THE CANADIAN CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU CANADA

Canada–India: The way forward

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Table of Contents

Executive Summary

The United States will remain Canada's top economic partner, but the negative impact the recent economic crisis had on our southern neighbour has made Canadian businesses realize that they must diversify their trade and investment. Many Canadian companies are looking to do business with Asia. While Asia is distant and unfamiliar to many Canadians, its booming demand for Canadian commodities, services and high-tech products make it appealing. It is a source of opportunities and challenges Canada cannot afford to ignore

Enter India. A rising economic giant in Asia, it has one of the world's fastest growing GDPs. India's middle class is expanding quickly with consumer aspirations to match, and its private sector is thriving and internationally active.

While Canada-India relations are old and rooted in Westminster institutions, common law and strong people-to-people ties, trade and investment between Canada and India, while growing, are still well below potential. Prominent Canadian companies do or have done business with the subcontinent, but for many, India remains a very challenging business environment. The expansiveness of Indian markets, red-tape and regulatory complexity, restrictions on trade and investment, infrastructure challenges, a very different business culture and the need for long-term commitment when going to India prevent some Canadian companies from considering doing business there. For new entrants, especially smaller businesses, amassing sufficient resources to cover the costs of travelling, understanding local markets and maintaining a presence on the ground is no simple feat.

Operating in India may not make sense for all companies, but for many others the opportunities are real. The world is out to do business in and with India, and the foreign firms that succeed are those that tailor their value proposition to meet India's development needs and the consumption habits and incomes of its people.

Businesses do business, but governments play a necessary role. They enable the private sector to access opportunities by removing barriers to trade and investment, by levelling the competitive playing field as much as possible and by defending Canadian trade interests. The Canadian Chamber of Commerce supports the advancement of a stronger, win-win economic relationship between Canada and India—one where the two countries view each other as partners who create value together rather than merely as clients.

This submission, resulting from our consultations with the wider Canadian business community and thought leaders, outlines a policy direction for Canada with regards to India that is focused on:

- ensuring that the Canada-India Comprehensive Economic Partnership Agreement (CEPA) negotiations yield a high-quality and balanced result; and

- boosting Canada's visibility in India through political engagement and enhancing exchanges in the areas of investment, energy and mining, higher education and research and tourism.

The Canada-India Comprehensive Economic Partnership Agreement (CEPA)

In 2009 and 2010, the Canadian Chamber of Commerce called upon the federal government to undertake free trade negotiations with India. In September 2010, the governments of Canada and India released a joint study that recommended the launch of Comprehensive Economic Partnership Agreement (CEPA) negotiations between the two countries. The study forecasts significant gains resulting from the removal of barriers to real market access on both sides—between C$6 billion and US$ 15 billion for Canada.[i] These would be spread across sectors, from agricultural products and resources to chemicals, transport equipment, machinery and equipment and services.

The negotiation of a CEPA with India is set to be a lengthy process, taking India's trade negotiations with the European Union and Australia as bench-marks for comparison. It will be a challenging process given the size and complexity of the Indian market and its stakeholders, India's competing international trade policy priorities and the offensive and defensive stakes for Canada in an agreement with India.

Any deal with India must be a good deal for Canada. Our initial view of a CEPA with India is that it:

- Be a **comprehensive, balanced and high-quality agreement** that will ensure long-term, real market access for Canadian exporters of goods and services, while also duly recognizing sensitivities. A limited agreement could swiftly lose relevance to both countries' business communities and may need to be updated less than a decade after its conclusion.

- Remove **tariff barriers** that significantly impede market access for Canadian exporters. While India has made great progress in lowering tariff lines over the years, customs duties remain high in several areas, notably in agri-food. Moreover, Canadian business needs a clearer breakdown of the taxes and levies to which their products are subject in India.

- Ensure a **multiple-speed lifting of tariff barriers**, as there is concern about the potential impact of Indian products on the competitiveness of some Canadian manufacturing companies following the lifting of tariff barriers. For certain industries, longer transition periods will be needed for them to adapt to a new context of tariff-free Canada-India trade.

- Tackle **non-tariff barriers.** Businesses are concerned about regulatory approaches and standards differing across jurisdictions and about the multiplication of regulations and standards in recent years. India is a challenging case when it comes to non-tariff barriers. In the CEPA context, regulations need to be based on internationally accepted norms and the number and scope of regulations must not exceed what is necessary to achieve objectives specified in the World Trade Organization Technical Barriers to Trade (WTO TBT) Agreement.

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i Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

- Pursue **regulatory cooperation**. The introduction of new regulations in India, nationally and sub-nationally, needs to be done in a transparent fashion, allowing for prior consultations with Canadian businesses whose legitimate commercial or investment activities in India may be impacted by new technical barriers or other regulatory measures.

- Include **services**, which represent almost three-quarters of Canada's GDP and a growing part of its trade. A CEPA with India must extend broad market access across services sectors. Canadian financial companies in particular face significant restrictions on foreign direct investment in India's banking and insurance sectors. At the same time, sensitivities in certain areas like the information technology (IT) industry, which is important to Canada's overall economic productivity, must be duly considered by the negotiators. We also recommend the use of a negative list whereby a limited number of services are excluded from the provisions of the agreement. Should a positive list be used, it would need to be extensive and feature a most-favoured nation (MFN) clause to ensure Canadian services companies are not disadvantaged in the future. The use of a ratchet mechanism is also needed to ensure that any measures on services undertaken in either country cannot be more restrictive than that stipulated in the agreement.

- Facilitate the **temporary entry** and legitimate delivery of professional services on a temporary basis for both Canadian professionals going to India and Indian professionals coming to Canada, in accordance with immigration laws.

- Liberalize **investment**. After all, foreign direct investment (FDI) is often accompanied by flows of experience and expertise that help the investment-receiving country's sectors become more dynamic or can help meet a country's development goals (e.g. financial sector build-up). Sensitivities must be accounted for.

- Ensure any CEPA investment chapter complement, rather than substitute for, the long-awaited Canada-India **Foreign Investment Promotion and Protection Agreement (FIPA)** which was concluded in 2007 and has yet to be ratified by the Indian Parliament. We hope the Indian side will join Canada in finalizing the FIPA which will provide a solid long-term framework for two-way investment with comprehensive, high standards of protection for investors and recipients in both countries.

- Ensure sufficiently liberal **rules of origin** that account for the integrated nature of the North American economy (NAFTA) with numerous Canadian goods incorporating U.S. factors of production. Rules of origin are used to determine when goods have undergone sufficient production or transformation within the free trade area or territory established by an agreement (in this case the CEPA) to qualify for preferential access under that agreement. Also, rules of origin must be clear and easy-to-use by businesses as complex rules drain business resources.

- Ensure the transparency, predictability and user-friendliness (for businesses) of **customs procedures**. Customs procedures must facilitate the movement of goods while enhancing security.

- **Facilitate trade** between the two countries. In addition to more straightforward customs procedures, the CEPA should better align Canadian and Indian certification and other export-import procedures. This entails ensuring non-duplicative procedures for both Canadian and Indian exporters and importers, subject to the need to maintain the highest safety standards.

- Ensure high standards of **intellectual property** (IP) protection. India's record on IP rights protection is better than some other developing economies and its legal framework ensures that IP concerns are taken seriously. However, the IP protection available in certain sectors, including the life sciences sector, and IP rights enforcement across all sectors remain a major concern. For example, India does not provide protection against unfair commercial use of test or other data provided by businesses to the government of India for marketing approval. Canada, like India, must also greatly improve its record on IP rights protection in terms of trademarks, copyright and patents. A Canada-India CEPA is an opportunity for boosting IP protection.

Canada-India ties beyond the CEPA

Canada's **visibility** in India has improved somewhat, but it is no secret that a Canadian visibility deficit in India as in Asia generally remains an issue. A number of Canadian companies are active there, but the lingering image of Canada is still that of a land of natural wilderness or *that country next to the United States*. Members of the Canadian Chamber tell us of the strengths the Canadian business community can market in India—strengths that range from financial services, mining, energy and agri-food products, to healthcare, aerospace and transportation, sustainable engineering, machinery and high-level education.

Canadian companies active in India have long marketed how their expertise can contribute to Indian development and consumer needs. The onus is on the Canadian business community, the academic community, civil society leaders as well as Indo-Canadian leaders and Canadian "India watchers" to boost Canadian visibility in India through outreach to Indian counterparts. However, the Canadian government plays one important niche role in enhancing Canadian visibility and credibility in India—by actively engaging in **political exchanges** with India's government. These exchanges generate goodwill that trickles down into business-to-business ties. Regular meetings between the Canadian and Indian leaders, such as Prime Minister Harper's successful 2009 trip to India and his meeting with Prime Minister Singh in 2010, strike the right note and should continue. We would welcome a visit by Prime Minister Harper to India in 2012. Canadian provincial and territorial outreach is also helpful, so long as it is done in a spirit of pan-Canadian cooperation.

Ensuring consistency between Canada's ties with India and its ties with other countries in the Asia-Pacific region is important. As Canada's trade and investment with India and other Asia-Pacific countries continue to grow, so too will Canada's interest and stake in sustaining the region's order and prosperity. Approaching the Asia-Pacific region in a holistic manner that integrates political-security and economic considerations will help Canada develop favourable partnerships with the important players in the region.

Beyond trade, Canada is interested in diversifying its sources of **direct investment**. This includes investment from India. FDI coming into Canada, in resources or in sectors such as services and manufacturing, is welcome, provided it is commercially-oriented and contributes to the development or co-development of new technologies and brands and to the growth of industries in Canada. FDI that is short-term-oriented or focused on the acquisition of existing technologies, know-how or distribution and supply networks is not what is sought. The government review process under the Investment Canada Act is necessary, and the new enterprise value thresholds under the 2009 amendments to the Act need to be fully implemented.

Indian investors seeking plugs into North American capital markets can consider listing in Canada. Canada's resilient financial sector has world-class expertise in Asian and Indian markets, in mining and small business finance and in serving its international clients' needs. India should consider further facilitating capital transactions with Canada on a bilateral basis to boost **portfolio investment** in both directions beyond FDI.

Sustaining rapid economic growth in a country of 1.2 billion people requires access to reliable, high-quality **resources**. Canada is an ideal and abundant supplier of energy, metals, minerals and other resources. It also possesses a wealth of world-class expertise in mining-related services and technologies. India should look more at what Canada has to offer in this regard.

In particular, we hope Canada and India can work to have Indian extractive sector restrictions on Canadian private-sector participation removed (i.e. exploration and extraction rights, foreign direct investment in India). On the Canadian side, we look forward to progress on getting the Northern Gateway pipeline (as well as Pacific Trails) done to supply Canadian oil and gas to the dynamic economies of the Asia-Pacific—including India—and live up to Canada's aspiration of becoming an energy superpower. To get there, we hope the federal government, Alberta, British Columbia and the affected Aboriginal communities can find a satisfactory way forward.

Higher education and research is another area for cooperation. International students make an enormous economic contribution, above $5.5 billion annually, and sustain employment for more than 80,000 Canadians. The number of Indian students in Canada has nearly tripled since 2008 and the potential to attract more is still great. Having them in Canada provides them with a window into Canada's quality of life and its products. These experiences then trickle back creating goodwill and awareness of Canada in India, and connections with Indian alumni can cement business ties. Also, Canada is an aging country which draws in part on immigration to replenish its skilled workforce.

