

GOVERNMENT RESPONSE TO THE 16th REPORT OF THE HOUSE OF COMMONS
STANDING COMMITTEE ON INTERNATIONAL TRADE:
A CANADA-PACIFIC ALLIANCE FREE TRADE AGREEMENT:
POSSIBLE IMPLICATIONS FOR CANADIANS

BACKGROUND ON THE CANADA-PACIFIC ALLIANCE FTA NEGOTIATIONS

The Pacific Alliance is a regional integration initiative created in 2011 to promote greater competitiveness and economic growth between its members (Chile, Colombia, Mexico, Peru), with the objective of moving toward the free movement of goods, services, capital, and people. The Pacific Alliance constitutes an important strategic market for Canada. When viewed collectively, the Pacific Alliance has a combined GDP of CA\$ 2.7 trillion and over 225 million consumers (2018; IMF). Bilateral merchandise trade with these countries reached more than CA\$ 52 billion in 2018, representing nearly three quarters of Canada's two-way merchandise trade with the Latin America and Caribbean region. The Pacific Alliance continues to have ambition as a trading group to grow its global profile and serve as a platform for building relations with dynamic markets in the Asia-Pacific region, as evidenced by the creation of the Associated State category and the first set of Associated State candidates.

Canada has been a strong proponent of the Pacific Alliance since its inception, in part due to the like-mindedness of our economies on the benefits of trade liberalization and its linkage to prosperity. In 2012, Canada became the first non-Latin American observer to the Pacific Alliance. In 2016, Canada became the first observer to sign a *Joint Declaration on a Partnership between Canada and the Members of the Pacific Alliance*, aimed at long-term, multi-sectoral cooperation. Since the Joint Declaration was signed, Canada has undertaken four cooperation projects with the Pacific Alliance, valued at more than \$CA23 million, in areas such as trade facilitation, education and training, natural resource development, and climate change. A prospective FTA with the Pacific Alliance would build on Canada's existing bilateral relations with the group and would support Canada's commitment to deepen trade and strengthen trade linkages in Latin America.

In June 2017, the Pacific Alliance invited Canada, along with Australia, New Zealand, and Singapore, to become Associated States, which requires each Candidate Associated State (CAS) to negotiate an FTA with the Pacific Alliance. Canada announced the launch of FTA negotiations with the Pacific Alliance on October 22, 2017. Seven negotiating rounds have taken place to date, with the latest held from October 22-26, 2018 in Mexico City.

Canada has comprehensive and high-quality bilateral FTAs in force with all four Pacific Alliance members, and three of the four (except Colombia) are also Parties to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which entered into force on December 30, 2018 (for Canada, Australia, New Zealand, Singapore, and Mexico). In this regard, Canada already benefits from an existing high level of market access in all four Pacific Alliance countries; however, the current FTA negotiations with the Pacific Alliance provide Canada with an opportunity to modernize and streamline our existing bilateral FTAs and achieve, where possible, modest incremental market access improvements. In line with trade

diversification objectives outlined in Budget 2018, the negotiations also present an opportunity for Canada to advance its inclusive and diversified trade agenda with key emerging markets.

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 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 the Pacific Alliance.

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 Pacific Alliance, prioritize provisions that would minimize tariffs on Canada's agricultural and other exports, and address non-tariff barriers that limit exports of Canadian products, including pork and cereals.

The Pacific Alliance as a group would represent the world's eighth largest economy. From 2016 to 2018, Canada's merchandise exports to Pacific Alliance countries averaged nearly CA\$ 10.4 billion, led by exports to Mexico. The Pacific Alliance is collectively Canada's fifth largest merchandise export destination, after the U.S., United Kingdom, China and Japan, and Canada's third largest supplier of goods after the U.S. and China.

The Government supports the Committee's recommendation. Canada's existing FTAs with members of the Pacific Alliance are providing or will provide full elimination of tariffs on industrial goods, and all but the most sensitive agricultural goods. In the FTA negotiations with the Pacific Alliance, Canada is following its standard approach to tariff elimination for goods, including for agriculture, by seeking preferential market access on the vast majority of trade and tariff lines. These negotiations also provide Canada with the opportunity to seek improved market access for agricultural goods of key export interest that are not currently subject to full tariff elimination in Canada's existing agreements. Canada recognizes the importance of securing fair and predictable market access opportunities, and providing our exporters with the ability to compete on a more level playing field in the region.

With respect to non-tariff barriers, the Government 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. Therefore, consistent with our standard negotiating approach, Canada is seeking to include provisions to prevent the use of unjustified non-tariff barriers, including improving transparency and predictability, making trade more efficient, and fostering enhanced communication and cooperation among the Parties. Canada is also seeking appropriate

provisions and mechanisms that Parties can use to discuss trade-related concerns with the objective of resolving them before they become irritants.

