

Canada- European Union Transatlantic Dialogue: Economic and Environmental
Transfers of Knowledge and the Case of the CETA Negotiations

by

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Supervisory Committee

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Abstract

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The Comprehensive Economic and Trade Agreement (CETA) currently under negotiations between Canada and the European Union is one of the first *next generation* free trade agreements. In this respect, it seeks to go beyond where other free trade agreements went. CETA will not only reduce tariff barriers but will attempt to tackle issues such as internal barriers to trade, uneasy market access, government procurement. Many scholars have attempted to uncover the special relationship that the policy fields of trade and the environment maintain. As a way to add to this tradition, this study seeks to uncover the dynamics of this relationship when taken in the context of a *next generation* free trade agreement. Based on interviews with key observers and an analysis of the literature, this thesis suggests that due to the different parties' current management of environmental protection, CETA could very well be one of the most environmentally friendly free trade agreement to date.

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Dedication

Pour mon père

‘Be the change you wish to see in the world’
Mahatma Gandhi

Chapter 1 - Introduction

Despite increased awareness in the past two decades about the consequences of human interaction with our environment; despite agreement amongst members of the United Nations (UN) Intergovernmental Panel on Climate Change on the importance and urgency of global environmental action, Russia and New Zealand, amongst others, have refused to participate in a second phase of Kyoto. Arguably more concerning is that Canada has withdrawn completely and that the United States has refused to ratify the treaty, arguing that emissions reductions are rendered ineffective as long as large polluters of developing nations, such as China, refuse to commit to concrete reduction targets.¹ As Peter Kent's (Canada's Environment Minister) declaration at the 2011 Durban UN Conference of Climate Change illustrates, the main reason for this refusal is often linked to the fear that an increase in environmental protection and regulation would threaten the well being of the country's economic growth.² For the last thirty years, however, the international community has increased its interest for the protection of the environment and has strived to find new ways to accommodate both the need for economic growth and the more internationally oriented goal of environmental protection. Within North America, one may argue that the North American Free Trade Agreement (NAFTA) illustrates this international push for sustainable development. In the very first line of its preamble, innovation and creativity are identified as one of the new tools

¹ The New York Times, http://www.nytimes.com/2011/12/13/science/earth/canada-leaving-kyoto-protocol-on-climate-change.html?_r=0, last consulted April 2013.

² During the conference Peter Kent declared that it would cost Canada close to \$14 billions to meet Kyoto's commitments. The New York Times, http://www.nytimes.com/2011/12/13/science/earth/canada-leaving-kyoto-protocol-on-climate-change.html?_r=0, Last consulted April 2013.

necessary for continued positive economic growth.³ NAFTA is not the only instance where an emphasis has been put on sustainable development. The European Union (EU), in its Energy 2020 platform also set out emphasized innovation, growth and environmental awareness.⁴

While some of today's major international actors fear that taking a stronger line in favour of environmental protection would damage their competitiveness on the greater international stage, many international agreements show clear signs that caring for the environment is one of their central priorities. This ambiguous behaviour by major international actors is at the very core of the issue under consideration in this study. In order to accommodate the aforementioned two crucial needs of economic prosperity and environmental protection, the concept of transfers of knowledge becomes central. It suggests that economic prosperity can be achieved in a manner respectful of the environment through the transfer of different types of knowledge. Such knowledge can be related to technical innovations (as suggested in the preamble of the above Free Trade Agreement), or to the different experiences acquired through previous FTAs, etc.

With the end of the Cold War, the world opened up considerably more than in the decades prior. The prosperity of one country became subtly linked to those of its major economic partners. As the economic downfall of the year 2008 showed, it is crucial for a

³ While NAFTA's preamble identifies the need for 'creativity and innovation' as one of its major goals, it soon stipulated that it should be reached both in a 'manner consistent with environmental protection and conservation' and ensuring sustainable development.

⁴ On its dedicated web page, the European Commission details its Europe 2020 Plan, and explains that the different EU 2020 priorities will include: 'smart, through more effective investments in education, research and innovation; sustainable, thanks to a decisive move towards a low-carbon economy; and inclusive, with a strong emphasis on job creation and poverty reduction. The strategy is focused on five ambitious goals in the areas of employment, innovation, education, poverty reduction and climate/energy.' http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/priorities/index_en.htm, last consulted April 2013

country to ensure diversity in its trading partners, so as to reduce the risk of economic distress in the event that one's main trading partner goes into default. This is particularly true for Canada, whose main trading partner, (accounting for 74.9% of its total export in 2010) remains the United States of America (USA).⁵ The 2008 global financial crisis, which strongly impacted the USA (among others), reiterated the need to start a new phase in trade diversification. For Canadians, this new phase had already started on December 19th 2002, when the federation began negotiating the possibility of a comprehensive free trade agreement (FTA) with the EU in a summit that took place in Ottawa, Canada's capital. However, it was not until 2009, after a summit in Prague, that negotiations for the Comprehensive Economic and Trade Agreement (CETA) were officially initiated.

If completed, CETA will create more than a free trade area. It will create a comprehensive *next generation* FTA. The essence of a *next generation* FTA lays in its

‘truly comprehensive agenda that focuses on non-tariff barriers in trade with goods and services, market access ... mutual recognition of regulations and standards, the radical opening of public procurement markets, issues of competition policy and intellectual property rights, tax and investment issues, as well as cooperation in arenas such as the environment and labour standards’ (Hübner 2011: 1).

Initially expected to be signed in late 2012, CETA negotiations are, at the time of writing, still ongoing. These negotiations bring together a multitude of actors. On the one hand, it brings together the EU with both its supranational institutions (the European Commission and the European Parliament) as well as its national actors (member states' national parliaments). On the other hand, it brings to the table the Canadian federation

⁵ Canada's State of Trade: Trade and Investment Update 2011, http://www.international.gc.ca/economist-economiste/performance/state-point/state_2011_point/2011_5.aspx?lang=eng, last consulted April 2013

(represented by its Minister of Foreign Affairs) and its thirteen provinces and territories (each represented by one ministry – in the case of British Columbia (BC), the Ministry of Jobs, Tourism and Skills Training is assigned with sending the province’s list of interests to the Department of Foreign Affairs and International Trade (DFAIT)). The inclusion of the provinces and the territories at the negotiating table is what differentiates CETA from former FTAs. It is the first time in Canadian history that the provinces are being included into the negotiations of a FTA. With CETA, the federal government cannot simply consult the provinces; it has to acknowledge a list of interests and concerns that each province has developed. As it will be discussed later on in this project, the provinces have mainly been included so as to ensure the implementation of the CETA provisions. However, with this major shift in Canadian politics, provinces are gaining more leverage at the federal level. Consequently, and provided the agreement is ratified, it will no longer be possible to consider CUFTA (the FTA between Canada and the United States of America (USA)) or its successor, NAFTA, the most comprehensive FTA ever ratified by the country. With this new parameter, CETA will have the opportunity to impact jurisdictions that previous FTAs could only dream to approach (Hage, 2011). If ratified, CETA will become the very first comprehensive FTA implemented by two developed countries (Leblond, 2012: 1).

As introduced earlier, both Canada and the EU have, in previous FTAs, underlined the importance of innovation and creativity to enhanced competitiveness. This tends to suggest that through innovation and technical advancement, a country could manage to accommodate its necessary need for economic prosperity. Building upon this idea, I decided to use the concept of transfers of knowledge to assist me in understanding the

concrete impacts these transfers could have on the improvement of environmental protection. By transfers of knowledge I mean the ability of two or more partners, through FTAs, to export more than goods and services, but also best practices and legislation that could ultimately contribute to better overall environmental protection, while being consistent with the contemporary need for economic prosperity.

The literature continues to be divided as to how free trade can help to improve environmental protection. For some, it has proven to be a great facilitator whereas for others, it is seen as a powerful obstacle to environmental protection. As Laurence Tribe already underlined in 1974, our societies continue to need a profound paradigm shift when it comes to valuing the environment and its protection if any substantial improvement is to be achieved (see chapter 3). As CETA has been described as the most ambitious FTA ever negotiated between two developed nations, and because these actors seem to see a positive potential for economic prosperity in innovation, I was interested in investigating whether transfers of knowledge could not only bring about economic prosperity but also help starting a movement towards more environmental protection. I therefore formulated the following two questions as the central two of this thesis: *what perceptions does society have of the transfers of knowledge that could occur with CETA? How could these transfers of knowledge impact BC's environment?* With the help of these questions I hoped to be able to gain a clearer understanding of the role transfers of knowledge could play in mediating our apparent need for environmental protection with our constant search for more economic growth. Through analysis of the literature on past FTAs, as well as the use of individual interviews with three different types of societal actors, I concluded that society is still divided when it comes to the positive impact of

trade on the environment. Nonetheless, the notion of transfers of knowledge was identified as an important variable in our societies' search for more environmental protection.

The remainder of this study is structured as follows. Before entering into the analysis of the topic, chapter two introduces my methodological framework including the different data gathering methods used for this project. It also examines the construction and content of my interview questionnaire, as well as the scope of this research.

Chapter three 'The Environment and Trade: An Issue Ever More Relevant' offers a stepping-stone for the rest of the study. It consists of a selected literature review on the relationship between the policy fields of trade and the environment. The analysis of some of the literature on this issue has yielded two crucial pieces of information. First, that since the 1970s, human societies have had a tendency to overlook environmental protection in the event it goes contrary to human needs. Second, and directly related to the previous point, a substantial change in our current societal values is necessary (Tribe, 1974). The question of how to bring about such a change in a world where wide spread globalization and emphasis on economic growth seem so important, becomes pivotal. Scholars are divided on the issue; some envisaging free trade as detrimental to environmental protection and others claiming the opposite.

Building on this literature review, chapter four 'CETA Related Fears: The Crosscutting Issues at the Heart of the Problem' examines in more detail the position of one of my interview groups, namely citizens' organizations. As their perception of CETA is mainly negative, chapter four focuses on analysing this perception in an attempt to mediate the different results yielded by the interviews.

Chapter five ‘Transfers of Knowledge: Interview Data Analysis’ is the heart of this thesis as it summarizes the main pieces of information gathered through the interview process. Divided into the two main features of this study (the economy and the environment), it examines the reactions given by the interviewees when confronted with the concept of transfers of knowledge. It is interesting to see that the same dissonance found in the literature was noticeable within my interview results. While all interviewees agreed that the concept of transfer of knowledge could be positive for the protection of the environment, they are divided as to what kind of transfers of knowledge could take place and what kind of influence CETA could actually have in this enterprise.

Following this analysis, chapter six, analyzes the different past FTAs signed by both actors in order to understand the different threats to the environment present in these agreements and pin point the reasons behind society’s position as to the impact of free trade on environmental protection. This analysis demonstrates once again the ambiguity behind this issue. However, it also underlines the appearance that society tends to develop the same types of fear when a new FTA is under negotiation.

A final chapter entitled ‘Conclusion – The Issue of Trust in Today’s Politics’ presents an answer to my initial research question in the light of the previous chapters. It also features a clear statement of how transfers of knowledge can help improve environmental protection. Finally, the chapter builds on the concept of trust in politics introduced in chapter six as well as indicating future possible research topics.

Chapter 2 - Methodology

2.1 The Approach

2.1.1 Why a Qualitative Research Approach?

[...] Qualitative researchers study things in their natural settings, attempting to make sense of or interpret these things in terms of the meanings people bring to them. Qualitative research involves the studied use and collection of a variety of empirical materials—case study, personal experience, introspection, life story, interview, and observational, historical, interactional, and visual texts—that describe routine and problematic moments and meanings in an individual's life' (Bryant and Peck, 2005: 99).

Conducting research is a complex exercise that requires following a set of rules in order to be fruitful. One of these rules is that researchers must decide on which existing types of methodology will best help them answer their research question. For this project I have chosen a qualitative research method as I find that it is best fitted to respond to my main research question regarding the perceptions society have on the potential transfers of knowledge that could occur with CETA. This method is interested in making sense of the meaning people give to certain events while recognizing the importance of the social context in which these testimonies were gathered. Both the complexity and richness of this methodology derives from its ambition to interpret the meaning of an empirical event while still remaining within the subjective realm of people's personal experiences.

As its name indicates, a quantitative approach, consists of a statistical, quasi-mathematical account of empirical events. Because this approach aspires to make sense of different professionals' opinions on FTAs, I decided that the qualitative path was more relevant to my goals and is best suited to yield crucial information and substantial findings. Dealing with free trade agreements very often generates fear and distrust on the

part of citizens that will have to live through the transition and change.⁶ The two concepts of fear and distrust pertain to the Kantian notions of ‘phenomena’ or perceptions, thus relating to emotions. Therefore, I felt a qualitative approach was best suited for this research project.

2.1.2 Why a Constructivist Methodology?

‘It is said of one who undermines the foundation of his house, he might know, *a priori*, that it would fall; that is to say, that he need not wait for the experience of its really falling. But still, entirely *a priori*, he could not know this; for even that bodies are heavy, and consequently, that they fall when their supports are taken away, must have been made known to him, previously, by experience’
(Kant, 1781: 4)

Knowledge is a social construction; we live in a socially constructed world where our experiences shape our knowledge. In an attempt to follow this methodological lens, I have decided use previous FTAs as tools to understand the perceptions society has on their ability to trigger transfers of knowledge. Another important facet of the constructivist approach is in understanding that a single event can be interpreted differently depending on personal experiences. I believe that our world is made up a multitude of truths. Since FTA negotiations have shown to be highly emotional events, it seems more to the point to address my topic through a constructivist lens.

‘The human mind imposes patterns on nature and the world. The implication, of course, is that we can never observe or know the Real World – ‘objectively’ as it were. [...] The only things we can observe are the perceptions of the World: how the

⁶ It was interesting to notice that, within the literature generated by citizens’ organizations free trade and international organizations were described as detrimental for the country. Especially when taken in the context of the liberalization of water services in Canada, citizens’ organizations initiated entire campaigns aimed at denouncing the potential threat brought about in this area by free trade. For more on this topic, see the council of Canadians’ campaign webpage: <http://www.canadians.org/water/index.html>

world appears to us' (Moses and Knutsen, 2005: 172)

This research is not about disagreeing that there is a Real World's truth out there needing to be found, but rather that each person may have a different interpretation of this truth. The world around us has many facets. One's interpretation of the world relates to the social forces that contributed to the construction of the said fact. Hence my interest in this study bases itself on the societal perceptions surrounding CETA.

The above quote from Moses and Knutsen illustrates the very reason I chose a diverse interview participants list. By choosing to interview a wider selection of participants, with each coming from different backgrounds, I am hoping to be able to paint a more accurate picture of what will most probably happen once CETA is implemented. Also, I hoped to be able to deal with the issue of bias through the use of secondary data. By looking at the different decisions that have been made in past FTAs I hoped to understand the different perceptions and position taken by the different representatives on my three interview groups.

2.2 The Methods

2.2.1 Why Interviews?

I chose to build my study around interviews for two different reasons. As it stands to date, very little has been written on the CETA itself. Apart from Dr Kurt Hübner's collection *Europe, Canada and the Comprehensive Economic and Trade Agreement*, which features only a small selection of chapters really covering CETA *per se*, there was

virtually no academic papers or books on this topic at the time of writing. Therefore, interviews seemed to be a pertinent information-gathering tool.

While researching the literature, I realized that FTAs have historically been perceived in a rather divided way, between those who believe they have a positive impact on environmental protection and those believing the opposite. Therefore, I became interested in investigating this division further through the use of interviews, which allowed me to interact with these issues in a more direct manner through one-on-one discussions. As the questions were asked to key government officials and were occasionally very direct, I had to take into account ethical concerns (such as confidentiality or anonymity). Engaging with human participants calls for a very careful management of the questionnaire as well as the interviews themselves. As such, I followed university policy to request permission from the University of Victoria Ethics Board to conduct my interviews. In order to obtain this permission I had to fill in an exhaustive application where all aspects of my research, as well as all the potential risks for the participants were identified. In this application, I outlined the methods that I would use to protect the confidentiality of the participants and their data. As my project focuses on an FTA still currently under negotiation, confidentiality was offered to the interviewees (who could then decide to waive the confidentiality if they so pleased) as a way to protect their identities so that they could speak freely to me during the interview.

