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# Can Canada Join the Trans-Pacific Partnership? Why just wanting it is not enough

*The expanding Trans-Pacific Partnership trade agreement could eventually account for half of global output and 40 percent of world trade. How can Canada get a seat at the negotiating table?*

Laura Dawson

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## THE STUDY IN BRIEF

In late 2011, Canada indicated it wanted to join negotiations underway among nine countries towards a new Trans-Pacific Partnership (TPP) agreement on trade. It is important for Canada to be at the table in these talks, which currently involve economies comprising 28 percent of world GDP. Membership in the TPP would facilitate a more solid foothold in emerging East Asia for Canadian businesses. The potential is for the TPP to expand and one day include all of APEC, even China; a grouping representing 54 percent of global GDP. As the TPP seeks to cover a number of leading-edge issues related to the effectiveness of trans-pacific business chains, it is also expected to modernize Canada's business links with parties to the TPP talks with whom Canada already has trade agreements. And being at the table now, rather than joining a done deal later, allows Canada to shape a deal in beneficial ways and take advantage of the early business expansion that accompanies new trade agreements.

There is a stumbling block, however: Canada had the chance in 2005 to join the nascent grouping, but chose not to. Now prospective partners must determine Canada's suitability to join negotiations already in progress. Among them, New Zealand is opposed to Canada's attempts to maintain existing dairy supply management. And in a 2010 review, US officials already declined to support Canada's case for entry.

This paper argues that positive support from the United States this time could override objections by others, but Canada needs to play its cards better in the United States. Broadly speaking, this means emphasizing that the two countries have many interests in common in these talks, which would benefit from both being at the table. Specifically, the paper recommends appealing to US broader strategic interests through State department officials, appealing to specific Congressional interests, and emphasizing continued progress on bilateral Canada-US issues.

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## At the November 2011 APEC summit in Honolulu, Canadian Prime Minister Harper announced Canada's desire to join the Trans-Pacific Partnership (TPP) negotiations, which aim to further integrate the economies of the Asia-Pacific region.

But there remains a significant gap between Canada's desire to join and its ability to do so. The statement from President Obama and the other TPP leaders at the summit is a commitment to "continue talks with other trans-Pacific partners that have expressed interest in joining the TPP in order to facilitate their future participation"; a seemingly weak endorsement.<sup>1</sup> This *Commentary* explores the gap between Canada's interest in the TPP and its ability to gain a seat at the negotiating table, and the ways in which it can be bridged.

Some see Canada's inability to join the TPP negotiations as the result of the United States and others trying to extract concessions from Canada as pre-condition for Canada joining the talks, but the reality is more nuanced. The facts suggest that Canada has not taken advantage of earlier opportunities to join the TPP negotiations, and is now seeking to make up for this lost time. Canada's absence from this negotiating process so far has left it without an operational strategy for upgrading our historically significant economic engagement in East Asia.

Although it is late in the game, Canada could still succeed in claiming a seat at the TPP negotiating table before the commitments reached

in the current round of negotiations diverge too far from Canada's commercial interests. At home, this should involve re-evaluating the merits of continuing with the current constraints of supply-managed agriculture against the cost of weakened opportunities for East Asian economic engagement. Canada's key TPP strategy, however, should include re-doubling its outreach efforts with all negotiating parties, particularly the United States. Canada should target US foreign policy officials with responsibilities for APEC (Asia-Pacific Economic Co-operation) and Congressional allies who recognize the benefit of promoting the North American region in Asia.

### Why is the TPP Important for Canada?

The original Trans-Pacific Strategic Economic Partnership Agreement (P4) was signed by Brunei, Chile, New Zealand and Singapore in June 2005. Those four accepted five additional countries – Australia, Malaysia, Peru, United States and Vietnam – to begin negotiations on an expanded agreement in 2010. The current nine negotiating parties<sup>2</sup> account for about 28 percent of nominal global GDP. Japan and Mexico have now asked to join the talks as well.

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1 Trans-Pacific Partnership Leaders' Statement, November 12, 2011, <http://www.ustr.gov/about-us/press-office/press-releases/2011/november/trans-pacific-partnership-leaders-statement>

2 There is no official term that distinguishes the original P4 signatories from the five states that have been added to the negotiations but have not yet ratified any agreement. For simplicity sake, this paper refers to all nine as TPP negotiating parties.

