TRANS-PACIFIC PARTNERSHIP (TPP) AGREEMENT NEGOTIATIONS UPDATE

Overview
On November 11, 2017, with the United States no longer a party to the negotiations, the 11 Trans-Pacific Partnership (TPP) countries reached a framework agreement on what is now referred to as the Comprehensive and Progressive Agreement for the TPP (CPTPP). Parties agreed on "core elements," bought time for thorny issues to be resolved later, and jettisoned other items. A final agreement is still under negotiation, but advances were made on labour and environmental standards. Binding dispute settlement and major intellectual property provisions, previous sources of friction between the U.S. and Japan, and among most parties, were dropped.

The release of a joint ministerial statement citing progress on negotiations confirmed that a path forward had been agreed to. The delay on Canada’s acquiescence involved a number of specific issues, but the particular sticking point with other nations at the table was a push from Malaysia and Vietnam to walk away from significant parts of the labour chapter.

Other issues of contention for Canada included automotive rules of origin, cultural exemptions, access to the Canadian dairy market, and the increasing prominence of the Liberal government’s “progressive trade agenda,” including provisions on labour, environment and gender. Additional explanations for Canada’s sensitivity and delicate manoeuvring include the ongoing NAFTA 2.0 talks and possibility of free trade negotiations with China – all of which need to be tightly choreographed.

Process
Last Friday, a planned meeting of the TPP countries was unexpectedly cancelled after Prime Minister Justin Trudeau failed to attend when a bilateral meeting with Japanese Prime Minister Shinzo Abe supposedly ran about 25 minutes longer than expected. A report in Australia’s Sydney Morning Herald said Prime Minister Trudeau "sabotaged" the talks at the last minute by failing to show up for the meeting. The New Zealand Herald reported that Mr. Trudeau's "no-show" had delayed TPP talks indefinitely.

At the closing press conference of the APEC Summit, Prime Minister Justin Trudeau defended Canada’s actions on the TPP, asserting the country simply was not ready to put pen to paper on a final agreement because of lingering concerns around culture and the automotive sector. He also said that he didn’t snub other TPP leaders when he skipped the meeting to announce the deal, as there would have been little point in having such talks when there was still so much discrepancy amongst the countries on certain chapters.
From the geopolitical point of view, Trudeau and his trade ministers have been managing a delicate balancing act. When juxtaposed with the ongoing NAFTA renegotiation and Canada’s trade talks with China, Canada’s reluctance is not surprising. Jumping too quickly into the TPP would have likely weakened Canada’s hand in their other, perhaps higher priority, trade discussions. Canada’s trade minister, François-Philippe Champagne, cautioned that there are months of work ahead to bring the TPP to completion. “We made progress, but we clearly identified the things we still need to work on,” he said.

Substance
The official joint ministerial statement signalled that parties reached an agreement on the “core elements” of the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership. Parties have agreed to carry forward various items in the original deal, and agreed on a “limited number of provisions” that will be suspended, including areas in the investment chapter that apply to investor-state dispute settlement as well as previously U.S.-demanded high intellectual property standards. Parties also identified four specific items where there is no current agreement, requiring further negotiation to reach consensus – namely state-owned enterprises, services and investment non-conforming measures, and the cultural exemption (led by Canada).

All side letters in the original TPP will be maintained, except those which parties have agreed to renegotiate, including the Working Group on Automobiles to be struck between Canada and Japan, and likely put off until Canada has negotiated applicable rules of origin in the NAFTA 2.0 talks. Parties agree to undertake their own consultation process before signing on to a formal agreement, which will then require legal text scrubs and ratification processes.

It is also worth noting that the Liberal government convened consultations on the original TPP almost immediately after their swearing in. Those consultations were overcome by events with the election of President Donald Trump and his decision to walk away from the agreement. In recent weeks, a new round of TPP-11/CPTPP consultations were announced, so it was clear heading into this summit that this government, while interested in continuing the conversation, is not ready to sit down and sign on to a new set of conditions just yet.

Media Scan
Why did Trudeau miss the TPP meeting? None of the reasons seem creditable
So to be clear: it is not true that Justin Trudeau skipped a meeting of 11 world leaders planned to close the deal on a remodelled Trans Pacific Partnership, the only one to do so, or that by refusing to sign he held up the agreement. (A.Coyne, The National Post: nationalpost.ca)

“We weren’t ready’ to close deal: Trudeau defends Canada’s actions on TPP
“Prime Minister Justin Trudeau is defending Canada’s actions on the Trans-Pacific Partnership, asserting the country simply was not ready to put pen to paper on a final agreement because of lingering concerns around culture and the automotive sector.” (J.P. Tasker, CBC News: cbc.ca)

Trudeau embrace of TPP could hurt tough NAFTA talks with Trump: experts
“Michael Geist, the University of Ottawa law professor specializing in e-commerce, made clear in a series of Twitter posts. "My guess would be the NAFTA talks make concessions on auto and agriculture incredibly difficult as TPP could undermine those negotiations," said Geist. "TPP was not (the) Liberals' trade deal. CETA was top priority, then NAFTA."” (no byline, CBC News: cbc.ca)
How Canada allied with Mexico to fend off TPP pressure from Japan, Australia
"Trudeau explained his situation to Pena Nieto, who reassured him that if Canada didn't sign on to the TPP, Mexico wouldn't either, the official said. Mexico had been sending similar signals of restraint about signing on to a new TPP... The official added that Pena Nieto likely offered his support for two reasons: Mexico wasn't 100 per cent comfortable with the deal on the table and the fact Canada has stood by it through the tough NAFTA renegotiation with U.S. President Donald Trump.” (A. Blatchford, The Globe and Mail: theglobeandmail.ca)

Canadian officials downplay reports of major breakthrough in TPP talks but say deal is closer
“Over the past week as talk of some kind of deal grew louder, senior officials and Trudeau alike talked about wanting to roll back concessions made during the broader TPP talks when the United States was still involved. In particular, they pointed to a need for stronger protections for Canadian culture, supply management and intellectual property. At the same time, Canada has been pushing to add new elements to the revised TPP, including provisions for gender, environment and labour.” (A. Blatchford, National Post: nationalpost.com)

On TPP, Trudeau has his Canada-first moment
“Mr. Trudeau wasn't ready to go all in. This was his "Canada first" moment. The Canadian government insisted on inserting into this "agreement" more pointed caveats about disagreements – Canada's disagreements.” (C. Clark, The Globe and Mail: theglobeandmail.com)

11 nations, including Canada, reach agreement on 'core elements' of TPP
The proposed basic agreement reached in Danang said that the ministers maintained “the high standards, overall balance and integrity of the TPP while ensuring the commercial and other interests of all participants and preserving our inherent right to regulate, including the flexibility of the parties to set legislative and regulatory priorities.” (T. Van Minh, The Toronto Star: thestar.com)

Trade Deal That Trump Quit Gets New Lease on Life
“Japanese Economy Minister Toshimitsu Motegi said the 11 remaining members of the Trans-Pacific Partnership had secured a framework agreement on how to salvage the deal. Canada, which had held out for a day on signing onto the agreement, said it had won some desired concessions while warning that work is needed to reach a full deal.” (R. Mathieson & I. Reynolds, Bloomberg: Bloomberg.com)