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The Honourable Mark Eyking, P.C., M.P.  
Chair  
Standing Committee on International Trade  
House of Commons  
Ottawa ON K1A 0A6

Dear Mr. Eyking:

Pursuant to the Standing Order 109 of the House of Commons, I am pleased to respond on behalf of the Government of Canada to the recommendations made in the 14th Report of the Standing Committee on International Trade entitled *Canada and the Mercosur Countries: A Potential Agreement to Advance Trade Relations*, tabled in the House of Commons on December 12, 2018.

The Government of Canada extends its gratitude to the Committee for its work, recognizing that the Committee's study was conducted over many months and involved a range of stakeholders through public consultations in Ottawa, including written submissions. The Government of Canada also expresses its appreciation to the stakeholders who appeared as witnesses over the course of the Committee's study.

The different perspectives heard on the Canada-Mercosur Free Trade Agreement negotiations is a testament to the importance of the Government of Canada's and the Committee's commitment to holding an open and transparent dialogue with Canadians on free trade agreement (FTA) negotiations.

This comprehensive report demonstrates the Committee's commitment to assessing the possible impacts of a potential Canada-Mercosur FTA for Canada. The Government of Canada has carefully reviewed the Committee's Report and recommendations and welcomes the opportunity to respond to the Report and each of the recommendations.

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It is my responsibility to implement, expand and diversify Canada's FTAs globally, including advancing Canada's ongoing trade discussions with important emerging trade partners, such as Mercosur. An ambitious, comprehensive and inclusive FTA with Mercosur is an important priority for the Government of Canada in an effort to create economic opportunities and grow jobs for the middle class.

## **BACKGROUND ON THE CANADA-MERCOSUR FREE TRADE AGREEMENT NEGOTIATIONS**

The South American common market (Mercosur), a trading bloc and customs union consisting of Argentina, Brazil, Paraguay and Uruguay, represents one of the few regions where Canada does not yet have an FTA. The Mercosur bloc boasts a GDP of \$3.6 trillion and a population of 260 million. Over 2015-17, Canada's merchandise trade with Mercosur averaged \$9.1 billion annually, with Canada's exports valued at \$3.2 billion and imports valued at \$5.9 billion.

An FTA with Mercosur would further diversify our export markets, expand Canada's FTA coverage in these important South American markets and demonstrate Canada's strong commitment to open trade. It also has the potential of offering Canadian exporters, investors and services suppliers the advantage of potentially being the first G7 country to obtain preferential access to these important and highly protected markets. Ongoing negotiations for a Canada-Mercosur FTA are an important element of the Government of Canada's trade diversification strategy, which was articulated in the 2018 Fall Economic Update. Concluding negotiations toward an ambitious, comprehensive and inclusive agreement with Mercosur would support the Government of Canada's objective to increase exports overseas by 50 percent by 2025.

Good progress has been made since the launch of negotiations. Discussions have been held across a wide range of issues and a more intense phase of negotiations was initiated in the fall of 2018 when initial market access offers on goods and government procurement were exchanged. Political changes in the region over the past few years have led to increased support for trade liberalization as well as Mercosur's commitment to negotiate a comprehensive, ambitious and inclusive FTA with Canada.

There is a mutual interest to accelerate the pace of the negotiations, driven in part by Mercosur's expanding trade agenda, which includes intensified efforts to conclude negotiations with the European Union as well as recently launched FTA negotiations with the European Free Trade Association (Iceland, Lichtenstein, Norway and Switzerland), Singapore and South Korea. Accelerating the negotiations would also support efforts by parties to maintain the positive momentum achieved to date.

Canada's ongoing FTA negotiations with Mercosur will not impact the negotiation, ratification or implementation of other FTAs or trade policy initiatives of the Government of Canada. Resources have not been reallocated from other FTA negotiations or trade policy initiatives to pursue this negotiation with Mercosur.

Notably, the Canada-United States-Mexico Agreement (CUSMA) was signed on November 30, 2018, and all three parties are now pursuing domestic ratification, while the Comprehensive and Progressive Agreement for Trans-Pacific Partnership entered into force on December 30, 2018.

## **SUPPLEMENTARY OPINIONS PROVIDED BY OPPOSITION PARTIES**

The Government of Canada reviewed the supplementary opinions and recommendations provided by the New Democratic Party to the Report, which are largely consistent with the views already shared with the Government of Canada by the Committee and have been taken into consideration in order to develop Canada's position for these negotiations. The Government of Canada has and will continue to consult with a broad range of Canadian stakeholders throughout the negotiations to further inform Canada's position on the entire range of issues being addressed with Mercosur.

