

ANNEX I  
Schedule of Canada

SECTOR: Agriculture

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Farm Credit Act, R.S.C. 1985, c. F-2  
as amended by R.S.C. 1985, c. 1 (4th  
Supp.); S.C. 1991, c. 5, 53

Farm Credit Regulations, C.R.C. 1978,  
c. 644 as amended by SOR/81-560;  
SOR/82-495; SOR/83-198

DESCRIPTION: Investment

Loans by the Farm Credit Corporation  
may be made only to:

- (a) individuals who are Canadian  
citizens or permanent residents;
- (b) farming corporations controlled  
by Canadian citizens or permanent  
residents; or
- (c) cooperative farm associations,  
all of whose members are Canadian  
citizens or permanent residents.

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)  
Performance Requirements (Article 1106)  
Senior Management (Article 1107)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Investment Canada Act, R.S.C. 1985, c.  
28, as amended by S.C.1988, c. 65

Investment Canada Regulations,  
SOR/85-611, as amended by SOR/189-69

An Act to Amend the Investment Canada  
Act, (Bill C-89, introduced in  
Parliament on 18 June 1992)

DESCRIPTION: Investment

1. Under the Investment Canada Act,  
the following acquisitions of Canadian  
businesses by "non-Canadians" are  
subject to review by Investment  
Canada:

(1) all direct acquisitions of  
Canadian businesses with assets  
of \$5 million or more;

(2) all indirect acquisitions of  
Canadian businesses with assets  
of \$50 million or more; and

(3) indirect acquisitions of Canadian  
businesses with assets between \$5  
million and \$50 million which  
represent more than 50 percent of  
the value, calculated in the  
prescribed manner, of the assets  
of all the entities the control  
of which is being acquired,  
directly or indirectly, in the  
transaction in question.

2. "Canadian business", "Canadian"  
and "non-Canadian" are defined in the  
Investment Canada Act. A "non-  
Canadian" is an individual, government  
or agency thereof or an entity which  
is not "Canadian".

3. In addition, specific  
acquisitions or new businesses in  
designated types of business  
activities related to Canada's  
cultural heritage or national  
identity, which are normally  
notifiable, may be reviewed if the  
Governor in Council authorizes a  
review in the public interest.

4. Investments subject to review  
under the Investment Canada Act are

not to be implemented unless the Minister responsible for the Investment Canada Act advises the applicant that the investment is likely to be of net benefit to Canada. Such a determination is made in accordance with six factors described in the Act.

5. These factors are summarized as follows:

(a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the utilization of parts, components and services produced in Canada, and on exports from Canada;

(b) the degree and significance of participation by Canadians in the investment;

(c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;

(d) the effect of the investment on competition within any industry or industries in Canada;

(e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial, economic and cultural policy objectives enunciated by the government or legislature of any province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

6. In making a net benefit determination, the Minister, through Investment Canada, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant

may also submit undertakings to the Minister in connection with any proposed acquisition which is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorized under the Act.

7. The establishment or acquisition of Canadian businesses by non-Canadians, other than those described above, are to be notified to the agency administering the Act, Investment Canada.

8. Review of "acquisition of control", as defined in the Investment Canada Act, of a Canadian business by an American or Mexican will take place if the value of the gross assets of the Canadian business is not less than the applicable thresholds, effective on the date of entry into force of this Agreement and adjusted on each anniversary thereof. The calculation of the applicable review threshold is set out in the Duration section below.

9. The review threshold applicable to American and Mexican investors is higher than those set out above. However, this higher review threshold does not apply in the following sectors: uranium production and ownership of uranium producing properties; oil and gas; financial services; transportation services and cultural businesses.

10. Indirect "acquisitions of control", as defined in the Investment Canada Act, of Canadian businesses by "American" and "Mexican" investors are not reviewable. Notwithstanding the definition of "investor of a Party" in Chapter Eleven, only investors who are nationals, or entities controlled by nationals, (as defined in the Investment Canada Act) of the United States or Mexico, may benefit from the higher review threshold.

