



CANADA-INDIA Joint Study Group **REPORT**

Exploring the Feasibility of
a Comprehensive Economic
Partnership Agreement

September 24, 2010



Government
of Canada

Gouvernement
du Canada



सत्यमेव जयते

Government of India

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EXECUTIVE SUMMARY

On November 17, 2009 in Delhi, in the presence of Prime Minister Harper and Prime Minister Singh, Canada's Minister of International Trade and India's Minister of Commerce and Industry signed a Memorandum of Understanding (MOU) establishing a Joint Study Group to examine the feasibility of a comprehensive economic partnership agreement (CEPA).¹

The Joint Study Group took a comprehensive view of bilateral economic linkages between India and Canada. The Joint Study Group, which comprised officials from both Canada and India, met twice, on December 7–8, 2009, and May 6–7, 2010, and engaged in substantive discussions on the parameters of a possible CEPA. Both parties also engaged in consultations to obtain views on a possible bilateral trade initiative. The thrust of the exploratory analysis, together with the Joint Study Group's findings and recommendations, are presented in this report. It has been drafted jointly by the Government of Canada and the Government of India.

Overview and Economic Relationship

The introductory chapter offers a brief overview of the bilateral and economic relation between Canada and India, as well as provides an economic profile of the two economies. It notes the growing depth and dynamism of the relationship between the two countries which is marked by common values and similar political structures. The Joint Study Group remarks however, that despite the substantially expanded bilateral ties between Canada and India, there remains much untapped potential in the relationship.

Main Indicators

India's economy has followed an impressive growth path in the recent decade with real gross domestic product (GDP) increasing around 8.0% annually during the period 2003–08. Against a backdrop of global recession, India's economy is expected to remain among the fastest growing in the world, at 7.2% in 2009–10. In addition, since the early 1990s, the Indian economy is passing through a phase of sectoral transformation, driven increasingly by the services sector, which contributed to 53.4% of the country's GDP in 2008. By contrast, the contribution of the agricultural sector in the total value-added has been declining during the past decade, although it remains the biggest source of job opportunities, absorbing 52.1% of total employment in 2004–05.

¹ For the purposes of this Canada-India Joint Study, without prejudice to the final results, the comprehensive economic partnership agreement (CEPA) and free trade agreement (FTA) are used interchangeably, reflecting normal terminology in India and Canada respectively, where both refer to a broad-coverage, high-ambition, high-quality trade liberalisation agreement.

From 1999 to 2008, the Canadian economy has experienced stable growth, with real GDP increasing by 2.6% annually. The economic crisis that started in 2008 had an impact on Canada's economic performance, with negative growth in 2009, but the economy will return to positive growth in 2010. In real terms, GDP per capita increased 1.6% at a compound annual rate, for a total of US\$45,064 at market prices in 2008. Similar to India, over the last decade, the share of services in Canada's GDP increased steadily, and in 2008 accounted for 70% of Canada's GDP and 80% of employment. By contrast, the agricultural sector has maintained its relative position in the overall economy, accounting for 2% of GDP.

India-Canada Merchandise Trade

According to Canadian statistics, Canada's total merchandise trade in 2008 was US\$865 billion, 66% of which was with the United States. In this context, Canada's US\$4 billion total merchandise trade with India in 2008 appears modest, but Canada's trade in merchandise with India has been expanding rapidly over the past ten years. Canadian merchandise exports to India increased at an annual compound rate of 24% over this period, while imports from India grew by 13%. India was Canada's 16th merchandise trade partner.

According to Indian statistics, in 2008, India's total merchandise trade was US\$516.5 billion, and its top trading partners were the United Arab Emirates, China and the United States, accounting for 9.9% and 8.6% and 8.1% of total merchandise trade, respectively (2008-09). Canada was ranked as India's 30th trading partner. Canada's and India's respective merchandise trade data also show that while Canada's relative importance as a trading partner for India has declined over the past decade, India's share of both total Canadian imports and exports has increased.

Accounting for more than 70% of total Indian merchandise exports to Canada, India's leading sectors of export in 2008 were chemical products (25.2% of total exports to Canada) followed by textiles and wearing apparel (24.9%, down from 46% in 1999), miscellaneous manufacturing products as well as machinery and equipment. Canada's merchandise trade exports to India were also concentrated in four sectors, comprising 80% of total exports to India: chemical products (33%), vegetables, fruits and nuts (mainly pulses including dried peas and lentils); pulp and paper products; and machinery and equipment.

It appears that the India-Canada trade relationship is significantly under-traded. For example, total trade between India and Canada is three times smaller than the size of trade between India and Australia, even though the Canadian economy is about 50% larger than that of Australia.

India-Canada Services Trade

According to Statistics Canada, over the past nine years, bilateral trade in services between Canada and India nearly tripled to reach US\$693 million in 2007 from US\$241 million in 1999. Canada's leading services receipts from India were travel, which accounted for 50% of total Canadian services receipts from India in 2007. While Canada's exports of commercial services to India peaked in 2001 and 2002, and have since been declining, India's exports have expanded rapidly from US\$16 million in 1999 to US\$130 million in 2007. The driving forces underlying this expansion were India's exports of computer and information services and business services to Canada, which mirrored the dynamics of India's services sector in the age of services outsourcing. As a result of these changes, since 2005, Canada has become a net importer of services from India, especially in the area of commercial services.

Canada-India Investment Relationship

While the bilateral Canada-India investment relationship has been expanding, it remains modest compared to the level investment that each country receives from the rest of the world. As of 2008, India is now Canada's 20th largest source of foreign direct investment (FDI) while Canada is India's 40th largest source of FDI. Nevertheless, bilateral investment flows have picked up substantially since 2005. The stock of Canadian investment to India more than doubled to reach US\$753 million in 2008, while the stock of Indian investment in Canada reached an all time high of US\$961 million. As a result, in 2008, for the first time in history, Canada became a net importer of FDI from India.

Scoping the Parameters of a CEPA

In Chapters 2–5, the Joint Study Group applied itself to examining Canada's and India's respective approaches related to goods and services trade and investment, as well as other areas of economic cooperation. In each of these areas, Canada and India were able to identify a certain commonality of objective. The Joint Study Group was thus able to scope out the basic parameters of a CEPA that would facilitate the bilateral flow of goods, services and investment, as well as identify other areas of cooperation as the bilateral relationship continues to deepen.

Trade in Goods

The Joint Study Group undertook a comprehensive review of a breadth of factors related to the bilateral trade of goods both at and beyond the border: tariffs, rules of origin, customs (origin) procedures, trade facilitation, technical barriers to trade, and sanitary

and phytosanitary (SPS) issues, emergency action and trade remedies. The Joint Study Group arrived at the following recommendations:

- **Rules of origin** should be clear and simple in design with low compliance costs, economically efficient; recognise the increasingly globally integrated nature of manufacturing process; acknowledge the principles of competitive and comparative advantage; and facilitate trade between the two countries.
- With respect to **customs (origin) procedures**, a Canada-India CEPA should include provisions that allow for the effective and transparent administration of the rules of origin. Such procedures should help ensure compliance with the rules of origin without creating unnecessary obstacles to trade. The broad objectives could include: simplify and harmonise customs procedures; ensure predictability, consistency and transparency in the application of customs laws, regulations and administrative policies and procedures; facilitate bilateral trade and ensure the security of such trade; provide a means for customs-customs consultation to enable early resolution of any issues affecting the movement of trade across borders; and rules of origin should be readily enforceable at the border without involving additional administrative costs. Based on previous agreements, Canada and India have different views in respect of certification and verification of origin. In the framework of a bilateral agreement, we may have an opportunity to find innovative solutions for customs procedures.
- **Trade Facilitation** provisions of a Canada-India CEPA should: facilitate trade between the two countries; build upon the WTO work with a view of avoiding duplication; support the objective of reducing cost for the trading community; support innovation and promote the use of new technologies where appropriate; be in accordance with the Parties respective confidentiality and protection of information requirements; and ensure that appropriate security measures are maintained. In the context of a CEPA, India and Canada should initiate negotiations related to Trade Facilitation as early as possible so as to improve customs efficiency through bilateral cooperation. Such cooperation could include: appropriate controls to combat offences against law administered by customs and facilitate legitimate trade; ensuring efficient, economical customs border administration and the expeditious clearance of goods; ensuring harmonised systems of customs valuation, in line with the *Agreement on Implementation of Article VII of the GATT, 1994*), duties and documentation may be evolved across all notified or authorised ports of entry in both the countries; and procedures of handling of goods at ports and customs clearance that may be simplified and made more efficient.
- A **technical barriers to trade** chapter should build on the foundations of the WTO TBT Agreement and seek to improve its implementation; ensure that standards, technical regulations, and conformity assessment procedures do not create

unnecessary obstacles to trade, primarily by establishing enhanced transparency disciplines; seek to reduce transaction costs for exporters by exploring methods to facilitate the recognition of conformity assessment; enhance joint cooperation between the Parties; and create a bilateral mechanism to address specific TBT issues. In addition, in order to facilitate trade in goods, both sides could explore opportunities for mutual recognition in the area of technical regulations, standards and conformity assessment procedures.

- A Canada-India CEPA should include provisions on **sanitary and phytosanitary** issues that: affirm that SPS trade-related measures shall be governed by the WTO SPS Agreement; and ensure an effective bilateral mechanism to provide a forum for ongoing cooperation and information exchange, as well as facilitate discussion on bilateral SPS issues in order to avoid disputes, taking into account existing mechanisms.
- If necessary, a Canada-India CEPA could include an **emergency action** chapter that provides for a transitional, tariff-based emergency action mechanism that covers all goods and establishes clear parameters for any resulting actions, the conditions under which they may be imposed, and limits the length of time for which the action may be maintained.
- **Trade remedies** could be discussed with the objective of maintaining appropriate protection from unfair trading practices, including a potential discussion of global safeguard measures, while ensuring that the benefits of trade liberalisation are not undermined and allowing potential exports to be realised, in accordance with the rights and obligations established by the WTO Agreement.

Services

The analysis of elements concerning trade of services suggests the service sector is critical to both economies. Canada and India envisage an ambitious service element of a comprehensive economic partnership agreement that would be consistent with and incremental to each country's WTO commitments. The Joint Study Group makes the following related recommendations:

- A Canada-India CEPA should include a **Trade in Services** Chapter that provides for: liberalisation of trade in services with substantial sectoral coverage, measured in terms of numbers of sectors, volume of trade and modes of supply; including sectors and modes with trade potential and complementarities; a considerably higher level of ambition than the current WTO commitments, with the aim of achieving market access, non-discrimination and compliance with Article V GATS; disciplines in domestic regulation that would be a useful complement to market access and non-

discrimination and would play a positive role in facilitating trade in services; and provisions to facilitate the mutual recognition of professional qualifications.

- The Canada-India CEPA should include a stand alone chapter for **financial services**. Specific modalities, such as approach and level of commitments, will be discussed in the context of formal negotiations.
- A Canada-India CEPA should include a chapter on **telecommunication services**, with the goal of promoting a pro-competitive regulatory environment that is vital to trade in telecommunication services.
- Recognising the mutual interest in facilitating the legitimate **temporary movement of natural persons** for enhancing bilateral trade and investment, a separate chapter on temporary entry for natural persons should be included in the Canada-India CEPA.

Direct Investment

The Joint Study Group's assessment of bilateral direct investment concluded that two-way investment levels between Canada and India remain modest relative to comparable countries, which could be an indicator of potential growth. The conclusion and implementation of the Canada-India bilateral investment agreement would provide a cooperative framework with stronger investment facilitation and protection provisions. The Canada-India bilateral investment agreement, therefore, should be completed and ratified before additional investment provisions are negotiated in the context of a CEPA.

Other Areas of Economic Cooperation

The Joint Study Group looked at other areas of economic cooperation areas of economic cooperation, which will continue to be discussed in the context of a CEPA. The following highlights the key results of discussions:

- Canada and India agree to address **intellectual property** within the context of a comprehensive CEPA that would lead to clear benefits for both sides.
- Canada and India agree to exchange information on **electronic commerce** in the context of CEPA negotiations.
- Consultations between India and Canada may be undertaken in the CEPA context as appropriate on various matters relating to **competition policy and monopolies and state enterprises**.

- In relation to the area of Government Procurement (GP), Canada and India have differing points of view, but have agreed to continue to discuss **government procurement** as we progress toward a bilateral CEPA.
- In the areas of **Trade and Labour** and **Trade and Environment**, Canada and India have different points of view, but have agreed to continue to discuss these issues as we progress toward a bilateral CEPA.
- Any agreement should include **institutional provisions** for its effective administration, including a binding state-to-state dispute mechanism.

The Joint Study Group also considered a list of existing agreements and cooperation, including Trade Policy Consultations, the Air Transport Agreement, the Science & Technology Agreement, Aerospace, the Social Security Agreement, Education, Agricultural Cooperation, and Energy Cooperation.

Economic Modelling

The Joint Study Group also undertook economic modelling with a view to identifying the possible economic impact of trade liberalisation. Simulations using the GTAP were carried out by both Canada and India. The simulations covered a wide range of liberalisation issues such as trade in goods and services and trade facilitation, and they examined the implications of productivity gains and increases in the supply of labour and capital, and their consequent impact on the economies of the contracting parties. Estimates of GDP gains range from US\$6-15 billion for Canada and US\$6-12 billion for India. These results show that the potential gains from liberalising trade between Canada and India are substantial. Further, the gains are fairly symmetric. Bilateral trade increases significantly with export gains for Canada ranging between 39% to 47% and for India, between 32% to 60%.

Conclusion

The Joint Study Group finds sufficient common ground to recommend moving ahead with next steps towards negotiation of a comprehensive agreement covering substantially all trade in goods and services; investment; trade facilitation; and other areas of economic cooperation, as a 'single undertaking', leading to additional trade flows and economic gains.

The recommendations and findings presented in the report are without prejudice to the final outcome of negotiations for any future comprehensive economic partnership agreement.

CHAPTER 1: OVERVIEW AND ECONOMIC RELATIONSHIP

1.1 OVERVIEW

In recent years, both India and Canada have been engaged in the process to enhance bilateral cooperation in a number of areas of mutual priority such as trade and investment; education; science, technology and innovation; environment and energy. With our shared values of democracy, the rule of law and pluralism, India and Canada are in many respects natural partners.

India and Canada have substantially expanded bilateral ties. Canada, for example, opened new trade offices in Hyderabad, Kolkata, and Ahmedabad in 2009, raising the total number of missions in India to eight. There remains, however, much untapped potential in the relationship.

India has emerged as one of the world's fastest-growing economies, and India's rising per capita income, rapidly expanding manufacturing base, expanding high technology and services sectors, with renewed focus on infrastructure and natural resources requirements, make it a market of tremendous opportunity. Canada is one of the G7 industrial economies. It has been ranked the 9th most competitive economy in the world, according to the Global Competitiveness Index 2009–10², and Canada's per capita gross domestic product of US\$39,649 (2009 in current dollars) is among the top 20.³

The India-Canada CEO Roundtable issued a report in September 2008, urging the launch of free trade negotiations. Drafted by the Confederation of Indian Industry (CII) and the Canadian Council of Chief Executives (CCCE), the CEO Roundtable report made a number of recommendations on how to deepen the India-Canada bilateral relationship. In particular, it called for a single, modern, high-quality and comprehensive free trade agreement (FTA).

In January 2009, India's Joint Secretary at the Department of Commerce and Industry and Canada's Assistant Deputy Minister of Trade Policy and Negotiations met in New Delhi to discuss the CEO Roundtable recommendations and exchange initial information on India's and Canada's approach to trade agreements.

Following this discussion, on January 21, 2009, India's Minister of Commerce and Industry and Canada's Minister of International Trade stated in a joint announcement that

² <http://www.weforum.org/pdf/GCR09/GCR20092010fullrankings.pdf>

³ Statistics Canada and <http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/index.aspx>

India and Canada have agreed to initiate exploratory discussions toward a comprehensive economic partnership agreement.⁴

The Prime Minister of Canada, Mr. Stephen Harper, paid an official visit to India from November 15-18, 2009, at the invitation of the Prime Minister of India, Dr. Manmohan Singh. The two Heads of Governments reviewed the bilateral relations between India and Canada and discussed regional and global issues of shared interest.

The Prime Ministers noted the depth and dynamism of the relationship between the two countries which is marked by common values and shared traditions of democracy, the rule of law and pluralism. The two leaders recognised the contribution of the Indian diaspora in Canada in further strengthening the bilateral bonds between the societies of India and Canada. Leaders committed themselves to sustained political engagement, a structured exchange of high level visits and regular dialogues between their officials. Prime Ministers Singh and Harper also expressed the hope that bilateral trade between their two countries would increase to \$15 billion annually in the next five years.

The Leaders also announced the setting up of a Joint Study Group that will explore the feasibility of a comprehensive economic partnership agreement between India and Canada.

The Joint Study Group was formally established by a memorandum of understanding, signed on November 17, 2009, by India's Minister of Commerce and Industry and Canada's Minister of International Trade. The signing of this memorandum of understanding was witnessed by both Prime Ministers.

The Joint Study Group, comprised of government officials, was tasked with looking at key sectors of interest and the possible parameters of a comprehensive trade agreement between the two countries. The objective of this Joint Study is to examine the feasibility of a comprehensive economic partnership agreement (CEPA). The memorandum of understanding provided six months for the report to be completed.

The Joint Study Group met twice, on December 7–8, 2009, in New Delhi and on May 6–7, 2010, in Ottawa. Officials discussed the possible parameters of a CEPA, and India's

⁴ For the purposes of this Canada-India Joint Study, without prejudice to the final results, the comprehensive economic partnership agreement (CEPA) and free trade agreement (FTA) are used interchangeably, reflecting normal terminology in India and Canada respectively, where both refer to a broad-coverage, high-ambition, high-quality trade liberalisation agreement.

and Canada's approaches related thereto. The following report, resulting from these discussions, is comprised of several components:

- Overview and Bilateral Economic Relationship;
- Trade in Goods;
- Trade in Services;
- Investment;
- Other Areas of Economic Cooperation; and
- Economic Modelling.

In Canada, a number of the issues discussed in these areas are, in whole or in part, under the jurisdiction of sub-national governments. A concluding chapter features a summary of recommendations contained throughout the report and the final conclusion of the Joint Study Group.

1.2 CANADA'S AND INDIA'S ECONOMIC RELATIONSHIP

The following section undertakes an analysis of the trends in the India-Canada economic relationship for the period 1999-2009 which is to serve as context for the analysis of factors affecting India-Canada trade and investment. This section provides an overview of both Indian and Canadian economies, their sectoral composition, employment situation and their trade and investment relationship. The key economic indicators for India and Canada are outlined, including growth rates, per capita gross domestic product (GDP) levels and inflation rates, as well as bilateral trade patterns and the respective rankings of India and Canada as each other's trade partner.

India⁵

Main Indicators

India's economy has followed an impressive growth path in the recent decade with real GDP increasing around 8.0% annually during the period 2003-08. Nominal GDP was US\$1.21 trillion in 2008 and is expected to reach US\$1.24 trillion in 2009. Over the examined period, India's GDP per capita more than doubled to reach US\$1,017 in 2008 from US\$429 in 1999. In real terms, this translates into an annual real growth of 10.1%,

⁵ Data in this section are sourced from India's national statistical agency unless otherwise indicated.

which exceeds the growth of real GDP over the same period. In 2009, despite the global recession, the Indian economy is expected to be one of the fastest growing economies in the world, and is expected to grow at 7.2% in 2009–10. However India has witnessed inflationary pressure with an average rate of 5.8%, mainly due to supply side constraints. India's current account deficit vis-à-vis the rest of the world expanded to US\$26.6 billion in 2008 from US\$3.2 billion in 1999. In terms of a percentage of GDP, however, it remained at a modest 2.2%.

With the international economic situation improving on the back of revival in world trade and industrial production, India's external sector has witnessed a revival. After a continuous decline for over twelve consecutive months, export growth has turned around since October 2009. Exports during March, 2010 were valued at US\$19.9 billion which was 54.1% higher than the level during March, 2009. Cumulative value of exports for the period April, 2009 to March, 2010 was US\$176.6 billion as against US\$185.3 billion registering a negative growth of 4.7% over the same period last year. Imports during March, 2010 were valued at US\$27.7 billion representing a growth of 67.1% over the level during March, 2009. Cumulative value of imports for the period April, 2009 to March, 2010 was US\$278.7 billion, registering a negative growth of 8.2% over the same period last year. The trade deficit for April, 2009 to March, 2010 was estimated at US\$102.1 billion which was 13.8% lower than the deficit recorded during April, 2008 to March, 2009.

Table 1.1 Key economic Indicators, India, 1999-2009

Item	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Population, millions	1,025	1,043	1,060	1,078	1 096	1,113	1,131	1,148	1,169	1,186	1,203
GDP, current prices, billion (USD)	439	462	473	495	573	669	784	875	1,101	1,207	1,243
GDP per capita, current prices, (USD)	429	443	446	459	523	601	694	763	942	1,017	1,033
GDP, constant prices, annual % change	6.9	5.7	3.9	4.6	6.9	7.9	9.2	9.8	9.4	7.3	5.4
Inflation (CPI) annual % change	4.7	4	3.8	4.3	3.8	3.8	4.2	6.2	6.4	8.3	8.7
Current account balance, billion (USD)	-3.2	-4.6	1.4	7.1	8.8	0.8	-10.3	-9.3	-11.3	-26.6	-27.5
Current account balance, % of GDP	-0.7	-1	0.3	1.4	1.5	0.1	-1.3	-1.1	-1	-2.2	-2.2

Note: Figures for 2009 are estimate.

Source: IMF World Economic Outlook Database, May 2010.

Sectoral Composition of the Indian Economy

The Indian economy is passing through a phase of sectoral transformation since early 1990s. During the last few decades, the Indian economy has been driven mostly by the services sector, which contributed to 53.4% of the country's GDP in 2008 (Table 1.2). The contribution of the agricultural sector in the total value-added has been declining during the past decade.

Table 1.2 Structural Changes in the Indian Economy

Sector	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<i>Value added (% of GDP)</i>										
Agriculture	25.0	23.4	23.2	20.9	21.0	19.2	19.1	18.2	18.1	17.6
Industry	25.3	26.2	25.3	26.5	26.2	28.2	28.8	29.5	29.5	29.0
Manufacturing	14.8	15.6	15.0	15.3	15.3	15.8	15.8	16.3	16.3	16.0
Services	49.7	50.5	51.5	52.7	52.8	52.6	52.2	52.4	52.4	53.4
<i>Value added (annual % growth)</i>										
Agriculture	2.7	-0.2	6.3	-7.2	10.0	0.0	5.9	4.0	4.9	2.6
Industry	4.6	6.4	2.7	7.1	7.4	10.3	10.2	11.0	8.1	4.8
Manufacturing	3.2	7.7	2.5	6.8	6.6	8.7	9.1	11.8	8.2	4.1
Services	9.5	5.7	7.2	7.5	8.5	9.1	10.6	11.2	10.9	9.6
<i>Value added (current bill. US\$)</i>										
Agriculture	103	98	102	98	116	123	141	152	195	197
Industry	104	110	111	124	145	181	213	247	318	325
Manufacturing	61	66	66	72	85	101	117	137	176	179
Services	205	213	226	246	292	337	387	439	564	598

Source: *World Development Indicators 2009 CD, World Bank.*

The agricultural sector has provided the maximum number of job opportunities in the country relative to other sectors in the economy. It absorbed 52.1% of total employment in 2004-05 as presented in Table 1.3. During the same year, the share of manufacturing sector in the India's total employment was nearly 13.0% and its share has been rising in recent years. The role of the services sector in generating employment in the country is gradually increasing. Labour absorption is significant in certain sub-sectors within the services sector (trade & hotel and community services, among others).

Table 1.3 Employment across Industries (%)

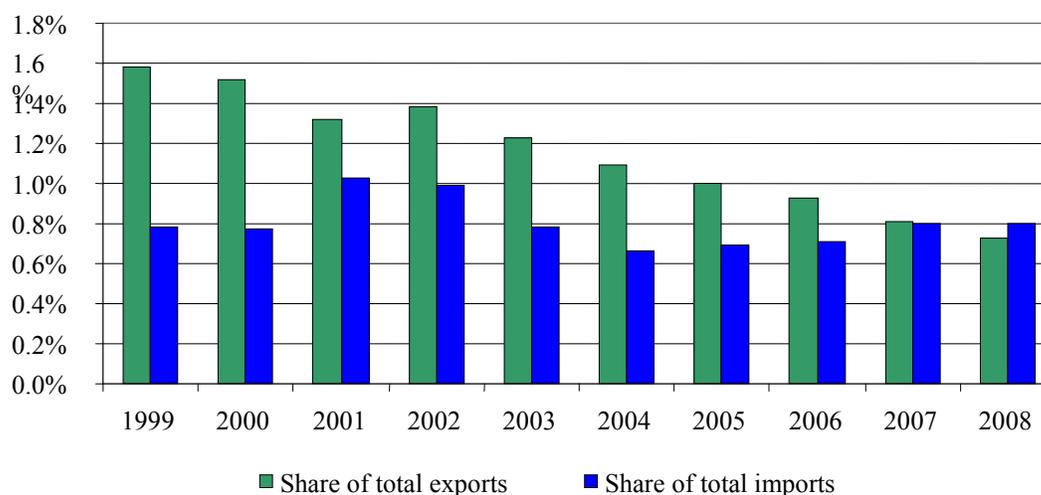
Industry	1983	1993-94	1999-00	2004-05
Agriculture	65.4	61	56.6	52.1
Mining & Quarrying	0.7	0.8	0.7	0.6
Manufacturing	11.3	11.1	12.1	12.9
Elect. Gas & water supply	0.3	0.4	0.3	0.3
Construction	2.6	3.6	4.4	5.6
Trade, Hotels & Restaurant	7	8.3	11.2	12.6
Transport, Storage & Comm.	2.9	3.2	4.1	4.6
Fin. Insu., real estate & Busi. Services	0.8	1.1	1.4	2
Community, social & personal services	9.1	10.5	9.2	9.2
Total	100	100	100	100

Source: Planning Commission of India

Indian Merchandise Trade Pattern

In 2008, with total world merchandise trade amounting to US\$ 32.5 trillion, India was the 16th largest importer and the 27th largest exporter in the world.⁶ According to Directorate General of Commercial Intelligence and Statistics, India, the country's top trading partners were the United Arab Emirates, China and the United States, accounting for 9.9% and 8.6% and 8.1% of India's total merchandise trade, respectively (2008-09). Canada was ranked as India's 30th trading partner.

Figure 1.1 Canada's Share of India's Merchandise Trade, 1999-2008



Source: The Directorate General of Commercial Intelligence and Statistics, Indian Ministry of Commerce.

⁶ WTO International Trade Statistics, 2009: Leading exporters and importers in world merchandise trade, Table 1.8

Bilateral trade between Canada and India expanded dramatically in the past decade. Canada's total merchandise exports to India in 2008 were six times higher than that in 1999 and reached an all time high of US\$2.6 billion in 2008. India's exports to Canada also grew by 10.7% CAGR to reach US\$1.4 billion in 2008 from US\$560 million in 1999. Since imports from Canada were larger than exports to Canada, India had a trade deficit vis-à-vis Canada of nearly US\$1.2 billion in 2008. Despite impressive growth of bilateral trade in merchandise, Canada's relative importance as a trading partner for India has declined over the past decade. Canada's share of India's total merchandise exports has declined from 1.3% in 2001 to 0.7% in 2008. Similarly, Canada's share in India's total imports also marginally fell from 1.0% to 0.8% over the same period (See Figure 1.1).

