Policy Transformation in Canada

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PART FOUR

Canada’s Borders and Beyond
It has been fifty years since Canada took the historic step of abolishing race-based immigrant admissions. The 1967 immigration regulations removed any remaining ethnoracial discrimination from family sponsorship and placed economic immigration policy on a skills-based footing. A decade later, the 1976 Immigration Act institutionalized these changes and broke new ground by articulating the fundamental principles governing Canadian immigration policy. The Act, which remains the cornerstone of present-day immigration policy, established three distinct immigration streams, each serving a distinct goal. First, family sponsorship was “to facilitate the reunion in Canada of Canadian citizens and permanent residents with their close relatives from abroad.” Second, economic immigration was to select skilled workers and business immigrants who would “foster the development of a strong and viable economy and the prosperity of all regions in Canada.” Third, humanitarian immigration was “to fulfil Canada’s international legal obligations with respect to refugees and to uphold its humanitarian tradition with respect to the displaced and the persecuted.” The policy goals of each stream – family reunification, economic growth, and refugee protection – continue to enjoy broad societal and bipartisan support today. Thus, in this appraisal of the past fifty years of Canadian immigration policy we ask, to what extent has Canada succeeded in achieving these goals?

Canada’s Commitment to Family Reunification

With the passage of the 1976 Immigration Act, Canadian lawmakers turned their back on race-based family admissions and embraced the universal sponsorship of spouses, children, parents, and grandparents
of Canadian citizens and permanent residents. Thus, the Act cemented family reunification in terms of the recognition of human interdependence regardless of race and ethnicity, at least within the confines of Western understandings of family relations: “When Canada accepts immigrants, we consider ourselves duty-bound also to accept those close relatives who would normally be dependent on them in a society such as our own.” Looking back at the past five decades of family immigration, then, how well has Canada lived up to its commitment “to alleviate, never to exacerbate” the involuntary separation of families?

When it comes to the sponsorship of immediate family members – spouses and dependent children – Canada has lived up to its commitment to unifying transnational families by progressively expanding the circle of those eligible for sponsorship. The 2002 Immigration and Refugee Protection Act formally abolished heterosexism in family admissions by extending spousal sponsorship rights to common-law and same-sex partners. Lawmakers further ended the differential treatment of families with disabilities by exempting sponsored spouses and dependent children from medical inadmissibility provisions that would otherwise preclude admission to Canada. Thus, just as the 1976 Act institutionalized the elimination of race-based discrimination in family admissions, the 2001 Act removed discrimination based on sexual orientation and disability.

Although the admission of immediate family members has been marked by liberalization, access to the sponsorship of parents and grandparents has become increasingly curtailed. Starting in the early 1990s, parent and grandparent visas were slashed in an attempt to tilt the balance of immigrant admissions from the family stream to the economic stream. By 2011, parent and grandparent visas had fallen from 41,000 in 1994 to 14,000, with wait times of up to six years. This trend was aggravated in 2012. After imposing a two-year program moratorium, the Harper government set admission levels at a historic low of 5,000 while increasing the minimum income threshold by 30 per cent and doubling the length of sponsorship obligations to 20 years. In principle, those parents and grandparents excluded from sponsorship could apply for the new temporary super visa. However, its stringent income and health insurance conditions pushed it out of reach for many families. Most importantly, the super visa was not designed as a substitution for family sponsorship as it treats visa holders as visitors, rather than immigrants. While the Trudeau government’s decision to increase parent and grandparent visas to 20,000 by 2018 marks an important policy
correction, it would be erroneous to conceive it as a period of generous family reunification – it is merely a return to the pre-2012 status quo.

The progressive shrinking of access to family unification for parents and grandparents is a reflection of the ideational spillover of neoliberal arguments into a policy area that, since the 1976 Act, has traditionally been normatively grounded in the protection of family unity. To quote Conservative Citizenship and Immigration Minister Jason Kenney in 2013: “If you think your parents may need to go on welfare in Canada, please don’t sponsor them. We’re not looking for more people on welfare, we’re not looking to add people as a social burden to Canada.”

As elderly relatives have become construed as burdens on Canadian society, policymakers have lost sight of the emotional and material importance of intergenerational care. For many families, being denied access to parent or grandparent sponsorship means that they are unable to provide care for their aging parents. Parents and grandparents, on the other hand, are denied the opportunity to offer childcare and household support to their financially- and time-stretched families in Canada. Ironically, given the cost of childcare in Canada, the families who are least able to afford sponsorship of elderly relatives are the ones who are most likely to materially benefit from it.