## **GOVERNMENT OF CANADA RESPONSE TO COMMITTEE RECOMMENDATIONS**

The Government of Canada has reviewed the recommendations of the Committee and welcomes the opportunity to respond to each recommendation individually.

**Recommendation 1: That the Government of Canada, during negotiations for a free trade agreement with the Mercosur countries, prioritize provisions that would eliminate tariffs applied on Canada's exports, including moulds, farm equipment, automobiles and their parts, and products of the country's software, technology, lighting, canola and fisheries sectors.**

An FTA with Mercosur offers Canada an opportunity to gain preferential access to emerging markets expected to create economic growth and jobs in Canada. This includes opportunities for SMEs, which are expected to benefit from having increased access to markets to sell their world-class, Canadian-made products. In the context of the Canada-Mercosur FTA negotiations, Canada is seeking to enhance market access for Canadian exports of goods to Mercosur, including through tariff elimination.

During 2015-17, Canada exported an annual average of \$3.2 billion in goods to Mercosur, making it the 10th largest export destination for Canadian products. Nearly 92 percent of Canada's exports of goods to Mercosur (\$2.9 billion annually during 2015-17) were comprised of industrial goods, most of which are currently subject to tariffs of 10 percent to 35 percent.

The elimination of Mercosur's tariffs on industrial goods, including moulds, farm equipment, autos and auto parts, information and communications technology, software and lighting, will be prioritized to reflect Canada's significant export capacity in these sectors. Similarly, Canada's fish and canola exports currently face tariffs of 10 percent to 16 percent. Given Canada's export capacity for these products, the elimination of Mercosur's tariffs will be prioritized.

**Recommendation 2: That the Government of Canada, during negotiations for a free trade agreement with the Mercosur countries, seek to include provisions that would eliminate current and future non-tariff barriers that limit Canada's exports to, and investments in, those countries. In particular, provisions in a Canada–Mercosur free trade agreement should address administrative requirements and processes that are complex or unclear, sanitary and phytosanitary measures, currency manipulation, state-owned enterprises and subsidies. In addition, the Government of Canada should work with the governments of the Mercosur countries to enhance regulatory cooperation and alignment among Canada, Argentina, Brazil, Paraguay and Uruguay.**

The Government of Canada recognizes that the unjustified use of non-tariff barriers can limit Canada's ability to take advantage of market access opportunities negotiated in its FTAs. In negotiating FTAs, Canada traditionally seeks to include provisions to prevent the use of unjustified non-tariff barriers, such as provisions that seek to improve transparency and predictability, make trade more efficient, and foster enhanced communication and cooperation among the parties. Canada also seeks appropriate provisions and mechanisms that parties can use to discuss trade-related concerns with the objective of resolving them before they become trade irritants.

Ongoing negotiations between Canada-Mercosur cover the range of issues noted by the Committee, with the exception of currency manipulation and subsidies. Canada has a long-standing commitment to a market determined exchange rate and is a strong proponent of combatting currency manipulation for competitive purposes. Canada will continue its efforts in international forums, such as the G7 and G20, as well as with international organizations like the International Monetary Fund to address this issue and does not plan to address currency manipulation in the context of a Canada-Mercosur FTA. Such an approach is consistent with Canada's other FTAs. Canada also supports the development of stronger international rules on market-distorting industrial subsidies and will continue its efforts to that end in appropriate international forums such as the World Trade Organization (WTO).

Canada is also using the ongoing discussions with Mercosur to address other issues raised by stakeholders through consultations, such as investment, agricultural biotechnology and intellectual property.

The Government of Canada maintains that effective market access means that tariff outcomes should not be undermined by non-tariff barriers. Canada is seeking enforceable rules to address non-tariff barriers such as complex or unclear administrative requirements or processes. For instance, Canada has proposed provisions to increase transparency in import and export licensing. Canada is also seeking to include customs procedures designed to ensure certainty and transparency through the establishment of binding provisions and procedures that limit the administrative costs for companies who wish to take advantage of tariff preferences offered under a potential agreement.

In addition, with respect to sanitary and phytosanitary (SPS), the Government of Canada is seeking to include provisions to encourage the proactive exchange of information in order to avoid situations in which inadvertent differences in approach to taking SPS measures result in unnecessary non-tariff barriers.

The Government of Canada is also seeking to include provisions to address technical barriers to trade such as standards and conformity assessment, as well as provisions to promote good regulatory practices and provisions to facilitate information exchange with Mercosur in order to make trade more efficient.

