

ANNEX I

SCHEDULE OF CANADA

INTRODUCTORY NOTES

1. **Description** provides a general non-binding description of the measure for which the entry is made.
2. **Obligations Concerned** specifies the obligations referred to in Article 9.12.1 (Non-Conforming Measures) and Article 10.7.1 (Non-Conforming Measures) that do not apply to the listed measures.
3. In the interpretation of an entry, all elements of an entry shall be considered. An entry shall be interpreted in the light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:
 - (a) the **Measures** element is qualified by a liberalisation commitment from the Description element, the **Measures** element as so qualified shall prevail over all other elements; and
 - (b) the **Measures** element is not so qualified, the **Measures** element prevails over other elements, unless a discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element prevails, in which case the other elements prevail to the extent of that discrepancy.

Sector:	All
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 9.4) Most-Favoured-Nation Treatment (Article 9.5) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11)
Level of Government:	Central
Measures:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1st Supp.) Investment Canada Regulations, SOR/85-611, as qualified by paragraphs 8 through 12 of the Description element
Description:	<p><u>Investment</u></p> <ol style="list-style-type: none"> 1. Except as set out in paragraphs 3 and 7, the Director of Investments will review a direct “acquisition of control”, as defined in the <i>Investment Canada Act</i>, of a Canadian business by an investor of an original signatory for which the Agreement has entered into force pursuant to Article 30.5 (Entry into Force) if the value of the Canadian business is not less than C\$1.5 billion, adjusted in accordance with the applicable methodology in January of each subsequent year as set out in the <i>Investment Canada Act</i>. 2. Notwithstanding the definition of “investor of a Party” in Article 9.1 (Definitions), only investors who are nationals of an original signatory for which the Agreement has entered into force pursuant to Article 30.5 (Entry into Force), or entities controlled by nationals of those Parties, as provided for in the <i>Investment Canada Act</i>, may benefit from the higher review threshold. 3. The higher threshold in paragraph 1 does not apply to a direct “acquisition of control” of a Canadian business by a state owned enterprise of a Party. Such acquisitions are subject to review by the Director of Investments if the value of the Canadian business is not less than C\$369 million, adjusted in accordance with the applicable methodology in January of each

subsequent year as set out in the *Investment Canada Act*.

4. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the Act, summarised as follows:

- (a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components and services produced in Canada, and on exports from Canada;
- (b) the degree and significance of participation by Canadians in the investment;
- (c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;
- (d) the effect of the investment on competition within an industry or industries in Canada;
- (e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and
- (f) the contribution of the investment to Canada's ability to compete in world markets.

5. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with a proposed acquisition that is the subject of review. In the event of non-compliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorised under the *Investment Canada Act*.

6. A non-Canadian who establishes or acquires a Canadian

business, other than those that are subject to review as described above, must notify the Director of Investments.

7. The review thresholds set out in paragraphs 1 and 3 do not apply to an acquisition of a cultural business.

8. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor-in-Council authorises a review in the public interest.

9. An indirect "acquisition of control" of a Canadian business by an investor of a Party in a sector other than a cultural business is not reviewable.

10. Notwithstanding Article 9.10 (Performance Requirements), Canada may impose requirements, or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of a Party or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of an acquisition of an investment under the *Investment Canada Act*.

11. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 10 of this entry, Article 9.10 (Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the *Investment Canada Act*.

12. For the purposes of this entry: a "non-Canadian" means an individual, government or agency thereof or an entity that is not Canadian; and "Canadian" means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the *Investment Canada Act*.

