

The Koreans are getting along – but denuclearization questions remain

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South Korea's President Moon Jae-in is a man in a hurry; North Korea's leader Kim Jong-un is a man on a roll.

Prior to Mr. Kim's 2018 New Year's speech, the world watched North Korea relentlessly improve its nuclear weapon and missile capabilities to the point where it could threaten not only the immediate region but also North America, despite tightening UN sanctions, U.S. threats of "fire and fury" and China's measured disapproval.

Mr. Kim's initial opening to have North Korea participate in the Winter Olympics and Mr. Moon's quick positive response to field a combined North-South Olympic team led to a frenzy of summit meetings that has not abated. The first Kim-Moon summit in April in Panmunjom reiterated the main themes of two earlier high-level attempts to ease North-South tensions and perhaps move toward eventual denuclearization of the Korean Peninsula. The third summit, which concluded Wednesday, has further moved the yardsticks forward in creating Mr. Moon's vision of peace and co-prosperity for both Koreas. Mr. Kim, however, has yet to demonstrate his commitment to dismantle his nuclear weapons, linchpins for his regime's survival.

And therein lies the rub. Since the New Year, Mr. Kim has repaired North Korea's badly frayed relations with China by meeting with President Xi Jinping three times. Perhaps more importantly, the Panmunjom Summit led to Mr. Kim's unprecedented meeting in Singapore last June with U.S. President Donald Trump. Their joint statement was short on specifics: establishment of new U.S.-North Korea relations, efforts to build a lasting peace regime, a North Korean commitment to work toward complete denuclearization of the Korean Peninsula, and recovery of U.S. missing-in-action soldiers from the Korean War. What remains worrisome is that the two leaders mostly talked in private, with only interpreters present, and no one really knows what else they agreed to except to seemingly be new best friends.

At issue is what denuclearization really means. North Korea complained of U.S. gangster tactics when Secretary of State Mike Pompeo tried to establish a road map forward that would include complete, verifiable and irreversible denuclearization. Even Mr. Trump admitted that there has been no progress on denuclearization. Through South Korean officials, however, Mr. Kim recently proclaimed his "unwavering faith" in Mr. Trump and asked for a second meeting with him, perhaps as a way around any objections by more cautious and skeptical U.S. officials. Preparations for the second Trump-Kim meeting are under way.

Mr. Moon has now upped his courtship of Mr. Kim both in scope and urgency. With this week's Pyongyang Joint Declaration, Mr. Moon and Mr. Kim agreed to implement a series of military confidence-building measures to prevent accidental military clashes. Mr. Moon promised Mr. Kim visions of prosperity by reopening North-South rail and road connections and eventually establishing special economic zones. The South Korean leader's delegation of 200 people included heads of South Korea's key chaebols, the huge industrial enterprises like Samsung and Hyundai. In addition, Mr. Moon promised to strengthen humanitarian co-operation. Mr. Kim should find these promises enticing. They agreed to participate together in the 2020 Summer Olympics and bid to host the 2032 Summer Olympics.

Finally, both leaders agreed "to co-operate closely in the process of pursuing complete denuclearization of the Korean Peninsula." Mr. Kim promised to dismantle a missile engine test site and launch platform, as he had already agreed, but this time under observation by experts "from relevant countries" (presumably including the U.S.) and to dismantle a nuclear facility, as North Korea had in the 1990s only to renege later. Mr. Kim also agreed to visit Seoul at an early date, a first for a North Korean leader.

As the North-South romance continues at a whirlwind pace, many questions remain, especially around denuclearization. North Korea, claiming that it has already taken concrete measures by stopping nuclear weapon and missile tests, has insisted that the U.S. take commensurate measures beyond cancellation of combined military exercises with the South. Promised U.S. security assurances to the North remain undetermined.

The North has not revealed numbers and locations of its nuclear weapons, missile systems or nuclear production facilities. Questions around verification have not been addressed. Indeed, it is not evident that any serious discussions, let alone negotiations, are taking place. Mr. Kim and Mr. Moon seem eager to declare the official end of the Korean War and eventually to sign a peace treaty. Both possibilities raise serious U.S. security concerns.

Previous North-South courtships ended in bitter disappointment and even military clashes. Maybe this time will be different.

HOW CANADA CAN FIX BORDER MESS

Joe Bissett

National Post, 3 August 2018

Our federal government is clearly unwilling or unable to stop the flow of asylum seekers entering Canada illegally from the United States. Once on Canadian territory they can apply for refugee status, because unlike most countries we allow anyone who manages to get into Canada to submit a claim. Once they are in, whether found to be a refugee or not, it is unlikely they will be removed.

It is difficult to estimate the enormous costs of processing and caring for the thousands of asylum seekers who enter Canada each year. Officials now estimate the costs range from \$13,000 to \$20,000 each. But this estimate doesn't take into account the long-term costs of maintaining claimants who are awaiting their refugee hearings or who have been accepted but still require financial help.

In 2008 Canada received 37,000 asylum seekers and 60% of those were expected to be refused. At that time the government estimated the cost of each failed claimant to be \$50,000. The Canadian tax payer faced a bill of approximately \$1.11 billion to deal with failed cases. This is what will force our government into making urgent reforms. The sooner the better.

Canada's asylum system is dysfunctional and has been for 30 years. Reforms have been fiercely opposed by a powerful refugee lobby consisting of immigration lawyers, non-governmental organizations, church groups who sincerely believe that these people deserve help, and politicians, who choose not to recognize the problem.

So what can be done to reform the mess we now find ourselves in?

First, we must understand what our obligations under the UN Refugee Convention actually are. The Convention, established in 1951 as a follow up to the mass displacement of people after the Second World War, was carefully worded to ensure that it would not in any way infringe upon the principle of national sovereignty and the sanctity of borders. Its definition of a refugee was narrow and specific: "anyone who owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to return to it..."

The core principle is that a genuine refugee cannot be returned to a country that presents a threat to his life or freedom. This is the heart of the Convention and it does not demand much beyond that fundamental obligation.

It does not require any state to accept refugees. It does not tell states how to adjudicate claims. It does not include in its definition people fleeing war or natural disasters. It does not condone illegal entry unless the individual enters the asylum country direct from the country of persecution. It does not include people who are internally displaced in their own country. Canada has chosen to enact laws and regulations that go beyond what is required by the Convention.

Rethinking our own processes are just a first step to solving our problem. The next step is to stop the flow across the border. This means changing our rules to prevent anyone from submitting a refugee claim who is either a citizen of a "safe country" is a non citizen residing in or passing through a "safe country." The government has the power to designate countries as "safe" for refugees.. These are usually defined as

countries that are signatories to the UN Convention, are democratic, follow the rule of law, and have a good human rights record.

Canada has no obligation to accept asylum claims from people who are not in danger of persecution. People who have entered illegally should be arrested and quickly returned to where they came from - the United States primarily - after a removal order has been issued. Their right of appeal can be heard after their removal at a later date. Though it is technically possible that the U.S. would refuse to accept them back, that would be violating long standing customs and common practice for shared borders (and we wouldn't know until we tried).

It is not necessary to have a quasi-judicial body such as the Immigration Refugee Board adjudicate refugee claims. These decisions should not be delegated to a board of politically appointed members responsible only to themselves, and who may, or may not, have the experience, training, or knowledge to render quality decisions about who is or who is not a refugee. Furthermore, because it allows unlimited access to its deliberations, it has suffered with backlog problems from its inception and the current crisis is just another example.

In most countries asylum claims are made by professional refugee officers or judges. They have the background and expertise to make quality decisions quickly. They can be located in various parts of the country thus improving and speeding up the asylum process.

The asylum problem has preoccupied Western governments for more than 40 years. The true victims have been genuine refugees, mainly women and children who, desperately need help, but the enormous costs of dealing with asylum seekers who won't meet that standard bog down this vital system. Canada now has the opportunity to reform its dysfunctional processes and get its own house in order. Now would be a good time.

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Canadian Global Affairs Institute

An Update on NAFTA: Can We Get To A Deal?

September 17, 2018

On today's **Global Exchange** Podcast, we continue our discussion on the future of the North American Free Trade Agreement (NAFTA). Join host Colin Robertson in conversation with CGAI Fellows Sarah Goldfeder and Eric Miller as they recap the past

few weeks of NAFTA negotiations, outline the enduring hot-button issues, and provide some predictions on whether the three NAFTA parties can get to a deal before the end of September.

Participant Biographies

- **Colin Robertson (host):** A former Canadian diplomat, Colin Robertson is Vice President of the Canadian Global Affairs Institute.
- **Eric Miller:** a Fellow at the Canadian Global Affairs Institute and the President of Rideau Potomac Strategy Group, a cross-border consultancy that advises clients on government affairs, economics, cybersecurity and geopolitical developments.
- **Sarah Goldfeder:** a Principal at the Earncliffe Strategy Group and a Fellow at the Canadian Global Affairs Institute.

How the dairy lobby's cash grab put Canada in Trump's crosshairs

Hugh Stephens

i Politics, September 12, 2018

Remember the early days of the NAFTA renegotiations, when all Donald Trump wanted to do was **“tweak”** the agreement as far as Canada was concerned?

That seems like a century ago now. A lot has happened to poison the well between then and now, including the U.S. president's **over-the-top reaction** to Prime Minister Justin Trudeau's comments after the G7 Summit in Charlevoix, but one of the biggest obstacles has been the rise to prominence of Canada's dairy supply management system. Trump may not have a sophisticated understanding of international trade, but he understands numbers and politics.

When a small group of Wisconsin farmers pointed out that the nice little export niche they had carved out selling **diafiltered milk protein** to Canadian food processors had been shut down, and that Canada maintained tariffs of up to 300 per cent to prevent access to its dairy market, “The Donald” got the message.

After all, Wisconsin was a swing state that he was not expected to win during the 2016 U.S. presidential election. And “300 per cent tariffs” makes a great sound bite.

And now, with Foreign Affairs Minister Chrystia Freeland **back in Washington to resume NAFTA renegotiations**, the key to success is spelled **M-I-L-K**, according to a top Trump economic official.

Dairy farmers demonstrate

Meanwhile, Canada's dairy farmers have been up to their usual antics, demonstrating in Montréal and demanding **“absolutely no concessions.”**

With a Québec election underway, it would be a brave Québec politician to call their bluff. Look what happened when Maxime Bernier stuck to his principles. It cost him the

leadership of the Conservative Party, which instead went to **milk-slurping** Andrew Scheer.

How did we get into this box?

Supply management has been around for decades, since the early 1970s. Introduced as a means to ensure stable markets by controlling supply, it is built on a system of quotas that allows quota-holders (licensed dairy producers) to produce a set quantity of milk.

The price for that milk at the wholesale level is set by provincial boards. The price of raw milk will drive the cost of all other dairy products from butter to ice cream, cheese and yogurt. The result has been a price structure that has rewarded dairy quota-holders handsomely but has meant expensive dairy products for consumers.

The annual cost to consumers of inflated dairy is in the **hundreds of dollars per family**, affecting poorer families disproportionately. And it's all designed to prop up a system that has made, according to Statistics Canada, Canada's 11,000 dairy farmers **on average worth over \$5 million each**.

To maintain the artificial, walled garden of the Canadian dairy market and the "made-in-Canada" prices, barriers have been erected to keep out more competitively priced dairy products from other countries.

Diafiltered milk — milk that has been filtered through a membrane to concentrate it and raise its protein content — is the biggest issue for the United States.

The product did not exist when NAFTA was first negotiated in the 1990s, so it was not included on the list of blocked items that Canada negotiated as part of its protection of supply management in the original agreement. It was a new product developed in the U.S. and sold into Canada at the lower American price, since it was classified as a protein ingredient and avoided NAFTA dairy tariffs.

Wisconsin dairy producers invested in plants to produce diafiltered milk for the Canadian market. It proved to be popular with Canadian food processors — even farmer-owned dairy co-ops — because it lowered their costs.

The market for the product gave the U.S. a **surplus in dairy trade** with Canada of \$475 million in 2017.

A crack in the armour

The arrangement seemed to be working well until the Canadian dairy industry in 2016 decided that the sale of diafiltered milk protein was a crack in the armour of supply management and had to be fixed.

Failing previously to get the product reclassified as milk, they established a new category of milk product in Canada under the supply management system, called Class 7, that

would be sold (to Canadian processors) at the lower world price rather than the “made-in-Canada” price that consumers pay.

This effectively shut the door on the market for U.S. diafiltered milk exports. But that wasn't all.

Because of the nature of the dairy industry, as demand for butterfat (butter, cream) goes up, so does the production of unwanted skim milk, the byproduct of butterfat production.

After many years of flat-lining, butterfat demand in Canada is going up. Since foreign producers are not allowed to help meet that demand, Canadian production of milk has increased, leading in turn to a surplus of skim milk.

Some of that surplus is turned into diafiltered milk protein and sold in Canada. The rest is sold on the world market at discounted prices. The alternative is to simply pour it down the drain, an outcome that is a regular occurrence under supply management as the system struggles to match supply and demand.

An over-abundance of milk

Since there is a glut of milk on the world market, these sales often displace U.S. exporters. American producers complain that the Canadian exports are the result of a closed system that subsidizes the production of a dumped product. Their argument is that you can't have a closed market restricting imports while at the same time depressing world prices for others by **dumping milk solids** into export markets. Canada's supply management system would likely have flown under the radar in the NAFTA talks, but for the determination of the Canadian dairy lobby to close the door to the import of diafiltered milk protein. Because of this money grab, milk has become the bee in Donald Trump's bonnet, and Canada and the rest of the Canadian economy is now a prime Trump target.

It's ironic that the government will almost certainly have to give on Class 7 milk if it's to ink a deal with the U.S.

A deal on diafiltered milk protein will allow the Trudeau government to claim that it protected the essence of supply management, but at least the system will be further eroded. No doubt the industry will be bought off with “adjustment payments.”

One way or the other we we all have to pay. However, I would rather pay as a taxpayer to wean Canada off supply management than pay through punitive U.S. trade actions against other sectors of the economy in order to retain a system that has long outlived its usefulness.

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Three unresolved NAFTA issues Canada can't afford to ignore

Colin Robertson,

The Globe and Mail, August 28, 2018

A little more than a year after negotiations began on a revised North American free-trade agreement, a deal looks possible, although big questions remain.

For much of the past two months, Mexican and American negotiators have wrestled with the U.S. demand around the content rules for our most-traded commodity, the automobile. North Americans produce 17.5 million cars or trucks annually. The original U.S. demand of 85 per cent North American content with 50 per cent of that "Made in the USA" has apparently morphed into 75 per cent North American content with 40 per cent to 45 per cent made by workers making US\$16 or more an hour.