11. Notwithstanding Article 1106(1), Canada reserves the right to impose

requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, conduct or operation of an investment of an investor of another Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada, in connection with the review of an acquisition of an investment pursuant to the Investment Canada Act.

12. Except for requirements, commitments or undertakings related to technology transfer as set out above, Article 1106(1) shall apply to requirements, commitments or undertakings imposed or enforced under the Investment Canada Act. However, Article 1106(1) shall not be construed to apply to any requirement, commitment or undertaking imposed or enforced in connection with a review under the Investment Canada Act, to locate production, carry out research and development, employ or train workers, or to construct or expand particular facilities, in Canada.

DURATION: Paragraphs 10, 11 and 12 of the Description setting out Canada's reservations and commitments with respect to Articles 1102, 1106(1), and 1138 shall govern.

For American and Mexican investors, the applicable threshold for the review of a direct acquisition of control of a Canadian business shall be:

(a) for the twelve month period commencing on the date of entry into force of this Agreement, such monetary amount as determined in accordance with Annex 1607.3 of the Canada-United State Free Trade Agreement;

(b) commencing on the first anniversary of the date of entry into force of this Agreement, the monetary amount for the preceding year multiplied by an annual

adjustment representing the increase in nominal Gross Domestic Product, as set out below.

The calculation of the annual adjustment shall be determined in January of each year after 1994 using the most recently available data as published by Statistics Canada and using the following formula:

Annual Adjustment =

$$\frac{\text{Current nominal GDP at market prices}}{\text{Previous year nominal GDP at market prices}}$$

"Current nominal GDP at market prices" means the arithmetic mean of the nominal Gross Domestic Product at market prices for the most recent four consecutive quarters (seasonally adjusted at annual rates).

"Previous year nominal GDP at market prices" means the arithmetic mean of the nominal Gross Domestic Product at market prices for the four consecutive quarters (seasonally adjusted at annual rates) for the comparable period in the year preceding the year used in calculating the "current nominal GDP at market prices".

The amounts determined in this manner shall be rounded to the nearest million dollars.

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## ANNEX I

### Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)  
Senior Management (Article 1107)

LEGAL CITATION:

DESCRIPTION: Investment

When selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, Canada and each province reserve the right to prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests or assets to control any resulting enterprise, by investors of another Party or non-Party or their investments. In addition, Canada and each province reserve the right to adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For the purposes of this reservation:

(a) any measure maintained, or adopted after the entry into force of this Agreement, prohibiting or imposing limitations on the ownership of equity interests or assets or nationality requirements described in this reservation shall be deemed to be an existing measure; and

(b) "state enterprise" means an enterprise owned or controlled through ownership interests by Canada or a province and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the assets of, an existing state enterprise or governmental entity.

DURATION:

The Description shall govern on entry into force of this Agreement.

Indeterminate.

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ANNEX I  
Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Canada Business Corporations Act,  
R.S.C. 1985, C. I-44, as amended by  
R.S.C. 1985, c. 27 (2nd Supp.), R.S.C.  
1985, c. 1 (4th Supp.); S.C. 1990, c.  
17; S.C. 1991, c. 45, 46, 47

Canada Corporations Act, R.S.C. 1970,  
C. C-32, as amended by R.S.C. 1970, c.  
C-10 (1st Supp.); S.C. 1970-71-72, c.  
43, 63; S.C. 1972, c. 17; S.C.  
1974-75-76, c. 33; S.C. 1978-79, c.  
11; S.C. 1985, c. 26; S.C. 1986, c.  
26, 35

