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Getting Across the Finish Line: Canada and the Trans-Pacific Partnership

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On October 18, Canada and the EU announced an agreement on the provisions of a Canada-EU Trade Agreement (CETA). The concessions that Canada was willing to make for the CETA may indicate a path forward in terms of finding the balance necessary to achieve a winning outcome with Asia Pacific countries, especially through Trans-Pacific Partnership (TPP) Agreement. The TPP not only has tactical value in improving and protecting market access, but it is also the only plurilateral trade vehicle in Asia in which Canada participates. Moreover, the TPP's benefits for Canada include trade liberalization, job growth, and an opportunity for Canada to re-establish its economic credentials in the region. However, as Canada proceeds, it must bear in mind some tactical considerations. First, it must be sure to preserve the trade gains made by NAFTA, which could be undermined if the US broadens access to all TPP partners or offers benefits in selected sectors. Second, it must use the opportunity to be an equal partner in market-opening negotiations to ensure improved access.

On October 18, almost four and a half years since their first negotiating session on May 6, 2009, Canada and the EU announced an agreement on the provisions of the Canada-EU Trade Agreement (CETA). The conclusion of this agreement is the first major success of Prime Minister Harper's trade agenda. Apart from minor agreements with some Latin American countries and Israel and Jordan,¹ the Harper government's ambitious trade agenda has gone unfulfilled, especially in Asia, where a number of negotiations have started but none has been completed.² But that may be about to change. The concessions that Canada was willing to make to reach agreement with the EU would appear to indicate the way forward in terms of finding the necessary balance for Canada to achieve a winning outcome in trade with Asia Pacific countries. Given the current difficulties these countries are facing in reaching consensus on a regional trade pact, a leadership role by Canada would be positive.

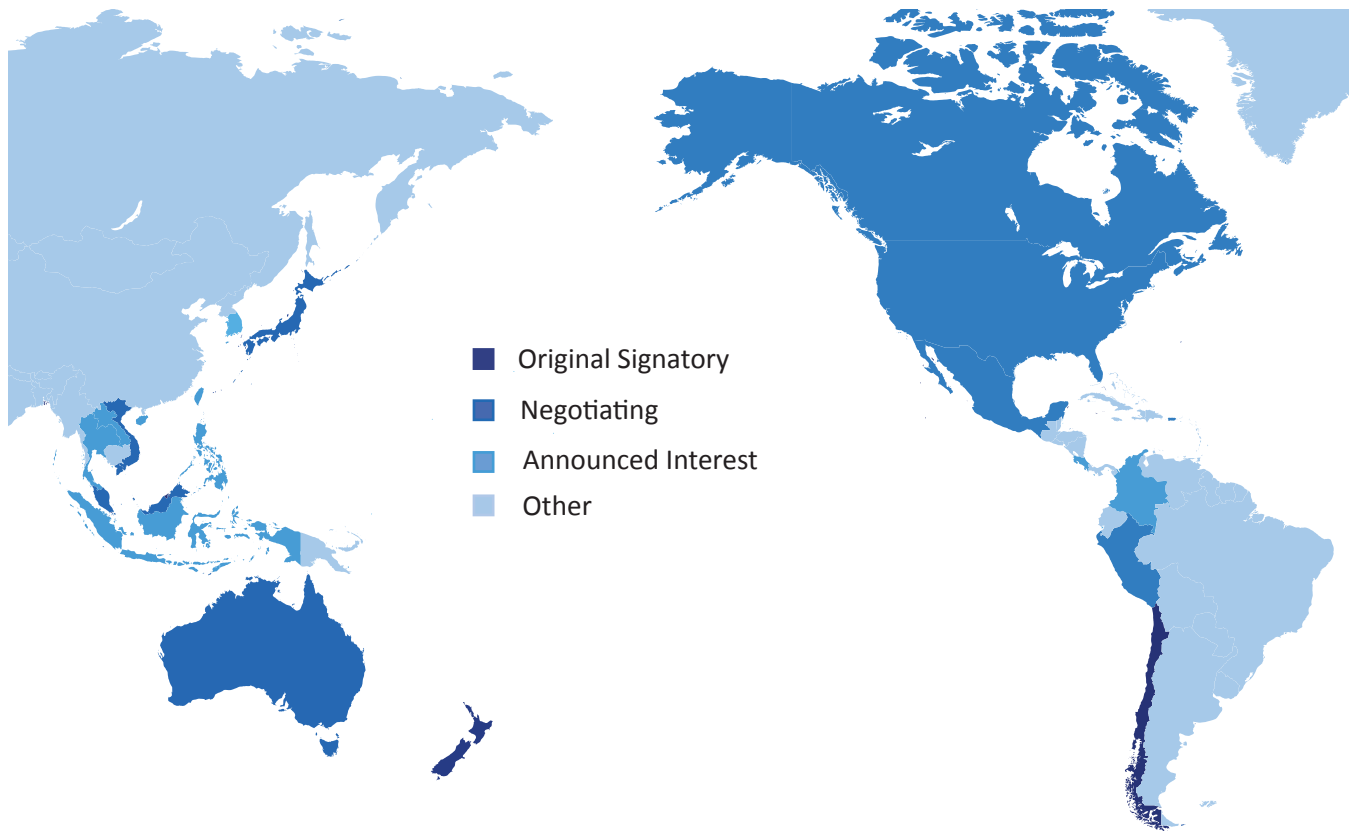
The key vehicle for Canada's Asia Pacific trade agenda is the Trans-Pacific Partnership (TPP) Agreement. The TPP, which encompasses twelve nations on both sides of the Pacific, has expanded as the negotiations progressed, with the US joining Brunei, Chile, New Zealand, the original Pacific Four,

