

Government Response to the 19th Report of the House of Commons Standing Committee on International Trade (CIIT) entitled, *A Canada-Ecuador Trade Agreement: Selected Canadian Priorities*

Recommendation 1: That the Government of Canada pursue the elimination of tariff and non-tariff barriers to trade. Any non-tariff barriers that are not eliminated should be science-based, achieve a legitimate public policy objective and restrict trade to the lowest extent possible. As well, the Government should ensure the existence of a timely and binding mechanism to resolve disputes regarding non-tariff trade barriers.

The Government of Canada supports this recommendation.

In negotiating a free trade agreement (FTA) with Ecuador, the Government's objective will be to create meaningful benefits for Canadian businesses, workers and families. Through an FTA, the Government will seek to provide Canadians with increased preferential access to the Ecuadorian market, benefiting Canadian exporters, through the elimination of tariffs and non-tariff barriers.

Canada is following its usual approach to tariff elimination for goods, including in the area of agriculture, by seeking preferential market access on the vast majority of trade and tariff lines. In addition, these negotiations provide Canada with the opportunity to expand and improve market access for its export-oriented agricultural products, such as wheat, oats, barley and canola, some of which are currently subject to the Andean Price Band System (APBS)¹. 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.

Preventing and addressing non-tariff barriers (NTBs) that are protectionist, arbitrary, discriminatory, unnecessarily trade restrictive or unjustified is a foundational pillar of Canada's approach to negotiating FTAs. In negotiating an FTA with Ecuador, the Government of Canada will continue its approach seen in Canada's modern FTAs of building upon the World Trade Organization (WTO) Agreements through the inclusion of robust and enforceable obligations to facilitate commercially meaningful market access opportunities and to support the elimination of unjustified NTBs, as well as through enhancing transparency and predictability, strengthening cooperation and establishing bilateral issue resolution mechanisms to prevent and address market access issues. The objective is to ensure that the FTA's tariff market access benefits are not undermined by unnecessary or unjustifiable NTBs. Canada is pursuing this approach in the Sanitary and Phytosanitary (SPS) Measures, Technical Barriers to Trade (TBT) and National Treatment and Market Access chapters of its FTA with Ecuador. In addition, Canada's approach on Good Regulatory Practices will be to seek a robust chapter that supports the development of predictable and evidence-based regulations. In these chapters, Canada will also seek obligations to enhance the use of international standards, guidelines or recommendations in the development and application of regulations; provisions to ensure measures are not more trade-restrictive than necessary; equivalency, whereby countries accept each other's standards where they offer an equivalent level of protection; as well as the establishment of chapter specific committees to support regulatory cooperation and issue resolution.

With regard to the negotiation of SPS obligations, Canada is pursuing strong science and risk-based provisions as foundational obligations to facilitate trade of agriculture and agri-food products. Such obligations seek to ensure that SPS measures are transparent, science-based, proportionate to the risk and based on international standards, guidelines or recommendations, while preserving each party's

¹ Ecuador applies the APBS to 206 tariff lines, including to Canada's top export to Ecuador (wheat). The APBS, applied by Andean Community countries, including Ecuador, aims to stabilize import costs for a specific group of agricultural products characterized by unstable international prices through the use of variable import duties (e.g. pork, wheat, rice, corn, sugar, soybeans, canola). Ecuador's applicable tariffs for goods subject to the APBS (including the additional levy from the APBS) range from 0-85.5%.

right to take measures that meet such legitimate policy objectives as protecting human, animal or plant life or health. Similarly, in the negotiation of TBT obligations, Canada is seeking to promote regulatory transparency and predictability while preserving each party's right to regulate in the public interest to achieve legitimate public policy objectives.

Given the importance of dispute settlement mechanisms to enforce substantive FTA obligations, beyond mechanisms at the WTO, Canada has negotiated State-to-State dispute settlement mechanisms in its modern FTAs. These FTAs also contain provisions to accelerate the timelines for parties to hold consultations in the dispute resolution process. In its FTA with Ecuador, the Government of Canada will pursue a similar approach.

Recommendation 2: That the Government of Canada, in deciding about investment-related provisions, fully consider available options for protecting Canadian investments in Ecuador. Before making a decision, the Government should consult with relevant Canadian stakeholders about these options.

The Government of Canada supports this recommendation.

The Government of Canada recognizes the significant investments made by Canadian firms in Ecuador, with Canadian direct investment in Ecuador valued at over \$4.4 billion in 2023. In 2017, Ecuador notified Canada of its intention to terminate the 1997 Canada-Ecuador Foreign Investment Promotion and Protection Agreement (FIPA). The termination became effective in 2018, though the FIPA protects Canadian investments that existed at the time for 15 years thereafter, or until 2033.

As a result, it is important that the Government of Canada ensure that any investment chapter under a Canada-Ecuador FTA provide a high level of protection in line with Canada's investment agreement practices and not downgrade the level of protection available for existing Canadian investments in Ecuador. Canada's approach with regard to investment chapter provisions is to carefully balance investor protection with a country's right to regulate in the pursuit of legitimate policy objectives, such as health, safety, the environment, rights of Indigenous Peoples, gender equality and cultural diversity.

