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THE TRANS-PACIFIC PARTNERSHIP (TPP): AN OVERVIEW

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EXECUTIVE SUMMARY

Canadians may have good reason to feel generally positive about the outcome of the negotiations that resulted in the Trans-Pacific Partnership agreement in October. There are, after all, many important sectors that will benefit from the mega-regional trade deal, and in its current form, the agreement will benefit Canada overall. But it would be premature to allow hopes to get too high just yet. There are still a number of things that must go right for Canada to fully enjoy those benefits, and there is no guarantee that they will.

One of the major uncertainties is whether the most important TPP country of all, the United States, will even approve and implement to the deal. While the current administration in Washington is obviously a champion of the TPP, Americans are embarking on what will be a heated electoral cycle, both a presidential election and congressional elections. The politics of the TPP are very much unsettled in the U.S. in a way that they are not in all the other TPP countries, including in Canada, and it is not entirely implausible that the TPP as it has been negotiated will never see the light of day. Without U.S. congressional approval, the deal is as good as dead.

Even if the TPP is implemented as negotiated, the deal fails yet again to deal with many of the trade irritants between Canada and the U.S. that have existed since before the Canada-U.S. Free Trade Agreement, but have yet to be cleared up. Both Canada and Mexico were shrewd enough to realize that once the U.S. entered into TPP negotiations, it was incumbent on them both to join in as well, to preserve their preferential trade status in the American market, which they had already secured through NAFTA, and would not want to lose. But since NAFTA and even for many years before, the U.S. has continued to utilize countervailing tariffs and related measures to interfere with the intended free-flow of trade across North American borders. The TPP does not bring any further discipline to these practices, again leaving Canada to deal with ongoing irritants in its most significant trading relationship. And if Canada is ever to enjoy the TPP's full potential benefits, there will also need to be a regulatory realignment of standards in our U.S. trading relationship, reducing barriers to entry in areas such as approval for pharmaceuticals. That is not part of the TPP as negotiated.

That said, there are provisions in the TPP that have not previously appeared in Canadian trade deals, and could have interesting and possibly important impacts. Specifically, the TPP includes provisions that require state-owned enterprises (SOEs), common in many TPP countries, to operate on a more commercial and transparent basis. Provisions on labour and the environment are integral to the agreement in a way that they are not in NAFTA, and are spelled out clearly. And there are novel chapters on new technologies, including digital trade and e-commerce, which raise interesting questions about privacy, security and the collection and location of data. These are innovative elements and, much more than NAFTA and other current trade agreements, make this agreement a model for future agreements and perhaps even for the World Trade Organization's global trade framework.

OVERVIEW

On Oct. 5, 2015, ministers from 12 countries, including Canada, signed the Trans-Pacific Partnership agreement, the culmination of an international trade negotiation that had been underway since 2004. The agreement is broad in scope and detailed, incorporating areas found in all past trade agreements, such as market access, while adding several new elements such as electronic commerce, to reflect the changing nature of contemporary international trade. The full text of some 6,000 pages was released a month later; the purpose of this short paper is to provide a brief overview of what is correctly characterized as a mega-regional trade deal and its macro-economic and sectoral-level implications. As in all areas of public policy change, some sectors of the Canadian economy will gain from this trade agreement, while some will arguably lose. This communiqué will address the deal from a Canadian perspective — involving as it does three of Canada's largest trade partners: the United States, Japan, and Mexico — in order to further public understanding and to contribute to the upcoming discussion and debate.

THE ECONOMICS OF TRADE AGREEMENTS

Trade agreements — whether bilateral, regional, mega-regional, or multilateral — have both geopolitical and economic objectives. Geopolitically, these agreements have major foreign-policy implications in that they provide a rules-based framework for international co-operation — and at times collaboration — and also provide an incentive for traders and investors in those countries that are party to the agreement to persuade their political leaders to deal with each other in non-military ways.[1] They also help raise the profile of those foreign countries included in any given trade agreement in the minds of their commercial sectors and their broader publics, promoting greater knowledge, contact, and understanding among the world's peoples.

