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Revisiting Structural Variables of Trade Negotiations: The Case of the Canada-EU Agreement

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Abstract
This article offers a conceptual analysis of the negotiation of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union. It argues that traditional accounts of the structure of trade negotiations must be tailored for their novel nature, especially their wider scope on various regulatory issues and the relative economic weight symmetry of trading partners. To build our argument, we revisit traditional structural factors such as economic interdependence, non-agreement alternatives (NAA), institutional constraints, outcome valuations, and domestic support. We conclude that current and future bilateral trade negotiations will likely last longer, deadlocks will likely become more frequent, and that variations in scope will likely increase.

Keywords
Canada; European Union; Comprehensive Economic and Trade Agreement (CETA); international economic negotiations; institutional constraints; economic interdependence; non-agreement alternatives (NAA); outcome valuations; domestic support

This article argues that traditional accounts of trade negotiations structure must be tailored for their new nature, especially trade agreements' wider scope and trading partners' increasing economic weight symmetry. To illustrate this theoretical

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argument, this article builds on the example of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (EU).

On several accounts, CETA represents an appropriate case to reflect on the negotiating structure of recent and future free trade agreements (FTAs). Like most FTAs concluded in the 2000s, CETA is bilateral, cross-regional, politically-driven, rule-based, highly specific, all-encompassing, and brings together two hubs that are active contributors to the current proliferation of FTAs. It deals not only with at-the-border trade issues, such as tariffs and rules of origins, and behind-the border economic issues, such as public procurement and investment protection, but also "social-economic issues," such as labor, sanitary and environmental measures (Young 2007). Like most recent FTAs, CETA is both broader in scope and deeper in integration than WTO agreements (Horn et al. 2010).

The economic magnitude of CETA, however, stands out when compared to the FTAs signed in the early 2000s. Until recently, FTAs were mostly a North-South phenomenon, characterized by a sharp asymmetry between involved parties. This asymmetry has a strong impact, both on the negotiation process and on the content of these FTAs. Indeed, FTA negotiations were often expeditious and their norms were largely duplicated from OECD countries' legislation and transplanted via these FTAs to developing countries. CETA, in contrast, brings together two major advanced economies. It is the most important Canadian FTA project since NAFTA, and the first European FTA project with a G8 country. Therefore, when CETA negotiations were launched in 2009, it was far from obvious how negotiations would proceed and which regulatory model – the European or the Canadian one – would be consecrated.

Significant economic magnitude and a relative symmetry in economic ties appear as new features of current FTA negotiations. Several advanced economies, having already signed agreements with their most conciliatory secondary partners, have recently refocused their FTA program on OECD countries and large emerging economies. Notably, one of the last Canadian FTAs was signed with the EFTA, one of the more recent European FTAs was concluded with South Korea, and both Canada and the EU have launched negotiations with India. Canadian and EU ambition for future FTAs seems even greater. While Canada has recently started negotiations with Japan and has joined the Trans-Pacific Partnership negotiations, the EU and the United States (US) have expressed strong interests in a Trans-Atlantic trade and investment agreement (Europa 2012). In this context, the asymmetry of economic size is no longer sufficient to explain the outcome of trade negotiation, and classic structural variables must be revisited.

Revising Structural Variables

Since the emergence of negotiation analysis in international political economy in the 1970s, negotiation structure has always been recognized as an important factor in explaining the outcome of trade negotiation. By negotiation structure, we mean the distribution of empowering elements among negotiating parties, whether these elements are material, ideational or institutional. While cognitive and behavioral variables are also important factors, related respectively to what specific negotiators think and do, the structural context in which negotiators operate has continuously drawn more attention, arguably because analysts can more readily observe it, and even sometimes quantitatively describe it. The structuralist literature in trade negotiations is actually so prolific that its review would be out of this article's reach.

Trade negotiation structure can be broken down into several variables. Analysts have traditionally distinguished international structural variables, regarding the degree of centralization of power in the international system (Grieco 1990), from domestic structural variables, regarding the degree of concentration of power in the hands of the government relative to the society (Katzenstein 1976). At the international level, economic mutual dependence and non-agreement alternatives (NAA) are two particularly important elements of analysis. At the domestic level, institutional constraint and domestic support are two key variables affecting the process of bargaining. A fifth variable, outcome valuation, can be located at both levels of analysis. While not exhaustive, these five variables provide a suitable conceptual framework to analyze the structural context of trade negotiations. Taken together, they are indicative of the relative bargaining power of parties and the likelihood of reaching an agreement.

Table 1 identifies these five structural variables affecting the negotiating process. We argue, however, that their traditional definition must be revised to grasp the new dimensions of international trade negotiations. Their revised definition, in turn, should lead to revised indicators.

The first variable to be revised is economic interdependence. Analysts of economic negotiations have traditionally focused their attention on asymmetrical trade dependence, revealed by their respective trade flows over their gross domestic production. The asymmetry of trade dependence laid the foundation for the actors' strategies: the less dependent parties were more likely to impose heavy costs of delays on other parties, coupled with their own insensitivity to self-imposed costs (Clark, Duchesne & Meunier 2000).