If Canada is to remain serious about facilitating the reunification of families, policymakers need to stop further entrenching existing socioeconomic inequalities and put an end to sponsorship rules that place access to parent and grandparent sponsorship out of reach for many. Demand for the sponsorship of elderly relatives is not going to disappear. On the contrary, instead of treating intergenerational dependence as a problem to be erased, we need to embrace it as an expression of our shared humanity. Parents and grandparents are not tourists, nor should their ability to live with their families remain a privilege of the materially and economically able. Instead of viewing family sponsorship through the narrow and inhumane lens of economic utility, Canada needs to return to the ethics of care that informed the establishment of its family sponsorship system in the first place.

Canada’s Commitment to Merit-based Immigration

With the creation of the point system in 1967, Canada placed economic immigration on a skills-based footing. From now on, as Minister of Immigration and Citizenship Ellen Fairclough declared, “any suitably qualified person from any part of the world can be considered for
immigration to Canada entirely on his own merits without regard to his race, colour, national origin, or the country from which he comes."

Until the early 1990s, the notion of “skill” was largely used in juxtaposition to “race” to describe a non-discriminatory immigration policy that was based on occupational qualification, rather than national origin. Point system admissions were coupled to the state of the economy and favoured applicants from in-demand occupations. Starting in the 1990s, reforms to the point system shifted the logic of economic admissions from occupational demand to human capital. Human capital-based admissions are premised on a highly selective notion of skill – namely attributes associated with the global knowledge economy such as advanced formal education, language capacity, and financial assets. With the passage of the Immigration and Refugee Protection Act in 2001, “skill” as the basis of immigrant selection came to take on the meaning of “highly skilled.”

As the skills profile of Canada’s economic stream shifted upward, however, low-skilled sectors became more vulnerable to labor shortages. Starting in the mid-1990s, temporary foreign worker admissions, which were dominated by low-skilled workers, started to rise steeply, a trend that accelerated with the Conservatives’ coming to power in 2006. By 2008, in a historically unprecedented development, temporary foreign worker admissions surpassed not only economic stream admissions, but all three permanent streams – economic, family, and humanitarian – streams combined. Hence, for the first time in Canadian history, more foreign nationals were admitted as temporary workers than as permanent residents. In a second consequential development, Canada’s preference for highly-skilled, highly-educated, and wealthy economic immigrants had significant spillover effects on the treatment of temporary foreign workers. With few exceptions, Canada’s enormous temporary foreign worker population is bifurcated. On the one hand, there is a small proportion of highly-skilled workers who arrive on temporary visas and are later given access to permanent residence and family unification. On the other, there are workers in low-skilled sectors that are given access to neither. The increasing significance of “two-step immigration” programs that provide skilled temporary foreign workers with a gateway to permanent residence – such as the Canadian Experience Class and the Provincial Nominee Program – have put Canada’s traditional “one-step immigration” model under attack. Whereas in 2000 close to 90 per cent of all economic stream arrivals were one-step immigration admissions through the Federal Skilled Worker program, by 2015 – as a result of
the pervasiveness of two-step immigration via the Canadian Experience Class and the Provincial Nominee Programs – only about 40 per cent of economic stream admissions were “one-step immigrants.”

The patterns described here are deeply problematic. Canada’s heavy reliance on temporary foreign workers presents a threat to Canada’s comparative success in accepting and integrating high numbers of newcomers without jeopardizing public support. The admission of temporary foreign workers not only enjoys significantly less popularity, but also risks the exploitation of workers, wage dumping, and the growth of a sizeable population of undocumented immigrants. Moreover, those temporary foreign workers who eventually succeed in becoming permanent residents do so without access to Canada’s extensive network of settlement and integration services.

Temporary foreign worker recruitment can be morally justified if it fills short-term labour shortages. However, the sustained mass recruitment of temporary foreign workers of the past twenty years indicates that supposedly temporary labour needs in these sectors have become a structural part of the Canadian economy. Moreover, the hierarchization of economic migrants’ access to permanent residence that has accompanied the expansion of temporary foreign worker recruitment in Canada devalues the economic contributions of low-skilled foreign workers, belying the fact that competitive knowledge economies, such as ours, are existentially dependent on their contributions. With the immigration reforms of the 1960s, economic immigration to Canada came to be premised on the notion of “merit” – economic immigrants were to be admitted as future citizens on the basis of occupational and professional skills that would contribute to Canada’s economic growth. If we are to continue to base economic admissions on the notion of merit, and given our understanding of merit as the skills and labour that foreign workers contribute to our economy, then any worker recruited on the basis of skill – whether low- or high-skilled – deserves to be offered the opportunity to settle in Canada.