Table 1.4 India's Merchandise Trade Partners 2008, billions of US\$

	Country	GDP (2008)	Exports (fob)	Imports (fob)	Trade Balance	Total Trade
1	United Arab Emirates	262	24.4	24.5	-0.04	48.9
2	China	4,327	10.5	33.6	-23.07	44.1
3	United States	14,441	22.4	18.6	3.75	41.0
4	Saudi Arabia	469	5.5	23.2	-17.73	28.7
5	Germany	3,673	6.4	11.9	-5.57	18.3
6	Singapore	182	9.1	8.8	0.37	17.9
7	Iran	335	2.3	14.0	-11.7	16.3
8	Switzerland	500	0.8	13.1	-12.28	13.8
9	United Kingdom	2,680	7.0	6.3	0.74	13.2
10	South Korea	929	3.8	8.9	-5.08	12.7
11	Australia	1,013	1.5	11.1	-9.67	12.6
12	Hong Kong	215	7.0	5.2	1.81	12.3
13	Kuwait	158	0.9	11.0	-10.12	11.8
14	Japan	4,911	3.6	8.2	-4.54	11.8
15	Nigeria	207	1.5	10.1	-8.59	11.6
16	Malaysia	221	3.2	7.6	-4.42	10.7
17	Belgium	506	4.9	5.4	-0.58	10.3
30	Canada	1,500	1.4	2.6	-1.17	4.0
	Rest of World	-	79.0	97.5	-18.45	176.5
	Total World	-	195.1	321.4	-126.34	516.5

Note: Countries are ranked by total trade value. GDP is measured in current prices, billions of US\$.

Source: IMF World Economic Outlook Database, October 2009 and the Directorate General of Commercial Intelligence and Statistics, Indian Ministry of Commerce.

Looking at table 1.4, it appears that the India-Canada trade relationship is significantly under-traded. For example, total trade between India and Canada is three times smaller

than the size of trade between India and Australia, even though the Canadian economy is about 50% larger than that of Australia.⁷

The composition of India's merchandise exports to Canada has undergone a fundamental transformation in the past decade. Whereas in 1999, textile and apparel accounted for 46.0% of India's exports to Canada, in 2008, that share decreased to 24.9%. India's leading sectors of exports to Canada in 2008 were chemical products, which accounted for 25.2% of total exports to Canada, followed by textiles and wearing apparel, miscellaneous manufacturing products as well as machinery and equipment. These four categories together made up more than 70.0% of the total Indian merchandise exports to Canada. Products that reported strong import growth in the past ten years included chemical, rubber and plastic products, textiles and apparel, machinery and equipment, as well as miscellaneous manufacturing products.

The structure of India's bilateral trade with Canada is different from its overall exports to the rest of the world. In 2008-09, India's exports to Canada consisted of drugs and pharmaceuticals (including chemicals), ready made garments, base metals, gems and jewellery, machinery, marine products, and plastic and linoleum products (See Figure 1.2.).



Source: Estimation based on DGCI&S, Government of India, 2010.

Note: Product categories used here are HS sections.

⁷ See also the feature article "Canada's Performance in the Emerging Markets" p.88 in "Canada's State of Trade: Trade and Investment Update – 2009" published by Foreign Affairs and International Trade Canada

Table 1.5 India's Merchandise Exports to Canada, millions of US\$

Sector	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Share in 2008 (%)	Compound growth rate 1999-2008
Chemical, rubber, plastic products	53.8	83.9	86.7	122.4	167.7	199	254.4	258.8	417.3	520.5	25.2	28.7
Wearing apparel	176.6	201.8	202	221.3	256.6	265.3	283.5	286.7	266.2	257.9	12.5	4.3
Textiles	141.2	166.3	162	178.4	192.7	216	229	252.9	270.1	255.6	12.4	6.8
Miscellaneous Manufactures	40.7	47.7	45.6	57.5	74.0	106.0	127.7	183.6	198.8	214.9	10.4	20.3
Machinery & equipment	35.1	37.5	46.2	49.8	63.9	83.1	128.3	143.6	176.5	210.7	10.2	22.0
Ferrous metals	51	102.8	12.7	16.2	20.6	45.3	50.6	56.1	69.3	114	5.5	9.4
Food products	30.4	37.3	30.2	40.6	61.2	67.6	75.0	97.2	101.9	94.9	4.6	13.5
Metal products	21.9	24.9	28.3	30.6	38.6	47.1	60.4	72.3	78.4	89.3	4.3	16.9
Mineral products	13.0	10.0	12.2	14.1	18.7	22.1	30.2	35.7	43.1	48.4	2.3	15.7
Leather products	24.1	27.0	29.1	29.1	29.1	32.2	38.6	36.3	38.5	42.7	2.1	6.6
Rice	9.8	10.4	8.5	10.8	11.5	13.4	14.2	19	21.9	40.8	2.0	17.2
Crops	27.3	25.0	18.7	16.0	18.0	15.4	19.2	28.5	27.5	33.6	1.6	2.3
Motor vehicles & parts	9.0	7.1	7.7	10.9	15.3	19.0	25.9	28.4	35.2	30.1	1.5	14.4
Wood products	7.3	5.3	7.0	8.9	10.7	16.1	20.4	25.7	27.5	19.9	1.0	11.7
Oil seeds	2.7	2.4	3.1	4.4	4.2	13.4	7.0	7.1	8.3	17.8	0.9	23.5
Metals	0.9	0.9	1.1	1.9	3.7	5.4	5.7	13.0	13.2	15.6	0.8	37.1
Vegetables, fruit, nuts	14.3	13.0	12.2	12.4	10.8	14.1	14.9	15.7	8.6	12.5	0.6	-1.5
Electronic equipment	5.0	6.7	4.8	5.9	5.2	10.1	13.9	14.5	17	10.3	0.5	8.5
Vegetable oils & fats	1.2	1.4	1.4	1.3	1.7	2.7	3.3	4.4	3.3	8.0	0.4	23.0
Paper products & publishing	1.1	1.3	1.5	3.4	4.2	4.1	5.1	5.9	9.1	6.9	0.3	22.4
Minerals	16.0	14.6	22.3	6.2	5.6	7.3	9.3	7.8	7.5	6.8	0.3	-9.1
Transport equipment	0.4	0.4	0.3	0.8	0.8	8.4	2.3	5	2.3	4.5	0.2	30.9
Dairy products	0.1	0.3	0.3	0.3	0.3	0.6	0.9	1.9	2.1	3.2	0.2	40.5
Fishing	0.4	0.4	0.4	0.6	0.6	0.7	1.1	2	3	2.5	0.1	21.3
Forestry	0.6	0.6	0.2	0.1	0.5	0.3	0.8	0.6	1.2	1.5	0.1	11.5
Beverages & tobacco	0.3	0.2	0.4	0.3	0.3	0.4	0.8	0.8	1.4	1.2	0.1	16.2
Sugar	0.2	0.2	0.9	0.4	0.7	0.6	0.6	1.0	1.9	1.1	0.1	19.5
Wheat & Cereal grains	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.3	0.2	0.4	0.0	17.0
Animal products	0.0	0.0	0.0	0.1	0.0	0.1	0.3	0.2	0.3	0.2	0.0	27.4
Coal	-	-	-	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	2.1
Petroleum, coal products	0.0	0.0	0.0	0.0	0.0	0.1	53.2	86.6	0.2	0.2	0.0	75.7
Plant-based fibres	0.2	0.2	0.1	0.1	0.1	0.0	0.1	0.2	0.1	0.1	0.0	-8.4
Live animals	-	-	-	0.0	0.0	0.0	-	0.0	0.0	0.0	0.0	0.3
Meat products	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-26.9
Wool, silk-worm cocoons	-	-	-	-	0.0	0.0	0.0	-	-	0.0	0.0	0.0
Natural Gas Production	-	-	-	-	-	0.0	0.0	-	0.0	0.0	0.0	0.0

Note: The product classification is aggregated from HS codes to GTAP sectors.

Source: The Directorate General of Commercial Intelligence and Statistics, Indian Ministry of Commerce.

Canada⁸

Main Indicators

From 1999 to 2008, the Canadian economy has experienced stable growth, with real GDP increasing by 2.6% annually, in Canadian dollar terms. The economic crisis that started in 2008 had an impact on Canada's economic performance, with negative growth in 2009, but the economy is expected to return to positive growth in 2010. Canadian GDP per capita at the market price improved to reach US\$45,038 in 2008 from US\$21,748 in 1999. In real Canadian dollar terms, GDP per capita increased 1.6% at a compound annual rate over the same period.

Economic growth in Canada was accompanied by stable inflation that averaged 2.2% between 1999 and 2008. For many decades, Canada has maintained a current account surplus with the rest of the world. Due to weaker commodity prices and the recession in the United States, however, Canada's current account balance went into a deficit of US\$36.2 billion in 2009. This was the first current account deficit recorded since 1999. The current account balance is expected to improve as global demand and commodity prices recover.

Table 1.6 Key Economic Indicators, Canada, 1999-2009

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Population, millions	30	31	31	31	32	32	32	33	33	33	34
GDP, current prices, billion (USD)	661	725	716	734	866	992	1,134	1,278	1,426	1,501	1,338
GDP per capita, current prices (USD)	21,748	23,620	23,068	23,402	27,328	31,053	35,164	39,227	43,310	45,038	39,649
GDP, constant prices, annual % change	5.5	5.2	1.8	2.9	1.9	3.1	3.0	2.9	2.5	0.4	-2.6
Inflation (CPI) annual % change	1.7	2.7	2.5	2.2	2.8	1.8	2.2	2.0	2.2	2.3	0.3
Current account balance, billion (USD)	1.7	19.7	16.2	12.6	10.5	22.9	21.4	17.9	14.5	7.6	-36.2
Current account balance % of GDP	0.3	2.7	2.3	1.7	1.2	2.3	1.9	1.4	1.0	0.5	-2.7

Source: Statistics Canada, May 2010.

Sectoral Composition of the Canadian Economy

Services represent the largest sector of the Canadian economy, accounting for about 71% of Canada's GDP in 2008. Over the decade, the share of services in Canada's GDP increased steadily as Canada has become a more services-oriented economy, while the relative importance of other sectors was on a downward trend. In particular, the

⁸ Data in this section are sourced from Statistics Canada unless otherwise indicated.

manufacturing share of the GDP declined to 13.9% in 2008 from 18.5% in 2000. The agricultural sector has maintained its relative position in the overall economy, accounting for about 2% of GDP.

Table 1.7 Structural Change in the Canadian Economy

Sector	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<i>Value added (% of GDP)</i>										
Agriculture	2.5	2.3	2.2	2.2	2.1	2.2	2.5	2.3	2.2	2.2
Forestry, Mining, Fishing, Oil and Gas	5.4	5.4	5.2	5.1	5.4	5.3	4.9	4.9	4.8	4.6
Utilities	3.0	2.8	2.6	2.7	2.7	2.6	2.6	2.5	2.6	2.5
Construction	5.1	5.1	5.4	5.4	5.5	5.7	5.8	5.9	6.0	6.1
Manufacturing	17.7	18.5	17.5	17.2	16.7	16.6	16.3	15.6	15.0	13.9
Services	66.3	65.9	67.1	67.4	67.6	67.6	67.9	68.8	69.4	70.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
<i>Value added (annual % growth)</i>										
Agriculture		-3.2	-2.7	2.8	-2.7	8.3	16.6	-5.5	-1.7	17.1
Forestry, Mining, Fishing, Oil and Gas		5.4	-2.6	0.9	8.1	1.3	-5	2.8	0.5	12.1
Utilities		0.0	-5.9	5.7	0.5	0.5	4.3	-1.0	3.6	15.6
Construction		5.8	7.3	4.0	3.5	6.3	4.9	4.5	3.8	19.1
Manufacturing		9.9	-4.2	1.0	-0.8	2.3	1.4	-1.8	-1.3	8.4
Services		4.4	3.2	3.0	2.5	3.4	3.3	3.9	3.6	18.9
<i>Value added (2002 constant bill. US\$)</i>										
Agriculture	15.4	14.9	14.5	14.9	14.5	15.7	18.3	17.3	17.0	19.9
Forestry, Mining, Fishing, Oil and Gas	33.3	35.1	34.2	34.5	37.3	37.8	35.9	36.9	37.1	41.6
Utilities	18.5	18.5	17.4	18.4	18.5	18.6	19.4	19.2	19.9	23.0
Construction	31.2	33.0	35.4	36.8	38.1	40.5	42.5	44.4	46.1	54.9
Manufacturing	109.5	120.3	115.3	116.4	115.5	118.1	119.7	117.6	116.1	125.9
Services	409.4	428.0	441.9	455.1	466.5	482.2	498.1	517.7	536.3	638.0
Total	617.3	649.8	658.7	676.1	690.4	712.9	733.9	753.1	772.5	903.3

Source: Statistics Canada

Table 1.8 present a broad picture of structural adjustment in terms of employment in Canada over the past several decades. The share of services in total Canadian employment increased to 80.6% in 2008 from only 66.9% in 1980. The manufacturing sector has the largest decline in terms of its share in total employment, which dropped to 9.5% in 2008 from 18.8% in 1980. Agricultural employment also experienced a significant drop in its share of total employment. In 2008, agriculture accounted for only 1.6% of total Canadian employment in 2008, compared to 3.8% of total employment three decades ago.

Table 1.8 Employment across Industries in Canada, %

Industry	1980	1990	2000	2005	2008
Agriculture	3.8	2.7	2.0	1.7	1.6
Forestry, Mining, Fishing, Oil & Gas	3.0	2.0	1.6	1.6	1.7
Manufacturing	18.8	12.8	12.3	11.1	9.5
Utilities	1.0	0.8	0.6	0.6	0.7
Construction	6.5	5.5	4.7	5.2	6.0
Trade, Accommodations & Food Services	21.0	30.4	30.4	30.8	30.5
Transport, Storage and Comm.	5.5	4.0	4.2	3.9	4.0
Fin. Insurance, Real estate & Business Services	7.6	12.3	12.3	13.0	13.3
Community, Public, Professional & Other Services	32.8	29.5	31.9	32.1	32.8
Total	100.0	100.0	100.0	100.0	100.0

Source: Statistics Canada

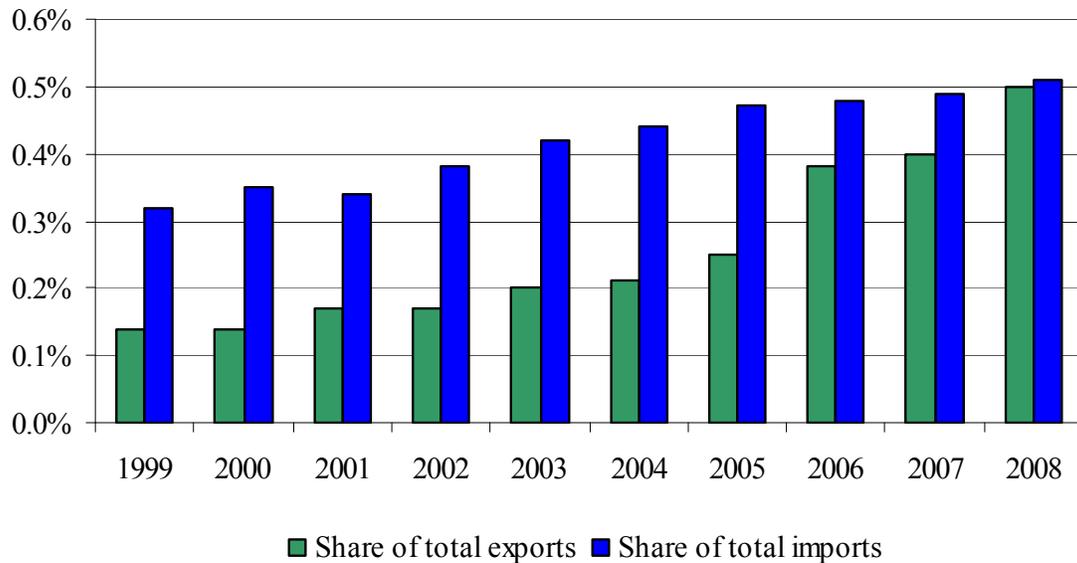
Canadian Merchandise Trade Pattern

Canada's total merchandise trade in 2008 was US\$865 billion, 66% of which was with the United States. In this context, Canada's US\$4 billion total merchandise trade with India in 2008 appears modest, but Canada's trade in merchandise with India has been expanding rapidly between 1999 and 2008. Canadian merchandise exports to India increased at an annual compound rate of 24%, up from US\$323.8 million in 1999 to US\$2.2 billion in 2008, while imports from India grew by 13% annually, up from US\$685 million in 1999 to US\$2.1 billion in 2008. Canada had a trade surplus in merchandise with India of US\$167.4 million in 2008. India was Canada's 16th merchandise trade partner.

Furthermore, the importance of trade with India has increased over recent years both in terms of India's share in total Canadian imports and total exports. In 1999, imports of merchandises from India accounted for 0.3% of total Canadian imports. This share has been progressing to reach 0.5% in 2008. Similarly, India's share in Canada's total exports also increased steadily from 0.14% of total exports in 1999 to 0.5% in 2008.

Canada's exports to India are broad-based, ranging from industrial products and machinery and equipment, to agricultural and other resources-related products. Chemical products lead exports to India, accounting for more than 33% of total Canadian merchandises exports to India. This is followed by vegetables, fruits and nuts (mainly pulses including dried peas and lentils); as well as pulp and paper products, which represent 18% and 16% of total Canadian merchandises exports to India respectively. Along with machinery and equipment, these four sectors made up more than 80% of total exported merchandise from Canada to India in 2008. While almost every sector has recorded growth, merchandise trade in chemical products, vegetables and fruits, pulp and papers, machinery and equipment, and metals has grown at a much faster rate.

Figure 1.3 India's Share of Canada's Merchandise Trade, 1999-2008



Source: Statistics Canada

Table 1.9 Canada's Main Merchandise Trade Partners 2008, billions of US\$

	Country	GDP	Exports (fob)	Imports (fob)	Trade Balance	Total Trade
1	United States	14,441	355	214	140.4	569
2	China (excluding Hong Kong)	4,520	10	40	-30.0	50
3	Japan	4,887	10	14	-4.0	25
4	United Kingdom	2,684	12	12	0.5	24
5	Mexico	1,090	5	17	-11.3	22
6	Germany	3,673	4	12	-7.8	16
7	South Korea	931	4	6	-2.0	9
8	France	2,867	3	6	-2.6	9
9	Norway	451	3	6	-3.2	9
10	Algeria	170	1	7	-6.5	8
11	Italy	2,307	2	5	-2.6	7
12	Netherlands	877	4	2	1.4	6
13	Belgium	506	3	2	1.1	5
14	Taiwan	403	1	4	-2.3	5
15	Brazil	1,636	2	3	-0.1	5
16	India	1,207	2	2	0.2	4
	Rest of World	-	34	58	-23.5	92
	Total World	-	457	409	47.7	865

Note: Countries are ranked by total trade value. GDP is measured in current prices, billions of US\$. Source: Statistics Canada. IMF World Economic Outlook Database, April 2010.

Table 1.10 Canada's Merchandise Exports to India, millions of US\$.

Sector	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Share in 2008 (%)	Compound growth rate 1999-2008 (%)
Chemical, rubber, plastic products	44.0	54.6	38.6	43.1	72.4	88.4	143.8	137.1	215.4	743.3	33.3	36.9
Vegetables, fruit, nuts	44.5	71.8	127.7	78.6	89.2	83.8	141.1	131.8	357.7	391.1	17.5	27.3
Paper products, publishing	110.6	115	107.3	97.3	171.2	191.4	232.3	300	256.6	353	15.8	13.8
Machinery & equipment	30.7	38.6	89.4	83	58.9	124.6	118.2	142.8	298.3	307.6	13.8	29.2
Metals	3.9	3.0	3.6	6.7	9.7	14.9	33.9	42.5	78.4	113.3	5.1	45.2
Transport equipment	2.0	23.2	1.6	2.9	42	14.6	19.8	140.6	68	94.3	4.2	53.6
Minerals	22.9	33.7	33	39.8	33.6	41.1	76.9	186.2	131.9	61	2.7	11.5
Ferrous metals	9.5	8.1	9.5	8.1	14.7	31.8	46.3	38.4	78.3	53.5	2.4	21.2
Electronic equipment	9.4	13.3	9.8	46.2	33.2	36.1	51.7	86.4	21.7	37.9	1.7	16.8
Mis. Manufactures	8.5	6.0	8.1	7.5	11.0	16.0	21.2	29.1	37.6	32.5	1.5	16.1
Metal products	0.7	0.9	1.3	2.2	1.7	4.3	3.8	3.4	6.2	11.1	0.5	36.3
Motor vehicles & parts	0.2	0.2	0.1	0.9	1.8	1.2	1.6	0.9	3.3	9.0	0.4	50.2
Petroleum, coal products	0.0	0.0	0.0	0.0	0.6	4.7	1.5	5.7	1.6	6.7	0.3	89.4
Textiles	1.1	1.3	2.6	2.4	4	2.1	1.6	1.2	2.0	4.1	0.2	15.5
Wood products	0.8	0.5	0.8	1.6	1.1	2.8	1.9	2.4	5.2	3.7	0.2	19.2
Mineral products	0.4	0.2	0.5	0.9	1	1	1.5	1.4	34.6	3.3	0.1	28.1
Food products	0.7	0.7	0.2	0.3	0.5	0.9	0.8	1.9	1.4	2.7	0.1	17.2
Oil seeds	3.1	0.6	0.6	0.8	3.5	1.1	1	1.4	5	1.9	0.1	-5.4
Forestry	0.4	0.6	0.4	0.3	0.3	0.3	0.6	0.7	0.7	0.8	0.0	8.2
Meat products	0.0	0.0	0.4	0	0.1	0	0.1	0.2	0.7	0.9	0.0	60.7
Beverages & tobacco products	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.5	0.5	0.5	0.0	32.8
Wheat & Cereal grains	0.0	0.0	0.0	0.0	0.0	0.0	0.1	214.4	96.1	0.3	0.0	43.5
Raw Milk & Dairy products	0.3	0.1	0.0	0.1	0.0	0.0	0.1	0.1	0.0	0.2	0.0	-2.8
Leather products	0.0	0.0	0.1	0.3	0.1	0.2	0.2	0.1	0.1	0.2	0.0	2.1
Bovine cattle, sheep & goats, horses	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.0	2
Wearing apparel	0.6	0.5	0.1	6	0.1	0.1	0.2	2.4	0.1	0.1	0.0	1.3
Vegetable oils & fats	29.3	0.0	0.5	2.7	0.3	0.0	0.2	0.1	0.3	0.1	0.0	1
Crops	0.0	0.0	0.1	0.0	0.0	0.0	0.1	0.1	0	0.1	0.0	0.9
Sugar	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.1	0.0	0.8
Processed rice	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.6
Animal products	0.1	0.5	0.8	0.0	0.0	0.1	0.1	0.0	0.0	0.1	0.0	0.6
Coal	0.0	1.9	0.0	0.0	0.0	5.3	0.0	6.9	0.0	0.0	0.0	0.3
Plant-based fibres	0.0	0.0	0.0	0.0	0.0	1.3	0.1	0.0	0.0	0.0	0.0	0.0
Wool, silk-worm cocoons	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Fishing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Note: the product classification is aggregated from HS codes to GTAP sectors.

Source: Statistics Canada

India-Canada Trade in Services

According to Statistics Canada, over the past nine years, bilateral trade in services between Canada and India nearly tripled to reach US\$693 million in 2007 from US\$241 million in 1999. Canada's leading services receipts from India were travel, which accounted for 50% of total Canadian services receipts from India in 2007. Canada's exports of commercial services to India peaked in 2001 and 2002, but have declined since then. In contrast, Canada's imports of commercial services from India expanded rapidly in recent years to reach US\$130 million in 2007, from US\$16 million in 1999. The driving forces underlying such an expansion were Canada's imports of computer and information services and business services from India, which mirrored the dynamics of India's services sector in the age of services outsourcing. As a result of such changes, since 2005, Canada has become a net importer of services from India, especially in the area of commercial services.

Table 1.11 India-Canada Bilateral Trade in Services, 1999- 2007, millions of US\$

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Exports									
Travel	40	57	48	46	58	80	104	130	150
Transportation and government services	37	45	54	43	44	87	104	124	100
Commercial services									
Communications services	x	x	x	6	6	7	6	6	6
Other financial services	x	x	1	3	1	5	4	8	8
Computer and information services	3	3	0	3	2	1	2	4	1
Royalties and license fees	1	1	3	3	2	1	2	2	1
Non-financial commissions	x	x	x	3	1	1	2	2	1
Management services	3	9	17	25	14	15	8	6	5
Architectural, engineering, and other tech. services	32	20	41	36	28	17	14	26	9
Miscellaneous services to business	11	10	8	8	9	19	9	11	12
Audio-visual services	1	1	1	2	3	1	1	0	1
Commercial services – total	63	65	83	93	73	77	50	68	52
Total Services Exports	139	168	185	182	175	244	258	322	301
Imports									
Travel	42	43	59	58	65	69	74	79	84
Transportation and government services	44	45	69	65	86	109	135	164	178
Commercial services									
Computer and information services	x	x	x	3	6	14	18	x	61
Non-financial commissions	1	1	1	1	1	1	1	1	2
Management services	x	x	x	3	3	2	2	11	9
Architectural, engineering, and other tech. services	2	1	12	12	6	12	17	25	5
Miscellaneous services to business	7	8	8	8	10	29	13	24	37
Audio-visual services	2	2	2	2	2	2	2	2	2
Commercial services – total	16	24	32	31	29	61	55	115	130
Total Services Imports	102	113	160	153	180	240	265	358	392

Note: Some values of commercial services have been suppressed to preserve the confidentiality of the sources

Source: Statistics Canada.

India and Canada Direct Investment

While the bilateral Canada-India investment relationship has been expanding, it remains modest compared to the level investment that each country receives from the rest of the world. As of 2009, India is now Canada's 13th largest source of foreign direct investment (FDI) and the 42nd largest destination of Canadian direct investment.

Nevertheless, both inward and outward direct investment stocks have increased substantially since 2005. The stock of Canadian direct investment in India reached US\$574 million in 2009, while the stock of direct investment in Canada from India reached an all time high of US\$2.8 billion. Since 2008, Canada is now a net importer of FDI from India.

Table 1.12 Canada's Foreign Direct Investment, 1999-2009, millions of US\$

Direction	Type	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Inward	Stock	12	N/A	18	20	46	77	147	181	N/A	2,178	2,840
Outward	Stock	171	86	91	141	157	178	274	581	512	641	574

Source: Statistics Canada.

CHAPTER 2: TRADE LIBERALISATION IN GOODS

Whereas the previous chapter presented a profile of Canada's and India's economies and the bilateral trade and investment relationship, Chapter 2: Trade in Goods, will look at Canada's and India's respective tariff profiles and trade policy considerations, in the context of a Canada-India comprehensive economic partnership agreement, for facilitating the trade of goods. As tariffs can have a dampening effect on trade, so too can non-tariff barriers. Technical regulations, industrial standards, and sanitary and phytosanitary (SPS) requirements play an important role in facilitating trade in goods and protecting public health and safety and animal and plant health, but they vary from country to country and may impose unnecessary restrictions on trade.

2.1 TARIFF PROFILES

Canada's Tariff Profile

Trade is an important part of Canada's open economy. Alongside India, Canada is one of the original signatories of the General Agreement on Tariffs and Trade (GATT). In addition to the tariff reductions brought about by the successive rounds of the GATT, Canada has also engaged in a number of free trade agreements and instituted unilateral tariff reductions. Most recently, tariffs were eliminated on a broad range of machinery & equipment in 2009 in recognition of the productivity and competitiveness benefits to domestic manufacturers and to the overall economy. The most recent federal Budget, presented on March 4, 2010, implemented a second phase of tariff relief by unilaterally eliminating all remaining tariffs on manufacturing inputs and machinery & equipment. Three-quarters of the affected tariffs were eliminated immediately with the balance being gradually phased out by no later than January 1, 2015. This historic step will position Canada as the first among its G20 partners to allow manufacturers to operate without the cost of tariffs on inputs and machinery and equipment.

