties (COP26) to the United Nations Framework Convention on Climate Change (UNFCCC). By signing the Declaration, Canada committed to support the establishment of green shipping corridors, i.e. zero-emission maritime routes between two or more ports.[287]

4.251. Challenges to achieving this zero-emission target include, *inter alia*, the growing demand for transportation and uncertainties linked with the development and availability of clean fuels. In

[280] WTO document WT/TPR/M/389/Add.1, 23 August 2019, p. 241.
[281] Transport Canada, *Transportation in Canada 2022*.
[282] Transport Canada, *Policy Statement on Port Investment*. Viewed at: https://www.canada.ca/en/transport-canada/news/2022/11/policy-statement-on-port-investment.html.
[283] HillNotes (2020), "Marine Pilotage in Canada: En Route to Modernizing the Pilotage Act", 3 September. Viewed at: https://hillnotes.ca/2020/09/03/marine-pilotage-in-canada-en-route-to-modernizing-the-pilotage-act-2/.
[284] Transport Canada, *Pilotage Act: Bill C-97*. Viewed at: https://tc.canada.ca/en/legislative-reviews/pilotage-act-bill-c-97.
[285] Government of Canada, *Let's Talk: Labour Shortages in Canada's Marine Transportation Sector*. Viewed at: https://letstalktransportation.ca/lets-talk-labour-shortages-canadas-marine-transportation-sector.
[286] Jamaica Information Service (2023), "Jamaica and Canada Sign Reciprocal Agreement for Employment of Seafarers", 30 August. Viewed at: https://jis.gov.jm/jamaica-and-canada-sign-reciprocal-agreement-for-employment-of-seafarers/#:~:text=Jamaica%20and%20Canada%20have%20signed,the%20Jamaican%20or%20Canadian%20flags.
[287] Transport Canada, *Transportation in Canada 2022*.

November 2022, the Government released the Green Shipping Corridors Framework at COP27[288], and proposed to build these corridors by supporting actions and technologies for improving energy efficiency at ports and on vessels, and increasing access to shore power, among others. The Government also needs to ensure that these emission-reduction efforts will not create pollution elsewhere, and that action is taken at both the national and local levels.[289]

4.252. In this regard, Canadian and US transportation departments jointly announced green shipping corridors in the Great Lakes and the St Lawrence Seaway, with a view to developing green transport infrastructure along the border and cooperating to advance cleaner and renewable fuels for shipping.[290]

[288] Transport Canada, *Canadian Green Shipping Corridors Framework*. Viewed at: https://tc.canada.ca/en/marine-transportation/marine-pollution-environmental-response/canadian-green-shipping-corridors-framework.
[289] Transport Canada, *Canadian Green Shipping Corridors Framework*.
[290] Transport Canada, *Transportation in Canada 2022*.

