Paradiplomacy as a Key Feature of Canadian Trade Negotiation Strategy

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Because foreign policy is rooted in a double dynamic of answering both the needs of national and international pressure groups, we should be particularly concerned with ensuring that government leaders are rightly informed of the real needs of Canadian citizens. The federal hierarchy implies that provincial governments are generally better disposed to address popular concerns regarding foreign policy. Canada must therefore recognize that unity cannot always mean centrality, and should embrace paradiplomacy as a key feature of Canadian trade negotiation strategy. More precisely, provinces should be encouraged to discuss foreign policy outcomes of central decision-making in an institutionalized forum.

Over the last decade, the Canadian government has attempted to moderately pivot away from the American market to build ties with other regions of the world, notably Latin America and South East Asia. This change in foreign policy orientation is not a simple choice, as it involves strong political investment and high transaction costs both on the national and international scene. Leadership becomes an essential attribute of the central executive, which must ensure not only that the innovative policy is beneficial to all Canadians, but also, most significantly, that it is perceived as such. As a consequence, leaders of change are constantly playing a two-level game.

The game board metaphor developed by Robert D. Putnam is particularly helpful to better appreciate the extent to which international and domestic policies are intertwined. In Putnam’s view, political domains may be represented by a variety of game boards—representing either national or international interests—on which political leaders are required to play against different stakeholders. Because a political leader appears on various boards, he is bound to build a strategy, on the one hand, that is consistent with the needs and interests of

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national stakeholders and, on the other hand, that also satisfies the demands of international players. The complexity of the game played by the leader stems from the fact that moves that are rational on one board may be impolitic on another. Consequently, a careful use of rhetoric is expected, as a move on one board may trigger unwanted realignments on other boards (Putnam 1988). To achieve the right balance between external and internal interests, a government must be constantly aware of the unfolding of all simultaneous games. A competent government will strive to capture elements of similarity and divergence between domestic and international requests and act as a middleman to create a consensus.

In Putnam's words, "an adequate account of the domestic determinants of foreign policy and international relations must stress politics," and, most significantly, "on nearly all important issues, central decision-makers disagree about what the national interest and the international context demand" (Putnam 1988). How can a country's decision-makers create such a balance and consensus when they hold different views on the objectives and finalities of their very own policies? Surely, if we admit that foreign policy is central and rooted in a double dynamic of answering to the needs of both national and international pressure groups, we should be particularly concerned with ensuring that government leaders are rightly informed of the real needs of Canadian citizens. Indeed, the Canadian reality is that of a federation with an extraordinarily diverse geography, economy and society. Accordingly, the central vision often fails to address the multiplicity of regional issues and needs when the federal government attempts to guarantee that foreign and international trade policies truly are in the best interest of all Canadians. It is thus fundamental to raise the government's awareness of how Canada can best adapt its decision-making strategy to an ever-changing world of fading borders and economic interdependence, while taking into account the uniqueness of its federal political system. The federal system offers Canada a unique opportunity to drastically improve both the efficiency and efficacy of a key aspect of its foreign policy: the negotiation process.

It is important to first examine the current position of provinces on the national political scale. On the one hand, provinces, although bound by law as federated states, do have a significant amount of political autonomy and responsibility. Federal politics can be viewed as a pyramid, of which Ottawa occupies the highest level while citizens form the base. From this perspective, the Canadian political structure has allowed provinces to develop a special relationship with citizens living under their jurisdiction. Provincial leaders have developed an extensive knowledge of the daily reality and challenges and, for that reason, have on numerous occasions proven their expertise by representing their regional interests. On the other hand, the Constitution Act of 1867 guarantees provinces and the federal government specific jurisdiction over a number of areas. The legislative division of powers was confirmed in 1949 by the Judicial Committee of the Privy Council and has not been contested since. While concluding international agreements remains within the hands of the Prime Minister
by Royal Prerogative, legally speaking, the central executive cannot ratify conventions that deal with provincial jurisdiction without the provinces’ approval.

From a theoretical point of view, the realist division of the world between great, middle and small powers implies that middle powers, including Canada, hold the unique responsibility of acting as facilitators in concluding negotiations. I believe this model can be transposed to the Canadian federation. The pyramidal structure introduced earlier explicitly demonstrates that because provincial governments are normally closer to the population, they are better disposed to reach out to constituents and address popular concerns regarding foreign policy. For example, there is currently an ongoing feeling that trade negotiations are conducted behind closed doors. The truth is, the information simply does not reach many Canadians. Had provinces actively been part of the negotiation process, the special connection they share with their constituents would most likely have helped to positively influence public opinion and raise awareness on the benefits of trade agreements.

From this perspective, the position of provinces with regards to their constituents is fairly straightforward, yet confusion arises when provinces seek to get involved on the international scene. Ivo Duchacek describes paradiplomacy as “international relations conducted by subnational, regional, local or non-central governments on their own, with a view to promoting their own interests.” He further agrees that this feature appears to be an aspect of the overall process of globalisation, under which a number of non-state actors play an increasingly influential role in the international arena (Duchacek 1986). Paradiplomacy, in the Canadian context, gained significance in the 1960s in the wake of Québec’s Quiet Revolution. Although it is tempting to consider the apparition of the paradiplomatic process in light of the sovereignist movement, a clear distinction needs to be made. While paradiplomacy can be used as a tool to promote political emancipation, its aim is not to bring change to the political order. The concept in itself is engraved in constitutional principles, as will be discussed later on. It is also worth pointing out that Québec is not the only province to engage in paradiplomatic activities; others have followed this path, notably Ontario and New Brunswick.

