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THE DAY AFTER:

AN AGENDA FOR DIVERSIFYING FREE TRADE

by

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EXECUTIVE SUMMARY

In light of the implementation of the NAFTA and the conclusion of the multilateral trade negotiations (MTN), this Paper briefly summaries the outstanding substantive agenda which still remains, including both "old" and "new" trade policy issues. However, most of the Paper addresses the modalities for extending trade liberalization further. In particular, where should Canada focus its attention over the next 12 to 24 months, given the likely trading environment for the rest of the decade, the shifting nature of real market opportunities and finite negotiating resources?

The Paper weighs the pros and cons of our negotiating options: sectoral versus comprehensive free trade; the prospects for initiating new multilateral trade negotiations through the World Trade Organization (WTO) recently agreed to in the MTN; comprehensive bilateral free trade with selected partners; and seeking greater regional free trade (e.g., through NAFTA accessions and/or the transformation of Asia Pacific Economic Cooperation (APEC) into a negotiating forum). The Paper concludes by suggesting a four-prong approach:

- the effective establishment of the new World Trade Organization by mid 1995 with a forward-looking and balanced work programme (including exploring the prospects for creative coalition building with other middle sized trading nations);

- vigorous follow-up to the NAFTA trade remedy work programme now agreed to;

- use of the GATT/WTO accession process to pursue our immediate market access objectives with respect to China, Taiwan and Russia; and

- the initiation of preparations for possible accessions to the NAFTA by selected Latin American and Pacific Rim countries, especially in light of the U.S. legislative requirement to identify priority countries and negotiating modalities (bilateral negotiations versus accession) by mid 1994.

RÉSUMÉ

À la lumière de la mise en oeuvre de l'ALENA et de l'achèvement des Négociations commerciales multilatérales (NCM), ce document résume sommairement les questions de fond qu'il reste à régler, qu'il s'agisse de «vieilles» ou de «nouvelles» questions de politique commerciale. Mais le document traite surtout des modalités de poursuite des efforts de libéralisation du commerce. Il s'intéresse plus particulièrement aux domaines sur lesquels le Canada devrait concentrer son attention dans les 12 à 24 prochains mois étant donné le climat commercial prévisible d'ici la fin de la décennie, la nature évolutive des débouchés commerciaux réels et les restrictions en termes de ressources de négociation.

Le document évalue nos options de négociation : le libre-échange sectoriel par opposition au libre-échange global; les possibilités d'engager de nouvelles négociations commerciales multilatérales sous l'égide de l'Organisation mondiale du commerce (OMC) dont la création vient d'être acceptée aux NCM; le libre-échange bilatéral global avec certains partenaires; et la recherche d'un libre-échange régional plus poussé (par ex., par le biais des accessions à l'ALENA et/ou de la transformation du mécanisme de Coopération économique Asie-Pacifique (APEC) en instance de négociation). Le document conclut en suggérant une approche à quatre volets :

- l'établissement effectif de la nouvelle Organisation mondiale du commerce d'ici le milieu de 1995, accompagné d'un programme de travail prospectif et équilibré (prévoyant notamment l'examen des possibilités de former des coalitions novatrices avec d'autres nations commerçantes de taille intermédiaire);

- un solide suivi du programme de travail de l'ALENA sur les recours commerciaux;

- l'utilisation du processus d'accession au GATT et à l'OMC pour poursuivre nos objectifs immédiats concernant l'accès aux marchés de la Chine, de Taïwan et de la Russie; et

- l'engagement de préparatifs en vue de l'accession possible à l'ALENA de certains pays de l'Amérique latine et de la bordure du Pacifique, surtout à la lumière de la prescription législative américaine visant l'identification des pays visés en priorité et des modalités des négociations (négociations bilatérales versus accession) d'ici le milieu de 1994.