5 APPENDIX TABLES

Table A1.1 Selected economic indicators, 2018-23 Q3

	2018	2019	2020	2021	2022	2023 Q3
General indicators						
GDP at market prices (CAD million, current prices)[a]	2,236	2,314	2,221	2,517	2,813	2,867
Unemployment rate (%, year average)	5.9	5.7	9.7	7.5	5.3	5.2
Population (millions)	37.1	37.6	38.0	38.2	38.9	40.1
General government finance (% of GDP at current prices)[a]						
General government revenue	41.0	40.6	41.4	42.5	41.1	42.0
Taxes on incomes	16.6	16.3	17.5	18.1	17.7	18.0
From households	12.1	12.1	13.0	12.7	12.4	12.8
From corporations and government business enterprises, liabilities	4.1	3.8	4.2	5.0	4.8	4.7
From non-residents (withholding taxes)	0.4	0.4	0.3	0.4	0.5	0.5
Contributions to social insurance plans	4.6	4.6	4.8	4.7	4.7	5.2
Taxes on production and imports	12.3	12.1	12.1	11.9	11.5	11.8
Taxes on production	4.7	4.8	4.9	4.6	4.4	4.4
Taxes on products	7.5	7.3	7.2	7.3	7.2	7.4
Other current transfers from households	0.6	0.6	0.6	0.6	0.4	0.5
Current transfers from non-profit institutions serving households	0.2	0.2	0.2	0.2	0.2	0.2
Other current transfers from non-residents	0.0	0.0	0.0	0.0	0.0	0.0
Investment income	2.8	2.8	2.4	3.3	3.1	2.8
Sales of goods and services	3.9	3.9	3.8	3.7	3.6	3.7
Capital transfers	0.0	0.0	0.0	0.0	0.0	0.0
General government expenditure	40.0	40.3	51.9	45.3	40.5	41.6
Final expenditure on goods and services	24.6	24.6	26.5	25.1	24.2	24.9
Current transfers to households	9.9	10.0	15.6	12.4	10.1	10.4
Current transfers to non-profit institutions serving households	0.9	0.9	1.4	1.3	1.2	1.1
Subsidies	1.0	1.1	4.7	2.9	1.4	1.2
Subsidies on products and imports	0.7	0.8	1.0	0.8	0.7	0.7
Subsidies on factors of production	0.3	0.3	3.7	2.1	0.7	0.5
Current transfers to non-residents	0.3	0.2	0.3	0.3	0.3	0.3
Capital transfers	0.4	0.5	0.4	0.6	0.5	0.6
Interest on debt	2.9	3.0	2.9	2.6	2.7	3.1
General government surplus or deficit	1.0	0.3	-10.4	-2.8	0.6	0.4
Plus: consumption of fixed capital	3.3	3.3	3.5	3.3	3.2	3.3
Less: non-financial capital acquisition	3.9	3.6	4.0	3.4	3.8	3.9
General government net lending or net borrowing	0.4	0.0	-10.9	-2.9	0.1	-0.2
Federal general government revenue	15.1	14.7	15.3	16.2	15.3	15.8
Federal general government expenditure	14.6	15.2	25.2	19.7	15.8	16.1
Federal general government surplus or deficit	0.4	-0.4	-9.9	-3.5	-0.5	-0.3
Federal general government net lending or net borrowing	0.3	-0.4	-10.0	-3.2	-0.5	-0.3
General government gross debt (% of GDP)[b]	112.7	113.5	135.0	139.0	129.3	125.1
Federal government gross debt (% of GDP)[b]	47.4	46.7	60.4	64.1	60.9	58.1
Monetary aggregates[c]						
M1+ (% average annual growth)	4.8	5.6	22.3	21.2	4.6	-6.3
M1++ (% average annual growth)	3.9	5.4	19.2	19.0	3.2	-7.0
M2++ (% average annual growth)	5.3	5.9	10.8	11.7	6.4	2.1
Prices and interest rates						
Consumer Price Index (% growth, average)	2.2	2.0	0.7	3.4	6.8	4.1
Overnight rate (policy instrument) (% average)	1.4	1.7	0.5	0.2	2.0	4.7
External sector						
Real Canadian Effective Exchange Rate (CEER), broad index	109.3	108.7	108.0	113.0	113.1	108.8
CAD per USD (period average)	1.30	1.33	1.34	1.25	1.30	1.35
Current account balance (% of current GDP)	-2.4	-2.0	-2.0	0.0	-0.4	-0.8
Trade in goods and services (% of current GDP)	66.6	66.2	61.2	62.4	67.6	50.6
Total reserves excluding gold (USD billion)	83,926	85,297	90,428	106,615	106,952	111,939

a Seasonally adjusted, at annual rate.

b Data available until first half of 2023.

c Gross M1 is defined as "currency outside banks plus personal and non-personal chequable deposits held at chartered banks plus all chequable deposits at trust and mortgage loan companies, credit unions and caisses populaires (excluding deposits of these institutions) plus continuity adjustments".
M1++ is defined as M1+ "plus non-chequable notice deposits held at chartered banks plus all non-chequable deposits at trust and mortgage loan companies, credit unions and caisses populaires less interbank non-chequable notice deposits plus continuity adjustments". Bank of Canada, *Selected Monetary Aggregates and Their Components (Formerly E1)*. Viewed at: https://www.bankofcanada.ca/rates/banking-and-financial-statistics/selected-monetary-aggregates-and-their-components-formerly-e1/#:~:text=M1%2B%20(gross)%20consists%20of%20currency,these%20institutions)%20plus%20continuity%20adjustments.

Source: Statistics Canada, various tables; Bank of Canada, various statistics reports; and International Financial Statistics (IFS).

