Who Scripts European Trade Policies?

Business-Government Relations in the EU-Canada Partnership Negotiations

Cornelia Woll

1. Introduction

The envisioned Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU figures prominently in the competitive regionalism strategies that mark the relationship between the United States (US) and the European Union (EU). Following the conclusion of the North Atlantic Free Trade Agreement (NAFTA), the EU has negotiated a free trade agreement (FTA) with Mexico in 1999 (Dür, 2007) and now seeks to establish another foothold in the North American market with a partnership agreement with Canada. The EU’s recent turn to bilateral and regional trade negotiations marks an important break with the multilateral commitment and
its interest in the World Trade Organization’s (WTO) Doha Round, championed by former EU Trade Commissioner Pascal Lamy.

The current CETA talks thus have to be studied in the context of EU trade policy-making in general. Who is behind the political decision to engage in bilateral trade talks? What explains the move from multilateralism to FTAs such as the EU-Canada agreement? In all industrialized countries, domestic support for such initiatives is tepid in part because the public perceives that these agreements benefit big business rather than workers or the general public. In the EU, the multi-level nature of trade policy further complicates the definition of common objectives: are the member states the drivers of EU trade policy or do the supranational institutions, and in particular the European Commission, determine the goals and the scope of external negotiations? Understanding the CETA negotiations between Canada and the EU necessitates untangling who scripts European trade policy.

Presenting the literature on trade policy-making in the EU, this chapter spells out the tensions between supranationalists, which underline the role of the Commission, and intergovernmentalists, who insist on the high degree of control of the member states. In particular, I show where they disagree about the autonomy of the supranational authorities, the effective control of member states over the Commission and the influence of interest groups. By nuancing the nature of the relationship between supranational authorities and interest groups, I then argue that an exclusive focus on either one of the three main actors in EU trade policy is misleading. Member states’ preferences are crucial and the Commission does listen to interest group concerns, but interest groups also adapt to political constraints. They can therefore become
welcome allies in the negotiation between the Commission and the member states. Put differently, the discussion highlights the relationship between the Commission and economic interest groups to point out a missing link in the argument of intergovernmentalists. The Commission can shape the pressures firms exert at the domestic level. The role of the Commission is thus all the more important because it shapes the relationship of the other actors, which are necessarily part of the picture.

The chapter divides into three parts. It begins with an overview of the legal framework and EU trade policy literatures arguments on who governs trade policy in the EU and then develops an argument about the dynamics in business-government relations in EU trade policy. The third part turns to the recent policy initiatives and illustrates the theoretical argument in order to draw insights for the current EU-Canada negotiations.

2. **Who governs EU trade policy?**

Fundamentally, analysts from both the general public and the scientific community divide into two camps: a first strand argues that trade policy is tailored to serve the interest of firms, a second points to the institutional set-up and argues that decision-makers are sufficiently autonomous from societal pressures and can make policy choices based on a mix of motives. The first line of argument relies on a political economy framework, where governments respond to business demands. Scholars in the second group point to the delegation mechanisms and argue that public actors and the Commission in particular maintain an important degree of autonomy. It
is helpful to look at the three main actors of EU trade policy – the Commission, the member states, and interest groups – in order to understand the dividing lines between these two champs.

**The degree of autonomy of the European Commission**

Trade policy is one of the most integrated policy areas in the EU. In fact, the common commercial policy is as old as the European Economic Community itself. With the Treaty of Rome in 1957, member states agreed that a customs union requires a common external tariff, common trade agreements with third countries and uniform application across member states (Elsig, 2002; Meunier, 2005). They granted the European institutions the right to speak on their behalf on these issues in external trade negotiations.  

Initially, this authority applied to tariff rates, anti-dumping and subsidies, which were indeed the main stakes in early multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT). During the Tokyo Round of GATT (1973-9) and especially during the Uruguay Round (1986-94), non-tariff barriers to trade started to gain importance, including health, environmental and social aspects of trade policy, and the domestic regulatory issues applying to the trade in services. European trade authority did not apply to many of these issues, which pushed the Community to redefine trade competences and the degree of delegation from the member states to the EU. In particular, it stirred up a debate over which issues should fall under “exclusive” or “mixed” competence (Meunier and Nicolaïdis, 1999; Meunier, 2000).  