Sector:	All
Obligations Concerned:	National Treatment (Article 9.4)
Level of Government:	Central
Measures:	<p><i>Canada Business Corporations Act</i>, R.S.C. 1985, c. C-44 <i>Canada Business Corporations Act Regulations</i>, SOR/2001-512 <i>Canada Cooperatives Act</i>, S.C.1998, c1 <i>Canada Cooperatives Regulations</i>, SOR/99-256</p>
Description:	<p><u>Investment</u></p> <p>1. A corporation or distributing cooperative may place constraints on the issue, transfer and ownership of shares in a federally incorporated corporation or cooperative. The object of those constraints is to permit a corporation or cooperative to meet Canadian ownership or control requirements, under certain laws set out in the <i>Canada Business Corporations Act Regulations</i> and <i>Canada Cooperatives Regulations</i>, in sectors where ownership or control is required as a condition to operate or to receive licences, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.</p> <p>2. The <i>Canada Cooperatives Act</i> provides that constraints may be placed on the issue or transfer of investment of shares of a cooperative to persons not resident in Canada to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodicals or to acquire shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licences, permits, grants, payments and other benefits. Where the ownership or control of investment of shares would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the <i>Canada Cooperatives Act</i> provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.</p>

3. For the purposes of this entry, “Canadian” means “Canadian” as defined in the Canada Business Corporations Act Regulations, or in the Canada Cooperatives Regulations.

Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: *Citizenship Act*, R.S.C. 1985, c. C-29
Foreign Ownership of Land Regulations, SOR/79-416

Description: Investment

1. The Foreign Ownership of Land Regulations are made pursuant to the *Citizenship Act* and the *Alberta Agricultural and Recreational Land Ownership Act*, RSA 1980, c. A-9. In Alberta, an ineligible person or foreign-owned or -controlled corporation may only hold an interest in controlled land consisting of a maximum of two parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this entry, “ineligible person” means:

- (a) a natural person who is not a Canadian citizen or permanent resident;
- (b) a foreign government or agency thereof; or
- (c) a corporation incorporated in a country other than Canada; and

“controlled land” means land in Alberta but does not include:

- (a) land of the Crown in right of Alberta;
- (b) land within a city, town, new town, village or summer village; and
- (c) mines or minerals.

Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)

Level of Government: Central

Measures: *Air Canada Public Participation Act*, R.S.C. 1985, c. 35 (4th Supp.)
Canadian Arsenals Limited Divestiture Authorization Act, S.C. 1986, c. 20
Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41
Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description: Investment

1. A “non-resident” or “non-residents” may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. The restrictions are as follows:

- (a) Air Canada: 25 per cent in the aggregate;
- (b) Cameco Limited (formerly Eldorado Nuclear Limited): 15 per cent per non-resident natural person, 25 per cent in the aggregate;
- (c) Nordion International Inc.: 25 per cent in the aggregate;
- (d) Theratronics International Limited: 49 per cent in the aggregate; and
- (e) Canadian Arsenals Limited: 25 per cent in the aggregate.

2. For the purposes of this entry, “non-resident” includes:
- (a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;
 - (b) a corporation incorporated, formed or otherwise organised outside Canada;
 - (c) the government of a foreign State or a political subdivision thereof, or a person empowered to perform a function or duty on behalf of such a government;
 - (d) a corporation that is controlled directly or indirectly by an entity referred to in subparagraphs (a) through (c);
 - (e) a trust:
 - (i) established by an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada; or
 - (ii) in which an entity referred to in subparagraphs (a) through (d) has more than 50 per cent of the beneficial interest; and
 - (f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Sector: All

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Level of Government: Central

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

Description: Cross-Border Trade in Services

Only individuals ordinarily resident in Canada, enterprises having their head offices in Canada or branch offices in Canada of foreign enterprises may apply for and be issued import or export permits or transit authorisation certificates for goods and related services subject to controls under the *Export and Import Permits Act*.

Sector:	Business Service Industries
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6) Senior Management and Boards of Directors (Article 9.11)
Level of Government:	Central
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2nd Supp.) Customs Brokers Licensing Regulations, SOR/86-1067
Description:	<u>Investment and Cross-Border Trade in Services</u> To be a licensed customs broker in Canada: <ul style="list-style-type: none"> (a) a natural person must be a Canadian national; (b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and (c) a partnership must be composed of persons who are Canadian nationals, or corporations incorporated in Canada with a majority of their directors being Canadian nationals.