Table A1.2 Merchandise exports by HS section and main chapter, 2018-22

(USD million and %)

Description	2018	2019	2020	2021	2022
Total exports	450,908	446,251	389,610	503,727	598,628
	(% of total exports)				
1 – Live animals; animal products	2.7	2.9	3.3	3.2	2.6
02. Meat and edible meat offal	1.1	1.3	1.6	1.5	1.2
03. Fish and crustaceans, molluscs and other aquatic invertebrates	1.1	1.2	1.1	1.3	1.0
01. Live animals	0.3	0.3	0.3	0.3	0.3
2 – Vegetable products	4.8	4.4	6.1	5.2	4.8
10. Cereals	1.6	1.5	2.0	1.7	1.7
12. Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit	1.7	1.3	1.9	1.7	1.4
07. Edible vegetables and certain roots and tubers	0.9	1.0	1.4	1.1	1.0
3 – Animal or vegetable fats and oils; prepared edible fats	0.7	0.7	0.9	1.0	1.1
4 – Prepared foodstuffs; beverages, spirits and vinegar; tobacco	3.2	3.4	4.1	3.8	3.6
19. Preparations of cereals, flour, starch or milk	0.8	0.9	1.1	1.0	1.0
23. Residues and waste from the food industries	0.5	0.5	0.7	0.6	0.6
20. Preparations of vegetables, fruit, nuts or other parts of plants	0.4	0.4	0.5	0.5	0.5
5 – Mineral products	24.2	24.4	20.6	26.8	32.5
27. Mineral fuels, mineral oils and products of their distillation	22.1	22.1	17.7	23.8	30.3
6 – Products of the chemical or allied industries	6.3	6.3	7.1	6.7	7.5
31. Fertilisers	1.2	1.3	1.3	1.3	2.3
30. Pharmaceutical products	1.7	1.9	2.1	1.9	1.8
7 – Plastics and articles thereof; rubber and articles thereof	3.7	3.6	3.9	4.0	3.5
39. Plastics and articles thereof	3.0	2.8	3.2	3.3	2.9
8 – Raw hides and skins, leather, furskins and articles thereof; travel goods, handbags; articles of animal gut	0.2	0.1	0.1	0.1	0.1
9 – Wood and articles of wood; wood charcoal; cork and articles of cork	3.2	2.6	3.5	4.5	3.3
44. Wood and articles of wood; wood charcoal	3.2	2.6	3.4	4.5	3.3
10 – Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	3.6	3.2	3.1	2.8	2.7
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.8	1.6	1.6	1.4	1.4
11 – Textiles and textile articles	0.7	0.7	0.7	0.7	0.6
12 – Footwear, headgear, umbrellas; prepared feathers and articles; artificial flowers	0.1	0.1	0.1	0.0	0.0
13 – Articles of stone, plaster, cement, etc.; ceramic products; glass and glassware	0.4	0.4	0.5	0.4	0.3
14 – Natural or cultured pearls, precious or semi-precious stones, precious metals	4.1	4.9	5.9	4.9	4.1
15 – Base metals and articles of base metal	7.8	6.8	7.2	8.3	7.9
76. Aluminium and articles thereof	2.2	1.9	2.1	2.4	2.4
72. Iron and steel	1.6	1.3	1.4	2.1	1.9
73. Articles of iron or steel	1.2	1.1	1.1	1.2	1.1
75. Nickel and articles thereof	0.7	0.7	0.7	0.7	0.9
74. Copper and articles thereof	0.8	0.7	0.7	0.9	0.7
16 – Machinery and mechanical appliances; electrical equipment; television image and sound recorders	10.6	10.7	10.2	9.0	8.8
84. Nuclear reactors, boilers, machinery and mechanical appliances	7.6	7.8	7.4	6.5	6.3
85. Electrical machinery and equipment; sound recorders and reproducers	3.0	2.9	2.8	2.5	2.5
17 – Vehicles, aircraft, vessels and associated transport equipment	15.9	16.4	14.4	11.3	10.2
87. Vehicles other than railway or tramway rolling-stock, parts and accessories	13.4	13.8	11.8	9.1	8.4
88. Aircraft, spacecraft, and parts thereof	2.4	2.5	2.5	2.1	1.7
18 – Optical, photographic, precision, medical or surgical instruments; clocks and watches; musical instruments	1.6	1.7	1.7	1.5	1.4

Description	2018	2019	2020	2021	2022
90. Optical, photographic, precision, medical instruments and apparatus	1.6	1.6	1.6	1.5	1.4
19 – Arms and ammunition	0.1	0.1	0.1	0.1	0.1
20 – Miscellaneous manufactured articles	1.6	1.7	1.7	1.5	1.4
94. Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	1.3	1.3	1.3	1.1	1.1
21 – Works of art, collectors' pieces and antiques	0.1	0.1	0.0	0.0	0.0
Other	4.6	4.9	5.1	4.3	3.6

Source: WTO Secretariat calculations, based on Canada International Merchandise Trade Web Application.