While TPP is not an official initiative of APEC, all its negotiating parties are also APEC members and the agreement is a precursor for APEC's proposed Free Trade Area of the Asia-Pacific. The TPP expansion plan is to include APEC countries in successive clusters that will eventually encompass more than half of global output and over 40 percent of world trade.<sup>3</sup> Yuen Pau Woo, President of the Asia Pacific Foundation of Canada, notes that "If P4 does become P9 or more, it will effectively form the nucleus of any broader transpacific free trade agreement" (Woo 2008). Some have speculated that China may not be far from seeking to join the talks (*Yomiuri Shimbun* 2010). The Office of the United States Trade Representative (USTR) describes the TPP members as "an economically significant group of countries that share our vision of negotiating a high-standard, 21st century regional agreement" (USTR 2011). Lack of progress with the Doha Round of the World Trade Organization (WTO) and US identification of the TPP as its flagship trade policy in Asia have accelerated the pace and profile of the Trans-Pacific Partnership negotiations.

Canada is an APEC member, ranks as the largest destination for US exports and is one of the 20 largest economies in the world, but its attempts to become a TPP negotiating party have come too late and have, so far, been rejected. Prospective TPP members must engage in consultations with existing members and are admitted to the talks on a consensus (no-objection) basis. While the US administration welcomed the interest of Canada and other aspirants, USTR Ron Kirk said that he looked forward to "discussing the

TPP's high standards for liberalizing trade and specific issues of concern to the United States... stronger protection of intellectual property rights, additional opportunities for US goods, services and investment, and the elimination of various non-tariff barriers" (USTR 2011). Clearly, Canada's joining the talks would mean putting this broad set of issues on the table.

Successive Canadian governments have tried to formally engage with Asian markets, but with little success recently. Opposition by the Ontario auto sector scuttled an agreement with South Korea; and Canada may be too small to negotiate a multi-sector agreement with China on its own. Commentators have been critical of government trade officials spending too much time negotiating free trade agreements (FTAs) elsewhere in the world that have minimal impact on Canada's economic bottom line (Daudelin and Dawson 2008). By contrast, participation in the TPP would provide enhanced and more secure access to a series of markets recognized as gaining importance in terms of global trade and investment linkages.

The TPP negotiating parties lacking FTAs with Canada make up about 1 percent of Canada's export market (Table 1, 2010 figures). This may seem small, but the TPP would provide access to additional markets representing more than twice the export market coverage of Canada's last five FTAs combined (which represent 0.37 percent of Canadian exports). With all nine members included, the TPP would cover 76 percent of Canada's export market, and with Japan and Mexico included, the figure would rise to 80 percent.<sup>4</sup>

3 According to APEC, its economies accounted in 2010 for 54 percent of world GDP, 44 percent of world trade, and 40 percent of the world's population: [http://www.mof.go.jp/english/international\\_policy/convention/apec/growth\\_report\\_ap\\_101106.pdf](http://www.mof.go.jp/english/international_policy/convention/apec/growth_report_ap_101106.pdf)

4 Use of merchandise export data is a convenient way to indicate market importance but is not meant, by itself, to indicate the entire range of benefits that Canada could gain by joining, such as a rules-based framework supporting beneficial services and investment flows, or more access by Canadians to desirable products from TPP countries.

**Table 1: Canada's 2010 Exports to Current and Potential Trade Agreement Partners**
**Exports to the last six states/regions with whom Canada has signed an FTA**

	<i>C\$ (000s)</i>	<i>percent</i>
Honduras (2011)	40,781	0.01
Panama (FTA signed in 2010)	129,501	0.03
Peru (2009)	479,022	0.12
Jordan (2009)	66,038	0.02
EFTA* (2009)	111,000	0.03
Colombia (2008)	644,372	0.16
<b>Total</b>	<b>1,470,714</b>	<b>0.37</b>

\*European Free Trade Association: Iceland, Liechtenstein, Norway, Switzerland

**Exports to the six TPP members not covered by a regional or bilateral FTA with Canada**

Brunei	12,167	0.00
New Zealand	321,473	0.08
Singapore	834,846	0.21
Australia	1,751,792	0.44
Malaysia	785,956	0.20
Vietnam	264,730	0.07
<b>Total</b>	<b>3,970,964</b>	<b>0.99</b>

**Exports to TPP countries with whom Canada already has an FTA**

United States (NAFTA and TPP)	299,068,444	74.87
Peru (Bilateral and TPP)	479,022	0.12
Chile (Bilateral and TPP)	587,462	0.15
<b>Total</b>	<b>300,136,464</b>	<b>75.14</b>
<b>Total Current TPP</b>	<b>304,107,572</b>	<b>76.13</b>