2.2.2 Interviewee Selection: Finding the Right Person

Finding the right people to talk to was sometimes complicated. Nevertheless, with the help of the internet, the different members of my committee, as well as through the use of

the snowball technique, I managed to identify a number of key people I thought were important for the overall purpose of this study. Originally, I thought of interviewing fifteen people, but I had to review this number due to the difficulty in reaching certain individuals, or their unwillingness to answer my questions. Attending conferences also broadened my understanding of which people would be best suited for my research. Although there were only a few conferences on CETA,⁷ they introduced me to key actors, such as industry leaders, ambassadors, and ministry representatives. These conferences greatly opened up the interviewees' list, thereby allowing me to ensure that only the most relevant actors were interviewed.

For the interviews, three different groups of people were targeted. Group One included government officials and key political representatives (mainly ambassadors and civil servants). I expected this group to share with me their perceptions of the potential environmental impact of CETA for the province of BC.

Group Two contained citizens organizations' representatives. As my preliminary research showed, they depicted themselves as the main opponents to any sort of trade liberalization. I expected them to be representing the average citizen by voicing their perceived concerns about CETA. Therefore, they were seen as key participants in my search for a more citizens' oriented understanding of the impact of CETA.

Finally, Group Three comprised of industry leaders. They were seen as important players because of their more direct relationship with free trade. Gathering their perceptions about such an agreement was pivotal for a better understanding as to what is at stake.

⁷ For a list of the different conferences attended for this project, see appendix 1.

2.2.3 The Interview

Depending on the interviewee's location, interviews were held either face-to-face, over the phone, or with Skype, so as to reduce the cost caused by travel. For people leaving or working in Victoria, BC, I was able to conduct the interview either in their office or in one of the offices provided by University of Victoria's Political Science Department. For all interviews, it was essential to keep a very flexible schedule since the interviewees' availability was often restricted. The interview itself would typically take up to fifty minutes (depending on the participants' schedules) and would be audio recorded, provided the participants agreed to a recording.

2.3 The Questionnaire⁸

The questionnaire followed a semi-structured list of questions, thus allowing for a certain degree of flexibility during the process. It was important for me to find questions that would trigger some unprepared remarks or elaborations on the part of my interviewees. When dealing with such a secretive topic, as well as such an inclusive list of interviewees, I kept in mind two crucial elements. First, that people's pre-existing paradigms and assumptions resulted in people having difficulty being totally and wholeheartedly honest and objective. The second element related to the concern that key negotiators and political representatives would most probably be unable to share crucial details on an FTA that is part of a process of ongoing negotiations. The questionnaire

⁸ For a complete version of the questionnaire, please refer to appendix 2.

therefore needed to take these two parameters into account so as to be able to gather as much information as possible through peripheral questions.

To achieve this goal, I not only asked the pre-arranged questions, but also interacted with the interviewees to encourage them to share unprepared pieces of information. I also included questions that I initially thought could challenge certain interviewees, especially for citizens organizations (these questions often pertained to the potential advantages of trade liberalization). The answers to these questions positively challenged my initial subjective understanding of the topic. It also led me to a very important discovery that I did not consider in my thesis proposal; the importance of the concept of trust when it comes to political leaders and general politics. Citizens often do not fully trust the people they have elected to represent them. This variable points to the crucial ideas of (i) a democratic deficit and, linked to this, (ii) the Canadian claims around the inability of the voting system to actually represent the people. Though inspiring, these topics were not developed further as they represent a digression from the original purpose of this study.

2.4 Case Selection

The reasons behind this project's case selection have already raised certain concerns over its relevance. CETA negotiations are not simply another set of trade meetings between Canada and the EU. Because Canadian provinces and territories are for the first time present at the negotiating table, CETA is now creating closer connections between sublevels of governments that did not previously enjoy such a close relationship with free trade negotiations (such was the case for NAFTA). It is also important, however, to

discuss the reasons why I chose to focus on the province of British Columbia as well as the EU *as a bloc*, rather than one or more of its individual member states.

2.4.1 Why the European Union?

‘The European Union stands apart from other regions because it is involved in certain aspects of foreign policy, especially in the economic realm, *as a bloc* (Hülsemeyer, 2006: 365 – emphasis added). During their fact gathering visit to the EU, the Canadian mission concluded that ‘the Commission [has] a mandate to represent the interests of [the] 27 different countries. All representatives of national governments with whom Committee members met [...] said they have been adequately consulted by the EU Commission during the current negotiations and that the Commission’s mandate to negotiate had been approved by all 27 member states’ (Lee, 2011: 5). States have given the Commission their permission to negotiate on their behalf. As the treaties dictate, the EU has exclusive competence in all matters of trade but only shared competence regarding the policy field of the environment. As such, Thomas Fisher, using Steigenberger’s figures, highlighted that within the 500 legislative items that comprise the EU *acquis*, 75% of all the national environmental acts relates back to an EU directive (Fisher, 2009: 4). Some scholars have continued to describe the EU’s actual influence in the field of the environment as still unsatisfying. I argue, however, that the EU is slowly increasing its influence and, thus its leadership in this area. As the doctrine of *spill over* suggests, once the EU achieves in getting more power in one specific policy area, it tends to gain more and more power overtime. As ‘the environmental role of the EU has recently increased at the global level,’ it seemed relevant to look at the actual leadership role of the EU, and in this way, maybe

contribute to the current academic discussion on this issue. (Leontitsis, 2011: 459). In the event the EU's international leadership role in the area of the environment is indeed increasing, it seemed interesting to look at its impact on the Union's relationship with some of its trade partners. As the negotiations are taken care of on the European side by DG Trade, thereby creating a tacit link between environmental protection and the economy, it seemed more relevant to use a concept that could impact economic growth (such as that of transfers of knowledge).⁹

Some may argue that the reason why the EU is gaining more power in the area of environmental policy is because, following the intergovernmentalist theory, member states see a pragmatic, self-interested reason why they should let the EU hunt on their lands. However, one may argue that European economic integration has shown that the EU will increase its power whenever an opportunity arises. Indeed, the member states' reasons for joining the European Coal and Steel Community (ECSC) might have been motivated by rationalistic views, but they have led to a deepening of the EU's influence to finally reach full competence in all matters economic for the member of the Eurozone. One could therefore argue that the same situation could happen in the area of the environment.

2.4.2 Why British Columbia?

Since 2010, the province of British Columbia has been fighting against the Enbridge Pipeline (a pipeline that would run from Bruderheim, AB to Kitimat, BC in order to ship

⁹ EXIE (External Images of the EU) is a research project that puts together researchers from around the world, all representing either one of the BRICS (Brazil, Russia, India, China, and South Africa) countries or one of the major EU member states (in this case, Germany, the United Kingdom and France) in an attempt to understand the actual extent of the EU leadership in the area of energy policy. In this project, I am the researcher representing France.

oil to Canada's Asian Pacific partners). It has been arguably the economic project that has triggered the most opposition from British Columbians. During my research I frequently encountered how the EU was working on a Fuel Quality Directive draft, (FQD - a regulation that ambitions to rank the different type of oil extractions from the cleanest to the most damaging for the environment). This encounter assisted in the development of the idea that a positive transfer of knowledge could come from the EU to BC. This European directive, because it would acknowledge the negative effects of oil sands on the environment, could arguably help British Columbians fight against the pipeline. The fact it originates from outside Canada could serve as another argument for British Columbians to underline the position of the international community on oil sands. Canadian lobbies in Brussels have been working towards ensuring the FQD would not be ratified. However, as Chief Bill Erasmus, (Chief of the Dene First Nation) underlined in his interview to the EU online newspaper Euractiv, 'the whole issue of the European Union dealing with crude is very crucial not only to people here in Europe but to everywhere around the world. [The Dene First Nations is] very thankful that the EU is looking at this question because they are very cognisant of the fact that pollutants are affecting us' (Euractiv, 2013). This testimony underlines the idea that British Columbians could search for tools and solutions to some of their environmental concerns in the EU. In other words, the fact that BC happens to be located far from the EU should not dissuade people from using knowledge and tools developed on the other side of the Atlantic. The idea of including the Canadian provinces in the negotiation process was mainly a European demand (Hage, interview: 2012). Therefore, I became interested in understanding what potential this new

relationship (between the provinces and the EU) could hold, especially when take in the contexts of environmental protection and transfers of knowledge.

As chapter three will highlight, dealing with environmental protection today means dealing with issues that need to be addressed in a global and inclusive way; that is, all major international actors must be involved. On the one hand, the EU's competence in the area of trade enables the Commission to speak on behalf of the twenty-seven different nations. On the other hand, the Canadian federal government cannot impose complete implementation of international agreements' provisions on its provinces. As Martin Papillon and Richard Simeon underscored: 'while the federal government has exclusive jurisdiction over negotiations and ratification of international agreements and treaties, this authority does not extend to the implementation of provisions falling into provincial jurisdiction.' (Simeon, 2006: 16). It is the 1892 Maritime Bank Case that settled the issue in favour of the provinces, thereby making it impossible for the federal government to impose any international agreement provisions on its provinces. This crucial factor encouraged the EU to push for the admission of the provinces at the negotiating table, for without their consent, certain CETA provisions could become null and void (Malcolmson, 2005).

2.5 Limitations to the Study

Throughout my research, I could identify certain limitations to this study, the main one being that since the negotiations are still ongoing, a certain amount of secrecy lingers. In

this respect, many interviewees refused to comment on certain issues or to comment altogether, thus restraining the scope of my research.

Another limit is that when I was dealing with the interviews and interviewees, the notion of bias must be understood and accounted for. However debilitating this limitation might be, it is important to know that as a constructivist, I am aware of the complexity of the human mind and of the difficulty of reaching truly objective knowledge. Therefore, I understand that researchers coming from different backgrounds and methodological or ontological approaches might disagree with how I reached my conclusions (or the conclusions altogether). Selecting which facts matter in an effort to predict what perceptions Canadians have over transfers of knowledge, and how these transfers of knowledge may affect the environment, is a complicated and potentially controversial endeavour. I expect there to be a rich discussion as to the value that I placed on words and comments used throughout the interviews and how these perceptions were interpreted to predict how society will perceive CETA impacting the environment.

Though my original ambition was to investigate CETA's environmental impact on BC, I realized that such a prediction would require me to speak in very absolute terms; language that, I argue, is ultimately not reflective of the social realities of our society and the way in which evidence for CETA's impact can be collected. This relates back to my previous argument about the nature of qualitative versus quantitative evidence. To make concrete predictions as to how CETA may impact BC from an environmental perspective, I would likely have been required to place emphasis on quantitative evidence as well as minimize the social constructs regarding evidence collection. I argue that such

action would be inaccurate and my argument could be justified if it focused on societal perceptions of how CETA, if ratified, will impact BC's environment.

In this chapter, I have introduced my methodology, the different methods used throughout the study, as well as a justification for my case selection. In the following four chapters, I will present my findings and their importance for the field.

Chapter three will help uncover the extent to which literature can help us understand current positions and perceptions on the issue of the relationship of trade and the environment. This review only consists of a selected number of articles and books and was constructed so that a dialogue could take place between the different authors.

Chapter 3 – The Environment and Trade: An Issue Evermore Relevant

My preliminary research showed that the literature on the relationship between trade and the environment could be divided into three sub-areas. Two areas place this relationship in the context of international organizations and FTAs respectively. The third one refers to the different ways through which trade could be made more environmentally friendly. Each one of these sub-areas resembles a portion of this chapter. The first part refers to the relations between the new international trade order and the treatment of the environment while the second part refers to the relationship between bilateral trade agreements and the environment. The final part consists of a summary of the different ways through which trade could concretely help environmental protection. This literature review aims at identifying major contributions from past literature and aspires to build on these authors' teachings. It is crucial to keep two questions in mind while reading this chapter. First, what do we know about the interactions between trade and the environment? Second, how has the concept of transfers presented itself in the past?

3.1 The Environment in World Trade Organizations

The issue of achieving proper treatment of the environment without hindering a country's need for economic growth has been debated for decades. In his contribution to *The Yale Law Journal* Laurence H. Tribe (1974) published an enlightening article that focused on the shortcomings of environmental law in the mid 1970s. 'Ways Not To Think About Plastic Trees: New Foundations for Environmental Law' is more than a

legal work. It flirts with philosophy and offers a precious tool if one is to understand the reasons behind our contemporary struggle with environmental protection and the implementation of an efficient environmental law. What is interesting in this article is that this argument has not yet been invalidated by time. Through a meticulous analysis of past theoretical traditions, Tribe discovers the reasons for our mishandling of the environment, a concept he calls *homocentric behaviour*.

‘The emerging field of environmental law is being built on the basic platform of analytic sophistication in the service of human need’ (Tribe, 1974: 1317) Taking the example of the introduction of plastic trees and shrubs alongside a Los Angeles boulevard, Tribe expresses concerns at the attempt to quantify and impose human values on natural objects (plants, animals, etc.), what he coins as a translation of natural challenges into ‘dollar terms’ (Tribe 1974: 1319). Tribe goes further to argue that the logical evolution of society through time will bring a new set of environmental concerns and challenges. With the improvement of standards of living, citizens will be able to focus on what they used to envisaged as peripheral concerns before, such as environmental protection (among others). This new dynamic will profoundly modify societal values, thus changing ‘their character as a society of persons interacting with one another and with the natural order’ (Tribe, 1974: 1324). He argues that our value system must change if we are to avoid falling deeper into the abyss of homocentric behaviour.

If, for many, our political leaders, as well as our industry managers, are already manipulators, I argue that Tribe’s argument is only slowly entering our political behaviour. His contribution can be seen as a stepping-stone for the rest of our analysis. To investigate if a change in our values is indeed happening, one can study the dynamics

of world trade organizations and their actual impact on the environment. Such investigations allow one to draw an accurate picture of the advances that take place, as well as the challenges that still lie ahead.

In his book, *The Promise and Peril of International Trade*, Jeff Colgan argues that most of the environmentally oriented disputes brought before the World Trade Organization (WTO) have resulted in a victory for environmental activists. Such victories, however, were not due to the WTO's environmental friendliness but rather due to the state's ability to encourage change through rigorous (and sometimes unfair) trading practices. Refuting the *race to the bottom* theory, Colgan believes that trade can help the environment in two ways: first, by making it possible for countries around the world to exchange new technologies, (part of what I coined in this study as *transfers of knowledge*) which, in turn, helps control environmental externalities (such as global warming etc.); the second, by forcing older companies to change because:

‘free trade exposes these dirty, inefficient companies to the rigour of international competition, which forces them to either adapt quickly or go out of business. As businesses clean up their inefficiencies, they also tend to reduce their waste.’ (Colgan, 2005: 189)

For some, it seems clear that the reason behind the delocalization of factories and plants in Latin America, (for instance) where environmental protection laws are less stringent, has triggered a fierce *race to the bottom*. However, and as David Wheeler explains, ‘pollution control costs are not major determinants of relocation’ (Colgan, 2005: 189). Different studies have shown that there is more risk for the environment in closed rather than open economies (Colgan, 2005: 189). Colgan does not believe in a genuine environmental-friendliness of the General Agreement on Tariffs and Trade

(GATT) and later on WTO, but rather in a potential international incentive to *green* one's economy in order to be more competitive.

One may argue that the exchange of technologies Colgan is talking about can hardly be considered as an efficient answer to environmental externalities. If only finished goods are being exchanged, the potential for enhanced environmental protection is jeopardized. However, this is where the concept of transfers of knowledge as well as the comprehensiveness of CETA become paramount. As CETA touches upon issues of government procurements and free movement of workers in both parties involved, it could create a fertile terrain for ideas and visions to be developed and shared. Rather than sharing older technologies, there would now be possibilities for knowledge to be shared before hand.