Sector:	Business Service Industries
Sub-Sector:	Duty free shops
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Customs Act</i> , R.S.C. 1985, c. 1 (2nd Supp.) Duty Free Shop Regulations, SOR/86-1072
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. To be a licensed duty free shop operator at a land border crossing in Canada, a natural person must:</p> <ul style="list-style-type: none"> (a) be a Canadian national; (b) be of good character; (c) be principally resident in Canada; and (d) have resided in Canada for at least 183 days of the year preceding the year of application for the licence. <p>2. To be a licensed duty free shop operator at a land border crossing in Canada, a corporation must:</p> <ul style="list-style-type: none"> (a) be incorporated in Canada; and (b) have all of its shares beneficially owned by Canadian nationals who meet the requirements of paragraph 1.

Sector:	Business Service Industries
Sub-Sector:	Examination services relating to the export and import of cultural property
Obligations Concerned:	Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Cultural Property Export and Import Act</i> , R.S.C. 1985, c. C-51

Description: Cross-Border Trade in Services

Only a “resident of Canada” or an “institution” in Canada may be designated as an “expert examiner” of cultural property for the purposes of the *Cultural Property Export and Import Act*. A “resident” of Canada is an individual who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains one or more establishments in Canada to which employees employed in connection with the business of the corporation ordinarily report for work. An “institution” is an institution that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them.

Sector:	Professional Services
Sub-Sector:	Patent agents, patent agents supplying legal advisory and representation services
Obligations Concerned:	Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Patent Act</i> , R.S.C. 1985, c. P-4 Patent Rules, SOR/96-423
Description:	<u>Cross-Border Trade in Services</u> To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office.

Sector:	Professional Services
Sub-Sector:	Trade-mark agents, trade-mark agents supplying legal advisory and representation services in statutory procedures
Obligations Concerned	Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Trade-marks Act</i> , R.S.C. 1985, c. T-13 Trade-marks Regulations, SOR/96-195
Description:	<u>Cross-Border Trade in Services</u> To represent a person in the prosecution of an application for a trade-mark or in other business before the Trade-marks Office, a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.

Sector:	Energy
Sub-Sector:	Oil and Gas
Obligations Concerned:	National Treatment (Article 9.4)
Level of Government:	Central
Measures:	<p><i>Canada Petroleum Resources Act</i>, R.S.C. 1985, c. 36 (2nd Supp.)</p> <p><i>Territorial Lands Act</i>, R.S.C. 1985, c. T-7</p> <p><i>Federal Real Property and Federal Immovables Act</i>, S.C. 1991, c. 50</p> <p><i>Canada - Newfoundland Atlantic Accord Implementation Act</i>, S.C. 1987, c. 3</p> <p><i>Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i>, S.C. 1988, c. 28</p>
Description:	<p><u>Investment</u></p> <ol style="list-style-type: none"> 1. This entry applies to production licenses issued for “frontier lands” and “offshore areas” (areas not under provincial jurisdiction) as defined in the applicable measures. 2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Sector:	Energy
Sub-Sector:	Oil and Gas
Obligations Concerned:	Performance Requirements (Article 9.10) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<p><i>Canada Oil and Gas Production and Conservation Act</i>, R.S.C. 1985, c. O-7, as amended by <i>Canada Oil and Gas Operations Act</i>, S.C. 1992, c. 35</p> <p><i>Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i>, S.C. 1988, c. 28</p> <p><i>Canada - Newfoundland Atlantic Accord Implementation Act</i>, S.C. 1987, c. 3</p> <p>Measures implementing the Canada-Yukon Oil and Gas Accord, including the <i>Canada-Yukon Oil and Gas Accord Implementation Act</i>, 1998, c.5, s.20 and the <i>Oil and Gas Act</i>, RSY 2002, c.162</p> <p>Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories</p> <p>Measures implementing the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord</p>
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <ol style="list-style-type: none"> 1. Under the <i>Canada Oil and Gas Operations Act</i>, a benefits plan must be approved by the Minister responsible for the Act in order to proceed with an oil and gas development project. 2. A “benefits plan” is a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the *Canada Oil and Gas Operations Act* permits the Minister responsible for the Act to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work activity referred to in the benefits plan.

4. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* are included in laws which implement the Canada-Yukon Oil and Gas Accord.

5. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* will be included in laws or regulations to implement the Northwest Territories Oil and Gas Accord and the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord. For the purposes of this entry these accords shall be deemed, once concluded, to be existing measures.

6. The *Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada - Newfoundland Atlantic Accord Implementation Act* have the same requirement for a benefits plan but also require that the benefits plan ensures that:

- (a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out any work or activity in the offshore area;
- (b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and
- (c) first consideration be given to goods produced or services supplied from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

7. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Sector:	Energy
Sub-Sector:	Oil and Gas
Obligations Concerned:	Performance Requirements (Article 9.10)
Level of Government:	Central
Measures:	<i>Canada - Newfoundland Atlantic Accord Implementation Act, S.C. 1987, c. 3</i> <i>Hibernia Development Project Act, S.C. 1990, c. 41</i>
Description:	<p><u>Investment</u></p> <p>1. Under the <i>Hibernia Development Project Act</i>, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a “benefits plan” required under the <i>Canada-Newfoundland Atlantic Accord Implementation Act</i>. “Benefits plans” are further described in Annex I – Canada – 17.</p> <p>2. In addition, Canada may impose in connection with the Hibernia project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.</p>

Sector:	Energy
Sub-Sector:	Uranium
Obligations Concerned:	National Treatment (Article 9.4) Most-Favoured-Nation Treatment (Article 9.5)
Level of Government:	Central
Measures:	<i>Investment Canada Act</i> , R.S.C. 1985, c. 28 (1st Supp.) Investment Canada Regulations, SOR/85-611 Policy on Non-Resident Ownership in the Uranium Mining Sector, 1987
Description:	<p><u>Investment</u></p> <ol style="list-style-type: none"> 1. Ownership by “non-Canadians”, as defined in the <i>Investment Canada Act</i>, of a uranium mining property is limited to 49 per cent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact “Canadian-controlled” as defined in the <i>Investment Canada Act</i>. 2. Exemptions from the Policy on Non-Resident Ownership in the Uranium Mining Sector are permitted, subject to approval of the Governor-in-Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted. 3. In considering a request for an exemption from the Policy from an investor of an original signatory for which the Agreement has entered into force pursuant to Article 30.5 (Entry into Force), Canada will not require that it be demonstrated that a Canadian partner cannot be found.

Sector: Transportation

Sub-Sector: Air transportation

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Senior Management and Boards of Directors (Article 9.11)

Level of Government: Central

Measures: *Canada Transportation Act*, S.C. 1996, c. 10
Aeronautics Act, R.S.C. 1985, c. A-2
Canadian Aviation Regulations, SOR/96-433:
Part II “Aircraft Markings & Registration”;
Part IV “Personnel Licensing & Training”; and
Part VII “Commercial Air Services”

Description: Investment

1. The *Canada Transportation Act*, in Section 55, defines “Canadian” as: “a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act*, a government in Canada or an agent of such a government or a corporation or other entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 75 per cent, or such lesser percentage as the Governor in Council may by regulation specify, of the voting interests are owned and controlled by Canadians.”

2. Regulations made under the *Aeronautics Act* incorporate by reference the definition of “Canadian” found in the *Canada Transportation Act*. These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as “Canadian”.

3. Only “Canadians” may supply the following commercial air transportation services:

(a) “domestic services” (air services between points,

or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

- (b) “scheduled international services” (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;
- (c) “non-scheduled international services” (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the *Canada Transportation Act*; and
- (d) “specialty air services” (include, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying).

4. No foreign individual is qualified to be the registered owner of a Canadian-registered aircraft.

5. Further to the Canadian Aviation Regulations, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60 per cent) is in Canada.

6. The Canadian Aviation Regulations also have the effect of limiting foreign-registered private aircraft registered to “non-Canadian” corporations to be present in Canada for a maximum of 90 days per 12-month period. Such foreign-registered private aircraft would be limited to private use, as would be the case for Canadian-registered aircraft requiring a private operating certificate.

