Blackleg or blackmail?
Economics of the Canada–China canola trade dispute

Keystone Agricultural Producers
Advisory Council Meeting
October 25, 2019

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1. Background

- General Administration of Customs of People’s Republic of China (GAC) suspended Richardson International’s license to export canola to China (March 1, 2019)
- Followed several warnings about pests in canola import in early 2019
- Viterra Inc. licence suspended March 26
- Inspection standards for other firms have tightened
- Chilled Canadian canola exports to China
1. Background

![Canola exports, Canada to China (kilo tonnes, crop year)](chart)

Source: Canadian Grains Council
1. Background

Canola exports, Canada to China (kilo tonnes, crop year)

Annual (left axis)

Monthly (right axis)

Source: Canadian Grains Council
1. Background

Canola exports, Canada to China (kilo tonnes, crop year)

Source: Canadian Grains Council
2. Trading with China

- New restrictions described as preventative measure in response to detection of crop disease
  - 2016 blackleg risk-management plan

- Speculation of other motivations (Huawei) for trade restrictions on canola
  - “other motivations” for trade barriers are usually domestic protectionism (e.g. stricter inspections of imported vegetables in response to domestic producer prices; Lawley, 2013)

- Dalai Lama effect (Fuchs & Klann, 2013)

- True motivations (protection of domestic crops or foreign policy) may not matter in a WTO trade dispute
  - Case will be decided based on adherence to WTO rules
3. International Trade Rules

- Several months of behind-the-scenes bilateral discussions in hopes of avoiding a formal WTO trade dispute
- China has not explained specifics of concern(s) to Canada’s satisfaction
- Canada formally requested consultations with China through the WTO on September 12, 2019
  - First step towards a litigated trade dispute

CHINA – MEASURES CONCERNING THE IMPORTATION OF CANOLA SEED FROM CANADA

REQUEST FOR CONSULTATIONS BY CANADA

The following communication, dated 9 September 2019, from the delegation of Canada to the delegation of China, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.
Complainant(s) files complaint with WTO

Complainant and respondent present cases to WTO panel

WTO panel rules in favour of complainant

- Respondent retains non-compliant policy
  - Panel authorises compensation
    - Respondent pays compensation
      - End
    - Respondent doesn’t pay compensation
      - End
  - Panel authorises retaliation (“suspend concessions”)
3. International Trade Rules

The SPS Agreement (Agreement on the Application of Sanitary and Phytosanitary Measures)

- Contains rules to which WTO member countries agree about trade restrictions intended to protect plant health

- Rules intended to ensure that restrictions are not disguised protectionism

- Regulations and restrictions must be:
  - based on a risk assessment, accounting for “available scientific evidence”
  - apply uniformly across all WTO member countries (Most Favoured Nation)
  - apply to producers in the importing country (National Treatment)

- SPS articles relevant to this dispute:
  - 2.2, 2.3
    - “…based on scientific principles and is not maintained without sufficient scientific evidence…”
    - regulation is not a “…disguised restriction on international trade.”
  - 5.6, 6
    - trade measures must be the least-restrictive necessary to achieve the desired level of protection
      - virulent strain of blackleg most prevalent in dockage (not seed borne)
3. International Trade Rules

Potential outcomes of WTO dispute:

1) Panel rules in favour of China
   • Virulent (LM strain) blackleg *is* prevalent in most/all growing regions (Canada, Australia, Europe)
   • Only the less-virulent (LB strain) has been detected/reported in China *(Fernando, et al.; 2016)*
     • Canadian/international observers have been unable to sample and test Chinese crops
   • China may argue that they are, just now, sufficiently addressing the problem
   • Burden falls on Canadian exporters to develop a management plan to the satisfaction of Chinese importers
   • Restrictions on other exporters (MFN)

2) Panel rules in favour of Canada
   i. China reforms/removes non-compliant restrictions
      • Less-restrictive inspections, stricter dockage requirements?
      • Issues of timeliness (US-COOL case)
3. International Trade Rules

Potential outcomes of WTO dispute:

2) Panel rules in favour of Canada

   ii. China does not comply with panel recommendation

       • Panel authorises retaliation

       • Retaliation = Canadian tariffs on imports from China in a $ amount equal to “the level of nullification or impairment” caused by the non-compliant policy

       • Conceptualised as estimated value of lost trade

         \[ (\text{counterfactual value of canola exports to China}) - (\text{observed value of canola exports to China}) \]

         \[ = \left( \text{counterfactual price} \times \text{counterfactual quantity} \right) - \left( \text{current price} \times \text{current quantity} \right) \]

         \[ = \left( \text{counterfactual price in 2018} \times \text{counterfactual quantity in 2018} \right) - \left( \text{counterfactual price in 2019} \times \text{counterfactual quantity in 2019} \right) \]

         \[ = (500 \times 5,000,000) - (450 \times 0) \]
3. International Trade Rules

Potential outcomes of WTO dispute:

2) Panel rules in favour of Canada

   ii. China does not comply with panel recommendation

   - Economists develop statistical and simulation models to generate estimates of lost trade (*counterfactual* $P$ & $Q$)

   $$ p_i = (b_i a_i)/SR + p_{in}(LR/SR) $$

   - Submissions are subject to
     - Technical arguments (modeling choices, time periods, etc.)
     - Legal arguments (*e.g.* revenue changes in home market - effect on domestic crushing)
     - Complainant tends to exaggerate effects, respondent tends to understate effects

   - Arguments adjudicated, and allowable value of retaliation set, by WTO Arbitrator

   - Complainant strategically selects imports on which to impose new tariffs (difficult for in China)
4. Considerations

- China may comply without retaliation

- Canada may not want to retaliate
  - Unlikely to affect Chinese policy because effects on Chinese economy would be small
  - Negative effects on Canadian consumers
  - No benefit for Canadian producers

- Slow process (seven years for resolution of US-COOL)

- Future of the WTO Appellate Body is uncertain

- Does not preclude future (potentially unjustified) restrictions
5. More information
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