Canada Business Corporations Act  
Regulations SOR/79-316, as amended by  
SOR/79-513, SOR/79-728, SOR/80-873,  
SOR/81-3, SOR/81-189, SOR/81-868,  
SOR/82-187, SOR/83-511, SOR/83-781,  
SOR/83-817, SOR/85-384, SOR/86-365,  
SOR/86-366, SOR/86-421, SOR/86-983,  
SOR/87-248, SOR/87-629, SOR/88-63,  
SOR/88-491, SOR/89-159, SOR/89-323,  
SOR/90-660, SOR/91-567

DESCRIPTION: Investment

The cited laws and regulations permit  
constraints to be placed on issue,  
transfer and ownership of shares in  
federally incorporated business  
corporations. The object is to permit  
corporations to meet Canadian  
ownership requirements, under certain  
laws as prescribed in the regulations,  
in sectors where such ownership is  
required as a condition to operate.  
In order to maintain certain  
"Canadian" ownership levels,



corporations are permitted to sell shareholders' shares without the consent of those shareholders, and to purchase the corporation's own shares on the open market. "Canadian" is defined in the regulations.

DURATION:  
Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: Senior Management (Article 1107)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Canada Business Corporations Act,  
R.S.C. 1985, c. I-44 as amended R.S.C.  
1985, c. 27 (2nd Supp.), R.S.C. 1985,  
c. 1 (4th Supp.); S.C. 1990, c. 17;  
S.C. 1991, c. 45, 46, 47

Canada Business Corporations Act  
Regulations, SOR/79-316, as amended  
SOR/79-513, SOR/79-728, SOR/80-873,  
SOR/81-3, SOR/81-189, SOR/81-868,  
SOR/82-187, SOR/83-511, SOR/83-781,  
SOR/83-817, SOR/85-384, SOR/86-365,  
SOR/86-366, SOR/86-421, SOR/86-983,  
SOR/87-248, SOR/87-629, SOR/88-63,  
SOR/88-491, SOR/89-159, SOR/89-323,  
SOR/90-660, SOR/91-567

Canada Corporations Act, R.S.C. 1970,  
c. C-32

Special Acts of Parliament  
incorporating specific companies

DESCRIPTION: Investment

The Canada Business Corporations Act requires that a simple majority of members of the board of directors, or of a committee thereof, of a federally-incorporated company must be resident Canadians. For the purposes

of the Act the term "resident Canadian" is defined as an individual who is a Canadian citizen ordinarily resident in Canada, a citizen who is a member of a class as set out in the regulations, or a permanent resident as defined in the Immigration Act except a person who has been ordinarily resident in Canada for more than one year after he became eligible to apply for Canadian citizenship.

In the case of a holding corporation, not more than 1/3 of the directors need be resident Canadians if the earnings in Canada of the holding corporation and its subsidiaries are less than 5% of the gross earnings of the holding corporation and its subsidiaries.

Under the Canada Corporations Act, a simple majority of the elected directors of a Special Act corporation must be residents of Canada and citizens of a Commonwealth country. This requirement applies to every joint stock company incorporated subsequent to 22 June 1869 by any Special Act of Parliament and any subsequent amendments to such Acts.

DURATION: Indeterminate

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## ANNEX I Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Citizenship Act, R.S.C. 1985, c. C-29  
as amended by R.S.C. 1985 c. 28 (1st  
Supp.); c. 30 (3rd Supp.); c. 44 (3rd  
Supp.); c. 28 (4th Supp.)

Foreign Ownership of Land Regulations,

DESCRIPTION: Investment

Under the Citizenship Act, a province is authorized to prohibit or restrict acquisitions of real property located in that province by non-Canadians.

The Foreign Ownership of Land Regulations are made pursuant to the Citizenship Act and the Alberta Agricultural and Recreational Land Ownership Act. In Alberta, an ineligible person or foreign owned or controlled corporation may only hold an interest in controlled land consisting of not more than 2 parcels containing, in the aggregate, not more than 20 acres. An "ineligible person" is (1) an individual who is not a Canadian citizen or permanent resident; (2) a foreign government or agency thereof; or (3) a corporation incorporated elsewhere than in Canada. "Controlled land" means land in Alberta but does not include (1) land other than land owned by the Crown; (2) land within a city, town, new town, village, or summer village and (3) mines or minerals.