Table A1.3 Merchandise imports by HS section and main chapter, 2018-22

(USD million and %)

Description	2018	2019	2020	2021	2022
Total	459,853	453,697	405,338	491,483	568,378
	(% of total imports)				
1 – Live animals; animal products	1.2	1.2	1.3	1.4	1.3
03. Fish and crustaceans, molluscs and other aquatic invertebrates	0.5	0.5	0.5	0.5	0.5
02. Meat and edible meat offal	0.4	0.4	0.5	0.5	0.5
2 – Vegetable products	2.7	2.8	3.2	3.0	2.9
08. Edible fruit and nuts; peel of citrus fruit or melons	1.0	1.1	1.2	1.1	1.0
07. Edible vegetables and certain roots and tubers	0.7	0.7	0.8	0.7	0.6
09. Coffee, tea, maté and spices	0.3	0.3	0.4	0.4	0.4
10. Cereals	0.2	0.2	0.2	0.3	0.4
3 – Animal or vegetable fats and oils; prepared edible fats	0.2	0.2	0.3	0.3	0.3
4 – Prepared foodstuffs; beverages, spirits and vinegar; tobacco	4.2	4.3	5.0	4.6	4.5
22. Beverages, spirits and vinegar	1.1	1.1	1.2	1.2	1.2
19. Preparations of cereals, flour, starch or milk	0.7	0.7	0.8	0.7	0.7
21. Miscellaneous edible preparations	0.6	0.6	0.8	0.7	0.6
5 – Mineral products	8.9	8.2	5.9	7.1	8.9
27. Mineral fuels, mineral oils and products of their distillation	8.0	7.3	4.9	6.2	7.9
6 – Products of the chemical or allied industries	8.8	9.1	10.3	10.2	10.5
30. Pharmaceutical products	2.7	3.1	3.5	3.8	3.5
38. Miscellaneous chemical products	1.2	1.2	1.5	1.4	1.6
29. Organic chemicals	1.5	1.4	1.5	1.5	1.6
28. Inorganic chemicals; organic or inorganic compounds of precious metals	1.0	0.9	1.1	1.0	1.0
7 – Plastics and articles thereof; rubber and articles thereof	5.1	5.0	5.3	5.7	5.2
39. Plastics and articles thereof	3.7	3.6	3.9	4.2	3.9
40. Rubber and articles thereof	1.4	1.4	1.4	1.5	1.3
8 – Raw hides and skins, leather, furskins and articles thereof; travel goods, handbags; articles of animal gut	0.5	0.5	0.4	0.4	0.4
9 – Wood and articles of wood; wood charcoal; cork and articles of cork	0.7	0.7	0.7	0.8	0.7
10 – Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	1.8	1.8	1.9	1.8	1.7
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.2	1.2	1.3	1.2	1.2
11 – Textiles and textile articles	3.1	3.3	3.7	3.1	3.2
61. Articles of apparel and clothing accessories, knitted or crocheted	1.1	1.2	1.1	1.1	1.3
62. Articles of apparel and clothing accessories, not knitted or crocheted	1.0	1.1	1.1	0.8	0.9
12 – Footwear, headgear, umbrellas; prepared feathers and articles; artificial flowers	0.7	0.7	0.6	0.6	0.7
13 – Articles of stone, plaster, cement, etc.; ceramic products; glass and glassware	1.2	1.1	1.2	1.2	1.1
70. Glass and glassware	0.6	0.6	0.6	0.6	0.5
14 – Natural or cultured pearls, precious or semi-precious stones, precious metals	1.9	2.3	4.3	3.8	3.3
15 – Base metals and articles of base metal	6.9	6.3	6.2	7.4	7.4
73. Articles of iron or steel	2.3	2.3	2.2	2.3	2.5
72. Iron and steel	1.7	1.4	1.3	2.1	1.9
76. Aluminium and articles thereof	1.0	0.9	0.9	1.0	1.1
74. Copper and articles thereof	0.5	0.5	0.5	0.7	0.6
83. Miscellaneous articles of base metal	0.6	0.6	0.6	0.6	0.6
16 – Machinery and mechanical appliances; electrical equipment; television image and sound recorders	24.8	25.0	24.8	23.8	23.4
84. Nuclear reactors, boilers, machinery and mechanical appliances	15.0	15.3	15.1	14.4	14.1
85. Electrical machinery and equipment; sound recorders and reproducers	9.8	9.7	9.8	9.4	9.3
17 – Vehicles, aircraft, vessels and associated transport equipment	18.9	19.2	16.2	16.0	16.1
87. Vehicles other than railway or tramway rolling-stock, parts and accessories	16.4	16.5	14.0	14.1	14.1
88. Aircraft, spacecraft, and parts thereof	1.8	2.0	1.5	1.3	1.4