**Canada’s Commitment to Humanitarianism**

The 1976 Act was the first Canadian immigration legislation to recognize refugees as a distinct class of immigrants. It legally entrenched the definition of a Convention refugee, provided for humanitarian admissions, created a refugee determination system, and enabled the private sponsorship of refugees. Since then, Canada has resettled more than
half a million refugees from abroad. The United Nations High Commissioner for Refugees publicly honoured Canada’s commitment to refugee protection in 1986 by awarding the Nansen medal to the People of Canada “in recognition of their essential and constant contribution to the cause of refugees.” It has been the only time that the award was given to an entire nation. In 1993, Canada became the first country to issue gender guidelines for use in refugee determination. Moreover, in 2002, the Immigration and Refugee Protection Act took the important step of shifting the selection of resettlement refugees from the “ability to establish” to the need for protection, henceforth prioritizing humanitarian over economic considerations in refugee selection. Finally, whilst resettlement numbers fell from the early 2000s until the mid-2010s, the Trudeau government’s decision to raise resettlement targets to bring in over 30,000 Syrian refugees in 2016 marked an important policy correction.

One striking exception within this laudatory assessment of Canada’s resettlement policy is the Immigration Loan Program. The program requires resettled refugees to pay back – with interest, after a grace period – the costs of medical exams, travel documents, and transportation to Canada. It has been shown that the program compromises the ability of many refugees to pay for basic necessities and fully access settlement services – including language training – because of the need to earn income to commence loan repayment. The program is petty, counterproductive, and at odds with Canada’s humanitarian commitments. The government’s decision to temporarily waive the repayment requirement for 25,000 of the Syrian refugees in 2016 was a step in the right direction, albeit one that did not go far enough. There is absolutely no reason why Canada should not “go all the way” and permanently scrap the Immigration Loan Program.

Whereas Canada’s refugee resettlement policy has lived up to the 1976 Act’s humanitarian commitments, the same cannot be said of its treatment of “spontaneous arrivals” – asylum applicants who file their claims in Canada. In striking contrast to Canada’s humanitarian embrace of refugees selected from abroad, policymakers have been reluctant to welcome those seeking refuge at the border, even though both groups fall under the Refugee Convention. Since the turn of this century, a multitude of policy changes – ranging from mandatory detention of “designated” groups of asylum claimants to the Canadian-U.S. Safe Third Country Agreement, which allows Canada to turn back asylum applicants arriving its land border posts – have aggressively rolled back protections for the comparatively small number of
those seeking asylum from within Canada. Over the past twenty years or so, policymakers have repeatedly driven a moral wedge between “deserving” resettled refugees and “undeserving” asylum claimants. After a boat with Sri Lankan asylum seekers arrived in British Columbia, Citizenship and Immigration Minister Jason Kenney warned that the arrival could put Canada at risk of developing “a two-tier immigration system – one tier for legal, law-abiding immigrants who patiently wait to come to the country, and a second tier who seek to come through the back door, typically through the asylum system.”

The portrayal of asylum claimants as queue-jumpers is devoid of any factual basis. Not only is there no such thing as an admission queue for refugees – there is no resettlement application that refugees could fill out – the Refugee Convention explicitly affirms the right of persons to seek asylum from persecution in other countries. If we are to be serious about our commitment to refugee protection, then we will accept that it is our legal and moral duty to welcome those who claim asylum at our borders and offer them the opportunity of a hearing.

What is the verdict on the past fifty years of Canadian immigration policy? There are good reasons for why Canadian immigration policy – in particular our refugee resettlement policy and the point system – is commonly held up as a model to be emulated by policymakers abroad. In many ways, we have done an excellent job at “immigration management.” We have been most true to our goals when admitting immigrants whose numbers we can easily manage from afar – such as resettlement refugees – or whose presence we consider to be in our economic interest – such as highly skilled immigrants. However, our reliance on immigration management and economically-driven immigration has come at a cost. When confronted with migration flows that cannot be easily managed or do not have predictable economic payoffs – as is the case with asylum claimants and elderly family members – our moral commitments have been too quickly abandoned. Managing immigration and recruiting immigrants for the sake of economic growth are legitimate policy goals. However, they must not displace Canada’s commitment to family reunification and refugee protection.