The onus is on Canadian universities and colleges to attract Indian students and foster research exchanges with Indian partners, and many have done so. Their outreach efforts should continue being complemented by targeted government efforts to make Canadian higher education better known. We also look forward to the establishment of the Canada-India Research Centre of Excellence.

The growth of India's middle class is spurring **tourism** like never before. Tourism is a huge economic opportunity—in 2009 total tourism revenue for Canada was C$69.5 billion.[ii] Dependence on domestic or U.S. demand for tourism is of limited potential given Canada's relatively small population and the appreciating Canadian dollar that makes Canada less affordable to U.S. travellers. The opportunity for Canada to become a major destination for Indian tourists is not one to be missed.

Canada will have to climb a steep curve. Our country is still largely unknown to a great number of potential Indian tourists. It will mean being successful in marketing Canada to travellers. The Canadian Chamber of Commerce has been an unequivocal advocate of the need for fiscal consolidation and applauds the federal government's determined action in that regard. Even so, it is important to sustain focused investments so as to compete with other travel destinations seeking to draw Indian tourists (or tourists from other developing countries for that matter).

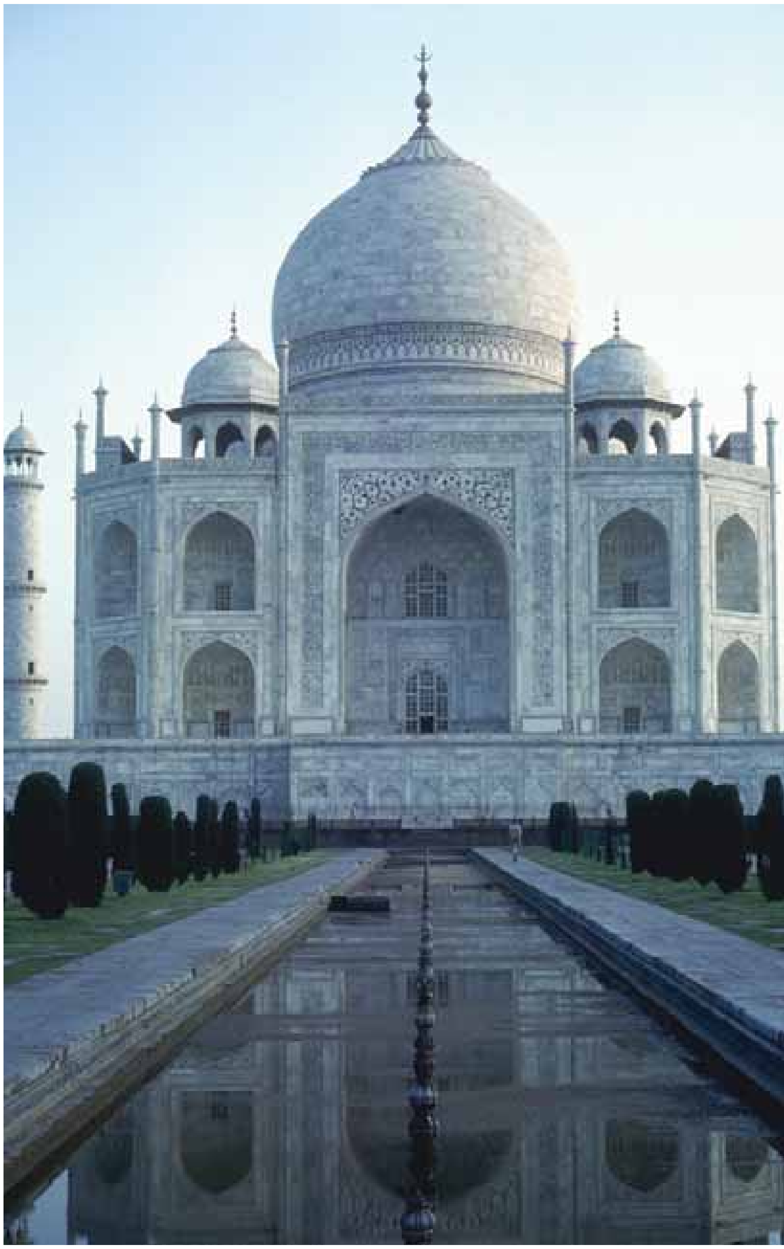
ii Canadian Tourism Commission, 2009 Annual Report

Introduction

Canada's interest in strengthening its economic and business ties with Asia has grown over the past decade, especially since the 2008 global financial crisis put the spotlight on our country's need to diversify its external trade and investment. Asia's fast-paced economic development and booming demand for commodities and a number of services and high-tech goods Canada produces have also spurred that interest. Investment opportunities also beckon.

Enter India. It is an ascending economic player and, based on current trends, it is set to become one of the four largest economies in the world within the next four decades.[1] While many experts had predicted a slump in Indian growth as a result of the global financial crisis, India came out of the crisis relatively strong. Its GDP grew by nearly 10 per cent in 2010, before moderating somewhat in 2011.[2] Canada's ties with India are nothing new. Political connections with India go back to Canadian Confederation, owing to a shared British legacy and use of the English language. While the two countries' democracies and legal systems differ, both are rooted in Westminster institutions and common law. The connection is also a human one cemented through a large Canadian population of Indian descent and a growing number of Canadian "India watchers."

Even so, economic exchanges between Canada and India, though growing, remain limited. Prominent Canadian companies such as Sun Life Financial, Bombardier, SNC Lavalin and McCain Foods, to name just a few, are very active on the subcontinent, and many smaller Canadian companies do or have done business in India. In 2010, just 0.5 per cent of Canada's merchandise exports headed for India



1 Uri Dadush and Bennett Stancil, *The G20 in 2050* (Carnegie Endowment for International Peace, November 2009)

2 International Monetary Fund, "*World Economic Outlook,*" also available online at http://www.imf.org/external/pubs/ft/weo/2011/01/pdf/text.pdf [cited April 2011]

supplying less than one per cent of India's import demand. India represents just 0.5 per cent of Canadian imports. Foreign direct investment (FDI) flows are similarly at low levels.

Operating in India may not make sense for all companies. Many small- and medium-sized enterprises (SMEs) do not have the resources to focus on multiple markets, let alone remote and unfamiliar ones like India's. For those with the resources to go to India, doing business there is challenging because of distance, a different culture and a business environment that is as difficult to navigate as it can be lucrative. Additionally, businesses must grapple with government red tape, deficient infrastructure and governance shortcomings, which are the realities of a large developing country like India. It may be conducive for SMEs to tap into Indian growth indirectly by securing upstream niches to supply goods and services to multinationals with downstream activities in India, or alternatively, by providing goods and services to Indian conglomerates active in third-country markets.

The Canadian Chamber of Commerce supports growing mutually-beneficial economic ties with India. Businesses do business, not governments, but government does play a necessary function. It enables private sector access to global opportunities by working with foreign jurisdictions to remove barriers to trade and investment, by bolstering the competitiveness of Canadian companies through sound policy and by defending Canadian trade interests when they are infringed upon. With India, as with other markets, a win-win economic relationship must develop—one where Canada and India view each other as partners who create value together rather than merely as clients, and one where India sees Canada for what it can be—a reliable source of raw materials, energy, food, commercial and educational services and high-tech products, and a destination for commercial direct investment that can help sustain India's economic and social development going forward.

The strengthening of Canada-India political ties in recent years, including reciprocal visits and other meetings between Prime Minister Harper and Prime Minister Singh, provide solid bedrock upon which to build a win-win Canada-India relationship. Getting that relationship right means sustaining ongoing ties between political leaders that help drive Canadian visibility in India (which makes doing business easier on the ground) and ensuring Canada-India ties are consistent with a more holistic Canadian approach to the Asia-Pacific region to which both countries belong. It also means enabling better economic exchanges by levelling the competitive playing field and removing the barriers to trade and investment faced by Canadian exporters, notably in areas where the Canadian and Indian economies complement each other. Achieving a balanced Comprehensive Economic Partnership Agreement (CEPA) between the two countries, provided it is of the right quality, and successfully ratifying the Canada-India Foreign Investment Promotion and Protection Agreement (FIPA) can help meet that objective.

Strengthening Canada-India ties means removing barriers in Canada so that our country can become a reliable supplier of that which India needs to develop, for example secure energy. Getting the relationship right also means encouraging more commercially-oriented investment from India in Canada that builds value-added activity in our country, attracting more Indian students to Canada's excellent universities and colleges and bolstering joint research through such institutions. Canadian governments have their part to play in sustaining political ties and sound policy, but the onus is on the business community, academic institutions, Indo-Canadian community leaders and prominent "India watchers" and civil society leaders to partner with their Indian counterparts in order to strengthen Canada-India ties overall.

This submission, resulting from our consultations with the wider Canadian business community and opinion leaders, outlines policy recommendations for advancing Canada-India ties.

Section I: Snapshot of India today

1. India on the move

How does one understand India? Like China, India presents competitive challenges as well as an abundance of trade and investment opportunities that have attracted the world's attention. Still, the opportunities, the challenges and the way of doing business in India differ greatly from those in neighbouring China, and so the comparison with that other Asian giant stops there. India must be understood in terms of its own distinct realities.

For many Canadians, first impressions of the Indian subcontinent are still tinged by experiences of the hustle and bustle on the streets of Delhi and Mumbai or dealing with India's byzantine public bureaucracy. Poverty remains conspicuous. Roughly 40 per cent of India's population lives below the poverty line,[3] and some two-thirds of Indians are rural residents with meagre livelihoods. Although India's fertility rate is declining, visitors to India take note of its vast, youthful population (half of India's population is under the age of 25). Other impressions of India dwell on romantic touristic imagery—Rajput palaces or Goan beaches. Stick to such images and one misses what is actually happening on the subcontinent.

India is on the move. Local private enterprise and value chains continue to develop just as India Inc.'s commercial footprint is becoming ever more global. Research centres and production facilities are innovating and cities like Bangalore and Hyderabad have become information and communication technology (ICT) hubs on par with Silicon Valley.

Mumbai—South Asia's business capital—is a metropolis of mushrooming high-rises and corporate home to conglomerates that compete worldwide. India's current boom is moving into higher value-added production, but is rooted in the innovation of affordable goods and services that match the purchasing power of Indian consumers at large.

Parts of India are developing more slowly, particularly in the centre and northeast of the country, yet other areas are modernizing quickly—western and southern states like Gujarat, Haryana, Punjab, Karnataka, Maharashtra and Tamil Nadu. These are the areas of India where private sector companies are most active in cross-border business. These are the areas that tend to be relatively business-friendly and where global businesses are teaming up with local partners, investing in research and development (R&D) and production, participating in infrastructure projects, selling their products and outsourcing non-core business functions.

India is a serious international player. It is a nation 1.2 billion strong with a sizeable talent pool of well-educated, English-speaking people. It boasts a vibrant private sector and its larger corporations are world leaders in their respective industries. With a rapidly growing middle class, its economy is one of the more consumption-driven in the developing world. Led by its private sector, India also invests—increasingly overseas. Its GDP growth rate is the second highest amongst major economies in the world. India warrants Canada's attention.