Description	2018	2019	2020	2021	2022
18 – Optical, photographic, precision, medical or surgical instruments; clocks and watches; musical instruments	2.9	2.9	3.0	2.9	2.7
90. Optical, photographic, precision, medical instruments and apparatus	2.7	2.8	2.8	2.7	2.5
19 – Arms and ammunition	0.1	0.1	0.1	0.1	0.1
20 – Miscellaneous manufactured articles	3.3	3.3	3.4	3.5	3.2
94. Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	2.0	2.0	2.0	2.0	1.9
95. Toys, games and sports requisites; parts and accessories thereof	1.0	0.9	1.0	1.1	1.0
21 – Works of art, collectors' pieces and antiques	0.1	0.1	0.0	0.0	0.0
Other	2.1	2.1	2.3	2.5	2.4

Source: WTO Secretariat calculations, based on Canada International Merchandise Trade Web Application.

Table A1.4 Merchandise exports and by trading partner, 2018-22

(USD million and %)

Description	2018	2019	2020	2021	2022
Total exports	450,908	446,251	389,610	503,727	598,628
			(% of exports)		
Americas	77.8	77.9	75.9	78.2	79.8
United States	74.9	75.3	73.3	75.4	77.0
Other – Americas	2.8	2.6	2.7	2.8	2.8
Mexico	1.4	1.2	1.2	1.3	1.2
Brazil	0.4	0.4	0.4	0.4	0.5
Peru	0.1	0.1	0.2	0.2	0.2
Colombia	0.2	0.2	0.2	0.2	0.2
Chile	0.2	0.1	0.2	0.2	0.1
Ecuador	0.1	0.1	0.1	0.1	0.1
Panama	0.0	0.0	0.0	0.0	0.1
Europe	8.7	9.1	10.3	8.7	8.2
EU-27	4.8	4.8	5.4	4.9	4.6
Germany	0.8	1.1	1.2	1.1	1.0
Netherlands	0.8	0.9	1.0	0.8	0.8
Belgium	0.6	0.5	0.5	0.6	0.6
France	0.6	0.6	0.7	0.6	0.5
Spain	0.4	0.3	0.3	0.4	0.4
EFTA	0.8	0.6	0.8	1.0	1.0
Norway	0.4	0.4	0.5	0.5	0.5
Switzerland	0.3	0.2	0.3	0.5	0.5
Other – Europe	3.1	3.7	4.1	2.9	2.6
United Kingdom	2.8	3.3	3.8	2.6	2.4
Türkiye	0.2	0.3	0.2	0.2	0.2
Commonwealth of Independent States (CIS)[a]	0.1	0.2	0.2	0.1	0.1
Russian Federation	0.1	0.1	0.1	0.1	0.0
Africa	0.8	0.9	1.0	0.9	0.7
Algeria	0.1	0.1	0.1	0.2	0.2
Morocco	0.1	0.1	0.1	0.1	0.1
Nigeria	0.1	0.1	0.1	0.1	0.1
Egypt	0.1	0.1	0.1	0.1	0.1
South Africa	0.1	0.1	0.1	0.1	0.1
Middle East	0.9	1.0	0.9	0.9	0.7
United Arab Emirates	0.3	0.3	0.3	0.3	0.2
Saudi Arabia, Kingdom of	0.3	0.5	0.3	0.3	0.2
Israel	0.1	0.1	0.1	0.1	0.1
Asia	11.7	10.9	11.7	11.1	10.6
China	4.7	3.9	4.8	4.4	3.7
Japan	2.2	2.1	2.4	2.3	2.3
Other – Asia	4.7	4.8	4.5	4.4	4.6
Korea, Republic of	1.0	0.9	0.9	1.0	1.1
India	0.7	0.8	0.7	0.5	0.7
Hong Kong, China	0.7	0.7	0.4	0.6	0.4
Indonesia	0.4	0.3	0.3	0.4	0.4

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on Canada Trade Data Online.