NOTES

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2 Canada: Immigration Act, 1976–77, c. 52, s. 1
3 Department of Manpower and Immigration Canada, Immigration Program: Green Paper on Immigration, vol. 2 (Ottawa: Information Canada, 1974), 52, emphasis added.
5 The Immigration and Refugee Protection Act’s extension of sponsorship rights to same-sex partners institutionalized and rendered transparent prior ad hoc and discretionary administrative practices.
6 As a third change, in recognition of the oftentimes delayed onset of independence, the sponsorship age for dependent children was raised from 19 to 22. The raising of the age ceiling for dependent children was subsequently reversed several times, most recently in 2014. It was reinstated in 2017.
7 It is worth noting that Canada’s inclusive policy toward the reunification of immediate families stands in marked contrast to policies of civic integration currently in place in several European countries which have imposed high hurdles for the immigration of non-EU foreign spouses and have resulted in the lengthy separation of many families.
10 Most notably, the Live-in Caregiver Program.
14 Moreover, only 1 per cent of those identified by the United Nations High Commissioner for Refugees as in need of resettlement are actually selected for resettlement – globally speaking.
In The Strategy of Conflict, Nobel laureate Thomas Schelling developed a notion that is now known as “Schelling’s conjecture.” According to this conjecture, the United States executive is advantaged in its negotiation of a commercial treaty with another government when it is obvious that the legislature (Congress), which must ratify the treaty, has a firm stance on certain issues.

In a renegotiation such as the North American Free Trade Agreement (NAFTA), in which Congress will have a much larger role than in the past due to recent legislative changes, U.S. negotiators can therefore use this situation as a pretext for extracting additional concessions from their trading partners, Canada and Mexico.

Canada, where the separation of powers is more theoretical than real, cannot benefit from such a conjecture unless it has a minority government. In a majority context, the “threat” of seeing a defection of deputies of the party in power is rather weak and would not be credible.

In Canada other important actors in trade negotiations, the Canadian provinces, could have played the role of the U.S. Congress. But Ottawa decided not to involve them in the NAFTA/USMCA renegotiation. Federal refusal to involve the Canadian provinces has been a problem for a long time in Canada, and will become further fraught in the next fifty years since international treaties increasingly affect the fields of jurisdiction of the Canadian provinces.

In this article, I explain why provinces have become increasingly important players in Canada’s international and trade negotiations. I begin by examining the evolution of treaty-making in Canada in general, which goes beyond trade issues. I then focus on trade negotiation with an emphasis on the NAFTA/USMCA renegotiations. I emphasize
the case of Quebec since it has enhanced powers, compared to other provinces, when it comes to international agreements including trade agreements.

Federalism and International Negotiations in Canada

The 1867 Constitution Act gives little mention to international relations. In fact, Canada’s constitution does not provide for exclusive jurisdiction over foreign affairs. This omission should not be surprising, for in 1867 Canada did not become sovereign; it became a dominion within the British Empire. Only with the passage of the 1931 Statute of Westminster did Canada become sovereign in matters of foreign policy. The question then quickly arose: does the federal government have the capacity to force the provinces to implement its treaties even in areas that, constitutionally, are under exclusive provincial jurisdiction?

In the Labour Conventions Case, the government of Ontario challenged the capacity of the Canadian government to legislate in provincial jurisdictions in order to fulfil its international commitments. After the 1930 election, Canada’s Prime Minister, R.B. Bennett, ratified three International Labour Organization conventions: one on working hours, a second on weekly rest, and a third on the minimum wage. By imposing these conventions on the provinces, the Canadian government infringed on an area of provincial jurisdiction, labour.

The Judicial Committee of the Privy Council in London, which was still Canada’s court of final appeal, rendered its judgment in 1937. This ruling is of fundamental importance for the legal capacity of the federal government and the rights of the provinces in international relations. The judges recalled that federalism constitutes the foundation of Canada. Furthermore, the principle of the sovereignty of Parliament means that the legislature is not obliged to pass measures that might be necessary to implement a treaty concluded by the federal executive. In this case then, it is up to the provincial legislatures (not the federal) to amend their respective laws and regulations to give effect to the treaty in domestic law. In Canada, the power to implement treaties thus follows the distribution of powers.