1. INTRODUCTION

The early 1990s have been an intense period for Canadian trade policy. The conclusion of the NAFTA, the two side agreements on environmental and labour cooperation, and the work programme related to trade remedies reinforce and expand our trade and economic relations with the U.S. and secure new opportunities in the growing Mexican market. The successful completion of the Uruguay Round of multilateral trade negotiations entails useful improvements in our access to markets in Europe, Japan and a broad range of developing countries, especially in the Pacific Rim and Latin America. It also strengthens international trading rules, with the new disciplines in the area of subsidy/countervail being particularly important for Canada.

A huge sigh of collective relief is almost audible as negotiators look back on three years of riding the NAFTA rollercoaster and the more than seven years dedicated to moving the MTN to a conclusion. There is a sense of accomplishment mingled with exhaustion. This reaction is understandable, but insufficient.

The day after the implementation of the NAFTA and the conclusion of the MTN is not the time for trade policy complacency. We can only benefit from identifying sooner rather than later our responses to two fundamental questions: (a) What remains to be done substantively? and (b) Given the likely trading environment for the rest of the decade, the shifting nature of real market opportunities and finite negotiating resources, where should Canada focus its attention over the next 12 to 24 months? The rest of this Paper represents a preliminary response to these questions. Particular attention is put on identifying negotiating options (Part 3 below).

2. THE UNFINISHED AGENDA

The NAFTA recognizes that there is more to do. For example, it envisages additional negotiations in the area of government procurement (less than 10% of such purchases have been liberalized, while they account for perhaps one-sixth of North American production annually). There is also further significant work envisaged with regard to cross-border trade in financial and other services. Most importantly, considerable effort will be dedicated to seeking solutions with regard to anti-dumping and subsidy/countervail issues through the two recently established working groups. This work will include the relationship between competition law and trade, including the possible replacement of anti-dumping regimes within the free trade area. The tactics of how to move these files forward require close attention.

The MTN result is good, but the degree of new market access achieved with respect to both goods and services in areas of priority interest to Canada still does not complete our agenda. Our overall access to western Europe and Japan will remain less than that with the U.S.. The same can be said about our protection from their arbitrary use of trade rules, whether these be anti-dump (the European Union's (EU) system is even more opaque in operation than the practices of the USITC or the Department of Commerce), or GATT Article XIX emergency action against import surges. There is no equivalent outside North America for the FTA/NAFTA Chapter 19 dispute settlement mechanism that has, on balance, served us well.

The MTN will also deliver improved and more secure access to important developing country markets, but will not provide the degree of comprehensive and preferential access achieved with Mexico through the NAFTA for exports of Canadian goods and services, nor the same level of security for Canadian companies investing abroad. The rules-based network now linking us to Mexico (including the related areas of the enforcement of environmental and labour standards) surpasses by a considerable degree the scope of the formal trade and economic relationship with Korea or Brazil (for example), even after full implementation of the MTN.

More generally, it is worth recalling that the scope of rule-making in the international trading system has expanded considerably over the past ten years. Issues such as cross-border trade in services, intellectual property rights, and non-discriminatory investment rules related to the right of establishment, the post-establishment conduct of business, performance requirements and dispute settlement have all moved beyond the hesitant, tentative beginnings of reform of the early 1980s. These issues now enjoy much broader international acceptance as legitimate items on the international negotiating agenda. Nonetheless, the actual negotiated rule-making remains incomplete, particularly outside the NAFTA context, while the rest of the 1990s appears poised to witness a further expansion of the trade agenda.

In fact, "trade" negotiations are quickly becoming "economic" negotiations with profound impact on an increasingly wider range of policies long considered essentially domestic. The new agenda includes trade and the environment, labour standards and their enforcement, competition (or "anti-trust") policy, and key issues related to industrial and innovation policies, including product and process standards and access by Canadian companies to foreign consortia engaged in pre-competitive research on cutting-edge technologies.

As the scope of the work expands, as we reflect on how best to craft the unfinished rules of the game - and not just for the so-called new issues, but also for important outstanding business such as trade in agriculture - we need to address how Canada can best ensure three key results:

- first, dynamic, outward looking regionalism that will, over time, encourage broad multilateral liberalization in ways that serve Canada well;

- second, greater and more secure access to the Japanese, EU and U.S. markets, as well as to dynamic Asian and Latin American economies; and

- third, the effective management of the "new" issues, including competition policy, the environment, and emerging technology and innovation questions, so that negotiated results reflect as closely as possible the needs and realities of a small, reasonably open, trade-dependent economy such as Canada's.

