



## Minutes of the ECR Meeting of March 1<sup>st</sup>, 2011

**Attendance:** All except, Cyprus Lithuania, Luxembourg, Malta

### 1. Adoption of the draft agenda

Agenda adopted. EUDEL announced that the debriefing on PNR negotiations will be reported at the next ECR.

### 2. CETA State of Play

EUDEL reported that on February 18<sup>th</sup> the TPC in Brussels gave a green light to the Commission on the principle to adopt a negative list approach for the market access offer on services (mode 1, 2, and 3). DG Trade is therefore currently working on the finalization of the market access offer. There is still time for having a market access package agreed by March with Member States in order to have it exchanged with Canada by the time of the 7<sup>th</sup> round in April.

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EU DEL explained that the final interim report of the Sustainability Impact Assessment (SIA) has been published by consultants and the comments may be made until 11 March. (The interim report is available on line at the following link: <http://www.eucanada-sia.org/>)

Following the reception of comments, a draft final report will be presented to the European Commission on the 30th March and, on the same day; a civil society meeting will take place in Brussels.

CETA's impact on six key industrial sectors is still being evaluated and will be included in the draft final report (wheat and other grains; beef and pork; wood, paper, and forestry; automotive and transport equipment; textiles, clothing, leather and footwear and manufactured metal products). In general, the SIA report confirms positive macroeconomic effects previously described in the Joint Study. However, its content is much broader when it comes to issues such as environment and socioeconomic parameters.

The final report should be presented in April this year.

EUDEL also reported about the recent visit to Ottawa of EEAS managing director C. Leffler. In particular, it was reported that on the EU proposal to up-date the 1976 EU/Canada Framework Agreement, [ DELETED ]

Finally, the Portuguese delegation informed the group that Mr. Steve Verheul, Canada CETA Chief Negotiator, was in Lisbon on 24 February and had extensive contacts with Portuguese

authorities. He made the point of the situation and confirmed that negotiations could be completed by the end of the year.

### **3. Seals – WTO panel requests by Canada**

EUDEL informed that Canada has requested the establishment of 2 WTO Panels on the seals dispute -- the first concerning the 2007 Belgian and Dutch measures that prohibit the importation and the marketing of seal products (which have not yet been repealed) and the second concerning the subsequent EU measures banning the marketing of seal products. This request came before the WTO's Dispute Settlement Body (DSB) on 24 February and was opposed by the EU. EUDEL distributed the texts of the various statements made by the various parties at that time. Canada will likely make its second request at the next DSB meeting, scheduled for 25 March. If so, under WTO rules, the Panels will automatically be accepted. EUDEL also mentioned that the annual Canadian seal hunt has started with the opening of a small hunt for grey seals off Nova Scotia. The main hunt for harp seals is expected to start at the end of March in the Gulf of St. Lawrence, followed by the harp seal hunt off the Atlantic coast of Newfoundland around mid-April.

### **4. Debriefings**

#### Air Transport Agreement – Joint Committee

This meeting was the first assembly of the Joint Committee (which currently has a preliminary status) established under the terms of the of the EU-Canada Agreement (signed in December 2009) involving physical presence of participants, since the first meeting of the JC was carried out via videoconference in April last year. The meeting was led by Mr Ready, head of the Canadian Delegation and Mr Burghelle-Vernet, head of the EU Delegation.

Overall, it was a very successful meeting which allowed exchange of information and clarification as regards multiple issues relating to the application of the EU-Canada Air Transport Agreement. Three issues are worth mentioning: state of play of the ratification process, developments on the foreign ownership regime in Canada and imposition of fuel taxation by some Canadian provinces. Details of the discussions will be made available as the jointly agreed report of the meeting will be finalised.

#### High level dialogue on energy

On 3 February, the second HLD on Energy took place in Brussels. The first one took place in Ottawa in June 2008. The meeting was co-chaired by DDG Barbaso (DG ENER) and Assistant Deputy Minister Energy Sector Corey (NRCan). The atmosphere was very good, with only a tenuous tone on the issue of the Fuel Quality Directive (i.e. the oil sands issue). On the whole the meeting consisted in a broad exchange of views and information on energy policies. The discussion took a slightly more technical turn on other agenda points: shale gas, offshore oil and gas update and CCS. Consideration was given to public opinion response to these issues. Both sides noted convergence of approaches on most issues.

#### Recent Developments of Fuel Quality directive

The Commission is currently in the process of drafting the implementing measures of the Fuel Quality Directive 2009/30 amending Directive 98/70 (OJ L 140, 5.6.2009). The Commission intends to address the matter of oil sands at the latest by the end of 2011. At this stage, the Commission cannot present a definitive timetable or the final approach that will be followed for the implementation of the Fuel Quality Directive. The Commission intends to continue to engage with Canada and other stakeholders during the finalisation of this draft implementing measure.

## **5. Other business**

No issue was raised under "other business".

## **6. Investment – Canadian experience with NAFTA, Chapter 11 – presentation by Megan Clifford, Deputy Director, Investment Trade Policy Division, DFAIT**

EUDEL invited Ms Megan Clifford (MCL) of DFAIT to make a presentation about the functioning of Chapter 11 in NAFTA and to provide an assessment by the Canadian side of this instrument after several years of implementation.

MCL said that Canada has only 23 Bilateral Investment Treaties (BITs) in force (*with 12 more pending*). The older ones look similar, all being based on the old OECD model, and all contain the following elements:

- National treatment;
- A minimum standard of treatment, such as 'fair and equitable treatment';
- Expropriation only allowed if there is adequate compensation at fair market value; and
- Free movement of capital

NAFTA, Chapter 11 added the "investor-state" provisions, which allow a private investor of one Party to obtain recourse from an international tribunal for alleged breaches of the agreement by another Party. MCL added that Chapter 11 also has state-to-state dispute settlement, but this has not yet been used. She said that Chapter 11 marked the first time that two developed states had an investment agreement.

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During the question-and-answer session afterwards, some of the matters raised included the following:

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- Any cases concerning provinces? -- MCL -- Yes, but Canada is the responding state. In any such dispute it tries to work closely with the province concerned.
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## **7. Date of Next ECR meeting: April 5<sup>th</sup> 2011.**