**Exports to potential New TPP Members**

Japan	9,195,136	2.30
Mexico	5,008,167	1.25
China	13,232,998	3.31
Others	10,538,127	2.64
<b>Total potential future TPP</b>	<b>37,974,428</b>	<b>9.51</b>
<b>Current + potential future TPP</b>	<b>342,080,320</b>	<b>85.64</b>
<b>Total exports to world</b>	<b>399,432,796</b>	<b>100.00</b>

Membership in the TPP would provide Canadian businesses with a chance to expand in the developed markets of Australia and New Zealand, lock in market access to economically vigorous emerging markets such as Singapore, Malaysia and Vietnam, and re-engage with current FTA partners Chile, Peru and the United States in updated trade agreements.<sup>5</sup> Most importantly, it would give Canada a presence in a dynamic Asia-Pacific trade bloc that is both economically and strategically important.

With the Doha Round of multilateral trade negotiations in paralysis, states are turning to regional and bilateral free trade agreements to foster trade and investment expansion. FTAs with smaller middle-income or developing markets may offer attractive growth potential but some of these countries have limited experience with the norms of trade regulation. Consequently, trade negotiations can be time-consuming and produce little of value.<sup>6</sup> In this context, a regional agreement is preferable to bilateral ones because the greater market size of a regional bloc encourages countries to address more trade barriers than they would if negotiating with just one state.

And the TPP is about more than trade. It is tied to the politics of how Canada, the United States and others will manage future economic relations with China. The momentum for TPP may be generated by Asia-Pacific countries' fear of the regional dominance of China, and the US desire to establish the economic underpinning for long-

term US military and security commitments in the Asia-Pacific region.<sup>7</sup>

Developed economies pay lip-service to the opportunity to negotiate an agreement that goes beyond basic WTO obligations with China,<sup>8</sup> but the bilateral negotiating dynamic will typically be highly asymmetrical. The Chinese giant sets the terms with all but the largest trading entities and China prefers to limit coverage to goods-only agreements such as those negotiated through the Association of Southeast Asian Nations (ASEAN). These are advantageous for large Chinese manufacturers but not helpful to states interested in services, investment, government procurement, environment and labour.<sup>9</sup>

A general objective of the United States is to use the TPP to broaden its influence in Asia and to limit the commercial influence of state-owned enterprises in the region (Gao 2010). And, the new TPP agreement aims to cover goods and services, sanitary and phytosanitary measures, intellectual property, government procurement and competition policy – areas in which China would find it difficult to implement the kinds of rules, standards, and economic governance changes sought by the United States.

These factors mean that China may favour more China-centric regional or bilateral relations over TPP participation. But TPP participation is seriously being debated in China (*Yomiuri Shimbun* 2010) and if it did join the TPP talks, the process

5 Canada already has trade agreements with TPP members Chile, Peru and the United States. Canada's agreements with Chile and Peru are more than a decade old. They provide little or no coverage of subjects common in newer trade agreements such as services, energy, electronic commerce, environment, and government procurement.

6 Canada began negotiations with El Salvador, Nicaragua, Honduras and Guatemala for the CA4 agreement in 2001. By 2011, the only result was a bilateral agreement with Honduras.

7 David Gordon and Sean West, "The Most Important Trade Deal You've Never Heard Of," *Reuters Online*, December 15, 2011, <http://blogs.reuters.com/great-debate/2011/12/15/the-most-important-trade-deal-you've-never-heard-of/>

8 China has FTAs in place with ASEAN, Pakistan, Chile, New Zealand, Singapore, Peru, Costa Rica, and Hong Kong.

9 China, Japan and Korea are examining the feasibility of a trilateral FTA that also includes limited services and investment coverage but does not have the scope of modern comprehensive FTAs. Membership in this agreement would not preclude TPP membership.

would give Canadian interests more weight than the current bilateral Canadian approach to China, because Canada and the United States tend to be like-minded in negotiations with third countries. And in this context, the United States would also be reminded of the value of the Canadian alliance.

With or without China, the TPP represents a critical economic opportunity for Canada. With the globally significant geopolitical maneuvers being played out in the Asia-Pacific right now, and their likely long-term impact on Canada's economy, Canada cannot afford to be missing from the table.

### Accession and the TPP

The original P4 Agreement encourages accession but the rules for joining are not clearly defined.<sup>10</sup> In the absence of more detailed guidance, the ad hoc process that has emerged is that potential new members meet with existing members individually and as a group. A consensus (no objection) is required before admission is offered. This implies a de facto veto against new members unless an objecting member can be convinced of the merits of adding a new party to the mix.

The P4 is similarly brief on how to modify or expand the agreement.<sup>11</sup> The text does not exclude the possibility that new members could enter under differential terms or to carve out sensitive sectors, but the United States and New Zealand have made it clear that new members would have to accept the full agreement, once it is reached, without exclusions.