By continuing to build on Canada's post War tradition of expanding, in a measured and responsible manner, the scope of two-way market access and of the rules governing that access, we underpin the preference of Canadians and foreigners alike to invest in Canada. We also reinforce on-going efforts to encourage Canadian producers to look beyond their immediate marketplace and become traders capable of competing with off-shore competition that has become increasingly diverse and will not go away unless faced head on.

3. SOME CONSIDERATIONS ON THE OPTIONS: MARKET ACCESS AND OUR FRIENDS IN THE GAME

3.1 Sectoral Versus Comprehensive Free Trade

One option is to explore the prospects for sectoral free trade with selected countries. Proponents of this approach point to the success of the 1966 Canada-U.S. Agreement Concerning Automotive Products (the Auto Pact). Multilaterally, the Tokyo Round led to the creation of a number of sectoral instruments: the Arrangement Regarding Bovine Meat, the International Dairy Arrangement, and the Agreement on Trade in Civil Aircraft. More recent examples of sectoral initiatives include efforts to develop a Multilateral Steel Agreement (MSA) on the margins of the MTN and a proposal by the Canadian steel industry to establish a North American arrangement in this product sector.

While superficially similar, in that each focusses on a specific sector, in fact the intent and circumstances of these agreements vary widely. The MSA negotiation is stalled. It is multilateral, rather than bilateral and the driving force has been the market power of the U.S.. Moreover, in practice this exercise was linked to the successful conclusion of a balanced overall MTN package. The MSA's focus was on facilitating the international rationalization of the steel sector by disciplining (read reducing) domestic production subsidies, as a precondition for undertaking the elimination of import duties on steel products tentatively agreed to in the MTN market access negotiations. In the event, even the link to the much broader MTN universe of potential trade-offs was insufficient. The MSA was not concluded in mid December. For its part, the proposal for a North American arrangement is driven primarily by the Canadian industry's frustration with U.S. anti-dumping harassment, and has elicited a cool response from across the border. The issue in the regional context is really linked to our broader concern related to the eventual reform or replacement of national trade remedy regimes. Of the Tokyo Round instruments, only the Civil Aircraft Code codifies a concrete commitment to liberalize trade. It was, of course, part of the overall multilateral Tokyo Round result and therefore cannot be viewed as a stand-alone achievement. The Auto Pact was a stand-alone bilateral, but was arguably GATT-inconsistent (the U.S. sought and obtained a GATT waiver; Canada did not).

The preceding hints at some of the difficulties with a sectoral approach. We can summarize these considerations as follows.

The bilateral sectoral approach runs up against the problem of identifying a sector where there is sufficient common interest between two parties upon which to base a negotiation to eliminate all or almost all barriers. During the 1984-85 period, both Canada and the U.S. expended considerable effort trying to select a few candidate sectors. Both sides found that their sectoral wish lists were largely different, a process that logically seemed to lead to the more comprehensive process that resulted in the FTA.

Moreover, even if two countries initially identify what appears to be a sector of common interest, problems invariably arise during the course of the negotiations that require tough choices. As a practical matter, it is often difficult to find the necessary trade-offs within a single sector or even among a limited number of product groups.

If bilateral free trade were negotiated for a specific sector, there would be another problem. Such a result would be inconsistent with Canada's GATT obligations, as Article XXIV cover is available only if the agreement applies to substantially all the trade between the constituent territories. Thus, bilateral free

trade in one or a limited number of sectors would require us to seek a GATT waiver (pursuant to Article XXV:5).

