The Canada-EU Comprehensive Economic and Trade Agreement: What Did Canada Do and Why?

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The Canada-EU Comprehensive Economic and Trade Agreement (CETA) has recently entered the spotlight in Canada. Since 2006, Canada had studied the prospects of and negotiated an unprecedentedly comprehensive, domestically intrusive and provincially involved CETA with the EU, the largest marketplace in the world. It is currently encouraging its ratification. The nature of CETA, the Canadian government's motivations for negotiating the agreement, and its potential benefits and costs, are central questions amidst the current debate regarding CETA's ratification, primarily centered on the controversial investor-state dispute settlement provisions. At this critical time, it is important to assemble a complete account of Canadian decisions towards CETA and identify the content and causes of these decisions, in order to engage with the current debate and understand the prospects of potentially one of the most significant trade deals in Canadian history.

Many schools of thought emerged in the debate about Canadian actions towards CETA and their causes. The "labor dominant" school argues that CETA was not an inter-governmental agreement, but one between Canadian and European labor bodies, thus attributing the most important determinant to labor and trade unions in Canadian society (Healy, 2014). The "business dominant" school argues that Canada negotiated CETA on behalf of the business community, at the cost of the Canadian economy as a whole and Canadian federal, provincial and municipal sovereignty. Business community interests drove Canadian decisions (Bjukovic, 2012). The "provincial interests" school focuses on the enlarged role of the provinces in CETA negotiations and claims that Canadian decisions were shaped by provincial interests (DeBeers, 2012., Johnson, Muzzi, Bastien, 2013, Paquin 2013). The "francophone leaders" variant of this school argues that Canada decided to launch negotiations most importantly due to Quebec's push and Sarkozy's European welcome, complemented by a re-elected free trading Conservative government (Duchesne and Morin, 2013, Kukucha, 2013). The "Harper dominant" school claims that the CETA negotiations were pushed through by an insistent Harper who believed in privatization, deregulation and strengthened corporate power, which the agreement emphasized (McKenzie 2014, Barlow 2011, Hébert, 2013). The "secret concession and deception" variant argues that CETA was an agreement negotiated in secret by the Harper government that made concessions in favour of the EU, against local, provincial and societal forces, while deceiving the public about the truth of the agreement (Barlow, 2011., Trew, 2012., Trew, 2013). The "Canada in the new world" school argues that Canada was driven most significantly by the changing external environment of a weakening NAFTA, changing EU-US relations, and other dynamics in the global arena (Deblock and Rioux, 2011., Goff, 2014., Manley, 2013).

The current literature leaves several puzzles unaddressed. First, the scope of CETA as the most comprehensive agreement that Canada has ever negotiated is unexplained. Second, the dynamics of current debates focus overwhelmingly on negative aspects of CETA rather than assessing the agreement from a balanced approach. Third, most works focus heavily on one factor that dominated for a particular decision, rather than account for the full 10 years of Canada's decision-making

process. Overall, no scholarly work has taken up the task of assembling a comprehensive and up-todate account of the full range of Canadian decisions from 2006 to the present, and identifying the many factors and their mutual interactions which shaped Canadian decisions. This essay will take on this task through a chronological examination of Canada's major decisions and the key determinants that changed at the right time, in the right way, to the right actors, in causing those decisions.

This paper argues that Canada's negotiation of CETA moved through three distinct phases of starting negotiations, negotiating an acceptable agreement, and encouraging ratification, spanning the period from 2006 to the present, with the third phase still underway. The initial causes of Canada's decision to negotiate CETA were two external shocks of 2006: the suspension of the Trade and Investment Enhancement Agreement (TIEA) between Canada and the EU and the failure of the WTO's Doha trade round. Beyond the initial decision to consider negotiations for CETA, the key drivers of subsequent major decisions primarily came from the governmental level, including the personal beliefs of a powerful prime minister with an economics background, a deep commitment to free trade, an intellectual belief in Atlanticism, and a unique approach to national unity, supported by conservative trade ministers. Secondary determinants that further shaped Canada's decisions include, at the external level, a global financial crisis that revealed US vulnerability and intensified Canada's need to diversify its economy, and at the societal level, provincial interests, voices from interest groups, and the lack of strong opposition from political parties.

What did Canada do and why?

