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The Canadian Association of Research Libraries (CARL) is the leadership organization for Canada's research library community. CARL includes the 29 largest university libraries across the country, and aims to foster a sustainable, inclusive and effective Canadian research ecosystem.

Research libraries play a pivotal role in providing access to information and scholarship to tens of thousands of faculty and the over 2 million students studying in higher education institutions in Canada, a population that is integral to driving Canada's innovation and the economy. CARL is committed to public policies that foster research and innovation and acts as a national voice for the interests of the academic community and its libraries. Sections in the Canada United States Mexico Agreement (CUSMA) related to intellectual property-- specifically copyright, personal information protection, labour, and commitments to international declarations and conventions--are all of importance to CARL.

CARL appreciates the opportunity to respond to the consultation on CUSMA and share our unique perspectives along with five related recommendations.

#### **Recommendations:**

- 1. Preserve current labour provisions that streamline cross border hiring of librarians and recommit to the current CUSMA goal of eliminating discrimination in employment and occupation.**
- 2. Retain existing Canadian *Copyright Act*. Affirm obligations under the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled*.**
- 3. Reinforce critical importance of personal information protection and privacy measures.**
- 4. Recognize Canada's obligations under the *UN Declaration on the Rights of Indigenous Peoples Act*.**
- 5. Ensure books, journals, periodicals, textbooks, and other printed materials are exempt from tariffs and eligible for duty-free treatment.**

- 1. Preserve current labour provisions that streamline cross border hiring of librarians and recommit to the current CUSMA goal of eliminating discrimination in employment and occupation.**

Under CUSMA, Chapter 16: Temporary Entry for Business Persons, Section D, Appendix 2, librarians are considered one of the professional categories eligible for a work permit and exempt from the Labour Market Impact Assessment.

Canadian research libraries rely on this current provision in CUSMA that streamline hiring and reduce visa requirements for librarians. This ensures Canadian research libraries can recruit and hire the best in the field, complementing Canadian talent and ensuring our libraries can effectively fulfill our mandate to advance the university's research enterprise and educational mission, drive student success and the university's contribution to global scholarship and the advancement of knowledge.

CARL sees the eligibility of librarians for such labour exchange provisions as critical to our work and requests that it be retained in the next trade agreement.

Equally critical is the eligibility for librarians to seek permanent Canadian citizenship through successful employment. Retaining top talent in Canada supports higher education and learning, and grows a strong workforce needed to strengthen a growing Canadian economy. Canada's current immigration laws do not guarantee best-in-field talent retention when they deny permanent residency opportunities to those who have been recruited through temporary entry provisions. This creates unnecessary financial and human resource capacity hardships that could be eliminated if this permanent residency eligibility were to be built into the negotiation of professional workforce movement between the US and Canadian labour markets.

Furthermore, CARL libraries are committed to equity, diversity, inclusion and belonging. These core values underpin our physical and online environments, collections, hiring practices and overall approach to librarianship at our research institutions. Canada should take every opportunity to affirm these values and actively combat discrimination in the workplace. The existing provision in CUSMA, Chapter 23 Labour, Article 23.9 Discrimination in the Workplace could be enhanced in future agreements and complimentary legislative frameworks adopted in Canada.

## **2. Retain existing Canadian *Copyright Act*. Affirm obligations under the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled*.**

Canadian copyright law should not change as a result of trade negotiations. The current legislation sufficiently addresses infringement, enforcement and statutory damages. And as a signatory to international intellectual property agreements, such as the Berne Convention and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), reciprocal protections between nations are already appropriately addressed.

Canada's concession on the term of copyright protection in the last CUSMA negotiations was to the detriment of Canadians. Extending the term of Canadian copyright protection from the adequate term (life of the creator plus 50 years) to become the United States' longer term (life of

the creator plus 70 years) has resulted in a 20 year period in which no works will enter the public domain in Canada and has provided additional copyright protection for works that have no commercial value. This term extension tipped the balance of copyright in Canada and yet, the Supreme Court of Canada has repeatedly affirmed that balancing creator and user rights is a critical premise of the law and is integral to the Canadian *Copyright Act*.

If Canada were to consider any changes to the *Copyright Act* as a result of trade negotiations, careful assessment must be undertaken and only exceptions that would restore the balance should be examined. For example, making the list of fair dealing purposes illustrative as opposed to the current exhaustive list or establishing an exception that permits libraries, archives and museums to circumvent technological protection measures for non-infringing purposes would help restore balance. Both of the proposed would enable and enhance user access to materials that drive innovation and research in Canada and would allow libraries to preserve critical historical and born digital resources.

It should also be noted that making the list of fair dealing purposes illustrative would bring Canadian copyright law into alignment with the United States (U.S) *Copyright Act*, which offsets its life plus 70 term of copyright protection with an expansive and flexible fair use provision.

CARL and others in the library and academic community detailed the negative impact of term extension in previous consultation submissions. As a long time advocate for fair and balanced copyright law, CARL and its member institutions are unwavering in our commitment to a robust public domain, to fair dealing and reasonable limits and exceptions that allow information consumers – students, educators, citizens -- to use and learn from Canada's wealth of creative works. Canadian CUSMA negotiations regarding Chapter 20, Intellectual Property Rights, Section H, Copyright and Related Rights and Section J, Enforcement should not result in changes to the Canadian *Copyright Act* without a comprehensive consultation process.