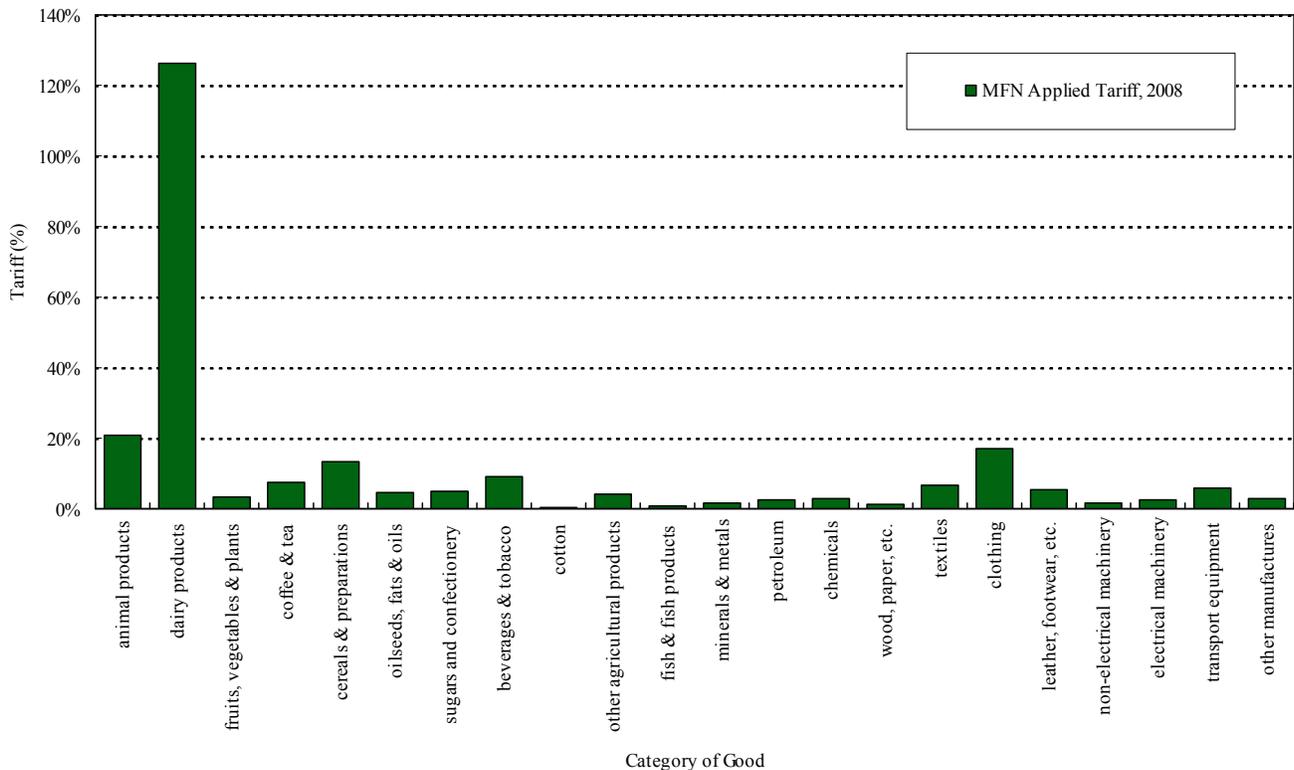
The World Trade Organization calculated that Canada's average applied Most-Favoured Nation (MFN) tariff in 2008 was 4.7%, including ad valorem equivalents where applicable. Of the 8464 tariff lines in effect at the end of March 2010, 68% had an MFN applied tariff rate of Free. Canada has eliminated all quantitative restrictions on imports, having converted any former import quotas to tariff-rate quotas. These tariff-rate quotas exist for a small number of agriculture products including: supply managed products (poultry, eggs and dairy); beef; and wheat, barley and their products. A sectoral profile of Canada's MFN tariffs is included in the graph below (see Figure 2.1).

Canada also features a broad tariff preference program for developing countries, including India, called the General Preferential Tariff (GPT). Of those 32% of tariff lines

that had a non-Free MFN tariff rate at the end of March 2010, 48% featured a lower GPT rate, often of Free.

Because of tariff preferences such as the GPT and various FTAs, the trade-weighted average applied tariff for global imports in 2008 was only 1.0%. (The trade-weighted average applied tariff is calculated by dividing duties collected by imports.) The trade-weighted average applied tariff on Canada's imports from India was 4.6% in 2008, evidencing potential gains that could accrue to India through a free trade agreement with Canada.

Figure 2.1 Canada's Average Tariffs



Source: World Trade Organization, *World Tariff Profiles 2009*. The WTO has calculated ad valorem equivalent tariffs where applicable.

India's Tariff Profile

India gives primacy to engagements in multilateral negotiations at the WTO, and attaches significance to her participation in regional trading agreements within the framework of multilateral regulations. It has accepted the Fourth and Fifth Protocols and is a Member of the Information Technology Agreement. As a long term objective of achieving a high growth rate, India embarked on unilateral tariff liberalisation as a part of comprehensive economic reforms and is increasingly involved in bilateral and regional trade agreements.

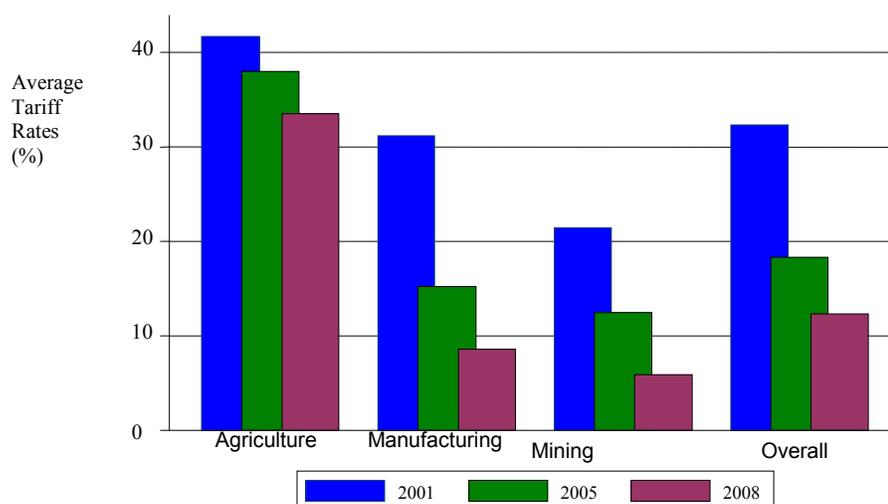
India undertook comprehensive economic reforms in the aftermath of the balance-of-payments crisis in 1991. India's customs tariff regime underwent drastic changes in recent years, showing some forward movement in tariff reforms with the objective of making India's tariff structure comparable to international standards, particularly to those of its immediate competitors in the South and South East Asia. Customs tariff reforms in recent years involve lowering of the peak customs duty rate progressively, reducing end-use exemptions to check revenue loss due to duty foregone and streamlining export promotion schemes.

Tariff policy has occupied the centre stage of trade policy for quite some time in India. Customs tariff has been an important source of revenue in the total collection of revenue of the Union Government. India has been effectively lowering its average customs duty since the beginning of the present decade, and a substantial number of national lines are clustered around the tariff band of 10% in 2008-09, resulting in surging economic activities and higher revenue realisation. On account of falling customs duty rates and exemption on various counts, customs duty as a percentage of value of imports declined significantly to 7.4% in 2008-09 from 21.88% in 1999-2000. Along with declining tariff rates, customs duty exemptions over and above the basic duty, have given rise to keeping the collection rate below the average customs duty rate.

Average tariff rates in all the broad trade sectors have been declining significantly in the present decade. Noticeable reduction in the average tariff rates is observed in the manufacturing and the mining sectors, though decline in the average tariffs is registered in the agricultural sector as shown in Figure 2.2.

Because of livelihood concerns of a large section of population dependent on agriculture, tariff rates in agriculture are more variable (See Table 2.1). They range from 0-150% but were clustered around 30% in 2008-09. Average customs duties have declined significantly in the present decade in almost all manufacturing sectors, and some sectors are subject to double digit average tariffs, such as vehicles, aircraft, vessels, etc.; arms and ammunitions; and miscellaneous manufactures. For social/ religious reasons, special rates are applicable to alcohol products.

Figure 2.2 Declining Trend of India's Sectoral Tariff



Source: Estimation based on Trains WITS, on line

Table 2.1: Sector-wise Simple average tariff of India during the period 2001-08
(in percentage)

India	Description	2001	2005	2008
1	Live Animals and Animal Products	36.6	31.1	30.4
2	Vegetable Products	37.2	35.7	32.9
3	Animal or Vegetable Fats & Oils	67.0	65.4	27.0
4	Prepared Foodstuff, Beverages, etc.	47.5	42.5	39.4
5	Mineral Products	21.4	12.5	5.9
6	Products of Chemicals	33.4	15.6	8.2
7	Plastics & Articles thereof	34.7	15.3	9.4
8	Raw Hides & Skins, Leather, etc.	21.9	12.8	7.4
9	Wood & Articles of Wood	29.0	13.6	9.3
10	Pulp of wood or of other Fibres	28.8	13.3	8.8
11	Textile & Textile Articles	30.9	15.4	9.4
12	Footwear, Headgear and Umbrella	35.0	15.0	9.8
13	Articles of Stone, Plaster, Cement	34.4	15.0	9.7
14	Natural or cultured pearls, Jewellery	35.0	15.0	8.9
15	Base Metals & Articles of Base Metal	33.4	16.5	7.3
16	Machinery & Mechanical Appliances	26.3	13.6	7.0
17	Vehicles, Aircraft and Vessels	39.7	23.9	19.5
18	Optical, Photograph & Cinematography	28.1	13.7	8.3
19	Arms and Ammunition	35.0	15.0	10.0
20	Miscellaneous Manufactured Articles	33.4	15.0	10.0
21	Works of Art Collectors' Pieces	30.0	12.9	8.6

Source: Estimation based on *Trains Wits* Online, ITC/World Bank.

Taking development priorities into account, export duty is levied on selected commodities including ores and concentrates of iron and chromium and certain varieties of leather, as presented in the budget for 2009-2010.

Although India has been a firm supporter of multilateral liberalisation, it has acknowledged the relevance of regional trade agreements in recent years. India believes that regional trade agreements (RTAs) are building blocks that supplement the gains from multilateral trade liberalisation.

Since signing the Bangkok Agreement in 1975, India has signed agreements mainly with other developing countries (such as the Global System of Trade Preferences – GSTP), with certain regions in Asia (SAFTA and ASEAN), and with some of her neighbours (Sri Lanka, Nepal and Bhutan). India is also seeking to develop ties with other regional groupings, such as SACU, MERCOSUR, among others. India is a participant in the GSTP among developing countries, and offers tariff preferences on a sizable number of products on a reciprocal basis. India has offered duty-free and quota-free market access to least developed countries.

Trade agreements with Sri Lanka and Singapore go beyond negotiations on goods to include services and investment.

The recently signed India-ASEAN Trade in Goods Agreement has come into effect on January 1, 2010. India has signed India-South Korea Comprehensive Economic Partnership Agreement in 2009, covering substantial amount of trade in goods and services. Several such negotiations are underway with the European Union, EFTA, Japan, among others.

2.2 RULES OF ORIGIN

In the context of a CEPA, the rules of origin negotiated by the Parties are used to determine when goods have undergone sufficient production within the free trade area or territory established by that agreement to qualify for preferential access under that CEPA.

Globalisation has made it increasingly difficult to determine the basis of a good's origin since raw materials and parts used to make finished goods are drawn from multiple sources. Rules of origin must reflect to the greatest extent possible the production realities of industry.

Canada's Approach

Canada seeks to include rules of origin that are clear, as simple as possible, and leave little room for administrative discretion. Canada's rules of origin are based on the Harmonised Commodity Description and Coding System.

Canada's FTAs generally include two rules of origin elements: (i) a chapter on general rules of origin, and (ii) an annex of product-specific rules of origin. The general rules of origin set out the criteria to determine the originating status of a good as well as other general conditions and requirements.

Canada's FTAs contain product-specific rules of origin for all goods, comprised of foreign components, that establish at which point such materials or components have undergone sufficient production within the free trade area for the good produced there to be considered originating. The annex of product-specific rules of origin reads like a telephone book, such that once a producer or exporter of a specific good locates the tariff provision under which that good is classified, the rule or rules of origin applicable to that good is immediately adjacent.

Canada's product-specific rules of origin are predominately based on the tariff shift approach. When there is a concern that a rule of origin requiring a tariff shift alone might be difficult to meet, an alternative rule of origin may be provided. That alternative rule of origin may require, in addition to a lesser tariff shift or no change of tariff classification, that a value test be met. In the case of such rules of origin, Canada uses the focused value approach, whereby the first rule of origin explicitly states that certain non-originating inputs cannot be used in the production of the good for the purposes of origin. The second or alternative rule of origin explicitly states that these same non-originating inputs can be used in the production of the good, provided that only the value of those non-originating inputs, and not that of the non-originating inputs that have already met the tariff shift requirements of the first rule of origin, be taken into consideration in determining whether the value test is met.

To permit possible future linking of FTAs between common partners, Canada has negotiated cross-cumulation provisions in several recently concluded FTAs, and is seeking similar provisions in its ongoing FTA negotiations. Canada supports full, reciprocal cross-cumulation as a way of integrating otherwise independent FTAs for the purpose of determining the origin of goods.

India's Approach

India considers Rules of Origin (ROO) as a critical component of an FTA. Goods qualify for receiving preferences subject to satisfying the underlying rules of origin. Appropriate rules of origin can facilitate movement of trade by providing traders with certainty regarding the tariff treatment of their goods at the border and predictability of receiving same facilities over a period of time.

The relevance of the ROO is important in checking any possibility of third-country goods entering into a country's markets through the partner country on a preferential basis under the FTA. This phenomenon is known as 'trade deflection,' which has the potential to undermine a country's MFN-customs' regime. The role of ROO is not to restrict bilateral flow of trade but to safeguard against deflected imports from third countries.

The ROO are responsible for determining origin of a product and also check substantial transformation in inputs. Thus, rules of origin together, facilitate value-addition in the country of manufacturing. Such requirements, checking the import content of value addition, have the potential for generating backward and forward linkages in a country adhering to the rules. Thus, a member country is prevented from becoming a mere trading country as these requirements act as a deterrent to assembly kind of production activities. The ROO can have important implications for the development of the manufacturing sector as a whole which, in turn, contributes towards enhancing the export supply capabilities of the member country.

There are three different ROO methods to determine whether a product qualifies as 'originating' and is therefore eligible for tariff preference. First, there is a change in tariff classification test, implying that the tariff classification of the final product is different from the tariff classification of its inputs. Second, a percentage test is applied, according to which a minimum percentage of total value addition should be achieved with the help of domestic inputs. Finally, specified process tests require a product to undergo certain stipulated processes.

India's approach, in its recently concluded RTAs, is to have a general rule of origin which is applied across a majority of the tariff lines. This general rule employs a twin criteria of change in tariff classification coupled with a percentage test. Product specific rules, as derogations from the general rule, are employed for a limited number of products where the general rule may not be adequate to address issue of origin. At the present moment, India does not contemplate cross-cumulation across its different RTAs.

However, consensus on applications of these rules is often difficult to achieve. For example, the extent of ‘substantial transformation’ for different products depends on the level of disaggregation, at HS heading and sub-heading level, on which tariff-shift is technically possible. In addition, percentages of minimum value addition also vary from product to product, depending on the prevailing exchange rates, labour costs and the product-specific import dependence of the country in terms of raw materials and intermediates.

Most ROO modalities incorporate some kind of mixture of these approaches together with regional cumulation, treatment of packaging and non-qualifying operations. However, the exact mechanisms differ in NAFTA, the EU, ASEAN, MERCOSUR and its partners, and FTAs of Japan-Singapore, Australia-Thailand, and Singapore-USA, among others.

India has recently signed and negotiating with number of CEPAs, and will seek ROO with Canada that are consistent with her currently pursued practices.

Recommendations on Rules of Origin

The following recommendations may be considered for the India-Canada JSG for Rules of Origin:

- are clear and simple in design with low compliance costs;
- are economically efficient;
- recognise the increasingly globally integrated nature of manufacturing process;
- acknowledge the principles of competitive and comparative advantage; and
- facilitate trade between the two countries.

2.3 CUSTOMS (ORIGIN) PROCEDURES

Customs (Origin) Procedures in CEPAs establish the method to administer the rules of origin in a transparent, predictable, and user-friendly manner. The establishment of effective and uniform procedures to be applied by the customs administration in each Party is essential to administer and enforce the rules of origin.

Canada’s Approach

Canada seeks to develop procedures by establishing obligations for importers, exporters, and the Parties pertaining to such areas as certification of origin, record keeping, origin verifications, advance rulings, appeals, penalties and co-operation. In all its FTA negotiations, Canada seeks to establish a Customs (Origin) Procedures Chapter that reflects Canadian interests and best practices. The procedures strive to facilitate the

movement of goods, enhance security, be adaptive to the pace of trade, support a paperless environment, and ensure the integrity of the Agreement. To the extent possible, Canada promotes procedures that are consistent with our current free trade agreement practices in order to minimize the administrative burden of new free trade agreements. Canada's and India's approach to the administration of the rules of origin differ. The difference is created by the certification of origin process, a process that directly impacts the remainder of the procedures to administer the rules of origin. Canada's procedures are based on an exporter self-certification process, whereas, India's agreements support a government certification process.

India's Approach

Customs rules and procedures should be simple, transparent and user-friendly. Lack of adequate Customs procedures can become a major hindrance to preferential trade flows. Therefore, Customs procedures need to be strengthened to enhance trade flows and reduce business costs. India may be interested for a Customs procedure which will serve the interest of both the partner countries. Therefore, it is necessary to have close cooperation in the matter of verification of the certificates of origin, which is required to check trade deflection and circumvention of rules of origin.

Recommendation on Customs (Origin) Procedures

A Canada-India CEPA should include provisions that allow for the effective and transparent administration of the rules of origin. Such procedures should help ensure compliance with the rules of origin without creating unnecessary obstacles to trade. The broad objectives could include:

- simplify and harmonise customs procedures;
- ensure predictability, consistency and transparency in the application of customs laws, regulations and administrative policies and procedures;
- facilitate bilateral trade and ensure the security of such trade;
- provide a means for customs-customs consultation to enable early resolution of any issues affecting the movement of trade across borders; and
- rules of origin should be readily enforceable at the border without involving additional administrative costs.

Based on previous agreements, Canada and India have different views in respect of certification and verification of origin. In the framework of a bilateral agreement, we may have an opportunity to find innovative solutions for customs procedures.

2.4 TRADE FACILITATION

Trade facilitation is an extension of broader trade liberalisation and market access efforts and can be defined as the simplification and standardisation of procedures and associated information flows required to move goods internationally. Governments, with the support of their trade and business communities, recognise that the transaction costs associated with international trade can be reduced through the harmonisation, modernisation, simplification and standardisation of trade procedures. In this regard, customs processes and procedures may be, to the extent practicable, standardised, harmonised and benchmarked.

Trade facilitation provisions are primarily customs and trade related border procedures that aim, in addition to reducing transaction costs, to maintain appropriate security measures, and facilitate the movement of goods.

In 1996, WTO Members acknowledged the importance of trade facilitation and directed the WTO Council for Trade in Goods to actively pursue opportunities for the simplification of trade procedures. In 2004, the WTO launched formal negotiations on trade facilitation “with a view to further expediting the movement, release and clearance of goods, including goods in transit.” Canada and India are active participants in the WTO Negotiating Group on Trade Facilitation.

Canada’s Approach

An FTA Chapter on trade facilitation should complement and build upon trade facilitation provisions under negotiation at the WTO and avoid duplicating the work undertaken there.

Canada would also be seeking to include key provisions such as: transparent rules and procedures, risk management practices, alignment of procedures and adherence to international conventions, use of automated systems, avoidance of duplication, harmonisation of data requirements and document formats.

Finally, Canada is of the view that any customs cooperation provisions in the trade facilitation chapter need to be in accordance with its domestic confidentiality requirements, law and regulations.

India's Approach

India has recognised the relevance of trade facilitation policies in promoting bilateral trade and therefore, her approach towards this issue has been consistent in the WTO and also in regional trading agreements.

Adoption of various trade facilitation measures could be very effective in intensifying trade linkages between the two countries. Measure such as customs cooperation; harmonisation of standards and conformity assessment; and enhancing business to business dialogue may be discussed in this study. It is also necessary to put in place various measures as mutually acceptable, designed in such a way as to facilitate trade creation between the two countries. The scope of this cooperation could extend to various Customs related procedures and valuation methods.

The scope of this cooperation could extend to various Customs related procedures and valuation methods.

India has acceded to the World Customs Organisation's (WCO) revised Kyoto Convention, which aims at simplifying and harmonising customs procedures. It provides the core principles for modern, efficient and effective customs procedures. In accordance with international standards, a uniform system of customs valuation, duties and documentation may be evolved across all notified/authorised ports of entry in India and Canada. An important aspect of customs cooperation in the context of trade facilitation is to facilitate clearance of consignments through increasing use of electronic means. Both parties may explore the feasibility of custom cooperation agreement. India has recently signed and is negotiating a number of CEPAs, and will consider the negotiation of Trade Facilitation with Canada consistent with her currently pursued practices.

Recommendation on Trade Facilitation

The Trade Facilitation provisions of a Canada-India CEPA should:

- Facilitate trade between the two countries;
- Build upon the WTO work with a view of avoiding duplication;
- Support the objective of reducing cost for the trading community;
- Support innovation and promote the use of new technologies where appropriate;
- Are in accordance with the Parties respective confidentiality and protection of information requirements; and
- Ensure that appropriate security measures are maintained.

In the context of a CEPA, India and Canada should initiate negotiations related to Trade Facilitation as early as possible so as to improve customs efficiency through bilateral cooperation. Such cooperation could include:

- Appropriate controls to combat offences against law administered by customs and facilitate legitimate trade;
- ensuring efficient, economical customs border administration and the expeditious clearance of goods;
- ensuring harmonised systems of customs valuation, in line with the *Agreement on Implementation of Article VII of the GATT, 1994*), duties and documentation may be evolved across all notified or authorised ports of entry in both the countries; and
- procedures of handling of goods at ports and customs clearance that may be simplified and made more efficient.

2.5 TECHNICAL BARRIERS TO TRADE

As tariff barriers are eliminated, non-tariff barriers, such as technical barriers, become significant obstacles to international trade. A record number of 74 new issues were raised in 2009 (compared to 33 in 2008) in the WTO Technical Barriers to Trade (TBT) Committee, related to globally-traded products such as chemicals, toys, cosmetics, wine and automobiles.

Governments use technical regulations, standards and conformity assessment procedures to achieve a range of policy goals, such as ensuring the health and safety of their citizens, protection of the environment, and consumer protection. While these measures may vary from country to country for a number of reasons, such as climactic conditions, or cultural, socio-economic or geographical factors, if set arbitrarily or made more trade-restrictive than necessary, they can also unnecessarily restrict trade, or introduce market distortions.

Differences in regulations, standards and conformity assessment procedures from market to market may have several effects on exporting countries, such as unnecessary compliance costs for companies operating in multiple markets, onerous documentation requirements and duplicative testing or certification requirements, amongst others. In recent years, the number of technical regulations and standards adopted by countries has grown significantly.

Canada and India are both Members of the WTO and signatories to the WTO TBT Agreement. The WTO TBT Agreement aims to ensure that technical regulations, standards and conformity assessment procedures do not constitute unnecessary obstacles to trade, while recognising countries' rights to adopt product standards and regulations to pursue legitimate objectives, such as the protection of human health, safety or the environment. The WTO TBT Agreement also requires Members to use international standards as the basis for their technical regulations and conformity assessment procedures.

Canada's Approach

Canada's recent FTAs have included a TBT Chapter with provisions that reaffirm, build on and enhance the provisions of the WTO TBT Agreement, including in the areas of transparency, international standards, technical regulations and conformity assessment.

The TBT Chapter also enhances joint cooperation between the Parties in order to resolve specific issues related to the development and application of standards, technical regulations and conformity assessment procedures, thereby facilitating the conduct of trade in goods between the parties. Canada typically creates a mechanism of some kind (e.g., a committee) to facilitate joint cooperation as well as to address specific TBT issues that arise.

Canada's experience with Mutual Recognition Agreements (MRA) has been mixed. As a result, Canada typically assesses the needs and benefits of MRAs on a case-by-case basis.

India's Approach

India is a signatory to the WTO Agreement on TBT and has accorded priority to mutual recognition of standards and conformity assessment procedures in most of its recent FTAs to facilitate bilateral/regional trade through cooperative arrangements. In this context, it is imperative to have clear and transparent rules with respect to harmonisation of standards, equivalence principle, and criteria for risk assessment. In terms of implementation, it is also necessary that issues relating to, *inter alia*, approval procedures, inspection requirements, testing, and certification are also addressed. TBT measures should be practical and consistent with the TBT Agreements in the WTO.

It is often expensive for suppliers to comply with foreign requirements in situations where domestic regulatory measures differ. These technical regulations can create significant transaction and compliance costs for exporters and give rise to higher costs for consumers. The objective is to reduce transaction costs in a timely and effective way. Such regulations could become TBT if they do not comply with good regulatory practice principles.

Member countries are required under the TBT Agreement to use international standards as the basis for their technical regulations. However, countries need sufficient time, capacities and resources to adopt international standards, especially when international standards are not constant but evolving.

In India's view enhanced consultations leading to cooperation between regulatory agencies would need to be evolved. This cooperation could also be extended to include activities for development of capacity of institutions in both countries in identified priority sectors.

While recognising that legitimate measures to protect public health, safety and the environment can be acceptable, reduction of compliance cost for exporters needs to be addressed within the bilateral initiatives.

India's Approach to Mutual Recognition Agreements

The World Trade Organization (WTO) Agreement on Technical Barriers to Trade provides for countries to develop and apply three important trade facilitation devices: harmonisation, equivalence, and mutual recognition of conformity assessment procedures. A mutual recognition agreement is an international agreement by which two or more countries agree to recognise one another's procedures for assessing the conformity of goods with technical regulations and standards. MRAs are one of the means to facilitate trade through agreement to eliminate duplicative conformity assessment and approvals. MRAs can also lead to harmonisation of each other's regulations and measures.

India seeks to place emphasis on bilateral initiatives for implementation arrangements through coordination among regulatory authorities in both the countries. India feels that mechanisms need to be evolved for facilitating increased dialogue between the regulatory bodies of the two countries for possible Mutual Recognition Agreements (MRAs).

In India's view, in order to facilitate trade in goods both sides could explore opportunities for mutual recognition of technical regulations, standards and conformity assessment procedures. India notes that existing voluntary arrangements between conformity

assessment and accreditation bodies could provide a basis for exploring opportunities for recognition of conformity assessment at a regulatory level in the two countries.

In its approach, India usually considers mechanisms which facilitate the Parties’:

- (i) agreement on the recognition of conformity assessment procedures on products of their export interest;
- (ii) acceptance of approval procedures, inspection requirements, testing and certification; and
- (iii) acceptance of conformity assessment including inter alia recognition of each others’ testing laboratories or certification bodies.

Other issues that India typically seeks to discuss are cooperation for the development of capacity of institutions and comprehensive confidence-building process to demonstrate equivalence of regulatory standards, inspection competence and effective enforcement in both countries in identified priority areas.

Recommendation on Technical Barriers to Trade

A Canada-India CEPA should include a TBT Chapter, which should:

- build on the foundations of the WTO TBT Agreement and seek to improve its implementation;
- ensure that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade, primarily by establishing enhanced transparency disciplines;
- seek to reduce transaction costs for exporters by exploring methods to facilitate the recognition of conformity assessment;
- enhance joint cooperation between the Parties; and
- create a bilateral mechanism to address specific TBT issues.

In addition, in order to facilitate trade in goods, both sides could explore opportunities for mutual recognition in the area of technical regulations, standards and conformity assessment procedures.

2.6 SANITARY AND PHYTOSANITARY ISSUES

Sanitary and phytosanitary measures are applied by governments to protect human, animal and plant life and health, to ensure that food is safe for consumers and to prevent the spread of diseases or pests among animals or plants. As signatories to the WTO, Canadian and Indian SPS measures are subject to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the WTO SPS Agreement). Canada

and India are of the view that the WTO SPS Agreement establishes an appropriate balance of rights and obligations based on science.