While the concept of interdependence was appropriate to evaluate classical negotiations over tangible goods and North-South agreements, it is less the case with the most recent North-North and South-South negotiations, in which asymmetries are not as substantial or clear-cut. Moreover, with the inclusion of several new trade-related issues in the negotiations, the level of asymmetry varies from one issue to another. This variation does not only reduce the overall level of asymmetry, but it also increases the level of uncertainty about it. This uncertainty is further increased by the difficulty to assess marginal gains from regulatory reforms. Analysts were traditionally able to model the effects of tariff-reduction on national income with significant confidence, but several present-day negotiation

Table 1. Conceptual Framework

Structural variables	**Traditional definitions**	**Revised definitions**	**Indicators**
Economic interdependence	Trade interdependence	Marginal gains interdependence	1) Dependence 2) Degree of Confidence
Outcome valuation	Outcome valuation for constituent purpose	Outcome valuation for multilevel negotiations purpose	1) Constituent negotiations 2) International negotiations
Non-agreement alternatives	Elasticity of demand and production of the contested goods	Elasticity of political commitment regarding contested provisions	1) Availability of alternatives 2) Interest in alternatives
Institutional constraints	Legislative constraint	Interjurisdictional constraint	1) Executive/legislative nexus 2) Multilevel governance
Political support	Corporate support	Multi-stakeholder support	1) Mobilization 2) Polarization 3) Access

topics are less amenable to quantitative assessment. As a result, the degree of confidence that government representatives must affix to anticipated marginal gains of an agreement fluctuates greatly.

A lower degree of confidence, associated with the outcome of modern negotiations, increases the range of potential agreements. Uncertainty related to the economic impacts of the negotiations raises a multitude of possibilities, stretching from anticipated losses to significant gains. This situation elevates potential posturing among parties. In the face of uncertainty, both sides can rely on their own interpretation of the estimates to sway the bargaining outcome to their advantage. The possibility of conflicting interpretations can affect the level of trust among negotiators and therefore decrease the possibility of agreeing on a single negotiation item, let alone a comprehensive agreement. In consequence, we can hypothesize that issues where interdependence can be more easily established (i.e. for tangible goods) are more quickly resolved than emerging issues on the trade agenda where establishing interdependence is an intricate undertaking.

Outcome valuation is a second structural variable that requires reconsideration. When trade negotiations focused primarily on goods, politicians had to keep an eye on an agreement's impact on their constituents (domestic constituent valuation). Following this line of reasoning, a substantial body of literature relies on the Heckscher-Ohlin-Samuelson model and perceives FTAs as electoral ammunitions (Jeong 2009). Democratic governments in the developing world, where labor is the primary factor of production, use FTA ratification as a signaling device vis-à-vis their domestic constituents that they are not captured by special interests and are committed to improve the economic condition of the majority of voters (Mansfield & Milner 2010). In addition, in highly asymmetrical trade relations, a FTA could have such an impact on the less powerful economy that an election could be won or lost over it. The US-Peru FTA, for instance, played a decisive role in Peru during the 2006 presidential election that brought Alan Garcia to power.

While outcome valuation for electoral rationales is not outside the realm of possibility for more symmetrical FTAs, we can confidently infer that the prospects of highly technical reforms, such as banking services and intellectual property, will not excite the electorate in advanced economies to the extent of rewarding its incumbent with a reelection. Although these technical issues could have significant economic impacts on the lives of ordinary citizens, public opinion seems to be largely oblivious to prospective international pacts. Moreover, in advanced economies, bilateral negotiations rarely make the headlines and grasp less attention than multilateral negotiations, especially when several bilateral agreements are negotiated simultaneously.

Twenty years ago, trade negotiators were more ready to compromise on issues that did not attract much attention of the general public (Morgenstern et al. 2007). Today, however, as the trade agenda becomes more complex and parallel bilateral negotiations proliferate, governments must increasingly pay attention to the international spillover effect of an agreement (multilevel outcome valuation). Trade officials must keep an eye on the 'big picture' in hopes that the negotiation of a particular FTA will force the hands of their international partners in parallel negotiations. On issues requiring deep integration, a concession to one trade partner often becomes a concession to all future trade partners. Bilateral negotiations have always taken place in a broader global context, but the current proliferation of bilateral and regional FTAs makes multilevel outcome valuation more important than ever (Chen & Joshi 2010). This internationalization of the outcome valuation increases the autonomy of trade negotiators, releasing them from the constraints of the electoral calendar and enabling them to strategically overlap the calendar of several parallel negotiations. We can hypothesize that this increased autonomy could favor strategic delays and increase the rate of negotiating deadlocks.

