

# Resetting a New Agri-Food Trade Policy Agenda



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## The Issue

The year 2016 was a remarkable year, and the political shifts that have occurred frame a new trade and foreign policy context for Canada. Some of the major shifts impacting Canada include the following:

- The Brexit vote, expected to cause Britain to leave the EU
- Ongoing malaise in the EU, related to weak and uneven economic growth and financial conditions in member countries, and mass immigration from an exodus of refugees from embattled mid-east regions
- An apparent stall, and perhaps a failure, in progress toward ratification of the Trans-Pacific Partnership Agreement in the face of US opposition
- The apparent, pending, final ratification of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) in 2017
- The election of Donald Trump as US President, with the prospect of dramatic shifts in US trade and foreign policy
- Increasing economic and geopolitical rivalry between the US and China
- Renewed prospects for multi-lateral trade liberalization in a WTO Ministerial planned for late 2017

These developments, some quite sudden and recent, will serve to reset the agenda for Canadian agri-food trade policy and to stretch Canada's capacity to address the full range of trade and domestic policy implications. The purpose of this policy note is to take stock, and trace the apparent implications in terms of a Canadian approach and response, and the expectations we should have going forward.

## Shifts in US Trade Policy

During and following the 2016 US election, President Trump offered a range of views with regard to specifics on US trade policy. However he was quite consistent with concerns regarding losses of US jobs to “offshoring” and the substitution of imports for US jobs. Consistent with this, he pledged to take action on imports by walking away from the Trans Pacific Partnership (TPP) Agreement (which he did on “day one”), introducing a border tax on imports viewed as taking advantage of the US, repatriating US companies that have moved abroad, and pledging to renegotiate NAFTA. Each of these have significant impacts on Canada.

The primary gain for Canadian agri-food in TPP was improved access to Japan, and Japan recently ratified the TPP Agreement. With the US now formally out of the TPP, the alternative is for Canada to pursue a bilateral trade agreement with Japan, previously initiated but then shelved as the two countries focused on TPP. The TPP could form a useful starting point, or blueprint, for a renewed Canada-Japan trade agreement.

Of more immediate concern is trade actions the US may be prepared to take directly against Canada.

Prior to the US election, the expiry of the Canada-US Softwood Lumber Agreement seemed likely to proceed toward a formal trade dispute; Mr. Trump's approach would seem to make this even more likely. In January 2017, the US launched a WTO complaint on aspects of wine retailing in BC<sup>1</sup> alleging that a new grocery retail initiative in BC discriminates against US product. The US dairy industry has directly requested that Mr. Trump take action on what it sees as protectionist changes in

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<sup>1</sup> [https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/january/Challenges\\_Canadian\\_Trade\\_Measures\\_That\\_Discriminate\\_Against\\_US\\_Wine](https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/january/Challenges_Canadian_Trade_Measures_That_Discriminate_Against_US_Wine)

Canadian dairy policy under the Ingredient Strategy<sup>2</sup>. Since the summer of 2016, the US dairy industry and leaders in the Congress have publicly expressed concerns about Canadian dairy policy changes. Under Trump leadership, the prospect of some sort of trade action by the US against Canada on dairy must be seen as likely.

Under the more mercantilist vision laid out for US trade policy by Mr. Trump, other disputes initiated by the US are possible. He has focused attention on two countries that have the biggest trade surpluses with the US- China and Mexico. However, this does not exempt Canada as one of the US' biggest trading partners from scrutiny. Mr. Trump has at times spoken approvingly of Country of Origin Labeling, despite its repeal following the successful WTO challenge mounted by Canada and Mexico.

Presumably products most heavily exported to the US are the most likely to be targeted in prospective trade actions. In agri-food this could include hogs, greenhouse vegetables (past targets), cattle, and likely other products. In the current political environment, the prevailing consideration is unlikely to be the merit of trade cases initiated by the US or the actual efficacy of remediation; it will be in the perceived willingness to act on behalf of the President, and the appearance of making good on campaign promises. This, in turn, will also encourage many industry groups to lobby the President for restrictions on imports under a range of guises, whether or not there is merit in the case or consistency with trade law.

Separate from an apparent vigour in taking on specific disputes is a promise made by Mr. Trump to erect a border tax on imports. It is unclear at this point whether this is realistic or whether the administration is prepared to move forward with it, and whether the US congress is prepared to move in the same direction. Its impacts would surely be complex. In particular, as a large importer at the global level, such a move stands to have major macroeconomic impacts- particularly on exchange rates, as countries with exports to the US see their currencies weaken relative to the US dollar, proportional

to countries' exposure to US exports. Such a move would weaken the Canadian dollar and potentially prompt a decrease in interest rates. This is in addition to the direct market access limiting effects on specific products in which Canada is among the few, or even sole import supplier to the US.