The chapter goes on into a detailed explanation of different WTO cases that were seen as environmental landmarks, such as the United States (US) tuna-dolphin or shrimp-turtle cases. Colgan argues that the United States' claims were primarily interested in environmental protection and that the WTO Appellate Body's decision protected trade more than it protected the environment. He discovered that by threatening their closest trading partners with embargoes and trade barriers, the US triggered a movement of environmental change (especially in Japan) where endangered species were granted increased protection. Colgan does not believe that these changes came directly from the WTO, but rather indirectly, through an illegal trade sanction imposed by the US (also referred to by others as eco-imperialism). The sanction was later discarded by the WTO but it remained clear that certain US trading partners decided they had more to lose by not complying with US standards than in relying on a WTO decision. Colgan thus

concludes that 'anti-globalists continue to point to the *shrimp-Turtle* case as evidence that international trade cannot be reconciled with environmental objectives. Nothing could be further from the truth' (Colgan, 2005: 197).

One may find that the WTO favours anti-environment decisions. This is, I argue, a generalization that fails to understand the WTO's mandate. The GATT/WTO system was created in an attempt to regulate a new trading system that generates interconnections in every country, regardless of their size or wealth. This new system needed a referee that would ensure that wealthier and larger countries (such as the US) do not take advantage of their situation and impose unfair trading sanctions on their partners, or impose technical barriers to trade while claiming it is for environmental reasons. This argument would probably be discarded by environmental activists as strongly conservative in nature, but Colgan still showed that regardless of the WTO decision, America's claims still had a positive impact on global environmental protection. Colgan demonstrates, that on issues such as dolphin hunting, the USA took a very powerful leadership role and that this role pushed some of its trading partners to change their practices. Instead of waiting for the WTO's decision on the issue, countries like Japan somewhat changed their practices. Colgan therefore argues that, be it for real environmental concerns or for protection's sake, what previous WTO vs. US challenges have shown is that when the US decided to take a leadership position on an environmental issue, change was triggered even if the final WTO decision was not in favour of the US.

What Colgan failed to address, however, is the issue of a nation state's concrete autonomy when it comes to the unilateral introduction of environmental protection rules.

With different layers of regulations overlapping each other, can a country really have a say in its own environmental protection?

Eric Neumayer attempts to answer this question. While understanding the importance of the WTO, Neumayer aspires to investigate the complex and intertwined legal orders of national and international systems and questions whether this new international order leaves enough room for countries to act unilaterally upon environmental issues that would affect their own nation-state. For Neumayer,

‘it is important to note that a country which has imposed a trade measure for environmental reasons in violation of its WTO obligations cannot be forced to remove this trade measure. On the contrary, it can maintain its measure if it is willing to compensate its trading partners which are negatively affected by the measure, or if it is ready to endure retaliatory trade sanctions’ (Neumayer, 2001: 120)

While these types of decisions are costly, the validity of the argument remains. If a country is really motivated by environmental protection, then paying more or facing sanctions should be an issue. Consider, for instance, the very long battle that the EU has been engaged in regarding meat hormones.¹⁰ The EU has faced sanctions, embargoes as well as fines, but is still fighting for its right to not take any risks when it comes to the health of its citizens. The main reason for the EU’s motivation has to do with its value of the precautionary principle. Even though pure motives are rare in politics, they surely do happen. In the EU, the main motive when it comes to this agriculture/environmental issue, relates to the importance of valuing scientific proofs over political pressures. In the case of the beef hormone, or the use of Genetically Modified Organisms (GMO), the EU is constantly challenged, both at home and abroad, by interests that want it to change.

¹⁰ DG Health and Consumers,
http://ec.europa.eu/food/food/chemicalsafety/contaminants/hormones/aspects_en.htm

Though it may be less expensive for the EU simply to change its laws, it has not been identified by leaders as enough of an incentive. Without incentive, change often does not happen. I think it is important to keep in mind that simply because WTO members settle for some of the decisions taken does not mean that the WTO has the authority to undermine state authority. Some may argue that because the financial sanctions are so high, this constitutes an undermining of state authority. Such a position, however, fails to base itself on the real essence of what the WTO can or cannot do.

This being said, it is unfortunate that Neumayer's argument overlooks the ultimate goal behind environmental protection in our present era. Environmental issues require worldwide action if any one country wants to be more environmentally friendly. By arguing that fines and money preoccupations should not be a factor, Neumayer is dismissing an entire category of less wealthy countries that are struggling to enact environmentally friendly regulations for fear of WTO sanctions (that are primarily financial in nature) that they will not be able to cover.

Steve Charnovitz also weighs in on this issue in his article, 'The WTO's Environmental Progress,' where he attempts to give a brief summary of the different steps in the trade/environment debate within the WTO. Charnovitz argues that the creation of the WTO lays out 'the earliest green fundamentals of the trading system' (Charnovitz, 2007: 686). While this would represent an important step towards the change of values that Tribe was taking about in 1974, other commentators have responded to this claim of Charnovitz that put the GATT/WTO on a rather high pedestal.

In this respect, Colgan has commented on this so-called groundbreaking aspect of the GATT/WTO identified above by Charnovitz. He explains that these organizations can

only be recognized as the greenest ever because they were the very first to acknowledge environmental concerns. Since the establishment of the WTO, Colgan sees that nothing of substantial importance has been put in place towards environmental protection. This critic, however, fails to concede that a change in values and mindsets take time. Creating an international economic order that would have room for the treatment of the environment was indeed a substantial step towards slowly changing human beings' values, wants and needs. Unfortunately, for many authors, these slow changes do not show favour towards environmental protection; to a certain extent, these critics have the merit to keep academics alert and productive.

In his article 'World Trade Rules and Environmental Policies: Congruence or Conflict?', John H. Jackson also attempts to make sense of the environmental protection and trade paradigm. His article aspires to be more of a scientific inquiry into what he sees as a profound policy discord. The innovative stand in this article relates to the fact that this long lasting opposition between the two policy fields is essentially counter-productive and misplaced for 'both groups will need the assistance and cooperation of the other group in order to accomplish their respective policy objectives' (Jackson, 1992: 1228).

For him, the conflict rests on a basic paradox. With the end of the Cold War and its obsession with national security, trade interdependence intensified and the two policy fields of trade and the environment developed strong value differences, even when taken in the same context. Through a detailed analysis of GATT's rules and past cases, Jackson found that 'the GATT relatively easily accommodates national government environmental regulations that concern the characteristics of imported products'

(Jackson, 1992: 1238). Jackson does not dismiss the concerns raised by environmental policy advocates, but rather divides these concerns into two categories. First, how much leeway will the GATT/WTO give to national or sub-federal units when deciding on new environmental regulations? Second, what will be the amount of latitude that these same organization will give nations that want to implement higher environmental standards?

For Jackson, the answer lies in the complexity of GATT 'Article XX 'General Exceptions' which [includes] important provisions that override other obligations of the GATT under certain circumstances' (Jackson, 1992: 1239), thereby hypothetically allowing countries to find loopholes in the regulation and use it to their advantage , thereby potentially disregarding environmental protection. Through an exhaustive description of part of Article XX, Jackson comes to the realization that the complex relationship between trade and the environment leads to both congruent and conflicting results.

Many of the authors introduced in this review have taken the same position. They are leaning towards envisaging trade as a potential ally for the environment and its protection, but they also make it a point to highlight the fact that world trade policies and environmental policies sometimes do conflict. However, 'this conflict is not substantially different from a number of other areas where governmental policies have to accommodate conflicting aims and goals of the policy makers and their constituents' (Jackson, 1992: 1256). Jackson, as many of the authors discussed here, believes the rhetoric used by environmental policy advocates is far from being constructive.

The system we live in today is such that certain rules must be obeyed in order for the overall system not to stall which, in turn, would stall every policy area, even potential

progress within the environmental field. People have the right to oppose the system as it is today, but unfortunately economies are, at present, so interconnected (some even argue interdependent) that the choice to return to a more isolationist strategy would undermine both the ability to act together on international environmental issues and the potential return upon interests triggered by the pulling of global knowledge and technological advancements. The French language uses the word *alter-mondialiste* to characterize people who want to change the system and, as great as their claims may be, they are overlooking the promise of international trade to encourage a fruitful exchange of best practices. I argue that one can change the system more efficiently by working within it rather than against it.

This first section has suggested that the culture that inhabits international organizations has slowly changed throughout the years to incorporate more clauses that aim at protecting the environment. However small and slow these advances are, it does not change the fact that they are starting the formation of a new culture and new philosophy from within international organizations, thus starting a movement of value change just as Tribe suggested in 1974. One can argue that world trade organizations (the WTO particularly) do not have the hidden agenda to destroy environmental protection at any cost like some may argue. It might not be motivated by the best interests (or the interests environmentalists would like industry leaders and politicians to portray) but it arguably seems to be slowly working nonetheless.

Some may very well argue that motivations are irrelevant to this issue, preferring to value the importance of the concrete effects of FTAs' tribunals on behaviours. However, what I am attempting to show in this study is that motivations are indeed pivotal. As

introduced above, some WTO decisions are two-sided: at first, it looks like the WTO took a stand against the protection of the environment, but some of these decisions have triggered (even if unknowingly) a change in trade practices around the globe, as the Dolphin case testifies, thus placing motivations of countries and individuals at the centre.

3.2 The Environment in Free Trade Agreements

After the stalemate of the WTO multilateral negotiation process, many countries decided that a bilateral approach to trade was needed to maintain positive economic growth. Some have even argued that it is one of the reasons why Canada and the EU started negotiating CETA. One question, however, remains: can bilateral negotiations threaten a country's right to unilaterally implement environmental regulations that threaten free trade? Some argue that the introduction of yet another layer of regulations could have an impact on the treatment of national environmental demands.

In another chapter of Colgan's book, he attempts to unravel the meaning and impact of certain NAFTA tribunals' decisions. He concludes that, even though 'some of the facts demonstrate clearly that environmentalists are over-reacting,' the NAFTA tribunals have a tendency to undermine environmental protection through their emphasis on trade (Colgan, 2005: 167).

What Colgan illustrates is the essential dichotomy within NAFTA. Should it be considered a central piece of environmental action or a strong opponent to environmental protection? One may argue that it would be unfair to dismiss NAFTA's influence in raising awareness on environment related issues simply because it was done under

political pressures. Even though the power of the NAFTA monitoring agency is debatable, it is still important to underline the related consequences that its creation triggered, namely, more environmental awareness on the part of citizens. Interestingly, this coincides with what Tribe identified in 1974 as a crucial need in society: a change of values.

Once again, I argue that NAFTA tribunals only pursue the mandate they were given and work towards eliminating technical barriers to trade, as was the case for the Canada versus MMT-Ethyl case. However harmful this substance may be, the behaviour of the government of Canada has been even more so. In this case, the Canadian government acted in a manner disruptive to trade by prohibiting the import of MMT-Ethyl (then mainly exported by the US) for environmental and health claims (Colgan, 2005: 168). I would argue that the emphasis put on the environmentally disruptive facet of the NAFTA tribunals' decision covered the government of Canada's bias. While claiming environmental protection, it was later found that the real reason behind the government of Canada's behaviour related to the need for protection of Ontario's automobile industry (Colgan 2005: 168-69). The MMT-Ethyl case is a good example of the NAFTA tribunals' central interest in ensuring a level playing field in this new globalized world; there were no intentions to ignore environmental concerns. As I have started to explain above, motivations are central here. By concealing its real motive, the Government of Canada has jeopardized the validity of claiming environmental protection in a NAFTA challenge. I argue that for a world like ours to function, we need a referee. Like in a game of hockey, this referee is sometimes going to make calls that are controversial but, nonetheless, without this critical actor on the ice, an organized game cannot be played.

The hockey referee can also, in the image of the trade tribunals, sanction players in a way that can seriously damage both their reputation and financial stability (as it is the case when players are forbidden to play for several games.) The same applies to our world order. Without international tribunals, trade relations would be transformed into a pure game of influence, power relations, and ultimately chaos. In a world like ours, where countries are so deeply interconnected, it is crucial to be able to count on an institution that would regulate trade and ensure that smaller players have a voice. With no referee to regulate trade behaviours, our impact on the environment could potentially be more destructive than today. My argument is not to say that both international and bilateral trade agreements are perfect in their treatment of the environment. Though one may agree that tribunals are necessary if states are going to sign free trade agreements as comprehensive as NAFTA, they may argue that such agreements are not necessary. It is difficult, however, for one to argue that globalization and a systematic reduction in trade barriers are not occurring at an exponential rate. As such, if a state wanted to ensure protection of the environment through different means than trade tribunals, it would be vital to ensure that a significant portion of the global economy is on board. The political and economic consequences of changing the direction of economic globalization could potentially lead to a stagnation of prosperity which would, in turn, lead to less concern over the environment. Such a radical change in direction is daunting and unlikely to occur in the future.

As touched upon earlier, with the improvement of standards of living (through economic prosperity and growth), citizens have had the opportunity to reflect upon certain societal values and get more involved on issues pertaining to the protection of

their environment. As Russell Dalton explains, ‘younger generations raised in the later twentieth century are shifting their social and political values away from the materialist and security concerns of the past—economic well-being, economic security, and personal safety - to a new set of *post material* values. [These values] emphasize goals such as protecting [their] quality of life [...]’ (Dalton, 2004: 98). Because FTAs improve economic prosperity, they also give citizens the opportunity to focus on different problems in society (such as the environment) and act upon them (Neumayer, 2001: 105). By creating an interconnected world, I argue that both bilateral and multilateral trade is doing more towards environmental protection than one might think, even if only for political reasons.

James E. Bailey would disagree with this statement. He argues that ‘the experiences of both [the] US and Mexican industry indicate that environmental protection through economic growth is not the wisest choice’ (Bailey, 1992: 874). He believes that NAFTA was never intended to help environmental protection, even if it is the first agreement that features a side deal completely devoted to the environment. For him, ‘separate but parallel [deals] is not equal to single and consistent’ (Bailey, 1992: 846). While the entire article is strongly against the idea that NAFTA is good for the environment, Bailey does not dismiss the possibility that NAFTA *could* be good for the environment if a few changes occurred, reinforcing the idea of a possible change in societal values. His solutions are as follows: (i) industries must be forced to envisage economic growth and protection of the environment on the same level, (ii) sanctions for countries that ‘attempt to lure businesses and investment by lowering its environmental standards’ have to be

created and, finally, (iii) the dispute resolution process must be amended to allow for more openness and transparency (Bailey, 1992: 878).

While most of these solutions make sense it seems that Bailey overestimates the concept of transparency taken in the context of political and legal action (especially when it comes to negotiations). I argue that there are crucial reasons behind the political need for secrecy. If the dispute resolution process was more open people would get involved and potentially endanger the ability to reach an outcome by stalling the decision process. I argue that, along with many of the authors discussed here, the WTO and the different FTAs have had a positive effect on the inclusion of environmental concerns in the new world order's rules. They have started a movement (however slow) towards the inclusion of environmental issues on their political and policy agenda, but more importantly of value changes where one considers the environment more seriously. Let us now explore the literature that relates to the concrete ways through which both world trade organizations and FTAs actually make trade greener.

3.3 Greening Trade: An Environmentally-Friendly Economic Growth

Perceptions differs between some activists and a certain number of scholars on the issue of the positive effects of trade on environmental protection. These scholars have taken on the challenge to explain how these positive effects concretely occur. For instance, Eric Neumayer, (a strong advocate of the concept of greening trade) argues that trade liberalization benefits the environment in three major ways. First, trade will trigger a more efficient allocation of resources. Following David Ricardo's comparative

advantage theory, trade would automatically force countries to reorganize their goods production so that they can be more efficient.

‘The beneficial environmental implications of production following international differences in comparative advantage are often not explicated, but they are rather obvious: if goods and services are produced according to comparative advantage, then scarce resources are not wasted and no environmental pollution is *unnecessarily* created. If countries, because of trade restrictions, produce goods in which they do not have comparative advantage, then the same amount of goods and services could be produced with less natural resource input and environmental pollution output’ (Neumayer, 2001: 103).