In terms of enhanced regulatory cooperation and alignment with Mercosur, Canada is seeking to negotiate provisions on good regulatory practices, such as rules that require the maintenance of open and public consultations in the development and implementation of regulatory measures as well as facilitate cooperation in order to reduce unnecessary burdens and enhance trade. The Government of Canada believes that provisions on good regulatory practices in an FTA with Mercosur would support the development of predictable and evidence-based regulations, facilitate compatible regulatory approaches between Canada and Mercosur and would also help reduce or eliminate unnecessarily duplicative, or divergent regulatory requirements without undermining consumer safety and environmental standards.

The Government of Canada recognizes the importance of ensuring that Canadian companies are able to compete with state-owned enterprises (SOEs) on a level playing field. By nature of their government ownership, SOEs often enjoy unique advantages that can have trade distorting effects (e.g. privileged access to public procurement; favourable regulatory treatment; and preferential financial assistance). Moreover, Mercosur countries have significant SOEs and designated monopolies operating in sectors of commercial interest to Canada such as oil and gas, electricity, financial services, transportation, and telecommunications. In an FTA with Mercosur, the Government of Canada is seeking disciplines on SOEs and designated monopolies that will ensure that Canadian firms are able to compete on a level playing field, while at the same time providing flexibility for both Canadian and Mercosur SOEs to pursue their public service mandates.

The Government of Canada also recognizes the importance of addressing barriers to investment in Mercosur countries. In general, foreign investors in Mercosur countries receive the same treatment as local firms in most sectors. However, regulatory and governance risks—such as changes in rules, inefficient tax structures, and complexity of administrative procedures and corruption—have a negative impact on investment flows. Canada is seeking an ambitious outcome that will provide Canadian investors with secure market access, protection against discrimination, expropriation without compensation and denial of justice.

The Government of Canada recognizes the importance of agricultural biotechnology to Canada and the impact trade issues can have on its adoption. The Government of Canada is seeking provisions that enshrine the fundamental principles of encouraging innovation and facilitating trade in products of agricultural biotechnology. This will create a more transparent and predictable environment between Canada and Mercosur.

Canada is also seeking a modern, comprehensive intellectual property (IP) chapter, with balanced provisions influenced by Canadian IP law and policy which would build on existing multilateral obligations between the parties under the WTO Agreement on Trade-Related Aspects of IP Rights and the various treaties administered by the World IP Organization. Through these provisions, Canada aims to promote a number of domestic best practices and IP policy approaches internationally, with a view to fostering the transparency, predictability and efficiency of the parties' respective IP regimes. This approach ultimately aims to enable or facilitate the business activities of IP right holders, creators or users entering and operating across the parties' markets.

**Recommendation 3: That the Government of Canada considers implementing new measures designed to reduce any negative impacts of a Canada–Mercosur free trade agreement on the domestic competitiveness of Canada's firms.**

In terms of new measures to offset any negative impacts of an eventual FTA between Canada and Mercosur, the Government of Canada is aware of the concerns raised by certain stakeholders regarding domestic competitive pressures, which may arise as a result of a closer trading relationship with Mercosur (e.g. due to a potential increase in imports from Mercosur as a result of an FTA). The Government of Canada's position in these negotiations will continue to be informed by ongoing stakeholder consultations. The Government of Canada will seek an ambitious outcome that reflects the interests and concerns of stakeholders. As in any negotiation, Canada's objective is to seek a balanced and commensurate market access outcome while protecting Canadian interests.

The Government of Canada recognizes the negative impact that unfair trade practices can have on the domestic competitiveness of Canadian firms. Under Canada's trade remedy system, domestic producers may seek to have trade remedy measures applied in cases where dumped or unfairly subsidized goods are causing injury to the domestic industry. Consistent with its other FTAs, Canada's objective in negotiations with Mercosur is to ensure that our capacity to impose anti-dumping or countervailing duties to protect domestic producers from unfair trade practices is not diminished.

While not tied to these negotiations, the Government of Canada maintains measures designed to support the competitiveness of Canadian firms both domestically and abroad. For example, through the Canada Business Network, an information service managed by Innovation, Science and Economic Development Canada, Canadian firms have access to a wide range of information on government services, industrial support programs (such as tax refunds and credits, wage subsidies, financing for innovation and grant and loan opportunities) and regulatory requirements. The Government of Canada is also studying the domestic labour market impacts of a potential Canada-Mercosur FTA.