It is possible that these various trade policy initiatives may occur simultaneously or in short succession, either to shore up the US bargaining position on NAFTA, or simply as a strategy to stretch Canada's (and other countries') capacity to adequately analyze and defend against these actions. The Trump tweets and "bombast" are also an element of a negotiating strategy by the Trump Administration, and reflect a much more aggressive approach than previously encountered from the US. This could further challenge Canada's policy capacity as handling expectations becomes difficult to manage if panic begins. Using this approach, the US may wish to force settlement of some cases by Canada out of lack of resources, or to win others as Canada's trade negotiation resources are depleted.

Renegotiation of NAFTA is highly touted as an initiative by Mr. Trump. This presents the prospect of some sensitivities to Canadian agri-food. Supply managed products could be targeted, as most tariff lines for non-supply managed products are already at zero-tariff levels. Some provincially regulated products could also face pressure.

At the same time, it is a negotiation and Canada should be preparing its requests from the US and Mexico. One candidate for this list in agri-food is technical issues. These were the subject of the Canada-US Regulatory Cooperation Council initiative, and never fully completed. Many of the issues listed to be addressed in this initiative were in agri-food. There are further issues of harmonization in regulatory standards between the two countries that can be addressed in a renegotiation of NAFTA, in the Canadian interest.

In this environment, there will be benefits in identifying other issues of common interest that Canada and the US can work together on that build upon existing relationships. A current example, in which Canada is

<sup>2</sup> <http://www.idfa.org/docs/default-source/2017/idfa-nasda-usdec-nmpf-canada-letter-january-2017-final.pdf>

already operating in support of the US, is the WTO complaint launched by the US against China on wheat, corn and rice.

### A More Diversified Trade Policy?

With the prospect of new barriers, interruptions or disputes in trade with the US, alternative markets for Canadian agri-food products will need to be secured. Reducing production of farm products and associated foods in the event of restrictions on imports by the US will be nearly impossible; the products will need to find alternative markets.

Canada will need to double down on its trade relationships to create this possibility and explore other emerging markets for its production. In this regard CETA- in the final stages prior to implementation- could prove very valuable. Canada has an advantage in terms of access over the US in the EU market, and it would appear that the US-EU trade negotiations are unlikely to proceed any further. Canada still faces the job of completing and navigating technical standards with the EU on farm and food products; under threat from reduced US market access, effectively addressing technical standards assumes increased priority. Canada also needs to develop the EU market for many of its agri-food products. At the same time, the promise of the EU market will need to be closely monitored. The coalition of countries that forms the EU appears increasingly fractious, and it is possible that others will follow Britain out of the EU. This suggests further diversification in trade could be beneficial.

Japan, China and Korea could provide further market diversification, and Canadian discussions on trade liberalization with each of these countries were established prior to the recent US election. In a trade agreement with Japan along the lines of what was negotiated in TPP, Canada would gain important access to a premium but slow growing agri-food market. One can also make the case for Canada to press Korea, another premium food market, for Canadian tariff rates on pork equivalent to that of the US, particularly if Korea is faced with a US administration hostile to the cost of maintaining American troops on Korean soil. Here

again, the template established in TPP could be useful in a bilateral agreement, especially with Korea having contemplated joining TPP late in the negotiations.

In China, Canada would gain access to a market with a premium segment but also a wide range of segments and one which is growing, with preferences for imports based on safety and quality. At the same time, China appears monolithic- as a market in which to operate, and as a government apparatus to navigate. Current discussions with China address whether a trade agreement is feasible given these considerations. A trade deal with China could also be viewed as a step back from North American market integration, and irksome to the US. Thus, the prospect of a trade agreement with China could serve as a bargaining chip to be played with US.

### Multilateral Initiatives

A WTO Ministerial Meeting is planned for late 2017 in Buenos Aires. This follows the Nairobi Ministerial Meeting in December 2015 that produced the Nairobi Ministerial Declaration, effectively eliminating export subsidies. It can be anticipated that the Buenos Aires meeting will fall back on past progress made on domestic support in the Doha Round, outlined in the 2008 Modalities. Thus, an agreement on domestic support could form the basis for a Buenos Aires Ministerial Declaration, and perhaps the conclusion to the WTO Doha Round, at least for agriculture.