It was not until 2003 that the Treaty of Nice finally amended Article 133 and provided for the exclusive competence over services and intellectual property rights, with the exception of cultural and audio-visual services.
To clarify the division of competences, it is necessary to distinguish between the phases of the policy cycle (Woolcock, 2010): (1) the setting of objectives, (2) the conduct of negotiations and (3) the adoption of results. The negotiation objectives are decided by the General Affairs Council of foreign ministers on the basis of a Commission proposal. The conduct of negotiations is the responsibility of the Commission, in close consultation with the member states. Results are adopted by the General Affairs Council either by qualified majority voting under exclusive competence or by unanimous decision under mixed competence. In practice, however, consensus decisions are the norm.

The European Commission is thus responsible for setting the agenda and conducting the negotiations. This extensive delegation of powers from the member states to the supranational authority is said to be driven by the desire to “speak with one voice” in international trade negotiations, but also in order to insulate the process from protectionist pressures (Meunier, 2005). Interest groups concerned about trade negotiations, so the argument, will find less of an open ear with the European Commission, which unlike member state governments does not depend upon special interest support for re-election. Moreover, the European Commission faces its external negotiation partners and has to be accountable to a myriad of stakeholder – the member states, of course, but also the European Parliament, the European Court of Justice, economic interest groups and social NGOs. Using this complexity, it can assume leadership and increase its room for maneuver by referring to tensions between the different demands (van den Hoven, 2004).
According to those focusing on the role of the Commission, delegation from the member states to the supranational institutions thus created “autonomy by design” (Elsig, 2007: 932). Within this strand, there are several hypothesis about the ends to which the Commission will use its autonomy. For some, the insulation from protectionist pressures was a means to cement the policy objective of trade liberalization (Meunier, 2005: 7-8). Still, others doubt that external trade liberalization was an intentional process, arguing instead that it is a necessary consequence of the institutional set-up (Hanson, 1998). Young (2004) in turn points out that the EU is not necessarily liberal, but the Commission pursues solutions that fit the goals of the member states collectively: be they more liberal or regulatory constraints that apply to the entire EU and shield it from the outside. In some cases, the EU simply tries to export its own organizational model and extend it through trade negotiations (Young, 2002). Finally, in an attempt to analyze the EU as a unitary actor in world politics, realist approaches have pointed out the Commission can also pursue geo-political strategies such as balancing against the US or containing China (Aggarwal and Fogarty, 2004; Zimmermann, 2007). Which one of these objectives will most likely determine EU trade policy choices appears to depend on the context of international pressures and external challenges. Nonetheless, all authors within this literature strand concur that the role of the supranational institutions in EU trade policy goes beyond pure intergovernmental decision-making.

**Control exerted by the Member States**

And yet, a cursory look at the extensive delegation tends to ignore the multiple control mechanisms that member states have put in place to oversee the actions of the Commission (De Bièvre and Dür, 2005). Long before the formal adoption of a mandate, the Commission submits
the proposal to the member states or, more precisely, to the national trade officials representing their governments in the Article 133 Committee (see Johnson, 1998). Discussions during this phase are crucial, since the Commission can use the Article 133 Committee “as a sounding board to ensure that it is on the right track” (Shaffer, 2003: 79). Trying to achieve a consensus on the mandate, the Article 133 Committee examines and amends the proposal before handing it to the Committee of Permanent Representatives (COREPER) and eventually the Council. Even in areas of exclusive competence, consultation with the member states is essential. The Article 133 Committee closely follows negotiations and the EU negotiation team meets daily with member state representatives.

The importance of consensus between the member states applies equally to dispute settlement procedures. The most common way to bring a dispute to the WTO is for the Commission to initiate a case after consultation with the Article 133 Committee. Formal procedure requires conflictual issues to be transferred to COREPER and subsequently to the Council, should all other instances fail to resolve the dispute. In all the time the WTO has employed the dispute settlement procedure, this has only happened once. According to Shaffer (2003: 80) “neither committee members nor the Commission wish to transfer decision-making authority on trade matters from themselves, who are trade experts, to the Council, which consists of foreign affairs ministers.” In other words, the Commission cannot become active or negotiate effectively if the EU member states are not behind the Community objectives.