3 New Global Poverty Estimates – What it means for India (World Bank, 2005)

2. Reforms and renewal

How is India being transformed? In 1700, India represented roughly one-quarter of global economic output. Under the British Raj, it developed railways and expansive bureaucratic institutions, but declined economically relative to the rest of the world. From independence in 1947 until 1991, India's economy became inward looking, domestically-focused and heavily regulated by government (whose bureaucracy was then dubbed the "License Raj"). It was a period of centralized planning and ill-fated attempts at national self-reliance with little room for free enterprise and open markets. Financial and manufacturing firms were nationalized. Goods and services imports were discouraged and foreign investment unwelcome. All this stifled GDP growth, which averaged 3.5 per cent annually between 1950 and 1991.

In 1991, India represented little more than one per cent of global GDP—for a country with 16 per cent of the world's people![4] India's relative share of world trade also fell from some 1.4 per cent in the 1950s to 0.5 per cent by the late 1980s.This picture has changed dramatically since India enacted the first of several waves of liberal economic reforms in the early 1990s, on the heels of a monetary crisis. The outcome of those ambitious reforms: an acute, upward shift in India's growth trajectory and the unleashing of India's vibrant private sector economy. The architect of reform: then-finance minister Dr. Manmohan Singh—India's current prime minister.

Reforms got macroeconomic fundamentals back on track, unshackled private entrepreneurship and opened India to the world. They liberalized trade and customs regimes, cut import restrictions, reduced taxes, deregulated sectors and eased investment restrictions. Foreign businesses have returned to India in the relatively unregulated services sector and, increasingly, in the far more heavily regulated areas of infrastructure and manufacturing.

The Indian economy expanded nearly five-fold, from US$245 billion in 1992 to over US$1.1 trillion in 2008.[5] India's per-capita income today is US$1,100 (or $3,200 when looking at real purchasing power), more than three times its per-capita income in 1992.[6] India is now the world's 10th largest economy and according to the World Bank, it is poised to become the fourth largest by 2020. In purchasing power parity (PPP) terms, it is already the world's third largest economy.

3. India Inc.

India's external trade and investment expanded as it looked outward, and the world has come to do business with the South Asian dynamo. India's merchandise trade with the world increased more than six-fold over the past decade, from US$86 billion in 1999 to more than US$470 billion in 2009, with growth of imports outperforming that of exports.[7] In 2008, India was the 16th largest importer and the 27th largest exporter in the world, and it has a minor trade deficit equivalent to two per cent of GDP.[8] The balance between India's imports and exports attests to that country's home-grown economic dynamism. Compared with regional neighbours, India's composition of GDP is more healthily tilted toward domestic consumption. India is also a major trader and net exporter of services, with exports of US$123 billion and imports of US$116 billion in 2011.[9] Increasing trade in goods and services points to Indian companies globalizing.

4 World Development Indicators (World Bank)

5 World Bank

6 CIA World Factbook

7 Government of India, Ministry of Commerce & Industry, Department of Commerce (http://commerce.nic.in/eidb/Default.asp)

8 Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

9 WTO Trade Statistics (http://www.wto.org/english/res_e/statis_e/its2011_e/its2011_e.pdf)

India has become a primary recipient of foreign direct investment (FDI). New FDI in India has risen dramatically from a mere US$4 billion in 2000 to over US$32 billion in 2007.[10] Aided by the liberalization of India's capital account and over US$300 billion in foreign reserves, Indian companies have become major foreign investors. Between 2000 and 2007, India's investment in other countries has leapt from US$830 million to over US$18 billion.[11] It was recently reported that total Indian investment abroad has surpassed the US$100 billion mark.[12] While services are the top magnet for FDI in India, much of India's outward FDI has been geared toward cross-border mergers and acquisitions in manufacturing and resources. Several such acquisitions have propelled Indian corporations into Fortune Global 500 rankings.

India's sectors are moving up the value-added chain and with that, Indian external commerce. Information and communication technology (ICT), software development and business process outsourcing sectors remain key drivers of India's economic development. Services—including ICT—have continued expanding their share of Indian GDP, reaching the 55 per cent mark.[13] Commercial services are unrestrained by the plethora of regulations that hold back manufacturing, thereby making services a hotbed for innovation, productivity growth and the scaling up of business plans. For example, India's ICT sector employs less than one-thousandth of the country's workforce but produces more than five per cent of its GDP.

Over the past five years, India has made strides in both labour-intensive manufacturing and high-value-added production in sectors such as biotechnology and pharmaceuticals. Corporate investment in new plants and equipment, human capital and access to global supply chains is sowing the seeds of a successful Indian manufacturing sector that will develop over the coming decades. Improvements to transportation and utilities infrastructure get products to end markets at home and overseas with greater efficiency than in the past, though much more remains to be done.

Agriculture remains a relatively weak spot. It is an area where productivity growth lags due to technological limitations and a dearth of food processing know-how. While it employs two out of every three Indians, the sector's share of GDP has fallen to less than 20 per cent. While value added has grown by 10 per cent per annum in services and four per cent annually in manufacturing, in agriculture this amounts to less than three per cent per annum.[14]

10 India's International Trade and Investment: An Overview (Export-Import Bank of India, www.eximbankindia.com/fore-trade.pdf)

11 Ibid.

12 Business Standard / Press Trust of India (December 31, 2011) (http://www.business-standard.com/india/news/overseas-investment-touches-1092-bn/154157/on)

13 United Nations Industrial Development Organization

14 Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

4. Domestic hurdles to overcome

India's development remains a work in progress. The Union Government and many Indian states have taken laudable initiatives that are bearing economic fruit. The number of senior government officials with business backgrounds and acumen is growing. Yet India's democracy, though appealing to Western business, is also coloured by complex coalition politics and interests, which make the pursuit of the reform agenda a tricky task for the current minority government. Ambitious policy action is required to keep India chugging along.

Infrastructure remains a major chokepoint for India's economic growth. While it is improving, infrastructure is falling behind the needs of an Indian economy growing at breakneck speed. Residential areas, business districts and industrial zones in and around cities continue to be hampered by inadequate transportation infrastructure that impedes the timely and predictable movement of people and goods. The capacity of railways, roadways, seaports and airports tying Indian cities together and to the world is stretched thin. Upgrades on a gargantuan scale are urgently needed. Access to sufficient, reliable energy and other utilities continues to be a big problem, attested by power blackouts that remain a fact of everyday life. Many office buildings and production facilities in India are constrained to divert limited resources to maintain their own power-generating capability.

Then there is the problem of red tape. Business freedom has progressed, but bureaucratic complexity and regulations hamper private sector innovation, investment and the growth of business plans and, therefore, productivity. An example is that of restrictive labour laws that make it difficult for companies with more than 100 employees to lay off people. The result is that many Indian companies are unwilling to recruit people and scale up even when markets favour it.

Some inefficient (and sensitive) sectors are shielded from competition. For instance India's domestic commercial distribution system (including retail) is woefully inefficient and closed to foreign direct investment (FDI). The Indian government made an unfortunate decision in 2011 to keep the retail sector closed to the sort of investment that sector so desperately needs to modernize in order to meet the needs of 1.2 billion people. Lapses in the protection of intellectual property rights also dampen R&D-driven innovation.

Endemic political corruption at the local level is greatly problematic for it distorts the level playing field for both Indian and foreign companies. The problem has gotten worse with India's rapid economic development. Some Indian commentators express concern that India runs the risk of an oligarchization of political and economic power. These are challenges the country is tackling.

The World Economic Forum (WEF) found that India scores high in financial markets, business sophistication and innovation, but it has moved little in key competitiveness areas like health, infrastructure, the availability and quality of primary education and enrolment in higher education, as previously noted. Certain macroeconomic fundamentals such as inflation and persistent public deficits and debt also pose a challenge to long-term growth.[15]

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15 Klaus Schwab, The Global Competitiveness Report, 2010–2011 (World Economic Forum, 2010)

5. Future prospects

India is in business, but where is it going? Certainly, economic indicators point to robust immediate to long-term growth. India's economy has come out of the global Great Recession healthy and kicking. It is set to be the world's second fastest growing major economy in 2012. In fact, the International Monetary Fund (IMF) expects India to experience GDP growth just over seven per cent per annum over the next two years,[16] though a severe worsening of global macroeconomic conditions (e.g. the European debt crisis) could push those figures downward. Provided India continues to reform, growth prospects in the longer run remain positive.

India possesses a sizeable workforce of engineers, scientists, computer programmers and savvy entrepreneurs, in addition to a large pool of unskilled workers. Its workforce is also young, and analysts believe this demographic dividend may even see India's GDP growth rate surpass China's in the future, as the latter's workforce ages. However, to capitalize on that dividend, India will need to redouble efforts to train its vast unskilled population so as to match the needs of its manufacturing sector. It must also ensure the development of a larger workforce with post-secondary qualifications to drive R&D and innovation and to fill managerial positions with the right level of competence.

Then there is the phenomenon of a rapidly expanding, urban-based middle class numbering anywhere between 50 and 200 million individuals, depending on income definitions used. A 2007 report by the McKinsey Global Institute found that over the next two decades, India's middle class will grow to more than 40 per cent of the country's population and create the world's fifth-largest consumer market.[17]

The growth of this middle class is closely tied to that of cities. India is in the early stages of what will be an unprecedented wave of urbanization, and with that, wealth creation. By 2030, nearly 600 million Indians will reside in cities, up from 340 million in 2008, and some 90 million urban households will be middle class.[18] Today, India has some 40 cities larger than Calgary. Two decades from now, that number will be closer to 70. Thirteen cities will have over four million people and Mumbai will have become a megacity of 33 million souls—almost equal to Canada's total population today.[19]

Even so, the purchasing power of most of that middle class will be lower than that of their Western counterparts, given current exchange rates. Also, most of India's 1.2 billion people remain outside the middle class and Indian consumers are generally very price-sensitive. The majority will not be in the market to buy the more expensive products North American businesses deliver for decades. A great strength of India's private sector is catering to hundreds of millions of domestic consumers with limited disposable income through "frugal innovation" or what some commentators call *Indo-vation*—i.e. by delivering innovative, low-retail-cost products.

India is both a challenge and opportunity. Its global business footprint is growing and Western countries can expect competition from Indian companies to intensify, particularly in manufacturing and commercial services. The business environment in India is a tough nut to crack for foreign companies, but the opportunities and potential to form partnerships are too important to ignore. While Canadian companies deal with India as it is, we express hope that India will further reform and liberalize its economy, for the benefit of its own businesses but also to stimulate more trade and investment with Canada that can further contribute to its development.

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16 International Monetary Fund, "*World Economic Outlook Update,*" also available online at http://www.imf.org/external/pubs/ft/weo/2012/update/01/pdf/0112.pdf]

17 The 'Bird of Gold': The Rise of India's Consumer Market (McKinsey Global Institute, August 2007)

18 India's urban awakening: Building inclusive cities, sustaining economic growth (McKinsey Global Institute, August 2010)

19 Ibid.

6. Canada–India trade and investment ties

What is the state of Canada-India economic exchanges?