Canada's Approach

A Canada-India CEPA should affirm that SPS measures shall be governed by the WTO SPS Agreement. That being said, there is a lack of knowledge about and experience with each others regulatory systems. This can result in unresolved bilateral SPS issues, which, can effectively undermine market access concessions negotiated in a CEPA.

Canada's experience with many markets is that an effective bilateral mechanism to provide a forum for ongoing cooperation and information exchange and facilitate discussions on bilateral SPS issues has been useful as an effective means to avoid disputes. Canada would want to build on existing bilateral mechanisms with India. In this regard, Canada and India have a bilateral mechanism in place to deal with plant health issues at the technical level. On July 17, 2006, the Canadian Food Inspection Agency (CFIA) and the Department of Agriculture and Cooperation, Ministry of Agriculture of India signed a Memorandum of Understanding on Plant Health Cooperation. On October 8, 2008, the CFIA wrote to Indian authorities to establish a Working Group on Pulses under the 2006 Memorandum of Understanding on Plant Health Cooperation. On January 9-14, 2009, a meeting of the Working Group on Pulses took place in New Delhi.

The existing bilateral mechanism, however, does not offer full coverage of issues, and, notably, there is currently no mechanism to deal with animal health or food safety issues at the technical level. Moreover, Canada and India do not have a bilateral SPS mechanism which provides for broader policy level discussion of all SPS issues, which Canada has also found helpful in some of its other bilateral relationships.

India's Approach

In India, import control measures have been put in place by the Bureau of Indian Standards (BIS), the Directorate General of Foreign Trade (DGFT), the Ministry of Health and Family Welfare (MoHFW) and the Ministry of Agriculture (MoA). Inspection and certification of exportable commodities is the responsibility of the Export Inspection Council (EIC).

The Government of India has enacted several laws to regulate import of food products, livestock and its products, plant materials and other agricultural commodities into the country. Import of plants and plant materials is regulated in accordance with the provisions of Plants, Fruits, Seeds (Regulation of Import into India) Order [PFS] Order, 1989, which was issued under the Destructive Insects & Pests Act, 1914, to prevent introduction of exotic pests and diseases into the country. Besides, the Plant Quarantine

Organisation of India is also responsible to arrange for the issue of phytosanitary certificate in compliance with the provisions of International Plant Protection Convention and to undertake that the post entry inspection, wherever necessary.

The Livestock Importation Act, 1898 regulates the imports of livestock and livestock products in a manner that such imports do not adversely affect the health of human and animal population of the country. As per the Prevention of Food Adulteration Act, 1954, any product not fulfilling the statutory provisions is not allowed to be imported into the country. Likewise, there are several rules, regulations, orders, notifications, etc. issued by the Government, laying down procedures as to how the imports of above products are to be dealt with. The Customs has a pivotal role to play because, it is the agency stationed at the border to enforce the rules, regulations and orders issued by various administrative Ministries.

The import control in India for the food sector is operated under the Prevention of Food Adulteration Act by the Ministry of Health and Family Welfare (MoHFW) for health and safety aspects and the Ministry of Agriculture (MoA) for quarantine aspects. All products which are under compulsory certification by the BIS for the domestic market should conform to BIS standards when imported as well. The Export Inspection Council (EIC) is the only agency in India responsible for export inspection and certification of a range of commodities in areas like food, chemicals, leather, engineering and footwear as commodities notified under the Export (Quality Control & Inspection) Act, 1963. To date, nearly 1000 commodities have been notified by the central government under the Act. The EIC also operates export inspection and certification on a voluntary basis by developing suitable inspection/certification schemes. EIC is offering one such service in the tea sector, although it is not a notified commodity. The export inspections and certifications are based on standards recognised under the notification. These standards may be international standards, standards of importing countries, national standards prescribed in the notification, or even contractual specifications. Accordingly, EIC has statutory authority to certify against the standards and technical regulations of certain importing countries. At present EIC's certificates are recognised in a number of countries including, European Union, the United States, Australia, Korea, Japan, China and Singapore, and which cover areas like fish and fish products, poultry meat and products, rice, miscellaneous food products, iron ore and pharmaceutical products.

India's view is that SPS measures put in place in a CEPA should be consistent with the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures. This Agreement encourages WTO Members to harmonise their SPS measures with the international standards, viz. Codex, IPPC and OIE.

In view of the above, greater cooperation between regulatory agencies would have to be ensured through the formalisation of the CEPA. This cooperation needs to be extended to

include activities which enable capacity building for the relevant institutions in both countries in identified priority sectors.

Recommendations on Sanitary and Phytosanitary Issues

A Canada-India CEPA should include provisions on SPS issues that:

- affirm that SPS trade-related measures shall be governed by the WTO SPS Agreement; and
- ensure an effective bilateral mechanism to provide a forum for ongoing cooperation and information exchange, as well as facilitate discussion on bilateral SPS issues in order to avoid disputes, taking into account existing mechanisms.

2.7 EMERGENCY ACTION

An emergency action or bilateral safeguard measure is a temporary measure put in place to provide a domestic industry with an adjustment period should liberalisation under an CEPA result in an injurious surge in imports. Similar measures, applicable on an MFN basis, are also provided for under the WTO Agreements.

Canada's Approach

Emergency action provisions in Canada's FTAs are aimed at permitting parties, in the event of an injurious surge in imports as a result of liberalisation under the FTA, to put in place transitional, tariff-based emergency actions that allow additional time for affected industries to adjust to a lower tariff environment. Emergency action provisions in Canada's FTAs apply only during the agreed transition period, are limited to one action per good, limit the length of an action to no longer than three years, and provide for immediate compensation in the form of equivalent offsetting tariff concessions. Canada's FTAs also contain detailed provisions to ensure that both Parties follow the same set of administrative requirements during an inquiry and during the period that an action is in effect.

India's Approach

India is of the view that safeguard measures should be taken only when serious injury or threat of serious injury to the domestic industry is caused by sharp increase in imports as a result of reduction of tariffs under the FTA. The bilateral safeguards measures may be in the form of stoppage of further reduction of tariff or increasing tariff to MFN level. The duration of measures can be two years plus two more years extension. There may not be an obligation to pay compensation for the first two years. The obligation to pay compensations may begin in the third year. There should also be provision for imposition

of provisional safeguard measures. The inter-se relationship between global safeguard measures and bilateral safeguard measures should also be clearly spelt out.

Recommendation on Emergency Action

If necessary, a Canada-India CEPA could include an emergency action chapter that provides for a transitional, tariff-based emergency action mechanism that covers all goods and establishes clear parameters for any resulting actions, the conditions under which they may be imposed, and limits the length of time for which the action may be maintained.

2.8 TRADE REMEDIES

While the main purpose of the CEPA is to facilitate trade, there may be times when measures might be warranted to counter injurious unfair trading practices resulting from dumping or subsidies or to provide temporary protection from injurious fairly traded import surges through safeguard action. The WTO Agreement provides a framework of rules governing the application of anti-dumping, subsidies and countervailing measures and safeguard actions.

Canada's Approach

Canada's general approach in a FTA is to include a scope provision recognising the WTO Agreement's exclusive governance of trade remedy rights and obligations, including the settlement of related disputes. The WTO Doha round of multilateral trade negotiations remains the appropriate forum in which to seek improvements to the rules governing the application of trade remedies.

India's Approach

India's approach on Trade remedies has been to preserve the rights and obligations in respect of the WTO Agreements on Anti Dumping, Subsidies and Safeguards. The disputes arising in the implementation of these Agreements should also be addressed under the WTO Dispute Settlement Mechanism. Some WTO plus provisions may be considered in areas such as transparency of these measures, sharing of information before

initiation of investigations, and improved procedures for effective consultations prior to CVD investigations.

Recommendation for Trade Remedies

It is recommended that trade remedies could be discussed with the objective of maintaining appropriate protection from unfair trading practices, including a potential discussion of global safeguard measures, while ensuring that the benefits of trade liberalisation are not undermined and allowing potential exports to be realised, in accordance with the rights and obligations established by the WTO Agreement.

CHAPTER 3: TRADE IN SERVICES

Canada and India have taken commitments covering trade in services in CEPAs with other countries that are more liberal than their respective WTO General Agreement on Trade in Services (GATS) commitments. Consequently, many service sectors stand to potentially benefit from enhanced trade under a potential Canada-India CEPA.

This section of the Joint Study aims to highlight the growing importance of trade in services, identify Canada and India's respective comparative advantages in each other's markets and identify approaches that would facilitate the bilateral flow of services trade.

3.1 LIBERALISATION OF TRADE IN SERVICES

Trade in services is an increasingly important part of the global economy. Advances in information and telecommunication technologies have expanded the scope of services that can be traded across borders. As noted in Table 3.1, world exports of services increased at a 14% compound annual growth rate before the global downturn, from US\$1,485 billion in 2001 to US\$3,803 billion in 2008. Developing economies like India in particular have witnessed even faster growth rates in services trade. Commercial services exports as a percentage of total exports for Canada and India are approximately 12% and 35% respectively in 2008.⁹

Both the Canadian and Indian economies have seen a gradual structural shift towards the services sector with services comprising a growing share of GDP and employment. Services represent an essential component of competitive, knowledge-based economies, accounting for 72% of GDP in Canada in 2009 and 57% in India in 2009-10.¹⁰

⁹ WTO Statistics Database (<http://stat.wto.org/Home/WSDBHome.aspx?Language=>). According to the WTO, 'commercial services' include 'Transportation,' 'Travel,' and 'Other commercial services.'

¹⁰ Economic Survey 2009-10, Government of India, Chapter 1, p. 5.

Table 3.1 Exports of Commercial Services

<i>US\$ billion</i>			
<i>(Share of Global Imports %)</i>			
Year	World	Canada	India
2001	1,484.9	37.9 (2.5%)	16.8 (1.1%)
2002	1,596.4	39.6 (2.5%)	19.1 (1.2%)
2003	1,832.5	43.1 (2.4%)	23.6 (1.3%)
2004	2,220.4	49.1 (2.2%)	37.9 (1.7%)
2005	2,483.2	54.4 (2.2%)	52.2 (2.1%)
2006	2,818.3	59.0 (2.1%)	69.5 (2.5%)
2007	3,381.2	63.6 (1.9%)	86.6 (2.6%)
2008	3,803.6	64.8 (1.7%)	102.6 (2.7%)
2009	3,311.6	57.0 (1.7%)	86.3 (2.6%)

Source: WTO Statistics Database
(<http://stat.wto.org/Home/WSDBHome.aspx?Language=>)

Canada and India are major traders of services. In 2009, Canada was ranked the 18th largest services exporter globally, while India was ranked the 12th largest services exporter. The global services trade value of Canada and India are enumerated in Table 3.2. Prior to the crisis, India's two-way services trade value has increased from US\$36.7 billion in 2001 to US\$191.0 billion in 2008, with a compound annual growth rate of 26.6%. Canada's two-way services trade also witnessed a substantial rise from US\$81.1 billion in 2001 to US\$151.4 billion in 2008, with a compound annual growth rate of 9.3%. While India exports more services than it imports, the opposite is true for Canada. Table 3.2 suggests that there is a huge services trade potential between Canada and India. As an additional benefit, trade in services has proven to be more resilient during the global downturn than trade in goods.

Table 3.2 Global Trade in Commercial Services

<i>\$US million</i>						
Year	Canada			India		
	Export	Import	Total	Export	Import	Total
2001	37,862	43,236	81,098	16,799	19,858	36,657
2002	39,567	44,455	84,022	19,125	20,841	39,966
2003	43,131	51,771	94,902	23,633	24,779	48,412
2004	49,058	58,023	107,081	37,931	35,455	73,386
2005	54,418	64,906	119,324	52,199	47,025	99,224
2006	59,015	71,919	130,934	69,456	58,345	127,801
2007	63,648	81,758	145,406	86,648	70,338	156,986
2008	64,795	86,644	151,439	102,562	88,394	190,956
2009	57,001	77,190	134,191	86,255	74,387	160,642
Compound Annual Growth Rate % (2001-09)	5.3	7.5	6.5	22.7	17.9	20.3

Source: *WTO Statistics Database*
(<http://stat.wto.org/Home/WSDBHome.aspx?Language=>)

According to Statistics Canada, bilateral trade in services between Canada and India has increased significantly over the past decade, with Canadian exports to India of US\$301 million and imports from India of US\$392 million in 2007. Travel services represented the largest proportion of Canada's exports to India, totalling US\$150 million in 2007,¹¹ followed by transportation and government services (US\$100 million) and commercial services¹² (US\$52 million). Canada's main commercial services exports to India include management services, architectural, engineering and other technical services, and miscellaneous business services. Transportation and government services represent the largest proportion of Canada's imports from India, at US\$178 million, followed by commercial services (US\$130 million) and travel services

¹¹ The Balance of Payments sub-divides 'Travel-Services' into 'Business Travel' and 'Personal Travel.'

¹² According to Statistics Canada 'commercial services' are 'total services' less 'transport,' 'travel,' and 'government services.'

(US\$84 million).¹³ Canada's main commercial services imports from India are computer related and information services, followed by miscellaneous services to business, management services and architectural, engineering and other technical services.

The services sector in India has been a major source of economic growth in recent years. Deregulation of services sectors has been one of the highlights of Indian economic reforms. Significant steps have been taken to liberalise the Financial and the Telecom Sectors in India since 1991. Telecommunications has, thus, been substantially opened up to competition. Newer sectors such as Information Technology (IT) and IT-enabled services (Business Process Outsourcing, Knowledge Process Outsourcing, and Business Transformation Services) are largely open and have been prominent among the faster growing services sectors, assisted by technological advances and a low-cost, educated workforce with good English language capabilities.

Canadian imports of IT services from India have been increasing since the beginning of the last decade. Indian IT companies with substantial operations in Canada include Tata Consultancy Services, Satyam, Wipro and Infosys. A possible Canada-India CEPA could assist in further increasing trade in this sector.

Canadian service suppliers also have a strong presence in India, particularly in consulting services, financial services and energy services (oil and gas). Key Canadian companies that are active in the Indian market include Howe India, Sun Life, Scotiabank, Bombardier and SNC Lavalin. Beyond these sectors, further liberalisation of India's services market could provide additional market access opportunities in other sectors.

Tourism trade is already quite significant and is growing strongly in both directions, generating benefits for the Canadian and Indian economies.

In view of the large physical distance separating India and Canada, it is perceived that the cross-border provision of services will be a particularly important mode of service delivery between the two countries, particularly for small- and medium-sized enterprises. Technological advances are allowing for the cross-border delivery of ever increasing range of services. This is a dynamic area of growth experiencing continuous development. It would be desirable to narrow the gap between current levels of commitments in the GATS context and commercially meaningful market access opportunities that have arisen. Both countries should consider taking commitments in a potential CEPA on cross-border trade in services across a broad range of commercially meaningful sectors de-linked from commercial presence or residency and citizenship requirements.

¹³ Canadian trade data from Statistics Canada

Given India's large pool of skilled workers with good English language abilities there is a large potential for trade in professional services and other business services through the movement of natural persons. In this regard, a clear process to facilitate the recognition of qualifications and experiences of professionals could increase the gains that can be achieved from market access commitments. The trade in services chapter should include a framework to encourage the successful conclusion of mutual recognition agreements (MRAs).

Consideration should be given to elements of domestic regulations, such as those that deal with qualification and licensing requirements and procedures, which may impede effective market access to service suppliers. Disciplines on domestic regulation, such as provisions on the transparency of regulatory regimes, serve to compliment market access and national treatment commitments undertaken in the context of a CEPA.

Canada and India have both taken commitments on trade in services under the GATS. Canada's current bound commitments cover 104 out of 155 total services subsectors, while India has committed 37 subsectors. Canada and India are active participants in the ongoing Doha Development Agenda negotiations on services, with both countries having submitted initial and revised services market access offers.

Canada's Approach

Canada's FTAs typically include an ambitious chapter on cross-border trade in services, providing for comprehensive coverage of services sectors and modes of service supply. For those bilateral agreements that include trade in services, Canada's services market access commitments are more liberal than its GATS commitments.

Key features of Canada's Cross-Border Trade in Services Chapter in bilateral FTAs include obligations with respect to market access, which targets discriminatory and non-discriminatory quantitative limitations; national treatment, which requires that foreign service providers be treated equally to domestic service providers; and most-favoured nation treatment, which requires that the Parties to the agreement afford each other the best treatment they afford any other country. Canada utilizes a negative list approach to identify measures that do not conform to these obligations. Under a negative list approach, all measures affecting trade in services are understood to be in conformity with the obligations contained in the Cross-Border Trade in Services Chapter, except those that are explicitly listed. This approach provides enhanced transparency and clarity.

Canada's approach in FTAs has always been to list the necessary reservations in order to preserve full policy flexibility with regard to health, public education and social services.

Canada's Cross-Border Trade in Services Chapter is also structured such that any autonomous liberalisation undertaken by either Party is automatically bound under the agreement and subject to its obligations. This feature, known as the ratchet mechanism, is significant because, once liberalised, measures are bound at the new level and not permitted to become more restrictive.

The Canadian labour market is made up of both regulated and unregulated occupations. In Canada, constitutional responsibility for recognition of licensing of professionals is typically the responsibility of provincial and territorial governments and self-regulated professional associations. Provincial and territorial governments are responsible for establishing the legislative framework for the regulation of some professions and trades through various occupational statutes and acts. In the established professions and most trades, the authorities who actually grant the right to practice are usually self-regulating professional associations that derive their authority pursuant to legislative, regulatory or administrative delegation by their respective province or territory. Examples of regulated occupations in Canada include lawyers, engineers, architects, veterinarians, and physicians.

Once an individual has been certified and/or licensed, they are legally permitted to practice in the province or territory that has issued the license or certification. Requirements for entry, which may vary from one province to another, usually consist of components such as academic credentials, examinations, a specified period of supervised work experience, language competency.

Under the new Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications, foreign-trained workers who submit an application to be licensed or registered to work in certain fields will be advised within one year whether their qualifications will be recognised. The objective of the Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications is to articulate a new joint national vision, guiding principles and desired outcomes for improving the assessment and recognition of newcomers' qualifications.

In the context of its FTA negotiations, the role of the Government of Canada is to encourage and support the negotiation of Mutual Recognition Agreements (MRAs) by competent authorities or their mandated representatives. Canada includes non-binding guidelines in its FTAs to assist authorities in their MRA negotiations. The objective of this approach is to make it easier for relevant parties to negotiate comprehensive and effective MRAs and for third parties to negotiate their accession or negotiate comparable agreements. Canadian professional bodies have been successful in negotiating MRAs in internationalised professions such as engineering, architecture and accountancy.

The Canadian services sector features many internationally competitive companies across a broad range of industries. While Canadian companies have competed in many sectors of the Indian market, they have been particularly active in India in the following areas and would stand to benefit from further liberalisation in the context of a CEPA between the parties:

- Energy and mining services - Canadian firms in the oil and gas and mining sectors have extensive experience operating internationally and possess unique knowledge and skills in a variety of areas. Canadian firms also offer expertise in the areas of electricity generation, transmission, and distribution; energy efficiency; and associated services. Small- and medium-sized Canadian firms have been particularly active in India in the renewable energy sector.
- Financial services - Canada's financial sector has been widely acknowledged as being one of the strongest in the world and the best-practices of Canadian financial institutions make them desirable foreign entrants and excellent partners for Indian institutions. Canadian financial institutions are looking to deepen their commitments with their Indian partners, but foreign investment limits impede Canadian financial institutions from expanding through strategic partnerships and deter others from entering the Indian market. Liberalisation of the financial services sector in the context of a CEPA with India would thus be of significant benefit to Canadian stakeholders and would benefit Indian consumers through greater competition and availability of financial services.
- Transportation, infrastructure and construction services - The Government of India has ambitious plans for improving transport infrastructure. This has taken the form of both public sector and private sector construction and engineering projects. Canadian companies possess the technical and execution capabilities in areas such as project planning, engineering and implementation, construction, feasibility assessments and environmental impact studies that can assist India in addressing the challenges facing the development of its infrastructure.

India's Approach

Trade in services has been central to India's bilateral engagements which have been implemented or are under negotiation.

India's services trade chapter in FTAs has always provided a comprehensive sectoral and modal coverage of services trade. Unlike Canada, India follows a positive list approach in all her FTAs, in accordance with the GATS and hopes to achieve a commercially meaningful broad based agreement with Canada which is both GATS consistent as well as GATS plus. India's commitments to services trade negotiations have offered openness,

credibility, and strengthened the globalisation process. India, however, has adopted a calibrated approach towards liberalisation. Autonomous liberalisation in India is not automatically bound. Any decision to bind the level of autonomous liberalisation is taken only after consultation with all concerned stakeholders.

Major features of India's services trade chapter in bilateral and regional trade arrangements include trade complementarities and opportunities; trade facilitation to expand the bilateral trade flow; Market Access and National Treatment obligations; and GATS plus outcomes in provisions relating to Domestic Regulations and Recognition.

India's revised offer (RO) tabled at the WTO in September 2005 is a vast improvement over the initial offer, as it includes a number services sectors/sub-sectors which had neither been offered nor committed earlier. India has now offered eleven sectors and one hundred three sub-sectors, thus adding four sectors (Distribution Services, Education Services, Environmental Services and Recreational, Cultural and Sporting Services) and 56 sub-sectors to her initial offer. However, India's revised offer to the WTO is conditional on other WTO Members making substantive and satisfactory offers in sectors and modes of supply where India has indicated its interests. It is also conditional on the outcome of the negotiations underway on the development of disciplines on domestic regulations. In the case of bilateral FTAs, it follows reciprocal obligations undertaken by either Party. India's offer has been found as trade-creating through gradual liberalisation.

India identifies the following sectors where improved bilateral market access on a "GATS-plus" basis could assist in improving the efficiency of the domestic sector in both countries:

- IT/IT enabled services (ITES) sector - The growth in the Indian IT/ITES sector has been nothing less than a revolution. The Indian IT industry, which has now grown to a size of nearly US\$60 billion, has been completely liberalised. During the last decade, India has emerged as a major IT software and service provider to the rest of the world. A significant part of the industry continues to be export driven. India's exports of software and ITES increased to US\$46.3 billion in 2008-09 from just US\$1.8 billion in 1997-98, a compound annual growth rate of 35%, and are estimated to be around US\$49.7 billion in 2009-10. The Indian BPO industry itself is worth almost US\$15 billion. India is the number one outsourcing destination in the world with almost a 50% share in the global off-shoring business. India now aims to be a global ICT research and development hub. India has continued to be ranked first in the export of computer and information services in the international economy since 2005. While the United States (60%) and the United Kingdom (22%) remained India's largest markets for IT-BPO exports in 2008-09, the industry has also been steadily expanding to other regions - with exports to continental Europe, in particular, growing significantly in recent years. Though India's export of IT/ITES to Canada

has been increasing since the beginning of the last decade, it is hoped that a possible Canada-India CEPA will provide a further boost. In this regard, India attaches utmost importance to the easier movement of Indian software professionals to Canada.

- Audiovisual sector - Another fast growing service sector in India is the audiovisual sector. India is one of the largest film producing countries in the world, producing on an average 800 features film and 900 short films annually in 52 different languages. Given the huge Indian diaspora in Canada, export prospects of Indian films and television soaps, news and sports channels to Canada is very high.
- Healthcare - The healthcare sector is a US\$35 billion industry in India and is expected to reach over US\$75 billion by 2012 and US\$150 billion by 2017. India has developed a brand name in the supply of quality healthcare services at relatively lower rates compared to the United States and the United Kingdom and rest of Europe. Given India's large pool of highly qualified doctors, nurses, paramedics and technicians, growing innovations, expansions, low cost of treatment, world-class technology and five-star services medical tourism is growing at a phenomenal rate of 30-35% per year in India. Health services offered include indigenous systems of holistic care such as Ayurveda, Yoga, Unani, Siddha, naturopathy and homoeopathy in addition to western medicine. India, with a large pool of well trained, highly qualified, English proficient health care professionals that are available at highly competitive rates, has a comparative advantage in the export of health services through the movement of professionals. Also, with rapid progress in information and communications technology, India is exporting a large part of health care services through cross-border trade.
- Professional Services - India's exports of professional services over the last decade have grown significantly. According to India's balance of payment data, export of other business services (including, *inter alia*, accounting and auditing services, business management and consulting services, legal services, architectural, engineering and other technical services and advertising) have increased from just US\$0.5 billion in 2001-02 to around US\$17 billion in 2007-08, a compound annual growth rate of almost 80%. A possible Canada-India CEPA holds potential for increased trade with Canada in these services.

In the context of a possible Canada-India CEPA, India considers the issue of access for services and service suppliers to the pan-Canadian market in sectors and modes of export interest as extremely critical.

Recommendation on Bilateral Trade in Services

The Canada-India CEPA should include a Trade in Services Chapter that provides for:

- liberalisation of trade in services with substantial sectoral coverage, measured in terms of numbers of sectors, volume of trade and modes of supply; including sectors and modes with trade potential and complementarities;
- a considerably higher level of ambition than the current WTO commitments, with the aim of achieving market access, non-discrimination and compliance with Article V GATS;
- disciplines in domestic regulation that would be a useful complement to market access and non-discrimination and would play a positive role in facilitating trade in services; and
- provisions to facilitate the mutual recognition of professional qualifications.

3.2 FINANCIAL SERVICES

Financial services are typically included in most comprehensive trade agreements and include all banking and other financial services (excluding insurance), insurance and insurance-related services, as well as services incidental or auxiliary to a service of a financial nature.

A bilateral trade agreement with commitments in financial services can help facilitate greater market access for financial institutions by ensuring a reliable and transparent regulatory environment. Increased competition can result in greater choice for consumers, leading to innovation, improvements in market structure, and the overall development of the financial sector and wider economy.

The recent global financial crisis has also underscored the importance that sound regulation and best business practices play in the functioning of the financial system. Canada and India share a mutual interest as international leaders in enhancing sound regulation and strengthening transparency for financial institutions.

Canada's Approach

Canada's financial system is mature, sophisticated, and well-managed. Financial stability is underpinned by sound macroeconomic policies and strong prudential regulation and supervision.

The need for financial stability and prudence gained importance in the context of the global financial crisis. Canada's financial sector came through the global financial

turmoil much less affected than many of its peers, reflecting both the robustness of its regulatory framework and the strength of its financial institutions. The regulation of financial services is critical in ensuring market stability, so Canada comes from a position of strength in any discussion of financial services.

Canadian financial institutions have identified India as a priority market and are interested in bringing their strength to the Indian market. Canadian insurers would be interested in making an even deeper commitment to their Indian partners, for example, by making investments up to 49% in insurance joint ventures. Although banks may now establish *de novo* operations in India through a subsidiary or branch, practical realities strongly favour making investments in an existing bank (e.g. up to 20% in any one bank). However, restrictions on foreign direct investment in the banking and insurance sectors, while slowly liberalising, are major obstacles to Canadian institutions entering the Indian market and continue to limit the ability of other Canadian institutions to expand within the Indian market.

Canada would attach considerable importance to a stand-alone Chapter for Financial Services in a CEPA with India, given the critical role the sector plays in the functioning of an economy. Canada is also interested in the further liberalisation of the Indian financial sector in the context of a CEPA with India.

Canada maintains a liberal foreign entry regime in its financial sector. For example, foreign banks wishing to engage in wholesale business can benefit from lightened regulation by establishing as a foreign bank branch. Foreign bank branches have most of the same business powers as a domestic bank, subject to prudential requirements that lending branches may not accept deposits and full service branches may not accept deposits under C\$150,000. This is a model adopted by other jurisdictions, that allow bank branching but do not permit the taking of retail deposits. Canada's foreign bank branching regime has proven quite popular as there are currently 29 foreign bank branches operating in Canada.

