

## **Canada and the TPP: A Long and Winding Road**

Hugh Stephens,  
Executive-in-Residence, Asia-Pacific Foundation of Canada  
Vice-Chair, Canadian National Committee on PECC

Symposium on the TPP, Hosted by the Chinese National Committee on PECC  
Beijing, December 7, 2012

When, on June 29, 2012, in Los Cabos, Mexico, Canada was invited to join the TPP negotiations, it marked an important milestone on what has become a long and winding road. Mexico's invitation had been extended a day earlier and there was much expectation that both countries would be invited to participate in the process simultaneously, and much consternation when the invitation to Canada was not forthcoming. That was soon rectified but it demonstrated both the difficulty that Canada has faced in convincing the US Administration, and some of the other TPP partners, that its presence would benefit the current participants and the reality of a degree of Canadian ambivalence toward the TPP process.

The fact that Canada was not particularly welcome is somewhat surprising given Canada's economic heft, by most counts the world's 10<sup>th</sup> or 11<sup>th</sup> largest trading economy. In fact, in his letter to Congress informing it of the Administration's desire to include Canada in the TPP, US Trade Representative Ron Kirk noted that Canada is already the most significant destination for US exports, totaling \$337 billion in 2011. Ambassador Kirk went on to say "We have conducted in-depth discussions with Canada about the standards and objectives that the TPP countries are seeking, particularly in those areas where the standards and objectives are higher than those that exist in NAFTA. Canada has assured us of

its willingness to negotiate on these issues and its preparedness to achieve these high standards together with other TPP countries”.<sup>1</sup>

It took a considerable time for Canada to get to that point even though it has had a long history of engagement with the Asia Pacific region; it became an ASEAN dialogue partner in 1977, it was a founding member of PECC in 1980 and a founding member of APEC in 1989. It hosted the APEC summit in Vancouver in 1997 but since that time official Canadian interest in Asia has seemed to wane. Part of the reason may have been a succession of minority governments in Ottawa from 2004 through 2011 which resulted in a lack of interest in any issues beyond the purely domestic. On the trade front, after the completion and implement of NAFTA in the 1990s, much effort and hope went into the completion of the Do'ha Round but as it became increasingly apparent that the Round was headed for a stalemate, Canada, like others, began to look to bilateral solutions. Negotiations for free trade agreements had already been opened with Singapore in 2001 and with South Korea in 2004. Neither has come to fruition. Agreements have been concluded and implemented with Columbia, Peru, Jordan and EFTA in recent years but no agreement has been signed with an Asian economy, even though new negotiations have been launched with India and Japan and exploratory talks held with Thailand. It was against this backdrop that Canada was offered, and rejected, a chance to join the original P4 group back in 2006. When the US climbed on board and the P4 morphed into the TPP, with the addition of Australia, Peru and Vietnam in 2008, and later Malaysia,

---

<sup>1</sup> Amb. Ron Kirk to Speaker John Boehner and Senator Daniel Inouye, July 10, 2012.

Canada still expressed no interest. A number of commentators in Canada lamented the fact that Canada was not only excluded but showed no interest in trans-Pacific trade developments.<sup>2</sup>

There were, and are, reasons behind Canada's reluctance to embrace trade with TPP partners as wholeheartedly as one might expect. First, the mighty US market has always dominated Canadian consciousness. That was the driving force behind the Canada-US FTA, which was concluded in 1989, and expanded by NAFTA in 1994. Beyond the default setting of the ease of trading with its close economic and geographical partner, there were concerns in Canada that "sensitive" issues would have to be addressed if it entered into talks with countries like New Zealand and Australia. For many years, the Canadian dairy, poultry and egg industries have been regulated and protected by a supply management system. While many countries have dispensed with supply management, Canada has clung to this outmoded and economically inefficient system largely as a result of effective lobbying by the dairy industry. The system has reached the point of causing major distortions in the Canadian economy, where it is estimated that the costs of keeping 14,000 dairy farmers (down from 145,000 when the system was instituted in the 1970s)<sup>3</sup> in business cost the Canadian consumer \$4 billion between 2008 and 2010<sup>4</sup> and results in each legal

---

<sup>2</sup> Yuen Pau Woo, "Canada Risks being left out of Asia Pacific Trade Deal", Asia-Pacific Foundation of Canada, November 14, 2008 (<http://www.asiapacific.ca/editorials/presidents-view/24085>)

<sup>3</sup> <http://www.cbc.ca/news/politics/story/2012/06/21/pol-supply-management-not-politically-damaging.html>

<sup>4</sup> Western Producer, Sept. 14, 2012 (<http://www.producer.com/2012/09/supply-management-costs-public-report-%E2%80%A9/>)

dairy cow in Canada being worth about \$28,000<sup>5</sup> on a farm where the average quota is worth \$1.4 million. So bizarre and distortive is this system that Canadian pizza makers have been busted for smuggling cheese across the US border (makers of frozen pizza, which is an export industry, have an exemption). There are other defensive interests for Canada as well, such as protection for cultural industries, but the politically difficult issue for the government, bar none, is supply management.