The devil is always in the details, but Canadian industry and its workers can live with this and, if this gives U.S. President Donald Trump his "win," then we are on our way to a deal.

So, too, with the "sunset" clause. Originally, the United States wanted the new agreement to lapse after five years – something investors said would freeze investment, especially into Canada and Mexico. U.S. Trade Representative Robert Lighthizer

reportedly says it will now be 16 years with a review after six years. We can live with that.

On dispute settlement, or Chapter 19, the picture is murky and we will need clarification. The Trump team originally wanted to jettison the binational mechanism, and it appears there will be investor-state provisions, something U.S. industry lobbied hard to retain, and some form of recourse, beyond the U.S. system, for energy and infrastructure. Canada and Mexico need to stand firm. We need recourse from U.S. trade-remedy legislation – countervail, anti-dump and, as the Trump administration misapplies it, national security.

If reports are accurate, there appears to be near-agreement on agriculture (good for Canadian farmers) and on intellectual property (unchanged) but again, the devil will be in the details.

The negotiators were originally aiming for 30-plus chapters of NAFTA but until now only nine had been closed and, of course, nothing is truly closed until it is all done.

So what remains and how might they be resolved? From Canada's perspective, assuming we can work out dispute settlement, we need to see action on three more items.

- **Government procurement:** Canada wants to retain open access, but the United States is offering a derisory dollar-for-dollar deal. If we cannot work

this out, we should leave it to governors and premiers to work out the kind of reciprocal procurement deal that they achieved in 2010. This could be regional or national; the incentive for both sides is that an outside bidder curbs local price-fixing. This will be important especially if Mr. Trump proceeds with his trillion-dollar "Big Build" infrastructure initiative.

- **Labour mobility:** We want to update for the digital age the ease of passage for designated occupations. Businesses, especially those with North American supply chains, need this to maintain competitiveness. In the current U.S. environment, this is probably a stretch. We would do well if we can maintain the current list and punt this over to a separate negotiation.
- **Dairy access:** Mr. Trump continues to single this out. It is time to reform supply management just as we did with our wine industry through the original Canada-U.S. free-trade agreement in 1987 and then our managed trade in grain. Provide adjustment assistance but open up our dairy and poultry industries, which make good products and, like our beef and pork sectors, and now our grains and pulse production, they can be world-beaters.

While Mr. Trump thinks negotiations can wrap up this week, we will likely see fall leaves and probably snow before the deal is done. Legislative ratification, especially in the United States, is an even bigger question mark. It will likely be the next Congress, chosen in November and taking office in January, that will give "up or down" approval to the new accord. It won't be easy.

The coming days – more likely weeks – will be a test of Canadian negotiators. They are a very experienced team and they are up to the task as long as the government has their backs.

This is the bigger question: Can the Trudeau government take the political flak that will inevitably come its way? It won't be sunny ways. If it can stick it out, the Trudeau government will make as big a contribution to Canadian well being and competitiveness as Brian Mulroney and his Progressive Conservative government did with the original Canada-U.S. FTA and then the NAFTA. It would be no small legacy.

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After USMCA

[Don't celebrate just yet. USMCA is far from being a done deal](#)

[COLIN ROBERTSON](#)

THE GLOBE AND MAIL OCTOBER 2, 2018

A proposed deal – not NAFTA 2.0 but, in deference to U.S. President Donald Trump who initiated this 13-month odyssey, the United States-Mexico-Canada Agreement.

Judging by the market reaction, the USMCA should be good enough to thaw the chill shared by investors, both Canadian and foreign, since the negotiations began. We are

not out of the woods – congressional approval of the necessary implementation legislation is no slam dunk and there is still the threat of further Trumpian protectionism, whether direct or through collateral damage.

The dairy lobby is aggrieved but they dodged a bullet. Supply management, a protectionist system badly in need of reform, is preserved. We gave the Americans about half-a-percentage more of the market than they would have received had Mr. Trump not pulled out of the Obama-initiated Trans-Pacific Partnership.

Even with the additional quota negotiated for the EU in the Canada-EU trade pact (CETA), more than 90 per cent of our dairy market is still protected for Canadian producers. It is also a sure bet that the federal and provincial governments will open their wallets to provide adjustment assistance to the afflicted, although for taxpayers' sake there must be demonstrable proof of injury. There is no reason why our dairy farmers cannot become as successful internationally as our beef and pork, grains and pulse producers, especially given the growing appetite for protein in the Indo-Pacific.

The dairy lobby's cry of pain is reminiscent of that heard from vintners after the Canada-U.S. free-trade agreement (FTA) of 1988 opened up their market. Today their products are both very drinkable and sell more than ever before. The tentative new agreement means that U.S. wines will now share shelf space on British Columbians' shelves with B.C. wines, but B.C. protectionism is the kind of non-tariff barrier that we rail against in other markets. Redress was overdue and it reminds us that, when it comes to protectionism, no nation has clean hands.

Canadian auto manufacturers have cause for celebration. It appears we have evaded Mr. Trump's threatened 25-per-cent tariff and, even if trade is slightly more managed, the new rules of origin and the wage component could well create more opportunities, especially for Canada's highly competitive parts manufacturers – our real niche in the global auto trade.

There is the potential for slight cost increases in pharmaceuticals with the extension of patent protection but provincial administrators are now very skilled at using their cartel power to get the best price from drug manufacturers. E-commerce shoppers can celebrate because purchases under \$150 will now pass much more freely and our customs inspectors can focus on bigger game, including keeping counterfeits out of North America.

Our negotiators deserve a glass of sparkling wine (Canadian) but the USMCA is far from being a done deal. While majority governments in Canada and Mexico will be able to secure legislative implementation, passage in the next U.S. Congress is no sure thing.

We need to continue the advocacy campaign into the regions and within the Washington beltway. Most Americans still have no idea that their main export market is Canada and that jobs and prosperity depend on mutually beneficial trade and commerce. More

than [300 Team Canada outreach missions](#) made contact with more than 300

members of Congress, 60 governors or lieutenants-governor and most of the Trump cabinet. To protect Canadian interests this must become a permanent campaign.

The premiers and provincial legislators must continue to play a critical role in reaching out to their counterparts and this should be a main discussion topic at the upcoming first-ministers meeting on trade. We need to increase our presence in the U.S. – a representative in every state should be our goal. Here again, the premiers can help through establishing offices in the states that matter most to them. Ontario is the province most dependent on the U.S. market. Instead of seeking federal handouts, Premier Doug Ford could learn from Quebec. La belle province has long had representatives in U.S. states. These representatives complement the work of our consulates.

Our dependence on the U.S. market – 75 per cent of our trade goes south – was used as leverage by Mr. Trump since only 18 per cent of U.S. exports head north. It is another reminder that we really do need to invest in trade diversification. We have deals with the European Union and with key Pacific partners, most notably Japan. How to realize opportunities opened by these agreements must be another discussion at the first-ministers conference. As with our permanent U.S. campaign, trade diversification must be a Team Canada effort.

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Moving On: The West Adjusts to a Rogue U.S. President

Jeremy Kinsman

Policy, August 2018

The daily exclamations and all-caps exhortations of Donald Trump often obscure the systematic damage he is doing to the multilateral institutions of which America was principal post-war architect and moral choreographer. Veteran Canadian senior diplomat Jeremy Kinsman, our foreign affairs writer, examines the toll Trump has taken and how America's alienated allies are responding.

The summer of 2018 has shaken the rules-based world order that emerged from the devastation of the Second World War. A rogue president of the United States has apparently chosen unilateralism and nationalist competition over the multilateral norms and cooperative principles that America itself did so much to shape.

Donald Trump's style in domestic politics is to disrupt, and to take a wrecking ball to the achievements of his predecessors in the White House, especially Barack Obama's. But in recent months he took his uniquely destabilizing act on the global road. In June and July, at the G7 Summit, the NATO Summit, in Britain, and finally Helsinki for a bilateral summit with Russian President Vladimir Putin, he seemed to challenge the value and purpose of America's basic alliances, undermining American friends in the G-7 and

NATO with open hostility, while very controversially deferring to the worldview of President Putin. Will this storm blow over, as other storms have in the past? Or is it the beginning of a dislocation of the trans-Atlantic ties at the core of our diplomatic world since WWII?

It is clear key European leaders are now hedging their reliance on the United States, while distancing themselves personally from Trump, whom they view as belligerent and unreliable. For Canada, the situation is more problematic because of geography and the extent of Canadian exposure, especially on trade. But the view of events is the same, prompting the Trudeau government to strengthen solidarity bonds with key European and other partners to reinforce the resilience and effectiveness of international cooperation. The summer of 2018 marked a turning point in the free world's engagement with Donald Trump as the face of a suddenly miscreant America. It is important to understand what is at risk in this dynamic as long as Trump remains in office: the legacy of a cooperative, internationalist world order forged from the chaos and destruction of WWII.

Fifty years ago, former U.S. Secretary of State Dean Acheson wrote his seminal narrative of the construction of the cooperative post-war world order, "Present at the Creation." He recalled historian

C. V. Wedgwood's comment about history—that usually, "We know the end before we consider the beginning... We can never wholly recapture what it was to know the beginning only." Acheson's is a "tale of large conceptions, great achievements, and some failures, the product of enormous will and effort," led by the U.S. It focused on the world's "free half," where shared democratic values would overpower the forces of competitive economic and militaristic nationalism that had spurred the rise of fascism and the genocidal war it produced.

It is worth recalling that when he wrote the book in 1968, America was in acute disruption. Acheson found the U.S., "and particularly its young people," in a "mood of depression, disillusion, and withdrawal from the effort to affect the world around us." America was then in turmoil over Vietnam, a sexual and cultural revolution, and unresolved injustices that exploded when Martin Luther King was assassinated, igniting inner cities. Shortly after, hope was further dashed when Bobby Kennedy was murdered. The social unrest spread: The student protests of the *soixante-huitards* shut down France. NATO sat helpless as Soviet troops smothered the Prague Spring. In China, Mao's manic Cultural Revolution turned the country inside out. But the multilateral institutions founded by creative internationalists after WWII survived the whirlwind. U.S. confidence did recover. The European Union grew increasingly cohesive and prospered. China began to rise and transform itself.

In 1989, the end of the Cold War rendered obsolete the world's division into two halves, free and unfree. Multilateral institutions became increasingly universal, absorbing nations that were beneficiaries of both the end of the Cold War and the end of colonialism. Global inter-dependence lifted hundreds of millions out of poverty. We assumed that humanity's great challenges—from climate change to pandemics to international crime—must be solved collectively. History, of course, doesn't move

forward in a straight line; it circles back, moves sideways, and then proceeds again. Since 1989, harsh counter-developments and events have bent the arc of progress. International terrorism, notably the catastrophe of September 11, 2001, altered the world.

After the 2008 financial crisis, Western economic leadership and globalization's merits began to be doubted. Developed societies resented the relocation of jobs to lower-cost locales. Millions living in poor countries untouched by globalization's economic benefits formed a flood of migrants who joined refugees from the wars of Syria, Iraq, and the Horn of Africa to pour into Europe, testing the tolerance of residents whose own earnings had stagnated amid widening income disparities. Populist, identity-driven politicians like Poland's Kaczinski, Hungary's Orban, La Liga in Italy, Le Pen in France, Wilders in Holland, and the new German alt-right blamed political elites and multilateral institutions, and implicitly questioned whether liberal democracy itself was up to coping with the challenges.

Prominent authoritarian regimes pressed forward with increased confidence. Russia interfered with democratic elections, in the US and in Europe, ostensibly in favour of nationalist populist candidates, in the hope of dividing Western allies. China expanded its influence globally, in Africa, South America and throughout the decreasingly democratic countries along its Belt-and-Road initiative, where China spent billions in infrastructure investment.

The divisive, populist right-wing opposition to the European political establishment also attracted favourable comments from the U.S. president and active encouragement from members of his political circle. Trump's flagrant sabotage in Charlevoix, Brussels, and the UK was a further destabilization. As European Commission President Juncker quipped, "With friends like that, who needs enemies?"

Though Trump's electoral victory had been a shock, allies hoped it was hyperbole when Trump declared in his inaugural address in January, 2017, that he placed the interests of America first, "always America first." But that doctrine was confirmed when his original national security and economic advisers (H.R. McMaster and Gary Cohn) touted, in a *Wall Street Journal* op-ed, Trump's view that "the world is not a global community" but "an arena where nations, nongovernmental actors, and businesses engage and compete for advantage." They issued the every-nation-for-itself statement of principle that "Rather than deny this elemental nature of international affairs, we embrace it." It marked a radical departure from America's half-century postwar legacy of destiny-defining foreign policy.

Trump removed America from the Trans-Pacific Partnership. He opposed NAFTA ("a terrible deal for us. We have been treated very, very badly....."), trashing Ronald Reagan's vision of a North American community of peoples with shared economic interests. He launched a trade war with China. He disseminated his displeasure with the World Trade Organization, impeding its dispute settlement capacities.

He wanted only bilateral trade deals. Weaponizing uncertainty, he unilaterally imposed tariffs on aluminum and steel imports from trading partners, including Canada, on the spurious and insulting grounds of “national security.” He upped the protectionist, unilateralist ante by threatening crippling tariffs of 25 per cent on U.S. imports of automobiles and parts. That the partners were America’s principal allies was of no apparent consequence; indeed, he indicated he believed NATO was “obsolete,” later designating the E.U. as America’s “foe.”

Trump seemed to be evacuating the international system far beyond trade. He yanked the U.S. from the Paris Accord on climate change and then the vital Iran nuclear accord. He withdrew the U.S. from UNESCO and the Human Rights Council, eliminated U.S. contributions to the UN Population Fund, and cut contributions to the UN’s budget for peacekeeping. Meanwhile, Trump seemed to bond personally with authoritarian leaders, apparently abandoning America’s national commitment to support human rights defence. America’s own reputation as a democracy wavered as Trump attacked U.S. institutions, media, law enforcement agencies, and the courts, the essential checks and balances to executive authority.

Initially, U.S. partners had persisted in believing Trump would “normalize.” Then, some banked on appeasing him into exempting them from his vindictive assaults. “Flatter him,” was the U.S. insider advice to the still-new Canadian government, and for over a year, they did. The erratic president showed increasingly over his first 18 months that there was no cajoling, placating or reasoning with him. Angela Merkel warned that “Europe can no longer count on the US and must take matters into its own hands.” But his performance at the G7 and NATO Summits and then the Helsinki bilateral with Putin sealed the perception he was beyond intractable. He was destructive.