Foreign banks wishing to engage in wholesale business or retail deposit taking in Canada may also choose to establish as a federal financial institution, and have all the same powers as a domestic financial institution. Further, foreign banks may set up a non-regulated financial entity. There are currently 26 foreign bank subsidiaries in Canada. Similarly, foreign banks wishing to grow through strategic partnerships can benefit from the same treatment as domestic investors as there is no distinction in the treatment of foreign and domestic investment in Canada's financial sector.

Once an initial approval is granted, no further approvals are required for a WTO-foreign bank to expand its branch network in Canada. Further, new competitors are welcome and there are no caps on the number of foreign bank entrants.

The Canadian marketplace has benefited from the activities of foreign firms and the CEPA would enhance Indian firms' trade and investment in Canada's financial sector. Increased foreign investment deepens and strengthens financial markets, which play a key role in the efficient allocation of capital. For these reasons, Canada believes that a Financial Services Chapter in the CEPA would benefit both countries.

India's Approach

Significant steps to liberalise the financial sector have been taken in India since 1991, when the sector operated in a heavily regulated environment, for example state-owned banks controlled 90% of bank deposits, a high proportion of funds were channelled to the government and credit was allocated on the basis of government policy. The administered interest rate structure, meant banks could earn a reasonable return (spread) without much effort. Despite this, bank profitability was low and non-performing loans levels were high, reflecting a lack of efficiency. There were also significant barriers to entry which protected the sector. Foreign banks have since been allowed some access to the Indian market, and the banking sector is increasingly able to lend freely.

The financial sector reforms in India since the early 1990s initially focused on ensuring existing financial institutions operated in an environment of operational flexibility and functional autonomy and also encouraged consolidation of the domestic banking system, both in private and public sectors. As Indian Banks became stronger to face global competition, gradual enhancement of the presence of foreign banks was allowed in a synchronised manner.

Under India's autonomous regime, foreign banks are allowed to operate in India either through a wholly-owned subsidiary (WOS) or branches. At present, individual foreign banks are restricted to holding less than 5% equity in any one private sector bank. For a shareholding of more than 5%, an acknowledgement is required from the RBI which is subject to conditions stipulated in RBI's 'Guidelines on ownership and governance in private sector banks'. Also at present there is a limit of ten per cent on voting rights in respect of banking companies. In aggregate, foreign investment in a private sector bank from all sources is allowed up to a maximum of 74% of the paid up capital of the bank and 20% of equity of any Indian public sector bank. It is worth noting that for non-banking finance companies (NBFC), FDI up to 100% is allowed automatically subject to minimum capitalisation norms. In respect of NBFCs in India, 18 areas have been opened for FDI including portfolio management services, stock broking, credit rating agencies, housing finance and rural credit among others. In the insurance sector in India, foreign equity up to 26% is allowed. Foreign investment permitted in the banking and insurance sector will be in accordance with the FDI policy of the Government of India and notifications issued from time to time, rules and regulations and the terms and conditions

of the Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority and any other competent authority in India.

In India there are no restrictions as regards to the acceptance of retail deposits by a foreign bank branch. The RBI is in favour of foreign banks opening retail accounts in India to further its aim of financial inclusion. The deposits are eligible for deposit insurance as per rules.

While India has opened up many of its financial services, India has always followed a cautious approach as a result of its capital account not being fully open. While India subscribes to the GATS Annex on Financial Services, it is not a party to the Understanding on Financial Services. Drawing lessons from the crisis, it has been proposed that the Reserve Bank of India will prepare a discussion paper on the mode of presence of foreign banks through branch or WOS by September, 2010.

India has a WTO commitment to allocate 12 new bank branch licences per year to foreign banks, subject to a minimum initial capital requirement. The WOS will be treated on par with the existing branches of foreign banks for branch expansion with flexibility to go beyond the existing WTO commitments of 12 branches in a year and preference for branch expansion in under-banked areas. The grant of a licence to operate an ATM is not counted in the WTO commitment of 12 bank branches of foreign banks. In its Revised Offer at the WTO, India has offered to allocate 20 new bank branch licences per year to foreign banks. The grant of ATM is governed by the Branch authorisation policy of September 2005. There are more than 311 foreign bank branches in India and more than 800 ATM's of foreign banks in India.

Recommendation on Financial Services

The Canada-India CEPA should include a stand alone chapter for financial services. Specific modalities, such as approach and level of commitments, will be discussed in the context of formal negotiations.

3.3 TELECOMMUNICATIONS SERVICES

Telecommunications services are not only important economic drivers in their own right; they are also key enablers of trade and development. Technological change is spurring innovation in the telecommunications sector, which is increasing efficiency in the sector itself, and allowing for trade in new service sectors and economic growth.

The technical nature of the telecommunications sector, and its legacy of state-owned monopolies, creates many issues related to competition, competition policy, and

commercial arrangements and technical matters. There are many cross-border issues and linkages, be it billing systems, privacy, spectrum allocation, security, and in some instances, licensing. Many of these matters are handled by the telecom regulatory authorities.

India and Canada have opened their telecommunications services markets gradually during the 1990s through a series of regulatory and legislative adjustments. At this stage, a large proportion of their respective national markets are open to competition.

There are currently no bilateral agreements between India and Canada specifically related to the telecommunications services sector. However, India and Canada have treaty obligations related to telecommunications services under a range of agreements negotiated within the International Telecommunication Union (ITU).

Canada's Approach

Canada generally includes a stand-alone Chapter on Telecommunications in its FTAs, with the goal of ensuring reliable and transparent access and use of telecommunications services for all enterprises granted market access under the bilateral agreement. We also look to facilitate a competitive telecommunications marketplace through transparent and effective regulation, including the regulatory principles found in the WTO Telecommunication Reference Paper.

Trade linkages between Canada and India could be intensified by adopting measures that favour competitive telecommunications services markets in a CEPA. These measures could include, *inter alia*, provisions on access to and use of public telecommunications transport networks and services, the independence of the regulator, interconnection of competitors' networks, the importance of preventing anti-competitive practices, among others.

Canada has always had privately-owned regional companies and now has competitive national providers of telecommunications services with their own infrastructure. There are two major competitive infrastructures platforms in Canada (telephone and cable) and numerous competitive telephone providers, some of whom use satellite infrastructures.

Given the longstanding movement towards liberalisation of the sector, 90% of telecommunications revenues in Canada are generated from deregulated markets. This percentage will continue to increase as further regulatory reviews are completed. The mobile telecommunications sector has been deregulated in Canada, and competition has been introduced in all local telephone markets except in the northern territories. Long-distance telephony is also deregulated. Moreover, Canada has an extensive cable television infrastructure and this cable sector provides competitive telecommunications

services in most regions. The Canadian Radio-television and Telecommunications Commission, Canada's telecommunications regulatory authority, has a well established interconnection regime for both cable and telephone infrastructure which facilitates competitive service entry and provision by domestic and international service providers.

Canada maintains limitations on foreign investment in facilities-based telecommunications, as well as limits on competition in the Northern Territories. Canada's *Telecommunications Act* requires that telecommunications common carriers (or facilities-based service providers) be Canadian controlled and limits foreign direct investment to 20% of the voting shares. The limit on the voting shares for holding companies is 33.3%. The maximum investment by foreign entities in an operating company is 46.7% (i.e., 20% of the operating company and 26.7% of the holding company (33.3% of the remaining 80%)). Canada allows up to 100% foreign ownership of service providers of basic telecommunications supplied on a resale basis.

India's Approach

India has identified telecommunications as one of the key drivers of its economy and the sector continues to contribute significantly to growth. In recognition of the strong multiplier effects, the telecommunications services sector has been autonomously liberalised in India since the 1990s. For example, increased efficiency in telecommunications has resulted in India's rise as a software power in the world.

India has one of the fastest growing telecommunications markets in the world, with teledensity at 49 % in 2009. This rapid growth follows various proactive and positive decisions of the Government and contribution by both the public and the private sectors. The rapid strides in the telecom sector have been facilitated by liberal policies of the Government that provides easy market access for telecom equipment and a fair regulatory framework for offering telecom services to the Indian consumers at affordable prices. Presently, all the telecom services have been opened for private participation. The Indian telecommunications sector is also characterized by the presence of a large number of foreign companies, encouraged by liberal government policies and other incentives given to the sector. However, none of the foreign telecom operators active in India is Canadian owned.

India raised the foreign equity limit for investments in the telecommunications sector from 49% to 74% in 2007. The Government allows up to a maximum of 74% foreign equity in basic, cellular mobile, paging and value-added services and global mobile personal communications by satellite; up to 74% (beyond 49% requiring government's approval) in internet service (with or without gateways), radio paging services and end-to-end bandwidth; and up to 100% in manufacturing of telecommunication equipment and services such as electronic mail and voice mail.

Comparison of India's WTO commitments with the applicable regime reflects the fact that the applicable regime is far more liberal than the commitments made by India. While India has not fully subscribed to the Telecommunication Reference Paper on regulatory principles in the WTO, the regime that operates in practice is nearly fully compliant with those principles, apart from subsidizing incumbent operator for operation and maintenance of rural Direct Exchange Lines installed prior to April 2002 when USO Fund came into existence.

Recommendation on Telecommunications

The Canada-India CEPA should include a chapter on telecommunication services, with the goal of promoting a pro-competitive regulatory environment that is vital to trade in telecommunication services.

3.4 TEMPORARY ENTRY FOR NATURAL PERSONS

Facilitated temporary entry for natural persons is necessary for enhancing international trade and investment. Access to professionals, specialists and skilled service providers can deliver strong economic benefits for all segments of the economy. Also, as trade flows between countries increase, there is an increased need for the mobility of natural persons between territories to perform business activities related to the business transaction taking place. It is important that this movement does not unduly impair or delay the accompanying trade and investment. In this way, substantive temporary entry provisions can play a key role in the development of increased trade between the two countries.

Typically, the Temporary Entry for Natural Persons Chapter contains provisions to facilitate border entry for natural persons on a temporary basis. In particular, Parties seek to eliminate regulatory barriers to entry such as the requirement for a labour market test, the imposition of a numerical limitation such as a proportionality requirement or a quota, provide for extended duration of stay and allow inter-firm mobility for professionals and provide for simplification and expeditious processing of applications for temporary work authorisations.

The categories of natural persons will be negotiated between the Parties and should include Intra-Corporate Transferees (ICT), Business Visitors, Professionals (both Contractual Service Suppliers and Independent Professionals) as well as others.

Commitments on the movement of natural persons have been taken by both Canada and India under the GATS. As in the case of the GATS, a bilateral CEPA would not include

provisions covering persons seeking citizenship, permanent residence or permanent employment in the other country.

Canada's Approach

Canada considers commitments for the temporary entry for natural persons to be an integral part of its trade agreements. Under the Canadian bilateral model, commitments are taken for a broad range of natural persons including: (1) business visitors where Canada covers a broad range of activities; (2) traders and investors including supervisors, executives and those with essential skills; (3) intra-company transferees including executives, managers, specialists and management trainees; (4) professionals (i.e., occupations requiring a four year university degree) where Canada uses a negative list approach, rather than a sectoral approach, thereby listing only the excluded professionals to ensure the broadest possible coverage, while taking into account any sensitivities that the Parties may have; (5) technicians where Canada's approach is to use a selective positive list which lists the specific types of technicians to be covered under the agreement; and (6) spouses which facilitates entry for the spouse of certain natural persons covered by this chapter.

As part of the Canadian approach, coverage of categories is taken on a reciprocal basis, meaning that the same level of coverage applies equally to both Parties.

Canada's approach to temporary entry does not override the immigration policy of a party, such as measures related to health, safety and national security, and for this reason, Canada does not include commitments on entry visas. The chapter also does not address the regulation or qualification of professionals, which Canada covers under the Chapter dealing with Cross-Border Trade in Services.

India's Approach

The movement of natural persons is of great importance for the globalisation of economic activities, technology development and the promotion of services and would contribute to strengthening bilateral economic ties between India and Canada.

India will be seeking commitments in mode 4 for entry of natural persons in commercially meaningful sectors and sub-sectors. India considers as important the issue of regulatory transparency on visa/immigration norms and expeditious processing of visa applications for temporary entry, including for extensions. Furthermore, India may seek special dispensation for work authorisations to ensure the fulfillment of horizontal and sectoral commitments that may eventually be undertaken in a possible Canada-India CEPA, removal of geographical limitation on work permits within Canada, expansion of the 'special categories programme' identified by the Human Resources and Skills

Development Canada (HRSDC) for simplified and accelerated processing of work permit applications, removal of requirements of labour market tests, etc. India notes that the current Canadian regime already allows for multiple-entry visas for professionals.

Given its immense importance, in addition to horizontal commitments, sector specific discussion may be needed when considering possibilities of temporary entry for natural persons, taking into account difficulties and sensitivities in each service sector. It would therefore be necessary for both countries to work closely together to facilitate such movement.

Recommendation on Temporary Entry for Natural Persons

Recognising the mutual interest in facilitating the legitimate temporary movement of natural persons for enhancing bilateral trade and investment, a separate chapter on temporary entry for natural persons should be included in the Canada-India CEPA.

CHAPTER 4: INVESTMENT

4.1 DIRECT INVESTMENT PROFILES

India's Foreign Direct Investment in Canada

India is increasingly becoming an important source of global foreign direct investment (FDI). Key factors behind this rise include: the robust growth and dynamism of its economy; progressive liberalisation of outward investment policies; strong corporate profits; substantial increase in international reserves; rapid increase in the competitive capabilities of Indian multinational enterprises in manufacturing and services; and the need for market access for exports, for acquisition of international brand names and for access to technology and resources.

India's outward FDI in Fiscal Year 2008 was US\$22.1 billion.¹⁴ This high level of outbound FDI was an outcome of various liberalisation measures in line with progressive policies to support India's overseas investment over time. Outflow reached 2007-08 levels due to investment in new projects, expansion of existing units, as well as buying assets and companies across the sector. Indian companies are acquiring international firms in an effort to acquire new markets and maintain its growth momentum, buy cutting-edge technology, develop new product mixes, improve operating margins and efficiencies, and take worldwide competition head-on.

Recent outward FDI from India has targeted resource rich and extractive sectors (oil and gas, steel, aluminium) and strategic sectors (chemicals, pharmaceuticals, banking, automobile and components, information and communications technology/software).

As for Canada, it remains one of the world's most dynamic economies and a destination of choice for foreign investment. The *Economist Intelligence Unit* ranked Canada as the best place for doing business among G7 countries over the next five years (2010-2014), and the World Bank has ranked Canada as the G7 country with the most streamlined business set-up processes.¹⁵ Furthermore, Canada's stable and well-capitalised financial system, which was ranked by the *World Economic Forum* as the soundest in the world,¹⁶ is supported by one of the world's most effective national regulatory frameworks.

Although foreign investment is difficult to track due to the complex international networks through which these investments flow, the most recent figures clearly indicate that India's FDI in Canada is on a sharp upward trend. The stock (level) of Indian FDI in Canada, according to Statistics Canada, reached a record-high US\$2.8 billion, at year-end

¹⁴ Source: RBI, Macroeconomic and Monetary Development, Third Quarter Review, January 2010.

¹⁵ IBRD/ The World Bank (2009), *Doing Business 2010: Reforming Through Difficult Times*.

¹⁶ World Economic Forum (2009), *The Financial Development Report 2009*.

2009. In Canadian dollar terms, it represents an increase of 11.4% from the previous year, relatively much faster than the 1.6% growth of total FDI stock in Canada in 2009.¹⁷ In fact, Indian FDI stock in Canada in the last decade experienced a significant jump – rising from a US\$12 million in 1999 to its current level of US\$2.8 billion in 2009. These trends have resulted in raising India's importance to being Canada's 5th largest foreign investor from the Asia/Oceania region, and 13th globally. Despite these positive developments, India accounted for 0.5% of total FDI in Canada in 2009. Hence, there is considerable scope and opportunity to engage Indian businesses to invest in Canada in the years ahead, especially in priority sectors that have been identified by Canada for FDI promotion.

The official definition of FDI used by Statistics Canada captures only the country of first destination and this measure can suffer from the use of intermediaries. Alternative sources of information, such as public announcements and media reports, can complement FDI figures and give a broader picture of Indian interests and overall assets in Canada. On the basis of this second source of information, some of the more significant Indian investments in Canada in the past few years included: Essar Steel Ltd., which acquired the Canadian steel manufacturer Algoma Steel in 2007 for US\$1.7 billion; Videsh Sanchar Nigam Ltd. which purchased Teleglobe in 2007; Hindalco Limited, of the Aditya Birla Group, which acquired aluminium producer Novelis Inc. for US\$3.24 billion in the same year; and Jubilant Organosys, which purchased Montreal-based Draxis Health for US\$239 million in 2008.

Other Indian companies with substantial operations in Canada include Tata, Satyam Computer Services, Wipro, Infosys and Aditya Birla Group. Furthermore, Tata Steel Global Mineral Holdings, the subsidiary of Tata Steel Ltd, has entered a joint venture (JV) with Canada's New Millennium Capital (NML) and LabMag for developing a direct shipment ore (DSO) project in Canada in 2009.

Canada's Foreign Direct Investment (FDI) in India

India has been increasingly opening its doors to foreign investment over the last two decades, notably by modifying its regulatory environment to allow the establishment of wholly-owned subsidiaries as well as participation of foreign investors in Indian-based companies. This trend has been accelerating in the last few years, with foreign companies enjoying the rights to set up branch offices, representative offices, repatriation of profits, and also carry out outsourcing activities in terms of software developmental programmes in India. However, certain sectors such as the financial and insurance industries remain relatively closed to foreign investment. Simultaneously, the Indian government, as well

¹⁷ Foreign Affairs and International Trade Canada, Foreign Direct Investment Statistics (http://www.international.gc.ca/economist-economiste/assets/pdfs/FDI_stocks-Inward_by_Country-ENG.pdf) accessed on march 11, 2010).

as a number of Indian States, have been extremely active in trying to attract foreign investment by creating a number of incentive measures such as Special Economic Zones (duty-free zones), fast-track approval mechanisms and infrastructure development for industrial and technology parks, among other initiatives.

Foreign direct investment is considered to be the most attractive type of capital flow for emerging economies as it is expected to bring latest technology and enhance production capabilities of the economy. High inflows indicate India as an attractive investment destination as a consequence of its increasingly liberalised investment climate, stable and sound economic and political base, and opportunities for economic growth, while capital investment abroad reflects the growing global competitiveness of the Indian corporate sector. The two-way flow of FDI, therefore, means that while the world is taking note of India's market potential, Indian companies are also constantly looking for synergistic acquisitions abroad.

Foreign manufacturers benefit from incentives when establishing part of their operations in India to supply the market in segments such as consumer goods, automotive, heavy manufacturing, to name a few.

Furthermore, new opportunities for investment in the natural resources sector continue to grow, through effective de-regulation. The oil and gas sector has been very active in recent years in attracting foreign companies to develop onshore and offshore assets – a good number of Canadian companies are participating in this development. It is expected that the mines and mineral sector will present similar opportunities in the months to come.

The UN Conference on Trade and Development reports that India witnessed a growth of 85.1% in FDI inflows in 2008, which was the highest growth in FDI inflows globally. The total flows increased from US\$25.1 billion in 2007 to US\$46.5 billion in 2008. This is despite a 14.5% decline in global FDI inflows from US\$1,940.9 billion in 2007 to US\$1,658.5 billion in 2008.¹⁸

Canada's outward FDI in 2009 decreased by US\$42.9 billion and stood at US\$566.9 billion according to Statistics Canada data, (which in Canadian dollar terms represents a decline of 7.5%), due primarily to the appreciation of the Canadian dollar against most foreign currencies. Over US\$37.3 billion of that investment (or 6.5%) was destined for the Asia/Oceania region, with the stock increasing 2.2% over 2008 in Canadian dollar terms. Canada's primary investments abroad target sectors such as finance and insurance, manufacturing, mining, oil and gas and management services.

¹⁸ Refer, for example, UNCTAD report titled "Assessing the Impact of the Current Financial and Economic Crisis on Global FDI Flows".

Canada's FDI in India has increased during the past decade. According to Canadian data sources, in 2009 Canadian direct investment into India stood at US\$574 million, a substantial increase from the US\$129 million invested in India in 2000. At the end of 2009, India stood as the 11th largest recipient of Canadian FDI in Asia/Oceania and the 42nd globally. However, despite recent increases, India's share of global Canadian direct investment abroad amounted to a mere 0.1%.

According to Indian statistics, Canadian cumulative FDI in India was US\$310.44 million during January 2000 to February 2010.¹⁹ Canadian FDI surged by US\$126.39 million in 2008, amounting to a cumulative Canadian FDI in India to US\$239.13 during the period of April 2000 to December 2008. Despite global decline in FDI inflows, and Canadian direct investment into India during April 2000 to December 2009 was US\$284.31 million, up by US\$45 million. Canadian FDI is almost 0.28% of total FDI inflows into India during this period. On this basis, Canada stands as 24th largest investor in India.

The Indian economy has attracted many Canadian companies, including BCE, SNC Lavalin, RIM, McCain Foods, CGI, CAE, Sun Life, MDS Nordion, Scotiabank, Bombardier, CAE Electronics, R. V. Anderson Associates Ltd., M. A. Jans & Associates (MAJ), Tele-Direct International and Deloitte & Touche LLP Canada. Recent key investments include Bombardier opening a new US\$38 million plant in the state of Gujarat in November 2008 producing metro rail coaches; Canadian flight simulator leader, CAE Inc., in cooperation with Indian-owned Hindustan Aeronautics Limited, beginning construction of a US\$57 million flight helicopter simulation centre near Bangalore in June 2009, servicing both civil and military pilots; and a consortium of companies, including SNC Lavalin, being awarded a contract worth US\$2.3 billion to build Mumbai's newest metro line.

Though Canadian companies are enjoying increasing success in the Indian market, Canada has a modest presence in India in terms of investment. So far, their major thrust has been in five areas: power & energy equipment & services; oil and gas; environment products & services; telecommunications & information technology; and the financial sector, including insurance.

Growth of service sectors sales reflect Canadian strength in traditional areas such as consulting and engineering, as well as a growing Canadian presence in fields such as education, software development, and financial services. India's rapidly expanding economy and the government's continued commitment to liberalising its investment regime will provide significant opportunities for Canadian investors in a variety of sectors including financial services, infrastructure, information technologies, life sciences and natural resources.

¹⁹ India, Department of Industrial Policy and Promotion.

4.2 INVESTMENT ENVIRONMENT

Canada

A key priority of the Government of Canada is to attract and expand FDI to enhance productivity, support long-term economic growth and increase prosperity for all Canadians. Canada's advantageous geographic location and status as a North American Free Trade Agreement partner gives investors access to more than 448 million consumers and a combined GDP of more than US\$16.5 trillion. Canada also offers many advantages that make it conducive to attracting foreign investment including competitive tax rates, a sound regulatory framework and, as part of its objective to attract innovative and knowledge intensive investments, one of the most generous research and development (R&D) tax incentive programs among developed countries.

Canada offers a highly competitive business environment with significant cost advantages. The *Economic Intelligence Unit* has rated Canada the #1 place to do business in the G7 for the next five years (2010-2014). In 2010, Canada expects to have the lowest overall tax rates of the G7 on new business investment and additionally, Canada is on track to having the lowest statutory corporate income tax rate of the G7 by 2012. In March 2010, KPMG also confirmed that among industrialised countries, Canada is ahead of the pack in terms of cost competitiveness. In fact, Canada enjoyed a 5% cost advantage over the United States. In its Budget 2010, Canada eliminated all remaining tariffs on manufacturing inputs and machinery and equipment to make Canada the first G20 country to offer a tariff-free zone for manufacturers.

Canada offers a strong fiscal position and stability for investors showing the lowest debt-to-GDP ratio in the G7. Canada also offers a sound financial system. The *World Economic Forum* stated that the Canadian banking system is the soundest in the world. Canada's stable economy with low government debt and low inflation offers security to investors. Canada offers a winning environment to attract investments and research and innovation, including leading research infrastructure and tax incentives and scientific talent. Federal and provincial/territorial R&D tax incentives combine to bring the net after-tax cost of R&D expenditures undertaken in Canada to well below 50 cents per dollar spent, one of the lowest levels anywhere. Canada has also a highly skilled workforce, the highest proportion of post secondary graduates anywhere in the Organisation for Economic Cooperation and Development (OECD) that help contribute to an innovation culture.

The Invest in Canada Bureau of the Department of Foreign Affairs and International Trade is responsible for providing strategic leadership and support in matters related to promoting and attracting FDI into Canada. In the context of Canada's investment

strategy, India is identified as a key market to promote FDI into Canada. Based on established selection criteria, Canada has identified the following sectoral priorities for FDI from the Indian market: business services; financial services; software; digital gaming; pharmaceutical; biotechnology; and medical devices.

India

With the reforms in policies, better infrastructure and a vibrant financial sector, FDI inflows into India have accelerated since 2006-07 registering 146% growth over 2005-06. In 2008, India has a 10.71% share in FDI inflows and 8.03% of FDI outflows of developing economies of Asia, while India has a 6.69% share in FDI inflows and 6.04% of FDI outflows of developing economies in the world.²⁰ Total FDI inflows into India increased from US\$9 billion in 2005-06 to US\$35 billion (partially revised) in 2008-09. As per provisional estimates, it has declined by 29% to US\$25 billion during 2009-10 (up to November). Similarly, FDI equity inflows have increased substantially from US\$4.4 billion in 2005 to US\$33 billion in 2008. Even as FDI inflows into India grew substantially, a simultaneous pick up in outward investment moderated the overall net inflows. Outward investment by India increased from less than US\$2.4 billion during 2003-04 to US\$17.5 billion in 2008-09. The net FDI²¹ was higher at US\$15.9 billion and US \$17.5 billion in 2007-08 and 2008-2009 respectively, reflecting relatively better investment climate and the role of liberalisation measures in attracting FDI. FDI equity inflows as a percentage of GDP have grown from 0.75% in 2005-06 to nearly 2.49% in 2008-09. Besides the aggregate inflows, inward FDI into various economic sectors has grown multi-fold over the past four years. IT investments grew almost 2.5 times in 2006-07 to US\$22.82 billion from US\$8.96 billion in 2005-06. FDI inflows are spread across a range of economic activities like financial services, manufacturing, banking services, information technology services and construction. This rise in FDI has been facilitated by favourable FDI policy.

The Government of India has put in place a liberal, transparent investment regime and an investor-friendly FDI policy wherein FDI up to 100% is allowed under automatic route for most of the sectors. Sectoral FDI restrictions have been eased and foreign ownership caps lifted. Foreign exchange restrictions relating to investment have been relaxed. Public ownership of industries was substantially reduced as many sectors which were previously reserved for the public sector have been opened to private enterprises, including foreign investment.

The Government of India has set up the Foreign Investment Implementation Authority (FIIA) to facilitate quick translation of FDI approvals into implementation, to provide a pro-active one stop after care service to foreign investors by helping them obtain

²⁰ UNCTAD, Handbook of Statistics 2009, online.

²¹ The net FDI refers to inward minus outward FDI.

necessary approvals, sort out operational problems and meet with various Government agencies to find solution to their problems.

The Government of India has introduced various financial incentives for investments in infrastructure sectors as well as high priority industries such as information technology and through specific schemes such as Growth Centre Schemes, Electronic Hardware Technology Park (EHTP), the Transport Subsidy Schemes, the New Industrial Policy for the North Eastern States, Software Technology Park (STP), Export Promotion Zones (EPZs), Special Economic Zones (SEZs), etc. Similarly, there are a variety of tax concessions for investors in India. For instance, companies in the SEZ are eligible for a total exemption from tax for the first five years and a 50% exemption from the tax due for the next five years. Entrepreneurs who supply infrastructure resources in the SEZ are eligible for a 10 - year exemption from tax. Industrial concerns such as Export Oriented Undertakings (EOU) located in FTZ, Software Technology Parks or in Hardware Technology Parks, are entitled to an exemption from taxes for 10 years as well as to an exemption from import taxes if the total production is intended for export. Companies carrying scientific research and other activities specified by law are also eligible for 5–10 years tax holiday of 30%–100%. Industries located in North East India or the state of Sikkim is entitled to 10 year tax exemption for activities performed from April 1, 2007 to April 1, 2017. To stimulate the export of projects, a tax benefit is available to Indian companies or non-corporate entities resident in India at 50% of the profits earned on a foreign project provided the said 50% of profits are remitted to India in foreign exchange within six months of the end of the relevant previous year and a reserve account is also created for the same. An exporter of goods or merchandise is allowed 100% deduction of profits derived from export trade in computing the taxable income. This benefit can be passed on to the manufacturers when goods are exported through the trading or export house.

