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## Trans-Pacific Partnership set on fast track

By Jeff Buckstein

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Prospects for passage of a new Trans-Pacific Partnership (TPP) trade agreement have received boost from the U.S. Senate, which recently voted overwhelmingly to provide President Barack Obama with the authority to fast-track a deal.

"This means that all the countries that are part of TPP are able to take it seriously and start grappling with the big issues," said Milos Barutciski, a Toronto-based partner and head of the international trade and investment practice at Bennett Jones. "We've dealt with the easy issues — namely tariffs at the border, and the more blatant forms of trade protectionism. We're now starting to engage with trade barriers that have less to do with the border and overt protectionism than domestic policy issues."

TPP participants include Canada, the U.S., Mexico, Japan, Australia, New Zealand, Vietnam, Malaysia, Singapore, Brunei, Peru, and Chile — a powerful grouping that currently produces about one third of the world's annual gross domestic product.

"If the agreement as conceived is concluded, I think it will not only enhance the existing trade agreement we have in NAFTA. It will give Canada privileged access to some major Asian markets, like Japan, Malaysia, and Vietnam," said Derek Burney, a senior strategic advisor with Norton Rose Fulbright in Ottawa.

"Definitely now that the American procedural obstacle seems to have been removed, I think this is crunch time for the negotiations. The countries that have been holding back in making any final concessions to get a consensus will now have to show their hole card," added Burney, a former chief of staff to Prime Minister Brian Mulroney and a key participant in the Canada-U.S. Free Trade Agreement signed in 1988.

A central question is what impact a TPP deal will have on Canada's supply management program, which over the past four decades has included protective tariffs as high as 300 per cent for the country's dairy and poultry farmers. Most of the farms are in Quebec and Ontario, and therefore potential political dynamite as a fall federal election approaches.

"We won't be the only country that has to make concessions. But there are provisions in our supply management scheme for dairy and poultry that we know are under the magnifying glass by countries like Australia and New Zealand, who will be looking for some indication of reform of those practices," said Burney.

The ability of possible future TPP partners to access Canadian markets will depend on negotiating the removal of barriers in place. It is reasonable to believe that a fair amount of time relating to the negotiations is going to be spent on agricultural goods, said Cyndee Todgham Cherniak, founder of LexSage Professional Corporation, an international trade law and sales tax firm in Toronto. Canada, too, will be trying to gain that type of access to other countries' markets.

"We know from history that when Canada negotiates a free-trade agreement, they attempt to get market access for goods, services, procurement, labour mobility, investments. There are a whole host of accesses that we negotiate," said Cherniak.

It is also important that any free trade agreement must comply with the General Agreement on Tariffs and Trade, an article of which states that such an agreement must cover substantially all trade, she noted.

"You can't [first] say 'I'm capturing all of this in a bucket.' And then 'We'll throw this out. We'll throw this out. We'll throw this out.' Then all of a sudden there's really nothing left in the bucket," said Cherniak. "There are always winners and losers in any free trade agreement. We have to give things up to get things."

Experts say significant political ramifications will be associated with altering or eliminating the supply management program, not just for the government but also for opposition parties should it emerge as an issue during the election campaign.

"The dairy lobby has probably been one of the most effective lobbies ever in Canada. It has managed

to maintain solid, all-party support any time it's come to a vote in the House of Commons," said Burney.

However, he added, while supply management is beneficial for the industries it protects because it provides almost a guaranteed income and shields participants from competitive pressures behind high import barriers, the program has not been good to Canadian consumers.

"If you're buying milk and eggs and whatnot in the grocery store, you're paying more than you would be in Australia, or New Zealand, or even in the United States, where these industries are less protected. That's the trade-off. And in all of these kinds of issues, the interests of consumers are never the driving force, because there is no consumer lobby that can be as effective at creating political pressure as a single industry or a single sector pressure group," said Burney.

Barutciski added: "We're helping a small, shrinking number of farmers to sustain high prices, but hindering a much bigger food processing industry that uses dairy products as inputs, that employs far more employees, and that has a very substantial export potential. So we're hampering ourselves on multiple fronts."

It may take some time, he said.

"One of the things that people have to understand is that this fast-track authority for the U.S. government isn't the final phase. It's really the beginning of the serious negotiations. We have a long way to go," Barutciski said.

### TPP's potential impact on international relations

If the dozen nations participating in Trans-Pacific Partnership (TPP) trade talks, including NAFTA partners Canada, the U.S. and Mexico, can successfully structure a deal on terms that each of the countries finds acceptable and which their various political entities endorse, it should generally have a positive, therapeutic effect on those international relationships, said Derek Burney, a senior strategic advisor with Norton Rose Fulbright in Ottawa.

"If I have a concern, it's that the Americans aren't living up to the obligations of the trade agreements they've already concluded. But at least we will not be alone in dealing with them [if] they take protectionist actions against Canada. We will have the other parties to TPP to give us extra leverage in expressing our concerns to the United States," Burney said.

Milos Barutciski of Bennett Jones doesn't think the economic and political pressures associated with TPP negotiations will affect working relationships between the participants. For example, between Canada and the United States, on a political level, there is some tension between the Canadian government and President Barack Obama's administration. But it has probably not affected the operations of the governments in a fundamental way, he noted.

"By and large the governments, which means officials, and departments at all levels, know each other well and work well [together]. As far as Mexico is concerned, I think you could probably say the same thing," said Barutciski.

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