The initial shocks of 2006

The initial setbacks of 2006 concerning the TIEA and the Doha catalyzed the Canadian decision to start negotiations for CETA. With historically strong economic relations, culminating in the EFTA, Canada and the EU had aimed to strengthen their relationship in a comprehensive manner with the ambitious 2004 TIEA. In 2006, TIEA negotiations were suspended to clear the way for the WTO's Doha round. Adding fuel to the fire, the Doha round resulted in catastrophe in July 2006 (Charlton, 2006). The simultaneous suspension of TIEA negotiations and Doha trade talks in 2006 created a vacuum in Canada's trade relations and quickly led Canada to pursue its own bilateral FTA, in part to reignite the incomplete agreement with its traditional economic partner, while at the same time adapting to the new architecture of the post-WTO global trade regime.

Phase 1: Decision to start negotiations (2007-2009)

Decisions

On 4 June 2007, at the EU-Canada Summit in Berlin, Canadian Prime Minister Stephen Harper, German Chancellor as well as then EU president Angela Merkel and European Commission President José Manuel Barroso announced in a joint statement their agreement to study the prospects of a closer Canada-EU economic partnership (GoC, 2007). On 15 May 2008, Canadian Minister of International Trade David Emerson officially announced Canada's pivot to Europe. He stated that "it is time for Canada to become more active in international markets" and that the "really big opportunity is Europe" (PPF 2008). On 17 October 2008, Canada and the EU published a joint report, "Assessing the costs and benefits of a closer EU-Canada economic partnership" which concluded that a "stronger, ambitious and balanced economic partnership" would be mutually advantageous and that maximum benefit would be achieved with a maximum degree of liberalization (GAC 2009). On the same day, Canadian and EU leaders decided to create a Joint Scoping Working Group to define the scope of the economic agreement (GAC 2009). In March 2009, the scoping exercises were completed and the official CETA negotiations agenda, which covered an unprecedentedly comprehensive number of areas beyond traditional trade agreements, was published

(GoC 2009). Finally, on 6 May 2009, at the Canada-EU Summit in Prague, Harper, along with EU and EC Presidents, announced the official launch of formal CETA negotiations (GAC 2014).

Determinants

On the external level, after the initial setbacks of 2006, a set of external shocks in 2008 hit Canada in a way that further advanced the decision to negotiate CETA. The US-turned-global financial crisis revealed US economic vulnerability and the dangers of Canada's over-dependence on the US. Canada's decision to negotiate was thus in part driven by the urgent necessity to diversify Canada's economy and trade relations, which took on a new level of intensity after the crisis.

On the societal level, the most important push for an unprecedentedly comprehensive trade agreement with the EU came from Quebec's premier Jean Charest. In May 2008, Quebec Premier Jean Charest pushed for a new and much more broad transatlantic accord between Canada and the EU. He stated, "our sales pitch to our European friends is to say that if you believe that we need to intensify our transatlantic accord, the best way to do so is to enter into an agreement with Canada – and to sign an agreement … that goes further than anything else we have done in he past, that enters into areas that are forward-looking and essential for the growth of our economy… [one that is] as ambitious as possible" (PPF 2008).

The ultimate integrative forces that led to the first milestone of the 2009 decision to launch CETA negotiations are Harper's personal beliefs. The impacts of the external shocks of the suspension of the TIEA 2006 and the decline of the US economy after the 2008 financial crisis were invoked by Harper's intellectual Atlanticism. With an educational background that led to a Eurocentric world view focused on America and Europe (Kirton, 2016a), Harper responded to the need to diversify the Canadian economy and trade relations away from the US with the re-ignition of traditional economic ties with Europe. Harper's intellectual Atlanticism also drove the decision to choose Europe over the alternatives of emerging economies across the Pacific such as China, even though Europe was economically destabilized from the US-turned-global financial crisis, while China was growing economically and relatively safeguarded from the financial crisis. With an educational background in economics and an early career as a policy analyst (Kirton, 2007), Harper was concerned with policy effectiveness and the economic impact of governmental decisions. This factor was central to Canada's decision to pursue joint studies on the economic prospects of a Canada-EU trade and investment partnership from 2007 to 2008. On the governmental level, Harper was supported by a small cabinet over which he had established firm control, and conservative trade ministers (Kirton, 2016b). From 2006 to 2008, Harper's trade minister was David Emerson, who had been Martin's minister of industry but had crossed the floor to the Conservatives immediately after his appointment as trade minister (Kirton, 2016b). Emerson was succeeded by Michael Fortier and Stockwell Day, who brought with them progressive conservative values as well as considerable experience in the field of international trade (Kirton, 2016b). Even though Harper had a minority mandate, this was compensated by lack of opposition from opposition parties.