According to the UNCTAD Survey 2009-11, China is the most preferred investment destination, followed by the United States, India, Brazil and the Russian Federation. Similarly, AT Kearney's 2010 FDI Confidence Index shows China, the United States and India as the most preferred locations in that order. The OECD termed India as both a major destination for FDI, and a major source of FDI.²² This OECD report adds India as a major global player with high economic growth rates and its performance in the past year has been particularly impressive in view of the global collapse in FDI flows. For long-term prospects, the 2009 Survey of the Japan Bank for International Cooperation (JBIC), conducted among Japanese investors, ranks India as the second most promising country for overseas business operations. India has been ranked at the third place in global foreign direct investments this year, following the economic meltdown, and will continue to remain among the top five attractive destinations for international investors during the

²² Refer, OECD Investment Policy Reviews: India 2009, OECD, Paris

next two years, according to UNCTAD.²³ What emerges is that robust economic growth, an improved investment environment and opening up of critical sectors like telecommunications, civil aviation, refineries, construction, etc. facilitated FDI inflows into India.

4.3 INVESTMENT POLICY REGIMES

Canada

Foreign investment in Canada is subject to multilateral obligations (e.g., through the OECD and the WTO) and, to obligations in regional and bilateral free trade agreements and Foreign Investment Protection and Promotion Agreements (FIPAs). The only domestic law of general application with respect to foreign investment is the *Investment Canada Act (the Act)*.

Non-Canadians who wish to establish a new Canadian business or to acquire control of an existing Canadian business are subject to *the Act*, unless a specific exemption applies. *The Act* and related “regulations” can be found at the Department of Justice Canada website (<http://laws-lois.justice.gc.ca/eng/I-21.8/index.html>) and more general information on *the Act* can be found at the Department of Industry Canada website (<http://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/home>).

The purposes of *the Act* are to provide for the review of significant investments in Canada by non-Canadians in a manner that encourages investment, economic growth and employment opportunities in Canada and to provide for the review of investments in Canada by non-Canadians that could be injurious to national security. With respect to all investments, except those that fall within a prescribed type of business activity as set out in Schedule IV of the Regulations, the Department responsible for the administration of *the Act* is Industry Canada. With respect to investments which fall within a Schedule IV prescribed business activity, the Department responsible for the administration of *the Act* is Canadian Heritage (website at <http://www.pch.gc.ca>).

Under *the Act*, an investment is reviewable if there is an acquisition of a Canadian business by a foreign investor and the value of assets of the Canadian business being acquired, as prescribed in the regulations, equals or exceeds the following thresholds:

- a) For non-WTO member investors, the threshold is C\$5 million for a direct acquisition and over \$50 million for an indirect acquisition; the C\$5 million threshold will apply however for an indirect acquisition if the value of assets of the Canadian business being acquired exceeds 50% of the value of assets of the global transaction.

²³ Refer, UNCTAD World Investment Prospects Survey 2009-2011, 2009.

b) Except as specified in paragraph (c) below, a threshold is calculated annually for reviewable direct acquisitions by or from WTO member investors. The threshold for 2010 is C\$299 million. Pursuant to Canada's international commitments, indirect acquisitions by or from WTO member investors are not reviewable.

c) The limits set out in paragraph (a) apply to all investors for acquisitions of a Canadian business that is a cultural business.

All applicable investments which are not reviewable are nonetheless subject to notification under *the Act*.

In addition to the Act, there are a number of federal laws of specific application, applying to certain industry sectors, including, for example, the *Bank Act*, the *Canada Transportation Act*, the *Telecommunications Act* and the *Broadcasting Act*. Similarly, at the provincial level, there are also laws of specific application in certain sectors, such as fisheries, collection agencies, liquor sales, securities dealers, farming and mining (for more information: <http://investincanada.gc.ca/eng/explore-our-regions.aspx>).

Foreign Investment Policy of India

Foreign direct investments by non-residents in India was regulated and governed by the FDI Policy announced by the Government of India and the provisions of the Foreign Exchange Management Act (FEMA), 1999.²⁴ Keeping in view the current requirements, the Government comes up from time to time with new regulations and amends/changes existing ones through order/allied rules, Press Notes, etc. The regulatory framework over a period of time thus consists of Acts, Regulations, Press Notes, Press Releases, Clarifications, etc. The key Indian regulatory authorities in the context of FDI are: the Foreign Investment and Promotion Board (FIPB), which formulates foreign investment policy; and the Reserve Bank of India (RBI), which has primary responsibility for implementing and enforcing foreign exchange regulations and government policy.

The Indian Government undertook a major exercise of consolidation of all existing regulations on FDI, with the aim of integration of all prior regulations on FDI, contained in FEMA, RBI circulars, various Press Notes etc., into one consolidated document, so as to reflect the current regulatory framework. The final document in this regard was released on March 31, 2010. It has been decided that the consolidated circular would be issued every six months to ensure that FDI policy is kept updated. Such consolidation would ensure that all information on FDI policy is available at one place, which is expected to lead to simplification of the policy, greater clarity and understanding of

²⁴ Refer, Reserve Bank of India notification no. FEMA 20 /2000-RB dated May 3, 2000.

foreign investment rules among foreign investors and sectoral regulators, as also predictability of policy. The present circular consolidates and subsumes all such/these Press Notes/Press Releases/Clarifications as on March 31, 2010.

Under current rules, foreign investment up to 100% is permitted in almost all industry sectors except a handful of industry sectors in which no FDI or limited FDI is permitted – these tend to be “sensitive” sectors, either for security reasons, such as defence or telecommunications, or for political reasons, such as agriculture, retail, real estate, banking and insurance. FDI is permitted through either the “automatic” route or the “approval” route. Foreign Direct Investment is freely permitted in almost all sectors. Under the Foreign Direct Investments (FDI) Scheme, investments can be made two routes; the Automatic Route and the Government Route. Under the Automatic Route, the foreign investor or the Indian company does not require any approval from the Reserve Bank or Government of India for the investment. The investors are only required to notify the Regional Office concerned of RBI within 30 days of receipt of inward remittances and file the required documents with that office within 30 days of issue of shares of foreign investors. FDI in activities not covered under the automatic route require prior government approval. Approvals of all such proposals including composite proposals involving foreign investment/foreign technical collaboration are granted on the recommendations of Foreign Investment Promotion Board (FIPB). Indian companies having foreign investment approval through FIPB route do not require any further clearance from RBI for receiving inward remittance and issue of shares to the foreign investors. Application for all FDI cases, except Non-Resident Indian (NRI) investments & 100% Export Oriented Units (EOUs) and Single Brand Retail with FDI up to 51%, should be submitted to the FIPB Unit, Department of Economic Affairs (DEA), Ministry of Finance. Application for NRI & 100% EOU cases and Single Brand Retail with FDI up to 51% should be presented to SIA in Department of Industrial Policy and Promotion.

In March 2003, Automatic Route was further liberalised considerably to enable Indian parties to fund to the extent of 100% of their net worth, which was later increased to 200% and 300%. In a bid to give further impetus to overseas investments, the RBI has further liberalised overseas investment norms for both direct and portfolio investment. It has hiked the overseas investment limit from 300% of the net worth to 400 per cent of the net worth and hiked the limit on overseas portfolio investment by Indian companies from 35% of their net worth to 50% of their net worth. Indian residents can remit up to US\$200,000 per financial year, from US\$100,000 previously, for any current or capital account transaction or a combination of both. Mutual funds can make an aggregate investment to the tune of US\$5 billion in overseas avenues, from an earlier cap of US\$4 billion.

Broadly speaking, Indian law recognises the freedom of parties in an international contract to choose both the governing law, the forum (arbitration/courts) and the

jurisdiction for settling disputes. India is signatory to the New York Convention, which aids enforcement of arbitral awards in India. India prefers bilateral FIPAs to the present format of multilateral framework on investment in WTO. Presently, foreign investment in India is subject to TRIMS provisions in the WTO and to obligations in regional and bilateral free trade agreements, Foreign Investment Protection and Promotion Agreements (FIPAs) and domestic FDI regulations.

4.4 BILATERAL INVESTMENT AGREEMENT

Canada and India are engaged in a process of negotiating a bilateral investment agreement.

Through the establishment of a framework of legally binding rights and obligations, this agreement will increase the comfort level and boost the confidence of investors by providing strong investment protection provisions including a minimum standard of treatment, free movement of funds in support of investment, non-discrimination in all matters and a neutral and efficient dispute settlement mechanism. It is anticipated that such an Agreement will serve as a major catalyst for investment flows from India to Canada and *vice versa*.

Recommendation on Investment

The Canada-India bilateral investment agreement should be concluded and ratified. Consideration of additional investment provisions in a Canada-India CEPA can take place thereafter.

CHAPTER 5: OTHER AREAS OF ECONOMIC COOPERATION

A high-quality, high-ambition, broad trade agreement will typically cover a number of other issues outside of the traditional trade in goods and services and investment. This chapter examines Canada's and India's approaches with respect to a list of issues, which will continue to be discussed in the context of a CEPA.

5.1 INTELLECTUAL PROPERTY

Intellectual property (IP), from a substantive perspective, has been addressed in multilateral fora, particularly the World Trade Organization (WTO) and World Intellectual Property Organization (WIPO). The increasing practice to include IP in bilateral CEPAs facilitates the continued growth and prosperity of local and international businesses in an intensively competitive world economy.

Canada and India agree to address intellectual property within the context of a comprehensive CEPA that would lead to clear benefits for both sides.

Canada's Approach

Canada maintains an extensive domestic intellectual property regime that is fully compliant with its obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) and offers protection to rights holders for all forms of intellectual property. In its FTAs, Canada typically seeks to negotiate IP provisions that are consistent with its domestic IP regime and its obligations in other international IP agreements, such as TRIPS and various WIPO treaties. Canada is interested in establishing with India enhanced cooperation regarding IP issues in areas supported by international obligations, including enforcement of intellectual property rights (IPR), as well as strengthening cooperation between our respective IP offices.

India's Approach

India recognises that effective protection and enforcement of IP rights is a key element in fostering creativity, innovation and technological transformation, which facilitates trade and investment and promotes sound economic development. Industry in India is becoming increasingly conscious of the value of intellectual property rights.

India has fulfilled its commitments taken under the WTO Agreement on TRIPS through the implementing legislations.

Overview of India's IPR regime

In India, the Department of Industrial Policy and Promotion (DIPP) administers the laws relating to Patents, Trade Marks, Designs and Geographical Indications. These are administered through the Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM), in accordance with:

- The Patents Act, 1970 (through the Patents offices)
- The Designs Act, 2000 (through the Patents offices)
- The Trade Marks Act, 1999 (through the Trade Marks Registry)
- The Geographical Indications of Goods (Registration & Protection) Act, 1999 (through the Geographical Indications Registry).

An Intellectual Property Appellate Board (IPAB) has been set up to hear appeals against the decisions of Registrar of Trademarks, Geographical Indications and the Controller of Patents.

Other IP Legislation includes:

- Copyright is protected through Copyright Act, 1957 (as amended in 1999) and is administered by the Department of Higher Education.
- Layout of transistors and other circuitry elements is protected through the Semiconductor Integrated Circuits Layout-Design Act, 2000 and is administered by the Department of Information Technology.
- New varieties of plants are protected through the Protection of Plant Varieties and Farmers' Rights Act of 2001. This Act is administered by the Department of Agriculture and Cooperation.

India's IP administration has been improved and modernised in a number of ways. The Indian Patents Act was amended in 2005 in order to make it compatible with India's international obligations. E-filing facility for patent and trademark applications was introduced in July 2007. Enforcement of Intellectual Property has been improved – civil and criminal provisions exist in various laws for dealing with counterfeiting and piracy. The Department of IPP has also set up an inter-ministerial Committee to coordinate IP enforcement issues.

Improved Indian policies, laws and resourcing for IP have had a significant impact in India. For example, the filing of patent applications increased from 4,824 in 1999-2000 to 36,812 applications in 2008-2009. The number of applications examined has gone up to 10,296 in 2008-09 from 2,824 in the year 1999-2000.

India's strategy in the area of Intellectual Property has been:

- i. to meet international obligations;
- ii. to safeguard public interest;
- iii. to modernise her Intellectual Property Rights administration; and
- iv. to create awareness about Intellectual Property Rights.

Indian IPR laws contain appropriate provisions to prevent the grant or registration in India of copyrights, patents and trade-marks on Yoga related postures and accessories, Indian traditional medical practices and medicinal preparations, and other traditional knowledge. India has enacted the Biological Diversity Act (in operation since 2004), which is aimed at ensuring that the country's rich biodiversity is used in a sustainable manner. The National Biodiversity Authority, established to implement the Act, also seeks to prevent misappropriation of traditional knowledge associated with biodiversity. India considers that much remains to be achieved globally in this area. India therefore attaches importance to international discussions on the relationship between the WTO TRIPS Agreement and the Convention on Biological Diversity (CBD).

India has also established a Traditional Knowledge Digital Library (TKDL) consisting of about 200,000 formulations in the field of traditional medicines, with a view to prevent misappropriation of such knowledge. India has signed access agreements with EPO, USPTO, German Patent Office and UK Intellectual Property Office and is keen to provide access to TKDL to other countries/ agencies, after signing an access agreement.

India has in place a domestic regime to protect geographical indications for goods, including handicrafts, and so attaches importance to international discussions on ways to increase the protection given to geographical indications, for such products, including on registration of geographical indications (GIs) and extension of enhanced GI protection.

Given the importance of the subject, and in order to enhance cooperation in the field of IPR, a CEPA between India and Canada may address issues of capacity building, human resources development, public awareness, and outreach activities.

5.2 AYURVEDIC PRODUCTS

India notes that, with regard to trade in Ayurvedic products, Health Canada, with certain exceptions, considers API (Ayurvedic Pharmacopoeia of India) acceptable pharmacopoeia to support the efficacy of a traditional health product, and refers to API as well as other relevant sources of information regarding the safety and quality of a traditional health product. India looks forward to further bilateral trade in Ayurvedic and traditional medicine with Canada.

5.3 ELECTRONIC COMMERCE

E-commerce is a new way of doing business rather than a sector of industrial activity in and of itself. Activities vary from services provided over the Internet to business advertising, ordering, payments, etc. It uses information and communication technologies (ICT) as enablers to play a significant role on every aspect of the global value chain for goods and services. Consequently, it is important to ensure there is a supportive environment for the continued growth of trade conducted via electronic means.

As India is a significant ICT and ICT-enabled user, potential for Canadian industries involved in new technologies could be considerable. They could benefit from better access to the Indian market. Reinforcing linkages between both partners on issues related to e-commerce could have an impact on all Canadian industries using this way of doing business.

Canada is a world leader in the adoption, use and development of electronic commerce. Recognising the enabling role it plays in the trade of goods and services between partners, Canada is interested in promoting the growth of e-commerce as a means of doing business. Its main objectives are to build trust in the digital economy, clarify the rules of the domestic and international marketplaces, remove barriers to the use of electronic commerce in conjunction with the private sector, and benchmark both firm-level and national performance in the digital economy.

Trade linkages between the two countries could be intensified by adopting measures that support the growth in trade conducted by electronic means. Parties will continue to exchange information on possible measures as part of the CEPA negotiations.

Canada and India agree to exchange information on electronic commerce in the context of CEPA negotiations.

5.4 COMPETITION POLICY AND MONOPOLIES AND STATE ENTERPRISES

Consultations between India and Canada may be undertaken in the CEPA context as appropriate on various matters relating to competition policy and monopolies and state enterprises.

Canada's Approach

The *Competition Act*, Canada's competition legislation, is a federal law governing commercial marketplace activities in Canada. Its purpose is to prevent anti-competitive business conduct in the marketplace. In so doing, it fosters efficiency and innovation in the Canadian economy and promotes economic prosperity. The *Competition Act* contains provisions addressing both criminal offences, including conspiracies, bid-rigging, misleading advertising and deceptive marketing practices, as well as matters subject to civil review, such as mergers, abuse of dominant position, refusal to deal, exclusive dealing and tied-selling. The *Competition Act* is administered and enforced by Canada's Competition Bureau, an independent law enforcement agency headed by the Commissioner of Competition. In addition to the *Competition Act*, the Competition Bureau is responsible for three labelling statutes, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*. For more information on the *Competition Act* and the Competition Bureau visit <http://competitionbureau.gc.ca>.

Canada's general approach to its free trade agreements (FTAs) has been to include basic competition policy provisions, as well as obligations relating to monopolies and state enterprises. Given that the *Competition Act* and related case law may not cover certain activities regulated by government, the key disciplines in a trade agreement ensure that monopolies and state enterprises do not operate in a manner inconsistent with the agreement when exercising delegated governmental authority. This preserves the benefits achieved elsewhere in the agreement, and ensures that monopolies and state enterprises of each party give non-discriminatory treatment to goods and services of the other Party.

The competition policy provisions in Canada's FTAs generally include recognition of the importance of competition policy, an agreement to adopt or maintain measures to prohibit anti-competitive business conduct in the free trade area, and a commitment that those measures be consistent with the principles of transparency, non-discrimination and procedural fairness. Canada also usually commits to cooperating and coordinating on competition law enforcement matters and exempts the competition policy provisions from dispute settlement processes in an agreement, including state-to-state and investor-state dispute settlement. Finally, there is a non-disclosure clause that protects both the Parties from disclosing information protected under their competition laws and the

competition authorities of the Parties from disclosing information that is privileged or otherwise protected from disclosure, should the Parties be required to participate in a dispute settlement proceeding under the agreement.

It is Canada's general objective to include disciplines on monopolies and state enterprises in its FTAs based on the North American Free Trade Agreement (NAFTA) model. Key provisions Canada usually seeks to include are requirements for monopolies to act in accordance with commercial considerations in the purchase or sale of a monopoly good or service, and for state enterprises to give non-discriminatory treatment in the sale of its good or service. Both monopolies and state enterprises are also required to act in a manner that is consistent with the Parties' obligations, as provided for elsewhere in the FTA. Under Canada's approach certain defined disciplines pertaining to monopolies and state enterprises are subject to investor-state dispute settlement.

Canada's FTAs generally contain all provisions relating to competition policy, monopolies and state enterprises in one chapter, due to the interrelated nature of these disciplines.

Cooperation in competition law enforcement is a positive feature of economic partnership. In addition to its trade agreements, Canada has negotiated a number of separate cooperation instruments between States and between competition authorities, to deal with matters of day-to-day competition law enforcement. For example, Canada has State-to-State cooperation agreements with the European Union, Japan, Mexico and the United States, and agency-to-agency arrangements between the Commissioner of Competition and law enforcement authorities in Australia and New Zealand, Brazil, Chile, South Korea, the United Kingdom and the United States. Agreements or arrangements typically contain provisions such as: mutual notification obligations when the interests of one party are affected by an investigation of the other; coordination of enforcement efforts; consultation upon request; or the mutual sharing of information. There have not, to date, been movements toward such an agreement with India.

Cooperation with counterpart competition authorities in other countries to counter anti-competitive business conduct that cross borders is important to Canada, which strives to keep lines of communication open. Furthermore, the Competition Bureau, on behalf of the Government of Canada, participates in international fora such as the WTO, the Organisation for Economic Cooperation and Development (OECD), the United Nations Committee on Trade and Development (UNCTAD) and the International Competition Network (ICN) to develop and promote coordinated competition laws and policies in the increasingly globalised marketplace.

India's Approach

Recognising the importance of competition law as the key driver to ensure economic efficiency and consumer welfare, the Competition Act was promulgated in 2002 and the Competition Commission of India was set up under the Competition Act. It has already started enforcement of the Competition Act.

The Competition Commission of India may enter into any memorandum or arrangement with the prior approval of the central government, with any agency of any foreign country. The Competition Commission of India encourages consultations between countries and the respective competition authorities on various matters relating to competition including capacity building, exchange of information and notification of procedures.

5.5 GOVERNMENT PROCUREMENT

In relation to the area of Government Procurement (GP), Canada and India have differing points of view, but have agreed to continue to discuss GP as we progress toward a bilateral CEPA.

Government procurement accounts for a significant portion of the gross domestic product for many countries. The value of Canada's federal government procurement in 2008 was US\$16.4 billion²⁵ or 1.03% of GDP.

Canada's Approach

Canada has negotiated a Chapter on Government Procurement, containing market access commitments at the federal level, with the following trading partners: Chile, Colombia, Peru, Panama as well as in the NAFTA. Canada is also a signatory to the WTO Agreement on Government Procurement (GPA).

Canada has, in the past, negotiated comprehensive chapters on government procurement which addressed the core principles of national treatment, non-discrimination, transparency and included market access commitments. It is Canada's objective that its FTAs should include provisions that would liberalise the government procurement sector, which would benefit both Parties in terms of fostering innovation and collaboration and generating economic growth. Canada, however, could consider an alternative approach, for example a Government Procurement Chapter that focuses on transparency commitments for specific procurement at the union and federal levels for India and

²⁵ Treasury Board of Canada Secretariat data for 2008 available at http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/con_data/par-08-rpa-eng.asp and GDP <http://www40.statcan.ca/101/cst01/econ04-eng.htm>

Canada respectively, with no market access obligations. Such transparency commitments would serve to apply the principles of non-discrimination and national treatment with respect to the availability of information and a limited number of provisions applicable to specific government procurement projects. The types of information that transparency commitments would apply to could include: procurement measures, procurement notices for competitive opportunities, tender documents including criteria for selection, and award information. A review mechanism could potentially be established to track the progress of the implementation of this chapter.

India's Approach

India has not included government procurement as a negotiating subject in its bilateral FTA negotiations to date.

5.6 LABOUR AND ENVIRONMENT

In the areas of Trade and Labour and Trade and Environment, Canada and India have different points of view, but have agreed to continue to discuss these issues as we progress toward a bilateral CEPA.

LABOUR

As founding member States of the International Labour Organization (ILO) and members of the ILO's Governing Body, India and Canada have played an active and constructive role since the formation of the ILO, working consistently in support of the Organization's aims, values, and tripartite structure.

Canada's Approach

The Government of Canada has taken an international leadership role in addressing the social and, in particular, the labour dimensions of globalisation. This leadership role is integral to the Government's overall foreign and trade policy.

Canadians expect their federal government to credibly address labour practices, human rights and other social issues in the context of trade liberalisation initiatives. Canada's trade-related Labour Cooperation Agreements (LCAs) pursue these aims by promoting respect for fundamental labour principles and rights, and by supporting equitable economic growth. LCAs' overall objectives are:

- to defend Canada's competitive position by ensuring that legitimate government policies and actions to balance the interests of workers and employers do not become a disadvantage in competition for international trade and investment;

- to support an international sustainable development strategy based on social and economic growth, good governance, and the rule of law;
- to build upon Canada's commitment to fundamental human rights, in particular the principles and rights set out by the ILO in its 1998 *Declaration on Fundamental Principles and Rights at Work*; and
- to respond to widely held beliefs by Canadians that coherent policies which meet the social and economic challenges of globalisation should accompany Canada's international trade policy.

As a result of domestic pressures and emerging global trends in regard to the labour provisions of FTAs, recently-concluded Canadian LCAs include comprehensive labour commitments and robust enforcement mechanisms. Recently concluded LCAs with Peru, Colombia, Jordan, and Panama are part of this new generation of labour agreements and serve as reference points for all current and future labour negotiations.

Canada views the pursuit of liberalised trade and the promotion and protection of labour rights as mutually reinforcing and equally important. LCAs provide an opportunity to demonstrate that trade liberalisation and the protection of labour rights can go hand-in-hand. In this light, the Government of Canada's policy is to address labour in the context of trade liberalisation by including the following two essential elements:

- a principles-based, non-binding labour chapter in the CEPA itself that outlines the labour provisions found in the LCA; and
- a legally-binding, parallel LCA that has international treaty status.

For reference, recently-concluded LCAs comprise:

- Commitment that domestic labour laws will embody and provide protection for fundamental labour principles, particularly those set out in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*:
 - the right to freedom of association and collective bargaining;
 - the abolition of child labour;
 - the elimination of forced or compulsory labour; and
 - the elimination of discrimination.

- Additional provisions, as required, including commitments to provide acceptable protections in the areas of occupational health and safety, wages, hours of work and migrant workers, and commitments in regard to the ILO's Decent Work Agenda;
- Binding commitment to not lower labour standards or their enforcement in order to encourage investment;
- Specific and enforceable obligations to protect fundamental principles and effectively enforce domestic labour laws;
- A mechanism through which the public can raise concerns;
- An independent third-party review as a means of dispute resolution;
- Remedies, including the possibility of monetary assessments, to encourage the fulfillment of obligations as a conclusion to dispute resolution. Those remedies would be deposited into a cooperation fund to resolve the matter raised in a complaint;
- International cooperation in support of agreement objectives; and
- Periodic review of implementation.

Of note, the inclusion of monetary assessments for non-compliance does not undermine the cooperative nature of Canada's labour agreements. Monetary assessments provide an incentive to prevent systemic failure in implementing domestic and international labour obligations and bolster the credibility of the dispute resolution mechanism of the LCA. They are not intended to substitute domestic processes. Funds levied through monetary assessments are meant to strengthen capacity in the partner countries to address challenges with respect to labour enforcement. This problem-solving approach is substantially different from the trade sanctions employed for trade and investment matters or for the labour provisions of trade agreements negotiated by other countries.

Canada is committed to helping, subject to the availability of resources, its free trade partners through technical cooperation to help them meet their labour-related obligations and achieve high labour standards. Cooperation in support of the agreement's objectives can take various forms, including joint capacity-building workshops, training seminars, exchange of official delegations, and study visits on well-defined labour and employment matters. To this end, Canada is currently providing significant resources for technical assistance programs in the Caribbean region, Latin America and the Middle-East.

India's Approach

India's current policy is not to include labour issues in FTA negotiations.

ENVIRONMENT

The environment was recognised as a key area for expanded bilateral engagement in the 2005 Joint Declaration between the leaders of Canada and India, resulting in the creation of the Canada-India Forum for Environmental Cooperation in 2007. Through constructive Forum discussions, Canada and India have established a joint work plan to guide future collaborative activities on the environment. Initiatives under the work plan focus on capacity-building in air quality monitoring and mercury air emissions control as well as information sharing on a wide variety of topics. Canada anticipates future activities will include enhanced cooperation in these areas and a possible expansion of collaborative actions to include waste management and biodiversity and wildlife issues. Effective use of the Forum will provide concrete opportunities to enhance bilateral environmental relations between the two countries; Canada continues to be interested in expanding cooperation activities with India in this area.

Other key environment-related initiatives include the Canada-India Agreement on Scientific & Technological Cooperation (which includes sustainable and alternate energy and environmental technologies as key themes).

Additionally, Canada and India have an emerging relationship within international technology partnerships such as the Asia-Pacific Partnership on Clean Development and Climate (APP), the Methane to Markets Partnership (M2M), and the Renewable Energy and Energy Efficiency Partnership (REEEP).

Canada's Approach

When entering into bilateral or regional free trade negotiations, Canada's policy is to incorporate environmental components to ensure that liberalised trade and protection and conservation of the environment can be mutually supportive.

Canadians expect that the Government will pursue its bilateral trade agreements in a manner that is consistent with the objectives of environmental protection, conservation and the promotion of sustainable development. In this regard, Canada has taken a leadership role in negotiating environmental provisions in its trade agreements.

Our overall objectives for incorporating environmental considerations into trade negotiations include:

- ensuring that liberalised trade and environmental protection and conservation are mutually supportive; and
- engaging strategically with partners countries on key environmental issues.