Multilevel outcome valuation is closely related to the third structural variable, non-agreement alternatives (NAA). More specifically, evaluating NAA amounts to determining under which circumstances one of the parties is able to credibly threaten to walk away from the negotiation table. For obvious reasons, it will be more difficult to find an NAA, and consequently commit to a credible threat, if a team of negotiators puts a very high value on the FTA being currently negotiated. For strict liberalization purposes, a fitting measure of a NAA is the elasticity of demand and production of the 'contested' goods and services. As the trade creation versus trade diversion debate demonstrates, negotiators are sensitive to trade alternatives available to their counterparts (Bhagwati & Panagariya 1996).

For regulatory issues such as intellectual property and environmental standards, the NAA logic is hardly applicable. Here, the objective is not to find more amenable alternate trade allies, but rather to find other partners willing to harmonize their policies with one's own policies. Once policies are implemented, they affect all trading partners. Moreover, when few alternative FTAs existed, opportunities to link alternative trade liberalization options were far and few between. If one wants to assess the influence of NAA on the bargaining process, he needs not only to consider the interest of trade officials in alternative options, but also the availability of such options. With the explosion of FTAs and the increased number and complexity of issues on the agenda, current economic dialogues facilitate the linkages between negotiation venues. This elasticity of political commitment adds a bargaining weapon to trade officials' arsenals. Since all negotiators in North-North FTA negotiations enjoy the benefit of this bargaining weapon, we can hypothesize that negotiations are made more challenging.

Institutional constraint, the fourth structural variable, refers to a situation where the "chief negotiator" cannot unilaterally ratify or implement an international agreement in his domestic constituency. In classical two-level game theory, an institutional constraint has typically been understood as the legislative ratification by the Parliament (Putnam 1988). It has often been argued, for example, that negotiators from presidential systems face greater risk of involuntary defection from their Parliament than their counterparts from parliamentary systems (Stepan & Skach 1993).

This form of constraint undoubtedly remains a salient factor in trade negotiations. However, as the negotiation domain extends to trade-related issues, cooperation from a greater number of public authorities might be needed. Several issues covered in recent FTAs, such as government procurement, transparency on subsidies and liberalization of public services, directly concern a constellation of regional and local authorities. As the implementation of key negotiation items fall under their jurisdiction, their voices cannot be ignored any longer and they become increasingly active players in the FTA negotiation process. Multilevel decision-making processes emerge and, in some cases, local or regional authorities could even become informal, if not *de facto*, veto players. We can hypothesize from this that as the number of public authorities involved increases, the transaction costs rise, and ratification becomes less likely (Mansfield & Milner 2010).

The fifth and last structural variable discussed in this article is political support. International trade negotiations, especially the negotiation of bilateral free trade agreements with remote developing countries, used to be the turf of well-informed trade specialists and corporate actors. This elitist club, however, has expanded into a hodgepodge of multifaceted pressures involving a mounting number of interest groups. The irony is that the very same technical issues that are keeping mainstream media and the general public at arm's length attract various specialized interest groups, such as consumers groups, environment NGOs, copyright activists, health care beneficiaries and professional associations. Moreover, these interest groups benefit from a more favorable institutional environment. Negotiators in advanced economies increasingly consult recognized stakeholders, share information with them, and set up advisory mechanisms. Therefore, the structural context of international economic negotiations has apparently shifted from high-profile "club" to low-profile "multi-stakeholder" models (Hocking 2004).

An exploration of interest group mobilization, polarization and access to trade negotiators can uncover a paradox. As more groups mobilize, polarize over a rising number of issues and find more entry points to influence trade officials, the latter can pick and choose from a cacophony of voices to support their own objectives. While industry representatives might still hold consensual views on certain issues and exercise together a strong pressure on negotiators, they now face active opposition on every front. Conversely, NGOs' increased involvement and access to decision-makers has not necessarily translated into increased influence (Dür & de Bièvre 2007). We can hypothesize that this multi-stakeholder environment, combined with a relative disinterest from the general public for todays' FTA negotiations, has increased the autonomy of negotiators *vis-a-vis* the society.

Economic interdependence, outcome valuation, NAA, institutional constraint and political support are only a few of the numerous structural variables that affect the outcome of FTA negotiation. Their examination is nevertheless sufficient to argue that the increasing regulatory approach of FTAs and the reduced asymmetry among trading partners call for a revision of their classical definition, the inclusion of new indicators, and the generation of new testable hypotheses. The following sections on CETA do not aim at empirically testing these hypotheses, but more humbly to illustrate the relevance of a revised conceptual framework.

CETA Background

At the Canada-EU summit of 2004, Canadian and EU authorities decided to launch negotiations for the Trade and Investment Enhancement Agreement. The agreement was meant to move beyond market access issues to cover services, government procurement, investment, intellectual property, and professional qualifications. After only three rounds of negotiations, however, Canada and the EU announced their joint decision to put the dialogue on hiatus, citing the necessity to await the outcome of the WTO Doha Round before moving ahead. It was informally said that the EU had lost its interest in the project when it realized that key issues fell under provincial jurisdiction and some provinces seemed quite intransigent.