While CUSMA negotiations should not impact Canadian copyright law, the negotiations provide an opportunity to affirm commitments made under the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled*. Canada, the United States and Mexico are all signatories of this critically important *Treaty* that allows intermediaries in adoptive countries to create, and share across borders, accessible formats of existing print works, without repercussion. The *Treaty* helps an estimated 285 million people worldwide to have access to books in accessible formats such as large print, braille, or audio.

### **3. Reinforce critical importance of personal information protection and privacy measures.**

As digital trade continues to expand, it is critically important that Canada safeguards personal information and maintains autonomy over its privacy protections. Provisions in CUSMA, such as those in Chapter 19, Digital Trade, Article 19.8 "requiring signatories to maintain and adopt legal frameworks" must allow Canada the flexibility to implement privacy laws and regulations it

deems necessary. This is essential not only to protect Canadians but also to ensure Canadian businesses remain competitive in the global digital economy.

Canada should also seize the opportunity to improve upon existing Canadian privacy protections and ensure Canadians are adequately protected in the digital economy. To do so, Canada could look to the European Union (EU) General Protection Regulation (GDPR) as a model. As articulated in CARL's submission on a possible EU Digital Trade Agreement, the GDPR provides an overarching comprehensive law with rights that protect personal data globally, as opposed to the Canadian approach, which addresses privacy protections through a combination of federal and provincial laws, Canada's Privacy Act, and the Personal Information Protection and Electronic Documents Act (PIPEDA).

There are three key areas in which the GDPR is more effective and robust than existing Canadian privacy laws.

- The GDPR explicitly grants individuals the right to have their personal data erased and the right to be forgotten.
- The GDPR includes enforcement provisions and imposes substantial fines for non-compliance with privacy law.
- The GDPR defines categories of sensitive data and mandates additional safeguards to ensure protection.

Adopting these provisions and aligning with the EU GDPR approach to privacy would modernize Canadian privacy laws and ensure Canadians are afforded comprehensive privacy rights and protections both at home and globally regardless of trade agreement provisions.

Furthermore, it is essential that the next CUSMA agreement does not impact Canada's ability to comply with EU GDPR standards and secures a competitive position for Canadian businesses in the global digital and data economy.

#### **4. Recognize Canada's obligations under the *UN Declaration on the Rights of Indigenous Peoples Act*.**

Canada should recognize its legal obligations under the *UN Declaration on the Rights of Indigenous Peoples Act*. Currently, Chapter 32, Exceptions and General Provisions, Article 32.5 Indigenous Peoples Rights recognizes a broad general exception allowing for the fulfilment of legal obligations to Indigenous peoples, however, in addition to retaining this section, Canada could explicitly reference the *UN Declaration on the Rights of Indigenous Peoples Act*, specifically, protections and recognition of Indigenous Knowledges and traditional knowledge in Articles 11.1, 11.2, Articles 31.1 and 31.2 of the Schedule to the *UN Declaration on the Rights of Indigenous Peoples Act*. This would be a tangible action with respect to the Government of Canada's work in advancing reconciliation with Indigenous Peoples, as articulated in Prime Minister Carney's May 21, 2025 Mandate Letter.

## **5. Ensure books, journals, periodicals, textbooks, and other printed materials are exempt from tariffs and eligible for duty-free treatment.**

Despite the large-scale shift towards digital delivery of content, academic libraries still purchase and lend physical items, with some of our member libraries dedicating upwards of 15% of their collections budgets towards the purchase of print materials. Compounded by provincial budget cuts and a weak Canadian dollar, tariffs and duties on books and other print materials would pose a significant challenge to libraries in upholding their collections mandate.

Students would also face additional additional costs when purchasing textbooks and other educational resources, which have already been noted to be unaffordable to most.

It is important to clarify that tariffs are unlikely to have any positive outcome for Canadian creators, including authors of research and educational materials. Scholarly materials are largely non-fungible and libraries are not in a position to find Canadian made alternatives to critical research and teaching materials generated in the U.S., forcing libraries to reduce the amount of educational materials they can purchase to support teaching and learning.

Furthermore, the Canadian and U.S. publishing sectors are intertwined. Often, Canadian creators choose to publish with U.S.-based publishers, and many Canadian publishers use facilities located in the U.S. for the production and printing of their materials. As a result, Canadian creators and publishers would be negatively impacted by tariffs and duties.

To ensure Canadian research libraries and universities can advance and support innovative research and education agendas books, journals, periodicals, textbooks, and other printed materials must be exempt from tariffs and remain eligible for duty-free treatment. Maintaining *de minimis* exemptions and thresholds for duties and taxes on goods from the U.S. and Mexico is also critical, as these provisions facilitate efficient library operations and enable the seamless exchange of materials across borders.

CARL thanks Global Affairs Canada for consulting on the next round of CUSMA negotiations. We are confident that the government will work to ensure Canada's interests are represented and protected in future trade agreements and appreciate the opportunity to share our recommendations.