As the prospective agreement expands and the commitments become deeper, states that have not participated in the negotiations will be increasingly put in a "take it or leave it" position and thus could find it much harder to accept the terms of a completed deal.<sup>12</sup> Assistant USTR Barbara Weisel warns that interested countries will have to move quickly to make the preparations necessary in order to be considered for membership in the near term. "We need to be sure that the countries that are considering joining understand the standards we are seeking and are fully prepared to meet them" (IUTR October 27, 2010). The US and New Zealand negotiators have made it clear that the TPP negotiating parties are not interested in adding new countries if it means lowering the standard of the agreement (IUTR October 28, 2010). In practice, however, the addition of Japan, Canada, and Mexico would add a new set of negotiating norms and priorities to those already in play among the current TPP negotiating parties.

### What is Stopping Canada from Joining?

The TPP framework creates strong incentives for states to get in early to influence the shape of the final agreement and to take advantage of the early market expansion gains that accompany new trade agreements (Findlay 2010). Unfortunately, the logic of early entry did not prevail with Canadian officials who turned down an offer to join the TPP negotiations with Brunei, Chile, New Zealand and Singapore in 2005.

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10 Article 20.6 says simply: "This Agreement is open to accession on terms to be agreed among the Parties, by any APEC Economy or other State."

11 Article 20.7 states: "[W]hen so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement."

12 One of the keys to the success of the GATT/WTO system is that it is based on a system of gradual liberalization that allows states and enterprises to adapt to new commitments. Canada's status as one of the original GATT 1948 Contracting Parties means that it is well 'adapted' to present-day WTO norms (and is, indeed, the author of many). This stands in contrast to the situation of Russia, which underwent nearly two decades of reform before meeting the requirements of the modern WTO regime. While liberalization within the TPP may well be gradual, the current members are starting much further down the road.

Canada's interest ignited after the United States joined the TPP in December 2009. Throughout 2010, Trade Minister Peter Van Loan played down Canada's interest in the agreement even as his officials were reportedly working to secure an invitation to join (Iverson 2011). A bilateral meeting between officials from Canada's Department of Foreign Affairs and International Trade (DFAIT) and USTR in September 2010 to review Canada's suitability left the USTR team unconvinced that Canada offered much that would further American negotiating interests. Canada then tried a more direct approach. In early October, the lead Canadian trade negotiator was dispatched to make Canada's case to TPP members by means of a well-mannered gate crash of the TPP negotiations being conducted in Brunei. This effort did not produce the desired results either.<sup>13</sup>

Minister Van Loan made statements throughout the autumn that Canada had not yet decided whether to join the TPP talks. The exact parameters of a TPP deal had to "crystallize" before Canada could decide (IUTR October 1, 2010), but following the Brunei rebuff, Canada wound down its efforts to engage with the TPP negotiating parties. There are no public reports of Canadian outreach on the TPP between the autumn of 2010 and the prime minister's declaration in Honolulu.

In the meantime, the list of potential new TPP members grows longer. The United States, for example, has been courting the Philippines as a prospective member (BusinessWorld 2011). Canada's official attention, meanwhile, seems to have turned to larger agreements with the European Union and India and smaller agreements in the

Americas – but without any alternative FTA foothold in East Asia.

### *The United States Is Not The Problem – And May Be The Solution*

One take on Canada's situation is that Canada's admission to the TPP was blocked by US demands that Canada pre-negotiate priority areas of the agreement.<sup>14</sup> However, the role of TPP gatekeeper was not a job the United States sought nor was it a high priority for already overburdened trade officials. The United States is interested in managing its own economic problems and in securing access to new Asian markets. With built-in levels of economic integration through the NAFTA, Canada is a bird in the hand. Canada has not given the United States many reasons to champion its interests, but it is unlikely that American officials have had the time or inclination to orchestrate a campaign to keep Canada out. The United States might have been more interested in Canada's application if Canada had been able at the time to offer the prospect of liberalization in sectors that were known to be of interest to USTR such as intellectual property, agriculture, and investment.<sup>15</sup>

If there is an opponent to Canada's TPP membership, it is New Zealand. In April 2010, New Zealand Prime Minister John Key stated that Canada's exclusions for supply-managed dairy products would be "unacceptable" within the TPP context. As documented in a study prepared for the Dairy Farmers of Canada, the United States also provides extensive supports for its dairy farms (Grey, Clark and Shih, 2010), but the American

13 Author's personal communications with Canadian and US officials.

14 Author's personal communications with Canadian officials. These putative pre-negotiations were largely played out in a meeting held in Washington on September 7, 2010.