Shortly after the breakdown of the negotiations, a number of political actors worked actively to launch another reciprocal trade project. In fall 2006, the new Ambassador of the European Commission to Ottawa "made it known that a window of opportunity was open to Canada if the latter was interested in a deeper economic partnership with the EU" (Leblond 2010: 74). The Quebec government, more than any other, deployed all its efforts to take advantage of this overture and intensively lobbied the Commission, key EU member states, as well as other Canadian provinces.

The political alignment was especially propitious at the EU-Canada summit held in Quebec City in October 2008. On the European side, the rotating Council presidency was held by Nicolas Sarkozy, one of the European Heads of State most receptive to Quebec's arguments for renewed trade talks. On the Canadian side, the Conservative Party, traditionally more favorable to economic liberalization than the Liberal Party, had just been re-elected in Ottawa. Importantly, the Quebec Premier Jean Charest was chairing the Council of the Federation and successfully convinced Canadian provinces to support the project, an important precondition set by the EU. In this context, EU and Canadian authorities agreed to work together to define the scope of the economic and trade agreement. Seven months later, at the Summit of May 2009, they officially announced the launch of CETA.

Since October 2009, European and Canadian negotiators have been holding negotiating rounds every three months. According to a leaked draft, CETA will include chapters on market access, trade remedies, technical barriers to trade, sanitary and phytosanitary measures, rules of origin, investment and services, government procurement, intellectual property rights, competition policy, regulatory cooperation, transparency, sustainable development and dispute settlement. To date, some thorny issues, such as rules of origins and geographic indications, remain unresolved. Despite these difficulties, negotiators still seem (as of December 2012) committed to reaching an agreement. Although the CETA negotiations are not over at the time of writing, there is already enough information to formulate a preliminary synopsis of the structural context of its negotiations.

From Market Interdependence to Anticipated Marginal Gains

Marginal gains interdependence, and the level of confidence attached to it, is the first structural variable of our conceptual framework. If one looks only at trade interdependence, as done traditionally to assess the level of asymmetry between negotiating parties, the relationship clearly tilts in favor of the EU. CETA appears as a negotiation that is less asymmetrical than most FTAs concluded in the 2000s, but asymmetrical nevertheless. More precisely, trade with the EU accounts for 10.5% of Canadian total external trade, while Canada captures only 1.6% of the EU's total external trade. Relatively speaking, more than 2.4% of Canadian GDP is exported in goods or services to the EU, while the EU exports around 0.3% of its GDP to Canada (DG Trade 2012). Based on this analysis, one could prematurely predict that, given the greater weight of a conceivable deal on the Canadian economy, Canada will be the main beneficiary in terms of GDP. However, given the various issue-areas under negotiation, going well beyond trade in goods and services, it remains unclear to what extend Canada could really benefit from CETA.

To clarify their expected respective gains, Canada and the EU jointly conducted an impact assessment study prior to launching negotiations. This practice, increasingly common in trade negotiations, facilitates political decisions in a context of uncertainty by providing a common focal point. The joint study concluded that both Canada and the EU would benefit from CETA. The expanded level of economic activity resulting from CETA was estimated at €11.6 billion for the EU and €8.2 billion for Canada (Canada & EC 2008). Since EU's GDP is approximately tenfold Canada's, expected gains as a measure of GDP was estimated at 0.08% for the former and 0.77% for the latter. Nevertheless, gains in absolute terms remain unreliable and assessments of CETA's impacts vary significantly from one study to the next (Cameron & Loukine 2011; Kirkpatrick et al. 2011; Leblond 2010).

All assessment studies, however, converge on the fact that the degree of asymmetry is not constant across issue areas.[1] Regarding market access for non-agricultural goods, tariffs on goods traded the most between the EU and Canada – such as metallic ores, oil, coal and lumber – are already low. In this sector, export surges are expected to be greater for the EU in absolute terms or relative to current trade levels, but greater for Canada when calculated in terms of GDP. Footwear, textiles and apparel are sectors where tariff peaks remain on both sides of the Atlantic and for which liberalization could equally benefit the EU and Canada.

Services represent a significant and comparable share of total value-added in Canada (66.8% of total activity) and the EU (73.6% of total activity) in 2010 (OECD 2012). As barriers to service trade are still high in both economies, Canadian and EU exports in services could expand at a similar high growth rate (around 14%) as a result from CETA (Canada & EC 2008). However, European expertise in services is more concentrated in specific sectors, such as telecom, maritime transport, and financial services. European service providers in these sectors could significantly penetrate the Canadian market (Kirkpatrick et al. 2011).

[1] While some discussion would be pertinent here, we address agriculture, public procurement and intellectual property in other sections of the article.

For Canada, anticipated gains from service liberalization are more diffused across sectors.

Investment is another issue area for which economic relations are relatively symmetrical. Canada is the fourth largest exporter of FDI to Europe, while Europe is the second largest investor in Canada. Several CETA chapters, including market access, services and intellectual property rights (IPRs), will likely boost FDI flows in a wide variety of sectors, such as energy, environmental industry, natural resources, aerospace, transportation, defense, life sciences, and communication technology. The investment chapter itself could potentially increase FDI levels if its provisions related to investment liberalization lift the few remaining regulatory restrictions in both markets.