The “inertia factor” of preferring trade with the US is still important but while the US is still far and away Canada's largest trading partner, its share is declining and it is apparent to many that Canada needs to be more than a single-trick pony. With the growing economic rise of Asia in general and China in particular, there have been increasing calls for Canada to strengthen ties with other partners as a priority. Canada has invested considerable effort in trying to reach a ground-breaking bilateral agreement with the EU, and that agreement is close to completion, but links with Asia are still weak. As a result, there has been growing pressure from the business community for Canada to take some bold moves to re-insert itself into Asia. With APEC unable to move quickly on trade liberalization owing to its consensus based decision making and relatively unwieldy size, the TPP suddenly presented an opportunity to “get back in the game”. Canada started making some tentative moves in 2010, sending officials to sound out what kind of a reception a Canadian bid to join would receive. They

---

<sup>5</sup> Macdonald-Laurier Institute, “Milking the System: How Agricultural Supply Management Impedes Trade Opportunities and Eggregiously Transfers Income”, June 2012.

were not encouraged. Apart from New Zealand's well known antipathy to Canada's supply management system for dairy, the US response was guarded—and distinctly cool.

Several reasons have been advanced for the lack of enthusiasm on the part of the United States for Canadian participation. Despite being a NAFTA partner, the US has had ongoing trade issues with Canada that it no doubt felt would not be helpful additions to the negotiating agenda of the TPP. Canada would be more of a hindrance than a help. One of the principal US concerns was IPR protection, where the US was distinctly unhappy with Canada's weak copyright regime, as well as issues regarding pharmaceutical patents. Canada, in fact, has for several years figured on USTR's "Priority Watch List" of countries which the US considers to be of priority concern because of inadequate intellectual property policies that disadvantage US business. Canada shares this "distinction" with China, Russia, Pakistan, Thailand, Ukraine and a few other countries. Canada also has barriers in services trade in a number of areas regarding telecommunications and "cultural industries", notably publishing and broadcasting. In this regard, it shares similar positions with Australia and its addition would not be helpful to the US. Finally, there was the issue of logistics. Adding a new and potentially "difficult" partner part way through the negotiations would do nothing to speed up what was already becoming a protracted process. So while Canada wanted in, no-one was extending an invitation—and without an invitation, Canada wouldn't ask lest it be rebuffed.

Nevertheless at the APEC summit in Honolulu, encouraged by Mexico's move to put its hat into the TPP ring (and perhaps prodded into the realization that Canada had better start looking more to Asian markets because of President Obama's decision to delay--and later deny--permission for the Keystone XL pipeline that would significantly increase Canadian oil exports to US markets), Prime Minister Harper took the public plunge and announced that the TPP was something "that Canada was interested in moving forward on". International Trade Minister Ed Fast was soon dispatched on a trans-Pacific odyssey of epic proportions. Between February 2012 and May, Fast visited all TPP capitals but Hanoi, and he was to cover that base shortly after Canada received its conditional invitation. In each, he secured either supportive or at least benign statements regarding Canadian participation. This admirable demonstration of determination did not go unnoticed and the effort to "surround" the US by getting the other partners on board was partially responsible for shifting attitudes.

The other was direct lobbying by Canadian officials in Washington. US businesses with operations in Canada were directly approached and encouraged to make their views, (presumably supportive), known to the Administration. Many Canadian and US industries are closely integrated and US businesses with operations in Canada (or Mexico) were becoming concerned that the exclusion of their Canadian operations from TPP preferences could complicate supply chains. There was a feeling that it was illogical to keep out the US' largest trade partner if

they wanted in, and perhaps there would be an opportunity to update and complete some of the unfinished business of NAFTA. Moreover, Canada was a NAFTA partner and was aligned with the US on a number of issues, including controversial “investor-state” provisions. The competing perspectives on Canada were played out in Washington between industry groups, Congress and various agencies within the Administration. Finally, the Prime Minister’s office reached out directly to the White House and the deal was closed in June of this year.<sup>6</sup>