Phase 2: Negotiations towards an agreement in principle

Decisions

On 10 June, 2009, Canada announced its decision to include provinces in CETA negotiations (OAS 2013). The first round of negotiations was held in Ottawa in October, 2009, where Canadian and EU trade ministers identified common grounds and set an ambitious negotiating timeline. (OAS, 2013). From October 2009 to October 2011, nine rounds of negotiations took place, covering a broad range of issues across all sectors including goods and services, government procurement, regulatory cooperation and dispute settlement (GoC 2010). In these negotiations, Canada agreed to domestically intrusive market access and public procurement provisions, obligations to restrict the government's

ability to regulate, a strong investment protection chapter, and changes to Canadian patent protection (EC, 2013). In November 2012, Canadian trade and agriculture ministers met with their EU counterparts in Brussels to discuss outstanding issues. During this meeting, Canada made the most comprehensive government procurement offer to the EU, surpassing Canada's offer to the US (Duffy and Beresford, 2012). Canada also revised its earlier offer by proposing to exclude water systems and public utilities from the market access chapter (Duffy and Beresford, 2012). The second phase of the decision-making process culminated in the political breakthrough on 18 October, 2013, in Brussels, where Harper and Barroso announced that CETA negotiations were concluded and that the two sides had reached an agreement in principle.

Determinants

On the external level, Canadian decisions were driven in part by EU priorities and preferences. At the start of negotiations, a key EU demand was the inclusion of provinces and territories in CETA negotiations, with Europe's fear that a ratified CETA might not be implemented provincially and locally had provinces been absent from the negotiating table. Intellectual property protection, comprehensive government procurement, and the ISDS mechanism were also key EU demands and priorities.¹

A broad range of societal forces for and against CETA were active throughout this second phase. CETA negotiations garnered strong support from most provinces, with the exception of Newfoundland and Labrador and Manitoba. In August 2010, Canada's Premiers released a statement titled "Strengthening International Trade and Relationships," announcing that "premiers are encouraged by the pace of the CETA negotiations and will remain actively involved as negotiations move forward. Premiers agree on the importance of improving trade relations between Canada and the EU and believe the CETA between Canada and the EU presently under negotiation has the potential to benefit all parties by creating substantial and reciprocal economic gains, more cooperation in a range of sectors, and an opportunity to address outstanding trade irritants" (Canadian Premiers, 2010). The most significantly support came from Quebec, whose second largest export market is the EU (Raj 2012). Provincial involvement and support was thus an important determinant in facilitating the 2013 agreement. This was despite a few outliers, such as Manitoba and Newfoundland, who sought exclusions and opposed several provisions. Among interest groups, strong support came from many business and commerce groups, notably the Canadian Chamber of Commerce and the Canadian Federation of Independent Business. However, very vocal opposition came from environmental interest groups, whose pressure against the inclusion of public water systems in market access provisions successfully influenced the decision to revise Canada's earlier position. In terms of political parties, the moderate stance of the NDP's "wait-and-see" approach (Sid Ryan 2013) and the Liberal Party's support for CETA (Liberal Party, 2013) further facilitated the agreement.

Again, Harper's personal beliefs played an integral role in this phase. The decision to grant provincial participation, in addition to external demands, was driven by Harper's unique approach to national unity, as seen earlier in his UNESCO decision. He stated in his 4 April 2006 First Throne Speech, "Canada is stronger when we speak with one voice [in the international community], but that voice must belong to all of us." This shows Harper's strong belief in provincial diplomacy (Kirton, 2016a), explaining the degree of provincial involvement in the negotiations. Harper's deep and durable faith in free trade, open markets, investment protection and small government, rooted in his early intellectual inspiration from free-market theorists such as Ricardo and Smith, as well as his first job at American-owned Exxon's Imperial Oil and personal hatred of the NEP (Kirton, 2016b) translated into his favorable attitude towards a strong investment protection chapter, lessened government regulation, and open market access to public services, resulting in the inclusion of domestically intrusive chapters in CETA. In terms of the adoption of domestically controversial clauses on government procurement, intellectual property and ISDS in the agreement, the nature of Harper's

mandate played an important role as Harper inherited a majority government after the election of 2 May, 2011, freeing him from political hindrance.

Phase 3: Encouragement of ratification

Decisions

Immediately after signing the agreement in principle, Canada began technical negotiations with the EU towards a final text. After speedy negotiations between 2013 and 2014, on 5 August 2014, the final text for the CETA was reached (GAC 2014). On 26 September 2014, Canada published the completed text of the agreement in its official languages. On the same day, Canada signed the CETA pact with the EU, despite German opposition. On 22 January 2016, Canada's newly elected Prime Minister Justin Trudeau expressed support for CETA at the World Economic Forum in Davos, further encouraging ratification (McGregor, 2016).