Overall, CETA could simultaneously benefit the EU and Canada. The EU would be the main beneficiary of government procurement liberalization and higher IPRs protection. Canada would be the main beneficiary from the removal of custom tariffs on pork, fish, seafood, wheat, and hormone-free beef. Mutually beneficial achievements could arise from investment liberalization, textile tariff reduction and exceptions for cultural diversity. Service liberalization could also be mutually beneficial now that the EU has accepted Canada's view that a negative approach, covering a wider range of services and specifying only exclusions, is a way to fast-forward the negotiations in the sector. A win-win situation, however, might not be possible on most regulatory issues beyond mutual standards recognition for a limited number of products and services. Areas of uncertainty remain, such as the effect of investment protection on FDI flows, the ramifications of regulatory harmonization and the impact of higher IPR protection on Canada. In this context of uncertainty, framing CETA as a positive contribution to both economies and conducting joint impact assessments are useful strategies to smoothen a rocky negotiation process.

From Domestic to Multilevel Outcome Valuation

How much does multilevel outcome valuation affect CETA's parties? For the Canadian government, CETA has significant political and strategic value. Historically, trade diversification away from a tight reliance on the American economy has been a recurrent theme for Canadian politicians. In this context, CETA could potentially serve as a reminder that, if the US shows signs of protectionism, Canada has other options. That said, the Canadian government certainly does not want to erode the 'special relationship' it entertains with its powerful neighbor.

The most important challenge that CETA could raise for Canada-US trade relations might not come from tariff abolition but from regulatory harmonization. It is a clear 'red line' for Canadian negotiators on sanitary measures, environmental standards, professional qualifications, geographical indications, and a traceability system for beef and pork. If CETA includes strict EU-style protection for geographical indications, for example, cheeses produced in the US but protected in Europe might have to be rebranded under another name to be legally exported to Canada. This would hardly be acceptable for Canada, not only because it puts Canadian producers at a disadvantage, but also because it might strain its relations with the US.

CETA also provides an opportunity for the Canadian government to display a high profile and independent trade policy, both domestically and internationally (Hübner 2010). Until recently, the selection of Canada's FTA partners was not the result of a well-thought-out strategy, but a mere replication of US initiatives, which led Canada to sign agreements with Mexico, Israel, Chile, Costa Rica, Peru, Colombia, Jordan, and Panama. However, as Deblock and Rioux (2011: 48) note, "since the Conservatives came to power in Ottawa, Canada has revamped its trade diplomacy." It signed a FTA with the European Free Trade Association in 2009 and started negotiations with other strategic partners that do not already have a FTA with the US. CETA could certainly become the centerpiece of this revised trade policy.

As a result, the political symbol of a FTA with the EU might be more attractive for Canadian decision-makers than the prospect of increased trade diversification. The Canadian economy is already diversifying toward Europe, even in the absence of CETA. The share of exports to the US over total Canadian exports has steadily eroded over the last decade, from 87.7% in 2002 to 74.9% in 2011, while the share of exports to Europe has nearly doubled, from 5% in 2002 to 10.3% in 2011 (Statistics Canada 2012). Moreover, as the US was emerging from the 2008 economic crisis, the Eurozone was plunging into financial troubles. This made Europe less attractive, in strict commercial and financial terms, as an insurance policy against US recession. In fact, the same economic crisis that hit Europe illustrated the surprising resilience of the Canadian economy, even when the US encountered economic turmoil.

Multilevel outcome valuation also signifies that the Harper government might take advantage of CETA to tie its hands internationally and force domestic reforms that it considers desirable but politically sensitive. This might be the case, for example, with the copyright reform that the Harper government introduced three times in Parliament without success. CETA's chapter on intellectual property could potentially empower the Harper government to proceed with its highly controversial copyright reform by redirecting the blame on this international agreement.

Likewise, the Canadian government might want to take the opportunity of CETA to favor interprovincial trade. On several accounts, trade within Canada is less liberalized than trade between EU member states. In Canada's federal system, however, the federal government does not have the constitutional jurisdiction to open up interprovincial trade. CETA provisions on professional qualifications, services and procurement might be an indirect way to force enhanced interprovincial trade liberalization.

While Canadian interests for CETA are mainly capped by the precedence of the US in its trade policy, the EU seems to lack enthusiasm all together. The Standing Committee on International Trade of the Canadian House of Commons, for example, travelled to Europe and was later reported to have been "disappointed with the lack of interest within the European Commission regarding a potential free trade agreement with Canada" (Canada, House of Commons 2007: 38). The economic crisis in the Eurozone did not stimulate a stronger European interest for CETA and, according to Hübner (2010: 2), even took "away some of the initial euphoria." This apparent lack of interest provides some bargaining leverage for the EU. As Sinclair (2010: 6) argues, "while Ottawa has made the CETA a centerpiece of its foreign economic policy, the EU could walk away from these talks at any moment with few domestic political repercussions."