In addition to this situation, in 1965 Jean Lesage’s Quebec government expressed its concern, as had Ontario before, over the effects of internationalization on provincial jurisdictions. In a speech in 1965, Quebec Vice Premier and Minister of Education Paul Gérin-Lajoie enunciated what would later become known as the “Gérin-Lajoie Doctrine of the international extension of Quebec’s domestic jurisdictions,”
From Gérin-Lajoie to USMCA

or “Gérin-Lajoie Doctrine” for short.¹ This doctrine basically holds that, when it is in its field of jurisdiction, Quebec should be the one negotiating the treaty. Moreover, since its enunciation, the government of Quebec has wanted to be involved in the Canadian delegation during international negotiation that affects its fields of jurisdiction.²

Furthermore, in 2002 Quebec’s National Assembly unanimously passed an amendment to the Act Respecting the Ministère des Relations internationales, which requires National Assembly approval for any important international agreement entered into by Canada that concerns Quebec’s fields of jurisdiction. The National Assembly has thus become the first parliament of the British model to be so closely involved in the process by which a central government undertakes international commitments. Daniel Turp has identified twenty-seven treaties concluded since 2002 by the federal government that were considered “important” and were therefore tabled for approval by the National Assembly of Quebec.³ Thus, Quebec goes further than the federal government or any provinces, since the federal Parliament does not have to “approve” a treaty, although it must, as in Quebec, adopt legislation to assure its implementation.

In summary, since 1937 treaty-making in Canada has been a two-stage process comprised by: 1) conclusion of a treaty, that is, negotiation, signature and ratification; and 2) implementation. The first stage is the prerogative of the federal executive (a monopoly which has nonetheless been contested by the government of Quebec since the 1965 Gérin-Lajoie doctrine). The second stage, the passage of the necessary legislation to apply the treaty, is the prerogative of the legislative branch, federal and provincial. Treaties must thus be incorporated into domestic law by legislative action at the appropriate level. Judges base their rulings on Canadian laws, not treaties. The issue is of fundamental significance in Canada; as de Mestral and Fox-Decent point out, “roughly 40 per cent of federal statutes implement international rules in whole or in part.”⁴

Trade Negotiations

In Canada, trade negotiations are in theory typically led by the federal government. This is in fact generally so, even when negotiations deal with an exclusive provincial jurisdiction. There are many precedents, though, in which provincial governments has been involved. Intergovernmental negotiations between senior bureaucrats and sometimes even ministers almost always take place.
The government of Canada here faces significant problems, for provincial collaboration is unavoidable when negotiations deal with the provinces’ fields of jurisdiction. In Canada, there is no framework agreement providing for federal-provincial consultations, and there is very little consistency in the approach taken. In addition, and even more significantly in the case of trade accords, the effects of treaties on domestic policy do not end with their implementation because they usually include dispute-settlement clauses.

For instance, since NAFTA does not apply directly in Canada, legislators amended Canadian law to conform to the treaty. Difficulties may emerge with respect to the dispute-settlement mechanism since judgments may require the offending state to amend its legislation or even revoke a past administrative decision. The question that then arises is whether the federal and provincial governments that implemented NAFTA committed themselves only with regard to the treaty or to future rulings by special groups as well. The issue of the democratic deficit is thus cast into very sharp relief and may cause many problems, both legal and political.

The Canadian government contends that ratification of international treaties is the sole prerogative of the federal executive. It may commit Canada internationally with no form of consent from federal or provincial legislatures, even if a treaty should require substantial changes to laws and regulations. To avoid foreseeable problems, some authors, like de Mestral and Fox-Decent argue the federal government does not ratify international treaties that necessitate legislative changes by the provinces without prior provincial approval.

I disagree with this affirmation. In fact, though, a detailed examination of the legislative steps involved in concluding a treaty reveals a relatively long process that is often not completed before ratification by Canada. Take, for example, the two NAFTA side agreements on the environment and labour, which in Canada are exclusive (labour) or shared (environment) provincial fields of jurisdiction. Most of the provinces wished to take part in the negotiations on them, but the federal government wanted to act alone. The negotiations resulted in a clause that would permit provinces to withdraw from the side agreements. Only three provinces have since signed the environment agreement (Alberta in 1995, Quebec in 1996, and Manitoba in 1997) and only four have signed the labour agreement (Alberta in 1995, Quebec and Manitoba in 1996, and Prince Edward Island in 1998).
The NAFTA side-agreements are not exceptional in this regard. Canada signed a Free Trade Agreement with Costa Rica on 23 April 2001. The implementation legislation was tabled on 20 September 2001; royal assent was given on 18 December 2001; and the treaty entered into force on 1 November 2002. Quebec’s National Assembly approved the treaty only on 2 June 2004.