15 On December 7, 2011, USTR published a Federal Register notice requesting stakeholder comments on Canada's expression of interest in joining the TPP. This indicates that US officials are attempting to take stock of the advantages and disadvantages to the US of having Canada at the negotiating table.

market is a much larger prize for New Zealand dairy exporters. It is reasonable to assume that New Zealand would prefer to try to break down US resistance to dairy liberalization without Canada standing alongside to support domestic protectionism. Also, US dairy supports tend to take the form of upfront payments and tax breaks for farmers which wax and wane with the health of the US treasury. Canadian supports are more directly tied to trade, taking the form of market-closing tariffs that run in excess of 250 percent.<sup>16</sup> New Zealand and the United States challenged the Canadian system's subsidization of dairy exports at the WTO in 1998. Although they won the dispute, resulting in limitations on subsidized Canadian dairy exports, barriers to the domestic Canadian market remain intact.

### *United States as Gatekeeper*

During bilateral meetings with Canada, US officials reviewed Canadian positions in such areas as agriculture, services, investment, intellectual property, labour and environment to determine whether Canada's TPP participation would further US commercial interests in these areas. American officials registered concerns over agricultural market access (supply management in dairy and poultry and the Canadian Wheat Board); services (investment in cultural industries and especially telecommunications); and intellectual property (the much-delayed passage of a new copyright bill and enhanced enforcement capabilities). The United States also expressed concerns that the trajectory of market opening for foreign investment in Canada was being reversed, given the way the proposed BHP Billiton's acquisition of Potash Corp. in

November 2010 was handled, ultimately resulting in the withdrawal of the BHP bid.<sup>17</sup>

It is important to note that the sectors reviewed by USTR were not of equal importance to the United States. Most were drawn from the list of trade irritants that the US routinely gathers for its National Trade Estimates – an annual report on market access problems, big and small, in foreign trade markets. A review of US official statements and speeches for 2010 makes it clear that strengthened copyright protection was the major trade reform the US was seeking from Canada.

### *The Supply Management Stumbling Block*

Canada's trade policy community reacted harshly to the news that Canada had been rebuffed in attempts to join the TPP negotiations. John Weekes, Canada's former chief NAFTA negotiator, blamed the exclusion on Canadian dairy protectionism and called on the federal government to adopt a "bold new trade strategy to ensure that Canadian producers will have access to the high-growth markets of the Asia-Pacific region" (Weekes 2011). The TPP is one of the most important trade negotiations taking place in the world, but "Canada's refusal to put supply management on the table is keeping us from joining in" stated a prominent trade analyst (Herman 2011).

Ottawa trade consultant Peter Clark, who produced the aforementioned report on behalf of the Dairy Farmers of Canada, argued that Washington wants to sideline Canada as part of a deliberate effort to become the "hub" in TPP, which would effectively include a series of bilateral agreements with the United States on market access issues. Canada's acceptance at the table would mean

16 As Robson and Busby (2010) argue, the elimination of Canadian dairy quotas could impose a prohibitively high short-term cost on the Canadian government. The prospect of having to compensate farmers for nearly \$30 billion in quotas, plus the political strength of the Canadian dairy lobby, stand in the way of Canadian reforms.

17 Author's personal communications with Canadian and US officials. The BHP case rated a mention in the *National Trade Estimates* 2011, p. 56.

added support for a more open playing field on market access, in addition to the risk that Canada's sensitivities on agriculture and other questions would encourage others with similar sensitivities, such as Japan, to resist US initiatives (Clark 2010).

The US actions may not come from a strategic intention to exclude Canada, but rather derive from a focus on Asia. And whatever course Canada chooses with respect to supply management, such a decision may not occur quickly enough to assist Canada's bid for TPP admission. Therefore, Canada's first priority should be to re-engage the United States on multiple levels – especially Congress – to emphasize the foreign policy importance of Canada as an Asia-Pacific partner, and highlight tangible progress on trade subjects that the United States has identified as priorities.

### THREE AREAS OF FOCUS FOR SUCCESSFUL ACCEPTANCE INTO THE TPP

Until the conversation in Honolulu between Prime Minister Harper and President Obama, Canada's engagement with the United States on the TPP had been limited to trade officials and there still has been little attention paid to the State Department and Congress, even though TPP is also a foreign policy concern. By hosting the November 2011 APEC leaders' meeting in Honolulu, President Obama further elevated the importance of that organization in US foreign and commercial policy terms. At the level of domestic economics, the United States has committed to job creation through the National Export Initiative. Therefore, the United States has an interest in framing the TPP as a broad, inclusive agreement that can compensate for the lack of results in the Doha Round. Canada comes into play because US exports rely on competitive North American supply chains. The United States must be convinced that they cannot run a strong business in a weak neighborhood.