America’s traditional allies transited to another phase in their assessment of how to deal with Donald Trump. Having come to dislike him and now distrust him, leaders decided they would have to revisit their assumptions about his motives and diffuse their dependence. Their preoccupation now is how to protect global institutions, stability and predictability from his manic wrecking ball.

Germany became a hub in an effort to reach out to like-minded allies. It’s not just the Atlantic nations: China and Japan are hustling to shore up the international trading system Trump has been trashing. The *New York Times* put it succinctly: “The only thing you could say in Trump’s favour is, he’s brought the world together on trade...It’s Trump versus the world,” a point illustrated on the hard economic issue of unilateral U.S. tariffs on imported cars, when Canada joined other auto producers from the EU, Japan, South Korea, and Mexico in preliminary meetings to discuss a coordinated response.

More broadly, Germany is talking to other multilateralist stalwarts, especially Canada, about creating an informal alliance to reinforce, and where necessary reform, key UN and other agencies and common causes, from climate change to migration, which could otherwise be debilitated by the withdrawal of U.S. positive leadership or even participation. They are contemplating a defensive intensification of ties and cooperation

among fellow inclusive democracies to reinforce the positive example of effective liberal democracy to others.

So, the summer of 2018 has been a critical moment, possibly the beginning of a tectonic shift in close relationships. Canada is in a uniquely challenged position, along with Mexico, for obvious reasons of adjacency to the U.S. and economic exposure. But Canada has a lot of friends in America. The links and chains are strong. We have to keep shoring them up. Our alignment is not to an anti-U.S. defensive coalition, but to the values and cooperative purposes that Acheson's generation of Americans gave to the post-war world and on which we have come to rely for security and progress in confronting trans-national issues. Of course, as in 1968, perhaps the immediate storm will pass, leaving estrangement in its wake, but not a destructive catastrophe.

We can always hope America will so tire of the psychodrama and animosities Trump foments, that he will not have a second term. Soothing alternatives like Mitt Romney eye the Republican stage Trump has hijacked. Democrats are holding challenger tryouts. But Trump's cultish loyalists seem unyielding. The world can't count on an internal American solution. It is up to like-minded Europeans, Canadians and other internationalists to save ourselves as necessary. A counter-strategy to preserve the multilateral and cooperative rules-based order foreseen at the post-war moment of creation has become imperative.

Then, as Trump says, "we'll see what happens."

[The World According To Populists: A Discussion with Jeremy Kinsman](#)

Global Affairs Institute Podcast
The World According to Populists
August 13, 2018

On today's [Global Exchange](#) Podcast, we sit down with former Canadian Ambassador Jeremy Kinsman to discuss the rapid rise of populism throughout the world, and how that growth effects the dynamics of foreign policy and international affairs.

Participant Biographies

- **Colin Robertson (host):** A former Canadian diplomat, Colin Robertson is Vice President of the Canadian Global Affairs Institute.
- **Jeremy Kinsman:** Regents' Lecturer at the University of California, Berkeley. Jeremy Kinsman left the Canadian Foreign Service in 2006, after 40 years. He had served as a Canadian Ambassador for 15 years, in Moscow (1992-96), in Rome (1996-2000) as High Commissioner in London (2000-2002), and as Ambassador to the EU in Brussels (2002-2006). Earlier postings were in Brussels and in Algeria before going to New York in 1975 where he became Deputy Permanent Representative to the UN. He was

then Chairman of Policy Planning in Ottawa before becoming Minister for Political Affairs in Washington (1981-85).

Jeremy Kinsman

USMCA, Melania in Africa

CTV October 2, 2018

<https://www.facebook.com/CTVNewsChannel/videos/816518615390262/>

Canada at the U.N.

CTV September 25, 2018

<https://www.facebook.com/CTVNewsChannel/videos/1088020371364008/>

China: U.S. Tariffs

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NAFTA, USA-ICC

CTV, September 12, 2018

<https://www.facebook.com/CTVNewsChannel/videos/1045152855664813/>

USA: Cohen and Mannafort

CTV, August 21, 2018

<https://www.facebook.com/CTVNewsChannel/videos/2125561207709666/>

Edition 2018 Les Nations Unies et le Canada : Ce que le Canada pourrait et devrait faire aux Nations Unies en 2018: une question de leadership John E. Trent, éditeur

Le Canada et l'Arabie Saoudite – incidences pour les Nations unies

Ferry de Kerckhove

On avait hésité à insérer dans ce livret un chapitre qui touchait de près ou de loin au Moyen-Orient étant donné l'incurie de la politique canadienne envers la région... si l'on exclut la « brave » abstention du Canada sur la résolution de l'assemblée générale des Nations unies pour contrer la décision américaine de déménager leur ambassade à

Jérusalem. Il n'y avait aucune référence au Moyen-Orient dans le discours de politique étrangère néanmoins solide de la ministre des affaires étrangères Freeland au Parlement le 6 juin 2017. En fait la seule question d'importance sur le Moyen-Orient qui avait suscité des remous dans tout le monde politique canadien et au-delà avait été la vente à l'Arabie Saoudite des véhicules blindés construits par GDLS dans l'est ontarien pour 15 milliards de dollars. Plus récemment, l'Arabie Saoudite obnubilait le Canada en interrompant toute relation en réponse à un tweet ministériel critiquant le royaume au titre des droits de la personne, après quoi nous nous sommes retrouvés très seuls au monde. Manifestement notre abstention sur Jérusalem ne nous a pas valu de bons points de la part de nos voisins américains, eux-mêmes totalement enserrés dans l'étreinte saoudienne. Le silence de nos « partenaires » de l'Union européenne fut également assourdissant. La véritable question dans cette affaire est l'impact plus général en termes de politique étrangère que pourrait causer le « tweet-gate » canadien, notamment pour les ambitions du Canada aux Nations unies. La question telle que posée ne réduit en rien mon admiration pour la position de principe adopté par le Canada. En outre l'insistance que l'on met sur le tweet comme étant la « faute originelle » est plutôt fallacieuse, voire hypocrite. Car si la ministre avait fait la même déclaration à un journaliste, toute porte à croire que la réaction saoudienne aurait été la même. Il est également clair que comme le Canada compte moins pour l'Arabie Saoudite que d'autres partenaires qui profitent de contrats juteux avec le royaume, nous sommes devenus le bouc émissaire, une sorte de signal à tout autre pays de ne pas ennuyer le prince royal. On ne peut ignorer non plus que cet éclat reflète une évolution des paradigmes de la scène internationale. Et c'est ce dont le Canada doit se préoccuper tant au titre d'une défense éventuelle de l'ordre libéral multilatéral que de sa campagne pour un siège au Conseil de sécurité. Les deux sont interreliés. S'agissant du premier, il est évident que l'ordre libéral international fait l'objet d'une attaque en règle, alimenté par le déclin de l'engagement américain sous Trump, un Occident affaibli et divisé, un leadership déliquescents, l'illibéralisme, les trucages électoraux et des inégalités croissantes renforçant la méfiance générale envers les gouvernements. En même temps, l'hostilité envers la démocratie occidentale et sa doctrine des droits de la personne est entretenue tant par l'impact catastrophique de la crise financière de 2008 qui a détruit la confiance du monde non-occidental envers le modèle économique occidental, que par l'attractivité du modèle économique-politique chinois, autocratique et dirigiste. Ainsi une mutation profonde que l'on peut exprimer sous le vocable de « désoccidentalisation » se produit exactement au moment où nous nous attendons à ce que le gouvernement Trudeau prenne la direction d'un mouvement pour raviver la foi dans le multilatéralisme, les Nations unies, la démocratie, l'État de droit et le respect des droits de la personne. Les nouvelles ne sont pas très bonnes : la réaction de l'Arabie Saoudite, le silence de nos alliés, notre propre faiblesse dans la façon dont nous articulons ce qui devrait être un appel vibrant en faveur d'une alliance de pays partageant les mêmes valeurs à la défense de l'ordre libéral international, l'alliance contre nature entre la Chine et la Russie vouée à subvertir cet ordre, tout cela tend vers un résultat profondément inquiétant. Simplement, du point de vue de notre campagne pour le Conseil de sécurité, ce que nous, le Canada, représentons, est anathème aux yeux d'un nombre croissant de pays sur lesquels nous pouvions compter dans le passé. L'Arabie Saoudite s'assurera que le plus grand nombre possible de membres de la Ligue Arabe votent en faveur de l'Irlande et de la Norvège. La Chine, sans doute vexée par la

tentative de l'équipe Trudeau d'ajouter environnement, relations de travail, féminisme et droits de la personne dans le cadre d'une négociation commerciale bilatérale avec elle, pourrait faire peser le poids de son influence auprès de ses partenaires asiatiques pour qu'ils aillent dans le même sens. Même l'irritation japonaise envers notre premier ministre pour son absence initiale du partenariat transpacifique pourrait subsister. On peut espérer que les Australiens, en tant que loyaux partenaires du CANZ, nous aient pardonné. L'Inde pour sa part pourrait bien considérer que la loyauté envers le Commonwealth ne soit pas un argument convaincant. Alors que faire ? Non seulement le gouvernement Trudeau doit-il redoubler d'efforts dans sa campagne pour le Conseil de sécurité, avec un engagement personnel maximum du premier ministre et de ses ministres, en plus d'un véritable régiment d'envoyés spéciaux ayant une expérience des Nations unies. Mais le Canada doit aussi présenter un « plan de match » convaincant. Il faut commencer par concrétiser nos engagements

sur le terrain, à commencer par le Mali qui ne peut être notre unique contribution au maintien de la paix. Nous devrions également faire preuve de leadership dans les domaines de la prévention des conflits, la stabilisation, la consolidation de la paix et le développement (0,29% du PNB ne convainc personne). Nous devons commencer à faire preuve de leadership au niveau des idées en matière d'environnement. Enfin le Canada doit élaborer une démarche plus cohérente en matière de droits de la personne. Plus important encore, au cours des 12 prochains mois, le Canada doit mettre sur pied une coalition de pays à la défense de la démocratie. Un trop grand nombre de pays ont quitté le train; pourtant leurs populations veulent que leurs gouvernements embarquent à nouveau. Le résultat ultime de l'épisode saoudien pourrait bien être pour le Canada de découvrir sa vraie vocation en matière de leadership mondial. Il ne s'agit pas seulement de manœuvrer au sein des institutions mondiales existantes, bien que cela soit nécessaire. Un leadership véritable exige un appui continu de principe envers les normes internationales essentielles comme les droits de la personne et la démocratie. Nous devons essayer de mobiliser l'appui de pays qui partagent nos valeurs au service d'un programme d'action en faveur du couple démocratie-droits de la personne. Et même si nous devons le faire seul, nous devons rester en selle. Nous avons besoin d'un plan pour faire en sorte que les droits de la personne soient à la fois universels et universellement applicables. Rien de moins !

Comment s'organiser pour remettre le Canada en selle sur la scène internationale

Daniel Livermore

Quand ils poursuivent des objectifs internationaux, la plupart des gouvernements consacrent attention et ressources à bien définir leurs objectifs politiques et à assurer des communications claires à leurs auditoires aussi bien internes qu'étrangers. Il existe toutefois une troisième exigence dont le respect est fondamental pour assurer le succès sur la scène internationale même si on ne lui accorde pas toute l'attention voulue, notamment au Canada. Il s'agit de disposer d'un ministère des Affaires étrangères agile, capable, adaptable et expérimenté, en mesure de se servir des leviers de la puissance nationale de façon efficace et de déployer ses instruments diplomatiques au meilleur avantage du pays. Si le Canada veut véritablement assumer un leadership international,

le gouvernement canadien doit s'engager à rebâtir le ministère Affaires mondiales Canada (ci-après AMC). Il fut un temps où le ministère des Affaires étrangères canadien avait une véritable capacité, non seulement en termes de ressources humaines, mais également au titre des attitudes et des programmes nécessaires pour faire avancer les intérêts nationaux. Au cours de la dernière décennie sinon plus, il a subi une atrophie lors d'une phase particulièrement blafarde de la politique étrangère canadienne ; et malheureusement, il n'y a guère de signes de renouvellement. La reconstruction d'AMC exige trois éléments et aucun d'entre eux n'est particulièrement difficile et n'exige aucune ressource additionnelle. Mais cet exercice exige de l'énergie et une véritable réflexion que l'on ne peut laisser entre les mains d'une fonction publique évanescence à Ottawa. En premier lieu, il faut une refonte complète de la démarche d'AMC en matière de ressources humaines. Tout le cycle du recrutement, de la promotion, et des affectations du service extérieur doit être reconstitué sur des fondations plus solides. Il faut commencer par le recrutement et la formation de jeunes agents de haut calibre, en mettant l'accent sur l'expérience de l'étranger et les langues. Il faut offrir aux agents des affectations régulières à Ottawa et à toute une gamme de missions dans le monde pour bâtir une connaissance en profondeur fondée sur des expériences directes, plus particulièrement dans des destinations en crise, où les agents peuvent acquérir des aptitudes linguistiques, des connaissances, des capacités de leadership, et développer leur jugement. Il faut ensuite affecter les agents les plus prometteurs dans des postes à Ottawa et dans des missions importantes à l'étranger en leur accordant des responsabilités accrues, y compris par des détachements au Bureau du Conseil privé et dans d'autres ministères gouvernementaux pour qu'ils acquièrent de l'expérience sur la façon dont le gouvernement fonctionne et comment les questions sont gérées. Il n'y a rien de mystérieux dans tout cela ; ce qui est mystérieux c'est comment un ministère qui jadis était à l'avant pointe à Ottawa en matière de recrutement, de promotion, et d'affectations, est parvenu à complètement démobiliser tant son service extérieur que son cadre d'agents non-permutants. Il faut insérer dans ce nouveau modèle de ressources humaines une exigence fondamentale pour tout service extérieur performant : un niveau raisonnable de sur-recrutement et de capacité excédentaire à tous les niveaux. AMC a besoin d'une capacité considérable en matière de personnel au-delà des postes qui existent au sein même d'AMC, de telle sorte qu'il puisse détacher ou prêter des agents sur une base régulière à d'autres ministères du gouvernement canadien, aux provinces, à des organisations internationales et au secteur privé, y compris les universités et les organisations non-gouvernementales. Ces détachements sont essentiels pour apporter à AMC de nouvelles perspectives, expériences et techniques de gestion et vous permettra en même temps d'échanger les points de vue et expériences d'AMC avec d'autres. Quand le Canada contribue à des opérations de maintien de la paix, par exemple, cette capacité est essentielle pour détacher des agents auprès des forces armées canadiennes, des Nations unies et ses agences, fournissant ainsi une capacité civile essentielle pour rendre les opérations de paix plus efficaces. La deuxième exigence est liée aux attitudes. Affaires mondiales Canada (AMC) est devenu un ministère obsédé par les processus et procédures au point de ne plus véritablement reconnaître ses objectifs fondamentaux. Il n'est plus axé sur la réalisation de buts précis et a perdu de vue la notion même de simplicité et de facilité des opérations ainsi que le besoin de favoriser des partenariats avec d'autres, particulièrement dans le domaine du