CETA has nonetheless some strategic value for the EU. Its political decision to launch CETA was partly motivated by the aspiration of some European political actors to foster trade relations with the US. As an expression of its interest in closer economic cooperation with North America, on the eve of the launch of CETA, the EU signed the *Framework Agreement for Advancing Transatlantic Economic Integration* with the US. As its ultimate goal, an agreement with Canada could therefore serve as an institutional laboratory for transatlantic regulatory harmonization and a forerunner to a broader agreement.

For the EU, Canada could also serve as an archetype for parallel and future negotiations with third countries. The EU is currently negotiating FTAs with several other partners, including India, ASEAN, and MERCOSUR. Arguably, it could be easier for the EU to reach an agreement with an OECD country like Canada than with emerging economies in regards to a number of issues, such as market access, services, labor standards and environmental cooperation. CETA could thus serve as a new international baseline for subsequent FTAs.

Since the EU's interest in CETA is largely strategic, the breakdown of negotiations might be preferable to an agreement that cannot serve as a model for future negotiations. The EU, for example, is unlikely to compromise on pharmaceutical patent protection with Canada, knowing that India, which is negotiating a parallel PTA with the EU and is fiercely opposed to the EU position on pharmaceuticals, could take advantage of this precedent. On the surface, the EU's strategic lack of interest for an agreement at all costs, could mean that no deal is better than a bad deal.

From Non-agreement Alternatives to Elasticity of Political Commitment

Elasticity of political commitment regarding contested provision is the third structural variable. For Canada, CETA might not be the single best conceivable option, but given the political context, it might be one of the best remaining options. If the primary Canadian objective is to increase its trade and investment flows, the best scenario for Canada is to push for a NAFTA-plus agreement covering issues such as labeling, marketing approval, labor mobility and customs procedures (Deblock & Rioux 2011). This scenario, however, is not realistically available. First, there is little political interest in Washington for deeper economic integration at a time when the country faces economic difficulties and prioritizes enhanced border security. Second, in Canada, any economic integration with the US that can be portrayed as a loss of sovereignty could be politically challenging.

WTO multilateral negotiations arguably constitute Canada's second best option. Canada remains an active advocate for multilateralism in trade relations. However, the Doha Round lost its momentum, along with other ambitious plurilateral propositions such as the Free Trade Agreement of the Americas (FTAA) and the Free Trade Areas of the Asia-Pacific (FTAAP).

CETA certainly ranks among Canada's most promising available options. The EU is the second Canadian trade partner and the value of Canadian exports to the EU is more than 2.5 times higher than exports to China, Canada's third trade partner (Statistics Canada 2012). Moreover, CETA would strategically position Canada in the select club of countries that have FTAs with both the EU and the US and this hub position offers significant opportunities to attract foreign investors.

However, the Trans-Pacific Partnership project appears on some aspects even more promising for Canada than CETA. First, it involves some fast-growing economies, like Malaysia and Vietnam, and could include some more in the future. Compared with these emerging markets, trade with the EU has limited growth potential (Georges & Mérette 2010; Cameron 2010). Not only is the size of Pacific markets and populations growing faster, but Pacific countries' level of protection against Canadian exports is also higher. In this context, despite the absolute size of the EU market, CETA presents less long-term growth potential than the Trans-Pacific Partnership.

Moreover, harmonizing various regulatory issues with Pacific countries might be easier and more strategic than with the EU. Canada and the US have already signed bilateral FTAs with several countries involved in the TPP venture, and these FTAs promote the North American regulatory model. It only seems natural that the TPP will build on theses FTAs to deepen regulatory integration. Lessons drawn from NAFTA on regulatory issues like investment and environment protection will be easily extended to the Pacific region, and overcoming regulatory divergence with Europe, for example on wine and spirit, could be avoided. In the longer term, for a future WTO round, the TPP could better position the North American regulatory model over the European one as the global standard.

The EU's elasticity is even smaller given the number of available alternatives (Elsig 2007). Not only do EU FTAs with emerging economies offer greater growth potential than CETA, but its current trade volume with many of them is also greater than trade with Canada. Canada is only the EU's 14th trade partner with 1.9% of EU merchandise exports in 2011, whereas India and Brazil, two countries with whom the EU is currently negotiating FTAs, are the EU's 8th and 9th partners, with respectively 2.6% and 2.1% of EU exports. Canada is rarely in the top 5 of the EU's partners for any main merchandise categories, except for the import of ores and the export of pharmaceuticals. Moreover, while Europe represents a growing share of Canada's trade, Canada's share of European trade is continuously declining (European Commission 2012). Unsurprisingly, a 2006 Communication from the Commission has identified ASEAN, Korea and MERCOSUR as priority partners for FTA negotiations, but not Canada (EU 2006: 9). Since then, the Commission has carried on its strategy. It signed a FTA with Korea in 2010 and is currently negotiating FTAs with a number of countries including India, Singapore, Malaysia, ASEAN and MERCOSUR.