*Recommendation 1: Make the case to State Department officials with Asia-Pacific responsibilities on the importance of US-Canada co-operation in APEC and through the TPP.*

Members of Congress have raised concerns about the vagueness of the TPP accession process and its potential for admitting undesirable countries, but they have raised no objections to Canada's participation. Rep. Kevin Brady (R-TX), Chair of the Ways and Means Trade Subcommittee, stated that it would be easier to sell a TPP agreement to Congress if it involved larger economies: "The more meaningful the agreement, the better it is to sell, the better product it is to propose" (IUTR October 28, 2010). In remarks to the Peterson Institute for International Economics, Rep. Brady specifically stated, "On the issue of Canada and Japan, I am very interested in both countries committing to [the TPP]" (PIIE October 25, 2010).

Canada can also find allies in the Congressional Dairy Farmers Caucus. In April of last year, the caucus demanded that USTR seek an exemption for US-New Zealand dairy trade from the TPP negotiations (Welch 2010). While USTR Kirk quickly declined taking that position, Canada should not, from a tactical point of view, neglect this instrument of brokerage in Congress.

*Recommendation 2: Demonstrate to potential Congressional allies how Canada can further their interests.*

A renewed TPP strategy cannot ignore the influence of USTR. While the mandate for new trade initiatives comes through Congress, USTR does have some latitude on interpretation of existing commitments. Hence, Canada must provide some evidence of progress on trade issues that are important to the United States, and the main US interest has been in copyright reform. In USTR Ron Kirk's speech in Toronto in July 2010, the only specific request he made of Canada was strengthened intellectual property rights protection

(USTR July 2010). Deputy USTR Miriam Sapiro echoed these concerns at a Council of the Americas event in July 2011. Further, Canada has been on the US Special 301 Watch List of countries with weak IPR regimes since 2009 (USTR, April 2011).

The Americans have had reasons to be skeptical about Canada's ability to deliver on copyright, since the government has struck out on the issue twice already. The 2008 copyright bill (C-61) did not make it beyond first reading before an election. The September 2010 TPP meeting between USTR and DFAIT took place when Bill C-32, the *Copyright Modernization Act*, had just been introduced in Parliament. This bill faced an uphill battle in a minority government and also died on the order paper. The third time may be the charm, however: Bill C-11 was introduced in September 2011 and, if it passes, it should be further evidence that Canada is aligned on trade issues important to the United States.

The National Trade Estimates serve as a blueprint for USTR advocacy in Canada and provide a strong indication of the priority United States government assigns to various irritants. The 2011 NTE reports indicate that Canadian supply management in dairy and poultry is only one among many irritants that concern the United States. On agricultural market access, the NTE is also concerned with the Canadian Wheat Board (CWB). However, that concern should now be moot with fall 2011 passage in Parliament of the *Marketing Freedom for Grain Farmers Act*.

The NTE also flags certain elements of Canada's foreign investment review process and limits to foreign investment in certain sectors (USTR 2011). However, Canada's re-commitment to steadily improved conditions for foreign investment,

consistent with the recommendations of Canada's 2008 Competition Policy Review Panel report *Compete to Win*, indicate that Canada might continue to move in a direction that would address concerns by the US and other potential TPP partners. Some of the concerns raised in bilateral talks were indeed related to American commercial interests but the supply management issue seems to be inherited from New Zealand. Therefore, Canada should leverage its ability to effect reforms on issues important to Americans, thereby providing the United States with an incentive to override the New Zealand objections and recommend Canadian participation in the negotiations.

*Recommendation 3: Show the United States evidence of progress on copyright, CWB, and foreign investment, and develop a united North American approach.*

In building its case for TPP membership, Canada needs to emphasize the areas where Canada can support US interests because of shared domestic regimes. Areas of alignment include government procurement, labour and environmental standards, investor-state dispute settlement, product standards and certification (particularly in food and manufacturing) and human rights. Specifically, it can remind the US of Canada's commitment to closer alignment on regulations and certification through the bilateral Regulatory Cooperation Council and to a closer trade and security regime through the Beyond the Border initiative. And while Canada needs to engage with TPP members who are neutral or opposed to Canadian participation by reaching out to opponents such as New Zealand and possibly Australia<sup>18</sup> and potential

18 In negotiations with third countries, Canada tends to be supportive of US positions but, in the TPP, either Australia or New Zealand could also fill the role of like-minded ally for the United States. Canada's economic size and profile is similar to Australia's. Therefore, it is a potential competitor within the TPP market. A zero-sum reading suggests that Canada's presence could dilute benefits that Australia and New Zealand expect for themselves. Thus, for these two countries, Canada's TPP participation can be construed as bringing more costs than benefits.

allies such as Chile and Singapore, a united North American front will provide greater leverage in TPP negotiations on technical barriers and trade-related border measures.