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR:

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: National Treatment (Article 1102)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Air Canada Public Participation Act,  
R.S.C. 1985, c. 35 (4th Supp.)

Canada Development Corporation  
Reorganization Act, S.C. 1985, c. 49

Petro-Canada Public Participation Act,  
S.C. 1991, c. 10

Canadian Arsenal Limited Divestiture  
Authorization Act, S.C. 1986, c. 20

Cooperative Energy Act, S.C.  
1980-81-82-83, c. 108

Eldorado Nuclear Limited  
Reorganization and Divestiture Act,  
S.C. 1988, c. 41

Nordion and Theratronics Divestiture  
Authorization Act, S.C. 1990, c. 4

## DESCRIPTION: Investment

Non-residents may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For each company the restrictions are as follows:

Air Canada: 25%  
Canada Development Corporation: 25%  
Petro-Canada Inc: 25%  
Canadian Arsenal Limited: 25%  
Eldorado Nuclear Limited: ownership not restricted but voting rights restricted to 25% of votes cast at meetings  
Nordion Limited: 25%  
Theratronics Limited: 49%  
Cooperative Energy Corporation: 49%

Non-resident is defined in the cited laws to generally mean:

- (a) an individual, other than a Canadian citizen, who is not ordinarily resident in Canada;
- (b) a corporation incorporated, formed or otherwise organized outside Canada;
- (c) the government of a foreign state or any political subdivision thereof, or a person empowered to perform a function or duty on behalf of such a government;
- (d) a corporation that is controlled directly or indirectly by non-residents as defined in any

of paragraphs (a) to (c);

(e) a trust (i) established by a non-resident as defined in any of paragraphs (b) to (d), other than a trust for the administration of a pension fund for the benefit of individuals a majority of whom are residents, or (ii) in which non-residents as defined in any of paragraphs (a) to (d) have more than fifty per cent of the beneficial interest; or

(f) a corporation that is controlled directly or indirectly by a trust described in paragraph (e).

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: All Sectors

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION: Local Presence (Article 1205)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Export and Import Permits Act, R.S.C.,  
1985, c. E-19

DESCRIPTION: Cross-Border Services

Only natural persons ordinarily resident in Canada, enterprises having their head office in Canada or branch offices in Canada of a foreign enterprise may apply for and be issued import or export permits or a transit authorization certificate for goods and related services subject to controls pursuant to regulations of the Export and Import Permits Act.

DURATION: Indeterminate

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SECTOR: Automotive

SUB-SECTOR:

INDUSTRY CLASSIFICATION:

TYPE OF RESERVATION:

LEVEL OF GOVERNMENT: Performance Requirements (Article 1106)  
Federal

LEGAL CITATION: Canada-United-States Free Trade  
Agreement Implementation Act

DESCRIPTION: Investment

Article 1106(3) shall not apply to the granting of waivers of customs duties conditioned, explicitly or implicitly, upon the fulfillment of performance requirements by those manufacturers of automotive goods:

- (a) set out in Part One of Annex 1002.1 of the Canada - United-States Free Trade Agreement, in accordance with the headnote to that Part; and
- (b) for the applicable periods specified in Article 1002(2) and (3) of the Canada - United-States Free Trade Agreement to those manufacturers of automotive goods set out in Parts Two and Three, respectively, of Annex 1002.1 of that Agreement.

DURATION: (a) Indeterminate

- (b) For Part Two, until January 1, 1998; and for Part Three, until January 1, 1996 or such earlier date specified in existing agreements between Canada and the recipient of the waiver.