Through Global Affairs Canada, the Government of Canada has been developing FTA promotion and aftercare programs for future trade agreements, such as a potential FTA with Mercosur, to better equip Canadian firms to leverage export opportunities and to engage in international trade. Canadian SMEs and firms also have access to the export services and tools provided by the Canadian Trade Commissioner Service, Agriculture and Agri-Food Canada, as well as Export Development Canada.

The Government of Canada's trade diversification strategy, announced in the 2018 Fall Economic Update, seeks to secure more opportunities for Canadian firms to compete and succeed in thriving and fast growing global markets and sectors. Situated within the trade diversification strategy, the ongoing Canada-Mercosur FTA negotiations demonstrate the Government of Canada's priority of advancing ongoing trade discussions, developing trade and investment relations with key markets that are or could be significant markets for the country's exports, and creating economic opportunities and growing jobs for the middle class.

**Recommendation 4: That the Government of Canada, during negotiations for a free trade agreement with the Mercosur countries, endeavour to include cultural provisions that meet the following conditions: are based on the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions; ensure that Canada and each Mercosur country has the right to support its artists and other cultural producers; and increase bilateral cultural cooperation.**

In 2005, Canada led the development and adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The UNESCO Convention is an essential international legal instrument that recognizes the social and economic character of cultural goods and services; reaffirms the right of States to adopt cultural policies; and promotes international cooperation on these issues. All Mercosur countries are parties to the Convention. Canada's commitment to the UNESCO Convention is a fundamental pillar of our international approach to culture in trade negotiations.

Canada is a country with many different cultural and artistic voices. Canadians need to be able to access Canadian content from local creators in all media. Canada's long-standing approach in bilateral and regional trade negotiations is to incorporate an explicit exception for cultural industries. Canada has secured an exception for cultural industries in every FTA since the bilateral Canada-United States Free Trade Agreement (1988) and as recently as in CUSMA, signed on November 30, 2018. The inclusion of such an exception in an FTA allows Canada to maintain flexibility to pursue domestic cultural policy objectives. The Government of Canada will pursue the same objectives and approach in the Canada-Mercosur FTA negotiations.

Efforts to increase cultural cooperation are typically addressed through other means. In fact, Canada's bilateral and multilateral cultural relations with Mercosur countries span over many years. Canada already has several cultural agreements with Mercosur states, namely a treaty on the promotion of cultural relations with Brazil and audiovisual coproduction treaties with Argentina, Brazil and Uruguay. Canada and Brazil are currently negotiating a modernized audiovisual coproduction treaty. Since 2010, cultural trade with South America has been increasing. Brazil is Canada's largest cultural trading partner of Mercosur countries with \$85.9 million in exports and \$23.6 million in imports in 2016. Canada's major cultural exports include \$18.5 million in film and video, \$8.4 million in performing arts, \$5.9 million in interactive media, and \$5.3 million in architecture. At the multilateral level, Canada collaborates with Mercosur countries at the Organization of American States in particular on the Inter-American Committee on Culture.

**Recommendation 5: That the Government of Canada, at an early stage of the negotiations for a free trade agreement with the Mercosur countries, examine the advantages and disadvantages for Canada of various mechanisms designed to resolve investment-related disputes, while recognizing the right of governments to adopt and maintain measures in the public interest.**

Over the past three years, the Government of Canada has been consulting stakeholders on its approach to investment protection in FTAs, including with Mercosur, and for its review of Canada's model Foreign Investment Protection and Promotion Agreement (FIPA). The business community in Canada remains strongly supportive of investment dispute resolution, while the mechanism continues to attract significant criticism from non-governmental organizations and civil society who argue that the Investor State Dispute Settlement (ISDS) mechanism infringes on Canada's right to regulate in the public interest. Canada is seeking to address this criticism by clarifying key substantive obligations and exceptions in its investment agreements to ensure the Government of Canada's regulatory space is protected. Canada is also making improvements to procedural elements of its investment agreements, including strong commitments on transparency.

In line with these considerations, in its negotiations with Mercosur, the Government of Canada is seeking an outcome that would provide Canadian investors and their investments protection against, among other things, discrimination, expropriation without compensation and denial of justice, while also protecting the right of governments to regulate in the public interest. However, Canada and Mercosur, Brazil in particular, have significantly different approaches to resolving investment-related disputes. Brazil has never signed a treaty that included an ISDS mechanism. Consequently, from the start of the negotiations, and in line with the Committee's recommendation, Canada has been examining different options to ensure effective dispute settlement, while addressing Mercosur's sensitivities. Canada also has existing FIPAs in force with Argentina and Uruguay, inclusive of ISDS mechanisms, which are a consideration in the design of a mechanism to provide dispute resolution in an FTA with Mercosur.