Table A1.5 Merchandise imports by trading partner, 2018-22

(USD million and %)

Description	2018	2019	2020	2021	2022
Total imports	459,853	453,697	405,338	491,483	568,378
	(% of imports)				
Americas	60.8	60.5	58.4	58.1	58.5
United States	51.1	50.7	48.8	48.6	49.1
Other – Americas	9.7	9.8	9.6	9.5	9.4
Mexico	6.2	6.1	5.5	5.5	5.5
Brazil	0.9	0.9	1.2	1.2	1.1
Peru	0.2	0.6	0.7	0.6	0.6
Chile	0.3	0.3	0.3	0.3	0.3
Colombia	0.2	0.1	0.2	0.2	0.3
Argentina	0.3	0.2	0.1	0.2	0.2
Cuba	0.1	0.1	0.1	0.1	0.1
Guatemala	0.1	0.1	0.1	0.1	0.1
Ecuador	0.0	0.0	0.0	0.1	0.1
Costa Rica	0.1	0.1	0.1	0.1	0.1
Honduras	0.1	0.1	0.1	0.1	0.1
Europe	14.0	14.4	14.2	13.9	13.6
EU-27	10.8	11.4	11.0	11.0	10.8
Germany	3.2	3.2	3.2	3.1	3.0
Italy	1.5	1.6	1.7	1.7	1.6
France	1.2	1.5	1.2	1.2	1.0
Netherlands	0.8	0.8	0.6	0.6	0.7
Belgium	0.7	0.8	0.8	0.8	0.6
EFTA	1.2	1.1	1.3	1.1	1.2
Switzerland	0.8	0.8	1.1	0.9	1.0
Norway	0.4	0.3	0.2	0.2	0.1
Other – Europe	2.0	1.9	1.8	1.8	1.7
United Kingdom	1.5	1.5	1.4	1.3	1.2
Türkiye	0.4	0.3	0.3	0.5	0.4
Commonwealth of Independent States (CIS)[a]	0.5	0.5	0.3	0.6	0.3
Kazakhstan	0.1	0.1	0.1	0.1	0.2
Russian Federation	0.3	0.3	0.2	0.3	0.1
Africa	0.7	0.8	1.2	1.3	1.3
South Africa	0.2	0.2	0.4	0.3	0.3
Nigeria	0.1	0.0	0.1	0.3	0.2
Egypt	0.2	0.2	0.2	0.2	0.2
Middle East	1.0	0.9	0.6	0.8	1.0
Saudi Arabia, Kingdom of	0.6	0.5	0.3	0.4	0.5
Israel	0.2	0.2	0.2	0.2	0.2
United Arab Emirates	0.0	0.0	0.0	0.1	0.1
Kuwait, State of	0.0	0.0	0.0	0.0	0.1
Asia	22.9	23.1	25.2	25.3	25.3
China	12.7	12.5	14.1	13.9	13.5
Japan	2.8	2.7	2.5	2.5	2.3
Other – Asia	7.4	7.9	8.6	8.9	9.5
Korea, Republic of	1.6	1.6	1.8	1.7	1.8
Viet Nam	0.9	1.2	1.5	1.6	1.7
Chinese Taipei	1.0	1.0	1.0	1.3	1.3
India	0.9	0.9	0.9	1.0	1.1
Thailand	0.6	0.6	0.7	0.7	0.7

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on Canada Trade Data Online.