Neither Canada nor the EU is elastic when it comes to giving away their regulatory model. If the negotiations were to end in an impasse, both Canada and the EU could fall back on alternatives. The transatlantic regulatory divide will unlikely be entirely bridged with CETA.

From Legislative Institutional to Interjurisdictional Constraint

Both the EU and Canada have adjusted their negotiating practices to integrate several levels of governance, all concerned with at least some regulatory aspect of CETA. Interestingly, the impulse for change in negotiating practices within Canada came from Europe. Opening the tendering process of Canadian provinces was identified from the onset as one of the primary objectives of European negotiators. While several European companies are world leaders in transport equipment and public utilities, public procurement is significantly less liberalized in Canada. Aware of the risk of a Canadian 'involuntary defection' due to resistance from provinces, the EU insisted on their participation at the negotiating table.

To reassure EU negotiators, the federal government adjusted its negotiating practices and invited provinces to attend negotiations affecting their jurisdiction. This was an unprecedented involvement in free trade negotiations for Canadian provinces. While they do not legally have a *de jure* veto on CETA ratification, they can certainly be considered as *de facto* veto players. As noted by the Canadian House of Commons, "Although the scope of trade agreements negotiated by Canada has not in the past included sub-national governments, a Canada-EU CETA would likely change this approach if the two parties reach an agreement" (Canada, House of Commons 2012: 3).

Under the "Schelling conjecture," institutional constraints enable the negotiators to communicate credible limits on their leeway (Schelling 1960). As such, the insistence of EU negotiators to have provinces at the negotiating table might have paradoxically enhanced Canadian bargaining power. Brussels can no longer ignore that provinces have different priorities, making it more difficult for EU negotiators to operate trade-offs and side-payments. Increased access for fisheries, for example, could hardly compensate the extension of pharmaceutical patent protection, as these measures affect different provinces. Newfoundland is one of the most reluctant provinces and could back off on procurement if its interests in oil are threatened or if Europeans push too hard on the seal hunt controversy.

Provincial involvement could however facilitate the identification of the issue areas on which EU negotiators can hope to extract more gains. Quebec, in particular, appears to be one of the most vulnerable targets for three reasons. Firstly, it is publicly committed to CETA to a point that the government could hardly condemn the agreement. Secondly, because of its industrial base, Quebec will likely see its exports and foreign investment inflow grow as a result of trade liberalization. Thirdly, a successful outcome might secure provincial involvement in future trade negotiations, a practice historically requested by Quebec's premiers. Therefore, the EU can reasonably hope that Quebec will not oppose the deal even if some specific behind-the-border regulatory provisions hurt its economy.

While provinces are increasingly involved on the Canadian side of the negotiating table, the European Commission has gained greater control on the European side (Elsig 2007; Hillman & Kleimann 2010). The Lisbon Treaty has extended EU competences by bringing services, the commercial aspects of intellectual property, and foreign direct investment under EU exclusive competences. Member states' unanimity and national parliament's ratification are not required, with few exceptions. This jurisdiction context enhanced the capacity of the Commission to use the Trade Policy Committee to convey strategically selected information to bring member states closer to its ideal-point. Conversely, it facilitates trade linkages and side payments for Canadian negotiators. The protection of some geographical indications requested by the French and the Italian governments, for example, can be offered as a compensation for the refusal to fully liberalize financial services as sought by the British government. It is still unclear, however, how this legal change will affect existing norms and practices. To be sure, EU member states are not completely left aside, and EU trade bargaining can still be qualified as a "three-level game" (Frennhoff Larsen 2007). Regulatory standards that have been painfully negotiated among member states within the EU could hardly be altered in the context of a bilateral trade negotiation with a third party (Young 2004).

Moreover, the European Parliament plays an expanded role under the Lisbon Treaty and might complicate further the negotiation process. The Parliament must now be kept informed by the Commission on the progress of the negotiations and, more importantly, must approve the final agreement. Some members of the European Parliament can take this opportunity to press Canada on certain non-trade issues, such as the seal hunt, oil sands, greenhouse gas emissions or visa requirements.

Up to now, trade negotiators were not used to seeing the European Parliament as a credible source of involuntary defection and few have developed strong working relationships with members of the Parliament. This might change after the European Parliament rejected in 2012 the Anti-Counterfeiting Trade Agreement negotiated by the European Commission. On this particular issue, the European Parliament's stance is actually closer to the Canadian position than the Commission's and Commissioner De Gucht acknowledged that he had to soften his negotiating position in CETA as a consequence (ViEUws 2012).

This complex multilevel governance constitutes a double-edged sword. On the dull side of the blade, it complicates the bargaining process and consequently decreases the likelihood of reaching a satisfactory compromise. Underneath the formal negotiating table, provincial governments, European parliamentarians and EU member states are directly interacting with each other. Though, on the sharp side of the blade, once cooperation is achieved, the implementation of an agreement is much less in doubt.