développement. Il est devenu lent et excessivement hiérarchisé au moment même où sa hiérarchie manque d'expérience de politique étrangère. Le ministère a besoin d'un changement d'attitude dramatique ; il doit retrouver sa dextérité d'antan et déclarer la guerre aux procédures excessives qui le rendent lourd et incapable de répondre aux nouveaux défis. Une réduction profonde dans sa haute gestion pléthorique libérerait des ressources destinées à d'autres fins plus utiles. La troisième exigence consiste à rendre à AMC certains des instruments de base de la diplomatie, coupés durant les années Harper. Comme tout grand ministère des affaires étrangères, AMC a besoin de capacités effectives dans le domaine des affaires publiques et doit disposer des moyens de promouvoir la culture canadienne et les relations universitaires à l'étranger. La meilleure façon de doter AMC de ces instruments consiste à établir des partenariats avec d'autres – organisations culturelles nationales, ONG, universités, le monde des affaires et les églises, en évitant la tendance actuelle à AMC de vouloir tout faire tout seul. Avant de lancer de nouvelles initiatives dans ce domaine, AMC doit entamer un large processus de consultation avec des experts de politique étrangère et la société civile sur la façon la plus efficace de faire progresser ce pilier essentiel de la vie canadienne sur la scène internationale. AMC est à la croisée des chemins. Compte tenu de sa situation délétère, avec des douzaines de vacances à des postes clés, l'épuisement de ses capacités linguistiques, une structure de haute gestion inutilement vaste, compliquée et peu expérimentée, avec, enfin, un climat de frustration croissant au sein du personnel faute de promotions et d'affectations de qualité, le ministère fait face à des défis énormes pour lesquels peu de solutions adéquates semblent surgir à l'horizon. Si le Canada veut véritablement retourner sur la scène internationale, il se doit d'établir des fondations solides pour son action. Si nous voulons occuper une position d'influence dans un monde de plus en plus difficile, nous devons bâtir notre capacité à exercer cette influence. AMC constitue l'un des éléments clés des fondations. Le gouvernement se doit de relever le défi et parvenir à une solution satisfaisante.

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Talks to ban nuclear materials need a fresh start

Paul Meyer,

Bulletin of the Atomic Scientists, September 25, 2018

If grades in disarmament diplomacy were given out for perseverance, then Canada would surely merit an “A” for its efforts on behalf of the Fissile Material Cut-off Treaty, or FMCT. Forging this treaty, which would ban the production of fissile material for nuclear weapons, has been a supposed goal of the international community for over half a century. In that time, though, negotiations to bring the treaty about never even started, suggesting that the FMCT is one of those worthy goals that are periodically affirmed without any serious effort to realize them. And though Canada has traditionally led efforts to move forward on the treaty, the Canadian-led group most recently charged with supporting future negotiations has submitted a report that deserves a failing grade.

This is unfortunate, because the FMCT, if it ever happens, could have a major impact on reducing nuclear proliferation. The problem is that the 25-member preparatory group asked to facilitate the task of future negotiators has recommended that “the negotiation of a treaty ... begin without delay in the Conference on Disarmament.” This is not a

realistic solution, as anyone familiar with the Conference on Disarmament knows it does not act “without delay” on anything. It simply does not get things done. To initiate work on the FMCT will require its liberation from this diplomatic dungeon.

Canada has been closely associated with the FMCT since 1995, when the late Canadian Ambassador Gerald Shannon won approval for a mandate to negotiate the treaty at the Conference on Disarmament. In principle, the Geneva-based, 65-nation Conference is the United Nation’s designated forum for negotiating multilateral arms control and disarmament agreements. The forum operates under an extreme version of the consensus procedure, whereby no decision can be taken unless all members agree. Given the various perspectives and priorities of its member states, it has been unable to agree on and implement a program of work for twenty years. Nominally, it is this diplomatic forum that is supposed to assume the task of negotiating the FMCT, but opposition from one member, Pakistan—which claims that the treaty would be contrary to its national security interests—has blocked any official work on the treaty.

Each year through 2011, Canada led on a UN General Assembly resolution calling for the Conference on Disarmament to start negotiating the FMCT. In 2012, recognizing that simply repeating the resolution was an exercise in futility given the gridlock in Geneva, Ottawa decided on a new tack. That year, Canada led on a resolution establishing a Group of Governmental Experts “to make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons.” This mandate’s awkward formulation reflected the reluctance of some UN parties to see any type of negotiation on the FMCT begin.

The Group of Governmental Experts operated over eight weeks in 2014 and 2015, under a Canadian chair, and successfully adopted a consensus report. It was able to do this by eschewing any effort to forge common positions in favor of enumerating the differing views held by states on the key issues concerning the treaty. One issue that has loomed large as a point of contention is the question of the treaty’s scope, specifically whether it will be limited to future production of fissile material or cover past production—existing stocks—as well. The group’s 2015 report concluded that “the various perspectives of States on a treaty should not be an obstacle to commencement of negotiations.” It also affirmed that the so-called Shannon mandate, which recognized that the issue of scope remained open, “continues to provide the most suitable basis on which future negotiations can commence without further delay in the Conference on Disarmament.”

Despite these upbeat conclusions, further delay was very much in the cards and differing views continued to obstruct any action on the FMCT at the Conference on Disarmament.

Canada therefore seemed to be back at square one in terms of getting any negotiation underway. Apparently animated by an “if at first you don’t succeed...” attitude, Canada proposed a sequel to the Group of Governmental Experts under a new if more pretentious label. The “high-level fissile material cut-off treaty preparatory group” was the result, and Canada was once again able to obtain UN General Assembly support for this variation on an old theme. The preparatory group was duly constituted and met in

2017 and 2018, again under a Canadian chair. It was able to produce a consensus [report](#), published by the United Nations in July.

Although the express intention of the preparatory group was to build upon rather than duplicate the work of the Group of Governmental Experts, the July report enumerates states' various views on the FMCT—including scope, definitions, verification, and legal aspects—in a way that makes it highly similar to the earlier group's work. The new report's self-described “plain-language menu of potential treaty elements” has some value, but the array of preferences expressed has changed little since the 2015 report. Indeed, it would appear that the preparatory group didn't even attempt to converge the views, as the report notes that “no attempt was made to narrow this range of substantive options.” The casual observer would be justified in questioning the purpose of the entire exercise if it didn't even try to narrow the differences among states with respect to what the FMCT should include.

If the familiar nature of the views recorded by the preparatory group was disappointing, its recommendation that negotiation “begin without delay in in the Conference on Disarmament” was even more so, given that body's track record. To confine the negotiation of the FMCT to such a dysfunctional forum seems the height of diplomatic folly, but this is the considered recommendation of the 25 members of the preparatory group. It would appear to serve everyone's interests to repeat the hollow ritual of invoking the Conference on Disarmament gods, and Canada, regrettably, has been a willing shaman to this spectacle.

The 190 members of the Nuclear Non-Proliferation Treaty, which first entered into force in 1970, committed themselves to nuclear disarmament as well as nonproliferation goals. In 1995 that treaty was indefinitely extended on the basis of a “package” of decisions, which included making the negotiation of an FMCT a top priority. Like the [Comprehensive Test Ban Treaty](#), which opened for signature in 1996, the FMCT was seen as an important tool for reducing nuclear proliferation. The protracted failure to conclude such a treaty (or even start negotiations on it) contributes to a credibility crisis that the Nuclear Non-Proliferation Treaty is now experiencing. If it can't deliver on such core commitments after decades, what authority can it expect to command going forward?

To initiate work on the FMCT will require it to be freed from the constraints of the Conference on Disarmament and granted a fresh start under the authority of a diplomatic body not subject to the veto of any one state. This might be best achieved via a UN General Assembly resolution. Alternatively, a group of concerned states—such as the five official nuclear weapon states under the Nuclear Non-Proliferation Treaty, or some other group that possesses fissile material—could undertake *ad hoc* negotiations.

Until the political will can be generated for such concrete action, the disarmament community should avoid exercises in treading water like the recent FMCT preparatory group. However well-intended, they only provide an illusion of progress, and further erode the credibility of the global nuclear non-proliferation and disarmament regime.

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Rights of Passage: It's Time the U.S. Recognizes Canada's Arctic Claim

By Bob Hage

Canadian Global Affairs Institute, September 2018

George Bernard Shaw once said the Irish will do anything for their country but live in it. While Canadians seem to have a passion for the Arctic, few will visit it, let alone live there. Nevertheless, the Arctic, particularly the Northwest Passage, has long held a place in the country's collective imagination.

Indeed, over the past decades Canada's Arctic has been a place where popular opinion has taken the lead urging various Canadian governments, sometimes reluctantly, to take a stand against the United States. In 1970, a long-time Canadian diplomat said a piece of Canadian legislation "led to what may be one of the most acerbic exchanges in the history of diplomatic communications between Canada and the United States".¹ This was Canada's 1970 extension of maritime jurisdiction through the *Arctic Waters Pollution Prevention Act (AWPPA)*.

While Canada and the United States have been duelling over the status of the waters of the Northwest Passage ever since, new challenges have emerged which both nations have to consider. Before last June's NATO summit, a CBC analysis warned, "Russian advances in the Arctic are leaving NATO behind", and that "the Russian bear has pursued a steady march forward much closer to Canada in the Arctic."²

China poses another challenge as it looks to exploit the Passage as a shortcut from the Pacific to the Atlantic. When Beijing published its **356-page Arctic Navigation Guide**, Northwest Passage, in July 2016, it declined to state its position on Canada's claim that the Passage constitutes its internal waters. Time Magazine entitled **its article** "China Could Be Preparing to Challenge Canada's Sovereignty over the Northwest Passage".

Surprisingly, the United States' position opens the door not just to challenges to Canada's security but to North America's. The dispute between Canada and the United States was triggered by the discovery of oil in Alaska in the 1960s and Humble Oil's decision to determine whether oil could be transported through the Northwest Passage to East Coast refineries. The tanker Manhattan made the transit in 1969, although not without the aid of a Canadian Coast Guard icebreaker aptly named Sir John A. Macdonald. Neither the company nor the U.S. government requested Canadian permission to do so. This was then, and is now, the key legal question: does Canada have the right to determine access to the Northwest Passage?³

While former prime minister Lester B. Pearson had told the House in 1963 that Canada was prepared to use straight baselines in the Arctic to define its sovereignty claim,⁴ the

government decided on another approach to respond to the public outcry from the Manhattan's passage. It opted for something dubbed "functionalism"; the notion that Canada's offshore authority be limited to what was functionally necessary to achieve a particular goal.⁵ This is in contrast to exercising Canadian sovereignty over Arctic waters, although the minister of External Affairs in endorsing functionalism in the House made clear Canada was not abandoning its sovereignty claims.⁶ The *AWPPA* created a 100 nautical-mile pollution prevention zone, the world's first, allowing Canada to impose strict safety and environmental requirements on all shipping. This was the first time a country outside Latin America claimed jurisdiction to an area beyond the territorial sea. The Americans did not like any of it.

Canada, with the world's longest coastline and one of its largest continental shelves, played a leading role in the Third United Nations Conference on the Law of the Sea which opened in 1972. It fulfilled one of its objectives by obtaining Article 234, the so-called Arctic exception, which recognized the rights of coastal states to adopt and enforce pollution prevention measures in "ice-covered" areas out to 200 miles. Both the United States and the former USSR supported it.

During the conference, cabinet decided that, once the conference concluded, Canada would remove any doubt about the historic status of the Northwest Passage by drawing straight baselines around the Arctic archipelago. When the convention was signed in 1982, government officials began drafting a memorandum to cabinet that would make that happen.

The memorandum made its way through the bureaucratic process involving a number of departments and arrived on the desk of then-External Affairs minister Mark MacGuigan for signature. Then, two messages arrived. The first was from Canada's ambassador for the law of the sea, Alan Beesley, in Geneva, who knew of the decision to proceed to cabinet but was now having second thoughts. He argued that drawing baselines was no longer necessary because the "functional approach" had worked and Article 234 was in place to protect Canadian interests. Explicit recognition of Canadian sovereignty was no longer required. The second message was from then ambassador Allan Gottlieb in Washington who strenuously opposed the proposal, maintaining it would damage relations with the United States. The minister did not sign the memorandum.

"The Americans," Sir Winston Churchill once said, "always do the right thing in the end, after exhausting every other alternative." MacGuigan's decision might have remained had the United States not sent the U.S. Coast Guard icebreaker, the *Polar Sea*, through the Passage in 1985. The U.S. advised Canada that it was sending the vessel "as an exercise in navigational rights and freedoms not requiring prior notification."⁷

Canadian public reaction to the sailing was so intense that the new Mulroney government finally acted to draw straight baselines around the archipelago. In announcing the government's decision, then-External Affairs minister Joe Clark said, "these baselines define the outer limit of Canada's historical internal waters."⁸ There is no better exponent of that claim than the Inuit who have used these waters since time immemorial and treated the ice and the land as one.

With the rising Russian military threat in the Arctic, melting Arctic ice and the possibilities of Chinese and other cargo ships using the Passage to shorten the route between Asia and Europe – along with cruise ships bringing tourists on Arctic adventures – the waters’ status continues to be a question. In April 2015 the *Globe and Mail* published an article entitled “**Canadians’ Support for Northwest Passage Claim Collapsing, Survey Shows.**” It cited an Ekos Research survey which indicated that only 45 per cent of Canadians still believe the Northwest Passage is within Canadian waters, a dramatic drop from 74 per cent five years previously. The journalist attributed this to the “dawning realization that no other country, and in particular the United States, which regards the Northwest Passage as an international strait no different from the Strait of Hormuz in the Persian Gulf, accepts Canada’s claim.”

That is simply incorrect. The Northwest Passage is entirely different from the Strait of Hormuz, which has always been used for international navigation. Under international law one of the indices of the validity of a state’s historic maritime claims is acceptance by other states.

When Canada drew the baselines, it received only two indications of non-acceptance. The United States dealt with the subject in a letter of Feb. 26, 1986 from the assistant secretary of state to Maryland Senator Charles Mathias and the other was a note from the U.K. purportedly acting on behalf of the European Community. A reference to both can be found in a 1992 State Department document.⁹ The British note was dated July 1986, almost a year after baselines were proclaimed and before the European Community had established its common foreign and defence policy permitting joint action on political and defence questions. The rest of the world has not objected.