The second benefit he identifies directly relates to the concept of transfers of knowledge. For Neumayer, more trade means a more rapid entry of modern technologies on the international scene. Through new technology development, he argues that each country will be able to access new ways to improve environmental protection while continuing to maintain positive economic growth. Though some may argue that an increase in trade will lead to an increased carbon footprint, thereby mitigating this increase in efficiency, such an argument fails to recognize the different types of trade that occur through a comprehensive trade agreement such as CETA. While trade in goods and services may increase a state’s carbon footprint, transfers of knowledge and technologies occur with minimal carbon emissions. As Livio Nichilo has suggested during his interview, by providing for an easier movement of professionals between Canada and the EU, CETA could potentially help BC’s emissions output since it would allow for a better agglomeration of knowledge and innovations. After all, ‘trade liberalization is like a whip that forces a country’s producers to stay abreast of the latest technological advances’ (Neumayer, 2001: 104). To illustrate his point, Neumayer gives the example of the wood-

pulp and steel industry where it has been proven that ‘trade-oriented countries are more likely to adopt and diffuse cleaner technologies than protectionist countries’ (Neumayer, 2001: 104).

The third benefit is economic growth in general. At first, many might think that economic growth is exactly what hinders environmental protection. Neumayer argues, however, that the benefits yielded by the environment via this growth far outgrow their potential disadvantages. As was the case in the post-materialist discussion previously, ‘rising income individuals might demand more and more environmental protection’ (Neumayer, 2001: 105). With rising incomes, a movement towards new preoccupations, values and mindsets starts. When individuals are struggling to make ends meet, it is less likely that they will focus on the quality of the environment (such as the way food is produced). Because better quality products and environmental protection often costs more, it is thus more likely that, with rising incomes, people will move from a subsistence-based thought process towards a more holistic environmentally protective one (Inglehart, 1990). Neumayer also develops a few other benefits brought about by trade liberalization, including freer flowing information about environmental practices and separation of industries to avoid further damage. He also alludes to the *California effect*, therefore helping us understand *how* trade can very seriously be seen as a benefit to the environment

The *California effect* was coined by David Vogel in his book *Trading Up: Consumer and Environmental Regulation in a Global Economy*. For Vogel, there is a plethora of examples pointing towards the idea that more trade liberalization does not threaten the environment. He even goes so far as to argue that even with an intensification of trade,

countries still possess enough discretion to enact stricter environmental rules. Therefore, ‘while [American] states do compete with one another to attract investment, they have generally not chosen to do so by lowering their standards for environmental or consumer protection. On the contrary, many state standards are stricter than federal ones’ (Vogel, 1995: 255). Subnational governments throughout the world have experienced the same change (Canada is cited here). Vogel admits that some trade-offs will have to take place but he dismisses the claim that such trade-offs would have a negative impact on any governments’ discretion to enact stricter environmental rules. One may notice that relatively affluent nations continue to be able to afford compliance to stricter regulatory standards. For instance, ‘environmental control costs comprise less than two percent of total production costs for most US industries’ (Vogel, 1995: 258).

The *California effect* directly answers the *Delaware effect*. While the latter claims that trade liberalization provoked a general movement towards lower regulatory standards (a *race to the bottom*), the former maintains that environmental regulation is stricter than it used to be. The *California effect* was ignited by the 1970 US Clean Air Act amendment (CAA) that permitted California to enact stricter emission standards than the federal ones. This gave the state enough leverage to start pressuring neighbouring states and foreign countries to adopt the same scheme through a *de facto* trade pressure. After the CAA, in order to access Californian automobile market, many countries had to change their regulations, thus decreasing their overall environmental footprint. It is crucial to keep the example of the *California effect* and its repercussions on the automobile industry for the rest of our study. Indeed one can see the potential for a *California effect* from the EU to

the province of BC when it comes to the very controversial Enbridge Pipeline (chapter five).

One possible criticism to Vogel's article relates to the fact that this *effect* only applies to process-based products and not to actual international externalities, such as global warming, oceanic fisheries, or water pollution (to only name a few). While this criticism is valid, Johannes Urpelainen developed a mathematical model suggesting that the *California effect* also applies to international externalities, as long as economic interdependence is strong enough (otherwise, the temptation to free riding nullifies its benefits). With deep interdependence, 'a government can facilitate technological development in the foreign country, so as to credibly commit foreign governments to environmental regulation in the future' (Urpelainen, 2011: 172). Urpelainen argues that for the realization of the *California effect* on international externalities, three elements have to be in place. First, every environmental regulation has to provide an international good that free riders can also enjoy. Second, these regulations must promote clean technology. Third, these changes should create an incentive for countries to engage in environmental protection because it brings something to their economy, thereby creating a virtuous circle that pushes towards more environmental protection laws.

At first, it seems that Urpelainen's model strictly contradicts the idea that countries which really care about the environment will agree on WTO sanctions. However, a closer look at both arguments highlights a new dichotomy. In the area of environmental protection, international trade organizations rules can trigger two different reactions. First, and as in the case of the beef hormone or GMO ban in the EU, the motivations of citizens to see some of their environmental concerns respected within the broader

international system could be strong enough for the country in question to respect them. Second, if the citizens' motivation is either lacking or only nascent, the use of economic incentives could very well (as Urpelainen argues) be the actor of change. The idea of the importance of political motivation (be it purely political, economic, or genuinely concerned with environmental protection) remains, here again, pivotal.

This literature review allowed me to become aware of one interesting factor: many authors are not firmly set in their argumentation and their perceptions of the benefits of trade for the environment varies. Many scholars concede that, as with any complicated matter, the issue of the relationship between trade and the environment is not linear. They find examples that contradict my initial assumptions. Nonetheless, improved environmental protection through trade liberalization happens slowly. Today, it is rather unlikely to see a revival of isolationist behaviours. I see these slow improvements as positive and fostering change over the long run. The rest of the study will show that CETA has the potential to be positive for environmental externalities (in part through technological and knowledge transfers). I believe CETA will encourage an acceleration of the movement towards more environmental awareness in trade. It is in light of the aforementioned contributions from the literature that begins chapter four.

Chapter 4 – CETA Related Fears: The Crosscutting Issues at the Heart of the Problem

It was clear throughout my interviews that citizens organizations were sceptical as to the potential environmental benefits brought about by trade in general and CETA in particular. However, when asked about the potential for transfers of knowledge CETA could cause, Stuart Trew (a Council of Canadian's CETA campaigner) agreed that though transfers could take place, it was too early to pin point which one during the interview. Some may argue that the concept of knowledge transfer is, in itself, an obvious social fact. I argue however, that if they were so, it might have been easier for him, or any other of my interviewees, to give concrete examples.

In addition, secondary data analysis showed that some activists do not believe in the power of FTAs to help with environmental protection. In a panel discussion at the University of Victoria on March 23rd 2012, MP and Leader of the Green Party of Canada, Elizabeth May, refused to see any positive outcome for the environment through CETA. However, she has stated in her platform that 'focusing community economic development and investment towards clean technologies and services is both smart economic development strategy and a superb investment opportunity,' asserting that 'green technology has been called the greatest business opportunity of this century' (May, 2012).¹¹

One may argue that the contradiction between her words at the UVic panel and her political platform highlight a profound distortion between the needs (as identified by Ms

¹¹ Ms May has since been invited to comment on this topic, but mainly because of time constraint, an interview could never be officially settled.

May) and the ends to meet them. She recognizes the need for the development of green technology but refuses to look at the CETA trade deal as a potential path for improvements. This dissonance is at the heart of this current chapter, which argues that the different perceptions citizens' organizations portray regarding trade form a barrier to the potential benefits that could be brought from an increase in transfers of knowledge by ratification of CETA.

To support this argument, I first develop a summary of the different fears that have been identified around the discussion on CETA, both in the interviews and in the secondary data. These will be analysed, both in terms of their potential environmental impact and in parallel with NAFTA, so as to see if patterns can be discovered. This preliminary analysis will show that the potential threats to the environment could come from indirect paths. I decided to call this type of threat *cross-cutting issues*. Finally, I draw conclusions from activists' reluctance to concede CETA as a viable path towards sustainable development. The ambiguity portrayed below is but a reminder of an underlying finding from this study, namely, that our societies need a grand paradigm shift towards acknowledging FTAs as a possible solution for environmental protection.

4.1 The Environment in CETA related Fears

Throughout my research, the data collected showed that there is a substantial imbalance between the Canadian and European public opinion on CETA. Its leaked documents have highlighted that both Canada and the EU have been willing to discuss the opening of public procurements in the sector of public utilities, which has initiated

two strikingly different reactions on both side of the Atlantic. While in the EU there has been close to no public attention on CETA and its potential consequences for the environment or for any other sector in Canada, some activists organizations (such as the Council of Canadians) started a strong campaign against the agreement.¹² This campaign has been built around what is believed to be on the negotiating table. The notion of threat and fear, when related to CETA came out strongly during the interviews; by activists (for whom CETA is seen as a threatening FTA), or by government officials (who attempted to dismiss them), the notion was still one of the most visible throughout the study. The following chapter will consist of an analysis of the different threats identified by activists, along with the relevance of their claims about CETA.

4.1.1 Identifying the Fears and Analysing their Relevance for Sustainable Development

The Council of Canadians (CoC)¹³ was created in 1985 in an attempt to bring ‘Canadians together to act for social, economic and environmental justice, [...] in Canada and all around the world.’ (Council of Canadians, Home Page). Under the leadership of Maude Barlow, the CoCs was founded in strong opposition to the first FTA between Canada and the US. Sceptical about FTAs in general, it believes that such deals impact economic governance by giving the private sector (what they refer to as ‘the 1%’) too much power over the rest of the citizens and thus potentially harming Canada’s distinctive Canadian interests. Through their anti-CETA campaign, the CoC issued

¹² During the process of interviewee selection, I attempted to reach several EU professionals and scholars. While they acknowledge having heard of CETA, they did not feel they knew enough on the issue to be interviewed.

¹³ See <http://www.canadians.org/>

different pamphlets and published different essays that are seen as crucial for their fight against CETA. The following few paragraphs dive into a description of the threats developed in their pamphlet titled ‘Top 10 Reasons Why CETA is Bad for Canada.’ Since this thesis focuses on the environment, however, only the threats that have an impact on the environment will be reviewed.

Threat 1: public services

‘The CETA threatens to privatize and deregulate many of our public services. In fact, everything could be up for grabs, including municipal water systems, electrical utilities – even our mail delivery!’ (Council of Canadians, 2011: 1).

To a certain extent, as for many FTAs, the opening of negotiations and discussions on the issue of public services management always triggers a substantial amount of stress on the part of activists. However, and while the threat is present, it is the way the issue is explained to the Canadian public that is somewhat fallacious. Indeed, as the very concept of negotiations entails, its scope is extensive and its logic, exhaustive, in order to settle every single issue that could arise. However, as each party was allowed to develop a list of untouchable services, I argue that it is incorrect to claim that public services are ‘up for grabs.’ They might be in theory, but not in practice. During her interview, Janel Quiring (From the BC Ministry of Jobs, Tourism and Skills Training) explained that in the efforts of both parties to reach comprehensiveness, the provinces and territories were offered the possibility to develop a list of public services, and of issues in general, that they did not wish to negotiate upon. In addition, and as it will be developed later on, the issue of the privatization of water services is a non-issue in the context of CETA.

Within the area of public services, those which have been identified by the CoC as bearing potential environmental risks are: water services. However, during her interview

with me in April 2012, Jessica Pfeffer (BC Ministry of Environment's senior policy advisor) announced that water services were off of the table. A few months later, a leaked document from the EU showed that water services had indeed not been negotiated (European Commission, 2012). While this omission is envisaged as a major success by activists, it emphasizes an interesting facet of our society, which had already been identified by Ms Pfeffer: trust in politics. It may be worthwhile noting that I gathered this information months before the documents were leaked simply by asking questions and placing a certain amount of trust behind the answers that I was given. Activists, on the other hand, refused to settle for this answer. This situation reflects the state of our societies, and perhaps also our democracies, when it comes to trusting the people we elect to represent us. After years of disenchantment with the political gentry, one can hardly be criticized but this distrust still carries consequences, as people are now less eager to believe those in favoured positions, even though their motivations could be genuine.

Threat 2: decreased local job creation

‘During economic hard times, we expect our governments to use our tax dollars to create jobs and business opportunities in our local communities, provinces and territories ... by deciding to purchase the goods and services they need (also called procurements) from local companies’ (Council of Canadians, 2011: 1).

The opening of government procurements to sub-central entities (in this case, the Canadian provinces) is a novelty within Canada. Indeed, ‘in the Government Procurement Agreement (GPA), there had not been any sub-central coverage until 2011 [nor is there any no coverage] at the local level’ (European Commission, 2012). The EUKOR FTA was one of the first to carry this provision.

For many Canadians, the opening of government procurements is seen as a threat because it would prevent governments from discriminating between local and foreign companies and thereby potentially harming their job market.

Government procurements (discussed in detail later) have been identified as being one of the fears that could trigger indirect environmental damage as foreign companies could take possession of Canadian utilities and manage them in an unwanted manner. There are three different domains under which the negotiations, as of November 2012, were still in a stalemate: ‘public urban transport, the regional economic development clause, and energy generation’ (European Commission, 2012: 7). As far as energy production is concerned, whereas ‘the EU is ready to grant full and unrestricted access to Canada, ... Canada deliberately keeps the energy sector for the end game’ (European Commission, 2012: 7). This variable will be discussed later as it could very well be harmful to the environment.

Threat 3: water

‘EU trade negotiators have requested that drinking water services be included in CETA, opening the door for large European multinational water companies to stake a claim in Canada’s public water systems’ (Council of Canadians, 2011: 2).

This long lasting issue of water management in Canada has once again been brought back onto the international stage within CETA negotiations. As the above quote underlines, the issue that citizens’ organizations have with water services relates to privatization that could lead to mismanagement. This could work against a proper environmental protection.

Oddly enough, where water was identified as an issue for activists, it was clearly identified as a non-issue by Ms Pfeffer, senior policy advisor for the BC Ministry of Environment. She took the liberty to introduce a fundamental idea surrounding CETA, and international free trade negotiations in general, whereby citizens elect their representatives based on a political platform but refuse to trust that the party will take the right decision once elected. While she did not dismiss the importance of political awareness in the part of citizens, she claimed that the lack of trust in political leaders is probably a major factor in explaining why so many citizens in Canada are uneasy when a new FTA is lurking at the corner. However, she failed to underline the different threats to water services management that arose with NAFTA and may very well be the reason why citizens' organizations are unwilling to trust government officials' claims that water services will not be privatized by CETA. One may suggest that this issue could also be extended to perceptions of knowledge transfers, where citizens' perceptions over trade have been tinted by NAFTA.

In addition, the fact that current BC Premier, the Honourable Christy Clark, has not been elected by the entire population but rather through a by-election decreases the overall legitimacy of her government, and by extension, the decisions it takes.

Threat 4: environment

‘CETA will allow transnational corporations to ignore or challenge our environmental regulations, and it will impede our government’s ability to make new ones’ (Council of Canadians, 2011: 3)

This fear is crucial in understanding the reason for this study. While reading through the CoC’s document, I quickly realized that there is misunderstanding as to what the EU stands for, in terms of environment, in the minds of some Canadians. Compared to other

developed nations, EU environmental laws and regulations are very comprehensive, both in their scope and their impact. One could argue that this comprehensiveness in terms environmental protection is due to the current structure of the European Union. Since environmental law is dictated mainly by the Union's institutions, one could argue that it is harder for companies to find loopholes, or for member states to play against each other. The policy field of the environment is somewhat more integrated in the Union than it is in Canada.