With respect to the economic-policy elements of trade agreements, it is clear from both economic theory and empirical evidence — based from the beginning on the principle of comparative advantage — that more trade leads to more competition, greater efficiency, higher productivity, lower prices, and a wider variety of goods and services available to commercial and individual consumers. While not directly related to economic growth, the implementation of trade agreements in combination with other structural policies such as tax policy, skills development, improved physical infrastructure and vigorous competition policy, will enable firms to participate, or to consider participating, in the domestic and international marketplace.[2]

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[1] R. Glick and A. M. Taylor, "Collateral Damage: Trade Disruptions and the Economic Impact of War," *Review of Economics and Statistics* 92 (2010), 102-127.

[2] Ciuriak et al. "Firms in International Trade: Trade Policy Implications of the New New Trade Theory," *Global Policy* 6, 2 (2015) 130-140.

HISTORY OF THE TPP

The origins of the TPP date to 2004, immediately following the Cancun ministerial meeting of the World Trade Organization (WTO) in December 2003.[3] Four relatively small, open economies, one from the Eastern Pacific (Chile), and three from the Western Pacific (New Zealand, Brunei and Singapore), agreed to launch negotiations to open trade more quickly and more deeply than what appeared would likely be the case in the foreseeable future for the world as a whole. These negotiations were joined five years later by the United States, as part of the Obama administration's "pivot" towards Asia, which changed both the significance and the objectives of the ongoing TPP negotiations. Questions were soon raised by the U.S.'s NAFTA partners, Canada and Mexico, about whether or not they should also join the TPP negotiations to preserve, at a minimum, their preferential status in the United States market that had already been negotiated and "paid for" during the NAFTA negotiations, and perhaps gain some further access in Asian markets. This essentially defensive posture on the part of both Canada and Mexico was finally overcome in late 2013 when Japan decided to join the TPP negotiations as part of its Abenomics (economic growth/structural change) program. Not only would NAFTA preferences be retained for Canada and Mexico, but also, access to the large Japanese market could be enhanced, a clear-cut opportunity for both countries. The final list of negotiating participants was then, in effect, cut off at 12: those who had not joined the negotiations by late 2013, including China, South Korea, the Philippines, Thailand and Taiwan, were left to consider accession to a completed TPP deal in due course. With a large number of "standard" provisions covered in the agreement going beyond members' multilateral (WTO) commitments as well as newer, innovative provisions, especially involving the United States and Japan, this deal represents a potential outcome of major significance to the global trade system writ large. It creates, if implemented, the largest regional trade zone in the world, spanning four continents and 800 million people.

Yet the prospects of the TPP's ratification by all 12 participating countries, and its subsequent implementation, remain unclear. While it contains a myriad of controversial elements affecting sectors within each country differently, on balance the agreement should receive legislative approval in all of the TPP countries with Westminster-style governments.[4] But its fate in the most important TPP country of all, the United States, with a congressional form of government, is less clear. Trade agreements in the United States are always subject to major debate — even when the president has been given special authority to negotiate such agreements on a fast-track basis, as was the case with the TPP. Further, that country is about to engage in both a presidential and a congressional election campaign. Thus, there is well-founded uncertainty about whether or not the TPP as negotiated will ever see the light of day. Without U.S. congressional approval, the TPP is dead in the water.

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3 The possibility of a regional deal was raised as early as the APEC Economic Leaders' Meeting in Mexico in 2002.

4 In Canada's case, the provinces will also have to implement provisions of the agreement in their exclusive or shared areas of jurisdiction.

SUBSTANCE OF THE AGREEMENT

The complete text of the agreement, plus some 200 or so side letters, was released on Nov. 5, 2015.[5] While individuals, as well as industry representatives and other associations, will have their specific interests, all will see that the TPP agreement covers all the traditional areas that free-trade agreements deal with, particularly the ever-important market-access issues, including for agriculture, natural resources, forestry and the fisheries, industrial goods, and the increasingly vital services sector. Within these so-called traditional areas, there are important tariff reductions and/or elimination over time in many areas of importance to Canada, including in beef, pork, canola, grains, and processed food and beverages, as well as aerospace and motor vehicles to name a few. There are also provisions to open more service sectors such as business services (financial, accounting, architecture and environmental consulting, etc.) where Canada is already running surpluses on a balance-of-payments basis. In other, now-standard areas of trade agreements such as intellectual property and dispute settlement, provisions mirror those already tentatively agreed to in the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union — provisions affecting the pharmaceutical, high-technology and copyright sectors in particular have attracted attention in Canada in recent years, with arguments both strongly pro and strongly con.[6] Missing, however, are provisions to bring further discipline to U.S. countervailing tariffs and related measures, an objective of Canadian governments since the time of the Canada-U.S. free trade negotiations of the late 1980s. Significant regulatory re-alignment of standards, to reduce barriers to entry in areas such as regulatory approval for pharmaceuticals, are lacking as well.