Table A3.1 IP legislation

Legislation	Scope	Duration	Selected exclusions and limitations
Patents			
Patent Act, 1985 (amended); Patent Rules, 2019 (amended)	New and useful invention, or new and useful improvement of existing invention; inventions are defined to include art; process; machine; manufacture; and composition of matter.	Up to 20 years from filing. Certificate of supplementary protection may be available for up to two years after patent expiration for eligible new medicinal ingredients or new combinations of medicinal ingredients contained in human and veterinary drugs.	Exclusions from patent protection include: • Higher life forms • Mere scientific principles or abstract theories • Methods of medical treatment • Abstract ideas. Exceptions to patent protection include: • Prior use • Experimental use • Activities reasonably related to generating information for a regulatory agency • Use of articles on foreign ships, vessels, aircrafts and land vehicles • Compulsory licences.
Patented Medicines (Notices of Compliance) Regulations	Provides for effective patent enforcement over new and innovative drugs and the timely market entry of competing generic product (patent linkage).		
College of Patent Agents and Trademark Agents Act (amended); College of Patent Agents and Trademark Agents Regulations	Regulates patent agents and trademark agents in the public interest.		
Undisclosed information			
Criminal Code 1985 (amended)	Criminalizes knowingly obtaining, communicating, or making available a trade secret by deceit, falsehood, or other fraudulent means.	Unlimited.	
Federal common law	Criminalizes trade secret theft sponsored by, for the benefit of, or in association with foreign entities.	Unlimited.	
Quebec Civil Code	Criminalizes fraud generally and may, in some cases, render trade secret misappropriation a criminal offence.	Unlimited.	
Food and Drug Regulations (amended)	Pharmaceutical products containing medicinal ingredients not previously approved in Canada i.e. new chemical entities, for which approval is sought based on data, the origination of which involved considerable effort, are eligible for data protection.	8 years; can be extended for an additional 6 months with the filing of the results of a paediatric study.	Data protection is not available to: • variations of a previously approved medicinal ingredient such as a salt, ester, enantiomer, solvate or polymorph • new indications, dosage forms, or other changes made through a supplement to a new drug submission • biosimilars.
Pest Control Products Regulations (amended)	Exclusive-use protection for data supporting the registration of a new product, which contains a new active ingredient. Other data supporting the registration are assigned compensable status (e.g. where a new use is registered following mutual registration).	10 years exclusive-use protection (plus up to 5 additional years if minor uses are registered). 12 years compensable.	
Industrial designs			
Industrial Design Act, 1985 (amended) Industrial Design Regulations, 2018 (amended)	Applies to novel visual features such as shape, configuration, pattern or ornament, or any combination of those features, applied to a finished article. The features may be two-dimensional or three-dimensional.	Up to 15 years.	The following are not protectable as industrial designs: • Features applied to a useful article dictated solely by a utilitarian function of the article • Any method or principle of manufacture or construction • Materials used in the construction of an article.

Legislation	Scope	Duration	Selected exclusions and limitations
Trademarks			
Trademarks Act, 1985 (amended). Trademarks Regulations, 2018 (amended)	A trademark is a sign or combination of signs used or proposed to be used by a person to distinguish their goods or services from those of others. It may be one or a combination of words, designs, tastes, textures, moving images, modes of packaging, holograms, sounds, scents, three-dimensional shapes, or colours. A certification mark can be registered as a trademark.	10 years, renewable.	The following are generally unregistrable as a trademark: • Names and surnames • Clearly descriptive marks • Deceptively misdescriptive marks • Place of origin • Words in other languages • Signs that are confusingly similar to a registered or pending trademark • Signs that consist of or are likely to be mistaken for a plant variety denomination • Signs that indicate the geographical origin of a wine, spirit, or agricultural product or food, unless the goods to which the sign is to be applied originate from that geographical area.
Geographical indications (GIs)			
Trademarks Act, 1985 (amended). Trademarks Regulations, 2018 (amended)	A name, sign or other indication used to identify a wine, spirit, agricultural product or food as originating in a country, territory, region, or locality that is of a quality, reputation or other characteristic attributable to that geographical origin. A GI may be protected by being on the list of protected GIs maintained by the Trademark Registrar. GIs may also be protected as a certification mark.	The term of protection for a GI on the list of protected GIs maintained by the Trademark Registrar is unlimited. The term of protection for GIs protected by certification marks is governed by the Trademarks Act, 1985.	The following are not eligible for protection as GIs: • Indications that are identical to a term customary in common language in Canada as the common name for a product • The indication is not protected by the law applicable to the territory in which the product is identified as originating (except Canada) • The indication is confusing with an existing registered trademark that is used in Canada, or for which an application has been filed. Exceptions that may allow another party to use a GI include: • Certain continued and similar uses of an indication in association with a wine or spirit • Use of a person's name • Use in comparative advertising • Various indications of several specific categories of cheese, in combination with a qualified term, such as "type", "style" or "imitation".
Copyright			
Copyright Act, 1985 (amended) Copyright Regulations, 1997 (amended)	Original literary, dramatic, musical, and artistic works; performers' performances; communication signals; and sound recordings. Protection is provided to countries with whom Canada has a treaty or other agreement.	Generally, life of the creator +70 years. Performances: 50 years from performance, unless fixed in a sound recording, in which case 70 years from fixation, unless fixation is published, in which case the longer of 75 years from publication or 100 years from fixation. Sound recordings: 70 years from fixation, unless fixation is published, in which case the longer of 75 years from publication or 100 years from fixation. Communication signals: 50 years from broadcast. Crown copyright: 50 years from publication.	Exceptions to copyright infringement relate to, *inter alia*, fair dealing; non-commercial user-generated content; private copying; time-shifting of broadcasts; educational institutions; libraries, archives and museums; interoperability of computer programs; ephemeral copies and recordings; and persons with perceptual disabilities.