India has deterrents to business, but these have not stopped a great number of firms from the United States, Europe, Japan, South Korea and Australia from going to the subcontinent and doing business there. As one of the few high-growth stories following the recent financial crisis, India's global lure is set to swell, and increasingly, global companies see India as indispensable to their growth.

Two-way trade between Canada and India has expanded noticeably over the past decade, with the exception of a slight drop post-2008; the total value of two-way trade was C$4.1 billion in 2009 versus C$1.5 billion in 1999, with Canadian annual export growth (17 per cent) outpacing import growth (seven per cent).[20] These figures likely understate the value of trade, as a significant portion of trade between the two countries—including Canadian affiliate sales in India and indirect trade with India through global supply chains—are not counted in official trade statistics. Even so, Canada-India trade remains far below potential. India represents less than one per cent of our country's overall merchandise trade. By contrast, the United States represents more than 70 per cent of our merchandise trade.

In terms of Canada's composition of trade, its exports to India are dominated by chemicals, followed by vegetables, fruits and nuts (mostly pulses including dried peas and lentils), pulp and paper products, and machinery and equipment. Together, these accounted for 80 per cent of total merchandise exports from Canada to India in 2008.[21] Other important export sectors include metals, transportation equipment and minerals. As Indian consumption moves up in sophistication, there will be room for robust export growth in knowledge and technology industries.

20 Statistics Canada

21 Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

Most of Canada's imports from India consist of chemical products, textiles and apparel, miscellaneous manufactured products as well as machinery and equipment. These made up 70 per cent of Indian merchandise imports to Canada in 2008.[22] Ferrous and non-ferrous metals, food products and minerals were also important imports.

In terms of balance of trade, Canada has gone from trade deficit with India before 2007 to a surplus which touched C$216 million in 2008. To further strengthen its trade ties with India, Canada must better match its products and expertise with the subcontinent's shifting consumption needs. Trading more will also mean trading smarter—plugging products into new value chains as opposed to selling finished goods to India from existing value chains.

Canada's commercial services trade with India has expanded over the past several years, from C$133 million in 2000 to C$196 million in 2007. Canadian commercial services exports to India fell from C$93 million in 2000 to C$56 million in 2007, while commercial services imports from India have risen from C$36million to C$140 between 2000 and 2007. Canada's earlier trade surplus in commercial services became a deficit in 2005.[23] Canada's commercial services exports to India, including management services, financial, architectural, engineering and other technical services and miscellaneous business services represent a minute one-thousandth of our country's worldwide commercial services exports. The expertise is there and expansion is warranted.

Though commercial services represent most of Canada's total services exports worldwide, in India, these amounted to only 17 per cent of the total in 2007, behind transportation, government services and travel. More needs to be done to facilitate and encourage Canadian service providers to pursue opportunities in India. Financial services including insurance, ICT and business services see room for growth in India.

On the investment side, both Canada and India have a long way to go in realizing their potential. Canada's stock of foreign direct investment (FDI) in India was C$601 million in 2009 out of a total stock of Canadian outward FDI of C$593.3 billion, or just one-tenth of one per cent of Canada's total overseas FDI. In comparison, the United States and Europe held C$261 billion and C$159 billion in Canadian FDI, respectively in 2010.[24] India's direct investments in Canada are limited but have mushroomed over the past two years. Canada is a net importer of FDI from India.

India's private sector continues to demonstrate keen interest in investing in Canadian sectors, particularly in the resources (including energy), ICT and biotechnology sectors. India has also indicated its interest in Canadian investment and expertise in areas like infrastructure development and the food industry. Clean technology is another area with potential.

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22 Ibid.

23 Statistics Canada

24 Statistics Canada

Section II: The Canada-India Comprehensive Economic Partnership Agreement (CEPA)

In 2009 and 2010, the Canadian Chamber of Commerce called upon the federal government to undertake free trade negotiations with India. That call was heard. On November 12, 2010, Prime Minister Harper and his Indian counterpart, Prime Minister Singh, announced the beginning of negotiations for a Comprehensive Economic Partnership Agreement (CEPA) between the two countries. This important milestone concludes a cycle of work begun with the Canadian prime minister's visit to India in November 2009, where the two governments set up a Joint Study Group to examine the feasibility of a CEPA. The resulting joint study—released on September 24, 2010—recommended the launch of free trade negotiations between the two countries.

The joint study forecasts significant gains to be achieved through the elimination of barriers to real market access on both sides. Canada's modelling estimates GDP gains of about C$6 billion at current GDP levels for each country and two-way trade gains of approximately 50 per cent for both Canada and India. India's modelling, based on different assumptions, predicts gains of US$12 billion for India and US$15 billion for Canada.[25] Given that official statistics undercount Canada's trade volume with India,[26] some analysts suggest Canada's gains could be significantly greater than those predicted by the joint study. These would be spread across sectors, ranging from primary agricultural products and resources to chemicals, transport equipment, machinery and equipment and services. India's gains would be concentrated in textiles and apparel products and services.

The negotiation of a CEPA with India is expected to be a lengthy process, taking India's trade negotiations with the European Union and Australia as benchmarks for comparison. The process will be challenging given the size and complexity of the Indian market and its stakeholders, India's competing international trade policy priorities and the offensive and defensive stakes for Canada in an agreement with India. The timeliness of process is less important than getting a good deal for Canada. It goes without saying that if a deal with India is to be reached, it must be a good one—one that obtains real market access for Canadian businesses across sectors and is of net economic benefit to Canada.

The Canadian Chamber of Commerce is following the negotiations closely and is actively participating in consultations. Our initial views on the negotiations are outlined below.

- **If a deal—then a comprehensive, balanced and high-quality deal**

If Canada is to do a deal with India, it must be a high-quality agreement that will ensure greater real, effective market access for Canadian companies. A good deal would remove those tariff and non-tariff barriers for goods, as well as those obstacles to trade in services and investment, which are harmful to Canadian goods and services exports. It would facilitate trade procedures whose complexity and redundancies unnecessarily raise the cost of doing business, and commit the two countries to regulatory cooperation. Given how quickly the global economy

25 Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

26 Canada's Missing Trade with Asia (Conference Board of Canada, February 2008)

and (how much more quickly) India are evolving, a limited free trade agreement could swiftly lose relevance to both countries' business communities and may need to be updated less than a decade after its conclusion.

Also, the Canadian Chamber recognizes that trade negotiations are a relatively new endeavour for the government of India and that the process is constraining on time and resources. Canada, too, must carefully manage limited resources at a time of fiscal restraint. It is possible that the need to balance competing priorities could entice India or Canada to focus on achieving a limited-scope CEPA rather than a comprehensive agreement. By "comprehensive," we mean that it is important to cover all areas where Canadian companies face market access issues with India, including the many challenging non-tariff barriers (NTBs) that are encountered in India. The focus must be on areas where the Canadian and Indian economies complement each other. A comprehensive negotiating process must also be balanced and carefully consider all Canadian sectors' interests vis-à-vis India, through ongoing consultation with the business community across sectors and regions of Canada.

Getting a comprehensive, quality deal done is more important than getting a limited deal done quickly.

- **Tariff barriers**

Canada had an average applied Most-Favoured Nation (MFN) tariff of 4.7 per cent in 2008 (including ad valorem equivalents). Of the 8,464 tariff lines in effect in March 2010, 68 per cent had an MFN preferential tariff rate of zero. Also, the trade-weighted average applied tariff on Indian exports into Canada was 4.6 per cent in 2008.[27] Following the 2010 Canadian federal budget, tariffs on imported inputs for Canadian exports were marked for removal. Canadian duties remain relatively high in only a few sectors—including textiles and a number of animal products—with the exceptional peak duties found only in the supply-managed industries.

India has made important progress in lowering tariff lines, with customs duties as a percentage of value of imports declining from nearly 22 per cent in 1999-2000 to 7.4 per cent in 2008-2009. Despite this progress, India' average tariffs remain considerably higher than Canada's and more than double those of nearby Southeast Asian countries. One-third of Indian non-agricultural tariff lines remain unbound. Also, there is significant divergence between Indian bound tariff lines versus applied ones. Many of India's average tariff lines—for important Canadian sectors such as chemicals, wood and pulp products, metals, minerals, machinery and mechanical appliances, certain transportation products and miscellaneous manufactures—remain clustered between six and 10 per cent. For important Canadian exports such as animal and vegetable products and other prepared foodstuffs, India's average tariff lines are exceedingly high—amongst the highest in the World Trade Organization (WTO)—near or over 30 per cent.[28]

India's aggregate duties include: the Basic Customs Duty; an Additional Customs Duty (typically levied on imported goods that compete with similar Indian-made products); other special customs duties, anti-dumping and safeguard duties; an Education Cess (a surcharge on all direct and indirect taxes); the customs handling fees; and other miscellaneous surcharges. There also exist interstate levies within India, as well as tariff quotas on a number of foodstuffs.

First, for the CEPA to achieve meaningful trade gains, it will be imperative to remove Indian tariff barriers that are harmful to Canadian exporters (and potential exporters). Tariff lines for agri-food products, wood

27 Canada-India Joint Study Group Report: Exploring the Feasibility of a Comprehensive Economic Partnership Agreement (September 24, 2010)

28 Ibid.

and pulp and derived products, which are important exports for several Canadian provinces and Canada as a whole, would need to be lowered substantially. Tariff lines on industrial products that are exported to India would need to be lowered, though there are also a number of sensitivities on both sides, for example in a number of manufacturing sub-sectors, which will need to be carefully considered in the negotiations.

Second, Canadian business requires a clearer breakdown of the taxes and levies to which their products are subject in India. To date, no single official "go to" source provides this information in a comprehensive manner. Canadian and other foreign exporters, not to mention Indian importers, are constrained to consult numerous sources (including individual states of India) to get the full picture of what sorts of tariffs, fees and taxes the goods they wish to export / import are subject. The complexity of the tax and levies framework acts as a de-facto, non-tariff barrier for Canadian companies.

Finally, far greater transparency is needed around the use of additional customs duties, countervailing and anti-dumping duties which have been employed in the past to protect sensitive sectors in India. There is concern with the growing number of cases where such duties have been applied.

- **Multiple-speed lifting of tariff barriers**

There is concern in part of Canada's business community about the potential impact of Indian products on the competitiveness of Canadian manufacturing in the domestic market following the lifting of tariff barriers. There are worries that competitive pressures on Canadian producers will push some to shut down or move production overseas. For certain industries, longer transition periods will be needed for them to adapt to a new context of tariff-free Canada-India trade, and therefore a multiple-speed lowering of tariffs lines would need to be considered.

In sectors where there is presently a zero tariff on Canadian-produced goods, but where there is a recognized one-sided flow of trade, such as is the case of the auto sector, it will be important to see non-tariff barriers reduced in order to allow a meaningful increase in market penetration by Canadian imports, which is key to achieving a balanced agreement. During those transition periods, temporary safeguards against sudden import surges could be considered.

- **Non-tariff barriers and regulatory cooperation**

Tariff reductions are but one facet of effective market access; however, undoing technical barriers to trade and other non-tariff (beyond the border) barriers are just as important. Regulations are justified in achieving certain objectives, such as protecting human health and safety or the environment, as sanctioned by the World Trade Organisation (WTO) Technical Barriers to Trade (TBT) Agreement, of which Canada and India are both signatories.[29] However, this same agreement also seeks to ensure that technical regulations, standards and conformity assessment procedures do not constitute unnecessary obstacles to legitimate trade.