In 1988, then-prime minister Brian Mulroney and then-president Ronald Reagan agreed on an Arctic co-operation agreement in which the U.S. would seek Canada’s consent before its icebreakers navigated in waters Canada claimed as internal. Canada undertook to facilitate their passage.

In 2004, following the 9/11 attacks, then-U.S. ambassador Paul Cellucci said “we are looking at everything through the terrorism prism ... So perhaps when this (the Northwest Passage) is subsequently brought to the table again, we may have to take another look.” He later said he had asked the State Department to re-examine its position that the Passage is an international strait “in light of the terrorist threat”. After he left Ottawa, Cellucci told the *Toronto Star* in 2007 that it was in the United States’ security interests “that the Northwest Passage be considered part of Canada.”¹⁰

Ships aren’t the only concern. Under the U.S. position, aircraft, including military aircraft, could exercise their legal rights to overfly international straits. The United States should ask itself whether it wants an unregulated international strait across the top of North America or one controlled by a friend and ally. This is particularly important at a time when Vladimir Putin’s Russia is taking more aggressive steps in the Arctic and autocratic China, with its agenda for world leadership, is eyeing an important Arctic role.

Cellucci got it right in maintaining that having the Northwest Passage under Canadian control would allow the Canadian military to intervene if necessary to counter any security threats.¹¹ Canada has a solid historic claim to these waters now enclosed by straight baselines. In many ways, they are there because the Canadian people, especially the Inuit, have led and governments have followed. In this way, Canada can safeguard its fragile Arctic environment, take measures against security and terrorist threats, overuse and smuggling, establish ports and search and rescue facilities, and work with the Inuit to ensure their rights over the land and sea are respected. No other nation can do so.

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Canada had a friend in John McCain

Colin Robertson

*i*Politics August 30, 2018

Senator McCain was a warrior and he understand the values of collective security. He was also a democrat and indeed championed the idea of a league of democracies sustained by a military alliance.

Location is everything in Washington. Canada's splendid Arthur Erickson-designed embassy on Pennsylvania Avenue, just across from the National Gallery of Art, is at the start of the presidential inaugural parade that is held every four years. The embassy's sixth-floor balcony overlooks the Capitol building. Its superb view down Pennsylvania Avenue makes it a prize site for schmoozing while keeping an eye on the parade.

Our invitation to members of the new Congress, incoming administration and the movers and shakers of Washington is always a draw. For the second George W. Bush inaugural parade on January 20, 2005, we welcomed former Speaker Newt Gingrich and incoming West Virginia governor (and now Senator) Joe Manchin . But our prize catch was Arizona Senator John McCain who came along with one of his daughters, who lived in Toronto.

The Senator made straight for the balcony. He was not there for any 'networking'. He had come to watch the parade.

It was a cold January – mitts, scarf and toque weather. The Senator positioned himself against the balcony and stayed put, long after everyone else had gone in for something warming. I stood beside him and tried to engage him on some of our issues – softwood lumber and beef. He grunted acknowledgement, his eyes on the marching bands.

“I marched myself as a midshipman at Annapolis in the second Eisenhower inaugural... it was another cold day.”

For the next hour, he did colour commentary, displaying an encyclopaedic, opinionated knowledge of the various marching bands, punctuated with his trademark wit and pungent humour. His daughter came out at one point and fastened a scarf around him but he stood bare-headed and with his hands in his dark wool coat.

‘Dad, it’s really cold out here...come in.’

‘No thanks...I’ve been in colder places than this.’

It was another insight into this doughty American hero.

I first met Senator McCain when I served as Canadian Consul General for the southwestern USA. Arizona was part of the territory and the senior Senator from Arizona’s office was supportive of our efforts to create the Canada-Arizona Business Council. The CABC set about increasing by tenfold the number of direct flights between Arizona and Canada. It was eventually realized thanks to CABC efforts, especially those of CEO Glenn Williamson, now our Honorary Consul in Phoenix.

When I was assigned next to establish the new Advocacy Secretariat at our Embassy in Washington, Senator McCain was an obvious target for our outreach efforts. He had served in Congress since 1983 and run well as the maverick ‘Straight Talk Express’ against George W. Bush for the GOP nomination in 2000. In 2008 he would be the GOP presidential nominee.

Senator McCain’s Washington staff was as efficient as those in Arizona. Perhaps not surprisingly, given his similarities to Teddy Roosevelt, we found that he was an environmentalist and his staff gave us useful advice on the somewhat obscure, but important, Devils Lake environmental issue. Run-off from Devils Lake in North Dakota was running into the Red River that flows north into Manitoba. We wanted the Army Corps of Engineers to put in a filtration system. Senator McCain, who early on recognized the dangers of climate change, helped us. He also traveled, with Hillary Clinton, across the north of Canada to Churchill to assess the changes wrought by global warming.

Senator McCain was a warrior and he understand the values of collective security. He was also a democrat and indeed championed the idea of a league of democracies sustained by a military alliance. One of the most successful initiatives of the Harper government that the Trudeau government has wisely continued to support is the Halifax International Security Forum, a three-day world-class security forum for the democracies. Set up under the direction of then Defence Minister Peter MacKay it has succeeded under the tireless direction of its CEO, Peter van Praagh.

Critical to the HISF success is the congressional delegation that flies up from Washington each November. John McCain was a driving spirit behind the American presence. Not only did he attend every year, he personally cajoled and convinced his colleagues, Republican and Democrat, to come with him. This congressional presence, often more than come to Canada in an entire year, ensured high-level participation from ministers and flag-rank officers both trans-Atlantic and trans-Pacific.

In what was his last appearance, weeks after the election of Donald Trump in November 2016, Senator McCain was unequivocal in his support for NATO, as well as the NAFTA. They needed to be preserved and strengthened. And when it came to conduct in war, he was equally forceful telling us “I don’t give a damn what the president (elect) wants to do...we will not waterboard. We will not torture people.”

Yes, Senator McCain is an American hero. He was also a friend to Canada.
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Canada owes no apology to the Saudis

Paul Heibecker

Globe and Mail, August 17, 2018

Urging Prime Minister Justin Trudeau to jump on a plane to Riyadh to apologize for Foreign Affairs Minister Chrystia Freeland’s tweet on Saudi human rights abuses is bad advice. Suggesting that we should seek U.S. President Donald Trump’s intervention with the Saudis is no better. And portraying Saudi Arabia as a friend and ally is preposterous.

Apologists for the Saudis need to give their heads a shake. Saudi Arabian authorities continue to subject peaceful dissidents to arbitrary arrests, trials and convictions. Human rights defenders are imprisoned and tortured into confessing.

Saudi authorities continue to discriminate against religious minorities and women. Without a man’s permission, women cannot marry, open a bank account, get major medical treatment, obtain a passport or travel. Nor can women dress as they please in public; black head-to-foot garb is the standard, even in the sizzling heat of a Saudi summer.

According to Human Rights Watch, judges routinely sentence defendants to floggings consisting of hundreds of lashes. Raif Badawi, whose wife and children are Canadian, was convicted in 2013 and sentenced to 10 years in jail and 1,000 lashes – for doing nothing more than blogging. His sister, prominent women’s rights activist Samar Badawi, was recently arrested, possibly for urging for his release. All this while Crown Prince Mohammad Bin Salman enthusiastically promotes his liberal Vision 2030 plans abroad.

Saudi Arabia’s criminal justice system is medieval. What Canadians would consider due process is often absent, and recourse to the death penalty is frequent – 146 executions in

2017. Methods include public beheading and stoning. Fundamentally, this “reformist” Saudi regime doesn’t appreciate that human rights are not the gifts of kings and despots to bestow on a grateful people; they are universal, inalienable and inherent in the human condition pursuant to the UN Charter and the Universal Declaration of Human Rights.

A coalition led by Saudi Arabia is conducting a war in Yemen that has become possibly the world’s worst humanitarian crisis, with more than 22 million people – three-quarters of the population – in desperate need of aid and protection. According to the UN Human Rights Office, coalition airstrikes are the leading cause of child casualties. About 3,233 of the civilian deaths were reportedly caused by Saudi-led coalition forces.

The Saudis also have an indelible connection to the 9/11 al-Qaeda attack on the World Trade Center in New York. The hijackers were predominantly Saudi citizens, and likely products of regime-tolerated extremism.

Ms. Freeland’s tweet did not come out of the blue. The Trudeau government has been engaging in quiet diplomacy with the kingdom to release Mr. Badawi since it came to office three years ago. The tweet came after the regime’s arrest of Samar Badawi, which itself followed a phone conversation between Mr. Trudeau and King Salman. Quiet diplomacy has accomplished nothing so far. The language used in the tweet was consistent with past press releases by successive Canadian governments. Ms. Freeland’s detractors should focus their attention on the threatening language about Canada promoted on Saudi television and the aggressive style of governance of the inexperienced Crown Prince. But they blame Canada first.

The Trudeau government’s critics should also bear in mind that Canada is a Group of Seven country with deserved standing in the world, especially among progressive, democratic states. The costs of the grotesquely exaggerated Saudi response, while unwelcome, are affordable for a country with an economy nearly triple the size of Saudi Arabia’s. If anything, our reaction to the Saudi outburst should be to build the Energy East pipeline, think twice about sending arms into a conflict zone and make more spots available for Canadians in Canadian medical schools and hospitals.

As for asking for Mr. Trump’s intervention with Riyadh, the only thing worse than his rejection would be his acceptance. The last thing we need in the NAFTA context is to undermine Ms. Freeland, a very capable chief negotiator. Further, owing the U.S. President a favour would hand him another stick to beat us with.

Ms. Freeland was right to speak up. Canada has the wherewithal to let the chips fall where they may.



Canada-Saudi rift: The next steps forward for Ottawa

Colin Robertson

The Globe and Mail, August 14, 2018

Who would have imagined that a tweet could have sparked such a crisis in Saudi-Canada relations? In this still-developing saga, there is a lesson, questions and a challenge.

The lesson is obvious: Diplomacy by tweet is a bad idea.

The too-clever-by-half tweet on the Friday before the August long weekend was likely written to assuage constituent pressures – the Montreal family of the imprisoned Badawis. But was it given sufficient scrutiny by our professional diplomatic corps?

The tweet would have been fine had it been sent by Amnesty International or Human Rights Watch. Diplomacy needs nuance and circumspection to effect actual change. While a useful social-media tool for priming an event or announcement, 280 characters are insufficient for launching a human-rights initiative to transform Saudi conduct.

The questions: Did Mohammed bin Salman, the Saudi Crown Prince calling the shots in the desert kingdom, check with U.S. President Donald Trump before proceeding with his attack on Canada? Given their close personal relationship – Mr. Trump's first foreign visit was to Riyadh – was there a conversation before the Saudis launched the diplomatic equivalent of DEFCON 3 on the United States' closest ally? If so, what was said?

Prime Minister Justin Trudeau needs to call Mr. Trump to discuss the Saudi situation. If it turns out that Mr. Trump gave the Crown Prince a wink and a nod to proceed, then Mr. Trudeau needs to make it clear that this is not acceptable.

The challenge for Canada is what to do next.

The Saudis are ratcheting up their campaign. Their [social media](#) have called Canada an oppressor of women and the homeless. The tweeted [picture](#) of an Air Canada jet headed for the CN Tower – shades of the Twin Towers – was reprehensible. The Saudis are also calling in their chits. The Arab League, Organization of Islamic Co-operation and the Gulf Co-operation Council have all dutifully [lined up](#) behind Saudi Arabia. The Saudi Arab News says Mr. Trudeau should send a delegation on "the first plane" to make amends or there is a "[real risk](#)" of upsetting the entire Muslim and Arab worlds."

The Washington Post [editorialized](#) (with an Arabic version) that the extreme nature of the Saudi punitive actions requires solidarity from like-minded countries who see human rights as a fundamental value.

The response to date from our Group of Seven partners is disappointing. The U.S. State Department suggested the two countries – "both close allies of the USA" – work it out, as though Canada and Saudi Arabia were on equal footing. Susan Rice, who served as president Barack Obama's UN Ambassador and then National Security Adviser, got it right: "the administration left Canada [swinging](#) in the wind."

Foreign Affairs Minister Chrystia Freeland now has to manage the fallout and continue her efforts to persuade like-minded countries to take a principled stand.

Are there sanctions we and our allies should be taking against the Saudis for their human-rights abuses, including treatment of women, oppression of religious freedoms and their intervention in Yemen? And why not invite its Foreign Minister to Canada? Perhaps he could join Ms. Freeland for a walk through our splendid Canadian Museum for Human Rights in Winnipeg.

Ms. Freeland has given some good, punchy speeches defending the rules-based order recently, in [Washington](#) and in [Singapore](#). Words matter. On her next trip to Europe, she should speak about human rights and remind our allies that they are fundamental to civil society. Mr. Trudeau should make human rights a principal theme of his UN General Assembly speech in September.

It is doubtful the Trudeau government intended to launch a new initiative targeting Saudi human rights. It already has a charged foreign-policy agenda – tense NAFTA negotiations, NATO commitments, climate talks, G7 chair obligations, peace operations in Mali and now refugee claimants from the United States. But Saudi bully-boy tactics shouldn't give the kingdom a free pass on human rights.

As we have learned through our initiatives to help the Rohingya in Myanmar and to constrain the Maduro regime in Venezuela, advancing human rights in countries that don't care is a difficult proposition. But if a feminist foreign policy and advocacy for human rights is to mean anything, we have to stand up, even if we stand alone.

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Links on the Canada-Saudi Dispute, for those so-inclined

Ferry de Kerkhove

Al Jazeera, August 17, 2018

<http://www.aljazeera.net/news/presstour/2018/8/12/-الازمة-السعودية-هل-فقدت-كندا-حلفاءها->

[التقليديين](#)

<http://aja.me/k9zjt>

The Security Dimension of a China Free Trade Agreement: Balancing Benefits and Risk

A joint Policy paper from The School of Public Policy and the Canadian Global Affairs Institute

Gordon Houlden

August 2018

Introduction

In 2017, Canada engaged in several rounds of exploratory discussions for a potential free trade agreement (FTA) with the People's Republic of China. It seemed probable that this exploratory phase would be followed by the opening of formal rounds of negotiations, to be announced during Prime Minister Justin Trudeau's visit to China in December 2017. An FTA appeared to be a priority for Trudeau since his government came into office in 2015 (Global Affairs Canada, 2017a; Lu, 2017; PMO, 2017); however, such negotiations were put on hold indefinitely, ostensibly due to irreconcilable differences on gender and labour issues. Despite this setback, it is likely that the Canadian government will continue to explore this option in the coming years, particularly with the North American Free Trade Agreement (NAFTA) in jeopardy. While there are many potential benefits of a Canada-China free trade agreement (CCFTA), there are also significant national security implications that will deserve particular attention. The security dimension will be the focus of this paper.