## CONCLUSION

When Canadian officials turned down TPP admission in 2005, they were betting that entry would be easy in the future. They could not have foreseen that the converging factors of Doha's failure, the rise of China, and the global economic crisis would make the TPP as important as it has become.

There is no guarantee that the strategy of re-engagement proposed here will work. A best-efforts attempt to engage with the US and other negotiating parties on obvious points of alignment should be complemented by a more diversified Asia strategy through completing a deal with South Korea and approaches to ASEAN and the Arc of the Pacific.<sup>19</sup>

If Peter Clark's argument is correct and the United States wants a "Made in America deal" in which its other trading partners are not influenced by potentially divergent Canadian interests, then we can expect no change in attitude from the Americans. But, if we believe that the Canada-US relationship is more than a zero-sum trade calculation, that it is built on deep roots of cooperation and shared values, then reaching out to the United States through multiple channels of engagement may provide the results that Canada needs. Looking beyond simply joining the talks, the longer-term competitiveness goals of Canada, the United States and Mexico in the Asia-Pacific region may be best served by a united regional approach rather than fragmented unilateral efforts. This is a case we may wish to promote to our North American allies.

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19 The Arc of the Pacific is a new economic bloc formed in March 2011 encompassing Chile, Peru, Mexico and Colombia. They are seeking to expand northward to the United States and Canada and then westward to Asia, particularly China. Canada has FTAs with all of these countries and all of them are APEC members. <http://www.emergingmarkets.org/Article/2795275/Pacific-Rim-countries-move-forward-on-integration.html>

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## REFERENCES

- BusinessWorld*. 2011. "Trade deal entry offered." (Manila). July 12.
- Clark, Peter. 2010. "U.S. keeping Ottawa out of Trans-Pacific Partnership talks." *National Post*. November 8. <http://opinion.financialpost.com/2010/11/08/canada-frozen-out/>
- Competition Policy Review Panel – Government of Canada. 2008. *Compete to Win – Final Report*. June. <http://www.competitionreview.ca>
- Daudelin, Jean and Laura Dawson. 2008. "A New Chapter?" *Canadian Foreign Policy Journal* 14:3.
- Findlay, Christopher. 2010. "Japan: To TPP or not to TPP." *East Asia Forum*. November 14. <http://www.eastasiaforum.org>
- Gao, Henry. 2010. "The Trans-Pacific Economic Partnership Agreement: A Critical Analysis." *Legal Issues of Economic Integration* 37:3.
- Gordon, Bernard K. 2011. "The Trans-Pacific Partnership and the Rise of China." *Foreign Affairs*. November 7. <http://www.foreignaffairs.com/articles/136647/bernard-k-gordon/the-trans-pacific-partnership-and-the-rise-of-china>
- Gordon, David, and Sean West. 2011. "The Most Important Trade Deal You've Never Heard Of." *Reuters Online*. December 15. <http://blogs.reuters.com/great-debate/2011/12/15/the-most-important-trade-deal-you've-never-heard-of/>
- Grey, Clark, Shih and Associates. 2010. *Farming the Mailbox: U.S. Federal and State Subsidies to Agriculture*. Ottawa: November. [http://www.greyclark.com/docs/US\\_FED\\_STATE\\_SUBSIDIES\\_TO\\_AG\\_NOV\\_2010.pdf](http://www.greyclark.com/docs/US_FED_STATE_SUBSIDIES_TO_AG_NOV_2010.pdf)
- Herman, Lawrence. 2011. "The Tories' Massive Contradiction on Supply Management." *Globe and Mail* (Toronto). June 16. <http://www.theglobeandmail.com/news/opinions/opinion/the-tories-massive-contradiction-on-supply-management/article2062286/>
- Inside US Trade*. 2010. "TPP Countries Say Canada Not Ready to Join Talks, Press Vietnam to Decide." Washington: Inside Washington Publishers. October 22.
- . 2010. "Canada still in no position to join TPP talks." Washington: Inside Washington Publishers. October 25.
- . 2010. "Washington: Inside Washington Publishers. "Weisel Sees New TPP Members In Near Term Under Two Conditions." Washington: Inside Washington Publishers. October 27.
- . 2010. "U.S., New Zealand Officials Cautious On New Countries Joining TPP Now." Washington: Inside Washington Publishers. October 28.
- . 2011. "House, Senate Pick Similar Offsets for FTAs But Differ on Specifics." Washington: Inside Washington Publishers. July 8.
- Iverson, John. 2011. "Free Trade Agenda Runs Aground in Quebec" (Toronto). *National Post*. January 26. <http://fullcomment.nationalpost.com/2011/01/26/john-iverson-free-trade-agenda-runs-aground-in-quebec/#more-26320>
- The Mainichi Daily News*. 2011. "Business Leaders Call for Japan's Participation in TPP Talks." October 8.
- Office of the United States Trade Representative. Undated. "Trans-Pacific Partnership: Frequently-Asked Questions." Washington: Executive Office of the President. [http://www.ustr.gov/webfm\\_send/1711](http://www.ustr.gov/webfm_send/1711)
- . 2011. *National Trade Estimate Report on Foreign Trade Barriers*. Washington: Executive Office of the President. <http://www.ustr.gov/about-us/press-office/reports-and-publications/2011-0>
- . 2011. *2011 Special 301 Report*. Washington: Executive Office of the President. April. [http://www.ustr.gov/webfm\\_send/2841](http://www.ustr.gov/webfm_send/2841)