In order to understand this claim, one may draw on the concept of elite socialization. Once individuals have found employment within the EU Commission, they generally lose their sense of national attachment to take on a more European centred behaviour (Carsten Stroy Jensen, 2010: 77). This has, in turn, allowed for a strict supranational management of issues that impact the Union as a whole. Commissioners have shown great leadership in sanctioning member states whose behaviour is disruptive, not only to trade, but to any of the EU's fundamental laws.¹⁴

Let us take a hypothetical situation, where after the ratification of CETA, BC was to implement an environmental law that could potentially threaten new economic rights granted to European companies. As environmental law is not as integrated in Canada as it is in the EU, it is not uncommon to see provinces competing with each other, as it is the case right now in BC with the issue of the local carbon tax, leading to less robust environmental protection due to the economic harm that results from more ambitious

¹⁴ The reaction and sanctions lead out by Viviane Reding, vice-president and commissioner responsible for justice, fundamental rights and citizenship, over French President Nicolas Sarkozy's attempt to chase the entire Roma population off the country for so-called security reasons, is a prime example of the might Commissioners very often have over member states when it comes to having EU fundamental laws respected.

action.¹⁵ This political reality, combined with the EU's use of the precautionary principle has potentially created a situation that is not present in NAFTA; it is more likely that the implementation of a new environmental law in BC would resemble a similar law already in place in the EU, thereby undermining a European company's claim of lost profits since their actions would run contrary to local law. Even if this were not the case, one could argue that the EU's use of the precautionary principle equips BC with more opportunities to refute an EU claim of environmental reduction than does NAFTA.

Unfortunately, progress on an environment chapter in CETA has been 'lagging behind, mainly because Canada, as is the case in many commodity-rich countries, is more defensive of environmental issues' (European Commission, 2012: 14). What are the consequences of such lateness? I will discuss this issue later on.

Threat 5: indigenous people's rights

'CETA would undoubtedly run up against Indigenous rights as all trade agreements do, by giving corporations added powers to get their way, developing where and how they want' (Council of Canadians, 2011: 4).

One of my interviews with a federal government official has unfortunately given grounds to this potential threat. When asked to share something about CETA that the questionnaire would have left out, this official declared that Canada's management of First Nations concerns and interests during the negotiations had been lacking. This contribution points to the potential environmental risks CETA could trigger if indigenous land rights and general rights are not upheld.

Threat 6: democratic rights

¹⁵ On April 29th 2013, the four candidates engaged in the BC leadership race held a televised debate where the issue of the carbon tax was debated, and its supposed effect on the fact British Columbians apparently leave the province for Alberta.

‘If our governments, which we elect, can’t regulate on our behalf, or use our tax dollars to support our local economies when needed, all due to trade rules that put corporate rights first, then CETA is actually a threat to our democratic system’ (Council of Canadians, 2011:4).

Once again this example returns to the concept of trust in world politics. The feeling of not being represented by leaders that have been democratically elected is a crucial element of this study. This perceived inability of governments to use tax revenues toward Canadians seems to be one of the main reasons why CETA is not seen as a good agreement for the CoC. However, these societal perceptions differ from what past comprehensive FTAs have put into place (especially the EU-South Korea FTA). As chapter six will underline, one may claim that CETA’s potential impact on local businesses, jobs, and environmental protection is unlikely as there will be provisions allowing provincial governments to opt for national and local alternatives when contracting companies.

The Council of Canadians’ opinion on CETA is rather negative. Cartoons in their pamphlets portray a Manichean world where big companies are attempting to hurt the people’s desires. One may argue, however, that such a perception of CETA oversimplifies the issues at stake within the proposed agreement. What the analysis of this pamphlet suggests is that more than one identified threat could impact the environment. However, if one is to search into previous FTAs to investigate whether such fears were identified and how they actually evolved over time, they would likely yield interesting information regarding the relevance of this pamphlet. Can NAFTA teach us something about the possible environmental outcomes of CETA ?

4.1.2 NAFTA Related Fears and the Environment

According to different restricted documents leaked out of the EU, the policy field of the ‘environment was lagging behind [for quite some time], mainly because Canada, as [with] many commodity-rich countries, is more defensive [when it comes to] environmental issues’ (European Commission, 2012: 14). Remembering NAFTA and its environmental side deal, one can only wonder whether this state of play in the area of the environment signifies that CETA will have to develop the same side deal or if Canada keeps environmental issues on the back burner to use them later in what is referred to as *end game* negotiations. What were the NAFTA related fears when it came to the environment?

When asked to elaborate on the CoC’s position on trade, Stuart Trew explained that the CoC has fought against NAFTA for a plethora of reasons, with not all these reasons linked to the agreement’s environmental impact even though it was part of the campaign. For others however, ‘it is clear that NAFTA does nothing directly to weaken environmental standards ... Potential environmental objections to NAFTA must be based on the adverse impacts that trade liberalization has, directly or indirectly, on environmental amenities’ (Globerman, 1993: 297). Indeed, ‘the existing arguments about NAFTA necessarily contributing, directly or indirectly, to a further degradation of environmental amenities is both simplistic and arguably incorrect,’ thereby justifying the need to analyse these NAFTA fears to see the potential parallel with CETA (Globerman, 1993: 309). There seems to be a stark division between the different perceptions society can have towards FTAs and their impact on the environment.

As far as the environment is concerned, proponents of NAFTA, both in Canada and the US, agreed that it was the most important environmental piece of legislation, at the time. As Ambassador Carla Hills explained in 1993, it is the 'greenest trade agreement ever negotiated' (Hufbauer, 1993: 93). Hufbauer and Schott go even further and explain that:

'NAFTA explicitly addresses environmental issues in four chapters: sanitary and phytosanitary measures, standards-related measures, investment, and dispute settlement. Most of the language in these chapters relating to the environment is either new to trade agreements or clarifies ambiguous provisions in GATT articles and codes' (Hufbauer, 1993: 93).

NAFTA's environmental provisions were not only contained in the main document, but also within the North American Agreement on Environmental Cooperation (NAAEC). Its main objective was to 'foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations' (NAAEC, 1990: 1). As far as best practices and transfers of knowledge in the field of the environment were concerned, one of the NAAEC's objectives was to 'promote sustainable development based on cooperation and mutually supportive environmental and economic policies' (NAAEC, 1990: 1). NAFTA's side deal, as well as the agreement itself, therefore feature several objectives that prescribe better environmental protection. Do these objectives, however, translate into actual environmental protection or are they only politically correct statements in an era when sustainable development is of concern?

Many continue to argue that NAFTA has placed restrictions on Canada's ability to enact healthy food and environment standards. As it had been introduced in chapter two, different fears are generally perceived by society whenever a FTA is being negotiated. NAFTA was no different and the fear of down harmonization became one of the main

issues at the time, especially when dealing with Mexico (a country believed to be far less interested in regulations, be it for environment reasons or for labour laws). Indeed, many thought that environmental standards among the three partners would be harmonized to the lowest common denominator (in this case Mexico), thus endangering environmental protection for economic purposes.¹⁶ What happened, however, was quite intriguing. As some have shown, Mexico has generally improved its environmental standards since the implementation of the NAFTA (Colgan, 2005: 175). This prediction was already introduced by Michael Hart and Sushma Gera in 1993, when they explained that Mexico found the ‘key ingredient in [their] long-term approach to environmental protection’ through NAFTA (Hart, 1992: 231). Mexico seems to have taken advantage of its new economic growth to adapt its environmental standards. I argue however that what this situation underlines is that FTAs can trigger a movement of harmonization that is not based on a middle ground between parties, but rather the size population and economy. In the case of NAFTA, for every one step that the United States took towards Canadian standards, Canada took ten towards the US. Since many saw the US as having lower environmental and consumer standards than Canada, this process could be referred to as a down harmonization. However, it is important to keep in mind that harmonization that factors in the population and gross domestic product of a country does not always mean down harmonization.

One may argue that this is the case for CETA. In this agreement, the EU is the bigger market of the two. Following previous FTAs’ logic, Canada will most probably have to adapt its standards to that of the EU, who can arguably be described as having sturdier

¹⁶ Michael Hart and Sushma Gera, (1992), ‘Environmentalists worry that any efforts to achieve harmonization or acceptance of equivalence will lead to acceptance of the lowest common denominator. Experience to date suggests that such fears are unwarranted.’ p. 223

environmental laws, thus creating a movement of harmonization up. The example of EU enlargement and its impact on the environment helps to substantiate this argument. At the time Greece and Spain entered the Union, their environmental laws were not as developed as that of the EU. Following the concept of conditionality, they had to adapt their environmental policy to accommodate the EU's higher standards.

The second area that was perceived as potentially destructive is contained in NAFTA's chapter eleven, also referred to as the *state-to-investor* chapter. What a short analyses of the issue shows is that, once again, society's perceptions over this chapter are divided. For the Canadian Centre for Policy Alternatives, chapter 11 is a:

‘clause that gives foreign investors the right to sue governments directly for compensation for immediate or even future loss of profit caused by public interest laws. Chapter 11 is a serious threat to the ability of governments at all levels to pass laws or adopt policies that serve the public good.’¹⁷

However, for a think-tank such as NAFTANow, chapter eleven is seen as ‘establish[ing] a mechanism for the settlement of investment ... [in a] both equal and non-discriminatory [way] among NAFTA investors.’¹⁸ It is complicated to discriminate between these two perceptions. However, they help understand that potential attacks to the environment can arise from FTA chapters that do not look like they are a threat, at first. CETA has been described over the years as the most comprehensive FTA. One can therefore wonder whether this comprehensiveness could prove to be a drawback?

¹⁷ Policy Alternatives, ‘Lessons from NAFTA: The High Cost of ‘Free Trade,’ http://www.policyalternatives.ca/sites/default/files/uploads/publications/National_Office_Pubs/lessons_from_nafta.pdf, (last consulted December 2012)

¹⁸ NAFTANow, http://www.naftanow.org/dispute/default_en.asp, last consulted December 2012

4.2 CETA's *Crosscutting* Issues at the Heart of the Problem?

When looking at the prediction made by different sections of the society concerning CETA, it seems that some of the main issues relate to the opening of government procurements (on the Canadian side) and agricultural monopolies. I consider them to be *crosscutting* issues because they do not threaten the positive ratification of a potential environment chapter within CETA in a direct manner but rather through indirect paths, thus making it more complicated for the general public to identify them as a potential threat or, for the segment of the population that does, perceives it as a threat. In this part, I will analyse their actual threat potential while paralleling them with the concept of transfers of knowledge so as to attempt to understand whether these crosscutting issues could really be destructive. Many commentators have argued that because '[...] NAFTA rules are so comprehensive, the [Canadian] central and provincial governments had to change a myriad of existing laws' (Clarkson, 2002: 5). With CETA's open invitation to the provinces, it is very likely that many more changes will have to place. However, will these different perceived threats really lead to a negative impact on the environment or is there a possibility for enhanced sustainable development?

4.2.1 Government Procurements and Their Environmental Impact

The opening of sub-central government procurement has been one of the new characteristics of *next generation* FTAs. They are meant to 'ensure that government decisions regarding the purchases of goods and services do not depend upon where the

good is produced or the service rendered, nor upon the supplier's foreign affiliations,'¹⁹ thus decreasing opportunities for local companies in what is perceived as a legitimate discrimination in tender races. Before FTAs opened up the area of government procurements, central and sub-central levels of government could decide to choose local companies over international ones. The system has not changed *per se* but with the opening of the market to foreign companies, two types of fears arose. First, and coming from the awarding country, a fear that more efficient (and more financially efficient) companies would get all the contracts thus threatening the health of the job market in the home country and, second, a fear coming from the foreign companies that without proper regulations, governments would discriminate in favour of local companies. Government procurements can thus be identified as yet another non-tariffs barrier to trade, hence threatening the viability of an FTA.

The main issue with the opening of government procurements for the CoC relates to job losses as well as decreased economic growth triggered by a substantial arrival of less expensive goods and services on the Canadian market. One may also argue that such considerations do not only stop at labour concerns, but also fail to take into account the potential environmental threat that could arise from opening contracts to outside companies. In his paper to the Centre for Civic Governance, Steven Shrybman touches upon the issues left out by the CoC. He argues that through the opening of government procurements within CETA 'municipalities would lose one ... perhaps the most important tool they [have] for stimulating innovation [...]' (Shrybman 2010: 4). Contracts are generally chosen because they are more competitive (competitiveness in

¹⁹ Global Trade Negotiations, Center for International Development at Harvard University, <http://www.cid.harvard.edu/cidtrade/issues/govpro.html>

money, time etc). Therefore, one could make the case that the opening of government procurements to companies from outside Canada bears a very real risk for the environment which, in turn would question the concept of sustainable development and of the ability of *next generation* FTAs to make environmental protection one of their main concerns. Let us therefore go into detail and see if such a scenario is plausible within CETA.

The WTO Government Procurement Agreement - to which both EU member states and Canada are signatories - provides us with the Appendix 1, Annexes 1 to 4, where each signatory country develops a list of government owned entities that will be open to foreign contracts or bids. As far as Canada is concerned, CETA ambitions to allow foreign bids on a substantial number of sub-central entities' projects. This document shows, however, that opening one country's procurements to foreign bidders does not automatically mean that the country will be completely defenceless. During the negotiations, both the federal government and the provinces have a chance to put limits and exceptions on the sectors of their choosing.

This also helps one to remember the actual significance of negotiating. It appeared in the interviews, and the different articles and blogs visited, that society's perception of FTA negotiation tended to discard what the essence of negotiations is. The essence of negotiations is to negotiate. This does not mean that one actor will have to abide by the other parties' slightest desires but rather that a game of trade-offs will take place. Within the GPA, for instance, and as far as Canada is concerned, thresholds were put into place for sub-central government entities. These were 355,000 Special Drawing Rights (SDR)

for goods and services and 5,000,000 SDR for the construction industry.²⁰ Procurements open to foreign contractors can only be open if they are *above* these amounts. Indeed, ‘each Party's Appendix I Annexes also specify the threshold value *above which individual procurements are covered* by the Agreement’ (emphasis added).²¹

The potential risks that have been perceived by some (mainly that everything within a province will be open to EU contractors and that competition will provoke a loss of jobs, a loss of sovereignty and a loss of environmental standards) is therefore not relevant as many of the procurements in municipalities and local governments are not as expensive as the threshold introduced in the WTO agreement.²² In his 2010 study (introduced above) Shrybman argues that the arrival of EU companies in Canada could hurt municipalities’ potential to impulse innovation and technological advancement towards sustainable development, hence refuting the potential of the concept of transfers of knowledge. He then develops a list of different provincial environmental legislation and initiatives that may be negatively impacted by CETA, but quite ambiguously concludes that ‘one of the ironies here is that Ontario (and its Green Act) is in many ways following the lead of European countries’ (Shrybman 2010: 9).

The fact that certain Canadian provinces already seem to be following the lead provided by European member states and the EU in general could point to the fact that

²⁰ “The SDR is an international reserve asset, created by the IMF in 1969 to supplement its member countries' official reserves. Its value is based on a basket of four key international currencies, and SDRs can be exchanged for freely usable currencies. With a general SDR allocation that took effect on August 28 and a special allocation on September 9, 2009, the amount of SDRs increased from SDR 21.4 billion to around SDR 204 billion (equivalent to about \$310 billion, converted using the rate of August 20, 2012).” <http://www.imf.org/external/np/exr/facts/sdr.htm> (last consulted December 2012)

²¹ The Plurilateral Agreement on Government Procurement, http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

²² For more detailed information, see:

http://www.eucanet.org/index.php?option=com_content&view=category&layout=blog&id=25&Itemid=74

CETA might not actually trigger as much of an environmental uproar as NAFTA did, or what citizens' organizations perceive. One can therefore argue that CETA might only make this knowledge sharing easier and potentially improve the overall environmental situation of both parties.

In this section, I have shown that as far as competition in the government procurements is concerned, environmental melt down is unlikely to take place. I argue that CETA could bring about a more stable job market and economy overall, as well as an influx of innovation for the benefit of sustainable development. However, can we draw the same conclusion in another competition based area?

4.2.2 Agricultural monopolies

In the dairy sector, the main threat evolves around the end of the supply management system (SMS). The SMS is a system through which farmers are guaranteed a set price for their production. Quotas are set so that a certain amount of milk can be produced each year that will be guaranteed a stable price, thus offering farmers a real tangible profit on their production.