There were some statutory requirements to be completed in the US before Canada (and Mexico) could be formally admitted, with the Administration being required to inform Congress of its intention to admit the two countries and to hold hearings. While this was taking place in Washington, a vocal and active anti-TPP chorus emerged in Canada, fuelled by those in society with a mistrust of trade liberalization generally (anti-WTO, anti-ACTA etc) but also because of the terms on which Canada was admitted. The “anti-just-about-everything” nature of the opposition was perhaps best summed up by a quote from the advocacy group, Council of Canadians. The TPP, said the Council, “...could lead to the dismantling of Canada’s important supply management regimes for dairy, poultry and egg production; the race-to-the-bottom potential in a proposed regulatory harmonization chapter; extreme intellectual-property protections for big drug companies that would limit access to life-saving medicines; investor-state provisions that would allow companies to sue governments over rules to protect

---

<sup>6</sup> Globe and Mail, June 16, 2012 (<http://www.theglobeandmail.com/news/politics/harpers-chief-of-staff-takes-lead-on-trans-pacific-talks-irking-cabinet-members/article4296863/>)

the environment; government procurement restrictions and copyright rules that undermine internet freedom”.<sup>7</sup> The fact that Canada might have something to gain from greater market access in the region seems not to have occurred to the Council. Its defence of supply management is more surprising since its self-professed mandate is to advocate for “social, economic and environmental justice in Canada and around the world”. Where the economic justice lies in adding to the cost to consumers of basic foodstuffs that are under supply management where studies have shown that the burden falls disproportionately on the poor, is hard to understand.

Apart from the arguments of the anti-trade lobbies, there was criticism of the TPP process, particularly the requirement that Canada (and Mexico) would have to accept all the conditions and text negotiated and agreed to up to the time of their entry, sight unseen.<sup>8</sup> This was to avoid the problem of latecomers re-opening agreed language and delaying the negotiations. While later entry may have weakened some of Canada’s bargaining power, it is important to remember that in any trade negotiation the really difficult issues only get resolved at the end so it is unlikely that Canada has been excluded from any major decisions. Moreover, it is of course not obliged to accept any conditions that may be deemed completely unacceptable. If, at the end of the day, there are insufficient benefits for Canada out of a TPP deal, there is no requirement for Canada to sign on to the final package. That is an unlikely outcome.

---

<sup>7</sup> Council of Canadians website, ([www.canadians.org](http://www.canadians.org); accessed Nov 25, 2012)

<sup>8</sup> Scott Sinclair, “Canada’s Humiliating Entry into TPP Trade Deal”, The Tyee, 26 June 2012 (<http://thetyee.ca/Opinion/2012/06/26/TPP-Trade-Deal/>)



However, while the opponents of the deal were not slow to make their views known, the business community and groups advocating closer ties with Asia-Pacific have also weighed in with counter-arguments. These essentially point to the need for Canada to establish, or re-establish, a foothold in the region and to be ready to participate in Asia's anticipated steady economic growth.<sup>9</sup> While (for the moment), neither Japan, Korea or China is part of the TPP, it nevertheless is an important forum in which Canada now has a seat. The RCEP may, or may not, eventually rival or parallel the TPP but for Canada, which is not even a member of the EAS, aspiring to be part of an ASEAN centred bloc is a step too far. Thus, for Canada, being part of the TPP is an essential element of any Asian strategy.

Joining the TPP as a latecomer required aggressive diplomacy, considerable determination, and some political risks and potential "concessions" on the part of Canada. Those concessions, if they involve reform of supply management, will in fact be the proof of the classical economists' argument that the greatest benefit from trade liberalization falls to the country bringing down its own barriers. The TPP, and its broader benefits, may just be the vehicle that the Conservative government needs to bring about needed reform of several closed areas of the Canadian economy. It has already provided additional impetus for much-needed

---

<sup>9</sup> See, for example, "Canada's Place in the TPP should be a 'no-brainer', CCCE official says", Canadian Council of Chief Executives, June 8, 2012 (<http://www.ceocouncil.ca/pacific/economy/canadas-invitation-to-the-tpp-negotiations-should-be-a-no-brainer-ccce-official-says>)

updating of copyright legislation, and its gains may well extend beyond opening up markets abroad for Canadian exports of goods and services.

Canada has now officially joined the negotiations at the 15<sup>th</sup> Round taking place in Auckland this week. An ambitious target for completion of the TPP has been set for October of 2013. Whether the political will is there to make this a truly ambitious, gold-standard, 21<sup>st</sup> Century agreement addressing behind-the-border measures as much as remaining border measures, with no sectors excluded, remains to be seen. If the TPP achieves its potential, and provides a platform for wider trade liberalization beyond the now 11 members, then the long and winding road will have lead to the right place.