Delegation is thus accompanied by a long list of formal and informal control mechanisms, as principal-agent analysis suggests and many analysts have confirmed in the context of EU trade
policy (Kerremans, 2004; De Bièvre and Dür, 2005; Dür and Elsig, 2011). With reference to these control mechanisms, several authors argue therefore that it is the interests of the member states that determine trade policy. Again, the observed content of policy preferences varies between studies, which point out that member states may be motivated by geo-political considerations or by economic interests. Aggarwal and Fogarty (2004: 10-11) cite foreign policy motives and strategic interests behind the construction of interregional regimes. Similarly Sapir (1998: 727) highlights that member states’ desire to move beyond ties with former colonies helps to explain the turn towards an increasing number of FTAs. He also points to the economic stakes defended by member states.

Dür (2008) makes the economic argument most forcefully in a critique of what he labels as the “collusive delegation argument”. In an extensive study of EU trade policy from 1930 to the present, he traces EU policy objectives back to the interest of exporters, who successfully lobbied their national governments and thereby shaped external policy (Dür, 2010). Every time exporters were excluded from a regional agreement between other countries, they pressed their governments to have their own regional agreement or regain market access through further liberalization. Common EU trade policy can thus be understood as a member state strategy aimed at protecting exporters and we should expect it to vary as a function of their foreign market access and the sectors that are concerned by discriminatory agreements elsewhere.

Finally, Ehrlich (2009) demonstrates the importance of member state control and economic interests by challenging the notion of a common external tariff. He shows that despite common tariff schedules, member states are actually subject to quite different conditions depending on the
bundle of goods that they import. Some import more high-tariff goods than others. The resulting difference in the actual trade-weighted tariffs of each member states is intentional, he argues, and results from the pressures of the affected industries in each country. For Ehrlich and Dür, the economic interests of domestic firms are thus key to understanding member states behavior on trade policy. Protection for import-competing firms is achieved through differential tariffs and protection for exporters through targeted trade agreements with key markets.

**Interest groups influence**

This brings us to the third potential driver of EU trade policy: interests groups, which can be both economic actors and non-governmental organizations interested in trade-related issues such as labor standards, the environment or economic development. The previous discussion has highlighted that interest groups can become active at the national level and pressure member state governments to defend their interests on external trade vis-à-vis other member states.

Relying on an extensive literature in the political economy of trade, the causal argument employed by these authors postulates that government official seek to increase campaign financing and/or their chances of getting re-elected and are therefore attentive to interest groups with strong preferences on trade policy (see Alt et al., 1996; Grossman and Helpman, 2001; Hiscox, 2002). Understanding which interest groups will shape EU trade policy therefore requires studying the importance of different industries in each of the member states and the access point business lobbyists have at their disposal in the respective domestic institutions (Ehrlich, 2007; Dür, 2010). Because of collective action problems inherent to social movements and public interest groups, the main focus in this domestic lobbying literature has been on economic actors.
Alternatively, interest groups can become active at the supranational level and try to enter the EU trade policy-making process at various stages. Even though discussions between the Commission and the Article 133 Committee on negotiation objectives are not public, the Commission consults extensively with firms, interest groups and NGOs in order to define specific stakes in its proposal. The EU consultation procedure is less formal than the system of Trade Advisory Committees in the US, but the Commission DG Trade and DG Industry maintain stable relations with groups such as the Union of Industries of the European Community (UNICE) or sectoral business associations. In 1998, the Commission tried to formalize its consultation and include a broader range of interest groups by instituting a Civil Society Dialogue on the upcoming round of negotiations (Van den Hoven, 2002; De Bièvre and Dür, 2007). The European Parliament may play a greater role in the future, especially now that co-decision has been extended by the Treaty of Amsterdam, but lobbying on trade policy still concentrates on the interchange between the Commission and member governments.

The Commission is also the main lobbying target for administrative procedures to ensure protection against ‘unfair’ foreign competition. These instruments of commercial defence include anti-dumping and countervailing duties and the Trade Barriers Regulation of 1994. In February 1996, the Commission launched a new Market Access Strategy. Within DG Trade, a Market Access Unit was established, the primary role of which was to interact with business actors to gather information on existing trade barriers. A central pillar of the work was the maintenance of a Market Access Database (see De Bièvre, 2002: 96-100). By centralizing
information on trade barriers and involving firms in the collection of information, the EU was hoping to be able to counter the aggressive private–public partnerships of US trade policy.