Prospective CCFTA negotiations with China would be both complex and time consuming, in part due to the wide divergences between the Canadian and Chinese economies, as well as differences between Canadian and Chinese administrative and legal systems. Negotiations could therefore take several years to conclude, and might not be finished until well after the 2019 federal election. It took a full decade to sign and ratify the China-Australia Free Trade Agreement (ChAFTA), although it appears that the most difficult portion of the negotiations was wrapped up in the final two years. It is unlikely that a CCFTA will move as slowly as the Australian FTA did, in part because of the established Australian precedent and because of China's increasing familiarity with FTA negotiations that involve advanced economies. For this reason, Canada would benefit from approaching a CCFTA after Australia, but before many other Western countries.

Chinese and Canadian negotiators will be consumed with elaborating the principles of each side's responsive FTA approaches, as well as the myriad of details involving thousands of products and services that a CCFTA's provisions would affect. Canadian negotiators will seek a high-quality FTA that covers a large percentage of our export and import products with China, as well as an agreement that covers all key sectors and industries. There is also likely to be a Canadian focus on addressing China's use of non-tariff barriers to trade which currently inhibit Canadian firms from taking full advantage of the massive China market. Such measures include the Chinese Ministry of Health's 2013 changes to food safety standards which required all imported food products to list detailed nutritional components in Chinese. Procedural barriers such as this represent a significant hurdle for Canadian firms, and cause uncertainty among international exporters that want to break into the Chinese domestic market. In theory, the centralized Chinese economy lacks the regional complexity of the Canadian federal state, characterized by sub-national units, but in reality, China's provinces and municipalities can, and often do, impose barriers to foreign imports, often to protect market share for local substantive industries.

To date, China has FTAs with only a handful of developed countries. Australia, Korea, Switzerland, Iceland, Singapore and New Zealand currently have bilateral FTAs with China, and several others, such as Norway and Israel, are in FTA negotiations. China is also floating ideas for FTAs with developing countries, including India. China is far more trade-dependent than the United States, although by comparison China is not nearly as trade-dependent as Canada is.¹ The balance of trade is currently in China's favour: China exports US\$46 billion to Canada, versus the US\$16 billion that it imports from Canada (MIT, 2016a). However, it is important to note that China's exports to Canada account for only 2.2 per cent of China's total merchandise exports (MIT, 2016b).

NAFTA

Since Confederation, Canada has had its closest trade ties with Great Britain, Commonwealth partners, and especially since the Second World War, with the United States. This has meant that our largest trade partners were also our closest political and strategic partners. Trade and investment patterns with our indispensable ally—the U.S.—have tended to be mutually reinforcing, and in recent decades Canada has, with important exceptions such as softwood lumber, been able to largely take for granted the stability of access to the massive U.S. market. The Canada-U.S. Auto Pact, the Canada-U.S. FTA and NAFTA have led sequentially to restructuring of the Canadian economy in response to the export opportunities the U.S. market offers. Many Canadian industry sectors expanded, while others contracted, with closer integration of the two economies.

A majority of the Canadian public and most economists now view NAFTA's negotiation and implementation in 1994 as a great boon to Canadian economic growth over the past two decades, despite initial skepticism (Angeles Villarreal and Fergusson, 2017; CFR, 2017). NAFTA's very success built a deep dependence on the U.S. market that many Canadians assumed would be unchangeable. Over 75 per cent of Canadian (goods) exports are destined for the U.S., illustrating a high degree of reliance on the U.S. market (MIT, 2016c). NAFTA's net effect has been extremely positive for the overall

Canadian economy; however, with NAFTA facing a substantive renegotiation with uncertain outcomes (and a possible termination) the Canadian trade relationship with the U.S. is in jeopardy. While NAFTA has offered a clear net benefit to the Canadian economy, the challenges that Canada now faces under President Donald Trump are a reminder that even expanded markets for Canadian industries can carry long-term risks. The Trump administration's sustained efforts to force a renegotiation of the NAFTA pact may in turn be a factor that strengthens a Canadian push for an FTA with China.

Canada has been particularly fortunate in its privileged access to the U.S. market, but there is a clear need for the (export-dependent) Canadian economy to diversify its export destinations in the face of uncertain future access to the U.S. market (Statistics Canada, 2017). In comparison to our close relationship with the U.S., Canada is politically and economically removed from Europe, but far more distant from East Asia. This is particularly true with respect to Canadian manufacturing and political centres, which are concentrated in Ontario and Quebec. However, China has an economic structure which is generally compatible with the Canadian economy: China has a prodigious output of industrial goods, but a shortage of many raw minerals, including petroleum, of which Canada is a net exporter. China, with 1.4 billion mouths to feed, is barely self-sufficient in basic foodstuffs and unable to supply the full range of high-quality food products its growing middle class increasingly demands. Canada is well positioned to fill this gap.

Risks and Opportunities of a China-Canada Free Trade Agreement (CCFTA)

At first glance, it would appear that with uncertainties regarding NAFTA's future, there is great advantage to be gained from a more robust engagement with the Chinese economy, and by reducing our dependence on trade with the U.S. However, there could also be down sides to a fundamental shift in market dependence, particularly regarding the durability of a profound re-alignment in Canada's export markets. China retains a high degree of state supervision, even over its largest and most high-profile private firms.

With the negotiation of a CCFTA with China, consideration must also be given to how the opening of the Canadian market to a wider range and volume of Chinese exports would affect our domestic economy, given the competitiveness of Chinese exporters, and the risk of subsidized Chinese exports damaging Canadian production. Simply signing a CCFTA does not automatically make Canadian exports more competitive, even with reduced Chinese tariffs resulting from it. Increased Chinese imports into Canada can be expected, and while this competition may push Canadian producers to increase their competitiveness and productivity, there is no guarantee that they will respond effectively (Dawson and Ciuriak, 2016a).² Likewise, many outstanding challenges have plagued Canada-China relations over the last several years, including the protection of intellectual property, the lack of transparency of Chinese trade law and regulations, the impartiality of local courts with regard to trade disputes involving foreign companies,

and lack of domestic market access for foreign firms operating in China in certain sectors such as mining or energy extraction, or agricultural production.

While there has been a gradual expansion of Canadian access to the U.S. market since the negotiation of the auto pact (1965), can we assume that this will be the case with a CCFTA? What are the specific risks that may accompany pursuing an FTA with China?

China has a dense network of state enterprises that dominate key sectors from vital agricultural products through energy, transportation infrastructure and strategic industries. China is both the most populous country in the world and the world's second largest economy. China also has a layered economy that encompasses a strong central government, with large provinces and subordinate municipalities. China does not have a true federal system; its provinces and municipalities are still subordinate to the central government. But the governments often operate with de facto autonomy at the sub-national level, and are sometimes poorly supervised by Beijing. The sheer size and complexity of the Chinese governmental and economic system is such that both provinces and municipalities can pursue policies that do not always align with the central government's directives. This creates risks that, regardless of the provisions of a CCFTA, in practice subordinate Chinese governments may either simply disregard those provisions, or may require regular policing and intervention by Canada under a CCFTA. Trade remedies in any trade agreement can be slow to achieve and enforce, but in a country as large as China, the risks could be substantial. For Canada's small- and medium-sized enterprises (SMEs), the costs may be prohibitive. China also has an opaque legal system that can be challenging to navigate for foreign firms, and often favours large and powerful state-owned enterprises (SOEs) in court. A CCFTA would grant Chinese firms enhanced access to an open economy, with easy access to an independent and consistent judicial and legal system. However, an argument can be made that Canadian firms would have the most to gain from a dispute settlement mechanism in an FTA, which would give them legal protections when operating in China.

Another potential risk of a significant shift to China-centric Canadian exports is the prospect of a sharp deterioration in Sino-American relations. In 2018, this is not a theoretical threat. During his 2016 election campaign, Trump sharply criticized China's trade practices, and Beijing and Washington have exchanged tit-for-tat tariff threats since his inauguration. A number of other potential U.S.-China flashpoints remain, from the South China Sea to Taiwan and the Korean Peninsula. While it is currently difficult to imagine the precise circumstances that might trigger U.S. pressure on Canada to alter or restrict its trade with China, such pressure has been brought to bear in the past with regard to Cuba and Iran (Office of the Press Secretary, 2012). Washington will not applaud the conclusion of a CCFTA, particularly with respect to increased Chinese investment in Canada.

Product Safety

One of the issues that can arise in trade with China is the question of the safety of Chinese products. This question has already emerged in Canada, from lead contamination in toys to the presence of volatile chemicals in drywall. The potential risk is most acute with food products, which can directly affect Canadians' health. To be fair, these issues exist with or without a CCFTA. Chinese food products already enter Canada in significant quantities. However, with an FTA's potential of reduction or elimination of barriers for most food products, there would likely be a sharp increase in Chinese food exports to Canada. It is true that Health Canada's standards would continue to apply to all food imports, as they do now, but with higher volumes can come higher risk given that only limited sampling is possible.

Two factors can mitigate the aforementioned risks. First, China's government is itself seized with the need to improve the food supply's safety record, to enhance the reputation of Chinese food exports, but also to address its own citizens' concerns in the face of multiple food scandals. These scandals range from tainted cooking oils and melamine in food to unsafe milk powder for babies. Second, China's own food safety regime has been gradually increasing in competence, due to a rise in the training and professionalism of the Chinese civil service, and grassroots pressure from disgruntled citizens.

Digital Security

Security of communication, especially with regard to telecommunications infrastructure and data banks, has also been a source of concern vis-à-vis some Western states. In 2012, the U.S. government concluded that China-based Huawei Communications has "not followed United States legal obligations or international standards of business behavior" (Rogers and Ruppertsberger, 2012a). The report accused the company of undermining U.S. security and called on Washington to view with "suspicion the continued penetration of the U.S. telecommunications market by Chinese telecommunications companies" (Rogers and Ruppertsberger, 2012b).

While the Chinese regulators have denied these claims, cyber-security and digital privacy concerns remain a potential risk associated with a China-Canada FTA, and may raise public concern and partisan opposition, regardless of the accuracy of such criticism. In mitigating these concerns, Canada and China signed an "agreement vowing not to conduct state-sponsored cyber-attacks against each other aimed at stealing trade secrets or other confidential business information" (Reuters, 2017). Further research to assess the level of compliance with this agreement will be required. Even if Canada is satisfied that the risks posed by close involvement with a Chinese electronic or digital company are low, there is also a risk that the U.S. may raise objections if there were exports from a Chinese enterprise operating in Canada but exporting to the U.S. Norsat, a Canadian takeover target by the Chinese firm Hyrera, is a case in point. The U.S.-

China Economic and Security Commission objected to the Norsat sale, given that Norsat was a supplier to the U.S. Defense Department (Fife and Chase, 2017).

A greater integration of Canadian industry into Chinese supply chains following a conclusion of a Canada-China FTA might risk increasing the leakage of Canadian defence technology to China, in turn leading to increased friction between the U.S. and Canada over defence production sharing. There are provisions in the Investment Canada Act to increase scrutiny on security grounds of the purchase of Canadian firms by foreign SOEs, but the elimination of this provision may well be one of the objectives for Chinese negotiators in any FTA negotiation.

There is also a risk that China, with industrial scale only matched by the U.S. and the EU— and with the world’s largest foreign currency reserves—could, with loosened foreign investment criteria following an FTA, embark on a rush of acquisitions in Canada. For example, there are a handful of large Chinese state electricity providers, some of whom operate with a capacity of scale that is larger than Canada’s total electricity generation. Combined with a formidable manufacturing prowess, these firms could seek to acquire the more modestly sized Canadian producers. While such acquisitions would still require Investment Canada Act approval, China will likely expect accelerated and looser investment scrutiny under the Investment Canada Act, post-FTA. These issues are critical for Canada, and were particularly evident in the Comprehensive Economic and Trade Agreement (CETA) recently signed by Canada and the European Union. CETA “contains commitments to treat investors fairly and equitably...and the elucidation of standards for the protection of investors and rules for efficient and transparent resolution of investor-State disputes” (Ackhurst, Natrass and Brown, 2016).

It is normal that the focus of Canadians and Canadian officials in consideration of a CCFTA would be on the potential impact on Canada. However, China in particular has both historical and contemporary concerns of its own regarding foreign penetration of its economy. The central government put policies into place to ensure that the “commanding heights” of its digital, social media and broadly defined information technology industries remain in Chinese hands. While there are significant exceptions, (i.e., Microsoft) such foreign companies and technologies are gradually replaced by China’s own indigenous technologies wherever possible, especially under the ambitious China 2025 program, which aims at national domination of key technologies.

US Objections

There are reasonable prospects that a successful and ambitious CCFTA would reduce, to some extent, Canada’s extreme dependence on the U.S. market, and this is particularly appealing in 2018, given the Trump administration’s challenge to Canadian exports to the U.S.³ Distance, inertia and limits imposed by the very different business cultures in Canada and China will almost certainly mean that the U.S. will remain Canada’s premier export destination. However, there is a risk that rapid growth in Canada-China trade, and in particular, Chinese investment in Canada, will make Washington nervous,

particularly if China were to situate major manufacturing plants in Canada that would be exporting goods to the U.S. market. Even today, with NAFTA's stability in question, it is likely that some Asian investors, including those in China, may already be determined to put manufacturing facilities in the U.S., fearing that changes to NAFTA, or perhaps even its disappearance, might mean that such a plant's export footprint might be limited to Canada (rather than all of North America). We will not know whether foreign firms have already made such determinations in their boardrooms, but the slowed pace of foreign investment in Canada since 2015 may be due in part to this fear.

As a medium power, but effectively a minor player in the competition between the mature power (the United States) and a rising China, Canada is particularly vulnerable and has limited options. Canada is joined at the hip with our principal economic partner and security guarantor, and is locked into an intimate and sometimes suffocating embrace with the United States. This tyranny of geography limits our options. However, buffeted as we are by the 21st century uncertainties of our relationship with the Trump administration, Canada cannot ignore our 21st century strategic positioning. We cannot be merely a satellite of the United States, but nonetheless we are inextricably linked to our giant continental neighbour. This close relationship both pushes Canada to seek market diversity through means such as a CCFTA, but also highlights the need to ensure that a CCFTA does not threaten our relationship with Washington.