Legislation	Scope	Duration	Selected exclusions and limitations
Integrated circuits			
Integrated Circuit Topography Act, 1990 (amended) Integrated Circuit Topography Regulations, 1993 (amended)	Three-dimensional configuration of the materials that form integrated circuits, whether embodied in an integrated circuit product or not. Topographies that define only part of the structure needed to perform an electronic function may be registered. Protection is extended to nationals of non-WTO Members on a reciprocal basis.	Up to 10 years, beginning on the filing date or the date of first commercial exploitation, whichever is earlier. The term ends on 31 December of the 10th year.	Exceptions to exclusive rights include: • exhaustion of rights applying to integrated circuit products legitimately put on the market anywhere in the world with the authorization of the owner of the rights • unauthorized copying of a protected topography for the sole purpose of either analysis or evaluation, or of research or teaching with respect to topographies • reverse engineering.
Plant variety protection			
Plant Breeders' Rights Act, 1990 (amended) Plant Breeders' Rights Regulations, 1991 (amended)	Varieties that are new, distinct, uniform and stable. All plant species are eligible for protection. Applicants may only be citizens of, residents of, or have a resident office in Canada or a UPOV member State.	Up to 25 years from the date of issue of the rights certificate for trees, vines or any specified categories. Up to 20 years for all other crops.	Algae, bacteria, and fungi are not protected. Restrictions to the holders' rights include: protected varieties may be used for breeding and developing new plant varieties; and farmers may save and use the harvested seed of a protected variety for replanting on their own land without infringing on the holder's rights (farmers' privilege).

Source: Compiled by the WTO Secretariat, based on the legislation referenced in the table.

Table A3.2 Applications for and registrations of patents, trademarks, and industrial designs, 2017-21

		Applications					Registrations				
		2017	2018	2019	2020	2021	2017	2018	2019	2020	2021
Patents[a]	Total	35,022	36,161	36,488	34,565	37,155	24,099	23,499	22,009	21,284	22,687
	Resident	4,053	4,349	4,238	4,452	4,710	2,500	2,221	2,035	2,075	2,272
	Non-resident	30,969	31,812	32,250	30,113	32,445	21,599	21,278	19,974	19,209	20,415
	Abroad	19,871	20,133	20,936	19,403	21,815	11,359	11,321	12,600	11,971	11,340
Trademarks	Total	58,913	63,058	59,961	69,943	82,084	28,621	24,376	62,838	43,029	46,088
	Resident	25,853	27,320	28,588	27,971	29,600	12,257	9,930	15,903	7,590	7,535
	Non-resident	33,060	35,738	31,373	41,972	52,484	16,364	14,446	46,935	35,439	38,553
	Abroad	51,606	62,551	68,073	57,337	70,378	39,826	45,449	53,229	58,154	60,380
Industrial designs[b]	Total	6,533	6,737	6,390	6,187	7,051	6,556	8,325	7,523	7,055	7,470
	Resident	815	770	695	700	664	815	770	695	700	664
	Non-resident	5,718	5,967	5,695	5,487	6,387	5,741	7,555	6,828	6,355	6,806
	Abroad	5,741	7,555	6,828	6,355	6,806	5,847	6,588	6,356	6,315	5,950

a Class count.
b Design count.

Note: A resident filing refers to an application filed in Canada by a Canadian resident; whereas a non-resident filing refers to one filed by a foreign applicant. "Abroad" refers to an application filed by a Canadian resident at a foreign office.

Source: Compiled by the WTO Secretariat, based on information from the WIPO Statistics Database.