Businesses are concerned, not only because regulatory approaches and standards and conformity assessment procedures differ across countries and jurisdictions, but also because the number and scope of regulations and standards has multiplied in recent years. All this increases costs and the difficulty of doing business for companies operating internationally as they have to deal with multiple documentation requirements, duplicative testing or certification requirements. Another growing concern for business is the use of regulations in many parts of the world for protectionist (or economic-nationalistic) purposes, which distorts open, rules-based global trade.

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29 Ibid.

India represents a challenging case when it comes to non-tariff barriers and the lack of transparency in issuing and applying new regulation. In the CEPA context, regulations need to be based on internationally accepted scientific norms and the number and scope of regulations must not exceed what is necessary to achieve objectives specified in the WTO TBT Agreement. But that is not enough. The CEPA must enhance regulatory cooperation between Canada and India. In particular, the introduction of new regulations in India, whether at the national or sub-national level, needs to be done in a transparent fashion, allowing for prior consultations with Canadian businesses whose legitimate commercial or investment activities in India may be negatively affected by new technical barriers or other regulatory measures. This should be reciprocated on the Canadian side. A mechanism allowing for cooperation between Canada and India, recommended in the joint study, would be effective to that end. Such cooperation would also be helpful to India in its efforts to harmonize more national standards with international practice.

Committing the two countries to regulatory cooperation is all the more important given that India is a developing country and its ability to enforce regulations thoroughly and effectively varies across regions and depends on the types of regulations in question. In many instances, local corruption weakens enforcement. Canada must be cognizant of these limitations, but the CEPA will be a future-oriented agreement: as India grows, both it and the world will expect regulatory enforcement and governance to improve. In the interim, a government-to-government mechanism for regulatory cooperation, along with an effective and robust dispute resolution mechanism, would serve as the most effective means to deal with new technical barriers and regulatory issues.

For examples of practices in India that act as non-tariff barriers, please consult the annex to this paper.

- **Services**

The CEPA is to go beyond covering goods as in traditional trade agreements, and will cover services as well. There is no trade agreement of value to Canada that does not include services. After all, services represent almost three-quarters of Canada's GDP and approximately two out of three net new jobs created over the last year. Services are a key facet of Canada-India economic exchanges going forward. Naturally, given the distance separating the Indian subcontinent from North America, the cross-border provision of services will be the primary mode of services delivery between Canada and India.

The CEPA must extend broad market access across services sectors, de-linked from commercial presence or residency and citizenship requirements. Ambitious commitments must be made targeting quantitative limitations and guaranteeing national treatment (i.e. equal treatment of foreign and domestic service providers) and most-favoured nation treatment (i.e. Canada and India mutually affording each other the best treatment they afford any other country). Canadian financial companies face very significant restrictions on foreign direct investment in India's banking and insurance sectors, which obstruct their entry and growth in an Indian market they view as crucial to their business. Canadian banks, insurers and other financial enterprises need greater access to India.

At the same time, sensitivities in certain service sub-sectors, like the information technology (IT) industry, must be duly considered by the negotiators, in keeping with the need to achieve a balanced agreement. After all, IT activity in Canada is an important lever for productivity growth in the Canadian economy overall, and the outcome of a trade agreement should be to strengthen value-added activity in this area in Canada. For this reason, we believe that for Canada specific domains such as IT require specific approaches.

The CEPA must be a forward-looking agreement. In a trade agreement, a negative list (the approach taken by both Canada and the United States) registers a limited number of services on both sides that are excluded from the provisions of the agreement. Conversely, a positive list registers those services that are subject to the provisions of the agreement. Given the rapid pace of innovation and transformation within services sectors, it is best that a meaningful and future-oriented agreement employ a negative list approach for services. In the absence thereof, many of the service products traded between Canada and India 10 or 15 years from now many not be covered by the CEPA.

Should a positive list (which registers only those services liberalized under the agreement) be employed, it would need to be extensive (so as to achieve the comprehensiveness of a negative list), and would need to be accompanied by a most-favoured nation (MFN) clause that ensures Canadian services companies will not be disadvantaged in any way, with regards to competitors based in foreign jurisdictions that may conclude future trade agreements own their own with India.

The use of a ratchet mechanism is also needed. In the CEPA, such a mechanism would guarantee that any measure on services undertaken in either Canada or India cannot be more restrictive than that stipulated in the agreement. A ratchet mechanism reduces uncertainty in services markets, allowing for services providers in Canada to integrate India into their long-term business plans, just as Indian services companies can thus integrate Canada into their own long-term plans.

Also, professionals increasingly travel the world to deliver their service products and expertise. The facilitation of temporary entry and the legitimate delivery of professional services on a temporary basis are needed, for both Canadian professionals going to India and Indian professionals coming to Canada. While the cross-border movement of people must occur in accordance with immigration laws and conform to the highest national security standards, it is important that professionals be able to obtain visas for travel to Canada or India on a timely and predictable basis. The negotiations must also aim for mutual recognition of professional qualifications, at the national and sub-national levels, without which professionals who are able to travel to Canada or India then risk finding themselves unable to deliver their services legally.

- **Investment—complement to the Canada-India FIPA**

Over the past decade, India has made good progress in opening its economy to foreign direct investment (FDI) relative to where it was. After all, access to foreign capital not only provides much of India's private sector—notably smaller companies—with financing that may be difficult to obtain elsewhere, FDI also brings with it new technologies and international best practices and access to global networks of suppliers, marketers and sales platforms. For example, the further liberalization of India's financial sector would enable top Canadian banks and insurers to better provide innovative insurance, mortgage, investment and consumer loan services, and India could benefit from Canadian financial institutions' experience of strong corporate governance and leading-edge technological expertise. India could also benefit from the sustainable practices of Canada's world-leading extractive sector.

India increasingly deems that openness to investment is essential to its economic diversification and to making more of its sectors competitive. Yet the country remains relatively closed to FDI overall. According to the Organisation for Economic Co-operation and Development's (OECD) 2010 FDI Restrictiveness Index, India scored 0.22 on the index, (where 1=closed to FDI and 0=open).[30] By comparison, the OECD average was 0.095 (Canada scored 0.153), whereas the non-OECD average was 0.157. The government of India is compelled to further liberalize FDI to stymie the steep decline in direct investment from overseas that occurred in 2010.

The Indian government grants FDI approvals automatically in a number of sectors, subject to standing percentage limits and other guidelines through use of the "automatic route." Proposed investments in strategic sectors or that exceed percentage limits or do not meet "automatic" investment guidelines are subject to Foreign Investment Promotion Board (FIPB) approval or referred to the cabinet committee on foreign investment.

While Canadian business would welcome an investment chapter in the CEPA, this should complement the Canada-India Foreign Investment Promotion and Protection Agreement (FIPA) which was concluded in 2007 and has yet to be ratified by the Indian Parliament after the latter cited concerns with the Agreement (in 2009). The FIPA with India is needed to provide a solid long-term framework for two-way investment, with comprehensive, high standards of protection for investors and recipients in both countries. The agreement will protect foreign investors against discriminatory and arbitrary practices, provide appropriate recourse in the event of a dispute, ensure the equal treatment of foreign and domestic investors and ensure the free movement of capital between the two countries. We urge the Indian government to take necessary steps to ratify the FIPA and for the government of Canada to work closely with its Indian counterparts to that end.

Foreign direct investment in India remains severely curtailed in many sectors judged by India to be strategic or sensitive. Canada has investment sensitivities as well. For examples of restrictions in India on FDI, please consult the annex to this paper.

- **Rules of origin**

Rules of origin are used to determine when goods have undergone sufficient production or transformation within the free trade area or territory established by an agreement (in this case the CEPA) to qualify for preferential access under that agreement. To unleash the full potential of CEPA gains for businesses in both countries, two imperatives must be met:

- First, tariff reductions must be matched with rules of origin in the CEPA that recognize the increasingly interconnected nature of global value chains, where the production of many finished goods involves inputs, technologies, services and financing from different countries and jurisdictions. Rules of origin must account for the integrated nature of the North American economy (NAFTA), with numerous Canadian goods incorporating U.S. factors of production.

- Second, rules of origin must be clear and easy-to-use by businesses, as complex rules drain business resources, generate unnecessary opportunity costs and hamper operational efficiencies. The "telephone book" approach to rules of origin is straightforward and particularly effective for businesses to use. It could serve as a good starting point in the CEPA context.

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30 Blanka Kalinova, Angel Palerm and Stephen Thomsen: OECD'S FDI Restrictiveness Index: 2010 Update (OECD Working Papers on International Investment, No. 2010/3, OECD Investment Division, www.oecd.org/daf/investment)

- **Customs procedures and trade facilitation**

Customs procedures administering rules of origin in the CEPA must be transparent, predictable and easy-to-use by businesses. Canada and India must strive to reach common ground on customs procedures within the CEPA that facilitates the movement of goods, while enhancing security. The joint study recognizes the differences in certification of origin procedures between Canada and India. It is important for the Canadian business community that the CEPA maintain a self-certification process for Canadian exporters.

The CEPA must facilitate trade between the two countries. In addition to achieving and ensuring straightforward customs procedures for two-way trade, it is also essential that the CEPA better align Canadian and Indian certification and other export-import procedures. This entails ensuring non-duplicative procedures for both Canadian and India exporters and importers where possible, subject to the requirement that such procedures adhere to the highest safety standards. Also, certification and documentation formats that create unnecessary burdens for companies (in terms of red-tape and costs) must be eliminated. For instance, the CEPA should move Canada-India trade from the use of different data requirements for export-import to a harmonized system of data requirements, from paper-intensive documentation to an automated system, and from multiple windows to use of a single window for exporters and importers. Additionally, customs border administration and the clearance of goods must be efficient, reliable, predictable and timely. The CEPA can achieve first-class trade facilitation.

- **Intellectual property**

Intellectual property (IP) is a fundamental component of a business' assets. It involves making huge investments over many years in research and development (R&D), training and skills and can be at the core of a company's value. IP is key to businesses maintaining their competitive and technological edge, fostering investment in innovation, creating high-quality jobs and growing. Given the years and resources that go into producing IP, it is vital to protect companies undertaking investments in IP from poaching.

It goes without saying that high standards of intellectual property rights protection are crucial to a well-functioning, open trade and investment system. Yet IP rights protection in many countries remains a serious business concern. India's record on IP rights protection is better than some other developing economies and its legal framework ensures that IP concerns are taken seriously. Even so, IP protections available in certain sectors, including the life sciences sector, and enforcement remains a major concern and there are "ramping up" issues, such as the need to properly train judges to deal expeditiously with IP-related cases in court. It is also important that customs and police authorities be fully equipped to expeditiously seize and destroy counterfeit products of any national origin, since these endanger consumer safety, siphon revenue from IP owners and depreciate brand value as a result of their lower quality.