**Recommendation 6: That the Government of Canada, during negotiations for a free trade agreement with the Mercosur countries, work toward outcomes that would create economic opportunities for Canada's small and medium-sized firms, protect the environment, uphold labour standards, enhance labour mobility, contribute to gender equality and safeguard the rights of Indigenous peoples.**

As part of its trade diversification strategy, the Government of Canada is committed to advancing an inclusive approach to trade that ensures that all Canadians can take advantage of the opportunities that flow from trade and investment. In the Canada-Mercosur FTA negotiations, Canada is advancing strong and enforceable environment and labour chapters; a meaningful outcome on temporary entry; and dedicated provisions and chapters on trade and gender, trade and Indigenous peoples, and small and medium-sized enterprises (SMEs).



While by their very nature FTAs benefit Canadian SMEs by providing improved market access and enhanced transparency, Canada is also pursuing a variety of SME-related provisions across its agreement with Mercosur, including a dedicated chapter on SMEs. The proposal acknowledges the important role that SMEs play in the Canadian economy and seeks to ensure that more SMEs benefit from the opportunities created by the agreement. It also sets out a framework for Canada and Mercosur to work together on improving the capacity of SMEs to take fuller advantage from the opportunities created by international trade and investment.

On environment, Canada is committed to the principle that trade liberalization and environmental protection should be mutually supportive. In its negotiations with Mercosur, Canada is seeking an ambitious and enforceable environment chapter which includes core commitments to maintain high levels of environment protection and robust environmental governance as trade is liberalized and not waive or derogate from environmental laws to encourage trade or investment. Canada is also advancing provisions that support efforts to address a wide range of global environmental issues, such as climate change, illegal wildlife trade, biodiversity conservation and sustainable fisheries management.

On labour, Canada is committed to the inclusion of a comprehensive and enforceable Labour chapter in the FTA in order to advance the promotion and protection of workers' rights in Canada and in Mercosur countries. In line with Canada's approach, the Labour chapter would include high-standard commitments to ensure that national laws and policies protect internationally-recognized fundamental principles and rights at work.

Regarding labour mobility, both Canada and Mercosur view temporary entry for business persons as an important component of international trade and investment activities and are taking steps toward a meaningful outcome while maintaining the integrity of the domestic labour market. Canada's standard approach to temporary entry in trade agreements is aimed at facilitating and enhancing labour mobility by waiving economic needs tests and eliminating any numerical limitations for certain categories of business persons. Under this approach, Canada seeks reciprocal commitments only for highly skilled business persons, thus facilitating access to talent both at home and abroad.

Concerning gender equality, Canada is committed to economic empowerment of women and is actively seeking to mainstream gender-responsive provisions throughout the agreement, as well as including a dedicated trade and gender chapter. The chapter acknowledges the importance of incorporating a gender perspective into economic and trade issues to ensure that economic growth benefits all. It also seeks to provide a framework for Canada and Mercosur to work together on issues related to trade and gender, in order to break down barriers to women's participation in international trade and investment.

In regard to Indigenous peoples, Canada continues to advance its long-standing approach in negotiating FTAs to include provisions designed to maintain policy flexibility to ensure that the government respects the rights of Indigenous peoples. Canada has consistently included

exceptions and reservations in the areas of government procurement, investment and trade in services, and the environment and will continue to do so in its FTA with Mercosur. The Government of Canada will also build on recent developments in other negotiations to seek to provide greater clarity vis-à-vis FTA obligations and the legal and treaty rights of Indigenous peoples. Efforts also continue to advance a proposal that aims to enhance the ability of Indigenous peoples and Indigenous businesses to benefit from the opportunities that flow from trade and investment.

## **CONCLUSION**

The Government of Canada has taken the recommendations into consideration. These recommendations will serve to guide the Government of Canada's approach moving forward on Canada's trade and investment agenda; its engagement with Canadians; its trade infrastructure and services to Canadians; and economic, environmental, labour and gender assessments for all major trade agreements prior to ratification. The Government of Canada is also committed to continually engaging stakeholders as this initiative moves forward.

The Government of Canada would like to reiterate its gratitude to the members of the Committee for their hard work and dedication to the completion of this Report on the Canada-Mercosur FTA negotiations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Carr". The signature is fluid and cursive, with the first name "Jim" being more prominent than the last name "Carr".

The Honourable Jim Carr, P.C., M.P.