Determinants

On the external level, Canadian decisions were in part driven by the progress of TTIP, EU dynamics and disputes. The speedy implementation of technical negotiations culminating in the publishing of the final text by late 2014 can be explained by Canada's eagerness to pass CETA before the EU turned its full attention to TTIP negotiations with the US, which started in June 2013 (Goff, 2014). German positions on ISDS likely also affected Canadian decisions towards the chapter, but this is still open to speculation in the present day.

On the societal level, there was a mixture of forces for and against ratification. Interest groups that were most vocal in their support for speedy ratification included the Canadian Chamber of Commerce (Siekierski, 2014), the Canadian Canola Growers association (CCGA, 2013), the Canadian Agri-Food Alliance (Citeau, 2014), the Canadian Cattlemen's Association (CCA, 2014) and the Canadian Pork Association (CPC, 2014). There were also interest groups against ratification, such as the National Farmers Union, which submitted a statement to the House of Commons opposed to CETA on 5 December, 2014, stating that CETA is unnecessary for EU-Canada trade, that CETA would weaken farmers' supply management system, that increased exports do not increase farmer incomes, and asking for the removal of the ISDS chapter (NFU, 2014). Among the provinces, Newfoundland and Labrador's continued discontent with the fisheries provisions to the current day further stalled the progress of ratification (Dyck, 2015).

At the governmental level, the lack of a strong push by Harper near 2015 reflects his electoral calculations as he likely did not want CETA to be at the centre of attention for the 2015 election, due to its potential to stir social opposition. On 4 November 2015, Liberal candidate Justin Trudeau became prime minister. Trudeau's personal disposition towards diversification and free trade was evident, however Trudeau's actions and beliefs are still uncertain.

Conclusion

In the above examination of Canadian decisions towards CETA and their underlying determinants, the weight of governmental determinants in shaping Canadian decisions is evident. External shocks alone, or in combination with the broad range of moderately salient societal determinants, opened Canada's policy options to alternatives. In 2006, the failure of Doha and consequently the decline of multilateralism in the global trade architecture motivated Canada to search for new bilateral economic ties in order to secure a place in the new stream of global affairs.

An alternative policy could have been the negotiation of a Canada-EU FTA that was less domestically intrusive with the elimination of the ISDS chapter and a larger list of exclusions to

sectors of market access and public procurement. This alternative would satisfy domestic societal opposition and create more favorable public opinion. In terms of the negotiation process, Canada could have rejected EU demands to include provinces in order to achieve a faster negotiation process with less provincial intrusion and more federal control. Geographically, the most striking policy alternative was the negotiation of an economic agreement with emerging economies such as China. Economically, this could be a more rational choice as the EU had been drowned in a Eurozone debt crisis, with its unity and stability in question. A Canada-China FTA was promising in economic prospect, further advances Canada's global outreach beyond the western hemisphere, and broadens the scope of Canada's economic diversification. Compared to this alternative, the decision to negotiate CETA with the EU is relatively restrictive in terms of achieving Canada's goal of diversification, and modest in terms of potential economic gain. However, there also exist difficulties in this alternative due to the lack of political and cultural compatibility, which Europe provides. Most importantly, the Canadian decision to negotiate CETA over other attractive policy alternatives made possible by external and societal determinants is a striking demonstration of the importance of governmental determinants in Canada's foreign policy decision-making process. It is evident that Harper's distinctive intellectual Atlanticism, deep personal beliefs in free trade and investment, and unique approach to national unity acted as the ultimate forces that integrated external and societal determinants in a way that shaped the defining characteristics of CETA as Canada's Atlanticoriented, unprecedentedly comprehensive, domestically intrusive and provincially involved trade agreement with the EU.

This case is a striking example of the complex neo-realist calculus which positions Canada as a principal power with the ability to be a policy-maker rather than policy-taker. Amidst the shocks of the external world, Canada's policymaking process was shaped by its ability to take advantage of opportunities rather than limited by external constraints. Canada pursued policies that were moderately reflective of its societal preferences, and strongly reflective of its governmental determinants, especially its prime minister's personal beliefs. As the global trade and economic architecture experiences dramatic changes in the 21st century, Canada's ability to determine freely its policies towards CETA based primarily on governmental determinants marks a concrete step towards establishing a firm place as a principal power in this new landscape of global affairs.

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Endnote

¹ Based on personal interview with officials from Jacques Delors European Information Center, February 19, 2016, in Lisbon, Portugal.