'In Canada, the broiler hatching egg, chicken, dairy, egg, and turkey industries operate under national supply management systems ... The amount of each commodity that is marketed by producers is controlled through a quota system. The volume of the commodities imported into Canada is limited by tariff rate quotas, under which very high tariffs are applied on imports above a specific level. By matching the total supply of the product available in Canada with the market demand, supply management systems aim to provide efficient producers with fair returns

and to provide Canadian consumers with an adequate supply of the product at reasonable prices.²³

The very essence of this system conflicts with the idea behind an FTA. On the one hand, an FTA aims at increasing market access for the parties involved. The SMS on the other hand, aims at placing quotas and higher tariffs for foreign goods. In limited documents leaked out of the EU (dated October 2012), the Canadian refusal to break apart their SMS has been perceived by EU negotiators as a strategic move through which the Canadian federal government would be keeping this issue for the *end game* negotiations.

Because the issue of geographic indicators has previously been identified as a point of discord between the EU and Canada (leaked documents), one could imagine that Canada would like to negotiate on this issue through acceptance of lower SMS quotas in favour of the EU's desires. This argument, while hypothetical, helps keep in mind the essence of negotiations. Negotiations are about exactly what the word refers to – the opportunity to negotiate. Janel Quiring's perception of the issue of SMS within CETA was very interesting in this respect. She argued during her interview that CETA will not alter the Canadian SMS (even though she personally would like it to end), but rather force Canada to review its quotas. The same idea was developed by Dave Eto (BC Dairy Association's CEO), who expressed that the potential end of the SMS would have a terrible impact on Canada, but who did not perceive this potential end to be near.

Opening SMS to EU exports would be a great opportunity for EU producers that are barely represented in the country and could be an exceptional opportunity for BC

²³ Supply management system, <http://www.omafra.gov.on.ca/english/farmproducts/factsheets/supply.htm>, 2010

producers to develop a stronger market. British Columbia has developed a local cheese industry and could take advantage of the geographical indicator to reach better international market integration. For Mr Hage and Ms Quiring, the worst that could happen to the SMS would be a review of its quotas for imports of European dairy. With CETA, these quotas could be increased, but the jeopardy of the entire system does not seem to be on the agenda.

One can easily understand the uneasiness behind any FTA negotiations. Their secrecy and the dynamics of trade-offs can sometimes seem unfair or harmful. However, in a world where increased competition seems to be the end goal, well-established systems, such as the SMS, may have to be reconsidered. This corresponds to the perceptions of some of my interviewees who argued that it is becoming primal in our societies to adopt a consistent behaviour. In fact, if one is to engage in open trade and FTAs, they might have to reconsider certain structures that are in opposition with the idea of open trade (such as the SMS). Following the idea that FTA negotiations are about negotiating, other interviewees argued that there could be room for adaptation and flexibility, and that this room might help preserved important programs.

4.3 Conclusions

In many of the cases underlined in this chapter, one could clearly see that the fears over CETA are based on a perception of the world that is, in many respects, contradictory to the paths that rich developed nations are taking. Some interviewees have perceived this radical change in society as a major threat to people's quality of life. But one may argue

that the perceived negative impact on the average Canadian's quality of life is perhaps somewhat unfounded. The average Canadian, rather, may find improved economic growth as well as improved access to innovation and technological sharing beneficial. It may be true that after NAFTA was ratified, some people did have to face tougher competition, but one may argue that this competition created a situation where consumers enjoyed greater control over the price of goods and, in turn, over their spending power. These benefits, as I have attempted to show throughout this thesis, may be the most powerful way to get citizens involved in the protection of the environment, as the post-materialist theory suggests.

As perceived by some, the threats brought about by CETA could have detrimental consequences on the oldest and more established industrial systems. However, if one is to focus on the benefits related to increased economic growth on today's societies, (as identified in this chapter) CETA could provide increased economic growth that will ultimately benefit a wider range of people and will, in turn, help the development of more environmental awareness on the part of citizens.

Chapter 5 – Transfers of Knowledge: Interview Data Analysis

‘British Columbia’s wind turbines are proving popular for purchase in the United Kingdom. This year, Surrey-based Endurance Wind Power finalized seven new deals to export their advanced wind turbines to the UK and today’s works with a total of ten UK distributors.’²⁴

Endurance Wind Power’s July 2012 business deal underlines that ‘British Columbia is a world leader in environmental technology. As for many western European countries, ninety percent of BC’s total electricity generation comes from a renewable source of energy [...]’²⁵ placing the province of BC at the heart of Canada’s environmental protection. Ratifying a comprehensive FTA with the EU could intensify this nascent and potentially profitable exchange of technologies and best practices. When dealing with two crucial environmental players, one can only hope that the interconnectedness brought about by an FTA could create enough incentive for them to start exchanging ideas and best practices. Some may argue that in a society where money and profits are often the main incentives to trigger change, it would be interesting to alter the current mindset some have whereby the protection of the environment is a low profile investment. I argue that because CETA could enhance the exchange bridge that has already taken place between the EU and Canadian provinces, the incentive to invest in environmental protection could grow and help change the current environmental situation. One can even go so far as to argue that with intensified market openness, both parties could gain access

²⁴ <http://www.britishcolumbia.ca/sectors/SuccessStories/Pages/EnduranceWindPower.aspx>, last consulted October 23rd 2012.

²⁵ Ibid.

not only to different people, but to different perspectives that could eventually modify our understanding of the profitability of investing in sustainable development, thus making the most out of the concept of transfers of knowledge. During my research it was brought to my attention by a CEO whose company is focused on renewable energy, that the main challenge he is faced with everyday is the simple fact that for environmental protection to become a priority, a concrete financial incentives have to be put into place. I therefore argue that one of the ways through which this incentive can be made visible could be through transfers of knowledge of all types (technical, legislative or scientific). I argue that, because a radical change in the world order does not seem to be approaching, one has to work within the system to develop new strategies that would combine respect for the environment and a tangible incentive for influential people to act.

In doing the research for this thesis, it was important to keep in mind my focus on society's perceptions over FTAs. Realizing the potential importance of transfers of knowledge within FTAs, I decided to run this concept through my different interviews and see what perceptions were at play in this area. Throughout these interviews, two different types of transfers of knowledge were identified: economic and environmental. Those transfers were, however, not tightly linked to pure technical innovation but rather to a broader definition of the concept of knowledge. The following chapter details interviewees' perceptions and ideas around the concept of transfers of knowledge. The focus of this chapter has been to investigate interviewees' perceptions of the different kinds of transfers that could take place. For confidentiality reasons, some of the interviewees will not be named.

5.1 Economic Transfers of Knowledge

Economic transfers of knowledge were only identified by interviews belonging to either Group 1 (government officials) or Group 3 (industry leaders). It is important to acknowledge that the concept of transfers of knowledge, for both the economic and environmental fields, was very well received by all interviewees. However, issues arose when they were asked to elaborate on and give examples of the different transfers of knowledge they thought could unfold through CETA. Unfortunately, while Group 2 (citizens' organizations) agreed on the probability of the concept taking place through CETA, most could not elaborate further on what kind of transfers of knowledge could take place. Two common ideas, however, were identified and found relevant when it comes to economic transfers of knowledge.

5.1.1 Negotiating a Next Generation FTA

One federal government official shared an exclusive anecdote concerning the way the negotiations were taking place between Canada and the EU. According to this official, the EU chief negotiator would have asked his Canadian counterpart why Canada insisted on being so ambitious. The EU negotiator then outlined that the Union is offering Canada what it offered all its third world partners through the General Scheme of Preferences (GSP). Infuriated by this comment, my interviewee shared this anecdote in order to underline the often overlooked but well supported idea that 'Canada is a free trading nation.' For this official, my previous claims, as well as some of the questions in my interview schedule (mainly discussing the idea that the EU has been engaged in *next generation* FTAs for quite some time while Canada has not), were representative of

‘gross generalizations’ generally made by Europeans. However, for this government official, nothing could be further from the truth. This interviewee argued that the major transfer of knowledge that could take place through CETA is for Canada to teach the EU how to properly negotiate trade deals with developed countries.²⁶ The official claimed that the EU has been misrepresenting Canada within these negotiations, and that the reason for this might be because the EU is used to negotiating FTAs primarily with developing nations.

To build on this idea, Janel Quiring, senior policy advisor for the BC Trade, Jobs and Tourism Ministry explained that many provinces (especially BC, Alberta and Saskatchewan), have gained great knowledge in trade agreement negotiations (mainly through the different inter-provincial negotiations they are engaged in and, in the case of BC, the Internal Trade Agreement negotiations). For her, this experience has been transferred into a real knowledge and has given the province of BC the experience in voicing its interests, especially when it comes to the area of the environment. Jessica Pfeffer, senior policy advisor for the BC ministry of Environment, also explained that the province is taking advantage of the knowledge accumulated through former international and national trade agreements (such as understanding the importance of vocabulary in defining provincial interests that other actors would understand and recognize) to ensure the proper management of CETA’s negotiations. Ms Pfeffer acknowledged that one of the main issues for the BC environment ministry during negotiations was that different partners use different words to speak of different concepts, events, and issues. The knowledge BC has gained through trade discussions with its others partners helped to

²⁶ Both quotes were direct quotes from my interview with this government official.

realized that common language is needed to improve environmental protection within the jurisdiction of the two partners.

These different testimonies highlight that transfers of knowledge in the field of FTA negotiations can occur in two different ways. First, transfers of knowledge from the different FTAs previously negotiated. Second, the area of competition, where knowledge could be transferred and arguably lead to improved environmental protection.

5.1.2 Competition

The second economic transfer of knowledge identified through the interview process relates to the notion of competition and market access. This potential transfer was identified by four different interviewees, all coming from groups one (government officials) and three (industry leaders). This transfer contrast with the one identified earlier which envisages Canada as a free trading nation. For Robert Hage (former Canadian Ambassador to the Czech Republic), Livio Nichilo (Chief Executive Officer (CEO) of Internat Energy Solutions), Janel Quiring (BC ministry of Jobs, Tourism and Skills Training), and Kathleen Sullivan (Executive director of the Canadian Agri-food Trade Alliance), some of Canada's trading practices are ancient and opposed to trade. For these interviewees, more competition through enhanced market access in Canada is necessary.

The Supply Management System (SMS) was perceived as the main culprit. With the opening of borders and the lowering of tariffs brought about by any FTA, many interviewees were hopeful that the EU might find a way to relax the Canadian system of monopolies. However, and even though Mrs Quiring would have liked EU negotiators to be more aggressive on this issue, she argued that any radical change to the supply

management system is more likely to come from the currently negotiated Trans-Pacific Partnership (TTP).

Perhaps not surprisingly, during my interview with Dave Eto (CEO of the BC Dairy Association), he advocated for the SMS to be left untouched. Issues of prices and productions that happened both in the UK and in France (considered two of the leading EU member states) are for him examples of the misconceptions behind free trade, the main one being that FTAs work for the consumer. He argues that while helping consumers' spending powers, FTAs often disregard the need for protection of certain vulnerable markets, such as the dairy industry. However old and unappreciated the SMS is, he believes it is a necessary tool for the prosperity of Canadian dairy producers. As mentioned earlier in this paper, however, if CETA impacts the SMS, it will likely be in a progressive manner, thus allowing this sector to transition towards a more competitive, market driven model.

5.1.3 Harmonization

For Group 3 interviewees, and especially Livio Nichilo, the main benefit that CETA would trigger would be a potential harmonization of building codes and accreditation standards, for engineers. Differences in codes and standards are widespread between the different provinces, resulting in extra expenses. The EU has a lot of experience when it comes to harmonization and standardization, and even if these two concepts generally trigger fear amongst citizens organizations, it would also mean a great deal of savings for provincial governments, as well as, one may argue, for the private sector.

5.2 Environmental Transfers of Knowledge: CETA, A Door Opener for Agri-Environmental Safety

Economic transfers of knowledge to and from the EU were not the only type of transfers to be identified. In the field of the environment, two different transfers were singled out by two of my interview groups (Group 1 and 3).

5.2.1 Growth Hormones in Meat Products

The Canadian meat industry is one of the biggest industries in the country, exporting almost half of what it produces. It is therefore a priority for beef and pork producers to have access to the entire EU market and its 500 million consumers.²⁷ At a conference in Toronto in February 2012, Kathleen Sullivan delivered a presentation in which she explained that without an agreement on beef and pork exports, the two provinces of Alberta and Saskatchewan will not agree to implement CETA regulations.

Kathleen Sullivan declared that the issue of beef and pork exports has been one of the main stumbling blocks during these negotiations. Indeed, if one looks at the international media it seems that CETA has not yet being signed because the negotiations on agricultural products and markets have not yet been settled.²⁸ Many commentators have suggested that such a delay was mainly due to the European refusal to import meat that has received an injection of growth hormones. However, Kathleen Sullivan and Maurizio Cellini (Head of the Economic and Commercial Affairs, Delegation of the European Union to Canada) voiced a sharply different opinion. Their perception of the issue

²⁷ For more information, see http://europa.eu/legislation_summaries/consumers/index_en.htm

²⁸ For more information on this issue, see Rabble.ca, February 2011, <http://rabble.ca/blogs/bloggers/council-canadians/2013/01/canada-eu-final-push-trade-deal-latest-investment-chapter-s>

focuses less on the issue of growth hormone injection but rather on European quotas for imported meat. Sullivan and Cellini argued that beef and pork producers in Canada are not satisfied with the size of the quotas the EU is willing to negotiate on and are, at the time of writing, still reviewing proposals in this issue. Coming back to the idea that society's perceptions over free trade often relates to the fear of a 'free for all' system where increased competition could jeopardize the stability of the job market, what Sullivan and Cellini's opinions highlighted is that the CETA will not challenge the very existence of this system but re-evaluate the level of its quotas.

While this information helps one to understand the reason behind the apparent stalemate of negotiations on this issue, it also underlines an important potential transfer of knowledge that would come from the EU and be driven by economic desires. According to these interviewees, Canadian producers already started raising hormone-free cattle for the simple economic reason that the incentive to sell to the EU is now strong enough to provoke a change in the producers' attitude. Also, the size of the European market and the prospect of its opening to Canadian products was enough to trigger a change in Canadian production of meat.

This apparent agreement between Canada and the EU also relates to the idea introduced in chapter three, that states that have a strong interest in protecting the environment will likely not be forced, unless by their own doing, to reduce their environmental standards. The WTO challenge to the Union shows that: (i) the EU held on to its strict precautionary principle and (ii) through the prospect of economic growth, the EU has achieved in changing part of the meat producing practices in Canada that could prove harmful to citizens. Additionally, this outcome may be used to disprove the

idea of down harmonization. Though both parties did harmonize to a certain degree, this harmonization was to the party that had the upper hand at the negotiating table for this specific area. Since it was Canada who was trying to secure a reduction in non-tariff barriers so that their product could be exported, it was the EU that had the upper hand. Thus, harmonization moved in a direction closer to EU standards, standards that are arguably more environmentally friendly than its Canadian counterpart.

What CETA has already triggered is a movement towards improvement of meat quality at both the international and national levels. Because Canadian meat producers had a big enough incentive to change, they did so. This does not only show that a new transfer of knowledge in the area of food safety has been created, but also that my previous argument concerning the need for concrete, often financial, incentives in order for change to be encouraged is relevant. If one can prove that investing in environmental protection is profitable, then society could change, for the better.

5.3 Conclusions

Interviews have been helpful in understanding what the different perceptions of the transfers of knowledge that could take place with CETA between the EU and BC are. My interviewees were eager to share their knowledge, as far as the boundaries of secrecy permitted it. Let us draw a few conclusions on the usefulness of this method for this study.

First, as this thesis is focused on societal perceptions towards FTAs, I decided to let my interviewees react to the concept of transfers of knowledge and see what perceptions were developed. What this first venture shows is that most transfers of knowledge

developed by the different groups do not relate to technical innovations but rather to less tangible transfers. This introduces a somewhat sharp difference between what has been introduced in some FTAs preambles as tomorrow's answer to environmental issues (i.e. technical innovations) and the different societal perceptions identified by my interviewees.