Interest groups are thus present at both the domestic level and the supranational level, and the Commission even actively seeks to involve them. However, very few observers contend that the mere presence of private interests is sufficient to explain the evolution of trade policy, with the exception of advocacy groups warning against the increase of lobbying in Brussels (Balanyà et al., 1999). In the scientific literature, the role of interest groups depends on the ways in which they contribute to shaping the economic preferences of member states or the policy-objectives of the Commission, which reflects the two champs on the governance of EU trade policy cited in the beginning. Intergovernmentalists evaluate the importance of interest groups with a political economy perspective where domestic politics shapes member state preferences. Supranationalists concentrate on the coalitions between European institutions and lobbyists active in Brussels.

3. The two channel logic of lobbying on EU trade policy

It is difficult to determine whether intergovernmentalists or supranationalists provide a more accurate picture of EU trade policy, because many cases are marked by “observational equivalence” (Damro, 2007). This methodological problem arises in principal-agent analysis when the absence of conflict can be interpreted as either complete autonomy of the European Commission or perfect control by the member states. Moreover, the fact that businesses voice demands which are actually reflected in policy choices says little about the direction of causality. Did these interest groups persuade policy-makers to act on their behalf or do we only notice
those groups that are supportive of the final outcome, which others have been ignored or chosen to remain silent after they lost their political battle? Taken together these two problems highlight the weakness of political-economy approaches, which tend to overestimate the weight of interest groups in EU trade negotiations.

I argue that the main difficulty with interest-group focused accounts is the assumed unidirectionality of influence going from interest groups to policy-makers. Once we consider how interest groups adapt their demands to the constraint of policy-makers, it become possible to see that both the Commission and member states shape trade policy choices. However, the role of the Commission is crucial, because it can strategically use interest groups to affect the policy stances of member states. To see this missing link in the dynamics of EU trade policy-making, it is important to consider (1) how the Commission relies on interest groups and actively solicits their help through “reverse lobbying” and (2) how interest groups adapt to these opportunities by choosing their policy venue according to the demands they would like to voice. Let us consider each of these in turn.

**Reverse lobbying**

It is beyond question that business interests are well represented in Brussels and that they interact frequently with EU policy-makers on trade-related concerns (Coen, 1997; Coen, 1999; Cowles, 2001). In fact, EU officials openly admit that trade policy is made to benefit business and aims to support the competitive position of European firms in the world economy (Interview, Council Secretariat, 21 October 2002). In order to do so effectively, consultation with business representatives is essential. Over the course of trade talks, in particular during the Uruguay
Round, the Commission had to face US negotiators with very strong business support behind them, and openly complained about the absence of European firms (Grant, 1994: 83-5; Van den Hoven, 2002: 10). Integrating business interests into the formulation of trade objectives therefore became an important goal for the European Commission in the 1990s, because it actually strengthens their negotiating position. One of the most noted initiatives was the Transatlantic Business Dialogue (TABD), founded in 1995, which aims to bring together CEOs of American and European companies so that they could “pre-negotiate” issues relevant to transatlantic trade (Coen and Grant, 2000; Cowles, 2001). Similarly, the Commission encouraged the creation of other consultative associations, such as the European Service Forum, launched in January 1999. These business fora, together with the Civil Society Dialogue illustrate that the Commission actively solicits participation from private actors and is willing to listen to their suggestions.

On the one hand, private actors can supply expertise and information about their competitive position, which help to bolster the EU’s negotiating stance vis-à-vis the outside. On the other hand, business support helps the Commission to gain information about potential lines of conflict between the member states and to increase the urgency of its proposals. Both externally and internally, business support and interest group activity more generally is thus an important resource for the Commission. Shaffer (2003) has noted the extensive and sometimes unsuccessful attempts of the European Commission to solicit business interests. Compared to business-government relations in the US, where business representative aggressively lobby the government, he underlines the “reverse lobbying” in the EU, where the public authority lobbies business to lobby itself. This explains why business-government relations are tight during trade
negotiations, but it also indicates that we should not necessarily equate this closeness with governmental capture (Elsig, 2002; Hocking and McGuire, 2002; Woll, 2008).

**Two-channel logic**

In particular, we need to understand how much leeway the Commission has when dealing with business demands and it turns out that this room for manoeuvre is significant. Since Commission officials do not depend on re-election by constituency interests, firms cannot exert direct pressure on European officials to reinforce their demands. Therefore, business access is not automatic; it depends on the degree to which private actors can offer the elements the Commission is interested in. Business lobbying on trade is thus marked by a particular exchange logic, where firms provide expertise and support in order to gain access to the policy process (Bouwen, 2002; Mahoney, 2004). Business representatives frequently confirm that they need to carefully plan how to lobby “to make sure [they] will not be ignored by the Commission” (cited in Elsig, 2007: 940). Not the intensity of lobbying activities, but the way in which it corresponds to Commission objectives is key to success.