India's new Patents (Amendment) Act (2005), which introduces product patents in pharmaceuticals, chemicals, biotechnology and food, is a welcome development. However, key concerns remain, including that India: establishes patentability that is limited to “new chemical entities” (as opposed to being available for any form of chemical so long as it meets patentability criteria); continues to allow for compulsory licensing of patented medicines on key undefined bases and outside of circumstances of extreme urgency; does not provide for any form of restoration of patent term loss due to government regulatory approval processes; and does not provide protection against unfair commercial use of test or other data provided by businesses to the government for marketing approval.

Canada, like India, must also greatly improve its record on IP rights protection. Canada’s current legal and enforcement tools are ineffective in protecting IP rights:

- definitions of illicit activities lack legal clarity;
- protection of recording industry material and films is poor;
- Canadian authorities are not adequately empowered to search, seize and destroy counterfeited and pirated products; and
- patent enforcement procedures applicable to innovative medicines and vaccines unfairly discriminate against the patent holders, and Canada remains the only industrialized country without any form of patent term restoration.

The governments of both Canada and India are fully aware of the importance of IP rights protection to the growth of their respective economies and industry and are committed to getting their IP regimes right. In Canada, the government has put forth copyright reform as a priority and is expected to get that much-needed reform into law. In India, the government is working to put in place better regulations to deal with optical media piracy and the lack of protection given to pharmaceutical and agricultural chemical products against unfair commercial use of the data producers submit to the government in order to get marketing approval. Given the above, the Canada-India CEPA presents a unique opportunity for the two countries to enhance their cooperation on IP related issues and to send a strong signal that IP rights protection is a cornerstone of both innovation and open, rules-based international trade and investment.

Recommendations

- **That a Canada-India Comprehensive Economic Partnership Agreement (CEPA) be a comprehensive, balanced and high-quality agreement that achieves real market access for Canadian businesses across sectors.** To achieve a comprehensive deal that is good for Canada, it is important to continue consulting with all Canadian sectors and regions of the country.
- **That tariff barriers be brought down, and on the Indian side, notably tariffs on important Canadian exports such as agri-food products, chemicals, wood and pulp products, metals, minerals, machinery and mechanical appliances and a number of transportation products.** Sensitivities on both the Canadian and India side will need to be duly accounted for.
- **That a Canada-India CEPA incorporate a multiple-speed lowering of tariffs to provide Canadian sectors with a necessary period of transition and adaptation.** Where zero tariffs on Canadian goods apply, it would also be essential to ensure that non-tariff barriers are reduced.
- **That a Canada-India CEPA remove, on a bilateral basis, the many non-tariff barriers that hinder the market access of Canadian exporters and investors in India, and that a CEPA include robust provisions for regulatory cooperation between Canada and India.** Removing non-tariff barriers injurious to Canadian companies would be the core of any meaningful agreement with India.
- **That a Canada-India CEPA remove services and investment barriers that are harmful to Canadian companies, and that negative lists be applied to services and investment.** Any eventual agreement with India must also account for sensitivities on both sides with regards to services and investment, and an investment chapter should complement the much-needed Canada-India Foreign Investment Promotion and Protection Agreement (FIPA).
- **That a Canada-India CEPA make use of sufficiently liberal, business-friendly rules of origin.** The integrated nature of many Canadian sectors at the North American level should be taken into account.
- **That a Canada-India CEPA better align Canadian and Indian certification and other export-import procedures, while preserving self-certification for Canadian exporters.** Simpler, streamlined customs and trade procedures make legitimate trade easier and less costly for businesses.
- **That a Canada-India CEPA strengthen cooperation on intellectual property rights protection, which is key to the innovation and success of the Canadian and Indian knowledge-based economies.**

Section III: Canada-India ties beyond the CEPA

1. Political ties and Canadian visibility

India is a vast country with diverse climates, terrains, cultures, languages and economic profiles across its states and union territories. It is a constellation of markets centred on burgeoning metropolitan areas. There are a dozen or so large Indian cities, mostly in the western and southern parts of the country, which are already well connected with the global economy. The number of large centres is growing. In contrast, India's vast rural areas and population are poorer, more isolated and the source of a growing influx of migrants into urban areas.

A number of mostly larger Canadian businesses have been very active in India for years and are familiar with the country and its markets. Beyond that, Canadian businesses' familiarity with India remains limited. Just as problematically, India's business-people, media and middle class have only a limited awareness of Canada. For some, Canada is *that country next to the United States*—full stop. There are exceptions. Parts of wealthy states, such as Gujarat and Punjab from where immigrants to Canada have come, are more aware of our country. Real efforts are needed on the part of Canadian companies to market themselves in India's other hotbeds of growth.

Successful Canadian companies pitch their products and services to help Indians meet their needs. They have adapted their offer to match those needs. What are the strengths Canada has relative to other countries?

- **Financial services**: India and other developing economies appreciate Canada's conservative approach to financial services. Not a single Canadian bank or insurance company required a government bailout during the financial crisis, unlike many of their U.S. and European peers. Canada's life and health insurance industry is expert and well-managed—it offers the high-quality, financial solutions Indian consumers are seeking to mitigate risk and improve their lifestyles. Canada's stock markets can allow Indian SMEs to get the financing they need.

- **Mining**: Canada's mining sector—the raw materials, the engineering, the environmental and legal services associated with mining, as well as mining finance—is a true Canadian cluster of expertise. Canada is a plentiful source of minerals and metals and a politically reliable one (few countries in the world can credibly assert this). Canada's mining finance expertise runs deep. Our mining finance poles may be further from India than, for example, Australia's and Singapore's, but they are well connected with U.S., European and other global financing hubs and pools of capital. Canada has the world's top listing for global mining companies.

- **Energy**: Canada has plentiful and reliable energy. It is a huge and politically reliable producer of fossil fuels that can be exported by sea. It has high-grade uranium for peaceful energy production. Also, it has strong expertise in hydro-power that could be lent to India's hydro-power and water management initiatives. It is also active in the development and delivery of clean energy solutions and the engineering services that go with them.

- **Agri-food**: The Canadian agri-food sector can answer India's need for reliable food imports to feed its growing population and better technologies for producing, processing and delivering food domestically. Canada can sell pulses, grains and meat to India, and it can also help India boost the productivity of its own agri-food sector through agricultural research and biotechnologies.

- **Healthcare**: India's healthcare needs have become prominent and the country's healthcare and pharmaceuticals sectors are developing briskly. Canada has high-level expertise in supplying medical isotopes and in research-based pharmaceutical products. Companies such as Nordion are experts in delivering medical isotopes and medical therapies to treat cancer.

- **Infrastructure**: India's infrastructure development needs are massive. The country will be spending upward of a trillion dollars over the next five years building and upgrading everything from roads, airports and seaports to railways, bridges and urban architecture. In addition to aerospace and transportation, Canada has top-notch sustainable engineering and clean-tech expertise that can lend itself to the development of Indian utilities and power grids, roads and railways, energy-efficient buildings, and so forth.

- **Machinery and equipment**: India's manufacturing sector is developing rapidly. Demand for cutting-edge industrial machinery and equipment and the engineering talent to produce them is outpacing what India can provide itself. This is a natural opening for the sort of expertise many Canadian companies have.

- **Logistics**: On logistics, Port of Halifax and Canada's Pacific ports are uniquely positioned as entry-exit points for goods transiting between North America and India. The ports have the potential of being North American trade gateways to India.

- **Post-secondary education**: India has traditionally sent more students, and many of its best students, to the United Kingdom, the United States and Australia. Yet many Canadian universities rank high in sciences, engineering and business education, and our country has a network of colleges that train highly competent people in a range of trades (some of which correspond with skills shortage areas in India already).

Even with these strengths, a lack of national visibility in India can hinder Canadian business. The fact that the United States is the world's top power, that its pop culture is ubiquitous and that it is a wellspring of high-tech (e.g. Silicon Valley), boosts Indian receptivity toward U.S. products. In the same vein, European and Japanese companies are propped by Indian perceptions of their strengths (e.g. British financial services, Japanese precision industries, German engineering prowess). Well-known U.S. and U.K. business, academic, political and media leaders of Indian origin also help draw Indian attention—individuals like Lakshmi Mittal, Ajay Bhatt, Governor Bobby Jindal and Fareed Zakaria.

The Canadian government does play an important niche role that contributes to advancing Canadian visibility in India by actively engaging in political exchanges with India's government and pursuing government-to-government cooperation across a range of areas of mutual interest (not to mention more difficult files where interests do not match). The Canadian business community encourages the positive momentum it sees behind two-way political ties. Canada and India do not hesitate to describe the partnership as strategic. In recent years, there have been regular meetings between the Canadian and Indian prime ministers, including Prime Minister Harper's successful trip to India in November 2009 and cabinet ministers' meetings with Indian counterparts. Cooperation across cabinet portfolios in the pursuit of shared interests and in areas where the Indian side shows interest in learning about the Canadian experience (e.g. governance, regulation, etc.) is enriching the substance of two-way ties and consolidating our country's significance and credibility as a partner.

Meetings between Canadian premiers and Indian state governors also play a positive role, and it is important for the provinces and territories to continue coordinating their India outreach with federal efforts in a spirit of pan-Canadian collaboration. These have served to deepen mutual trust, brighten Canada's beacon on India's crowded radar screen and generate goodwill that trickles down into business-to-business ties.

These political exchanges have struck the right note with India and we encourage their continuation. We hope to see Prime Minister Harper visit his counterparts in India in 2012. Canada may also want to consider appointing (formally or informally) a number of well-known Canadians of Indian origin and Canadian "India watchers" as goodwill ambassadors to the country.

When engaging with India, the Canadian government should remain mindful of the need to ensure consistency between its ties with India and its ties with other countries in the larger Asia-Pacific region, to which Canada fully belongs. As Canada's trade and investment with India and other Asia-Pacific countries continue to grow, so too will Canada's interest and stake in sustaining the region's order and prosperity going forward. Approaching the Asia-Pacific region in a holistic manner that integrates political-security and economic considerations will help grow Canada's older and newer partnerships with the important players in that region consistently and in line with Canadian interests. Taking that holistic approach should include Canada joining top-level leader networks that help build the regional political and economic order, such as the East Asia Summit.

Finally, it must be underscored that the government's role as described above is a niche role. The onus is on the Canadian business community, the academic community, civil society leaders as well as Indo-Canadian leaders and Canadian "India watchers," to boost Canadian visibility and credibility in India through their own quintessential outreach to and cooperation with Indian counterparts. Fortunately Canadian entities, including business leaders, associations such as the Canada-India Business Council and the Indo-Canada Chamber of Commerce and academic institutions such as the University of Alberta are active on this front. Others are joining their ranks.

Recommendations

Recommendations

- **That the government of Canada continue to engage politically with its Indian counterparts so as to secure Canadian visibility and credibility in India.** We look forward to continued direct engagement between Prime Minister Harper and his Indian counterparts, and cabinet-to-cabinet contacts.

- **That the government of Canada integrate its ties with India (and other Asian countries) with a holistic approach to the Asia-Pacific region.**

2. Indian investment in Canada

Just as Canada diversifies its international trade, so too does it need to diversify its sources of direct investment. U.S. and European capital markets have been more constrained since the 2008 financial crisis, whereas Asian capital markets are awash with liquidity. Indian enterprises are actively courting investment opportunities around the globe in a bid to diversify their portfolios and grow their markets and brands.