Sector:	Transportation
Sub-Sector:	Air transportation
Obligations Concerned:	National Treatment (Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Aeronautics Act</i> , R.S.C. 1985, c. A-2 Canadian Aviation Regulations, SOR/96-433: Part IV “Personnel Licensing & Training”; Part V “Airworthiness”; Part VI “General Operating & Flight Rules”; and Part VII “Commercial Air Services”
Description:	<u>Cross-Border Trade in Services</u> Aircraft and other aeronautical product repair, overhaul or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by persons meeting Canadian aviation regulatory requirements (<i>i.e.</i> , approved maintenance organisations and aircraft maintenance engineers). Certifications are not provided for persons located outside Canada, except sub-organisations of approved maintenance organisations that are themselves located in Canada.

Sector:	Transportation
Sub-Sector:	Land transportation
Obligations Concerned:	National Treatment (Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Motor Vehicle Transport Act</i> , R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13 <i>Canada Transportation Act</i> , S.C. 1996, c.10 <i>Customs Tariff</i> , 1997, C.36
Description:	<u>Cross-Border Trade in Services</u> Only persons of Canada, using Canadian-registered and either Canadian-built or duty-paid trucks or buses, may supply truck or bus services between points in the territory of Canada.

Sector:	Transportation
Sub-Sector:	Water transportation
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Canada Shipping Act, 2001, S.C. 2001, c. 26</i>
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>1. To register a ship in Canada, the owner of that ship or the person who has exclusive possession of that ship must be:</p> <ul style="list-style-type: none"> (a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the <i>Immigration and Refugee Protection Act</i>; (b) a corporation incorporated under the domestic laws of Canada, or a province or territory; or (c) if the ship is not already registered in another country, a corporation incorporated under the domestic laws of a country other than Canada if one of the following is acting with respect to all matters relating to the ship, namely: <ul style="list-style-type: none"> (i) a subsidiary of the corporation that is incorporated under the domestic laws of Canada or a province or territory; (ii) an employee or director in Canada of any branch office of the corporation that is carrying on business in Canada; or (iii) a ship management company incorporated under the laws of Canada or a province or territory.

2. A ship registered in a foreign country which has been bareboat chartered may be listed in Canada for the duration of the charter while the ship's registration is suspended in its country of registry, if the charterer is:

- (a) a Canadian citizen or permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*; or
- (b) a corporation incorporated under the domestic laws of Canada or a province or territory.

Sector:	Transportation
Sub-Sector:	Water transportation
Obligations Concerned:	National Treatment (Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Canada Shipping Act</i> , 2001, S.C. 2001, C.26 Marine Personnel Regulations SOR/2007-115
Description:	<u>Cross-Border Trade in Services</u> Masters, mates, engineers and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered ships. Such certificates may be granted only to Canadian citizens or permanent residents.

Sector:	Transportation
Sub-Sector:	Water transportation
Obligations Concerned:	National Treatment (Article 10.3) Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Pilotage Act</i> , R.S.C. 1985, c. P-14 General Pilotage Regulations, SOR/2000-132 Atlantic Pilotage Authority Regulations, C.R.C., c. 1264 Laurentian Pilotage Authority Regulations, C.R.C., c. 1268 Great Lakes Pilotage Regulations, C.R.C., c. 1266 Pacific Pilotage Regulations, C.R.C., c. 1270
Description:	<u>Cross-Border Trade in Services</u> Subject to Annex II – Canada – 12, a licence or a pilotage certificate issued by the relevant regional Pilotage Authority is required to supply pilotage services in the compulsory pilotage waters of the territory of Canada. Only Canadian citizens or permanent residents may obtain such a licence or a pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within five years of receipt of the licence or pilotage certificate in order to retain it.