Second, the fact that group 2 (citizens organizations) did not see any benefit from CETA, be it economic or environmental, introduced the theme of trust into this study. They portrayed what Jessica Pfeffer (senior policy advisor for the BC ministry of Environment) described as a lack of trust in elected officials. However, and in an attempt to paint a complete portrait of the interests in place within the discussions around CETA, I thought it was important to address their complaints about CETA. My final chapter will be going into Canada and the EU's decision-making roles when it comes to FTAs and international trade so as to focus on the possible impediments these could trigger for the successful ratification of CETA.

Chapter 6 – Dealing with Crosscutting Issues in FTAs

As this study focuses in part on how transfers of knowledge could occur through the ratification of CETA, it became crucial to understand both Canada's and the EU's ratification and implementation processes in the area of trade in order to reflect on the possibility of transfers of knowledge to take place after ratification. As the two parties' previous failures at cooperation testifies, for an FTA to be successful, all levels of governance need to be included not only in the process of negotiations, but also ratification. A lack of provincial support, for instance, could hinder more than the possibility of transfers of knowledge but also the very existence of an FTA.

In the history of the Canada-EU relationship, there have been two previous attempts at collaboration. The first attempt took place in 1976, with the ratification of the Framework Agreement for Economic and Commercial Cooperation, which aimed at 'sustained efforts to promote trade, investment, and technological cooperation' (EC-Canada Joint Cooperation Committee, 1979: 1). The Framework was ambitious and 'consideration ha[d] also been given to the extension of industrial cooperation activities into new promising areas. In this respect, the field of *energy* conservation [had been] identified' (EC-Canada Joint Cooperation Committee, 1979: 3 -emphasis added). In addition, cooperation on environmental policy resulted in a meeting between partners in May, 1979 to declare that the main areas of concern. Back in the 1970s the areas of environmental policy and industrial cooperation were therefore identified as important for the future of the transatlantic relationship thus underlining the legitimacy of the concept of transfers of knowledge.

Even though very ambitious, the Framework failed and stalled due to a lack of provincial and territorial support. This example is crucial and highlights two important characteristics of the transatlantic dialogue: already in the 1970s an emphasis was put on the potential collaboration in the industry sector, as well as the energy/environment, and the importance of having the provinces involved when it comes to negotiating international trade agreements.

The second trial at enhanced cooperation took place in the early 2000s with the Trade and Investment Enhancement Agreement (TIEA), itself ratified in 2004. Due to the inability of the provinces to implement some of its provisions, the TIEA also stalled. This example once again underscores the pivotal role played by the inclusion of the provinces in the negotiation process. However disappointing this failure may be, the TIEA encouraged the formation of a platform for discussion on sustainable development through the creation of the EU-Canada dialogue on environmental issues. As the TIEA negotiations have been paused however, one can only assume that there is still a vacuum to be filled in this area. CETA, as it aspires to be more comprehensive, could be an answer to this long overdue dialogue on environmental protection.

This first steps at a transatlantic collaboration has highlighted that a lack of provincial support has previously jeopardized the integrity of an agreement, and lead to a stalemate of the negotiating process. This would, in turn, alter the possible best practices sharing that could take place within CETA through the use of knowledge transfer. In order to gain a better, more exhaustive understanding of the importance the different parties within an FTA can have, it is essential to dive into both partners' juridical frameworks. As Livio Nichilo suggested during his interview, due to the complex intertwining of

actors and competences, CETA could fail to reach its ambitions, or arguably more concerning, never be successfully ratified. What are the European and Canadian processes through which FTAs are negotiated and ratified? Taken in the context of CETA, could these processes improve or hinder CETA's possible potential in the area of transfers of knowledge?

6.1 CETA's Ratification Process: Implications for Environmental Protection?

6.1.1 The EU and International Trade Agreements: Roles and Division of Competences

In 1957, the 'Treaty of Rome formally transferred the competence to negotiate and conclude international trade agreements on trade [mainly in goods at that time] from the individual member states to the collective entity, thus creating one of the first exclusive competences of the Union (Meunier, 2005: 21). However, the fact that the EU is acting with a single voice on the international stage in all matters of trade does not mean Union negotiators can disregard other European actors. As their ultimate goal is to have the agreement under negotiations ratified, they need to acknowledge the interests of member states, among other actors. To facilitate their work and increase their legitimacy, the Council of the European Union, and the European parliament must agree on a specific mandate that the Commission will act upon. From then on, 'as long as [EU negotiators] remain within the limits set by [this] mandate, [they] are free to conduct bargaining with third countries as they wish' (Meunier, 2005: 37).

From the 1957 Treaty of Rome onward, the division of competences in the Union underwent a few changes. The most recent to date are the result of the entering into force of the Treaty of Lisbon. The Treaty strives to explain the different types of competences in the EU. Three categories have been identified: (i) exclusive competences, (ii) shared competences and (iii) supporting competences.²⁹ Exclusive competences are those that only the EU, as a supranational body, has jurisdiction over. They include the customs union, the establishment of competition rules, monetary policy, and trade. Article 3 of the TFEU dictates that ‘the Union shall also have exclusive competence for the conclusion of an international agreement’ (TFEU, art.3). In the realm of shared competences, ‘the EU and member states are authorized to adopt binding acts.’³⁰ Such competences are observable in the fields of environment among others. This division of competences, taken in the context of comprehensive trade negotiations, makes it more complicated to identify the actors responsible for the deepening of European integration. Finally, supporting competences (TFEU, art.6) relate to areas where the EU has no legislative powers and can only intervene to coordinate or support the actions of the member states. In the realm of supporting competences the EU is prevented from interfering with competences reserved to member states.

While the power to negotiate an international agreement remains under the authority of the Union, (and more precisely, the Directorate General for Trade (DG Trade)), other European actors have been included in the process over time. The member states must, ‘according to their national ratification procedures,’ sign on and ratify any agreement

²⁹ Respectively articles 3, 4 and 6 of the TFEU. Division of Competences within the European Union: http://europa.eu/legislation_summaries/institutional_affairs/treaties/Lisbon_treaty/ai0020_en.htm

³⁰ Division of Competences within the European Union: http://europa.eu/legislation_summaries/institutional_affairs/treaties/Lisbon_treaty/ai0020_en.htm

where provisions that could affect their sovereign powers are included, such as education policy (European Commission, 2012: 6). Additionally, after DG Trade and the Council of the EU sign onto the draft agreement, they must also ask for the European parliament's consent (note that the European parliament's agreement was also needed to secure a mandate to negotiate).

Taken in the context of CETA, this European decision-making process means that the Commissioner for DG Trade, the Council, the European Parliaments, and the respective twenty-seven national parliaments will need to accept the agreement. One may argue that this plethora of actors, all working with different agendas in mind, makes it more complicated for third countries to wholeheartedly engage in trade talks as they become aware of the power one member state could have over the process of ratification (Lee, 2011: 5). However, one could argue that by setting up the EU's mandate from the start and by staying in constant contact with the Council and the member states (through briefings and discussions), 'there is no room for big surprises at the ratification stage of the negotiation process, since member states have had ample time to manifest their reservations during the course of the international negotiations' and the agreement is more likely to be ratified (Meunier, 2005: 38).

When acknowledging the power detained by member states within the ratification process of a trade agreement, one can wonder how could transfers of knowledge happen? However complex the situation may be, one needs to keep in mind that the main actors responsible for initiating CETA negotiations are the province of Québec and France.³¹ Through their common heritage and network, they saw the opportunity in the ratification

³¹ Information shared by Robert Hage (former Canadian Ambassador for the Czech Republic) during his interview.

of a comprehensive FTA. Based on this particular experience, one can argue that member states could look at the different investments and collaborations possible in areas related to environmental protection. Transfers of knowledge could occur with CETA as the Union continues to build a strong bridge between the two parties which would in turn enable them to exchange and access each other's knowledge and technical innovations in a less expensive and more efficient way. Consider, for instance, the sector of wind energy and the production of wind turbines. As indicated by the Government of Canada, 'wind projects currently depend almost exclusively on European and U.S. suppliers for turbines and other key components' (Industry Canada, 2011).³² A country such as Denmark could have a lot to offer to its Canadian partners. Indeed, Denmark is one of the top countries in the industry alongside Germany, Spain, and the USA (Vestergaard, 2004: 2). Since 1997, the Danish company Vestas has delivered turbines in all of the ten Canadian provinces, thus providing 'enough electricity to power 500,000 Canadian homes' (Vestas News, 2011). As it will be developed later on in this study (chapter 5), CETA could, by opening government procurements, enable both parties to develop cheaper and more environmentally efficient industries. It could, I argue, trigger a positive change in the Canadian energy mix and allow for an increased use of renewable energy at reduced costs, thus creating a real incentive for governments to invest in renewable energy. By extension, this possible outcome could contribute to the protection of the environment. As Industry Canada underlines on their Internet page, there is both need and potential for Canada to expand this sector. With the potential transfers of knowledge made possible through CETA (for instance, the possibility for European engineers to move and work in

³² Reference: <http://www.ic.gc.ca/eic/site/wei-iee.nsf/eng/home>

Canada more easily), I argue that this need in technology and knowledge could find an answer.

6.1.2 Canada and International Agreements' Negotiations

'While the federal government has exclusive jurisdiction over negotiations and ratifications of international agreements and treaties, this authority does not extend to the implementation of provisions falling into provincial jurisdiction. [...] This important limitation has forced the federal government to *consult* the provinces extensively during the negotiation of international agreements in areas that affect them, especially trade and the environment' (Simeon 2006 – emphasis added).

As for the Union, the division of powers in Canada is complex, especially when taken in the context of an international trade agreement. Patrick Malcolmson and Richard Myers explain that a strict decentralized model did not always dominate the relations between the federal and provincial levels of government. Between 1867 (the year the Constitution Act, 1867 was ratified) and 1896, the federal government acted towards the provinces in a rather colonial manner. Over time, the Judicial Committee of the Privy Council (JCPC), continuing its work of constitutional interpretation, entrenched new interpretations of the division of powers. In this case, the Court 'repudiated the notion that provincial governments are subordinates of the federal government' (Malcolmson, 2005: 73).

In the *Constitution Act, 1867*, it is written that one of the several powers allocated to the Parliament of Canada relates to regulation of trade and commerce. The federal government is the only level of government that has the ability to sign and ratify an FTA.

However, due to the comprehensiveness of CETA, the federal government will have to include provinces in the negotiating process, especially in the area of the environment. As provincial governments enjoy full jurisdiction in the realms of: management and sale of public lands belonging to the province, exploration for non-renewable natural resources, forestry and export of resources, their mandates theoretically allow them to refuse the implementation of FTA provisions that impact their jurisdictions. Due to this specific separation of powers, the federal government will have to work in close relation with the provinces to ensure the proper implementation of the agreement.

This has resulted in a three-step process for treaty making in Canada. First, the treaty needs to be negotiated. This task is the sole responsibility of the federal government through the work of the Department of Foreign Affairs and International Trade (DFAIT). Once the negotiations are completed, the Minister asks for the governor's signature thus opening the way to step number two: ratification and implementation. If the federal government has the power to conclude an international agreement, it does not have any when it comes to the implementation of provisions pertaining to provincial jurisdiction. One such occurrence when this was clarified is the 1937 Labour Convention Case, where 'the JCPC held that the federal government could not use the need to comply with international treaties as a justification to encroach on areas of provincial jurisdiction' (Barnett, 2012). Unfortunately, the configuration of the Canadian federation is now very ambiguous as this decision puts the responsibility of compliance to international treaties in the hands of the federal government, while the latter cannot oblige the provinces to comply in their areas of jurisdiction.

As far as the involvement of the Canadian provinces is concerned, many more commentators have partaken in a prediction game aimed at resolving the question of whether or not the presence of the provinces at the negotiating table will have an impact on either CETA's negotiations or the functioning of the provinces. For Christopher Kukucha there will be no crucial contributions on the part of the provinces and territories in the CETA negotiations. He also argues that there is very little evidence that CETA will be more extensive than NAFTA. He concludes that there is no valid reason or incentive for the provinces and territories to implement CETA. For Kukucha, it is the Canada-US relationship that matters most (Kukucha, 2011: 148). His argument, however, clashes with that of Robert Hage. For him, having 'the provinces as an integral part of the negotiation [...] offers the possibility of [...] bringing down trade barriers [not only] between Canada and the EU but between the provinces' (Hage, 2011).

By demanding that the provinces be included in the negotiating process, the EU has attempted to draw lessons from the past when the lack of provincial support partly played into the stalling of two Canada-EU collaborations. Because they have been given the opportunity to develop a list of provincial interests and demands, one can argue that the provinces are working towards securing as positive an outcome as they can for these negotiations. With enhanced powers in the negotiations, they might be able to reach out to potential partners in the EU using the bridge CETA is building between the different partners. This, in turn, may enhance the potential for transfers of knowledge that an FTA can provide.

6.2 A Short Insight Into the two Partners' Free Trade Agreement History and its Impact on Environmental Protection

As we have seen in chapter four, FTAs can have a negative effect in the area of environmental protection within chapters not directly related to environment matters. In order to mediate the fears that have been identified throughout the interviews on this matter, a short adventure within previous FTAs signed by Canada and the EU respectively was identified as relevant to this study. Indeed, one way to mediate these fears was to look at what has been done in the past and see how both partners have dealt with the same problems. This project is focused on transfers of knowledge, and how best to portray this concept than looking in the past to see what knowledge has been acquired on both parties' trade behaviours.

6.2.1 The European Union and its Previous FTA: Promoting Sustainable Development through Trade

The European Union's best achievement is, indisputably, its economic union. From the European Coal and Steel Community (ECSC), created in 1951, to the Economic and Monetary Union (EMU) created in 1999, the Union focused its efforts on creating a coherent economic space. In this respect, member states have agreed to transfer some of their sovereign powers (in this case, economic powers) to the EU level. As the EU has full competence in all matters of trade, it has been successful in negotiating and ratifying a substantial number of FTAs.

In order to comply with the space restriction of this study, only the EU-South Korea FTA (EUKOR) will be discussed. This particular FTA has been chosen because it is the

first *next generation* FTA that the EU was able to ratify at the time of writing. One could argue then that what the EU-South-Korea FTA meant for the EU a year ago, is what CETA means for Canada today. The areas of discontent identified in chapter four will be talked about and investigated here, in order to mediate society's perceptions of the potential threats that could be introduced by CETA with previous FTAs dealings in these same areas of concern.

It was also identified as a key FTA because the EU is also involved in this agreement it could provide a reminder of the dynamics that could take place Canada and the EU. Also, and as for South Korea, Canada too is considered to be the smaller partner in these negotiations. Canada is considered to be the one signatory that needs this FTA the most as a way to counter balance its trade dependency on the United States. Other important parallels can be drawn between EUKOR and CETA as far as EU's interests are concerned. In the same way that South Korea was envisaged as springboard to the other Asian markets, CETA is seen as a springboard to an FTA with the USA. In fact, the negotiations for a EU-USA FTA have already started (as announced by EU Commission President José Manuel Barroso). For CETA, as was the case for EUKOR, the EU wanted increased market access and to push for more competition on the part of the other party involved. Therefore, it is important to explore the parallels between EUKOR and CETA in terms of actors' motivations. As we will see in the case of NAFTA, and to a certain extent CETA, EUKOR is pivotal in understanding the position of the Union, as well as its ambitions.

The EUKOR's negotiations started in 2009 and after a two-year confirmation process, ended with its ratification on July 1st 2011. What can EUKOR teach us as far as the EU

trade practices within *next generation* FTAs are concerned? Could EUKOR help us mediate some of the societal perceptions that have been at play for CETA?

On top of the more traditional objectives of any FTA (i.e. liberalization and facilitation of trade in goods, services, and investments via the removal of direct and indirect barriers), EUKOR also aspired to for an increased promotion of competition, the liberalization of government procurements, and the commitment from both parties to

‘[the] recognition that sustainable development is an overarching objective, to the development of international trade, in such a way as to contribute to the objective of sustainable development and strive to ensure that this objective is integrated and reflected at every level of the Parties’ trade relationship’ (EU- South Korea FTA, art. 1).