With respect to sanitary and phytosanitary (SPS) measures, Canada has included a dedicated chapter in its FTAs with the Pacific Alliance, as well as the CPTPP. In a prospective FTA with the Pacific Alliance, Canada is seeking to include provisions that maintain Canada's right to take SPS measures necessary to protect human, animal and plant life and health, while ensuring that market access gains are not undermined by unnecessary and unjustified SPS-related trade restrictions. For example, Canada is seeking provisions to establish predictable processes of how Parties take their SPS measures, such as audits and equivalence assessments, to foster cooperation and the exchange of information, and to require that SPS measures taken by a Party are based on science and are transparent. Canada is also pursuing the establishment of a mechanism through which Parties can seek to resolve SPS issues, at an early stage, through engagement of technical experts.

In addition, Canada is seeking provisions to help address technical barriers to trade under a dedicated Technical Barriers to Trade (TBT) chapter. The chapter that Canada is pursuing is intended to encourage Parties to use international standards, as well as enhance the transparency of the regulatory development process. Similar to the SPS chapter, Canada is seeking that mechanisms be put in place to help address TBT issues at an early stage.

Recommendation 2: the Government of Canada, during negotiations for a free trade agreement with the Pacific Alliance, endeavour to include provisions that would promote regulatory cooperation between Canada and the Pacific Alliance countries.

The Government supports the Committee's recommendation. The Government recognizes the importance of regulatory cooperation in order to remove potential barriers caused by regulatory differences and to enhance trade between countries. Canada is recognized by the Organisation for Economic Cooperation and Development (OECD) and by other countries as a world leader in the promotion and development of regulatory cooperation initiatives. A solid foundation in good regulatory practices is a necessary precursor to entering into formal regulatory cooperation relationships. Good regulatory practices are processes, systems, tools, and methods for improving the quality of regulations (e.g. the use of regulatory impact assessments, transparency and openness, and stakeholder engagement throughout the regulatory development process).

Canada's most recent FTAs have included chapters on Good Regulatory Practices to help lay the foundations necessary for regulatory cooperation. By agreeing to common regulatory processes and tools, these chapters facilitate and promote trade and investment, economic growth, employment, and contribute to the promotion of a transparent and predictable regulatory environment for businesses. Provisions typically include rules that require open and public consultations in the development and implementation of regulatory measures. They also typically include processes to ensure transparency and predictability in the regulatory development process, as well as to facilitate and strengthen cooperation between regulatory officials. In the context of ongoing FTA negotiations with the Pacific Alliance, Canada is seeking a dedicated chapter on Good Regulatory Practices that would support the development of predictable and evidence-based regulations, facilitate compatible regulatory approaches between Canada and the

Pacific Alliance, and would also help reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements without undermining consumer safety and environmental standards.

In addition, Canada is seeking separate provisions on SPS measures to enhance cooperation between Canada and the Pacific Alliance and to recognize the importance of international standards, guidelines, and recommendations in the development of new, or the revision of, existing SPS measures. Similarly, Canada is also seeking provisions to enhance cooperation and trade facilitation related to technical regulations, standards, and conformity assessment procedures under the Technical Barriers to Trade chapter.

Recommendation 3: That the Government of Canada, during negotiations for a free trade agreement with the Pacific Alliance, seek to include enforceable provisions designed to protect investments. These provisions should not limit governments' ability to adopt and maintain measures in the public interest, including those that protect the environment and those that ensure respect for human rights generally and the rights of Indigenous peoples specifically.

The Government supports the Committee's recommendation. Over the past three years, the Government has been consulting stakeholders on its approach to investment protection in FTAs, including with the Pacific Alliance, 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, which argues 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 ability to advance public policy objectives remains protected. Canada is also making improvements to procedural elements in its investment agreements, including strong commitments on transparency.

In line with these considerations, in its negotiations with the Pacific Alliance, Canada is seeking an outcome that would provide Canadian investors and their investments protection against, among other things, discrimination, expropriations without compensation and denial of justice, backed by an investment dispute mechanism. Canada already has many of these robust investment protections in place with the Pacific Alliance countries through the CPTPP and/or its existing bilateral FTAs. In the context of the Pacific Alliance negotiations, Canada has sought the inclusion of a provision relating to corporate social responsibility, referring to environmental, human rights and Indigenous rights standards. Finally, consistent with practice to date, the Government intends to include exceptions and reservations in the area of investment to allow it to maintain policy flexibility, including to ensure that the government respects the rights of Indigenous peoples.