The Government of Canada will consider all available options to ensure that the outcome of Canada-Ecuador negotiations results in the appropriate level of protection being provided to Canadian investments in Ecuador. As negotiations proceed, the Government of Canada will continue to consult relevant Canadian stakeholders about these options.

Recommendation 3: That the Government of Canada pursue provisions that address trade issues relating to human rights, labour, the natural environment, gender, Indigenous Peoples, and small and medium-sized firms. To the extent possible, these provisions should be similar to the provisions in Canada's existing trade agreements.

The Government of Canada supports this recommendation.

The Government of Canada pursues an inclusive approach to trade in recognition that trade policies and agreements need to respond and contribute more meaningfully to broader economic, social and environmental policy priorities. Negotiations under the Canada-Ecuador FTA are guided by the same approach with a particular concern for human rights, labour, the natural environment, gender, Indigenous Peoples and small and medium-sized firms (SMEs).

With regard to labour, in line with Canada's existing FTAs, the Government will seek to include a comprehensive and enforceable labour chapter, including high-level commitments that promote respect

and provide protection for internationally recognized labour rights and principles. Canada recognizes that addressing labour issues in FTAs should support equitable growth and stability, as well as help ensure that trade and investment do not come at the expense of workers' rights.

Regarding the natural environment, Canada seeks to advance ambitious and comprehensive environment provisions in all of its FTA negotiations. This includes core obligations on high levels of environmental protection and robust environmental governance, such as commitments on effective enforcement of environmental laws, non-derogation, domestic remedies and transparency as well as commitments to address a range of global environmental issues. In addition, Canada includes environment-related provisions in other areas of its FTAs as appropriate, such as the general exceptions articles. In the context of the Canada-Ecuador FTA, there will be opportunities to use this FTA to support strong environmental governance, address global environmental challenges, promote mutually supportive trade and environment objectives and encourage the sustainable management of natural resources.

On the matter of trade and Indigenous Peoples, Canada is actively advancing programs and policies to promote the interests of Indigenous Peoples and Indigenous businesses through FTAs by: 1) continuing its longstanding approach of including reservations and exceptions which clarify the Government of Canada's ability to maintain or implement otherwise potentially non-compliant measures and programs related to Indigenous Peoples and Indigenous businesses; and, 2) by pursuing innovative provisions, with willing partners, that are designed to increase Indigenous Peoples' access to, and participation in, trade and investment opportunities created under the agreement (e.g. Trade and Indigenous Peoples Chapter in the 2023 modernized Canada-Ukraine FTA).

On SMEs, Canada pursues dedicated provisions related to SMEs that recognize their contribution to global economic prosperity, address their specific interests and needs and remove barriers they face participating in trade to ensure that they utilize and benefit from the opportunities that may flow from the agreement. In line with Canada's inclusive approach to trade, which aims to ensure that the benefits from trade are widely shared including with underrepresented groups, Canada is seeking SME-related provisions throughout its trade agreement with Ecuador, as well as the inclusion of a standalone trade and SME chapter.

On gender, Canada also advances gender considerations throughout its FTAs in order to advance gender equality and reduce the unique barriers that women in all their diversity face when participating in international trade. Canada pursues dedicated trade and gender chapters in its FTAs to: incorporate a gender perspective; reaffirm its commitment to international agreements on gender quality and women's rights; provide a framework for parties to undertake cooperation activities on issues related to gender and trade; and establish dedicated trade and gender committee. Canada also seeks to negotiate other trade and gender provisions throughout its FTAs on issues such as labour, procurement, cross-border trade in services and investment. Through these provisions Canada has been able to negotiate comprehensive, binding and enforceable commitments related to gender-based discrimination in the workplace and prohibit gender-based discrimination related to licencing and professional qualification requirements.

Finally, it is noted that Canada's FTAs promote respect for, and protection of, human rights by all parties in various ways, including through the provisions referred to as part of this response.

Recommendation 4: That the Government of Canada undertake consultations with relevant stakeholders throughout the negotiating process as proposals are considered. Moreover, the Government should develop measures that would inform Canadian firms about export opportunities in Ecuador and that would otherwise provide support as the resulting trade agreement is implemented.

The Government of Canada supports this recommendation.

The Government of Canada is committed to engaging with Canadian stakeholders in advance of and throughout the negotiating process. This important work is carried out by trade officials across various implicated federal departments. Prior to launching negotiations with Ecuador, extensive consultations, including formal public consultations notified through the *Canada Gazette*, were undertaken in order to inform Canada's negotiating positions and approaches. As the negotiations progress, the Government of Canada continues to consult relevant stakeholders through mechanisms such as the Agriculture Trade Negotiations Consultations Group, targeted stakeholder outreach and the process associated with the Environmental Assessment and Gender-Based Analysis Plus. Regular updates on the negotiations are also shared with provincial and territorial officials through the Federal-Provincial-Territorial Committee on Trade (C-Trade) and the Federal Provincial Agricultural Trade Policy Committee. Such consultations mechanisms enable a broad range of stakeholder views and interests to be well understood and taken into account in the formulation of negotiating positions and strategies, with a view to bolstering growth and competitiveness in international markets.