What is striking, however, is the placement of this article within the agreement itself. Situated at the very beginning, it underlines the importance of understanding the weight trade can have on sustainable development and environmental protection as a whole. EUKOR shows the emphasis that the EU and South Korea placed on protecting the environment, while still working on improving their economic growth.

Chapter 13 of the agreement, titled ‘Trade and sustainable development’ goes into more details when it comes to environmental matters. In 13.2, for instance, both parties recognize that ‘economic development, social development, and environmental protection are interdependent and mutually reinforcing components of sustainable development.’ More importantly, both partners committed to working towards increasing their trade in eco-friendly, energy efficient goods and services, thus valuing the concept of transfers of knowledge. The chapter also provides for a Civil Society Forum that will meet every year to ensure the commitments taken are still upheld.

Another important part of the agreement relates to public procurement, identified as one of the main fears by Canadian citizens' organizations. When one looks carefully at the EUKOR and its annexes, however, they may notice that both parties were given a chance to develop a list of industry sectors, where exceptions and special status would apply. The Korean dairy industry negotiated a revised version of its import quotas for EU dairy products. The EUKOR did not eliminate the system, but rather relaxed its rules so that both interests could find a common ground.

Also, and as far as government procurements are concerned, both parties committed to following the WTO Government Procurement Agreement (GPA). By dividing into three sections the different entities present in a country (central government, sub-central government and other entities) the GPA allocates financial caps under which the *most favoured nation* concept can still be used. The GPA ensures that local businesses are not too severely impacted by the natural increase in competition brought about by free trade.

As this example shows, 'government procurement[s] [are] also high in the EU's priority list of negotiating objectives. The aim is to enhance transparency and liberalization of government procurements, including public utilities' (Nicolas, 2009: 33). In reaction to the idea of an opening of public utilities to privatization, many Canadian citizens' organizations and politicians (including Elizabeth May, Leader of the Green Party) are afraid EU competition might be too hard for local and municipal contracts. It is essential, however, to recognize that the structure provided for by the WTO and EUKOR are two variables that underline the EU's limitations when dealing with the actual privatization of public utilities. As my interview with Jessica Pfeffer uncovered, the opening of public utilities, such as water services, to foreign (in this case European)

bidders will not impact the province of BC because it has been singled out by the province itself as an issue they will not agree upon. As for EUKOR, CETA is providing all the parties with the ability to give negotiators a list of interests and concerns they wish to keep under current status. Water is one of those and is ‘off the table,’ as Ms Pfeffer underlined.

What a closer study of EUKOR has shown is that the different sections within the agreement that could potentially trigger environmental distress did not. Indeed, as it has been the case for the area of public procurements, the final draft of the deal was only a watered-down version of what had been previously been perceived as problematic. This important piece of information seems to be in accord with two interviewees, Livio Nichilo and Janel Quiring. Both underlined that CETA would unfortunately not deal with certain issues (such as SMS) in a radical way. What the study of EUKOR teaches us is that, as far as the EU is concerned, innovation and knowledge transfers have been identified as two main tools brought about by enhanced trade.

6.2.2 NAFTA: Federal and Provincial Environmental Protection

The North American Free Trade Agreement, ratified in 1992 between the US, Mexico, and Canada, was the very first example of a concrete plea for sustainable development in the Americas. Ludwiszewski and Seley argue that NAFTA is a prime example of a careful mix between increased trade and increased environmental protection. They note that in the early 1990s ‘trade and environmental issues began to collide with increasing frequency’ in North America (Ludwiszewski and Seley, 1993: 1).

For space reasons, only one telling example will be developed. This example pertains to the area of standards-related measure, seen by the authors as the ‘centre piece of the green language’ in NAFTA. This ‘effort at uniformity has excited fears in the environmental community that industrial interests will employ trade pacts to revisit and weaken environmental standards’ (Ludwiszewski, 1993: 4).

The fears that developed during and after NAFTA negotiations are still highly relevant when focusing on the public reactions to CETA. Standards and harmonization have often been seen as a threat by environmental activists; especially in the case of NAFTA, where many feared a partnership with Mexico. These fears are understandable, however NAFTA clarifies that the ‘parties have broad residual discretion to reject harmonization necessary to ensure that NAFTA will not interfere with the integrity of domestic regulatory system’ (Ludwiszewski, 1993: 4). The agreement does encourage the parties to harmonize so as to increase compatibility between the partners, Article 905 (3) allows them to maintain regulations that they believe protect them better, thus decreasing the risks of down harmonization of domestic standards. Ludwiszewski’s comment seems to still be relevant today, twenty years later as Janel Quiring suggested, during her interview that ‘the EU is very good at setting their standards worldwide and that is one of the things they are doing in these negotiations.’ She then continued and argued that BC was most likely going to ‘try to meet EU standards in order to create a partnership between the government and the private sector that will ultimately serve the environment.’ For some, this statement may trigger anxiety due to its effect on certain sensitive sectors, such as the environment. One could argue, however, that this willingness to work together could create a fertile ground for faster and more intense transfers of knowledge.

In this chapter, I have attempted to demonstrate that some anti-trade movements fail to appreciate that certain actors could help their cause in a more efficient way if only they would envisage a detour from their historical thought process. In the case of the EU and BC, both parties' environmental awareness is such that cooperation between the two could very well lead to an enhanced cooperation on environmental issues such as the carbon tax, and global warming in general. In this study, I sought to explore one of the ways through which this cooperation could take place. Transfers of knowledge in the areas of the environment and the economy seemed to be pregnant with opportunities.

Chapter 7 - Conclusion

This thesis has been constructed around two questions that I argue are fundamental in the search for enhanced environmental awareness in the area of trade. While the first question investigated the perceptions society has of the transfers of knowledge that could occur with CETA, the second investigated how these transfers could affect BC's environment. To answer these questions, I opted for an inclusive research method through which I attempted to mediate the different perceptions voiced on this topic by three different interview groups. Because I was committed to a constructivist methodology, I made every effort possible to give a voice to all my interviewees. This mediation of the different perceptions at play was supplemented by secondary data analysis. These two independent variables helped me posit my thesis statement in a more informed manner.

Throughout this study I have asserted that a positive relationship between trade and the environment, a relationship where intensified trade would open doors that environmental activists could use to advance their ideas and demands, is conceivable. Unfortunately, if the world order and world preoccupations have changed, the way most environmental activists envisaged world dynamics appear have not. I argue that this is the central reason that encourages different perceptions of CETA from the different interviewees.

Throughout this thesis, I posited that trade agreements not only open borders, but have the potential to improve environmental protection via the integration of research and development all around the globe. Accessing information on best practices and

technological advances is facilitated by the reduction of national borders and barriers; factor that tends to be neglected by citizens' organizations.

Through my analysis, I offer a rather optimistic vision of world trade and argue that, for environmental claims to be heard, one has to work within the system. It is paramount to acknowledge the characteristics of the forces one is fighting against and understand the dynamics that rule them. The fact that our world is driven by money and profit (however saddening this realization might be) is irrelevant to one's search for solutions. It is through the creation of incentives for companies to evolve that citizens' organizations will generate more environmental awareness. Therefore, and based on my observations and analysis, this chapter answers my research question and argues that CETA could be the incentive for this change, as long as each party involved keeps an open mind as to the paths leading to this change.

7.1 Structure of the Process

A thorough review of the main contributions to the literature underlined that many authors conceded that trade could have the potential to protect the environment, one way or another. This fundamental characteristic of the literature forced me to further investigate other possible ramifications around trade and the environment.

To this purpose, an exhaustive research on both parties' political frameworks helped me realize the importance of choosing good partners when dealing with FTAs. If one's main concern is the protection of the environment, a partnership with BC or the EU should be seen in a positive light, as both value environmental protection.

My research also showed that presence of the provinces at the negotiating table could be seen as a strength. Canadian provinces (as well as EU member states) will be given a say in the ratification process or, in the case of the Canadian provinces, use their constitutional right to not implement provisions from international agreements ratified by the federal government only. I then posited that because of the partners' history of environmental activism, CETA will not threaten environmental protection. However, and even if it was to do so, both partners' national political framework allow them to opt out of the regulations they disagree with.

One of the main critiques to this argument is that, in today's international trade agreements, threats to the environment are subtly introduced within parallel chapters. The environment chapter portrays a perfect model of social responsibility, but throughout other chapters, corporate responsibility would not be so strictly policed.

Thanks to the study of previous FTAs, I came to the conclusion that though other chapters could potentially threaten the environment, there are still provisions within agreements that allow for corporate policing. In the different leaked documents of CETA negotiations, one can clearly perceive an effort to accommodate local governments in their demands for more power over the method in which contracts are allocated. I concluded, therefore, that even though it would be unacceptable to dismiss the potential for danger in such an open FTA, it is also important to keep in mind that CETA is still at the negotiations stage and, thus, both parties have the ability to negotiate or withhold negotiation on the issues they value the most. As it is generally the case for government procurements, CETA will most probably not impact local (municipal) governments like citizens' organizations appear to believe.

For some, it seems that 'corporations will always try to convince governments to put the needs of profit-makers first.' (Hennessy, 2011: 6) I argue, however, that this type of reasoning is based on one substantial assumption, that is that all corporations have needs that will jeopardize the protection of the environment. But what if corporations were shown another way to do business? What if innovation and technologies could participate in creating a financial incentive that would drive corporations to environmental protection rather than against it? For such alternatives to take place, I have argued in this study that some activists have to modify their strategies towards some that will leave some room for work within the system.

7.2 Future Research in the Field of Trade and the Environment

If society is becoming more aware of the need for timely continuous intervention in the area of environmental protection, the example of the European Fuel Quality Directive (FQD) illustrates that one of the paths towards more environmental awareness is sometimes overlooked. In April 2009 the European Commission introduced the idea of a FQD in an attempt to help member states reach their greenhouse gas emissions targets. It has been amended several times since then and will be further discussed by member-states throughout 2013 when EU member states are presented with the revised directive and will have to decide on its ratification. The FQD, however, would provide these states with a scale that ranks the different types of oil and the environmental impact of their extraction and consumption. It outlines new methods of taxation for companies that use the most greenhouse gas emitting oil extraction methods. Taken in the context of the

aviation industry, the consequences of such a scale would be tremendous, as the EU ambitions to prohibit airlines using the most polluting oil, from flying over EU territory. The unwillingness of the EU to negotiate or give up under the pressure of Canadian lobbies advocating for its dismissal highlights that there are still examples of political entities that are placing environmental regulations before economic gains. This also suggests that some of the perceptions voiced throughout this study tend to relate open trade with decrease environmental activism in the part of nations. I argued that this mentality fails to take envisage examples of the FQD as a possibility.

Finally, one may argue that this failure relates the issue of trust in politics. As underlined in this thesis, the only group that saw CETA as a potential threat was Group 3 (citizens' organizations). When put in perspective with other interventions, the issue of trust in politics seems to nicely illustrate the dissonance and different perceptions that have been the main topics of this research. Based on my findings, I suggest that further research should focus on the concept of trust in politics in relation to citizens' reactions to FTAs and trade in general. This concept will be very valuable in unpacking the complexity of the relationship between trade and the environment.

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Documentaries

Bananas!, 2009, directed by Fredrik Gretten. Sweden: WM

Food, Inc., 2008, directed by Robert Kenner. USA: Participant Media

Appendix

Appendix 1

List of Conferences attended for this projet:

CETA's Significance, organized by the European Union Chamber of Commerce in Toronto, 28th of February 2012, Toronto, Canada

The Enhanced Canada-EU Economic Partnership: Challenges and Opportunities, Canada-EU Business Forum on the Environment, organized by the Italian Chamber of Commerce in Canada West, 16th of March 2013, Vancouver, Canada

Globe 2012: 12th Biennial Conference and Trade Fair on Business and Environment, March 14-16th 2012, Vancouver, Canada

Appendix 2

Question 1: As its name indicates, CETA will be a comprehensive trade agreement.

1.a: What is the attitude of Canada towards this agreement? Positive? Negative? Explain.

1.b: What are the main goals or areas of concern that Canada as a federation would like to see secured in the agreement, and why are they important?

Question 2: Several experts have suggested that Canada has initially engaged in the CETA negotiations because it wanted to diversify its trading partners, especially due to the financial crisis and how it affected the US (Canada's largest trading partner). However, since then, the Eurozone is also financially struggling.

2.a: In your opinion why do you think Canada is still interested in negotiating with the EU? Is this argument still relevant?

Question 3: How influential are the provincial governments in the negotiations?

3.a: What is your assessment of their bargaining power?

3.b: In terms of balance of power within the negotiations, can you provide an assessment of the European bargaining power? How about the Canadian federal government?

Question 4: The negotiations have led to discussions on environmental issues. Could you tell us more about Canada's current environmental preoccupations?

4.a: What do you see as the main environmental issues for Canada pertaining to CETA?

4.b: Do you think the EU has something to bring to the table in terms of environmental concerns?

4.c: In your opinion, will CETA improve or damage Canada's environmental protection?

Question 5: Earlier this year, the Canadian federal government withdrew from the Kyoto Protocol.

5.a: In your opinion, will this withdrawal have any impact on the CETA negotiations. If yes, how?

5.b: Will this withdrawal change the balance of power and/or the bargaining power of Canadian federal government, or the European partner?

Question 6: Does the BC government seek external expert on the CETA?

6.a: Who does the BC government consult with? Are these outside expert opinions mainly positive, only sometimes, or not at all positive?

6.b: How does your organization deal with other actors that have an opinion on CETA?

Question 7: In your opinion, how likely is the prospect that CETA will be completed?

7.a: If your answer is 'not likely' how would you improve it?

Question 8: Canada has long been described as a resource based economy. Indeed, a significant part of its revenues can be traced back to natural energy resources. Therefore, a comprehensive agreement such as CETA could have many consequences for the BC and Canadian governments.

8.a: Are you aware of any European concerns about Canadian/BC environmental issues? If yes, can you provide details?

8.b: What are the policy areas, pertaining to BC's jurisdiction, which the EU want to negotiate on?

8.c: What are BC's trading priorities?

8.d: Can you tell us what your organization thinks of these European concerns? What is your personal opinion on this matter? (Does it differ at all from that of your organization?)

8.e: Do you think BC can offer innovative ideas and therefore transfer its knowledge on environmental issues through this transatlantic dialogue?

Question 9: Do you think CETA will trigger some transfers of knowledge between the EU and the Province of BC in terms of environmental issues, or any other issues?

Question 10: Is there anything you particularly want to share with us?

Question 11: Are there any other people you think would be important for us to interview? Would you mind us sharing with them that you were the person who referred us to them?

Appendix 3

List of Abbreviations

AB	Alberta
BC	British Columbia
CEO	Chief Executive Officer
CETA	Comprehensive Economic and Trade Agreement
CoC	Council of Canadians
CUFTA	Canada United States Free Trade Agreement
DFAIT	Department of Foreign Affairs and International Trade
ECSC	European Coal and Steel Community
EMU	Economic and Monetary Union
EU	European Union
EU FTA	European Union Free Trade Area
EUKOR	European Union–South Korea Free Trade Agreement
FQD	Fuel Quality Directive
FTA	Free Trade Agreement
GAP	Government Procurement Agreement
GATT	General Agreement on Tariffs and Trade
GMO	Genetically Modified Organisms
GPA	General Preference System
MP	Member of Parliament
NAAEC	North American Agreement on Environmental Cooperation
NAFTA	North American Free Trade Agreement
REACH	Registration, Evaluation, Authorization, and Restriction of Chemicals
SDR	Special Drawing Rights
SMS	Supply Management System
TFEU	Treaty on the Functioning of the European Union
TIEA	Trade and Investment Enhancement Agreement
TPP	Trans-Pacific Partnership
UK	United Kingdom
US	United States
USA	United States of America
WTO	World Trade Organization