The government of Canada should continue voicing support for more commercially-oriented foreign direct investment (FDI) from India (and other source countries) that contributes to the growth of value-added activity in Canada, not only in resources but also in sectors such as services and manufacturing. These sectors have drawn little capital from Asian countries to date in comparison with the United States and Europe. Where the Investment Canada Act maintains a necessary government review process, it is nevertheless important that the new enterprise value thresholds be fully implemented as per the 2009 amendments.

Canada is strategically located next to U.S. markets, to which it has preferential access under NAFTA. Its business tax regime is competitive. The Canadian workforce is highly skilled. Many Canadian small- and medium-sized enterprises (SMEs) and research institutes in colleges and universities incubate innovative ideas whose road to commercial fruition requires access to risk capital of the sort India has. These strengths put Canada in an advantageous position to draw more FDI. FDI that is short-term-oriented or focused on the acquisition of existing technologies, know-how or distribution and supply networks is not sought out by businesses. Rather what is sought is investment that contributes to the development or co-development of new technologies and brands and to the growth of industries in Canada. New technologies and brand names developed together could be of benefit to both sides, and foreign investors in Canada's various sectors would stand to gain in terms of returns on their capital as their projects in Canada expand.

Investment is not just about FDI. Indian individual and institutional investors seeking linkages with North American capital markets can consider listing in Canada. The Canadian financial sector continues to develop world-class expertise in Asian markets and in serving Asian clients, including India and Indians. The resilience of Canadian financial institutions during the 2008 crisis and their high-level of specialization in insurance, as well as in the financing of SMEs, clean technology ventures (e.g. clean-tech equity financing) and natural resources, should be of broad appeal to India. Canada and India should consider further facilitating capital transactions on a bilateral basis so as boost portfolio investment in both directions beyond the narrower scope of FDI.

As mentioned earlier, to enhance the investment relationship between Canada and India, the two countries must have the Foreign Investment Promotion and Protection Agreement (FIPA) in force, and we call upon the government of India to take necessary steps to ratify the FIPA.

Recommendations

- **That the government of Canada continue to welcome commercial FDI from India.** Guidelines for the government review process under the Investment Canada Act should be clarified further so as to better inform potential investors regarding the acceptability of an investment bid.

- **That the government of Canada work with its Indian counterparts to further ease capital transactions between our two countries, and that the Foreign Investment Promotion and Protection Agreement (FIPA) between Canada and India be ratified in a timely manner.** Canada and India should seek to broaden and deepen their investment relationship by further enabling portfolio investment, beyond the narrower scope of FDI.

3. Energy and mining: the products and the expertise

Sustaining rapid economic growth in a country of 1.2 billion people requires access to reliable, high-quality resources: oil and gas to power industry, offices and homes; and metals and minerals for use in infrastructure, real estate and manufacturing. Canada is an ideal and abundant supplier of the above. It can process them so as to deliver a top-quality product to its clients. It is a reliable supplier to the extent that its internal political risk is nil and transportation routes leading to and from Canada are secure. Beyond the products themselves, Canada also possesses a wealth of world-class expertise in mining-related services and technologies. India should look more at what Canada has to offer in this regard.

Nearly half of India's population lacks access to electricity, and even urban areas are plagued with a substandard and unreliable electricity grid. While this grid is the world's fifth largest, consequential investments are needed to meet ballooning energy demand and to extend access to energy across the country. India's total installed capacity of electricity generation has already expanded from some 105 thousand MW in 2001–02 to over 155 thousand MW at the end of November 2009.[31] The Ministry of Power plans to establish an integrated National Power Grid in the country by 2012 with some 200,000 MW generation capacities and 37,700 MW of inter-regional power transfer capacity.[32] India's power sector has to grow by some nine per cent annually as rapid urbanization, industrialization and improving livelihoods put heavy upward pressure on demand for energy generation and transmission capacity.

To meet its needs, India has turned toward both renewable energy sources (solar, wind, biofuel) and conventional energy (hydroelectric, nuclear, clean coal). It is also importing huge quantities of energy resources and is putting much political and private sector effort in seeking politically and logistically reliable sources of oil and gas. A recent report forecasted that India will represent nearly 13 per cent of Asia-Pacific oil consumption by 2015 and will need to import over 3 million barrels of crude daily within five years. Also, India's consumption of natural gas is expected to hit 76 billion cubic metres in 2015, of which three billion cubic metres will need to be imported.[33] India is also looking to uranium with which to generate electricity in its nuclear plants.

These are a great opportunity for Canada—but it must move quickly to seize them. Countries ranging from Australia and Kazakhstan to the United States (shale gas) are looking to grow their roles as conventional energy providers. To get oil and gas to where demand is the greatest—in India and the Asia-Pacific region—Canada will need to construct the Northern Gateway Pipeline (as well as the Pacific Trails Pipeline) to the Pacific. We hope the government of Canada, together with the provinces of British Columbia and Alberta and the affected Aboriginal communities, will redouble efforts to find an arrangement that allows the pipeline to be built while fully and favourably addressing legitimate concerns relating to the environment and Aboriginal communities' rights. Efforts on getting this pipeline done should be pursued in tandem with efforts to obtain approval for new pipelines to the United States. The government of Canada has shown that it is ready to work toward that end, and we hope the provincial and other parties involved will show similar determination to find an acceptable path forward.

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31 *Infrastructure sector: Pre Budget expectations 2010* (Deloitte, February 2010)

32 *Power Sector in India: White paper on Implementation Challenges and Opportunities* (KPMG India, January 2010)

33 *India Oil & Gas Report Q3 2011* (Business Monitor International, June 2011)

Indian oil and gas giants such as Oil and Natural Gas Corporation (ONGC) and Oil India are actively scouting the world for new ventures in which to invest. Indian mining consortiums are active in India where coal mining is well established and the mining of minerals and metals is growing, particularly in the country's east and northeast. They are also investing in overseas ventures. Of late, India's once very closed extractive sector has slowly been opening to more FDI. Canada represents an opportunity for more FDI from India in its extractive sector, just as more Canadian FDI in India's extractive sector (exploration and extractive activities) should be welcomed in light of the positive, geopolitically benign nature of Canada-India ties and the expertise that would trickle into India along with Canadian investment.

Canadian "junior companies" in the extractive sector excel globally in providing expertise relating to exploration technology, project management, sustainable mining and the financing of extractive ventures (including oil and gas). They are world-class when it comes to deep-drilling, ventilation, underground communications, gas detection, mine management and "green mining" services. Opening room for their enhanced involvement in India's extractive sector would benefit that country. Also, Indian companies pursuing ventures in third countries can consider enlisting the services "junior companies" to facilitate their success. Policies and legislations that liberalize India's resource sector should be emphatically pursued.

Recommendations

- **That the government of Canada continue working together with the provinces of British Columbia and Alberta as well as affected Aboriginal communities, to achieve an arrangement to move ahead with the pipelines that will transform Canada into a reliable provider of energy to the Asia-Pacific including India.** Canada will not be a top-tier global energy power if it does not enhance energy ties with and supplies to rising Asia-Pacific economic powers including India, as well as with the United States.

- **That the government of Canada work with its Indian counterparts to see restrictions on Canadian participation in the Indian extractive sector removed (i.e. exploration and extraction rights, FDI).** Canada has friendly ties with India. Canada is geopolitically benign and its companies possess world-class, sustainable mining expertise that can help India develop its extractive activities at home as well as in third countries sustainably. These are good reasons for more extensive access by Canada and India to each other's extractive sectors.

4. Higher education and research

Attracting Indian and other international students to Canada is crucial to Canada's short- and long-term economic well-being. International students make an enormous economic contribution to Canada. For instance, the Department of Foreign Affairs and International Trade (DFAIT) estimated that 178,000 long-term international students spent $5.5 billion in Canada in 2008, surpassing the value of Canada's coniferous lumber and coal exports. What is more, international students generated $291 million in government revenue in 2008 and created economic activity that sustained employment for 83,000 Canadians. The number of Indian students in Canada has nearly tripled since 2008, and the potential to attract more is still great.

Having Indian students in Canada provides them with a window into Canada's quality of life and its products. Many will have familiarized themselves with the Canadian business environment while holding part-time jobs off-campus. These experiences then trickle back to the students' home country, creating goodwill and awareness of Canada as a place to visit and do business. In an age of global networks, connections between Indian alumni and Canadians can help cement ties between the two countries' business communities.

Also, Canada is an aging country which draws on immigration to replenish its skilled workforce. Attracting international students to Canadian universities and colleges, combined with the Canadian Experience Class (CEC) immigration track, facilitates the integration of the best and brightest from all countries into the Canadian workforce following graduation, thereby equipping the Canadian economy with the people it needs to fuel future growth. Having international students in Canadian universities exposes Canadian students to other cultures. By the same token, young Canadians should be encouraged to get study experience in India, for instance through exchange programs offered through their universities and colleges.

There is a window of opportunity for Canada to draw more top-level Indian students to its universities and colleges. First, India needs highly-skilled, well-trained individuals to fuel its workforce needs. Second, some of Canada's higher education competitors have lost some of their lustre in recent years—Australia due to a spat of racist attacks on Indian students; the United States due to the complications and hassles in obtaining a visa and staying in the United States following graduation; and the United Kingdom due to limits on students from certain areas of India and extreme increases to tuition. Third, Canadian colleges and universities are interested in research exchanges that benefit both countries' "knowledge communities" and the innovation they generate—attracting top-level researchers as well as students. Many are also developing their own ties with Indian partners in government, academia and the private sector.

The onus is on Canadian universities and colleges to attract Indian students and foster exchanges with Indian partners, and many have done so actively. For example, the University of Alberta has a partnership with IIT-Bombay for research partnerships, exchanges of faculty and students. The government of Canada recognizes the potential of higher education and has done a good job incentivizing more international students, including Indian students, to opt for a Canadian education. In June 2010, Canada and India signed a Memorandum of Understanding (MOU) on higher education. In future Canadian leadership visits to India (cabinet level or above), we would welcome the participation of the heads of the top Canadian universities and colleges that are active with India, just as many leaders of businesses active in India do.

While Canadian universities and college programs will undertake their own marketing initiatives in India, their outreach should continue being complemented by targeted government efforts to make Canadian higher education better known and to enhance research partnerships between Canada and India. The *Imagine Education in Canada* program launched in 2008 through the Council of Ministers of Education Canada as a joint federal-provincial initiative is a good example of this. The Canadian high commission, consulates and trade-commissioner offices in India also facilitate Canadian universities' and colleges' participation in important education fairs. We also look forward to the establishment of a Canada-India Research Centre of Excellence as announced in the 2011 federal budget.

Recommendation

That the government of Canada continue undertaking targeted efforts to make Canadian higher education better known and to enhance research partnerships between Canada and India.

5. Tourism

India's growing overseas tourism is a significant component of Canada–India ties. The growing financial means and lifestyle desires of India's burgeoning middle class, coupled with the development of commercial air traffic within India and internationally to-and-from India, is spurring tourism like never before. Indian travellers fill a variety of tourism niches overseas: tour travel catering to mostly middle-class individuals, luxury options catering to the country's economic elite, etc. Many Indian business travellers combine business overseas with some sightseeing, shopping and dining. Already Australia, Southeast Asian countries and Europe are actively seeking to attract Indian tourists of all types, recognizing the huge retail opportunities in having such visitors over—not to mention the goodwill it creates.

