

Government Response to the Second Report of the Standing Committee on International Trade, entitled *Trade between Canada and the United Kingdom: A Potential Transitional Trade Agreement – Interim Report*

Recommendation 1

That the Government of Canada immediately announce the scenarios it is considering with respect to the passage of the Canada–United Kingdom Trade Continuity Agreement (TCA) with either a plan for how the Government proposes to ensure the ratification of the TCA prior to 31 December 2020 or a detailed articulation of what Canadian exporters who trade in services or goods with the United Kingdom can expect in the event that the TCA is not ratified by the deadline, including what kind of support the Government will provide to affected Canadian exporters.

The Government will only conclude trade agreements that are in the best interests of Canadians. To that end, Canada engaged intensively and constructively with the United Kingdom as soon as there was a clear outline of the United Kingdom’s anticipated approach to trade from January 1, 2021. Following the announcement of an agreement in principle between Canada and the United Kingdom, the Government worked expeditiously to finalize legal text and prepare the treaty for signature and tabling in Parliament on tight timelines.

Throughout the Brexit process, Canada has sought to ensure as seamless a transition as possible for our bilateral trade relationship while also protecting and promoting the interests of Canadians. In keeping with the Government’s objective to ensure predictability and stability for Canadian businesses, and with the TCA not ratified in time for January 1, 2021, entry into force, the Government negotiated a separate Memorandum of Understanding with the United Kingdom to provide preferential tariff treatment for goods on a temporary reciprocal basis until the TCA can enter into force.

On December 22, 2020, the Government announced the Memorandum of Understanding that enabled Canadian businesses to continue trading at the preferential tariff rates agreed to under CETA, with no added paperwork. The Memorandum of Understanding also details commitments each side has made for interim measures to ensure business continuity via the administration of Tariff Rate Quotas. Other non-goods areas of the TCA, such as provisions for trade in services and government procurement, require the timely ratification and implementation of the TCA by both Canadian and British parliaments to ensure that full continuity of trade is restored as soon as possible. In the interim, the Government is continuing to offer support and advice to Canadian exporters through the Trade Commissioner Service as it has done throughout the Brexit process.

Recommendation 2

That the Government of Canada recognize that a so-called “transitional” trade agreement is nevertheless permanent so long as it has no expiration date and that the consultation process for the Canada–United Kingdom Trade Continuity Agreement (TCA) was wholly inadequate for a permanent trade agreement. Therefore, the Government should include a sunset clause in either the final version of the TCA or the ratifying legislation for the TCA to ensure that the important issues addressed in the TCA are revisited by the Parliament of Canada, whether Canada and the United Kingdom conclude a successor agreement or not.

The TCA is the result of a Trade Dialogue that was initiated following the September 2017 announcement by Prime Minister Trudeau and then-Prime Minister May that Canada and the United Kingdom would seek to avoid disruption in our trade relations as the United Kingdom prepared to exit the European Union. As the United Kingdom could not enter into new formal trade negotiations while still a Member State of the European Union, the best option to try to ensure continuity for Canadian stakeholders in the short-term was to engage in a CETA replication discussion with the intention of having a bilateral version of the agreement ready to enter into force when CETA no longer applied to the United Kingdom. The TCA that was signed on December 9, 2020, provides the continuity businesses wanted to see for Canada-United Kingdom trade relations in the short-term, as described by witnesses and stakeholders that appeared before the Committee. The TCA also includes a commitment for Canada and the United Kingdom to enter into subsequent negotiations within one year of the TCA’s entry into force. This responds to stakeholder concerns that some CETA terms could not be adjusted in the context of the continuity agreement and should be revisited in a new bilateral negotiation. Since CETA was designed specifically for the Canada-European Union trade relationship and because the United Kingdom may pursue different trade approaches in future now that it has left the European Union, it remains in Canada’s interests to negotiate a new, ambitious, comprehensive and inclusive trade agreement that can best reflect our bilateral relationship with the United Kingdom.