or "P4," in 2008. Australia, Peru, and Vietnam joined later that year. Malaysia joined in 2009, and Mexico and Canada followed in 2012. With the recent addition of Japan, the TPP was transformed from what had been largely a US-driven negotiation (with the addition of smaller South American and Asia Pacific economies) to a much broader agreement with the inclusion of a major Asian economy.

For some of these Asian economies, the TPP's main promise lies in the opportunity to access the US market. Four countries - New Zealand, Malaysia, Vietnam and Brunei - do not have a bilateral free trade agreement with the US. Australia, Singapore, Chile and Peru do have such agreements but these will likely be subsumed by the TPP and made more comprehensive. Canada and Mexico already have preferential access to the US market through NAFTA. In some areas however, the TPP is expected to go beyond NAFTA, which needs to be updated. For the US, the TPP is a concrete expression of the Obama Administration's shift to Asia, and a way to engage Asian economies and establish a US trade footprint in a region where much of the trade architecture is centred on ASEAN.³ The US is not party to any of the so-called "ASEAN Plus" agreements, although four ASEAN countries are part of the TPP process.



Countries in TPP



Tactical Considerations for Canada

As it pursues its TPP objectives, Canada must bear in mind some key tactical considerations, both defensive and offensive. First, it must preserve the trade gains of NAFTA. Canada currently enjoys preferential market access to the US market, but the value of this preferential access could be undermined if the US broadens access for all TPP partners or offers benefits in selected sectors. On the export front, some products exported from the US could be denied improved market access in other TPP countries because of complicated rules of origin that could discriminate against products with substantial Canadian content, thus undermining North American supply chains. By being at the table, Canada can protect the integrity of the North American industrial base and ensure that its interests are protected when plurilateral discussions about market access to the US take place. Canada needs to ensure that the benefits of any improved market access in other TPP countries extend to Canada and to products containing substantial Canadian content. This defensive objective is a key reason Canada worked so hard to be admitted to the negotiations even after the process had begun.

Second, Canada has the opportunity to participate as an equal partner in market-opening negotiations. Here, Japan, (and Korea if it eventually joins the TPP negotiations, as it has recently indicated it is interested in doing) is particularly important. Although Canada recently launched its own bilateral trade negotiations with Japan and has been in trade negotiations with Korea since 2004, we cannot afford to put all our eggs in the bilateral negotiating basket. The stalled negotiations with Korea demonstrate the pitfalls of such an approach. Canada does not have as much leverage as the US when it comes to striking bilateral deals, a bitter lesson Canada learned from the Korean experience. The US (and the EU) started negotiations with the Koreans some time after Canada initiated discussions, but both of them have successfully concluded and implemented bilateral agreements with Korea while a potential Canada-Korea agreement remains unfinished.⁴ Canadian exporters to Korea are finding themselves shut out by preferences given to their US and EU competitors. The same challenges could emerge in our trade with Japan, given that Canada and the US compete in many product categories. Ensuring that Canada is at the table with the US and others in negotiating improved market access to the Japanese market is therefore an important goal.

The TPP has not been easy to negotiate. It has 29 chapters and seeks to establish disciplines in some new areas, including e-commerce and data flows. It includes services, trade facilitation, intellectual property rights and investment and focuses as much on “behind the border” measures as it does on barriers at the border. It has gone through 20 formal rounds of discussion in addition to a number of intercessional meetings, all of which have been made more complex by the late arrival of new entrants such as Mexico, Canada and now Japan.