A waiver requires the approval of two-thirds of the votes cast comprising more than half of all contracting parties (with 111 members, this approach translates into 56 to 74 affirmative votes)[1]. Developed countries have obtained important waivers (one thinks of the U.S. Auto Pact and Section 22 agriculture waivers sought in the mid 1960s and mid 1950s respectively), but no recent waiver has addressed balanced sectoral agreements between two important markets (as distinct from largely one-way, unreciprocated access by a developed country to several developing countries, such as the U.S. arrangements with Caribbean states and the Andean countries). In addition, most waivers have been relatively narrow and technical in focus (40 of 105 waivers granted to date were approved for implementation of a modified tariff Schedule in advance of completion of negotiations under GATT Article XXVIII concerning implementation of the Harmonized System (introduced in the 1980s), and for the renegotiation or new establishment of tariff Schedules). In the current environment, it is unlikely that GATT CONTRACTING PARTIES would easily grant to Canada and another country representing an important market a waiver for a deal encompassing balanced and preferential access to each other's market in a few sectors.

Moreover, a waiver is not necessarily cost free. If a country obtains a waiver, another GATT member can still initiate dispute settlement proceedings if it believes that it can demonstrate that a nullification or impairment of benefits accruing to it under the GATT has resulted from restrictions imposed pursuant to a waiver that could not have been reasonably anticipated by the complaining Party. Although a violation of a GATT provision is not technically in question here, a successful "non-violation" impairment case can lead to trade compensation of equivalent effect. In fact, the MTN Final Act reaffirms the right of access to dispute settlement even when a trade measure is applied that is fully consistent with the appropriate waiver. In addition, the Act clarifies that any future waiver must indicate the date on which it shall terminate and will be subject to an annual review by CONTRACTING PARTIES. These provisions clearly underline the uncertainty facing producers, exporters and governments seeking cover for sectoral free trade.

Finally, multilateral free trade sectoral accords negotiated pursuant to a GATT Round (e.g., the Civil Aircraft Code) are possible. But they are infrequent, require the active support of the major international players, and would most likely be successful

[1] Pursuant to the MTN Final Act, waivers will require the approval of three-quarters of the Members of the new World Trade Organization, once the latter enters into force in 1995.

if associated with a larger package (e.g., the MTN) that allows participants to view the results and the trade-offs as part of broader, balanced commitment. The chances of initiating such an effort soon after the difficult conclusion of the current MTN are minimal into the foreseeable future.

3.2 The Multilateral Approach

One alternative to sectoral free trade would focus on working to initiate comprehensive trade negotiations, perhaps under the auspices of the World Trade Organization (WTO) established as part of the Uruguay Round package. This approach is consistent with Canadian foreign policy since World War II and has brought steady gains to the benefit of Canada, both with respect to market access and international rule-making. Consequently, Canada should continue to emphasize the importance of the multilateral route, including by actively encouraging the establishment of a balanced WTO work programme that will address emerging trade policy issues as well as a number of holdovers from previous negotiations that remain central to Canadian prosperity (e.g., agricultural subsidy practices).

Yet, this option suffers from a short to medium term problem of timing. Several more months of negotiations on market access and difficult legal fine-tuning lie ahead before the Ministerial meeting scheduled for mid April, at which time the MTN package will be signed and the CONTRACTING PARTIES could begin to scope out a preliminary programme for future work. In all likelihood, not much of substance will happen for at least a year thereafter, until the WTO actually enters into force and the first Ministerial session is held. Participants will be politically exhausted. Countries will largely disband their negotiating teams. Governments will focus on implementing the changes in domestic law required to bring the MTN commitments into force. Neither the U.S. nor the EU will be eager to work actively for a quick start to launching the "next Round" of negotiations. The MTN has lasted so long and has involved so many players, and the "new" agenda issues are likely to prove so controversial, that it will prove difficult to launch another comprehensive exercise soon. More selective negotiations (in terms of the agenda) may be feasible under WTO auspices (and is foreshadowed with regard to financial services and other issues), but this is by no means certain, may face the same difficulty with identifying trade-offs that a more limited exercise often entails and, in any event, is unlikely before 1995-96 at the earliest.