Similarly, the Government of Canada signed the Canada-Chile Free Trade Agreement on 5 December 1996. The House of Commons passed the implementation legislation on 5 July 1997. The treaty was not approved by the government of Quebec until 3 June 2004, seven years after it had come into effect.

Trade Negotiations and the Canadian Provinces

In Canada, provinces have thus become increasingly important players in international trade. In the case of Quebec, approximately 40 per cent of the 750 international agreements concluded by the government (of which 386 are currently in force) have a direct or indirect link to trade, relating to areas such as economic development, agriculture, culture, natural resources, and public procurement. Significant agreements include the 2001 Intergovernmental Agreement on Government Procurement with the State of New York, the 2008 Quebec-France Agreement on the Mutual Recognition of Professional Qualifications, and the 2013 Agreement on the Creation of a Carbon Market with the State of California. These three agreements all have a direct impact on trade.

NAFTA/USMCA Renegotiations

In the case of the renegotiation of NAFTA, the Government of Canada chose to exclude the provinces from renegotiation despite a request from the Quebec government. The provinces are essentially informed of the unfolding and the stakes of the negotiation by a federal-provincial mechanism called the C-trade meetings, a forum that essentially brings together federal and provincial civil servants who manage trade issues. A high-level representative from the Ontario government described the forum as an “information dump,” a forum where federal public servants, with little notice, release a large volume of documents for analysis. This approach has the effect that provincial feedback is minimal in the NAFTA renegotiation process.
It can be hypothesized that the federal government wanted to do this because the U.S. government was pushing for quick renegotiation and that giving the provinces a place in the Canadian delegation would slow down the pace of negotiation. Yet, during the renegotiation, time was exactly what the Government of Canada needed. Canada’s best bet in the renegotiation was to buy time so that U.S. Congress, civil society, and the American business community have the time to organize to oppose the president.

The Canadian government also developed a renegotiation strategy, an “idealist agenda,” that put issues on the table in its list of positive requests. Canada did not want to be in a purely defensive position during the renegotiation, because the inevitable concessions in a negotiation would force them to make difficult choices.

As a result, Canada has developed “demands,” many of which are under the jurisdiction of, or have very significant effects on, provincial legislation. The Government of Canada wants to strengthen the chapter on labour and labour mobility (labour protection, unions rights), the environment and climate change, gender, First Nations, arbitration mechanisms, and public procurement of provinces and municipal governments. These are very important and deep intrusions into provincial jurisdictions. On the negative list (what Canada does not want to see in the treaty), many subjects are also very important for the provinces, such as softwood lumber, cultural exception or diversity clause, supply management, and Chapter 19, on dispute settlement.

But there is more: many U.S. demands in the renegotiation affect directly provincial measures such as rules of origins, market access for milk, grain, wine, and cars, the cultural exception, supply management in agriculture, softwood lumber, e-commerce and provincial, municipal, and territorial government procurement, and Chapter 19.

Conclusion

The federal government has always had some important reservations in involving the provinces in international negotiations. In the case of the NAFTA/USMCA renegotiation, provinces might have to pay the price of the federal strategy. The biggest argument against provincial involvement is related to the fact that it will slow down the process and make it hard to make concessions. That might be true in some cases, but keep in mind that Canada successfully concluded a very ambitious and
deep international trade agreement with the European Union with an unprecedented representations of the Canadian provinces. Indeed, for the first time in the history of Canadian trade negotiations, the provinces were represented in the Canadian delegation, and even participated directly in negotiations on several subjects.15

The important role of the provinces, and of Quebec in particular, has been recognized and encouraged by Justin Trudeau’s federal government. The Quebec premier, Phillipe Couillard, was even invited to travel to Belgium, with Jean Charest and Pierre Marc Johnson (former PM and Quebec chief negotiator), alongside the Canadian Prime Minister for the formal signing of the agreement.16

No doubt, it is time to rethink intergovernmental relations with regards to trade relations in Canada.

NOTES

7 de Mestral and Fox-Decent, “Rethinking the Relationship between International and Domestic Law.”


12 Paquin, 193.