Leaders from member states of TPP in 2010 Source: Wikimedia Commons

TPP rhetoric emphasizes a “gold standard 21st Century agreement” with “everything on the table.” The reality is likely to be somewhat different. Some significant exceptions or lengthy phase-ins are going to be required in order to achieve agreement. Japan, as expected, has put forward its five “sacred” agricultural areas that must be protected (rice, wheat, beef, dairy and sugar in the form of sugar beets), and other countries also have their sensitive areas. The US will protect its own sugar industry, as well as textiles and footwear. In the US, particularly in Congressional debate, there are increasing calls to include measures to deal with currency manipulation, which could be a show stopper. Vietnam will be loath to accept early disciplines on its state-owned enterprises. Malaysia will seek to protect its preferences for ethnic Malays in its government-procurement regime. Australia has been firmly opposed to including an investor-state clause (having been sued by Philip Morris under terms of the Australia-Hong Kong Agreement over Australia’s health-related plain-packaging requirements for tobacco products). Australia and New Zealand, and presumably Canada, have concerns over the financial impact on public health care systems of any extension of the length of patent protection for brand-name pharmaceuticals. Canada, of course, has declared that it will defend supply management in the dairy industry (notwithstanding increasing calls within Canada to dismantle this trade-distorting and outdated system), a position that puts it at odds with New Zealand and Australia.

Given all the exceptions, will the TPP be just another trade agreement with more exceptions than actual improvements to market access? We won’t know until the ink is dry, but there are reasons to hope that despite compromises that will have to be made, the TPP will still make a significant contribution to reduction of trade barriers in the region and will provide impetus to global trade liberalization measures. For example, if the TPP is successful in rationalizing the conflicting rules of origin that exist across the region, simplifying supply chains and customs procedures, strengthening investor protection, improving respect for intellectual property laws, addressing e-commerce issues, opening services markets while maintaining high standards, and updating the rules for trading in the digital era, this will be a significant achievement. Because of all that is at stake, Canada recognizes that it needs to be part of this process. Much of the leverage to conclude an agreement rests with the US; if the US is prepared to modify some of its ambitious negotiating objectives in the areas of intellectual property protection, the environment and treatment of State-Owned Enterprises (SOEs), it will be easier for the other partners to reach agreement. The conundrum, however, is that the more US negotiators compromise, the more difficulty they are likely to face in securing Congressional approval for the negotiated outcome. Japan is the other major potential dealmaker or dealbreaker. How far is Japan prepared to go to actually open its long-protected agricultural markets? And will it be able to achieve domestic consensus if it does?

Canada’s Strategic Considerations

The TPP is not only important for its tactical value in improving and protecting market access for Canadian products, but it is also the only plurilateral trade vehicle in Asia in which Canada participates, giving it immense strategic significance for Canadian interests. Canada has been working hard to win back its credibility in Asia. The legacy of our earlier engagement with the region was largely squandered through a decade or more of neglect in the late 1990s and the first decade of this century. In the past, Canada played a vital role in Asia, including participating in the Colombo Plan in the 1950s, establishing a dialogue partnership with ASEAN in the late 1970’s, being a founder of APEC’s predecessor (the Pacific Economic Cooperation Council, or PECC) in 1980 and becoming one of the economies to establish APEC in 1989.

In recent times, Ottawa has re-focused on Asia. For example, Ministers travel regularly to the region, and the Prime Minister and the Governor-General have made significant time commitments in travelling to Asian capitals. Canada has expanded its diplomatic presence modestly in the region. A Canada-ASEAN Business Council has been established in

Singapore. And Canada has made it known it would like to join forums such as the emerging East Asia Summit (EAS) process. Canada is the only ASEAN dialogue partner that is not a member of the EAS.

Locking into a successful TPP would be a significant long-term commitment. For Canada, the TPP can be both an end in itself, with its trade liberalization and job growth benefits, as well as a means to an end, by allowing Canada to re-establish its economic credentials in the region. Beyond its current negotiating parameters, the TPP is seen as one of the agreements that could eventually become the foundation of a Free Trade Area of the Asia Pacific (FTAAP), the granddaddy of all regional agreements that would include the ten ASEAN countries, China, Japan, Korea, India, Australia and New Zealand as well as the NAFTA countries and the South American countries engaged in the TPP. The other agreement in play at the moment is the ASEAN-centred Regional Comprehensive Economic Partnership (RCEP) process, which includes all the major economies in Asia but none from the North American side of the Pacific. PECC has estimated, based on economic modeling work done by Professors Peter Petri and Michael Plummer,⁵ that a twelve-country TPP will lead to economic gains of US\$295 billion by 2025. The RCEP, which includes ASEAN plus China, India, Japan and Korea and others, will lead to gains of US\$500 billion (the larger gains coming from reduction or elimination of higher existing barriers). The real payoff, however, comes with a combined TPP and RCEP in the form of an FTAAP, which will bring gains of US\$1.9 trillion in 2025. Canada needs to be there if this comes to fruition and the TPP is the best way forward for us.