Sector:	Transportation
Sub-Sector:	Water transportation
Obligations Concerned:	Local Presence (Article 10.6)
Level of Government:	Central
Measures:	<i>Shipping Conferences Exemption Act, 1987, R.S.C. 1985, c. 17 (3rd Supp.)</i>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.</p>

Sector:	Transportation
Sub-Sector:	Water transportation
Obligations Concerned:	Most-Favoured-Nation Treatment (Article 10.4)
Level of Government:	Central
Measures:	<i>Coasting Trade Act</i> , S.C. 1992, c. 31
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>The prohibitions under the <i>Coasting Trade Act</i>, set out in Annex II – Canada – 10, do not apply to any vessel that is owned by the U.S. Government when used solely for the purpose of transporting goods owned by the U.S. Government from the territory of Canada to supply Distant Early Warning sites.</p>

Sector:	All
Sub-Sector:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Local Presence (Article 10.6)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all provinces and territories.
Description:	<u>Investment and Cross-Border Trade in Services</u> For purposes of transparency, Appendix I-A sets out an illustrative, non-binding list of non-conforming measures maintained at the regional level of government.

Sector:	Air Transportation
Sub-Sector:	Specialty air services as defined in Chapter 10 (Cross-Border Trade in Services)
Obligations Concerned:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4)
Level of Government:	Central
Measures:	<i>Canada Transportation Act</i> , S.C. 1996, c. 10 Air Transportation Regulations, SOR/88-58 Canadian Aviation Regulations, SOR/96-433
Description:	<u>Cross-Border Trade in Services</u> Authorisation from Transport Canada is required to supply specialty air services in the territory of Canada. In determining whether to grant a particular authorisation, Transport Canada will consider among other factors, whether the country in which the applicant, if an individual, is resident or, if an enterprise, is constituted or organised, provides Canadian specialty air service operators reciprocal access to supply specialty air services in that country's territory. Any foreign service supplier authorised to supply specialty air services is required to comply with Canadian safety requirements while supplying such services in Canada.

Sector:	Communications
Sub-Sector:	Telecommunications transport networks and services Radiocommunications
Obligations Concerned:	National Treatment (Article 9.4) Senior Management and Boards of Directors (Article 9.11)
Level of Government:	Central
Existing Measures:	<i>Telecommunications Act</i> , S.C. 1993, c. 38 Canadian Telecommunications Common Carrier Ownership and Control Regulations, SOR/94-667 <i>Radiocommunications Act</i> , R.S.C. 1985, c. R-2 Radiocommunication Regulations, SOR/96-484
Description:	<p><u>Investment</u></p> <p>Foreign investment in facilities-based telecommunications service suppliers is restricted to a maximum, cumulative total of 46.7 per cent voting interest, based on 20 per cent direct investment and 33.3 per cent indirect investment.</p> <p>Facilities-based telecommunications service suppliers must be controlled in fact by Canadians.</p> <p>At least 80 per cent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadians.</p> <p>Notwithstanding the restrictions described above:</p> <ul style="list-style-type: none"> (a) foreign investment is allowed up to 100 per cent for suppliers conducting operations under an international submarine cable licence; (b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to supply services in Canada; (c) fixed satellite systems of a foreign service

supplier may be used to supply services between points in Canada and all points outside Canada;

- (d) foreign investment is allowed up to 100 per cent for suppliers conducting operations under a satellite authorisation; and
- (e) foreign investment is allowed up to 100 per cent for facilities-based telecommunications service suppliers that have revenues, including those of its affiliates, from the supply of telecommunications services in Canada representing less than 10 per cent of the total telecommunications services annual revenues in Canada. Facilities-based telecommunications service suppliers that previously had annual revenues, including those of their affiliates, from the supply of telecommunications services in Canada representing less than 10 per cent of the total telecommunications services annual revenues in Canada may increase to 10 per cent or beyond as long as the increase in such revenues did not result from the acquisition of control of, or the acquisition of assets used to supply telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.