With regards to the international benefits of embracing paradiplomacy, the unpredictability of ratifying powers in Canada could eventually become an impediment to the conclusion of currently negotiated and future agreements. Predicting outcomes of international negotiations is indeed significantly improved by understanding internal bargaining, especially with respect to minimally acceptable compromises (Snyder and Diesing 1988). A timely example of uncertainty lies in the Comprehensive Economic and Trade Agreement between Europe and Canada (CETA). Key fields of negotiation, including worker mobility, agriculture and natural resources, fall under provincial jurisdiction. In the pre-negotiation phase between 2006 and 2009, the European Union clearly established that it would not
engage in talks if the federal government could not guarantee the support of the provinces. For the first time in history, provinces sat alongside the federal government at the table of negotiations. This new mode of consultation between both bodies of government has proven so far to be highly effective, as CETA is expected to conclude before the end of 2013.

It is clear that the central government and the provinces should continue to seek a deeper partnership regarding foreign affairs. As exposed in the CETA example, the ever-increasing international integration has changed the general perception of boundaries: formerly seen as a form of economic protection, they are now, more often than not, obstacles to lucrative trade opportunities. What is more, the multiplication of exchanges has changed the nature of international relations to comprise fields generally perceived as exclusively domestic and, in the Canadian context, provincial (education, health, etc.). Canada must recognize that unity cannot always mean centrality. It must acknowledge the diversity of interests captured within its borders by fully allowing provincial leaders to speak out for their constituents on all matters that affect them. Provinces must be provided with an institutionalized forum where they can discuss Canadian foreign and trade policy objectives when they are related to their areas of jurisdiction. I consider this step crucial to the future of Canada’s trade policy. Fred Iklé defines the process of negotiations as “a process in which explicit proposal are put forward ostensibly for the purpose of reaching agreement on an exchange or on the realization of a common interest where conflicting interests are present” (Iklé 1964). Iklé’s definition thus suggests that international actors share a common perspective on what the desired goals of negotiation are and how they should eventually converge (Mace et al. 2003). This definition is incomplete. It is one thing for players to acknowledge common interest and seek to engage in a negotiation process. It is however a whole other matter for a player to pursue and act upon what he perceives as his interest. While State A may have much to gain in normalizing trade with State B, if State B is perceived as not holding sufficient political control within its own jurisdiction to implement (ratify) the object of common interest, State A will most likely be deterred from engaging in negotiations with State B. Predictability of action thus becomes a dominant factor in international negotiations.

Moreover, Canadian provinces are becoming increasingly aware of their weight in the decision-making process and of the responsibility they hold with regards to their constituents. Over the past decades, shy attempts have been made to build international bridges by new provincial players, quietly endorsed by the federal government. The central government has been right to generally not interfere in provincial foreign affairs and should continue to endorse paradiplomacy. If we fail to channel the emancipation of provinces towards an objective of common Canadian economic development and wealth, we risk serious disunity. Failure to invest provincial decision-makers with both a sense of international and national responsibility may eventually lead to highly unpredictable political behavior within the
federation, which will most likely affect Canadian negotiation-making. As a consequence, future CETA-like negotiation rounds—and I believe there are more to come—are bound to be unsuccessful. To sum up, the negotiation process and tactics are a dominant aspect of trade agreements and the negotiation power of a state is partly established by its capacity to make gains in a particular situation (Mace et al. 2003; Keohane and Nye 1977). Ensuring that provinces play on the same board game under the umbrella of the federal government (even though they pursue distinct interests) can help strengthen Canada’s hand in negotiation rounds.

Finally, I would like to address legal concerns regarding greater provincial involvement in foreign affairs and international trade. We have already stated the constitutionality of the division of legislative powers. However, to what extent does the division apply, and to what extent is paradiplomacy considered a violation of the Royal Prerogative? Paul Gérin-Lajoie, the father of Canadian paradiplomacy, expressed his view on the matter in a 1965 speech delivered to the Montréal consular corps. According to Gérin-Lajoie, the exclusive exercise of foreign affairs by the central executive derived at the time from practice, not from written law. It is not because Québec (and other provinces) had until then neglected to use the full powers associated with their areas of jurisdictions that these powers had ceased to exist. Moreover, he strongly believed that member societies of the Canadian federation should from that point in time onwards actively and personally participate in the elaboration of international conventions falling under their jurisdiction, if they deemed it necessary. (Gérin-Lajoie 1965) His speech marked the beginning of provincial expression on the international scene. The constitutionality of what is now widely referred to as the ‘Doctrine Gérin-Lajoie,’ has not been contested by either federal or provincial administrations since. Over almost 50 years, Canadian paradiplomacy has endured, and regardless of sporadic political conflicts between Ottawa and Québec City, the doctrine has always remained implicitly accepted as part of the political culture—as it is now truly part of Canadian convention. It is time to bring the quiet recognition to the next level and fully acknowledge provincial paradiplomacy by ensuring that its evolution follows a predictable and universally beneficial path.

Repeated attempts by the province of Québec to reach out to the international community as part of a political scheme to gain sovereignty has triggered uneasiness within the federal government and amongst other provinces when it comes to thinking or acting “outside-of-the-box” in terms of foreign affairs and international trade. Nevertheless, I believe it is crucial overcome the apprehension of the dismantlement of the federation and accept that the best interest of every Canadian citizen lies in the ability of provincial governments to discuss foreign policy as equals with the central administration. As we are increasingly facing the possibility of jurisdictional conflicts, there is a need to think ahead of time and organize provincial action in a way that will benefit all and minimize useless struggles. By offering provinces a forum to express their views on foreign affairs, the federal government,
instead of playing against nine domestic opponents, would gain the ear and respect of nine potential allies.

References