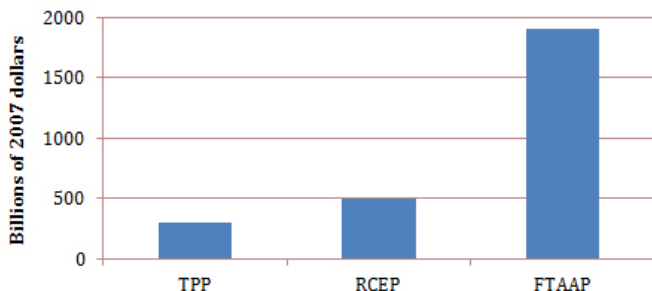
Now that the Canada-EU agreement has been completed, it is time to double down on the TPP. The CETA granted the EU some market concessions in the sacrosanct dairy area, doubling the duty-free import of cheese. To judge by the vocal opposition from the Canadian dairy lobby, this

extremely modest market opening signals the beginning of the end of that industry. These concessions, however, give Canadian consumers some minor relief from the system that imposes a “tax” of several hundred dollars on each and every Canadian family through artificially inflated dairy prices. The government should use the TPP to start to wean this protected and coddled industry off the support mechanism that it has enjoyed for approximately 40 years.

In the area of pharmaceutical patents, Canada and the EU reached a sensible compromise that will partially meet the needs of brand-name drug companies while shielding Canadians and provincial health plans from significant and sudden increases in drug prices. A deal on government procurement will open most procurement markets at the provincial and municipal levels, which will not only benefit taxpayers in these jurisdictions but will also open opportunities for Canadian companies operating in Europe. Review of direct investment from EU companies will now be subject to a much higher threshold. These are the sort of compromises that Canada should be willing to make to help achieve success in the TPP. We hope that our negotiators have been given a mandate that will allow them to do so. The stakes are high for Canada and while Canada alone cannot guarantee success of a plurilateral negotiation involving twelve countries, we can be helpful and creative in finding solutions and compromises to move the negotiations toward completion.

An ambitious goal of completion by the end of this year had been set by TPP leaders meeting on the margins of the APEC Summit in Bali in October, and a last minute push by TPP trade ministers has just taken place in Singapore concluding on December 10. They were not able to conclude the agreement and further negotiations will take place in January. Reportedly the unwillingness of Japan to open agricultural and automobile markets was at least partially responsible for the impasse.⁶ While the obstacles to concluding an agreement are many, it is nonetheless important to maintain momentum. Even once an agreement is completed, the ratification process will not be quick. It is estimated, for example, that it will take two years to implement the Canada-Europe agreement. The TPP could be more complicated, in part because at the moment the US Administration does not have trade negotiating authority from Congress, and there are a large number of congressmen from both parties who have opposed granting this authority. But the ratification process cannot start until the agreement has been concluded so the sooner a balanced deal is achieved, the sooner the ratification process can begin. The Harper government got the CETA over the finish line. Now let’s do the same for the TPP. We cannot afford to miss this opportunity.

Estimated Income Gains by 2025 (Petri and Plummer, 2012)



- ¹ This includes Chile, Colombia, Panama, Peru and most recently Honduras. Canada also has bilateral FTAs with EFTA, Israel and Jordan.
- ² This includes negotiations with India, Japan, Korea and Singapore. An initial study with Thailand has not led to negotiations.
- ³ The so-called ASEAN Plus trade agreements have been rolled into a comprehensive trade negotiation encompassing the 10 ASEAN nations plus China, India, Korea, Japan, Australia and New Zealand, known as the Regional Comprehensive Economic Partnership (RCEP).
- ⁴ In late November of this year, Canadian officials travelled to Seoul to discuss restarting the Canada-Korea talks after a five-year hiatus.
- ⁵ Peter A. Petri and Michael G. Plummer, The Trans-Pacific Partnership Asia-Pacific Integration: Policy Implications, Peterson Institute for International Economics, Policy Brief 12-16, July 2012, <http://www.piie.com/publications/interstitial.cfm?ResearchID=2146>.
- ⁶ US-Japan Impasse Dogs Asia-Pacific Trade Talks; William Mauldin and Natasha Brereton-Fukui, December 10, 2013, WSJ Online; <http://online.wsj.com/news/articles/SB10001424052702304744304579249753230041942>

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