But what is most interesting and significant in the TPP agreement are the novel chapters on items such as digital trade and electronic commerce — areas through which trade is increasingly being conducted. Such trade raises questions of local data-storage requirements, privacy and security, topics covered, as least to some degree, in the new agreement. As well, there are explicit chapters dealing with development, particularly focussed on capacity-building, that developing countries around the world have been advocating the past number of years. The TPP includes the first-ever provisions touching on state-owned and -controlled enterprises (SOEs), with the requirement that such firms operate on a commercial and transparent basis — an important precedent. Provisions in the TPP on the environment and on labour are spelled out clearly and are an integral part of the agreement, rather than as side letters, as they were in the NAFTA and other, more recent bilateral and regional trade agreements. Taken together, these new, "innovative" elements in the TPP make this agreement a gold standard for future agreements. These elements could perhaps become, in due course, "path-breakers" for the World Trade Organization.

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[5] A Technical Summary of Negotiated Outcomes was issued on Oct. 5, 2015. The complete text was released by all TPP governments on Nov. 5, 2015.

[6] See, in particular, comments by Jim Balsillie: Andy Blatchford, "Jim Balsillie fears TPP could cost Canada billions," *Toronto Star*, November 8, 2015, http://www.thestar.com/news/canada/2015/11/08/jim-balsillie-fears-tpp-could-cost-canada-billions.html.

IMPACT OF THE AGREEMENT

Trade agreements generally give rise to a surprisingly small number of directly quantifiable economic impacts.[7] For one, these small, measured impacts are due to the fact that the economy of any country or countries is complex and thus difficult to model and measure fully or accurately. Secondly, dynamic factors, the "animal spirits" engendered by the fact of a new or revised agreement, are difficult to capture and certainly to measure. While the TPP overall is not quite as big as promised, we do know however that, overall, Canada will benefit.[8] Certain sectors and sub-sectors of the Canadian economy, for example, will benefit unambiguously from the improved market access provided for in the TPP agreement (beef, pork, forestry, wheat, seafood, and alcoholic products, among others) as will most metals and minerals, industrial products, several sub-sectors related to procurement, and most services sectors.

On the other side of the ledger, segments of the Canadian dairy and poultry sectors will be subject to slightly more import pressure, as will sub-sectors of the automobile industry. The previous Canadian government had tentatively offered "trade-adjustment assistance" to provide income support and maintain the value of quotas to these potentially affected sectors as well as export assistance to take advantage of the new foreign access available to these Canadian sub-sectors. How all this works out, with a recently-elected new federal government, remains to be seen. In addition, the impact of the intellectual property provisions of the TPP, such as patent-term restoration, the "early working" exception and protection for clinical trial data affecting biologics (products that include vaccines, blood and natural substances) — all involving, at most, small changes from existing practices — or increasing the copyright term from 50 years after the death of the author to 70 years after the death of the author, will need to be addressed as well. And whether and how the investor-state dispute-settlement provisions in the TPP might lead to "regulatory chill" will need review, discussion, and potential costing as well.

What is clear, however, is that Canadian businesses will face more competition at home and abroad and that the Canadian consumer — whether industrial or individual — will not see all the gains that the TPP will have made possible until longer-term structural changes, including regulatory changes, in both Canada and its closest trading partner, the U.S., are undertaken. But the TPP is a step forward, as Canada plays its part in shaping rules in a rapidly changing global economy while at the same time attempting to ensure a sustainable and prosperous future for all Canadians in all regions of the country.

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7 See Peter A. Petri, Michael G. Plummer and Fan Zhai, "Adding Japan and Korea to the TPP," working paper (unpublished, 2013); and Dan Ciuriak and Jing Liang Xiao, "The Trans-Pacific Partnership: Evaluating the 'Land Zone' for Negotiations," working paper (Ciuriak Consulting Inc., 2014).

8 ibid. Petri, Plummer and Zhai show a household-income gain for Canada of 0.4 per cent (and 0.8 per cent across all 12 TPP members); Ciuriak and Xiao estimate about half that much.

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