Recommendation 4: That the Government of Canada work with the Pacific Alliance to facilitate the mobility of businesspersons and professionals in a manner that does not reduce wages or the number of jobs for Canadians. Consideration should be given to including commitments in a Canada-Pacific Alliance free trade agreement regarding the temporary entry of businesspersons and professionals.

The Government supports the Committee's recommendation. With respect to the temporary entry of businesspersons, both Canada and the Pacific Alliance are pursuing a meaningful outcome in the FTA negotiations that balances a shared interest in growing international trade and investment activity, while maintaining the integrity of the domestic labour market. The Temporary Entry for Business Persons Chapter under negotiation between Canada and the Pacific Alliance seeks to build on existing bilateral (Peru and Colombia) and plurilateral (e.g. NAFTA/CUSMA and the CPTPP) commitments made with individual members of the Pacific Alliance, which are already among Canada's most ambitious agreements with regard to temporary entry. Any market access improvements agreed to by Canada are expected to be incremental, and, for professionals and technicians, will be conditioned by labour market safeguards, such as a wage requirement, and more robust education and experience criteria.

Regarding stakeholder views outlined in the CIIT report on the facilitation of business mobility by the removal of a visa requirement, the Government of Canada does not take such a commitment in its FTAs. This ensures that Canada continues to retain full discretion with its immigration policy. Such matters are addressed on a bilateral basis with immigration officials.

Recommendation 5: That the Government of Canada, during negotiations for a free trade agreement with the Pacific Alliance, work toward outcomes that would contribute to gender equality, promote labour standards and rights, and protect human rights, including those of Indigenous peoples.

The Government supports the Committee's recommendation. 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, including underrepresented groups such as women, Indigenous peoples, and small-and medium-sized enterprises, can take advantage of the opportunities that flow from international trade and investment. In the Canada-Pacific Alliance FTA negotiations, Canada is advancing its inclusive approach to trade by pursuing, among others, a strong and enforceable Labour chapter, as well as dedicated chapters and provisions relating to gender and Indigenous peoples.

On gender equality, Canada is committed to the economic empowerment of women and is actively seeking to mainstream gender-responsive provisions throughout the agreement, as well as advancing a dedicated and enforceable Trade and Gender chapter. Canada included for the first time a Trade and Gender chapter in its modernized FTA with Chile, and has sought to include a dedicate chapter in all of its subsequent negotiations. The chapter that Canada is pursuing with the Pacific Alliance acknowledges the importance of incorporating a gender perspective into economic and trade issues to ensure that economic growth benefits all. It seeks to provide a framework for the Canada and the Pacific Alliance to work together on issues

related to women's economic empowerment, in order to break down barriers to women's participation in international trade and investment.

Concerning 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 the Pacific Alliance countries. In line with Canada's FTA approach to date, Canada is seeking a Labour chapter that includes high-standard commitments to ensure that national laws and policies protect internationally-recognized fundamental principles and rights at work.

With regards to Indigenous peoples, Canada continues to advance its long-standing approach in negotiating FTAs to include provisions designed to maintain the Government's policy flexibility to fulfill the Constitutional and treaty rights of Indigenous peoples. Canada has consistently included exceptions and reservations in the areas of government procurement, investment, trade in services, and the environment and will continue to do so in its FTA negotiations with Pacific Alliance. 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 dedicated provisions that aim to enhance the ability of Indigenous peoples and Indigenous businesses to benefit from the opportunities that flow from international trade and investment.

Recommendation 6: That the Government of Canada ensure that Global Affairs Canada has sufficient resources to negotiate a free trade agreement with the Pacific Alliance without limiting its ability to negotiate, ratify or implement other free trade agreements.

The Government supports the Committee's recommendation. Canada's ongoing FTA negotiations with the Pacific Alliance are not expected to impact the negotiation, ratification or implementation of other FTAs or trade policy initiatives of the Government. Resources have not been reallocated from other FTA negotiations or trade policy initiatives to pursue this negotiation with the Pacific Alliance. Notably, the Canada-U.S.-Mexico Agreement was signed on November 30, 2018 and Parties are now pursuing domestic ratification, while the CPTPP entered into force on December 30, 2018. Canada's other trade policy initiatives, including ongoing FTA negotiations with Mercosur, exploratory discussions with the Association of Southeast Asian Nations (ASEAN), and the accession of new members to the CPTPP, have also been proceeding in parallel.

CONCLUSION

The Government of Canada has taken the Committee's recommendations into consideration. These recommendations will serve to help 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 important assessments to be undertaken for all major trade agreements. The Government of Canada is also committed to continually engaging stakeholders as this initiative moves forward.