Moreover, although Canada can (as it has in the past) develop some leverage in terms of outcomes through hard work and the creative use of alliances once the negotiations are underway, we enjoy less leverage in terms of initial agenda setting and almost none with respect to the decision to actively seek the launch of a

comprehensive, multilateral negotiating process. At the beginning of the process, a relatively small economy like Canada will not move this mountain. The decision to launch is a process dominated by the Triad: the U.S., the European Union and Japan. At this stage, we are primarily "takers", not "setters". And it is difficult to envisage the major players getting into a launch mind-set for at least two or three years.

3.3 The Bilateral Comprehensive Approach

A third option would be to seek to negotiate a comprehensive free trade agreement with another country, perhaps one of the dynamic emerging economies of the Pacific Rim or Latin America, or with Japan. Such an agreement would be consistent with Canada's GATT obligations. If successful, it could secure important market access gains for Canadian exporters of goods and services, while potentially establishing more expeditious dispute settlement procedures. A comprehensive approach could provide rules to better protect Canadian investors in the other market and to eliminate a number of right of establishment restrictions and trade distorting performance requirements often associated with foreign investment review procedures. A bilateral free trade agreement could provide Canada with preferential access to a dynamic market that few if any of our competitors would enjoy. And the bilateral comprehensive approach would facilitate the search for trade-offs that inevitably will be necessary to close the deal.

Nonetheless, there are several, perhaps intractable concerns, both substantive and practical, associated with this proposal. First, it likely overestimates our attractiveness, on our own, as a market for others. What is it about the Canadian economy alone that is so desirable and what are the Canadian access barriers that are of such concern that Japanese or Korean policy makers would undertake the difficult domestic policy trade-offs to negotiate in their more sensitive areas (which often are those of interest to Canada: for example, grains and red meats, lumber, financial services)? The U.S. became interested in a free trade agreement with Canada at least in part because we are their largest trading partner. We do not enjoy anything close to the same status with regard to Korea, for example.

Second, one of the fundamental reasons underlying Canada's decision to join in the NAFTA negotiations was to avoid the creation of a possible network of U.S. bilaterals in the western hemisphere. This "hub-and-spoke" approach would have led to a trading system in which only the U.S. would have enjoyed preferential access to various markets. Not only does this disadvantage Canadian suppliers of those countries, but it also allows the U.S. to portray itself as the preferred site for domestic and foreign investment for those producers and service providers desirous of selling throughout North America (and eventually much of Latin America). Canada's

participation in the NAFTA was conceived partly to deflect the U.S. penchant for bilateralism. If Canada decides to pursue bilateral free trade with others, including in markets of interest to the U.S., we may inadvertently encourage that which we have sought to avoid - the bilateralism of others. In turn, a proliferation of bilateral agreements could be particularly corrosive of the multilateral trading system, leading to a return to the cobweb of preferential arrangements that the most-favoured-nation principle was designed to combat.

Third, free trade agreements are preferential trading frameworks. In the first instance, they are intended to create opportunities for the participating countries which have, after all, made a considerable investment in eliminating barriers within the free trade area and in accepting the economic adjustment that follows. On the tariff side, the principal tool used in this regard are the rules of origin (not usually required, and certainly not to the same degree of complexity, for most-favoured-nation trade). The rules of origin also reflect the trade-offs inherent in the negotiating process. They vary in restrictiveness and complexity. They are a two-edged sword: necessary to achieve agreement, but not easy to administer at the border and more than occasionally an impediment to the trade of small and medium sized enterprises (SMEs) which have difficulty handling the paperwork or even understanding whether their product "originates". A plethora of bilateral free trade agreements would likely reinforce the negative side of rules of origin for a number of products, particularly those for which a regional value-added approach is adopted to determine origin and for which the level of value-added varies between agreements. In such a case, Customs would find it more difficult to cope properly, and business (particularly SMEs) might well decide to trade under MFN rates, thereby undermining the benefits of the preferential tariff. The fewer the number of overlapping rules of origin regimes, the better it is for exporters and importers, including Canadians.

Fourth, entering into one or several additional free trade agreements does little to strengthen our leverage within the NAFTA for the next stage of improvements, including those related to government procurement coverage, financial services liberalization and trade remedy reform. The issue here is how best to create a negotiating environment most conducive to engaging the U.S.. A separate free trade agreement with, say, Korea will be of little help in this regard, a point further developed in the next section.