Appendix I-A: Illustrative List of Canada's Regional Non-conforming Measures¹

Sector	Non-conforming measure by jurisdiction
Accounting, auditing and bookkeeping services	<p><u>Residency:</u> Saskatchewan, British Columbia, Ontario, Nova Scotia, Quebec, Prince Edward Island, Newfoundland and Labrador, Manitoba, Alberta.</p> <p><u>Local Presence:</u> Saskatchewan, Newfoundland and Labrador, Manitoba, Ontario.</p>
Architectural services	<p><u>Residency:</u> Nova Scotia, Newfoundland and Labrador.</p> <p><u>Corporate Form:</u> Prince Edward Island requires non-resident firms to maintain a higher percentage of practitioners in a partnership.</p>
Engineering services and integrated engineering services	<p><u>Residency:</u> Saskatchewan, British Columbia, Ontario, New Brunswick, Alberta.</p>
Urban planning and landscape architecture services	<p><u>Residency:</u> Newfoundland and Labrador, Saskatchewan.</p>
Real estate services	<p><u>Residency:</u> Alberta, Quebec, Yukon, Manitoba, British Columbia, Nova Scotia, Prince Edward Island, Newfoundland and Labrador.</p> <p><u>Local Presence:</u> Saskatchewan, Ontario, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Alberta.</p>

¹ This document is provided for transparency purposes only, and is neither exhaustive nor binding. The information contained in this document is drawn from Canada's GATS May 2005 Revised Conditional Offer on Services (TN/S/O/CAN/Rev.1, 12 May 2005).

Appendix I-A: Illustrative List of Canada’s Regional Non-conforming Measures¹

Sector	Non-conforming measure by jurisdiction
Management consulting services	<u>Residency</u> : Newfoundland and Labrador.
Toll refining	<u>Performance Requirement</u> : Ontario requires treatment or refinement of base metals in Canada.
Placement and supply services of personnel	<u>Local Presence</u> : Ontario.
Investigation and security services	<u>Senior Managers and Board of Directors</u> : Newfoundland and Labrador. <u>Local Presence</u> : Ontario.
Related scientific and technical consulting services	<u>Residency</u> : Ontario, British Columbia, Newfoundland and Labrador. <u>Citizenship</u> : British Columbia, Manitoba. <u>Local Presence</u> : Saskatchewan. <u>Training Requirement</u> : Ontario requires training to be completed in province for accreditation in respect of land surveyors.
Other business services	<u>Residency</u> : Saskatchewan, Ontario, Nova Scotia. <u>Local Presence</u> : Saskatchewan, Newfoundland and Labrador, Nova Scotia, Prince Edward Island.

Appendix I-A: Illustrative List of Canada’s Regional Non-conforming Measures¹

Sector	Non-conforming measure by jurisdiction
Distribution services	<p data-bbox="815 439 1086 472"><u>Citizenship:</u> Quebec.</p> <p data-bbox="815 510 1374 618"><u>Local Presence:</u> Quebec, Saskatchewan, Newfoundland and Labrador, Nova Scotia, British Columbia, Ontario.</p> <p data-bbox="815 656 1401 689"><u>Economic Needs Test:</u> Prince Edward Island.</p>
Tourism and travel related services	<p data-bbox="815 804 1310 871"><u>Residency:</u> Alberta, British Columbia, Ontario.</p> <p data-bbox="815 913 1382 1021"><u>Residency/Citizenship:</u> Alberta, Saskatchewan, Nova Scotia, Newfoundland and Labrador, Quebec.</p> <p data-bbox="815 1059 1246 1093"><u>Local Presence:</u> Ontario, Quebec.</p> <p data-bbox="815 1135 1374 1205"><u>Taxation:</u> Ontario requires non-residents to pay 20 per cent land transfer tax.</p>
Road transport services (Passenger transportation)	<p data-bbox="815 1283 1374 1424"><u>Economic Needs Test:</u> British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador, Nunavut, Northwest Territories.</p>
Road transport services (Freight transportation)	<p data-bbox="815 1503 1134 1536"><u>Local Presence:</u> Quebec.</p> <p data-bbox="815 1579 1305 1641"><u>Economic Needs Test:</u> Saskatchewan, Newfoundland and Labrador.</p>