The selective access at the European level creates a two-channel logic for business lobbyists, which specifies different routes according to the content that firms seek to defend. Export-oriented industries lobby the Commission to press for further liberalization and market access, while import competing industries concentrate on instruments of commercial defense and work with their national governments. Put differently, classical protectionism is easier to achieve in interaction with national governments, while cooperation on the elaboration of pan-European solutions promises an excellent working relationship with the European Commission.
Pan-European trade policy lobbying can be in support of liberalization, but it can also consist of regulatory protectionism that does not discriminate on the grounds of nationality but appeals instead to a greater Community interest. This means that supranational trade policy initiatives are not always aimed at reducing trade barriers. In fact, the Commission does not have an *a priori* tendency to liberalize; it merely seeks to develop policy solutions that do not create cleavages between member states in order to avoid deadlock. Liberalization happens to be a pan-European solution, but pan-European regulation is also possible. Many have noted that the liberalization objectives of the EU often appear like an exercise in international regulation rather than the complete abandonment of all trade barriers (Winters, 2001; Cremona, 2001; Young, 2002). In other words, even though we should expect protectionist lobbying to employ national routes and businesses supporting liberalization to develop partnerships with the European Commission, we might also find lobbyists defending new kinds of regulatory protectionism that applies equally across member states. This is all the more likely when different directorate-generals of the European Commission have to cooperate on the content of EU trade policy. DG Agriculture or DG Transport and Energy, for example, will tend to think more about sector specific objectives than DG Trade.\(^5\)

Several authors have shown how business lobbying has changed over time to take into account the institutional environment of EU trade policy. In particular, firms that lobby at the supranational level have moved from protectionism to non-tariff barriers to preferences for multilateralism in order to lock in national regulatory models (McGuire, 1999; Crystal, 2003; Woll, 2008). Concerning bilateral or regional trade agreements, exporters who can benefit from
market access have formed coalitions with the Commission and their national governments to support negotiations.

In sum, business lobbying is an important element of EU trade policy-making, and we should expect to see firms and their associations engaging actively to support trade talks. However, their activities are facilitated by the opportunities created by the European Commission. The reverse lobbying undertaken by the supranational authority encourages exporters to speak up in favor of further market access or import-competing firms in support of EU-wide regulatory solutions. Classic protectionists who simply seek to defend the status quo and are opposed to new agreements should only become active at the national level. This two channel logic is the result of a trade-off interest groups face when lobbying the European Commission: if they adapt their demands to the Commissions objective, they will find an open ear; if they press more narrowly for their own interests, they risk being ignored.

4. The EU-Canada Agreement as a case study in competitive regionalism

The EU-Canada talks illustrate these complex dynamics and provide an opportunity to study the contribution of the Commission, the member states and interest groups to the evolution of the CETA negotiations. In line with the argument developed above, I will show that the agreement is part of a broader strategy of competitive regionalism pursued by the Commission with respect to the US. I will then evaluate the activities of interest groups, and the ways in which their demands have been defended by the member states, to show the relative autonomy of the Commission in initiating and leading the talks.
Competitive regionalism between the US and the EU

Over the last decades, and in reaction to one another, both the US and the EU have sought to expand their commercial influence by negotiating privileged economic partnerships with individual countries or regional groups (Woolcock et al., 2007; Heydon and Woolcock, 2009; Schott, 2009; Sbragia, 2010). The North Atlantic Free Trade Agreement between the US, Canada and Mexico is certainly one of the most important ones. According to most observers, NAFTA was a reaction to the integration of the Single European Market and the difficult multilateral negotiations during the Uruguay Round (Sbragia, 2010; Dür, 2010). In response to NAFTA, the EU signed bilateral agreements with Chile in 1997, Mexico in 1999, South Africa in 1999 and pursued talks with MERCOSUR, which comprises Argentina, Brazil, Paraguay and Uruguay (see for example Dür, 2007).