In addition to the commitment to subsequent negotiations, the TCA includes temporary or transitional elements that incentivize a future negotiation being completed within three years of the TCA’s entry into force. These provisions are preferable to a sunset clause as they offer greater flexibility for Canada to respond to future developments without creating a new ‘cliff edge’ for business. As with all of Canada’s international trade agreements, the TCA already includes a termination clause if ever Canada wanted to end its application after entry into force.

The approach to consultations for the TCA reflected the fact that Canada was not entering into usual trade negotiations with a new partner but instead seeking to replicate on a bilateral basis the terms of trade that already applied to the Canada-United Kingdom relationship by virtue of CETA implementation in Canada. That said, the Government has been fully transparent with Canadians throughout the Trade Dialogue with the United Kingdom, including targeted

consultations and Parliamentary studies. Given that most areas of CETA were to be easily replicated in the TCA, officials relied on the extensive consultation process that had informed CETA negotiations from before their launch in 2009 through to the signature of CETA in late 2016. For the small number of TCA areas that required substantive negotiation with the United Kingdom, officials undertook targeted consultations beginning in 2018 with stakeholder groups that had a direct interest in how market access provisions would be converted from CETA to a bilateral Canada-United Kingdom agreement (for example, with regard to tariff rate quotas and their administration). Provincial and territorial representatives were informed early on of the Government's approach to the Trade Dialogue and kept informed via the quarterly meetings of the Committee on Trade and additional briefings as required as talks progressed toward the conclusion of the Trade Continuity Agreement.

Recommendation 3

That the Government of Canada allow reasonably sufficient time between the tabling of the final text of the Canada–United Kingdom Trade Continuity Agreement and the adoption process in order to allow parliamentarians to properly study the text before making a decision.

As noted above, the Government made every effort to reach an agreement that was in the best interests of Canadians in time for its approval ahead of January 1, 2021, when the CETA would no longer apply to Canada-United Kingdom trade. Since the TCA was not ratified before Parliament rose for the winter break, the Government has proposed that the parliamentary approval process advance in a timely manner upon parliament's return in late January 2021 so that the full benefits of the TCA and continuity from CETA can be enjoyed by Canadian stakeholders as soon as possible.

The TCA is a substantive replication of CETA that creates no new obligations for Canada and provides no new market access for supply managed products. Rather, it is a continuation of CETA benefits on a bilateral basis for Canada and the United Kingdom that provides predictability and stability to Canadian businesses. As the TCA did not enter into force on January 1, 2021, and the United Kingdom could no longer be party to CETA from that date, Canada and the United Kingdom negotiated a supplemental Memorandum of Understanding that outlines the commitments each country is able to take to ensure that preferential tariff treatment continues until the TCA can be implemented. It is important to note, however, that mitigation of tariffs by virtue of a duty remission order is not a long-term solution and can only address trade in goods. Parliamentary approval of Bill C-18 is required for all TCA provisions, for goods and non-goods areas, to be implemented. To that end, the Government urges all Parties for the swift approval of this critical legislation.

Recommendation 4

That, for any future trade agreement negotiated by Canada, the Government of Canada commit to report to parliamentarians on the status of the situation and on the planned deadlines throughout the negotiation process.

The Government has committed by way of recent changes to the *Policy on Tabling of Treaties in Parliament* to notify Parliament of the launch of new, comprehensive trade negotiations and to publish in advance Canada's objectives for any such negotiations. With regard to a future negotiation with the United Kingdom on a new, comprehensive trade agreement, the Government fully anticipates following the additional notification and publication requirements as per the revised *Policy on Tabling of Treaties in Parliament* which provides that a notice of intent to enter into negotiations towards a new free trade agreement (FTA) be tabled in the House of Commons at least 90 calendar days prior to the commencement of negotiations; that objectives for negotiations towards a new FTA be tabled in the House of Commons at least 30 calendar days prior to the commencement of negotiations; and that an economic impact assessment be tabled in the House of Commons at the time of the introduction of implementing legislation for a new FTA.