Canada's current model for incorporating environmental considerations into its trade negotiations consists of:

- negotiating an Environment Agreement parallel to the FTA;
- including a principles-based Environment Chapter within the FTA; and
- including trade-related environmental provisions in the FTA (e.g., in the preamble, as well as in the investment and exceptions chapters).

A parallel agreement on the environment commits the Parties to pursue high levels of environmental protection and to strive to continue developing and improving their environmental laws and policies. It typically includes obligations relating to:

- the effective enforcement of domestic environmental laws;
- non-derogation from domestic environmental laws to encourage trade or investment;
- environmental impact assessment procedures for projects;
- domestic measures to sanction or remedy violations of environmental laws;
- public awareness and civil society engagement;
- voluntary corporate social responsibility and incentive-based measures;
- accountability and transparency;
- framework for cooperation on topics of mutual interest; and
- dispute resolution based on a consultative and cooperative approach.

Canada's approach seeks to ensure that the Parties' domestic environmental management systems function with integrity and effectiveness, while respecting their sovereign right

to establish and maintain their own levels of protection. In this regard, the environment obligations are based on the Parties' existing domestic legislative, regulatory and policy frameworks.

While the Agreement on the Environment is negotiated parallel to an FTA, the former is a separate, stand-alone international treaty.

The principles-based environment chapter highlights the importance of environmental conservation and protection and the promotion of sustainable development, and affirms both countries' commitments to multilateral environmental agreements. It outlines the relationship between the trade and environment agreements, and point to the objectives of, and binding obligations in, the latter.

Key environmental provisions within the preamble, objectives, general exceptions, and investment chapters of a FTA further ensures that the flexibility to establish and maintain environmental policies and measures is not adversely affected.

India's Approach

India's current policy is not to include environmental issues in FTA negotiations.

5.7 INSTITUTIONAL PROVISIONS

The Joint Study Group was of the opinion that any agreement should include institutional provisions for its effective administration, including a binding state-to-state dispute mechanism.

TAXATION ARTICLE

Canada's Approach

Canada's comprehensive FTAs generally exclude taxation measures from the application of the FTA. There are, however, exceptions to this exclusion. For example, under the current Canadian model, taxation measures are subject to the FTA provisions on expropriation, provided that, before an investor submits a claim to arbitration, the taxation authorities of the Party of the investor and of the other Party have not determined that the taxation measure is not an expropriation.

Under the current Canadian model, to the extent that the FTA may apply to a taxation measure that is also covered under the double taxation agreement in force between Canada and the FTA partner, the FTA gives precedence to the double taxation agreement. The FTA also provides for a mechanism under which taxation authorities may make a

determination of whether the double taxation agreement prevails over the FTA, before the issue can proceed to the dispute settlement procedures of the FTA. A similar mechanism is also provided whereby taxation authorities may make a prior determination of whether a measure is a taxation measure.

Under the current Canadian model, the taxation article also confirms that a Party's laws to protect the confidentiality of taxpayers' information take precedence over the provisions of the FTA.

India's Approach

India's current policy is not to include taxation in FTA negotiations.

DISPUTE SETTLEMENT

Dispute settlement provisions typically encompass both informal and formal settlement procedures. Proper dispute settlement mechanisms will thus generally contain both consultation procedures as well as formal and binding arbitration procedures.

The broad purpose of dispute settlement is to provide a formal and legally-binding mechanism to resolve disputes over the interpretation or application of the trade agreement, including the possibility of the use of remedies where a dispute cannot be resolved to the satisfaction of both Parties. Effective dispute settlement promotes adherence to the obligations set out in the agreement, and enhances certainty and predictability for commercial actors whose activities may be affected by the trade agreement.

Common areas addressed by dispute settlement provisions include: jurisdiction, consultation, arbitration, outcomes (including possibly, retaliation/withdrawal of concessions, withdrawal of measures, compensation etc.), constitution of panels, procedures and timelines.

A Canada-India CEPA should include a comprehensive and binding State-to-State Dispute Settlement Chapter.

Canada's Approach

Canada's model FTAs include a Chapter on Dispute Settlement that reflects Canada's basic negotiating position.

Canada's commitments under the WTO Dispute Settlement Understanding as well as dispute settlement chapters under recently concluded and existing FTAs are all pertinent

and should guide future negotiations. While some FTAs (e.g. NAFTA) include multiple forms of dispute settlement (e.g. investor-State under Chapter 11, Bi-national Panel judicial review for trade remedy cases under Chapter 19, and State-to-State under Chapter 20) others only focus on State-to-State dispute settlement.

Canada's approach to dispute settlement provisions is to ensure consistency with the WTO Dispute Settlement Understanding and other bilateral FTAs to which it is a Party while pursuing, where possible and appropriate, greater transparency and innovative solutions to challenges such as providing effective remedies.

In all of Canada's FTAs concluded to date (and in ongoing negotiations), Canada has included strong and extensive dispute settlement provisions similar to those found in the NAFTA, with various incremental improvements.

Canada prefers extensive and clear dispute settlement provisions so that it can be certain that, if a dispute arises, the process for resolving that dispute: (1) does not itself become a barrier to resolution; and (2) is fair, efficient, and effective.

Canada is also a strong proponent of transparency measures in dispute settlement, such as making submissions and hearings public, and permitting interested parties to file material with a dispute settlement panel.

Canada also advocates an approach to enhance dispute resolution provisions by advocating new and innovative means of dispute resolution and remedies.

India's Approach

India's approach to Dispute Settlement Mechanism has been somewhat similar to what Canada has outlined. Generally India's other FTAs will provide for State-to-State Dispute Settlement text. These provisions will normally include jurisdiction, consultation, arbitration, outcomes (including possibly, retaliation/withdrawal of concessions, withdrawal of measures, compensation, etc.), constitution of panels, procedures and timelines. As regards jurisdiction, in some of the FTAs the choice of forum of dispute resolution is provided i.e., either the WTO DSU provisions or the Bilateral Dispute settlement, whichever may give comfort to either Party. As regards arbitration by Panels, the Dispute settlement text should provide option to Parties to nominate one Panelist of their choice and the third presiding Panelist may be an independent one. India has not been supportive of public hearing of panel proceedings nor do we encourage private interested parties' unsolicited representation to the Panel unless may seek information. We have also supported inclusion of a Mediation Mechanism for non-tariff measures.

5.8 TRADE POLICY CONSULTATIONS

The decision to hold Canada-India Trade Policy Consultations (TPCs) was agreed in April 2002 by Canada's Minister of International Trade and India's Minister of Commerce. The first annual Canada-India TPCs took place in February 2003 in India, and have been held yearly since then, with the venue alternating between the two countries.

The TPCs provide a platform to discuss, at the Deputy Minister/Secretary level, bilateral and multilateral trade policy matters and work toward resolving a number of trade irritants. They also provide an opportunity to strengthen the Canada-India relationship with a view to ensuring a regular dialogue with a sustained commitment to follow-up. Since the inception of the TPCs, a variety of topics have been discussed, such as labelling requirements, intellectual property, science and technology cooperation, air transport relations, and more. The TPCs allow India and Canada to discuss topics of mutual interest in all sectors that are related to the Canada-India commercial relationship.

The sixth annual Canada-India Trade Policy Consultations took place in Ottawa on September 29, 2009. The consultations proved once again to be a very good and flexible forum to discuss a large number of issues of mutual interest to both India and Canada, including limitations on foreign direct investment, insurance and banking industry regulations, sanitary and phytosanitary (SPS) measures, visa and work permit issues, and export inspection certification systems. Commitments were made by both parties on many issues and timelines were established to conclude a number of ongoing bilateral negotiations and initiatives such as the Canada-India Foreign Investment Promotion and Protection Agreement (FIPA) and the CEO Roundtable. Additionally, the 2009 TPCs prompted a mission to Canada regarding the direct sourcing of rough diamonds.

5.9 AIR TRANSPORT AGREEMENT

The 1982 agreement between Canada and India on air services was last updated in 2005, which resulted in a significant expansion of rights, notably additional points of service, increased frequency entitlements (to 35 flights per week), unlimited cargo rights, code-sharing rights, and multiple airline designation rights. Air Canada does not currently operate own-aircraft service to India, but offers extensive code-share services through its Star Alliance partners, Swiss and Lufthansa, as well as with Jet Airways. Air India and Jet Airways operate up to daily own-aircraft service to Toronto, with Air India stopping en route at London, and Jet Airways at Brussels.

Canada and India, having recently signalled mutual interest in the possibility of revisiting the bilateral air transport agreement, and negotiators will be exploring opportunities in the coming months to further discuss this interest.

With close to 700,000 one-way passenger trips in 2009, India ranked as Canada's 11th largest air transport market.

5.10 SCIENCE AND TECHNOLOGY AGREEMENT

Science and Technology (S&T) cooperation between Canada and India has existed since India's independence in 1947. It was formalised with the signing of a Canada-India Science and Technology Agreement in 2005.

A Joint S&T Cooperation Committee is responsible for overseeing and implementing bilateral S&T activities under the Agreement, with representatives drawn from private industry, academia and government research and development laboratories. Areas for mutual collaboration include: biotechnology/health research/medical devices; sustainable environmental technologies and alternative energy; nanoscience/nanomedicine; information communications technologies (wireless, rural connectivity, infotainment); earth sciences and disaster management; aerospace; photonics; synchrotron science; and biopharma. The Agreement also contains provisions regarding Intellectual Property. Canadian funding for the Agreement has been administered through the International Science and Technology Partnerships Program (ISTPP) and has amounted thus far to US\$ 5.9 million. ISTPP is delivered by ISTP Canada, an arm's length non-governmental organisation under contract to the Department of Foreign Affairs and International Trade. The Indian government is matching Canada's S&T funds under the Agreement. Other Canadian government departments and agencies (federal and provincial), and private sector (Canadian and Indian) have also allocated funding for joint Canada-India R&D projects.

India believes in international cooperation with strategic partnership based on principles of reciprocity and synergy.

India's Science and Technology (S&T) relations with other countries and international bodies are guided by the principles including leveraging international expertise, financial resources, access to large-scale advanced research facilities and international mega-science projects, cross-border training opportunities for (i) strengthening nationally important on-going research programmes, (ii) accelerating institutional and human capacity building, (iii) reflecting on global practices relevant to technology and innovation-based demands and infrastructural requirements.

India gives priority to the specialised fields such as space research, civil nuclear energy research, pharmaceutical research, biotechnology, nano technology, agricultural and water research and information technology. More than 250 projects with several partner countries are currently under implementation. For furthering research and innovation,

Government of India is considering two important initiatives: (i) National Science and Engineering Board and (ii) Nano Mission (Nano Science and Technology Initiative).

India-Canada bilateral cooperation in the field of science and technology through several institutional research linkages are already in place. Canada has been a strategic partner of India in the Global Innovation and Technology Alliance (GITA). A memorandum of understanding (MOU) exists with Canadian Light Source, Saskatoon, for enhancing bilateral scientific cooperation.

The visit of premiers of Canadian provinces of Ontario, British Columbia and Quebec during 2007-08 has further strengthened the process of bilateral cooperation between these two nations. With rising global prosperity and technological advancement, the importance of sharing and disseminating scientific knowledge among countries has assumed tremendous significance in recent years.

The niche opportunities for engagement between research communities of India and Canada need to be explored in detail to determine the future direction for an expanded bilateral relationship between Indian and Canada.

5.11 AEROSPACE

The aerospace sector has been highlighted as an important area of cooperation under the S&T Cooperation Agreement between India and Canada. Under the Agreement, joint projects in the field of creation of a common modelling and simulation tool to test multiple aircraft and air related equipment for a new generation of regional aircraft, use of biofuels in aircraft gas turbine engines made from Canadian and Indian feed stocks, etc. have been projected/undertaken.

Canada and India can work in close cooperation in the aerospace sector primarily in establishing exclusive or on partnership basis production units for manufacturing aerospace components, research and development facilities, software programming, pilot training institutes, servicing, etc. Already, Indian and Canadian companies have formed joint ventures in the training sector such as HAL, India and CAE, helicopter training centre in Bangalore, CAE, Canada and GOI for managing the Indira Gandhi Rashtriya Uran Akademi, a joint venture between CAE and the Airport Authority of India to develop a facility for the Rajiv Gandhi National Flying Training Institute, etc.

In March 2010, Bombardier Aerospace announced that it will open a new Regional Support Office in Mumbai to further strengthening its support for its customers in India. The new office will align Bombardier Aerospace's existing business aircraft and commercial aircraft support services in the region situated in New Delhi, Bangalore and Mumbai.

5.12 SOCIAL SECURITY AGREEMENT

Canada and India are in the process of negotiating a Social Security Agreement. Human Resources and Skills Development Canada is mandated, through the Old Age Security Act and the Canada Pension Plan, to negotiate Canada's social security agreements with other countries. Social security agreements, once signed, are considered treaties in international law and as such, are important to the foreign affairs of both Canada and other countries. To date, Canada has signed 53 social security agreements, 51 of which are currently in force.

Canadian or Indian employees posted to work in the other country will remain covered under their domestic pension system during their postings. Detached workers and their employers will be exempted from contributing to the other country's social security system, thereby eliminating incidences of double coverage. The number of people who will be covered under a social security agreement is expected to grow as trade with India increases. An agreement will also help people in Canada and India to qualify for pensions from either or both countries. The number of people who will initially qualify is expected to be small; however, that number is expected to grow in the future as more people contribute to the applicable Indian Pension System which was only created in 1995 and began paying benefits in 2005.

In May 2009, a Canadian delegation travelled to India for preliminary discussions towards a social security agreement, during which Parties exchanged detailed information on their respective social security programs and legislation. During those meetings, the two delegations agreed to enter into formal negotiations towards the conclusion of a social security agreement. An Indian delegation came to Ottawa during the week of October 19, 2009 for a first round of formal negotiations, at which time a draft text of an agreement was concluded. A Canadian delegation returned to India in February 2010 to finalize the text of the agreement and discuss operational procedures, including a final version of the administrative arrangement. The Agreement is expected to be signed in 2010 and will likely enter into force in early 2011 pending legislative approval from both countries.

5.13 EDUCATION

The recent Education Roundtable, which was attended by twelve of India's key education leaders and three Canadian university presidents and chaired by Prime Minister Harper during his visit to India in November 2009, underscored the growing importance Canada places on forging deeper and more meaningful academic relations and research collaboration with India. Areas of common interest which were discussed during the roundtable included student mobility, partnerships in conducting doctoral programs,

collaboration in capacity development at new and emerging Indian institutions and the application of technology in delivering programs through distance learning.

Canada and India have a history of innovative initiatives which have helped to strengthen ties:

- The Association of Universities and Colleges of Canada (AUCC) and the Association of Indian Universities (AIU) have had an agreement since November 2008 to further explore possible collaboration.
- Canada was the country of honour at the Higher Education Summit of the Federation of Indian Chambers of Commerce and Industry in Delhi in November 2008.
- Since 1991, the Canada-India Institutional Cooperation Project (CIICP), a joint venture by the Association of Canadian Community Colleges and the governments of India and Canada, has contributed to human resource development in India's polytechnic system.
- The Association of Community Colleges Canada (ACCC) Canadian Immigration Integration Program is a pilot project aimed to facilitate integration of Indian immigrants to Canada by providing vocational training while still in India.
- The Ontario-Maharashtra-Goa (OMG) Exchange Program is an agreement between a consortium of 16 Ontario universities and 9 Indian universities.

In addition, since 1968, the independent bi-national Shastri Indo-Canadian Institute (SICI) funded by both governments, has fostered bilateral education linkages and administered the Canadian Studies Program in India. With over 80 active bilateral agreements currently in place between Indian and Canadian institutions, India has become a growing priority in many Canadian institutions' internationalisation strategies. Student Mobility programs through scholarships and exchanges are in place. A growing number of Indian students are pursuing studies abroad, including in Canada.

Canada is attracting a growing number of Indians students with significant increases over the last year. While the impact of these students on the Canadian economy is significant (as much as US\$212 million in 2008), Indian students also contribute significantly to the internationalisation goals of Canadian post-secondary education, particularly in the promotion of Canada-India research collaboration. Indian students also gain access to Canada's advanced education and research system. Discussions are under way to facilitate recognition of Indian academic credentials by Canadian post-secondary institutions, particularly for graduate studies.

Though the number of Indian students studying in Canada is increasing rapidly, the number remains quite small, compared to that of Indian students studying in the United States, the United Kingdom and Australia.

Areas for possible future collaboration:

For augmenting substantial flow of students, close cooperation and exchanges among educational institutions of the two countries are important. One way of facilitating exchanges of human resources can be to recognise the degrees awarded by accredited and registered educational institutions in India and Canada. In this regard, an effort to share information on each country's institutions and their educational programs can be taken up at various levels.

Both governments should promote the infrastructure to accept students from the other country and support the efforts by universities and colleges for enriching their exchange programs which would contribute to educational and scientific accomplishment in universities and colleges in both countries. Relevant institutions of the two countries are encouraged to make efforts to share information on each other's institutions and their educational programs.

India is embarking on a significant education infrastructure expansion. The two countries are exploring a Memorandum of Understanding to facilitate academic cooperation and mobility in higher education.

5.14 AGRICULTURAL COOPERATION

The comprehensive Memorandum of Understanding on Cooperation in the Field of Agriculture and Allied Sectors was signed between India and Canada on January 13, 2009. The MoU provides an institutional mechanism for encouraging cooperation towards knowledge sharing on emerging technologies, agricultural marketing and animal development.

The cooperation envisaged in the MoU is expected to be mutually beneficial for the two countries. It can also lead to increase in bilateral trade by creating new marketing opportunities benefiting the farmers and businesses of both countries.

The MoU provides for setting up of working groups to address specific areas dealing with sharing of knowledge on emerging technologies, agricultural marketing and animal development. It will have representatives from all stakeholders including private sector. The first working group was held in March 2010, and work has begun on several projects.

5.15 ENERGY COOPERATION

India and Canada agreed to establish an Energy Dialogue, to strengthen and expand bilateral cooperation in this important area and to set up an India-Canada Energy Forum. The issue of cooperation in energy has been a part of the agenda at annual Canada-India Foreign Policy Consultations. During the December 2008 round, this issue was discussed in detail laying emphasis on Canadian investment in various energy sectors in India such as hydro, thermal, nuclear, solar, wind, new and renewable energy including collaboration in clean technology.

In November 2009, Canada and India signed a Memorandum for Cooperation in Energy during Prime Minister Harper's visit to India. The salient objectives of the MoU are:

- To establish a working relationship based on equality, overall reciprocity and mutual benefit.
- It aims to strengthen a dialogue in energy to promote energy security and stable energy markets, enhance bilateral trade and investment opportunities in energy related activities and advance the sustainable development of energy sector in both countries.
- It also aims at the use of market mechanisms such as the Clean Development Mechanism.
- It underlines establishment of an India-Canada Forum on Energy as a primary mechanism for cooperation. The Forum will develop a workplan to coordinate the activities outlined in this MoU and will meet each year. Meetings to be held in each country by rotation.
- The activities under the proposed MoU will be consistent with the provisions of the S&T Cooperation Agreement between India and Canada.

It was further proposed that cooperation under the proposed MoU may include the following:

- Energy policy: To provide a framework for discussions and exchanges of information on energy matters, policies, programs and regulatory practices of both countries and to identify and promote conditions to increase bilateral trade and investment
- Renewable Energy and Energy Efficiency:

- To promote opportunities for cooperation in renewable energy, energy efficiency and clean technologies particularly in hydrogen fuel cell technology, biofuels, wind and solar energy.
- Power Generation, Transmission Distribution and End-use: To expand and strengthen cooperation in power generation which includes hydro, thermal and co-generation as well as clean coal and other forms of energy and related services and equipment.
- Energy Research Development: To promote clean energy initiatives such as in the areas of coal bed methane and coal gasification.
- Oil and Natural Gas: To facilitate and promote enhanced sustainable exploration and production, mining and drilling under mutually agreed terms and conditions.
- Other Energy Related Issues: To hold discussions on energy related bilateral and multilateral issues as agreed upon between two sides.

CHAPTER 6: ECONOMIC MODELLING

The economic impacts of the CEPA between Canada and India can be empirically examined with a computable general equilibrium (CGE) model. In this Chapter, we use the Global Trade Analysis Project (GTAP) model for this purpose.

The modelling results should be considered in the context of both the advantages and limitations of the model, and of CGE models in general. The GTAP model integrates data on bilateral trade flows, trade protection and domestic support together with national input-output tables that describe the sale and purchase relationships between producers and consumers for 113 economies/regions. This allows the model to generate estimates of the impact of trade policy changes, such as preferential tariff elimination under free trade agreements, on trade flows, the level of national economic output and employment. However, the GTAP model can reflect only the expansion of trade in products already traded in the bilateral relationship, and cannot predict the creation of trade in new product areas, which is particularly important when the existing trade relationship is fairly narrow, as is the case between Canada and India. Further, increases in trade do not drive gains in productivity in the GTAP model, although it is possible to introduce a productivity increase in the model. Finally, the GTAP model only allows for analysis of gains from liberalisation in goods and services trade, and does not include gains from liberalisation and enhanced economic cooperation in other areas (investment being a key example).

Table 6.1: Summary of Simulation Results for Canada-India CEPA²⁶

	<i>GDP gains (US\$ billion)</i>		<i>GDP gains (%)</i>	
	Canada	India	Canada	India
Canada's simulation	6.2	6.1	0.41	0.51
India's simulation	15.2	12.2	1.02	1.01
	<i>Exports gains (US\$ billion)</i>		<i>Exports gains (%)</i>	
	Canada	India	Canada	India
Canada's simulation	1.4	1.5	47	61
India's simulation	0.8	1.1	39	32

Sources: Canadian simulation results from DFAIT, Indian simulation results from RIS.

Therefore, the results presented in this chapter should be seen as complementing the qualitative analysis of gains from a CEPA that are presented elsewhere in this study, and should also be considered as likely to underestimate the benefits to be had from a CEPA.

²⁶ Dollar value impacts are based on GDP and trade levels in 2008. As the GTAP database ends in 2004, results from all simulations have been scaled up to 2008 levels.

Simulations using the GTAP are carried out by both Canada and India. The simulations cover a wide range of liberalisation issues such as trade in goods and services and trade facilitation, and they examine the implications of productivity gains and increases in the supply of labour and capital, and their consequent impact on the economies of the contracting parties. Estimates of GDP gains range from US\$6-15 billion for Canada and US\$6-12 billion for India. These results show that the potential gains from liberalising trade between Canada and India are substantial. Further, the gains are fairly symmetric. Bilateral trade increases significantly with export gains for Canada ranging between 39% to 47% and for India, between 32% to 61%.

6.1 TECHNICAL BACKGROUND ON THE MODELLING FRAMEWORK

The GTAP model version 6.2 is chosen for this study. This is a static version of the GTAP model family with an assumed market structure of perfect competition. On the production side, the model assumes that labour and capital are fully employed, mobile across all uses within a country but immobile internationally. On the demand side, there is a regional representative household whose expenditure is allocated across private consumption, government spending, and saving. Bilateral international trade flows are modelled based on the Armington hypothesis that goods and services are differentiated by region of origin and are imperfect substitutes.

In performing simulations, the modeller must make some choices with regard to which variables in the model are to be exogenous (i.e., fixed at predetermined values specified by the modeller) and which are to be endogenous (i.e., the values for which are solved by the model). Under the GTAP's default microeconomic closure, the supply of labour, capital, land and resources are fixed; factor prices (i.e. wages, and return to capital and land) adjust to restore full employment of the factors of production in the post shock equilibrium. Under alternative microeconomic closures that are sometimes used, the return to capital or to labour can be fixed and the supply of capital and labour then adjusts to restore equilibrium.

The economics of the welfare effects of tariff eliminations are modelled as allocative efficiency gains stemming from reallocation of productive resources across sectors. By contrast, modelling of regulatory barriers such as barriers to trade in services is less straightforward. Regulatory barriers require the use of real resources to meet regulatory requirements. They are not a necessary part of the production and delivery process, but rather are an added or discretionary burden of costs added by government. A reduction of regulatory barriers represents a saving of real resources. In general, the reduction of regulatory barriers would result in greater gains from liberalisation compared to tariff reductions on the price of traded products. This reflects the fact that tariffs represent a transfer of income. They contribute to national income in the country or region collecting

the tariffs and, therefore, expand economic welfare commensurately with the reduction in economic welfare in the country/region paying the tariffs.

6.2. CANADA'S APPROACH

6.2.1 Framework for the Simulation

This section describes updates to the tariff baseline in the GTAP database, the assumptions underlying the simulation with respect to services liberalisation, and the closure rule adopted for the simulation.

Tariff updating

The database for the model is based on the GTAP database version 7, which is benchmarked to 2004. This version of the GTAP database includes the latest Canadian IO table, which has been updated to 2003 from 1990 in the previous version of the GTAP database.

The tariff data need to be updated to reflect the latest levels of protection in both countries. Because of unilateral liberalisation undertaken in each country since 2004, using the 2004 tariff data might inflate the scope of gains from bilateral trade liberalisation between Canada and India.

Consistent with GTAP methodology for trade-weighted tariff averaging, the approach to update the Canadian and Indian tariffs to the 2008 level is described as follows:

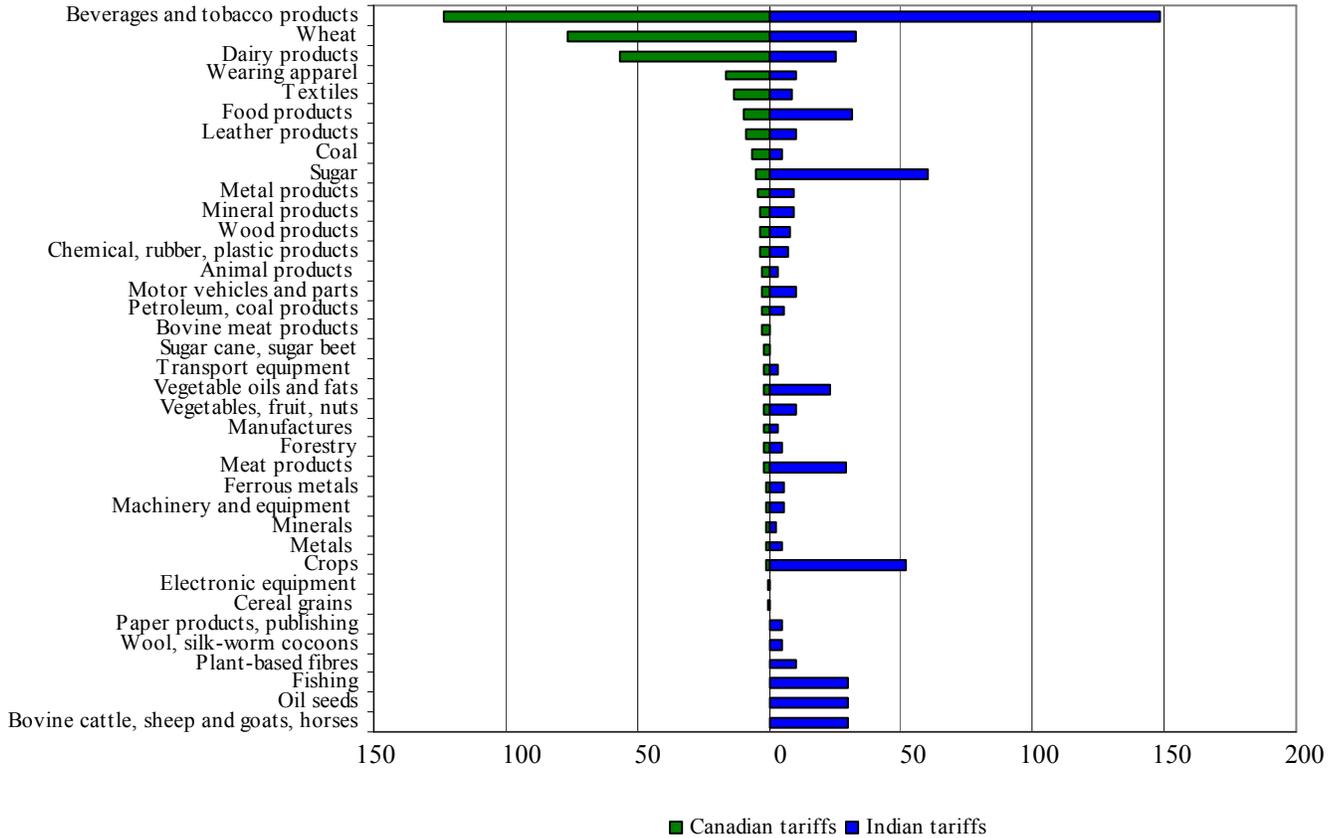
- 1) We use the 2008 average Ad Valorem Canadian and Indian applied MFN duty data at the HS-6 level obtained from the WTO Integrated Trade Database²⁷. We use the 2006-08 three years' average Canadian and India imports to calculate the trade weights using the import data from the World Trade Atlas²⁸. We grouped the tariff and import data at the HS-6 level to the appropriate GTAP category according to the HS-GTAP concordance obtained from the GTAP.
- 2) For certain HS-6 categories for which there is a combination of ad valorem, mixed and special tariffs together, we chose the highest tariff in order to capture the full potential of trade liberalisation.