Beginning in 1997, the EU stopped initiating new FTAs as trade Commissioner Pascal Lamy was deeply committed to multilateralism and the upcoming Doha Round of the World Trade Organization (WTO). Yet multilateral talks were painstakingly slow and the US succeeded in signing a relatively large number of FTAs between 2003 and 2007. Under the leadership of a new trade Commissioner, Peter Mandelson, the EU therefore lifted its self-imposed ban on bilateral talks (see European Commission, 2006; Woolcock, 2009). It began negotiating with six Central American states grouped as the Andean Community in 2006 and turned to Asia in 2007 via talks with India, South Korea and ten Southeast Asian States in the ASEAN group. The EU and the US interest in bilateral and regional trade agreements is part of a general trend. As Heydon and Woolcock (2009:9) point out, there is a clear rise of preferential trade agreements in
the world: while the average number of preferential trade agreements hovered around 3 during the decades of the General Agreements on Tariffs and Trade (GATT), it has jumped to an annual average of about 20 since the creation of the World Trade Organization (WTO) in 2005, with a total number of 400 agreements in 2010.

For the EU, FTAs fall into three broad categories According to (Woolcock, 2009: 4). First, some aim to secure the immediate neighborhood trading conditions and provide access to the European market, in the case of Central and Eastern Europe and the EU’s EuroMed partners. Second, long standing ties with the African, Caribbean and Pacific states have arisen from colonial legacies and developed into commercial agreements. Third, the EU has sought to negotiate with emerging markets. However, the choice and timing of FTA talks was oftentimes linked to initiatives undertaken by other countries, and above all the US.
Table 1: Bilateral and regional trade agreements

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<th>US</th>
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<td>Israel</td>
<td>FTA since 1985</td>
<td>CA since 1975; AA since 2000</td>
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<tr>
<td>Mercosur</td>
<td>Unsuccessful negotiations for a Free Trade</td>
<td>FCA since 1992; AA negotiations since 2000</td>
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<td>Mercosur</td>
<td>Area of the Americas since 1994</td>
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<td>Mexico</td>
<td>FTA since 1994 (NAFTA)</td>
<td>FTA since 2000</td>
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<td>North Africa</td>
<td>FTA with Morroco since 2006</td>
<td>Euromed EPA since 1995</td>
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<td>Caribbean Region</td>
<td>FTA with Central America and</td>
<td>FTA with African, Caribbean and</td>
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<td>Caribbean Region</td>
<td>Dominican Republic since 2005</td>
<td>Pacific Group of States since 2000; EPA since 2007</td>
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<td>Chile</td>
<td>FTA signed in 2003</td>
<td>AA since 2003</td>
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<td>ASEAN-10</td>
<td>EAI; TIFA since 2006; FTA with Singapore</td>
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<td>Community</td>
<td>FTA with Peru since 2007</td>
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<td>Korea</td>
<td>FTA since 2007</td>
<td>EPA negotiations since May 2007</td>
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<td>India</td>
<td>Bilateral investment treaty only</td>
<td>TIA negotiations since 2007</td>
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Source: Based on Schott (2009)
Note: AA = Association Agreement; CA = Cooperation Agreement; EPA = Economic Partnership Agreement; FCA = Framework Cooperation Agreement; FTA = Free Trade Agreement; TIA = Trade and Investment Agreement; TIFA = Trade and Investment Framework Agreement.

A quick look at the most important of the commercial agreements negotiated by the US and the EU show the interconnected timelines (table 1) and many authors have insisted on the phenomenon of competition regionalism (e.g. Bergsten, 1996). The negotiation of a partnership agreement between the EU and Canada clearly does not fall into one of the three categories of the EU’s most typical preferential trade agreements. It therefore has to be understood as part of a competitive liberalization strategy that oppose the US and the EU. After the FTA between Mexico and the EU in 1999, it is another attempt by the EU to maintain a foothold in the North American market integrated through NAFTA. The initiative therefore embodies the inherent contradiction in EU trade policy objectives: favoring multilateralism, especially vis-à-vis main
trading partners, while simultaneously pursuing bilateral negotiations to defend its commercial interests.

**Focusing on the Canadian market**

Negotiating privileged access to the Canadian market had been an objective for the EU since the mid-2000. Initial negotiations on a Canada-EU trade and investment agreement were shelved in 2006, however, as talks stalled over internal trade barriers and provincial regulation. The fact that negotiations were taken back up less than three years later in May 2009, is due to the successful political campaign of the Canadian provinces, especially Quebec, which relied on business representatives to strengthen their case. On the European side, the Commission and the member states were responsive to the arguments in favor of an agreement, but business lobbying can only explain half of their strategic interests.

