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Canada-ASEAN Trade Consultations
Trade Policy and Negotiations Division, Asia
Global Affairs Canada

Recent events have underscored the importance of Canada diversifying its international trade relationships. In reaching this goal, Canadian businesses need to look across the globe in pursuit of markets which will reduce our overdependence on the United States of America. Set against that backdrop, the Canadian Chamber of Commerce and Canadian Services Coalition welcome the opportunity to comment on the government's consultations with respect to possible trade negotiations with the Association of Southeast Asian Nations (ASEAN). As a market of 643 million people with a GDP of \$3.6 trillion, ASEAN provides opportunities for Canadian businesses to expand, and improve, market access in the Asia-Pacific region.

When considering how best to leverage opportunities in the ASEAN region, Canada needs to deploy both long and short term policy levers. While we recognize the longer-term benefits of pursuing a bespoke arrangement with ASEAN, we also encourage the government to use, where possible, the short-term tool of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

This submission reflects both the views of the Canadian Chamber of Commerce, as well as the Canadian Services Coalition. The Canadian Chamber of Commerce is Canada's largest industry association, representing over 200,000 businesses across the country. The Canadian Services Coalition, housed within the Chamber, is Canada's only pan-sectoral services association focused on services trade issues, and raising awareness of the importance of services to the Canadian economy.

ASEAN Free Trade Agreement

We support the longer-term objective of pursuing a bespoke arrangement with the ASEAN bloc which maximizes the fullest spectrum of opportunities, and also captures commercial benefits within markets not ready for CPTPP accession. In negotiating a trade agreement, the government should prioritize its efforts in a number of areas.

Tariff market access: An ASEAN trade agreement should include either immediate or phased-out tariff liberalization on Canada's major exports to the region, particularly in the agri-food sector.

Rules of Origin: The increasingly complex network of free trade agreements, while providing tariff liberalization opportunities, also means that Canadian businesses need to be mindful of different rules of origin to access preferential tariffs. Any trade agreement with the ASEAN countries should include forward looking cumulation provisions which can support Canadian usage of supply chains in region.

Temporary Entry: The government should pursue the inclusion of provisions in a temporary entry chapter to lock-in access as it pertains particularly to intra-company transferees. Our members have expressed concern with the administration of Canada's temporary entry commitments given the number of trade agreements and varying levels of market access commitments. Any additional commitments made in the ASEAN context should be implemented as administratively straightforward as possible by



Immigration, Refugees and Citizenship Canada. One area of particular priority is the “specialist” category within the intra-company transferee entry route. The government should ensure temporary entry provisions in an ASEAN FTA contain as specific a definition as possible.

Customs and Trade Facilitation: Canada should use an ASEAN FTA to encourage measures which would support simplified border procedures, particularly for low-value shipments. This includes streamlined procedures for importer and exporter registration, allowing electronic document submission, expediting the release of goods, encouraging the electronic payment of duties and taxes, and benchmarks for release of goods. Our members in this sector have indicated that a value of 1,000 SDR to coincide with the World Customs Organization Immediate Release Guidelines would be a useful guiding point.

Government Procurement: Although the level of economic development in some ASEAN countries likely precludes the inclusion of an ambitious procurement chapter, it is important to use this negotiation to lay the long term foundations for providing Canadian businesses with enhanced market access in the future. The Thailand-Australia Free Trade Agreement government procurement chapter provides a starting model to consider emulating.

Digital Trade: An agreement with ASEAN should strive to include the highest possible standards on provisions related to the free flow and processing of data, including a prohibition on the forced localization of data storage as a condition for a Canadian business to operate. Our members have expressed concern about data localization laws recently passed in Vietnam and Indonesia. Transferring data is crucial for Canadian services companies to provide products and services to customers, as well as to manage cyber risks.

Services and Investment: Within the broad scope of the services and investment chapters, there are a number of provisions we would suggest the government pursue. It would be valuable to include a ratchet clause which locks-in any future liberalization by ASEAN countries. On specific market access barriers, our financial institutions have flagged their interest in seeking increased opportunities in the asset management and insurance sectors. Specific concerns have been raised with Indonesia and Malaysia’s foreign ownership equity caps of 80% and 70%, respectively. Additionally, members would welcome disciplines on practices such as local requirements for senior and essential personnel.

Investor-state dispute settlement provisions are essential to provide greater certainty for outbound investment from Canadian businesses in the event of discriminatory actions by ASEAN governments.

Lastly, given the importance of this region for some Canadian financial institutions, our members would welcome the government including provisions on regulatory cooperation to provide a mechanism for sharing best practice, promote greater transparency, and improve advance notification.

Making the most of CPTPP

According to Canada’s 2017 merchandise trade data, nearly half of our ASEAN export flows are to countries which are already members of the CPTPP. Similarly, for services and investment, 68% of our services exports to ASEAN are to CPTPP members, and 55% of investment stocks in ASEAN are in CPTPP countries.

Given the government’s stated intent to be part of the first six CPTPP countries to ratify the agreement, we are positioning ourselves to take a leadership role in the accession process. This accession process



will in turn better enable us to leverage the agreement to expand market access opportunities for Canadian companies.

The Chamber and Services Coalition recognize that not all ASEAN countries are ready to meet CPTPP's high standards. However, for those ASEAN countries that are ready, and have expressed an interest, we should advance their membership application as expeditiously as possible in collaboration with the other CPTPP members. This provides a quicker route to exploiting the opportunities in those markets compared to negotiating a bespoke trade agreement, which needs to be seen in the context of a longer time horizon. Expanding CPTPP's ranks will bolster the agreement's value to Canadian exporters and generate momentum for other countries to join.

While CPTPP will be a boost for exporters in a number of sectors, the Chamber would also like to use this opportunity to continue to call on the government to be mindful of the Canadian sectors that may be adversely impacted by the agreement. Ensuring the competitiveness of Canada as a destination for business investment is even more crucial for those industries. As noted in other submissions to the Government of Canada, reforms to our tax and regulatory systems are vital and should be seen as a tool to complement trade policy.

Lastly, regardless of whether we consider short or long term approaches, it is vital that we make the most of these agreements once they enter into force. Canada's trade agreements are impactful when they lead to Canadian businesses increasing exports and investment. Therefore, it is crucial that the Trade Commissioner Service promote the opportunities presented in the ASEAN region on a continuous basis and have a plan in place for when any future agreement enters into force. A promotion strategy should emphasis raising awareness for small and medium-enterprises.

The Canadian Chamber of Commerce and Canadian Services Coalition look forward to learning more about the government's plans once you have considered the results of this consultation. We would be glad to provide input on an ongoing basis as discussions progress. If you have questions about this submission, please do not hesitate to contact us.

Regards

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