Tourism is a huge economic opportunity. In 2009 total tourism revenue for Canada was C$69.5 billion, 20 per cent of which was tourism export revenue.[34] According to the Canadian Tourism Commission, domestic travellers spend on average C$91 per day, while international travellers spend C$129 per day on average.[35] Dependence on the domestic or U.S. demand for tourism is of limited potential given Canada's relatively small population and the appreciating Canadian dollar that makes Canada less affordable to U.S. travellers. The opportunity for Canada to become a major destination for Indian tourists is not one to be missed.

Canada will have to climb a steep curve. Our country is still largely unknown to a great number of potential Indian tourists. That will mean the Canadian tourism industry (from hotels to tour operators) will have to provide a range of tailored services to provide Indian tourists with a Canadian travel experience that matches their needs and expectations. Even before that, it will mean being successful in marketing Canada to potential travellers with a huge range of options. It is of concern that over the last decade the contribution from international travellers to Canada's total tourism revenue has dropped from 35 per cent in 2000 to 20 per cent in 2010.

The Canadian Chamber of Commerce has been an unequivocal advocate of the need for fiscal consolidation and applauds the federal government's determined action in that regard that has put Canada ahead of its G8 peers in fiscal terms. Even so, it is important to sustain focused investments so as to compete with other travel destinations seeking to draw Indian tourists (or tourists from other developing countries for that matter).

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34 Canadian Tourism Commission, 2009 Annual Report

35 Statistics Canada, Travel Survey 2009: Residents of Canada and International Travel Survey (ITS).

Conclusion

Businesses, the drivers of job creation, innovation and economic prosperity in our country, are cognizant of the need for greater trade and investment diversification and intensification. Finding new outlets for Canadian goods and services, even as we grow our country's economic exchanges with the United States, has been made all the more essential by renewed global economic uncertainty in early 2012. Growth markets in Asia that demand many of the products that Canada excels at providing are amongst the most important outlets out there.

India is Asia's second giant and a major G20 player. It is set to become one of the world's top economies over the course of the next few decades, with political and cultural influence to match. India is also a source of commercial challenges and opportunities for Canada. While doing business there is difficult, the Indian demand for Canada's quality commodities, services, high-tech products and higher education cannot be ignored. Sustained political engagement and trade and investment agreements, such as the CEPA and the FIPA, can help do away with the greatest impediments Canadian goods and services exporters face and help protect investors, provided those agreements are of the right quality and balance.

A win-win Canada-India partnership is within reach. The government of Canada has a role to play in building this partnership, but it is up to businesses, with the assistance of dedicated associations and consultants where necessary, to explore the potential India represents and evaluate whether it fits with their business plans. Businesses, academic institutions, Indo-Canadian community leaders, "India watchers" and other actors in civil society can help foster enduring two-way ties through their own outreach to Indian counterparts.

Given its sound economic fundamentals, business-friendly environment, skilled workforce and proximity to the world's largest economy, Canada has the ingredients for success at hand. If Canadian businesses improve their productivity and innovation, if governments continue removing barriers to competitiveness in Canada and if the global competitive playing field is better levelled, Canada will prosper in this new century.

For further information, please contact:

Mathias Hartpence, Director of International Policy, Skills and Immigration | mhartpence@chamber.ca | 613.238.4000 (236)

Annex: Examples of non-tariff and investment barriers

Please note that these lists are not exhaustive.

Examples of practices in India that act as non-tariff barriers:

Import licenses:

- The requirement that certain imports to India obtain licenses acts as a non-tariff barrier by consuming limited company resources. This is particularly the case for meat / livestock products and chemicals.
- Items like oil, bulk grains and a number of pharmaceuticals can only be imported and resold by Indian government-operated trading monopolies.
- Licensing for re-manufactured goods is unduly onerous.

Product certification:

- Numerous products must be certified by the Bureau of Indian Standards prior to being granted entry to the Indian market. These include food additives, electrical and electronic appliances, cement and steels. The process is financially and logistically burdensome for Canadian exporters, and is often subject to delays. Where products are not made in India (and cannot be certified there), certification involves travel by Bureau of Indian Standards inspectors to Canada at the exporter's expense.
- The certification process is insufficiently transparent. Changes to certification requirements can occur arbitrarily and with insufficient prior notice and communication to trading partners.

Healthcare:

- Each Indian hospital is required to submit an OCTROI exemption certificate for single-use medical devices for each patient to whom they are administered; this resource-intensive process could be simplified by eliminating the tax exemption certificate or expanding blanket coverage for an unlimited number of patients.
- Regulatory requirements for medical devices (in terms of information to be provided for determining product quality, safety and efficacy) are insufficiently harmonized.

Financial services:

- Discriminatory tax treatment of foreign banks, where the effective tax rate levied on foreign banks is several percentage points higher than that levied on domestic banks.
- Any transaction from India to a foreign country needs approval from the Ministry of Finance or the Reserve Bank of India (RBI), which complicates operations and raises business costs for financial service providers.
- Foreign intermediaries are not allowed to post personnel in the Indian market.

Infrastructure:

- India is not a signatory of the World Trade Organization (WTO) Agreement on Government Procurement, and there is a significant lack of transparency around the awarding of public procurement contracts, including on infrastructure projects. In practice, foreign companies with competitive bids have had limited success in securing such projects.
- In addition, preference is accorded to government enterprises making an offer lying within 10 per cent of the lowest bid.
- Power distribution in India remains the domain of individual states.

Agri-food:

- India applies a number of sanitary and phytosanitary (SPS) measures that restrain Canadian exports. For example, Indian importers must attest that foreign pork does not contain any chemical residues without specifying compounds and their corresponding international limits.
- Plant quarantine measures on grains, pulses, fruits and vegetables are extremely restrictive; India allows zero risk for pests of concern, including pests commonly found in India.
- India bans pork imports processed from animals fed ruminant-derived protein.
- The import of animal fats and oils is prohibited.
- Indian import procedures for biotechnology products remain unduly complex and onerous for exporters.

Other non-tariff barriers:

- Customs procedures: Indian customs clearance often involves a huge quantity of paperwork which hinders trade by absorbing limited business resources. This is particularly constraining for small and medium-sized exporters. Also, India's customs valuation system is often insufficiently transparent. There are reported cases of excessive tariffs being applied on imports due to the over-measuring of their real transactional values.
- Export subsidies: Direct and indirect financial support, including tax holidays, is provided to Indian export industry located in Special Economic Zones (SEZs).
- Government procurement: Indian suppliers are afforded a price preference in applying for government contracts vis-à-vis foreign suppliers.
- Antidumping: The number of cases examined under India's antidumping legislation has spiralled up in recent years and is of concern to current and potential Canadian exporters.
- The Indian government is working on amendments on the Information Technology Act and on a separate Privacy Act; there is concern that these may impose new restrictions on cross-border data flows that could negatively impact services trade.

Examples of restrictions on foreign direct investment (FDI) in India:

General:

- Prior to April 2011, policies and regulations on FDI in India were spread across various regulatory documents and press notes issued by the Reserve Bank of India (RBI) and the Department of Industrial Policy and Promotion (DIPP) of the Indian Ministry of Commerce and Industry.[36] While this new policy brings clarity, further consolidation of complex FDI rules would be welcome.
- The Foreign Investment Promotion Board (FIPB) occasionally issues guidelines that must be met by foreign investors to use the automatic route for FDI. Additionally, DIPP issues press notes to the same effect. It is difficult to anticipate what guidelines will be issued and when, thereby created a significant element of uncertainty for foreign investors in India.

Retail and wholesale:

- 100 per cent FDI is permitted in the retail of single brand products, but is subject to the requirement that 30 per cent of content in products sold is Indian.
- Foreign direct investment in wholesale trading requires FIPB approval when products are sourced from the small scale sector.

36 *Consolidated FDI Policy (1st Circular 2011) (Department of Industrial Policy and Promotion, Ministry of Commer*ce and Industry, Government of India, March 31, 2011, http://dipp.nic.in/Fdi_Circular/FDI_Circular_012011_31March2011.pdf); p.7

Healthcare:

- FDI in health services is limited to 51 per cent through the automatic approval route. Proposed investments surpassing that require approval from the Foreign Investment Promotion Board.
- There are concerns around alleged government plans to place a 49 per cent cap on FDI in India's pharmaceutical market, currently open to 100 per cent FDI.[37]

Consulting services:

- Direct investment in consultancies is capped at 51 per cent through the automatic route.

Insurance:

- FDI up to a limit of 26 per cent is allowed on the automatic route subject to obtaining licence from the Insurance Regulatory and Development Authority (IRDA) of India.
- There is a reinsurance monopoly in the non-life sector.
- Indian citizens and enterprises need permission from the Reserve Bank of India (RBI) to purchase insurance from a vendor abroad.

Asset management:

- FDI in asset management entities, known as "asset reconstruction" entities in India, is limited to 49 per cent.

Banking:

- FDI (including portfolio investment) up to a limit of 74 per cent is allowed for private banks from all sources through the automatic route, subject to RBI guidelines.
- There are restrictions on downstream investments made by private banks that are over 50 per cent foreign-owned, to which domestic banks (under 50 per cent foreign-owned) are not subject.
- No single foreign bank may own more than a five per cent share of an Indian private bank.
- Foreign banks must receive a licence of approval from the RBI to open new branches (only 12 per year are issued).
- RBI restrictions exist on the amount of overseas borrowing by banks.
- FDI in state-owned banks is capped at 20 per cent.
- Banks are not allowed to participate on the commodity exchanges in India, which is the fastest growing in the world.
- Banks are not allowed to hold more than 10 per cent of the paid-up equity capital of a deposit-taking non-banking financial company.

37 http://www.india-briefing.com/news/concern-monopoly-lead-restriction-fdi-indias-pharmaceutical-sector-4596.html/

Manufacturing:

- FDI in “small scale industries” is limited to 24 per cent.

Defence:

- FDI is limited to 26 per cent, subject to a license from the Ministry of Defence.

Mining and nuclear:

- India caps FDI in coal mining exploration and extractive activities to 74 per cent. Investment in state-owned enterprises is limited to a 49 per cent minority stake.
- FDI in the mining of iron, manganese, chrome, gypsum, sulphur, gold, diamonds, copper and zinc is restricted.
- In the nuclear energy sector, FDI cannot surpass 74 per cent for mining and mineral separation, integration and value addition in mining and mineral separation.

Infrastructure:

- India allows only up to 74 per cent FDI in extant airport-related infrastructure projects, though larger investments are possible with Foreign Investment Promotion Board (FIPB) approval.
- FDI is limited to 74 per cent with automatic approval for the construction and maintenance of waterways, rail beds, hydroelectric projects, power plants, and industrial plants.

Agri-food:

- FDI in farming and foreign ownership of farmland are not permitted, with the exception of a recent opening up to seeds and planting material.
- FDI in food processing is capped at 24 per cent for alcoholic beverages and so-called “small scale” food processors.

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