From Corporate to Multi-stakeholder Political Support

In Canada, the negotiation of a CETA has attracted the attention of various interest groups, including labor unions (such as the Canadian Union of Public Employees), farmers' groups (such the National Farmers' Union), NGOs (such as the Council of Canadians), left-wing think tanks (such as the Canadian Center for Policy Alternative), influential bloggers and columnists (such as Michael Geist), local governments (such as the Federation of Canadian Municipalities), and political parties (such as the New Democratic Party). None of these Canadian actors are new, but the renewed interest of many of them for bilateral FTA negotiations is. Most paid little attention to Canada's negotiation with Colombia, Jordan, Peru or Chile. No trade agreement has drawn as much attention as CETA from Canadian interest groups since NAFTA, twenty years ago.

This heterogeneity of interest groups could enhance the autonomy of Canadian negotiators. For example, increasing patent protection in Canada to the higher European standards might hurt generic producers while pleasing brand-name companies. As a result, two industry lobby groups, the Canadian Generic Pharmaceutical Association and Canada's Research-Based Pharmaceutical Companies, have pressured the Canadian government, respectively to resist and to take on European proposals on pharmaceutical patents. Both groups have commissioned technical economic studies, predicting opposite consequences for the Canadian economy if their favored policy is adopted. Fed by conflicting economic modeling, the Canadian government can use one or the other to justify its policies.

In Canada, the level of public controversy raised by CETA is nothing to compare with debates that surrounded earlier international economic negotiations, such as the Canada-US Free Trade Agreement, the Multilateral Agreement on Investment, or the Free Trade Agreement of the Americas. This low level of public engagement might be due to CETA's legal technicality, uncertainty regarding the impact of norms harmonization or the apparent unthreatening nature of the EU. Eastern Canada's farmer groups, on their side, seem to have been sufficiently reassured by the Canadian Minister of Agriculture's public statements and do not anticipate that the supply management system is at risk. Otherwise, they would have invested as much political capital on their CETA campaign as they usually do during WTO negotiations.

European public indifference for CETA surpasses Canadians' apathy. As in Canada, the business community supports the negotiations but the issue seems near the bottom of their priority list. European farmers, like their Canadian counterparts, seem confident that the Common agricultural policy and GMO policy will remain largely untouched. Service providers and the chemical industry are among the few interest groups to have expressed some enthusiasm. Some specialized NGOs are mobilized against Canada's oil sand and seal hunting practices, and others express concerns over an investor-State dispute settlement mechanism, but CETA is not among their priority issue. While Canadian negotiators derive autonomy from interest groups' divergence, European negotiators benefit from civil society's lack of interest. This autonomy might give respective negotiators enough room to reach consensus on common text, but it might also prevent them from building enough civil society support to foster an agreement.

Conclusion

This article suggests a revision of classic structural variables to help better understand the new generation of FTAs. Relative dependence, outcome valuation, the availability of alternatives, institutional constraints, and domestic support are still salient factors explaining the allocation of gains, costly delays in reaching an agreement, or, in extreme circumstances, negotiation collapses. We argue, however, that the operationalization of these structural variables needs refinement to account for FTAs' wider scope on various regulatory issues and increased symmetry of trading partners. To illustrate our revised operationalization, we draw from the example of CETA. However, based on the assumption that there are common structural elements to any type of negotiation, we believe that our revised operationalization could help researchers gain a better understanding of other current FTA negotiations.

Our examination of CETA, using our five structural variables, leads us to conclude that current FTA negotiations are more likely to suffer from delays, or even breakdown, than were earlier generations of FTAs. Difficulties arise not only because the increasing symmetry in the economic weight of parties, but also because of the increased uncertainty regarding the marginal gains generated by regulatory issues, the increased recognition that any concession could create precedence for parallel negotiations, the increased number of emerging economies and OECD countries willing to negotiate FTAs, the increased involvement of various public authorities concerned by regulatory issues, the increased disillusion of the public about the capacity of FTAs to boost economic growth in advanced economies, and the increased disparities of views among interest groups. Clearly, the rules of the FTA game are changing.

One possible outcome for advanced economies, to avoid repeated delays and deadlocks, would be to negotiate agreements more modest than those they used to negotiate with developing countries in the 2000s. By reducing the breadth and depth of integration, negotiating parties could more easily come to an agreement. Or course, GATT art. XXIV prevents partial liberalization of tariffs, but tariff barriers are not a major point of contention in North-North FTA negotiations and nothing prevents partial agreements on regulatory harmonization. For example, Canada and the EU would presumably have come to an agreement before the end of the 2011 original deadline if it did not cover services, sanitary measures, intellectual property, geographical indications, and government procurement. Even such a light version of CETA would have benefited both economies and parties would have walked away from the negotiations with a certain dose of satisfaction. It is unclear, however, if a modest agreement would have seemed attractive enough to start the negotiations in first place.

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