To be sure, many companies were supportive of an EU-Canada agreement. The EU is Canada’s second trading partner, and Canada the EU’s 11th largest trading partner in trade and services. Gains from further liberalization are projected to boost bilateral trade by around 20% (European Commission and Government of Canada, 2009). Exporters and large companies interested in investing into each others’ markets were naturally supportive of facilitated access, and deeply regretted the failure of the initial talks in the mid-2000s. But it took a meeting with Quebec’s Prime Minister Jean Charest, who was eager to engage in trade talks with the EU and in particular France, to get the ball rolling. Charest felt that a trade agreement could boost Quebec’s labor market and help its exporting industry, but he was also eager to claim a more central role for the Canadian provinces in trade negotiations. Since earlier talks between the EU and Canada
had failed due to their local regulations and resistance, he was able to convince Canadian Prime
Minister Stephen Harper to make renewed trade talks a priority if he was able to gather the
support of the Canadian provinces (Nadeau, 2009). From an initial working alliance with
Manitoba Prime Minister Gary Doer and Ontario’s Dalton McGuinty, Charest expanded to circle
of support by carefully relying on business representatives to underline the economic stakes in an
agreement. British Columbia, for example, sought opportunities for its forestry and food
products, Alberta for cattle and the Atlantic provinces for fish. But the provinces also pushed to
have a place at the negotiating table and found an ally in the European Commission, which
treated them as the natural equivalence to the European member states, whose representatives sit
alongside the Commission negotiators.

The fact that the initiative came from the Canadian provinces created a welcome symmetry in the
two federal-like systems. When Jean Charest first approached Peter Mandelson, the EU trade
commissioner, at the World Economic Forum in Davos in 2007, he was able to convincingly
argue that the provincial level was more appropriate than the federal level to address thorny
issues such as public procurement contracts. Frustrated by the stalled multilateral negotiations at
Doha, Mandelson was interested in a bilateral deal with Canada, especially an ambitious one. As
Charest underlines, “the EU dreamed of having such an agreement with the US, which is a
complicated country. Why not try to establish a precedent with Canada?” (Nadeau, 2009: 3). For
the Commission, the interest was evident, but it hinged crucially on member state support. Here
again, the role of business representatives was fundamental. During a series of visits with
French, German, British, Italian and Polish ministers, Jean Charest tried to clarify the advantages
of a trade deal, citing mutual investment opportunities and trade facilitation. He even met with
Nicolas Sarkozy, a convinced Atlanticist, who was at the time Minister of the Interior. After his election to the French presidency in May 2007, Nicolas Sarkozy continued defending the project and several observers cite his role as pivotal, not only because France held the presidency of the European Union in the second half of 2008. One observers remarks that “Europe’s enthusiasm, it seems, is largely a product of Mr. Sarkozy, who has a long relationship with the Montreal financier Paul G. Desmarais Sr. [whose corporation] controls investments in several prominent European companies, including Total and GDF Suez” (Austen, 2008). But other member states were equally convinced of project, especially in reducing internal barriers, as diplomats from Denmark, Poland, Latvia and Slovenia underlined in a joint meeting (McMullen, 2009).

Throughout the initial preparation and the five negotiation rounds that followed the launch at the EU-Canada Summit in Prague on 6 May 2009, business lobbyists were present and supported the talks actively. Following initially meetings with Jean Charest and Christos Sirros, Quebec’s representative in Brussels, the Canada-Europe Roundtable of CEOs from the largest corporations in both countries issued a declaration in October 2008 to push for negotiations. Canadian business representatives, in particular the Canadian Council of Chief Executives gave relentless support and pushed for a joint declaration of several Canadian business associations to joint Canada EU study on trade benefits on 5 March 2009. During several occasions, the main business associations in Canada and the EU appeared jointly: the public support for the launch of talks on 6 May 2009, for example, is signed by the Canada-Europe Roundtable, the Canadian Council of Chief Executives and BusinessEurope. And yet, the lobbying activities on the Canadian side are generally more sustained and more visible.
The same is true of NGO activities and interest groups resisting the trade talks. A number of Canadian public interest or citizen groups have voiced concerns about the extent of liberalization, its effect on utilities and intellectual property rights.\textsuperscript{10} The Trade Justice Network, a grouping of Canadian NGOs such as the Council of Canadians, ATTAC-Quebec or the National Union of Public and General Employees even travelled to Brussels to discuss concerns with European policy-makers and published a joint statement with 24 NGOs during 3\textsuperscript{rd} round of talks.\textsuperscript{11} But not only the anti-globalization movement, nationalists or labor groups are opposed to the talks in Canada, there is also resistance from economic sectors such as the dairy industry, which benefits from provincial supply management which they would like to preserve (O’Neil, 2010). On the European side, similar concerns exist, but they are much less vocal in defending their positions. Some opposition is also channeled through the party groups in the European Parliament, where the socialist left party group GUE/NGL refused to sign a joint declaration endorsing the talks (Agence Europe, 2010).