Security

With the April 2017 Mar-a-Lago summit between Trump and President Xi Jinping, Sino-American relations entered a honeymoon period based in part, it seemed, on the chemistry of the meeting, hard-nosed assessments of respective national interests, and Trump's understanding that China offered the best prospects for progress on the North Korean security challenge. But will this situation persist? As of 2018, there are signs of a fraying relationship with the U.S., particularly in terms of trade. It is entirely possible that a sharp deterioration in the U.S.-China relationship could be detrimental for Canada. As a full security partner of the United States with both North American Aerospace Defense Command (NORAD) and North Atlantic Treaty Organization (NATO) commitments, Canada would almost certainly be tugged strongly towards Washington by our own national security needs, but also by the almost certain U.S. push for Canada to distance ourselves from China, regardless of the trade costs this would impose upon us.

Canada has enjoyed a remarkable run of prosperity since the end of the Second World War in 1945. For the entirety of those 73 years, the U.S. has been our leading market and our security guarantor. While the U.S. has is not weaker today in military terms, and continues to expand economically, the U.S. is far weaker in relative terms than it was in either 1945 or post-Cold War in the 1990s (Kagan, 2017). In no small measure, this is due to China's rise: in 1970, when Canada first established diplomatic relations with the PRC the latter had a mere two per cent of global gross domestic product output (World Bank, 2017). This has now expanded to 15 per cent, and China's international

trade has become the greatest trading volume of any country (MIT, 2016d). The China challenge to American global leadership could shrink the Canada *marge de manoeuvre*.

Intellectual Property

Particularly since 1978—the beginning of China’s comprehensive economic reforms—China has thrived, in part, by borrowing technical know-how and industrial designs from abroad. China is hardly the only state to have done so—the United States, particularly in the 19th century, adopted the key components of Britain’s industrial revolution by copying, and eventually improving, Europe’s techniques and products. Much of this rapid U.S. industrialization took place before there was a comprehensive and enforceable international intellectual property regime. Although China had modelled its post-1949 economy on the Soviet Union, it had been deprived of modern Soviet technology since the Sino-Soviet split in the late 1950s, and desperately needed the full suite of modern technologies available to industrialized countries. With the ending of Western sanctions in the 1970s, much of this technology could simply be purchased from eager Western economies, conscious of the long-term potential of the China market. But China was never going to be content simply to purchase off-the-shelf technology indefinitely from the West, and undertook a broad policy of adapting foreign technologies to its own needs.

While China is hardly the only state adept at securing advanced technology, it has an extraordinary absorptive capacity, and also possesses a state apparatus capable of sophisticated gathering of foreign technologies. In the early years of economic reform, China lacked the sufficient industrial and technological capacity to reverse-engineer many products, or even to manufacture advanced goods that originated abroad. This is no longer the case. China’s manufacturing prowess has advanced to the point where it is producing, often under licence or in a foreign-owned plant, some of the world’s most advanced electronics.

Despite this, inward domestic innovation capacity does not mean that China has ceased its efforts to acquire advanced technologies abroad. Given Canada’s defence linkages through both NATO and NORAD, and Canada’s small but advanced high-technology sector, a closer integration of the Canadian and Chinese economies does risk further technology leakages to China. In turn, this may have implications for Canada-U.S. bilateral relations, given U.S. fears that defence-related production in Canada may be at risk from Chinese industrial espionage. A desire to attract Chinese investment should be balanced with a measure of caution. The U.S. has demonstrated that it does not want NAFTA or some Canada-U.S. bilateral replacement to become a means for foreign firms (especially Chinese companies) to gain access to the U.S. market that would otherwise not be possible. Canada, on the other hand, still promotes itself as a springboard for the North American market through NAFTA in its investment attraction efforts, even though the rules regarding tariff-free entry to North America through Canada may be tightened under the protectionist policies Washington is pursuing, assuming that NAFTA survives the current trade climate there.

There are, of course, sharp legal differences between Canada and China. Such differences would suggest that a dispute resolution mechanism would be the most useful

tool to ensure fair treatment for Canadian firms operating in China. While Canada has widely used the NAFTA dispute resolution mechanism in the past, there are also a variety of other judicial options available to Canadian firms in U.S. courts. In the case of dispute resolution with China, an inconsistent and opaque legal system makes the option of legal action in Chinese courts less attractive. The dispute resolution mechanism would in fact be of particular benefit to Canada to protect the security of Canadian intellectual property in a CCFTA compared with the status quo.

The Chinese legal system has other failings, including tolerance for government and corporate corruption, the jailing of dissidents, etc. However, these flaws will plague the Chinese legal system, regardless of an FTA with Canada. A free trade agreement is not likely to address these failings, nor would it be appropriate for it to do so. An FTA is a tool to increase trade and improve market access, and it cannot be a means to change the domestic laws of a foreign country, especially in the case of China, which has a long memory of foreign intervention in its domestic affairs.

Conclusion

A state's trading partnerships cannot be completely divorced from its security concerns and those of its allies. But taking these into account should not immediately disqualify Canada, a trading nation (Global Affairs Canada, 2017b), from exploring economic opportunities with China—the world's second largest economy and the world's largest trader. Canada must face this dilemma. Canada currently enjoys highly privileged access to the U.S. market, including a unique Canada-U.S. defence production agreement. Our close defence and trading relationship with the U.S. will be a challenge to manage during any CCFTA negotiations.

Canada has entered into not only multiple and close trade regimes with the United States, but also two security treaties (NORAD and NATO) that compel us to join in the defence of our North American and European allies. It is in Canada's net interest to hold FTA discussions with China, and a fair and comprehensive CCFTA would almost certainly grow Canadian exports (Dawson and Ciuriak, 2016b). However, two guiding principles must be kept in mind:

1. During the negotiations and following the initialling of a CCFTA, a clear-eyed and in-depth examination of the benefits and cost, for provinces and territories, of engagement with China must be undertaken by the government of Canada, as well as ongoing consultations that should be held with the full range of Canadian stake-holders;
2. Canadian governments, both during CCFTA negotiation and upon the completion of such a draft, must include careful consideration of its likely impact on our economic and political relationship with the United States, which will remain our principal trading partner and our security guarantor.⁴

Canada also must ensure that, following the negotiation and implementation of a CCFTA, there is an effective monitoring and reporting function in place to gauge the impact on Canada's economy, including national security issues. During Canada's 151-year history, our principal trading partner has always been a state that had a close proximity to our own national ethos—Imperial Britain, or the dominant continental

power, the United States. Our political culture is, of course, distinct from the United States, but is often viewed by outsiders (including China) as similar to the American model. Canada imagines that it can be an independent player, readily separated from the United States, and so viewed by China. But it is not a given that our future can be truly independent from America's gravitational pull, particularly with our geographic proximity. Historical bonds with the U.S. may ultimately act as a barrier to a more intimate relationship with China.⁵

China offers great trading opportunity, only exceeded by the U.S. and possibly the EU. But China is evolving quickly, and if "stable" means static, the rapidly shifting China can hardly be termed stable. China is quickly moving towards superpower status, with a corresponding global reach. By comparison, Canada is a much more stable and much less dynamic economy, with a lower international political presence. This twin challenge of rapid change and scale on the Chinese side will continue to pose difficulties for its more moderately sized partner. China and the United States, especially in the face of a renewed European tendency towards fission, not fusion, appear destined to dominate our 21st century, and perhaps to contend for supremacy by the U.S. But no matter how strong China becomes, Canada is unlikely to pursue such a close embrace with it, as this would risk being perceived by the United States as a bilateral threat. Even an equally balanced relationship with China and the U.S. is probably a non-starter for Canada.

Thus, Canada must find a point of equilibrium where we can maximize economic benefits for our China relationship, without suffering serious damage to our trade, political and security relations with the U.S. This balance may or may not include a CCFTA; however, Canada is too dependent on trade and foreign investment to forgo the opportunity to expand economic relations with China.

The US-Mexico-Canada Agreement: What's Next for Trade with China?

By Phil Calvert University of Alberta, China Institute

October 3, 2018

When the text of the new Canada-US-Mexico trade agreement was released, many were concerned to see a new and unforeseen provision that will have a direct impact on Canada's international trade strategy. Article 32.10 of the agreement specifies that if any of the signatories to the agreement enters into a free trade agreement with a non-market economy, the other two parties can terminate the agreement and enter into a more limited bilateral agreement with the country concerned.

This is pretty heavy-handed stuff. It's all about China, of course. The term "market economy status" specifically relates to how accurate domestic prices should be determined in anti-dumping cases so that an assessment can be made of whether and by how much a product may be being dumped in foreign markets. But it has a larger meaning for leaders on both sides as an indicator of how much the Chinese state is still involved in the economy, and its impact on trading partners. Article 32.10 expresses the

intensity of US suspicion regarding China's trade practices—a suspicion that many countries share. It also reflects growing Sino-US trade tensions, and US concerns about the possibility of a China-Canada FTA.

It's not surprising that the China policy community in Canada—at least those who have been advocating for a free trade agreement with China, have expressed consternation at this new provision. It ties the hands of the current Liberal government, which has been exploring an FTA with China since Trudeau's 2016 visit to China, as well as the hands of any future government.

In the face of this development, what should Canada do with respect to its trade relationship with China? First of all, we should keep in mind that the economic relationship with our second largest trading partner is healthy and growing. It may not be living up to its full potential, but that cannot be solved by an FTA alone. Significant investment in the relationship, and in China competence in institutions, government and the private sector, will help improve Canada's performance in this market.

Canada will also have to think creatively about the architecture of its bilateral trade relationship. The fact that a standard, full-blown FTA is no longer in the cards calls for a different approach—a broad Economic Partnership Framework which would serve as an umbrella for a range of bilateral economic initiatives.

An EPF would be broad in scope, but nimble and flexible in application. Under such a framework, Canada and China could explore a range of possible initiatives, including limited sectoral agreements in goods and/or services, which could have more immediate benefit to some parts of the Canadian economy than would have been achieved by waiting for the conclusion of a full-scale FTA. The EPF could also address regulatory issues, promoting transparency and consistency, and exploring initiatives like mutual recognition and certification agreements that would reduce the administrative burden associated with trade in China. It could also include formal, high-level mechanisms for swiftly addressing trade disputes. Cooperation could also extend to broader global issues, like battling global protectionism. It could also eventually provide a good framework for discussing issues considered too sensitive for a standard FTA and which were obstacles to the intended launch of FTA talks last year.

In essence, an Economic Partnership Framework would be an ongoing process of continued liberalisation and strengthened cooperation. Since the WTO/GATT defines an FTA as something that covers “substantially all trade”, an EPF would not violate our agreement with the US and Mexico. It would, however, be nimble enough to address new issues and launch new initiatives, broad enough to address the range of bilateral economic concerns, and concrete enough to have a real impact on market access for Canadian companies in the China market—earlier than they might have had under a standard free trade agreement.

Of course, the Canadian government would continue to address other bilateral concerns outside the EPF—real and serious concerns with respect to security and human rights, for example.

Conclusion of a renewed trade agreement with the US and Mexico is good news for Canada. Canada had to make concessions to reach agreement, and Article 32.10 is a

major one. But it should not stand in the way of further developing our trade ties with China if we invest time and effort into finding a creative and effective way forward. **USMCA's fine print giving U.S. the right to veto Canada-China trade deal is a major setback**

Hugh Stephens

The Globe and Mail, October 2, 2018

Amid all the commentary in the early analysis of the new NAFTA (or USMCA) about the costs for Canada of compensating dairy farmers or absorbing increased drug costs as a result of extending pharmaceutical patents, one small item buried in the fine print has

been largely overlooked: [Article 32.10.](#)

Hidden in the clean-up chapter dealing with “Exceptions and General Provisions,” this article (in plain English) gives the United States a veto over any future trade agreement between Canada and China, and if the United States doesn't like what we have negotiated, we get kicked out of the United States-Mexico-Canada Agreement. Not only that, we have to inform the Americans 90 days before we enter negotiations with China, and reveal the full text to them prior to concluding negotiations. Of all the penalties we have had to pay to get the North American free-trade agreement essentially renewed, this is the highest. We have just sacrificed our independent trade (and arguably foreign) policy on the altar of the USMCA. What were our negotiators thinking?

Story continues below advertisement

The reality, of course, is that in dealing with the United States, Canada's position was almost entirely defensive. We were trying to keep what we had under NAFTA. No new market access for Canada was created by the USMCA. Rather, we fought to keep as much of what existed under NAFTA as possible. Presumably, at the last moment, the Trump administration dispensed the poison pill of Article 32.10, and Canada felt it had no choice but to accept. It was not about to fall on its China sword and lose preferred access to the U.S. market.

You will note that the word China is not mentioned in the article. Instead, it refers to a “non-market country,” with the definition of such resting unilaterally with one member of the agreement as determined by that member on the date of the signature of the USMCA. Donald Trump has cranked up a trade war with China and he is not about to allow Canada or Mexico to assist the Chinese to fight that war in any way. In effect, Mr. Trump is ring-fencing North America as off-limits to any Chinese trade initiatives.

The most charitable interpretation is that the United States was worried about dumped and subsidized Chinese products finding their way to the U.S. market via Canada or Mexico, like their current concerns with Chinese steel. But there are other, far less draconian measures available to deal with such circumstances. No, this was about containing China, and circumscribing Canadian options.

This bombshell came out of the blue. There was no advance notification to any stakeholders in Canada. No opportunity to provide input to the government or to mobilize opposition. It is just there – a *fait accompli*.

Perhaps part of the calculation of the Canadian negotiating team was that any negotiations with China will likely take a very long time, and a lot could change in that time. It took Australia a decade to conclude a free-trade agreement with China. Perhaps they thought that in future there will be a different U.S. administration with a less confrontational approach to China. Maybe the focus will shift to weaning China off its current economic policy and move toward a market-oriented economy, although the United States can decide whether China meets the market-economy standard. There is even the possibility that some day, China might negotiate to join the Comprehensive and Progressive Trans-Pacific Partnership – although the United States has not yet made that decision itself.

These are all possible calculations, but in the end, the reality is that Canada's push for trade diversification has just taken a major blow.

This has been sprung on the Canadian public. We are owed an explanation from the government as to how Article 32.10 and trade diversification are compatible.