Another example of Canada's stakeholder consultation mechanism consists of the ongoing dialogue with Indigenous Peoples on trade policy issues through Global Affairs Canada's Indigenous Working Group (IWG). It has been, and continues to be, essential in the development of provisions related to trade and Indigenous Peoples. The Government of Canada invited IWG Members (this includes National Indigenous Organizations, modern treaty and self-government partners, Indigenous groups and business associations, legal and policy experts) to become members of the Indigenous Peoples Advisory Group for the Canada-Ecuador FTA negotiations to engage on provisions relating to Indigenous Peoples, including the text of the Trade and Indigenous Peoples Chapter proposed to Ecuador. Additionally, Canada's ongoing dialogue with trade and gender policy experts through the Gender and Trade Advisory Group continues to be essential to informing Canada's approach to negotiating a Trade and Gender chapter and provisions in Canada's FTAs.

Lastly, Canada's Chief Negotiator for the Canada-Ecuador FTA hosts stakeholder debriefing sessions, the first of which took place on June 27, 2024, following the first and second rounds of negotiations. All stakeholders who expressed an interest in attending are invited and welcomed to ask questions before and after the debriefing. Additional stakeholder debriefings are planned throughout the negotiation process.

All of the measures described above ensure that relevant stakeholders are kept informed and that their views are consistently taken into account before and during the negotiations.

Regarding the promotion of export opportunities to Ecuador, Canada's Trade Commissioner Service proactively promotes the benefits of FTAs to Canadian businesses and stakeholders through awareness-building activities, including via the Canadian Embassy in Quito. By organizing detailed information sessions and webinars featuring trade experts and distributing insightful newsletters, the Embassy can ensure that Canadian businesses and stakeholders are thoroughly informed about the benefits, sector-specific opportunities and regulatory changes brought forth by the FTA once negotiations conclude and the agreement enters into force. Engaging directly with key Canadian businesses and industry groups through consultations and roundtable discussions can provide a deeper understanding of their needs and how the FTA can address them. Additionally, showcasing success stories and case studies of Canadian enterprises that have successfully penetrated the Ecuadorian market illustrates potential opportunities and encourages more businesses to explore similar avenues.

To further amplify these efforts, the Embassy is exploring collaboration with Canadian and Ecuadorian trade and business associations to reach a wider audience and facilitate more robust connections between the business communities of both countries. Leveraging social media platforms for regular updates and interactive sessions with trade experts can also enhance transparency and engagement.

Furthermore, the Embassy will offer tailored support services such as market analysis, partner matching and assistance in navigating the regulatory environments to help businesses maximize the benefits of the FTA. Organizing trade missions and promotional events in both Canada and Ecuador, in coordination with the larger Trade Commissioner Service, will serve as vital platforms for building direct business relationships and strengthening existing networks. These comprehensive initiatives will ensure that Canadian stakeholders are not only prepared but are also proactive in seizing the trade opportunities that the FTA with Ecuador would offer.

Recommendation 5: That the Government of Canada ensure that no trade agreement between Canada and Ecuador is concluded without full, transparent and effective consultation with, and no agreement is implemented without the free, prior and informed consent of, affected Indigenous Peoples in Ecuador. The Mujeres Amazonicas Defensores de la Selva collective should be among the Indigenous Peoples who are consulted and from whom consent is gained.

The Government of Canada acknowledges this recommendation.

The Government of Canada is committed to undertaking meaningful consultations with Canadian stakeholders, including Indigenous groups, throughout the process of negotiating an FTA with Ecuador, as described in the responses to the preceding recommendations. While the Government of Canada does conduct outreach with Ecuadorian stakeholders through the Canadian Embassy in Quito, these consultations do not rise to the level of obtaining Free Prior Informed Consent (FPIC), as defined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

FPIC is the highest end on the right to participate in decision making spectrum. As such, the Government of Canada cannot undertake this process on behalf of Ecuador, nor can Canada define this domestic process for Ecuador. Additionally, the Government of Canada cannot formally determine or verify whether the FPIC of affected Indigenous groups in Ecuador has been obtained.

While Canada strongly encourages Ecuador to conduct consultations with their Indigenous Peoples on the FTA and shares best practices on our domestic consultation mechanisms, Canada cannot compel Ecuador to take specific legal or policy actions towards Indigenous Peoples established within Ecuador's borders. This is in accordance with the international law principles of national sovereignty and non-interference, as well as the domestic scope of the Canada UNDRIP Act. Canada is committed to seeking a comprehensive Indigenous Peoples' chapter in the Canada-Ecuador FTA that will contribute to benefits of the agreement being shared with Indigenous Peoples of both countries and to their rights being upheld.

As such, while the Government of Canada takes note of this recommendation, it is not practicable that the Government of Canada precondition the conclusion of the Canada-Ecuador FTA on obtaining the FPIC of affected Indigenous Peoples in Ecuador.