In sum, although business interests are present during the negotiations, the interaction between the Commission and the member states and the dynamics that evolved during their interaction with the foreign negotiation partner are much more pivotal for explaining the EU-Canada talks. Carefully utilized by Quebec’s Prime Minister Jean Charest and Peter Mandelson to bolster support for the talks, exporters were much more visible than sectoral interests who were concerned about the negotiations. Moreover, if business interests alone explained government initiatives, it is difficult to see why Canada became a priority for the EU in the 2000s only and why business support was not sufficient for the conclusion of an initial agreement between 2004 and 2006. Only the political strategies on both the Canadian and the European side, the renewed
interest of the Commission in bilateral trade negotiations and the delicate equilibrium between negotiators and the national government representatives can provide an accurate picture of European trade policy-making.

5. Conclusion

Political economy approaches which assume that business interests are behind intergovernmental negotiations are insufficient to account for the evolution of the CETA negotiations. Business interests do matter and are often represented in the positions of member states, but the complexity of the multi-level system of trade policy making in the EU creates room for maneuver to cooperate with business representatives in a strategic manner. For the Commission, moving ahead on a partnership agreement with Canada was attractive because it allowed the EU to gain another foothold in the transatlantic market. It is the logical consequence of the EU’s turn towards bilateral and regional trade agreements under the leadership of EU trade commissioner Peter Mandelson. Benefitting from the carefully crafted strategies of the Canadian provinces, the Commission was able to utilize the business support mobilized in Canada, because it relied on joint statements with European companies. In line with the delegation by design perspective, the Commission has thus a certain room for maneuver and it becomes crucial to study how it reacts to its foreign negotiation partners and cooperates with the member states.

The political momentum created by the strategy developed under the leadership of Jean Charest also shows how important it is to work at both the member state level and the supranational level simultaneously. The added bonus for the Canadian provinces was that their federal government
therefore felt that it needed to adopt similar operating procedures. Contrary to NAFTA, the provinces gained a seat at the negotiating table and Prime Minister Stephen Harper asked for an official mandate for the federal government on behalf of the provinces. An unintended consequence of the EU-Canada talks thus concerns the policy-making process, where Canada partially imported the European procedures. It will be interesting to see if this will create a two-way lobbying dynamic in Canada as well, were protectionism is brought to the ears of the provincial governments and support of liberalization to the federal government in Ottawa.
Endnotes

1 Articles 131-135 (ex 110-116) of the Treaty on European Union. Article 300 (ex 228) provides
the supranational institutions with powers to conclude trade agreements with third countries.

2 Mixed competence means that trade authority is delegated on an *ad hoc* basis to the
Community. The setting of objectives and the ratification of the negotiation results are subject to
a unanimous vote by the Council, whereas both require only a qualified majority under exclusive
competence.

3 The EU complaint concerned the Helms-Burton Act, a US law sanctioning European foreign
investors in Cuba.

4 Available from within the EU at [http://mkaccdb.eu.int](http://mkaccdb.eu.int).

5 I thank Manfred Elsig for raising this point.


7 [http://www.ceocouncil.ca/publications/pdf/test_3a817867e3ac72763c64b616636769cc/Canada_EU_News_Release_March_5_2009.pdf](http://www.ceocouncil.ca/publications/pdf/test_3a817867e3ac72763c64b616636769cc/Canada_EU_News_Release_March_5_2009.pdf)


9 See for example the editorial by the chairman of the Canada Europe Roundtable: Roy

10 See for example the website of the Council of Canadians,
[www.canadians.org/tradeblog/?p=619](http://www.canadians.org/tradeblog/?p=619) or Blair Redlin, “Just what we don’t need: An investor
rights deal with the EU,” *rabble.ca*, 13 April 2009.

11 [http://tradejustice.ca](http://tradejustice.ca)
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