- . 2011. “Ambassador Sapiro Highlight’s USTR’s Growing Trade Agenda in New York City.” Washington: Executive Office of the President. July, 18. <http://www.ustr.gov/about-us/press-office/blog/2011/july/ambassador-sapiro-highlights-ustrs-growing-trade-agenda-new-yor>
- . 2010. “Remarks by Ambassador Kirk to the Toronto Board of Trade.” Washington: Executive Office of the President. July 23. <http://www.ustr.gov/about-us/press-office/speeches/transcripts/2010/july/remarks-ambassador-kirk-toronto-board-trade>.
- . 2011. Statement By U.S. Trade Representative Ron Kirk On Announcements From Mexico And Canada Regarding the Trans-Pacific Partnership. Washington: Executive Office of the President. <http://www.ustr.gov/about-us/press-office/press-releases/2011/november/statement-us-trade-representative-ron-kirk-announ>
- Peterson Institute of International Economics. 2010. “A Trans-Pacific Partnership and the Future of the Asia Pacific Region.” Conference. Washington, DC. October 25. Audio Transcript: <http://www.archive.org/details/SessionIiiHowCongressViewsTheTranspacificPartnership>
- Robson, William, and Colin Busby. 2010. “Freeing Up Food: The Ongoing Cost, and Potential Reform, of Supply Management.” Backgrounder 128. Toronto: C.D. Howe Institute. April. [http://www.cdhowe.org/pdf/backgrounder\\_128.pdf](http://www.cdhowe.org/pdf/backgrounder_128.pdf)
- Stokes, Bruce. 2011. “The Pacific Campaign.” *The National Journal Daily*. (Washington). 2011. [http://www.gmfus.org/news\\_analysis/news\\_article\\_view?newsarticle.id=1974](http://www.gmfus.org/news_analysis/news_article_view?newsarticle.id=1974)
- Trans-Pacific Strategic Economic Partnership Agreement. 2005. <http://www.mfat.govt.nz/downloads/trade-agreement/transpacific/main-agreement.pdf>
- Tuke, Victoria. 2011. “Japan’s TPP Short-Termism.” *The Diplomat* (Tokyo). May 25. <http://the-diplomat.com/new-leaders-forum/2011/05/25/japan's-tpp-short-termism/>
- Weekes, John. 2011. “Canada notably absent as Asia talks trade.” *Globe and Mail* (Toronto). January 12. <http://www.theglobeandmail.com/report-on-business/economy/economy-lab/the-economists/canada-notably-absent-as-asia-talks-trade/article1866690/>
- Website of Representative Peter Welch. 2010. “Welch calls for dairy support at meeting with U.S. Trade Representative.” Wednesday, April 14. <http://welch.house.gov/>
- Woo, Yuen Pau. 2008. “Canada Risks Being Left Out of the Trans-Pacific Trade Deal” November 14, 2008. Editorial. Vancouver: Asia Pacific Foundation of Canada. Nov. 14. <http://www.asiapacific.ca/editorials/presidents-view/24085>
- The Yomiuri Shimbun*. 2010. “China Warms to Transpacific Trade Talks.” October 28. <http://www.yomiuri.co.jp/dy/national/T101027005526.htm>

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