Canada has a major stake in the outcome of negotiations leading up to this meeting, and in the ultimate success of the process. It is in the broad Canadian interest as an exporting nation to reduce the extent of agricultural support, and to make the nature of support provided more transparent. In a 2016 policy note, it was observed that total support in agriculture has not declined globally; rather, it has been restructured with support moved into green box programming<sup>3</sup>. Disciplines on domestic

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[http://www.agrifoodecon.ca/uploads/userfiles/files/trade%20disciplines%20briefing%20note%2020%20april%202016\(2\).pdf](http://www.agrifoodecon.ca/uploads/userfiles/files/trade%20disciplines%20briefing%20note%2020%20april%202016(2).pdf)

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support present the prospect of curbing policy-driven incentives to produce, and increased global farm prices.

Conversely, Canada has major sensitivities. Canada declares and reports market price support for dairy products that consistently exceeds the *de minimis* level of 5%. In a typical year in which there are no mass claims on Canadian crop insurance programs and no claims based on income disasters in specific commodities, market price support to dairy forms a very high proportion of total support. Thus, Canadian participation in an agreement on domestic support in Buenos Aires is almost certain to carry obligations to reduce deemed support for dairy in the future. Changes made to narrow the application of the support prices for skim milk powder made in 2015 will help in this regard, but further pressure to reduce the support price for butter can be anticipated.

## Conclusions

The current situation poses a problem of both breadth and depth for Canadian trade policy. The sheer number of items on Canada's agri-food and broader trade agenda will strain its ability to effectively analyze, negotiate, adjudicate, and defend. Resources with the expertise to understand the trade challenges and provide the analysis to effectively advocate and defend Canadian interests in agri-food will be spread especially thin. The legal profession in Canada with expertise in international trade, in both government and private practice, could become overwhelmed.

This may indeed be part of the strategy on behalf of the new US administration- to carry out its stated agenda by inciting so many disputes that other countries are overwhelmed and thus pushed to settle with the US, or find themselves in a weakened position to defend.

The prospect of forthcoming trade negotiations also present a challenge of depth. If formal trade negotiations with China were to move forward, it would present an exceptionally complex negotiation for Canada to take on- in agri-food, and more broadly. A completed Canada-China trade agreement will need to sort out and establish agreed upon rules dealing with China's many state

agencies involved in importing, exporting, stockholding, and distribution of farm and food products; technical standards, food safety, and food tampering will clearly be issues; it will need to establish standards for Chinese cooperatives- some operate like cooperatives in Canada, others are really arms of the state. A means of accommodating and limiting the apparent desire of Chinese to own farmland in Canada will need to be devised. The many challenges outside of agri-food, such as taxation, intellectual property, investment, movement of people, etc. will compound the complexity. Ultimately, this will consume a large amount of negotiation effort.

The negotiations under WTO-Doha leading to Buenos Aires, likely well underway, will be similarly complex. Some of the work must involve picking up the dialogue from 2008, updating information country by country, and recasting the dialogue for changes in context. Like most other developed countries, Canada has both offensive and defensive agendas to advance. Because of countries' ingenuity in restructuring what was formerly regarded as distorting support into green programming, some means of redefining, addressing green payments and bringing discipline to them will be required. This will consume still more expertise in economic and legal analysis.

Only recently, it seemed that many of the uncertainties dogging Canadian agri-food trade policy had been settled. The US repealed its Country of Origin Labeling rules following successful WTO challenge; Canada and the EU signed a CETA agreement; the TPP text was signed off; the WTO Nairobi Ministerial Declaration provided clarity on the future of export subsidies.

The events of 2016 have entirely reversed this sense of certainty. Following Brexit, the CETA experienced a near death experience as some countries soured on trade. The TPP appears to be indefinitely sidelined. The new prospect of a sharp shift in US trade policy to be more inward looking and protectionist forces Canada to re-examine how it can secure its existing access and defend against new challenges mounted by the US, and manage a pivot in trade policy- toward the EU and its associated issues, as well as perhaps toward Japan, Korea, and China.

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This resetting of Canada's agri-food policy agenda presents sobering and systemic challenges, with very high stakes. The agenda on agri-food trade policy is suddenly very crowded. This cannot be treated separately from the process, well underway, of developing the Next Agricultural Policy Framework. In the current environment, many of the implicit assumptions on trade factored into agricultural policy discussions - especially with regard to the US under NAFTA, and on the level of the Canada-US currency exchange rate- may now come into question, as will some of the stability and protective value of programming. At the same time, policy and programming will need to anticipate the constraints on support likely to be discussed and potentially agreed upon in Buenos Aires later this year. The task facing Canadian agri-food must thus take on the full ambition of the formal trade policy agenda, led by Global Affairs Canada. Concurrently, Agriculture and Agri-Food Canada, along with the provinces, must assure complementarity and support through domestic policy for trade challenges, renegotiations, new trade arrangements, and positioning Canada to be ready for the WTO Ministerial in late 2017.

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