3.4 The Regional Approach

There is a fourth option for diversifying Canada's trade and economic network over the next two to three years, which would build on existing mechanisms and avoid the proliferation of bilateralism. We could explore the prospects for further

strengthening certain regional mechanisms. Two in particular come to mind: the Asia Pacific Economic Cooperation (APEC) forum and the NAFTA.

The APEC has been helpful in ensuring greater dialogue on economic matters between North America and east Asia. Nonetheless, suggestions to transform APEC into a legally binding instrument covering trade in goods and services, government procurement, investment, intellectual property, dispute settlement, or any one of these individually imply a major dedication of resources that we could justify only if the likely result were worth the effort, i.e., the maximizing of scarce negotiating leverage resulting in improved and more secure market access and better conditions for investment for Canada. Despite the recent APEC Eminent Persons' Group report and the support of a number of government officials in the U.S. and Australia, the option of proposing APEC as a negotiating forum suffers from two critical flaws from a Canadian perspective.

First, an APEC-based negotiation would entail that which we have already done twice: negotiating a carefully crafted, broad-ranging legal framework governing the main pillars of our economic relationship with the U.S.. Canada already has an arduously developed framework for many of the multiple aspects of our relations with the U.S.. That framework is the FTA as reworked in the NAFTA and related side deals. To engage in the negotiation on an APEC-wide investment instrument, for example, would expose us once again to renegotiating our investment relations with the U.S., including those areas where Canada retains policy flexibility (e.g., the right to screen foreign takeovers over a certain threshold, or to impose technology transfer performance requirements, as well as Canada's sectoral reservations to the non-discrimination obligations). The politically sensitive cultural industries exemption would again be in jeopardy. If the U.S. were to decide to pursue seriously a detailed APEC negotiating option, and if others appeared ready to participate, then we would want to look very closely at joining the process. But in light of the U.S.'s unfinished Canada agenda, there is no compelling reason for Canada to encourage such a root-and-branch option. The issue might be better framed as how to encourage the U.S. to continue moving forward on a freer trade track with the least exposure for Canadian sensitivities, not an easy task in the best of situations and one not facilitated by starting from scratch yet again through an APEC negotiating process.

Second, as the discussions in last November's Seattle Ministerial revealed, most APEC members are not ready to enter into an ambitious, comprehensive free trade project. Despite their export orientation and their generally favourable approach to foreign investment in practice, the ASEANs are suspicious and hesitant. Their own efforts at trade and economic integration have been painfully modest in practice. They have, moreover, played a disappointing role in the MTN. As a group, they

demonstrate a continued reluctance to cross the intellectual bridge (which is, perhaps, as much cultural as anything else) from practising an important degree of free trade to accepting a comprehensive, legally binding commitment with industrialized countries to enforce trade and economic disciplines.

For its part, the PRC has made impressive economic gains in recent years, but formalizing comprehensive trade and domestic economic liberalization in binding international agreements would demand a commitment that goes considerably beyond what the Chinese leadership has accepted to date, not to mention the potential political sensitivity in Canada and elsewhere in the West about forging direct, significantly closer bilateral ties with the PRC as long as it adheres to political totalitarianism. Moreover, the PRC has not yet even acceded to the GATT, although tentative steps in that direction are underway. A better option for Canada with respect to the PRC is likely to be found through seeking concrete market gains in a Chinese GATT accession negotiation.

Of the remaining APEC Asian countries, there is little indication that Japan is ready to cross the threshold and enter into a comprehensive APEC negotiation in the near future in which they would be exposed to a full court press from the U.S. with a chorus of others (such as ourselves and the Australians) supporting the charge. They appear to prefer managing trade through less transparent and more piecemeal bilateral discussions with the U.S. (although this approach may be gradually becoming less effective) and through informal, often private sector networks in the south-east Asian countries where they have created market, investment and technical assistance power and influence.