²⁷ The Canadian and India tariffs in the WTO Integrated Trade Database can be found in the following website: http://www.wto.org/english/thewto_e/countries_e/india_e.htm; and http://www.wto.org/english/thewto_e/countries_e/canada_e.htm

²⁸ Information on World Trade Atlas available <http://www.gtis.com/english/>

Figure 6.1 provides the updated tariffs in 2008. Based on this methodology, the average trade-weighted tariffs facing total goods traded between India and Canada remain significant, despite the progressive lowering of tariffs at the multilateral level. Canadian goods faced an average tariff of 16.4% in 2008 entering the Indian market while Indian goods faced an average tariff of 9.3% in the Canadian market.

Figure 6.1 Canada and India Trade-Weighted Import Tariffs, 2008 (%)



Source: DFAIT Office of the Chief Economist calculations based on the WTO Integrated Trade Database

Modelling services trade liberalisation

While a comprehensive dataset is available for tariff barriers for goods trade, a similar database on the barriers to services trade does not exist. Moreover, given the fact that barriers to services trade typically are part of broader regulatory frameworks governing the delivery of services in a given jurisdiction, the extent to which liberalising measures can reduce the trade-inhibiting aspects of these regulations is at the present time effectively impossible to measure directly. Therefore, both the height of barriers to services trade and the extent to which their reduction is feasible must be inferred indirectly through econometric analysis.

The height of barriers to trade in services in this study is taken from the gravity model estimation of services imports by J. Francois et al²⁹. Regression analysis measures possible regulatory barriers that impede services trade across all countries. The estimation results are then applied to the country level to give rise to trade costs benchmarked against Hong Kong and Singapore (which are considered to be the closest to free trade countries). In Francois' calculation, the measured trade cost for all service sectors in Canada is 20.18% higher than Hong Kong and Singapore, while the corresponding figure for India is 18.03%. In other words, if trade in services in Canada and India were as free as Hong Kong and Singapore, trade costs in services in Canada and India would be 20.18% and 18.03% lower, respectively. Based on these estimates, we would expect equivalent direct efficiency gains in bilateral trade in services, or saving in real resources for both Canada and India.

The closure rule

Under the GTAP model's default microeconomic closure, the total supply of capital and labour are fixed. Factor prices adjust to restore full employment of the factors of production in the post shock equilibrium. In other words, the model assumes that there would be no extra capital and labour available in either country to meet the new demand stemming from trade liberalisation between Canada and India. Additional capital and labour have to come at the expenses of the existing production capacity that is used in the production for domestic consumers or consumers in third countries. The competing demand for labour and capital will bid up wages and returns to capital, resulting in strong trade diversion and terms of trade effects.

This is clearly not a very realistic presentation of the economy for the present case. In today's highly integrated global financial market, it is unlikely that a rise in the rate of return to capital would not be met with higher investment, even if this were not financed through increased domestic savings. Similarly, given the relatively small size of bilateral trade between Canada and India, as return to labour increases, both countries should have no difficulty to find extra labour to meet new demand. The extra labour could come as a result of population growth, increasing labour participation, or migration from rural areas to the industrial sector. Given the above considerations, in the following simulation, we choose the closure rule in which the supply of labour and of capital are endogenous, and their supply responds to higher returns due to freer trade, bringing factor prices back to their original level in equilibrium.

²⁹ J. Francois, B. Hoekman and J. Woerz, 2007 "Does Gravity Apply to Intangibles? Measuring Openness in Services", memo.

6.2.2 The Simulation results

Policy scenarios used in the simulation

The quantitative estimates obtained in this study are based on a simulation that involves:

(a) full elimination of goods trade protection as captured in the GTAP database, updated to 2008 as described above, for all industrial and agricultural sectors (including elimination of all tariffs and tariff-rate quotas). Notably, no exception is made for “sensitive sectors”, notwithstanding that trade and investment liberalisation initiatives often contain provisions that exempt certain such sectors from liberalisation or circumscribe the applicable extent of liberalisation;

(b) a reduction of trade costs in Canada-India cross-border services trade (through the GTAP function for augmenting technological change through imports from the partner country) by an amount equivalent to that estimated by Francois et al as what would be required to make services trade as liberal as it is in Hong Kong and Singapore (which are considered to be the closest to free trade countries in services).

Impacts on the level of economic activity

Table 6.2 presents the results. As a percent of GDP, India’s gains at 0.51% are slightly higher than Canada at 0.41%. In absolute terms, gains are essentially equivalent, about US\$6.2 billion for Canada and US\$6.1 billion for India.

Table 6.2 Canada’s simulation results - Implications for GDP

	Gains from		Total Gains
	Tariff reductions	Services trade liberalisation	
% changes			
Canada	0.18	0.24	0.41
India	0.27	0.24	0.51
US\$ billion			
Canada	2.6	3.5	6.2
India	3.2	2.9	6.1

Source: DFAIT Office of the Chief Economist estimates based on the GTAP model v.6.2

Trade impacts

The simulation results show that two-way bilateral trade as measured by exports of goods and services could potentially expand by over 50%, or nearly US\$3 billion. While

services trade expands by more than goods trade, its absolute contribution to gains is smaller, given its smaller base.

Table 6.3 Canada's simulation results – Implications for exports

	Canadian exports to India			Indian exports to Canada			Total Bilateral Trade		
	Base Values	% changes	Value changes	Base Values	% changes	Value changes	Base Values	% changes	Value changes
US\$									
Goods	2.6	45	1.2	2.1	59	1.2	4.7	51	2.4
Services	0.3	60	0.2	0.4	67	0.3	0.7	64	0.5
Total	2.9	47	1.4	2.5	61	1.5	5.4	53	2.9
<i>As share of total goods and services (%)</i>									
Goods	88.9		85.8	83.1		81.4	86.2		83.5
Services	11.1		14.2	16.9		18.6	13.8		16.5

Source: DFAIT Office of the Chief Economist estimates based on the GTAP model v. 6.2

Despite the overall higher level of tariff protection in India, and the higher initial level of Canadian goods exports to India, India's bilateral export gains in goods are similar in magnitude to Canada's, around US\$1.2 billion. In percentage terms, India's bilateral export gains in goods are greater than that for Canada, an increase of 59%, compared to 45% for Canada.

In services trade, India's bilateral cross-border exports in services expand by US\$280 million (or 67%) and Canada's by US\$193 million (or 60%).

Table 6.4 details the individual bilateral sectoral trade impacts resulting from liberalisation of trade between Canada and India. India's leading export gains are concentrated in manufactured products and services. Among manufacturing sectors, the sector that leads India's gains are textile and apparel products³⁰, which accounts for more than 70% of total India's gains in goods exports. For Canada, the gains in exports are widely spread, ranging from primary agricultural and resources-related products, to chemical products, transport equipment, machinery and equipment, and services.

³⁰ With the tariff relief initiative in Budget 2010, Canada has committed to liberalising most textiles in HS chapters 50 through 60, other than 62 tariff items that are finished products for retail sale, by 2015. This will moderate the impact of an FTA upon Indian textiles exports to Canada but not significantly according to our sensitivity test. India's export gains also occur in wheat and dairy products. On dairy products, the variance in the individual tariff levels applied to different dairy products requires a more disaggregated modeling approach than is possible using the GTAP model in order to more accurately assess the trade liberalising impact in this sector. Consequently, the trade impacts as generated under the liberalisation scenario are likely underestimated with respect to India's gains in this sector. On wheat, Canada's global comparative advantage is likely not adequately captured in the GTAP model and as such, the trade impacts as generated under the liberalisation scenario are likely underestimated with respect to Canada's gains, and overestimated with respect to India's gains in the sector.

Table 6.4 Canada's simulation results – Implications for trade at sector level

Millions US\$	Canadian exports to India			Indian exports to Canada		
	Base values	% changes	Value changes	Base values	% changes	Value changes
Agriculture	565.9	42	239.0	212.9	57	121.8
Fishery and Forestry	1.7	29	0.5	4.1	4	0.2
Extraction	87.1	5	4.0	7.0	4	0.3
Manufacturing	1,929.6	48	920.4	1,843.0	60	1,104.0
Services (base year is 2007)	324.0	60	192.7	421.0	67	280.4
Total	2,908.3	47	1,356.5	2,488.0	61	1,506.6

Source: DFAIT Office of the Chief Economist estimates based on the GTAP model v. 6.2

Output impacts

Table 6.5 below provides the impacts of trade liberalisation between Canada and India on output in both Canada and India. In percentage terms, the impact of liberalisation on the total Canadian production output is larger than that of India. This is because the endogenous response of labour and capital to trade liberalisation under the closure rule of flexible supply of labour and capital is more significant in Canada than in India, which translates into a greater increase in production capacity in Canada than in India.

The impacts that emerge from the simulation at the sector level conform in broad outline to *a priori* expectations based on comparative advantage. Indian gains are most significant in textiles, wearing apparel and services and Canada's in industrial goods, machinery and equipment, and services.

Table 6.5 Canada's simulation results – Implications for output

% change	Canada's output	India's output
Agriculture	0.47	0.10
Forestry and Fishery	0.39	0.15
Extraction	0.15	-0.04
Manufacturing	0.65	0.16
Services	0.56	0.32
Total	0.56	0.21

Source: DFAIT Office of the Chief Economist estimates based on the GTAP model v. 6.2

6.3 INDIA'S APPROACH

6.3.1 Framework for the simulation

In this section, a comprehensive CEPA between India and Canada has been modeled, using a modified GTAP version 7 database that takes into account recent changes trade

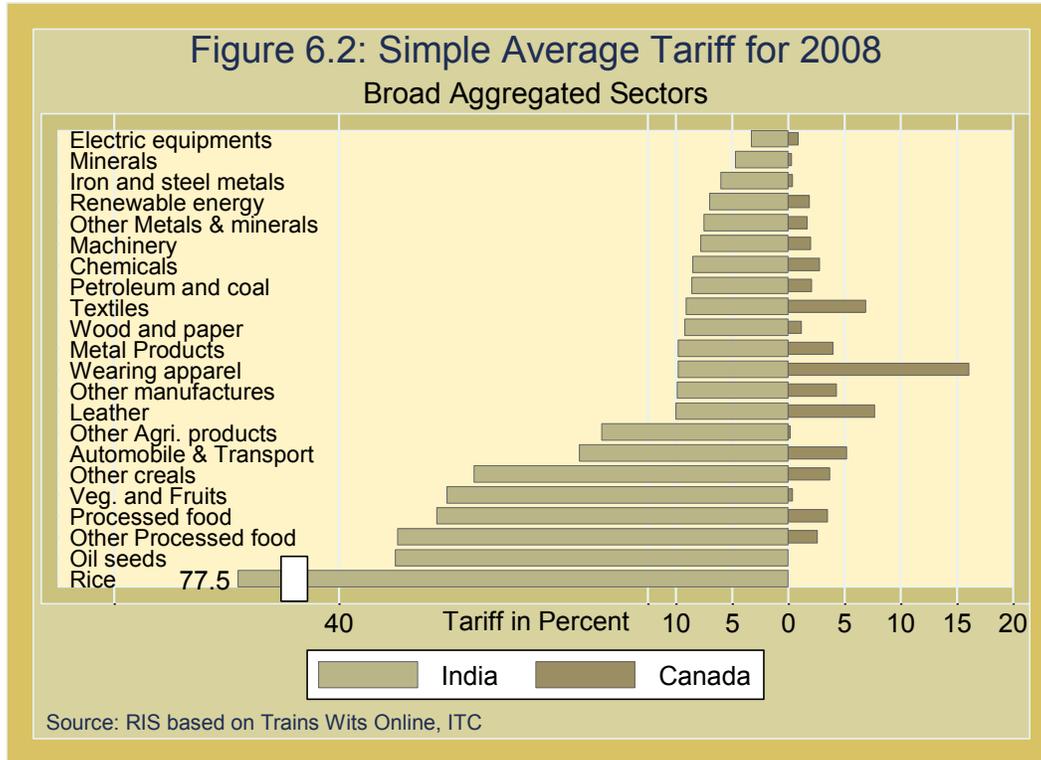
policy settings in both countries. The modeling also incorporates gains from trade liberalisation, trade facilitation and productivity gains. Sectors and regions are chosen for the model based on the economic and regional interest of both countries.

Tariff Updating

For the modelling exercise, the GTAP database version 7 is used where the database is benchmarked to 2004. In order to examine the impact of Canada-India CEPA on the overall economic activities of both the countries and also other regions of the world, there is a need for updating the tariff data for both the countries.

We have used TRAINS WITS online database to collect MFN tariff data at 6-digit HS for both Canada and India. Latest data available for both the countries is for the year 2008. For updating MFN tariff data, single year data is used. As discussed in chapter 2, tariff rates in India are declining very fast on account of unilateral liberalisation and similar as is the case for Canada. Updating of CGE database with latest tariff data would show the current state of liberalisation in both the countries. This effect is better captured by the current year data. We have also sourced data from national sources to update certain categories of tariffs such as mixed and specific tariffs. Using various methods, tariff equivalence of these tariff lines is estimated. Ad valorem tariffs are combined with these estimated tariff equivalence of the mixed and specific tariff lines to form comprehensive tariff variables for both the countries. Tariff lines are concorded with GTAP sectors using HS2007-GTAP concordance from the TRAINS WITS online database.

For the estimation of CGE model, we have used 18 regions by 27 sectors aggregated GTAP data. These sectors include seven from agriculture, fifteen from manufacturing and five from services. The HS2007-GTAP concordance is used to arrive at average tariffs for 22 sectors for the model in the goods sector (no tariffs for services sectors) (See Figure 6.2).



For the estimation of sector-level MFN tariffs, we used simple average tariff instead of imported weighted tariff. This approach is adopted on account of two reasons- (a) import-weighted tariffs have the tendency to suppress value of peak tariffs and (b) actual negotiation takes place on the basis of actual tariffs rather than import-weighted tariffs.

The above Figure 6.2 indicates the relative position of tariffs in specific aggregate sectors in both the countries and these sectors are used in the CGE model. Barring a few sectors, India's sectoral tariff rates are higher than those of Canada. Tariff liberalisation in both the countries may have some positive impact on trade and other macroeconomic variables.

Modelling Liberalisation with Trade Facilitation and Productivity

The current literature on regional integration suggests that deeper integration is essential for realising potential gains from any forms of regional cooperation like a Canada-India CEPA. Among various schemes of liberalisation suggested in the literature, trade facilitation is one of these important schemes which are often examined in the CGE framework³¹. Taking in account the distance factor into consideration, we have taken all modes of shipping cost as the proxy for the trade facilitation in the simulation.

³¹ Hertel, T. W., Walmsley, T., and Itakura, K., 2001, "Dynamic effects of the "new age" free trade agreement between Japan and Singapore". *GTAP Technical Report.*; Mirza, Tasneem and Thomas W.

It is expected that the proposed CEPA may create conditions for deeper integration of two knowledge economies. With various channels of linkages including investment flows, technology transfer, movement of natural persons, joint R&D, etc, there are greater possibilities of spillover of knowledge, leading to productivity gains for member countries.

In the CGE literature, use of productivity shock is a common feature. This is often used in the context of bilateral or regional free trade agreements, food security, climate change, labour, etc. among others. Several studies have examined the impact of productivity gains on various sectors of an economy in a CGE framework³². For the Brazilian economy, Carneiro and Arbache (2003)³³ applied 10% shock to the productivity variable to examine its effects on output and employment. We have taken a moderate view in terms of expected gains from productivity rise. However, we have chosen to put a productivity shock of 1% in the model.

6.3.2 Simulation results

In the modelling analysis, four scenarios are postulated to examine the efficacy of the proposed Canada-India CEPA. These scenarios are the following:

1. Trade liberalisation with shallow integration (tariff liberalisation only)
2. Trade liberalisation with trade facilitation
3. Trade liberalisation with productivity gains
4. Trade liberalisation along with trade facilitation and productivity gains

The results indicate that both India and Canada experience small welfare gains as a result of trade (tariff) liberalisation alone. Bilateral merchandise exports increase as trade barriers are removed. The gains are asymmetric, as would be expected given the relative size of the two economies and each country's respective initial level of trade barriers.

Hertel, 2007, "The Role of Trade Facilitation in South Asian Economic Integration". *Asian Development Bank Project Report*.; Narayan, Badri, and Terrie Walmsley, editors, 2008, "Global Trade, Assistance, and Production: The GTAP 7 Data Base." Center for Global Trade Analysis, Purdue University. ; Mirza, Tasneem 2008, "A Cost-Benefit Analysis of Trade Facilitation in an Applied General Equilibrium Model", Economics Department, Purdue University, Working Paper.

³² Robinson, S., Y_unez-Naude, A., Hinojosa-Ojeda, R., Lewis, J. D., and Devarajan, S.,1999, "From stylized to applied models: building multisector CGE models for policy analysis", *North American Journal of Economics and Finance*, Vol.10, pp.5-38.; Barros, R. P., Corseuil, C. H., Cury, S., & Leite, P. G., 2001, "Abertura econ^omica e distribuic_~ao de renda no Brasil. Proceedings of the Workshop on Trade Liberalisation and the Labor Market in Brazil, Bras_ilia, UnB/IPEA.

³³ Carneiro, Francisco Galrao and Jorge Saba Arbache (2003), " The impact of trade on the Brazilian Labour Market: ACGE Model Approach", *World Development*, Vol. 31(9), pp.1581-1595.

Trade liberalisation along with trade facilitation measures may not create many opportunities to generate large welfare gains for both countries. Productivity gains from the CEPA may be effective in improving significant welfare gains for both countries (See Table 6.6).

Table 6.6 India's simulation results: Implications for GDP

	Trade	Trade & Trade Facilitation	Trade & Productivity	Trade, Trade Facilitation & Productivity
GDP gains (%)				
India	0.016	0.019	1.006	1.009
Canada	0.01	0.011	1.014	1.015
GDP gains (Billions US\$)				
India	0.2	0.2	12.1	12.2
Canada	0.2	0.2	15.2	15.2

Source: RIS estimates based on GTAP v 6.2 database 7.

Note: Full Trade Liberalisation, trade facilitation measures liberalised by 10% and productivity improvement by 1%

Bilateral exports are likely to gain from the CEPA. As we move towards more comprehensive liberalisation, incremental gains for the export sectors are likely to increase, but these gains may not be significantly large (See Table 6.7).

Table 6.7 India's simulation results: Implications for bilateral exports

	Trade	Trade & TF	Trade & Productivity	Trade, Trade Facilitation & Productivity
% Change in bilateral Exports				
India	28.0	30.5	29.2	31.7
Canada	34.9	38.3	35.9	39.4
Change in bilateral Exports (Billion US\$)				
India	0.7	0.8	0.7	0.8
Canada	1	1	1	1.1

Source: RIS estimates based on GTAP v 6.2 and database 7.

Note: Full Trade Liberalisation, trade facilitation measures liberalised by 10% and productivity improvement by 1%

Partial equilibrium analysis could be applied to provide further insight into the impact of trade liberalisation between Canada and India.

CHAPTER 7: RECOMMENDATIONS AND CONCLUSION

Further to an announcement by Canada's Minister of International Trade and India's Minister of Commerce and Industry on January 21, 2009, a Joint Study Group was established on November 17, 2010 to examine the feasibility of a CEPA with the following objectives:

- broaden and deepen cooperation in all economic fields;
- encourage trade and investment flows, bilaterally and regionally;
- contribute to trade and investment facilitation through minimizing tariff and non-tariff barriers, reducing any administrative costs;
- improve business climate in the two countries; and
- enhance transparency of regulation and promote cooperation among relevant institutions.

The Joint Study Group also undertook economic modelling with a view to identifying the possible economic impact of trade liberalisation. Simulations using the GTAP were carried out by both Canada and India. The simulations covered a wide range of liberalisation issues such as trade in goods and services and trade facilitation, and they examined the implications of productivity gains and increases in the supply of labour and capital, and their consequent impact on the economies of the contracting parties. Estimates of GDP gains range from US\$6-15 billion for Canada and US\$6-12 billion for India. These results show that the potential gains from liberalising trade between Canada and India are substantial. Further, the gains are fairly symmetric. Bilateral trade increases significantly with export gains for Canada ranging between 39% to 47% and for India, between 32% to 60%.

With this understanding, the Joint Study Group proceeded to examine Canada's and India's trade policy approaches in goods, services and investment, as well as to define complementary issues and cooperation. The Joint Study Group found that, while Canada's and India's approaches sometimes differ, there is an overriding remarkable similarity in objective in the various areas that would comprise a CEPA. A set of common recommendations and objectives were identified that would permit Canada and India to pursue a comprehensive and ambitious CEPA to their mutual benefit. These recommendations are outlined below.

7.1 SUMMARY OF RECOMMENDATIONS

In the context of a possible Canada-India CEPA, the Joint Study Group makes the following recommendations with respect to trade in goods.

- **Rules of origin** should be clear and simple in design with low compliance costs, economically efficient; recognise the increasingly globally integrated nature of manufacturing process; acknowledge the principles of competitive and comparative advantage; and facilitate trade between the two countries.

- With respect to **customs (origin) procedures**, a Canada-India CEPA should include provisions that allow for the effective and transparent administration of the rules of origin. Such procedures should help ensure compliance with the rules of origin without creating unnecessary obstacles to trade. The broad objectives could include: simplify and harmonise customs procedures; ensure predictability, consistency and transparency in the application of customs laws, regulations and administrative policies and procedures; facilitate bilateral trade and ensure the security of such trade; provide a means for customs-customs consultation to enable early resolution of any issues affecting the movement of trade across borders; and rules of origin should be readily enforceable at the border without involving additional administrative costs. Based on previous agreements, Canada and India have different views in respect of certification and verification of origin. In the framework of a bilateral agreement, we may have an opportunity to find innovative solutions for customs procedures.

- **Trade Facilitation** provisions of a Canada-India CEPA should: facilitate trade between the two countries; build upon the WTO work with a view of avoiding duplication; support the objective of reducing cost for the trading community; support innovation and promote the use of new technologies where appropriate; be in accordance with the Parties respective confidentiality and protection of information requirements; and ensure that appropriate security measures are maintained. In the context of a CEPA, India and Canada should initiate negotiations related to Trade Facilitation as early as possible so as to improve customs efficiency through bilateral cooperation. Such cooperation could include: appropriate controls to combat offences against law administered by customs and facilitate legitimate trade; ensuring efficient, economical customs border administration and the expeditious clearance of goods; ensuring harmonised systems of customs valuation, in line with the *Agreement on Implementation of Article VII of the GATT, 1994*), duties and documentation may be evolved across all notified or authorised ports of entry in both the countries; and procedures of handling of goods at ports and customs clearance that may be simplified and made more efficient.

- A **technical barriers to trade** chapter should build on the foundations of the WTO TBT Agreement and seek to improve its implementation; ensure that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade, primarily by establishing enhanced transparency disciplines; seek to reduce transaction costs for exporters by exploring methods to facilitate the recognition of conformity assessment; enhance joint cooperation between the Parties; and create a bilateral mechanism to address specific TBT issues. In addition, in order to facilitate trade in goods, both sides could explore opportunities for mutual recognition in the area of technical regulations, standards and conformity assessment procedures.
- A Canada-India CEPA should include provisions on **sanitary and phytosanitary** issues that affirm that SPS trade-related measures shall be governed by the WTO SPS Agreement; and ensure an effective bilateral mechanism to provide a forum for ongoing cooperation and information exchange, as well as facilitate discussion on bilateral SPS issues in order to avoid disputes, taking into account existing mechanisms.
- If necessary, a Canada-India CEPA could include an **emergency action** chapter that provides for a transitional, tariff-based emergency action mechanism that covers all goods and establishes clear parameters for any resulting actions, the conditions under which they may be imposed, and limits the length of time for which the action may be maintained.
- **Trade remedies** could be discussed with the objective of maintaining appropriate protection from unfair trading practices, including a potential discussion of global safeguard measures, while ensuring that the benefits of trade liberalisation are not undermined and allowing potential exports to be realised, in accordance with the rights and obligations established by the WTO Agreement.

In respect of services, the Joint Study Group arrived at the following recommendations.

- A Canada-India CEPA should include a **Trade in Services** Chapter that provides for: liberalisation of trade in services with substantial sectoral coverage, measured in terms of numbers of sectors, volume of trade and modes of supply, including sectors and modes with trade potential and complementarities; a considerably higher level of ambition than the current WTO commitments, with the aim of achieving market access, non-discrimination and compliance with Article V GATS; disciplines in domestic regulation that would be a useful complement to market access and non-discrimination and would play a positive role in facilitating trade in services; and provisions to facilitate the mutual recognition of professional qualifications.

- The Canada-India CEPA should include a stand alone chapter for financial services. Specific modalities, such as approach and level of commitments, will be discussed in the context of formal negotiations.
- A Canada-India CEPA should include a chapter on **telecommunication services**, with the goal of promoting a pro-competitive regulatory environment that is vital to trade in telecommunication services.
- Recognising the mutual interest in facilitating the legitimate **temporary movement of natural persons** for enhancing bilateral trade and investment, a separate chapter on temporary entry for natural persons should be included.

In regard to **investment**, the Joint Study Group recommends that the bilateral investment agreement should be concluded and ratified. Consideration of additional investment provisions in a CEPA can take place thereafter.

Chapter 5 examines Canada's and India's approaches with respect to other areas of economic cooperation, which will continue to be discussed in the context of a CEPA.

- Canada and India agree to address **intellectual property** within the context of a comprehensive CEPA that would lead to clear benefits for both sides.
- Canada and India agree to exchange information on **electronic commerce** in the context of CEPA negotiations.
- Consultations between India and Canada may be undertaken in the CEPA context as appropriate on various matters relating to **competition policy and monopolies and state enterprises**.
- In relation to the area of Government Procurement (GP), Canada and India have differing points of view, but have agreed to continue to discuss **government procurement** as we progress toward a bilateral CEPA.
- In the areas of **Trade and Labour** and **Trade and Environment**, Canada and India have different points of view, but have agreed to continue to discuss these issues as we progress toward a bilateral CEPA.
- Any agreement should include **institutional provisions** for its effective administration, including a binding state-to-state dispute mechanism.

The Joint Study Group also considered a list of existing agreements and areas of cooperation, including Trade Policy Consultations, the Air Transport Agreement, the Science & Technology Agreement, Aerospace, the Social Security Agreement, Education, Agricultural Cooperation, and Energy Cooperation.

The recommendations and findings presented in the report are without prejudice to the final outcome of negotiations for any future comprehensive economic partnership agreement.

7.2 CONCLUSION

The Joint Study Group finds sufficient common ground to recommend moving ahead with next steps towards negotiation of a comprehensive agreement covering substantially all trade in goods and services; investment; trade facilitation; and other areas of economic cooperation, as a ‘single undertaking’, leading to additional trade flows and economic gains.