National Gallery Online Magazine

Thomas Cole: a fresh look at the father of American landscape

Ian Ferguson

September 19, 2018

Thomas Cole (1801–48), pioneer of American landscape painting and founder of the Hudson River School, features in a thoughtful exhibition where he emerges as an internationally connected artist deserving recognition and appreciation on both sides of the Atlantic. After a successful run at the Metropolitan Museum of Art in New York, [*Thomas Cole: Eden to Empire*](#) is on view at [London's National Gallery](#). At both venues, the curators Tim Barringer and Elizabeth Mankin Kornhauser have destabilized the traditional, nationalist image of Cole as a quintessential American artist who painted sublime landscapes for a new nation with a growing sense of its destiny. Instead, Cole emerges as a more complex and conflicted figure: an ambitious, class-conscious immigrant, imbued with European artistic and religious traditions and an admirer of Romantic poets such as Lord Byron. Far from being an apologist for American expansionism and at odds with the prevailing Jacksonian ideology, the artist favoured the preservation of the natural environment.

Cole trained as an engraver before arriving in America with his family at age 17, exactly 200 years ago. While growing up, he had witnessed the environmental devastation in his native Lancashire wrought by industrialization. Largely self-taught, he began painting wilderness landscapes before returning, aged 28, to Europe for two years to study the old masters in Great Britain and Italy.



Thomas Cole, *Interior of the Colosseum, Rome*, c. 1832. Oil on canvas, 25.4 x 45.7 cm. Albany Institute of History & Art, Purchase, Evelyn Newman Fund (1964.71). Image courtesy of the Albany Institute of History & Art

Cole was among the first to highlight the majestic scale and beauty of North American landscapes, which he framed and allegorized in new ways, while questioning prevailing attitudes towards the exploitation of nature. He also taught the next generation of American landscape painters, including Frederic Edwin Church and Jasper Francis Cropsey. Although Cole pointed the direction that American landscape painting would follow, his admiring students often projected very different values in their works, tending to celebrate nationalism and present a harmonious view of human settlement.

The London exhibition focuses on the period 1832–37, that followed Cole's first and formative trip to Europe. More than 35 sketches and paintings by the artist are

presented. A prolific artist who died at the relatively young age of 47, Cole created more than 100 works, although the whereabouts of a number of these remain unknown. In addition, some 25 works by British contemporaries, such as J.M.W. Turner and John Constable, create a dialogue with Cole's paintings and provide context. Cole had met these artists and carefully studied their techniques.



Thomas Cole, *View from Mount Holyoke, Northampton, Massachusetts, after a Thunderstorm – The Oxbow*, 1836. Oil on canvas, 130.8 × 193 cm. The Metropolitan Museum of Art, New York, Gift of Mrs. Russell Sage, 1908, (08.228) © The Metropolitan Museum of Art, photo by Juan Trujillo

Cole's most famous painting, *View from Mount Holyoke, Northampton, Massachusetts, after a Thunderstorm* (1836), more commonly known as *The Oxbow*, has been lent overseas for the first time by the Metropolitan Museum where it is usually prominently displayed. A diagonal divides the canvas with forests, broken branches and a stormy sky on the left, and a distant view of cultivated fields and deforested mountains on the right. The artist, a tiny figure poised in the middle with his easel on a rocky outcropping, gazes directly at his fellow Americans. He seems to ask whether their new country will choose to preserve its natural grandeur or continue with unlimited exploitation. As Barringer points out, the oxbow in the river also forms a large question mark. When it was first exhibited, the work was well received as a glorious panorama, celebrating American scenery and the taming of nature. Few grasped the artist's broader interrogation.



Thomas Cole, *The Course of Empire: The Savage State*, c.1834. Oil on canvas, 99.7 × 160.6 cm. Courtesy of the New-York Historical Society © Collection of The New-York Historical Society, New York / Digital image created by Oppenheimer Editions

A similar warning and question, applicable to Europe as well as America, is found in Cole's ambitious cycle, which serves as the culminating point of the London exhibition. In *The Course of Empire* (1833–36) Cole depicts the rise and fall of a civilization across five large canvases. The initial painting, *The Savage State* (c. 1834), shows a primeval forest, inhabited by hunter-gatherers, with a distinctive mountain peak on the right, a feature that reappears in the subsequent paintings. A group of huts may represent tipis, but the most visible figure is a bearded, Caucasian hunter.



Thomas Cole, *The Course of Empire: The Consummation of Empire*, 1835–36. Oil on canvas, 130.2 × 193 cm. Courtesy of the New-York Historical Society © Collection of The New-York Historical Society, New York / Digital image created by Oppenheimer Editions

The centrepiece and largest painting in the cycle, *The Consummation of Empire* (1835–36), shows an imaginary imperial capital of classical marble architecture, crowded and completely urbanized. In the foreground a Napoleonic figure in red robes leads a victory procession while mounted on a chariot pulled by an elephant. Plunder, consumption and vulgarity are everywhere in evidence. Inevitably, in Cole's view, the following two paintings chronicle the collapse of this vainglorious civilization in scenes evoking the sack of Rome and Italy's classical ruins. Reviewers have pointed out the exhibition's pertinence for today's viewers, familiar with both global environmental devastation and conspicuous luxury.



Thomas Cole, *Tomb of General Brock, Queenston Heights, Ontario*, 1830. Oil on canvas, 74.5 x 112.5 cm.
Purchased 2009. National Gallery of Canada, Ottawa Photo: NGC

For the London exhibition, the National Gallery of Canada has lent its only work by the artist, *Tomb of General Brock, Queenston Heights, Ontario*. Painted during Cole's first stay in England, it was displayed in 1830 at the Royal Academy's annual exhibition (badly, according to Cole, as it was shown in an upper corner where it was difficult to see). The unusual North American backdrop and subject were designed to stand out and to appeal to the British audience who held the martyred hero of the War of 1812 in high esteem. Sunlight shines on the monument, suggesting divine grace, while in the distance the peaceful shores of Lake Ontario celebrate Brock's ultimate military

achievement. The imposing, 40 m high monument was already a tourist attraction in Cole's time and a powerful statement about the ongoing British presence in North America.



Ed Ruscha, *Blue Collar Tech-Chem*, 1992. Acrylic on canvas, 123.5 x 277.8 cm. The Broad © Ed Ruscha / photography Paul Ruscha; Ed Ruscha, *The Old Tech-Chem Building*, 2003. Acrylic on canvas, 123.2 x 278.1 cm. The Broad © Ed Ruscha / photography Paul Ruscha

In London, the contemporary resonance of Cole's work has been underlined by a parallel installation of eight works by Los Angeles-based artist Ed Ruscha. His series based on four locations, also titled *Course of Empire* (1992, 2003–04), was originally created for the American pavilion at the 2005 Venice Biennale. In his cycle, Ruscha has painted the same box-like buildings over a decade, showing changes in corporate function and exterior decoration and reflecting the evolution of consumer society. Both artists thus provide a social critique through landscapes of their times. Visitors from all countries should discover a new and compelling impression of Cole in this thought-provoking show.

Thomas Cole: Eden to Empire and *Ed Ruscha: Course of Empire* are on view at the [National Gallery](#) in London until October 7.

How a supposed grass-roots movement manufactures the impression of huge local groundswells of public opinion against protections for intellectual property.

By Hugh Stephens,

Inside Policy, September 18, 2018

[Open Media](#) is at it again. This Vancouver-based self-described advocate of Internet freedom, an organization that claims to believe in “participatory democracy” and “freedom of expression,” has been busy manipulating public opinion and trying to influence lawmakers in various countries, including Canada, with spurious astroturfing campaigns against copyright protection.

It has been caught red-handed more than once engaging in these activities and is unapologetic, even bragging about its successes on its website using euphemisms such as “crowdsourcing” and the “engagement pyramid” to justify its actions.

What is astroturfing? This is now the term of choice to describe the use of technology to create the pretence of widespread public support, or protest. It is usually used in the negative sense, to create the impression of a “groundswell” of public opinion against a particular measure that is under public discussion.

According to the Office of the Lobbying Commissioner in Ottawa, Open Media is “a national, non-partisan, non-profit organization working to advance and support an open and innovative communications system in Canada.” But that’s not the whole story. Open Media is part owner of [NewMode.net](#), a for-hire entity which facilitates and mounts large-scale online campaigns designed to give the impression to the target audience (e.g., Members of the European Parliament [MEPs]; Canada’s Standing Committee on Industry, Science and Technology which is reviewing Canada’s copyright laws; Members of the US Congress) that there is a rising grassroots movement, in this case against copyright protection. New Mode describes itself thusly:

We founded one of the world’s largest and most successful online campaigning organizations, OpenMedia, and led campaigns for progressive advocacy organizations and politicians. Our founders saw the power of community-driven campaigns first-hand.

Now, we’re putting the powerful tools used by the world’s leading campaigns into more campaigners’ pockets.

New/Mode was born to help progressive organizations activate grassroots power and win more change.

In a recent case of Open Media astroturfing, [meticulously documented](#) by blogger David Lowery in *The Trichordist*, New Mode/Open Media was behind much of the misinformation spread by anti-copyright elements in Europe against the EU’s proposed Article 13. Article 13 was one element of proposed revisions to EU copyright law that would require websites who primarily host content posted by users to take “effective and proportionate” measures to prevent unauthorised postings of copyrighted content or be liable for their users’ actions. As a result of an online lobbying campaign led by Pirate Party MEP Julia Reda and facilitated by New Mode/Open Media, which focused on the claim that Internet companies would become “*copyright machines*,” in early July EU lawmakers narrowly rejected the proposal. The good news is that after further discussion and amendments, it was [passed resoundingly](#) on September 12, a victory for content creators. However, further steps are still required before it becomes law and major astroturfing can be expected as opponents rally against the most recent vote. Some of this astroturfing will undoubtedly be facilitated and directed by Open Media. As outlined by [Lowery](#), Open Media offers the following services: one-click calling (put in any postal code that you want and masquerade as a constituent, even if you are a non-resident), one-click email, one-click faxing, “storm social” (tweetstorms), automated letters to the editor (of local newspapers in any country - take your pick), cloned websites (to create the impression of many grassroots organizations), and so on. You

can get the [“full toolkit”](#) for just \$529 per month. And in case you had forgotten what you were protesting against, it’s all laid out in “Suggested Talking Points.” As Lowery puts it, it’s “fake grassroots.”

Open Media has been engaging in these tactics for a while, all the time wrapping itself in the cloak of Internet freedoms. It has been behind campaigns against the Trans-Pacific Partnership (TPP) and now NAFTA. As I [documented](#) last year, it camouflaged itself as an American organization to mount a campaign against proposals to strengthen US copyright law. Open Media has been an active campaigner against the proposal launched by a [coalition of Canadian cultural industries](#), (known as FairPlay Canada) ranging from the CBC to Canadian Asian media, major Canadian ISPs such as Bell and Rogers, cinema chains and TV production companies and others, to establish a mechanism to recommend to the CRTC that offshore websites *blatantly and overwhelmingly* based on pirated, copyright infringing content be blocked in Canada. Just in case those visiting the Open Media website cannot remember precisely why they are protesting a proposal that aims to limit illegal activity, Open Media has provided the following inflammatory and inaccurate talking points:

This proposal would result in sweeping Internet censorship, penalize everyday online activities, and threaten Canada’s Net Neutrality rules that keep the Internet a level playing field for all. This is simply unacceptable, and not the Canada that I want to live in....This proposal is downright dangerous. It’s a slippery slope to censorship. To start blocking one type of content opens the door for all kinds of other requests to block content — some of which may be legal, but just unpopular...This goes against free expression, Net Neutrality, and the open Internet as a whole — it even has the potential to violate the Charter of Rights and Freedoms.

All one had to do was sign the petition and click, allowing Open Media to generate several thousand “submissions” to the CRTC on this topic. MLI Munk Senior Fellow Richard Owens, one of Canada’s leading experts on IP law, identified this phenomenon clearly in his own [submission](#) to the CRTC on the FairPlay Canada proposal, dissecting the false information provided by Open Media and showing how 25 percent of the submissions received by the CRTC could be traced directly to Open Media’s website and Reddit feeds, all based on incorrect and misleading information.

It is not just that Open Media is actively engaged in subverting the political process, a fact that has now been documented by outlets such as the [Times of London](#), [Daily Mail](#) and others, but that their self-proclaimed motivation is to undermine decision-making based on facts, reason and logic, instead “framing” the issues to substitute “morals, values, and identity.” In other words, their plan is to use emotive and hyperbolic slogans to overcome the facts. If you don’t believe me, have a look at this [slide deck](#) on how to mount an astroturfing campaign previously available on Open Media’s website. Who needs facts, reason and logic? Bring on the slogans!

What happens when it’s time for these hordes of supposedly passionate defenders of “online rights” to show themselves? They usually [number in the dozens](#), not tens of thousands. In the case of the “Day of Action” against the EU Copyright Directive organized last month in cities across Europe, turnout ranged from a total no-show in some cities to a maximum of 100 people in Berlin, the supposed centre of the protests.

Compare this to the over 6 million emails received by European lawmakers protesting the EU Copyright Directive, and you get some idea of the power of bots.

This is not just happening in Europe. It is happening in real time in Canada, powered by Open Media. The most recent iteration occurred just recently when Open Media was behind a swarm of more than 22,000 emails sent to the office of Foreign Affairs Minister Chrystia Freeland proclaiming that NAFTA would be a [“disaster for Canada’s digital rights.”](#) Using the usual hyperbole, Open Media’s online campaign, which urged people to send an email to Ms. Freeland (with just one click), claimed that the terms of the just-released US-Mexico agreement would “hurt the middle class and working families, cost our economy hundreds of millions, and greatly restrict our freedom to express ourselves online.”

Open Media claimed that the proposal includes a notice-and-takedown regime (true for Mexico, but not necessarily for Canada which negotiated a different outcome in the TPP) and extends copyright terms to 75 years. The latter was an inaccurate representation of what was published (see further analysis of what was proposed [here](#)), although extending the term of copyright protection in Canada would be of benefit to Canadian creators. Not content to be flinging around inaccurate information, the Open Media pitch added the ominous phrase, “and that’s only what they’re telling us. Even more disastrous measures could be hidden in the secret details.”

As Blacklock’s Reporter has [revealed](#), the recent email swarm almost equalled all the other traffic on this issue received by Global Affairs since June. Worryingly, as David Lowery recently [demonstrated](#), the Open Media website allowed one to masquerade as a Canadian resident and submit comments over, and over, and over again, with just a click of the back button. Laura Tribe, Open Media’s Executive Director admitted to Blacklock’s Reporter that it was possible for one person from any location to send multiple emails to the Minister’s office (while pretending to be Canadian), but she noted that the feature had now been disabled. Long overdue I would say.

It’s time to call out the tactics of spamming government and swamping the consultation process with automated simplistic messages. And it’s time to put facts, reason and logic – instead of inflammatory slogans, misinformation and crass manipulation of public input – back at the centre of policy debates when it comes to Internet governance.