

Positive, negative lists show talk disparities

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With three rounds of negotiations completed and a fourth coming up at the end of July, Canada and the European Union are now about to tackle the more sensitive issues of their comprehensive free trade talks-and services fit squarely in that category.

The sticking point is that the two parties have completely opposite approaches to the liberalization of services. In their negotiations, Canadians want to use the so-called negative list: all service sectors are liberalized except the sensitive ones, which are put on the list and remain exempted. The Europeans, on the other hand, are in favour of the positive list: everything on the list will be liberalized and what is not included is protected.

As Canada is actively pushing to convince Europeans to use the negative list, experts are also saying that-in contrast to issues such as government procurement-Canada is "the demandeur" in this debate.

"There are a couple of reasons why we are pushing for a negative list," International Trade Minister Peter Van Loan told Embassy on Monday. "One of them is that it results in a more ambitious, broader and deeper agreement," referring to the idea that a negative list would-by its design-liberalize more sectors.

"Obviously anything new that comes along that you didn't think of at the time of the agreement is subject to free trade [under a negative list]," Mr. Van Loan explained. However, the same is not true under a positive list, which only includes a set number of sectors.

Some examples of services would be engineering, medical, architectural or legal services.

The idea of a positive list is also worrying businesses, many of which are service-focused.

"A positive list might specify certain services right now, but what happens in 10 years when new types of services will be created that we don't know of right now," asked Jason Langrish, executive director of the Canada-Europe Roundtable for Business, representing the interests of both Canadian and European businesses. "If this is a comprehensive agreement and everything is on the table, then how can [the Europeans] push for a positive list? It doesn't make sense."

Before agreeing to start free trade talks with Canada, the EU had in fact made it

clear that it was not interested in anything less than comprehensive, which meant provinces had to take their seats at the negotiation table and be ready to compromise over sectors which up until now were off-limits to foreign competition.

Experts have been describing the EU's demands in areas such as intellectual property rights and government procurement as aggressive, as leaked documents show the bloc is also targeting Canada Post and provincial liquor boards in the negotiations.

The free trade agreement with the EU is larger in scope than the North American Free Trade Agreement that Canada signed with the United States and Mexico in 1994.

A positive list would also encourage provinces to negotiate for a more ambitious agreement, Mr. Van Loan said, since only those who would want to protect certain sectors would use that "political capital" at the table.

"You have to raise your head up and say, 'Hey, I want to protect that sector or that particular activity,'" he said. "And in the case of the provinces...you have to do that in face of your peers who might want to have free movement in that area, and that creates a type of peer pressure, if you will, that militates against it.

"Whereas if you use a positive list...then the political capital has to be spent to get something put on the list. So the moral suasion suddenly rotates in the opposite direction towards less free movement and less free trade."

A positive list doesn't necessarily imply less liberalization because a negative list can end up being very long, said Maurizio Cellini, counsellor for economic and commercial affairs at the Delegation of the European Commission to Canada.

"It depends what you put on the list," Mr. Cellini said last week at the International Economic Forum of the Americas conference in Montreal, adding that it was the 27 EU member states that requested the Commission-the EU's designated main negotiator-to use the positive list.

Even though Canada and the EU have not agreed on the exact "architecture" of service liberalization, the two parties can still touch on the specifics and indicate potentially sensitive sectors in their talks, Mr. Van Loan said, although he did not hint to what those sectors might be as of now.

"This is the nature of trade negotiations. One side want some tings, the other side wants another number of things, and ultimately, if it's a successful negotiation, it balances things off in the end," said John Curtis, former chief economist at the Department of Foreign Affairs and International Trade.

The EU might be in favour of a positive list because it is easier to get all 27 member states to agree on what sectors they all want to open up, as opposed to

open up everything and then talk about exceptions, Mr. Curtis explained.

The "Polish plumber" might be another explanation, he said. These two words became very popular in Europe a few years ago, reflecting cheap labour and the liberalization of the EU's international market, which saw many people from Central and Eastern Europe travelling to Western Europe in the hopes of better work prospects.

The EU might be still trying to get used to those dynamics, Mr. Curtis said, so it might not be ready to open its doors even more in that area.