SECTOR: Business Service Industries

SUB-SECTOR: Customs Brokerages and Brokers

INDUSTRY CLASSIFICATION: SIC 7794 Customs Brokerages and Brokers

TYPE OF RESERVATION: National Treatment (Articles 1102, 1202)  
Local Presence (Article 1205)  
Senior Management (Article 1107)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Customs Act, R.S.C., 1985, c. 41 (2nd Supp.)  
Customs Brokers Licensing Regulations,  
SOR/86-1067

DESCRIPTION: Cross-Border Services and Investment

1. To be a licensed customs broker  
in Canada, an individual must be a  
Canadian citizen or permanent  
resident.

2. To be a licensed customs  
brokerage in Canada:  
(a) a corporation must be  
incorporated in Canada with a  
majority of its directors being  
Canadian citizens or permanent  
residents; and

(b) a partnership must be composed of  
persons who are Canadian citizens  
or permanent residents, or  
corporations incorporated in  
Canada with a majority of their  
directors being Canadian citizens  
or permanent residents.

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: Business Service Industries

SUB-SECTOR: Duty Free Shops

INDUSTRY CLASSIFICATION: SIC 6599 Other Retail Stores, Not  
Elsewhere Classified

TYPE OF RESERVATION: National Treatment (Articles 1102, 1202)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Customs Act, R.S.C., 1986, c.1 (2nd Supp.)  
Duty Free Shop Regulations,  
SOR/86-1072, as amended

DESCRIPTION: Cross-Border Services and Investment

1. To be a licensed duty free shop operator at a land border crossing in Canada, an individual must:

(a) be a Canadian citizen or permanent resident;

(b) be of good character;

(c) be principally resident in Canada; and

(d) have resided in Canada for at least 183 days of the year preceding the year of application for the licence.

2. To be a licensed duty free shop operator at a border crossing in Canada, a corporation must:

(a) be incorporated in Canada; and

(b) have all of its shares beneficially owned by Canadian citizens or permanent residents who meet the requirements of paragraph 1.

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: Business Service Industries

SUB-SECTOR: Examination Services relating to the  
Export and Import of Cultural Property

INDUSTRY CLASSIFICATION: SIC 990 Other Services

TYPE OF RESERVATION: Local Presence (Article 1205)



LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Cultural Property Export and Import  
Act, R.S.C. 1985, c. C-51

DESCRIPTION: Cross-Border Services

For purposes of the Cultural Property  
Export and Import Act an "expert  
examiner" of cultural property must be  
either a natural person who ordinarily  
resides in Canada or a corporation  
that has its head office in Canada or  
maintains one or more establishments  
in Canada to which employees employed  
in connection with the business of the  
corporation ordinarily report for  
work.

DURATION: Indeterminate

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ANNEX I  
Schedule of Canada

SECTOR: Business Service Industries

SUB-SECTOR: Patent Agents and Agencies

INDUSTRY CLASSIFICATION: SIC 7499 Other Financial  
Intermediaries, Not  
Elsewhere Classified  
(Limited to Holders of  
Intellectual Property  
Rights)

TYPE OF RESERVATION: National Treatment (Article 1202)  
Local Presence (Article 1205)

LEVEL OF GOVERNMENT: Federal

LEGAL CITATION: Patent Act, R.S.C., 1985, c. P-4  
Patent Rules, CRC, Vol. XIII, c. 1250,  
p.10053  
  
Patent Cooperation Treaty Regulations,  
SOR/89-453

DESCRIPTION: Cross-Border Services

1. To be able to represent persons  
in the presentation and prosecution of  
applications for patents or in other  
business before the Patent Office, a

patent agent must be a resident of Canada and registered by the Patent Office.

2. To prosecute an application for a patent in Canada a registered patent agent who is not a resident of Canada must appoint a registered patent agent who is a resident of Canada as an associate to prosecute the application.

3. Any firm may be added to the patent register provided that it has at least one member who is also on the register.

DURATION: Indeterminate