This leaves Australia, New Zealand, Taiwan and Korea, where the mind-set may well be more open. The first two are the beneficiaries of their own successful free trade agreement and were active proponents of trade liberalization in the MTN. For its part, Korea has indicated a willingness to make substantial, legally binding commitments in the MTN. Some policy makers in that country may be uncomfortable with Japan's informal regional dominance (history weighs heavily here) and could argue for even broader trans-Pacific engagement. In fact these countries, like a number of the Latin Americans including Chile, Argentina, and Colombia, share many interests with Canada, including the hunt for improved and more secure access to Triad markets, the continuing importance of resource trade (including value-added processed products) for their economies (with Korea the major exception), and a concern that emerging trade rules related to issues as diverse as competition policy and anti-dump harassment and the environment remain sensitive to the different structural characteristics and political concerns of smaller, more trade-dependent economies. Moreover, these countries are also active players internationally. They

tend to be constructive rule-makers. Each manages its own economy well and brings some leverage to the bargaining table in the form of a dynamic market of interest to exporters and investors in Canada and in larger markets such as the U.S..

The issue is how, over the next 12 to 24 months, to engage these countries creatively and in a manner that is most manageable from a Canadian perspective. In this regard, the inclusion in NAFTA of the Canadian proposal for an accession clause has introduced important, even exciting possibilities (NAFTA Article 2204). Accession opens the door to improved and more secure access for Canadian producers in other markets on a mutually beneficial basis without fully reopening the rules already governing our relations with the U.S.. Accession should also be attractive to others because they will, in counterpoint, gain further access into the broader North American market, although to do so they will have to accept the high quality generic disciplines of the NAFTA (subject to the possibility of limited reservations to be negotiated).

Accession will further strengthen an outward-looking trading culture in Canada by encouraging Canadian entrepreneurs to seek market niches beyond the United States and by obliging Canadians, in a creative response to the pressures of increasing cross-border flows of goods, services, investment and technology, to continue reshaping domestic policy in a measured and progressive manner. Accession will also draw in additional high quality economic partners who will provide further balance in an arrangement where the U.S. remains the largest producer and trader. New committed members could create a dynamic in NAFTA that Canada could use to further the work that lies ahead in areas such as the anti-dump replacement/ competition policy link, as well as additional liberalization in the U.S. market related to government procurement and trade in financial and other services. More high quality partners in NAFTA could help Canada do what it has traditionally done best: use combinations of partnerships to move negotiating files forward in a creative and beneficial manner.

Finally, the use of NAFTA accession to build solid bridges across the Pacific potentially has two special benefits. First, this process would help to deflect the prospect of the gradual emergence of an Asian trading bloc centred on Japan. The potential for the creation of a formal preferential trading zone in east Asia to reinforce the important but more informal trade and investment linkages already in place may not be great at present, but we should not be complacent about the longer term. Second, accession to the NAFTA by certain Latin American and Pacific Rim economies would not only reinforce growth prospects in Canada, but could also eventually assist us in our economic relations with western Europe (currently driven in upon itself by the exhausting process of achieving greater union), and Japan (with its preference for

informal fixes and for whom Canadian concerns rarely intrude because of the focus on managing today's fix with the U.S.). NAFTA accessions could potentially shake the trading system to such a degree that we could create, by the end of the decade, sufficient critical mass to ensure a more fruitful negotiation (from a Canadian viewpoint) with Europe and Japan than the current MTN, for example, has been able to deliver.

The U.S. is a potential stumbling block in this process. Nonetheless, the Clinton Administration seems to have turned a trade policy corner of sorts with its handling of the NAFTA ratification and the conclusion of the MTN negotiations. It can be expected to favour creative forward movement in expanding the free trade network, although questions of timing and the threat of bilateralism remain relevant as well. The biggest potential problem, nonetheless, relates to the Administration's negotiating authority. The current "fast-track" authority lapses on April 15. The passage of Clinton's health care reform package and the ratification of the MTN will likely dominate relations between the Administration and Congress for most of 1994. The Administration will require new authority to enter into trade negotiations, including any accession to the NAFTA. Some observers have suggested that the heavy agenda already faced by Congress next year will preclude the granting of new trade negotiating authority before 1995.

