

Renewing the Canada-U.S. Trade Relationship

Canada and the United States (U.S.) have a special relationship built on shared values and a long history of family, friends and visitors living on both sides of the border. Every day, over \$2 billion in goods and services and 300,000 people cross the border. Despite these strong foundations, bilateral trade has stagnated over the past decade, with Canada steadily losing market share in the U.S., especially since the financial crisis. The story is improving as of late, with a lower Canadian dollar, resurgent U.S. economy and expanded cross-border trade in the Great Lakes region. However, there remain a number of policy steps that need to be taken by both governments in order to revitalize the economic relationship.

The barriers

There are several factors holding back bilateral business: inefficiencies at the border, regulatory divergence, failure to approve the Keystone XL pipeline, country of origin labeling requirements, and the revival of 'Buy America' rules for local government procurement. These trade irritants and protectionist measures continue to impede trade flows and hurt the competitiveness of North American supply chains.

At the same time, bilateral cooperation has not kept up with emerging issues and opportunities in areas such as trade, energy and environment. Canada did not join the Trans-Pacific Partnership (TPP) talks until late in the process. The so-called shale revolution in the U.S. and reform of the energy sector in Mexico has fundamentally transformed the continental energy market. At the same time, approaches to greenhouse gas regulation and the development of renewable energy are poorly aligned.

Part of the problem has been the slow decline in the frequency of engagement between political leaders. The North American Leadership Summit scheduled for early 2015 in Ottawa was cancelled. Canada has not hosted the occasion since 2007.

The way forward

The long-standing challenges and new realities facing Canada and the U.S. suggest that business as usual will not be enough to realize the full benefits of the bilateral relationship.

Canada and the United States will need to take additional steps to facilitate the movement of goods, services and people across the border in all modes of transportation. Since announcing the Shared Vision for Perimeter Security and Economic Competitiveness Action Plan in 2011, Canada and the U.S. have been working together through the Regulatory Cooperation Council and Beyond the Border initiatives in an effort to improve the efficiency of the border and reduce unnecessary regulatory divergence. However, these initiatives have not lived up to their ambition and are in need of new energy and attention.

Facilitating temporary entry and business travel

By harmonizing and coordinating customs and security rules and procedures, the Beyond the Border Action Plan seeks to improve border efficiency, reduce delays and increase the mobility of people and goods across the Canada-U.S. border. Despite some recent milestones – e.g. Integrated Cargo Security Strategy (including air cargo), piloting the concept of 'cleared once, accepted twice' and the recently announced Preclearance Agreement that would cover multiple transportation modes – a lot of work remains.

Better training of border agents and more clarity around temporary entry requirements would make it easier for Canadians and Americans to conduct legitimate business across the border. TN and L applicants (i.e. for temporary entry as business visitors) to the U.S. are often subject to different treatment depending on the port of entry. Clarification is needed on new measures allowing specialized maintenance and repair personnel to conduct maintenance and emergency work on critical industrial machinery and operational systems. Likewise, there is a lack of guidance for visitors entering to provide after-leasing services. The rules should be applied in an equal fashion as they are for those doing after-sales services.

The application process itself should also be improved. The new U.S. guideline allowing TN applicants to process their applications at United States Citizenship and Immigration Services (USCIS) centres is a welcome development,

but they should also be able to apply through U.S. Consulates in Canada. Minor application errors should be treated with leniency. The NEXUS trusted-traveler program, for instance, should move away from a zero tolerance approach to violations in favour of the approach used by the Free and Secure Trade for Commercial Vehicles program. It should also be possible to appeal denials and revocations.

Customs agencies must have uniform and speedy mechanisms to deal with wrongfully denied business entry and mis-adjudications. In some cases, Canadian business visitors have been put through Expedited Removal proceedings at the border, despite the fact that Department of Homeland Security regulations mandate that non-immigrant Canadians be exempt. Administrative remedies should be made available for such abuses of the process.

The recent Pre-Clearance Agreement could significantly speed up border crossings for individuals and cargo. However, the enacting legislation may be politically challenging due to extra-territoriality and immunity issues. In the meantime, efforts should be made to reduce situations of multiple inspections, as in the case of rail passengers from Vancouver to the U.S. being inspected once in Vancouver and again when they cross the border.

Improving importer programs

Canada's trusted trader programs, which offer expedited and simplified customs procedures to low-risk shippers, remain underdeveloped and poorly integrated with those of the U.S. as well as other Canadian federal agencies (e.g. Canadian Food Inspection Agency). Growth of company membership in these programs has slowed as a result and remains limited. Significant investments in technology and operations are needed.

After long delays, Canada is set to implement key elements of the Single Window Initiative. By allowing importers to submit documents and information electronically to customs and nine other relevant government agencies all in one location, it is expected to cut red tape and lower trade costs. However, with the challenges faced getting the program to this point, close attention is needed to ensure that the roll-out meets expectations.

Cooperating on energy and the environment

A truly continental approach to energy and the environment would help Canada and the U.S. reduce greenhouse gas emissions and provide economies of scale to stimulate joint innovation and the growth of the green economy. Selling an additional 2,500MW of Canadian hydro power to the U.S., for instance, could lower CO2 emissions by an amount equivalent to taking 2.3 million cars off the road. Cooperating on environmental regulations could also improve the reputation of Canadian oil and gas products in the American market.

Pursuing a North American trade policy

Although Canada was late to the table, the TPP is platform for the two countries to work together to establish new trade rules that will govern Pacific trade. North American trade interest are aligned in a number of sectors and by pooling its market size with the U.S., Canada can increase its bargaining power. As a living agreement, TPP will be an instrument for future trade liberalization with countries such as China and India. Canada should also be using TPP as an opportunity to find bilateral compromises on government procurement and the movement of business people – if not within the agreement itself, then through side arrangements.

Recommendations

That the federal government:

1. Improve the movement of people and goods across all modes by fully resourcing and implementing programs identified by the Beyond the Border initiative.
2. Improve stakeholder consultation throughout the agenda-setting and tracking process of the Canada-U.S. Regulatory Cooperation Council.
3. Work with the U.S. to realize an ambitious and comprehensive TPP agreement that lays the foundation for the North American trade with Asia, including high standards of market access and intellectual property protection, as well as new disciplines related to cross-border data flows and state-owned enterprises.

4. Through the TPP or parallel bilateral arrangements, address Buy America rules and expand the list of qualified professionals eligible temporary entry and business visas under the North American Free Trade Agreement.
5. Restore and institutionalize the annual North American Leadership Summit, creating issue or sector-based working groups on topics such as energy and trade policy.