In this regard, however, it is important to note that the U.S.'s NAFTA implementing legislation already includes a precise timetable for future action. By May 1, the USTR is to present a report to the President listing those countries whose economic and trade policies make them the most likely candidates for future free trade negotiations. By July 1, on the basis of the USTR report, the President must advise Congress of the countries with which he proposes to seek free trade negotiations and what the negotiating process should be. On the basis of this advice, Congress could grant new negotiating authority as early as the Fall as part of the MTN implementation package. It is still an open question whether this process will yield a focus on bilateral free trade agreements, or NAFTA accession, or both. There appears to be a certain favouring of the accession route within the Administration, but this needs reinforcing.

Thus, there is a reasonable possibility of NAFTA accession negotiations beginning in less than a year, and an opportunity for Canada to influence this process now in a manner that tracks our own interests. In identifying which countries should be the focus of our attention into the immediate future, several criteria can be suggested.

A) They must be prepared to accept entry into the NAFTA on a fully reciprocal basis, as has Mexico. The most likely candidates will be those whose domestic economic and trade policy regimes already enjoy a solid track record.

B) The most useful candidates should also have a good track record at participating constructively in international rule-setting, especially in the MTN context. Countries which favour reform of the rules on anti-dumping would be particularly interesting from a Canadian perspective.

C) There should be reasonably important Canadian trade and investment interests directly in play which would be advanced through an accession negotiation.

Chile and Korea meet these three criteria. A broader group could include Australia, Argentina, Colombia and New Zealand. (The politics of managing our relations with the PRC may preclude an approach to Taiwan at this time).

4. AN AGENDA FOR ACTION

Over the next year, a reasonable agenda could comprise the following activities:

A) Ensuring the full implementation of the NAFTA and its side agreements - there are over two dozen committees and working groups that must become operational, there will be disputes to manage through the mechanisms provided for in Chapters 19 and 20, the listing of non-conforming provincial investment and service-related measures must be completed, and provincial participation in the side agreements must be clarified. Most importantly, the work programme on trade remedy reform should be pursued vigorously.

B) Ensuring Parliamentary approval and subsequent implementation of the MTN final package.

C) Proposing an MTN follow-up process associated with the newly created World Trade Organization. It is far too premature to think seriously of launching another trade Round. But we can encourage the international community to begin to sketch out more fully the agenda for such a negotiating process. Drawing on work already underway in the OECD and the GATT, the MTN ministerial meeting scheduled for next April could establish an Eminent Persons' Group (or Wise Person's Group) with the mandate to explore the future directions of trade policy and to report back to governments through the WTO within one year. The report could serve as the basis for beginning an intensive

preparatory phase of consensus-building among governments under WTO auspices with the prospect of initiating negotiations by 1996 or 1997. Preparations should include exploring whether increasingly complex and time-consuming full-scope negotiating Rounds might be complemented by more continuous and selective negotiations. Canada would want to ensure that the mandate given to the Eminent Persons' Group is balanced, covering not only new issues such as the environment, investment and competition policy, but also outstanding unresolved holdovers where much work is still required (e.g., agriculture, remaining barriers faced by resource-based products, government procurement). In the meantime, we need to build on the analytical work already underway to ensure that we complete the domestic homework needed to establish a more definitive Canadian position on what the new "rules of the game" should look like. We should also identify and seek to collaborate in the WTO context with those countries which will tend to share our views.

D) Using the GATT/WTO accession process to address our immediate market access objectives with respect to the PRC (as well as Taiwan) and Russia.

E) Beginning promptly the preparations for possible accessions to the NAFTA. This requires a quietly effective lobbying effort. If Canada is to have a role in setting this agenda, we should move actively and soon. Otherwise, the U.S. may build up a head of steam with a view to meeting the May 1 deadline for the USTR report that will become increasingly more difficult to influence, both in terms of priority countries and with regard to favouring the accession option over U.S. bilateralism.

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