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To Trade, or not to Trade: Explaining Lobbying Behaviour in the Canadian Dairy Sector

by

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A THESIS

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Chapter One: Introduction

The character of international trade has changed markedly over the past quarter-century. Early free trade agreements (FTA) which focused on border-tariff reduction have now given way to much more complex agreements encompassing all aspects of commerce. As the complexity free trade agreements (FTAs) has expanded over time, so too have the implications for domestic policy and, by extension, those domestic entities with an interest in the policy environment. While the impact of FTAs on firms and governments have received an extensive treatment in the literature, much less work has been conducted on lobbying behaviour in Canada as it relates to FTAs and trade policy.

There is a the motivating question behind this thesis: I am interested in better understanding how international trade negotiations impact the decisions taken by domestic firms when lobbying the government in a small open economy. I want to focus on the role of lobbyists in the relationship between trade policy and firm preference for two reasons. First, data compiled on lobbying behaviour indicates that certain sectors have exhibited unusual variations in lobbying patterns. Explaining this empirical question is the core object of the analysis below. A second motivation is to assess the extent to which domestic lobbyists are able to impact the outcome of free trade negotitaions in a meaningful way. In addition to the theoretical contributions to the role of lobbying behaviour, the findings in this thesis with respect to intra-industry dynamics and lobbying behaviour will be of keen interest to policy makers since this behaviour lends insight into the market structure and relative power of firms in the dairy sector.

Canada has been an energetic participant in the evolution from first to second-generation trade agreements; recently concluding two new FTAs in the Comprehensive Economic and Trade Agreement (CETA) and the TransPacific Partnership (TPP) as well as negotiating the North American Free Trade Agreement (NAFTA/CUSMA). Canadian political scientists have considered what impacts these agreements will have on provincial-federal dynamics (Fardard and Leblonde 2013; Kukucha 2013), international negotiations (D’Erman 2016; Paquin 2013), as well as traditional economic assessments of

the impact on Canadian industry. However, comparatively little attention has been paid to how lobbying behaviour in the Canadian economy is related to the negotiation of second-generation trade agreements. This gap in scholarship is especially pronounced given the availability of lobbying records which suggest that lobbying behaviour has been far from “business-as-usual” within the Canadian dairy sector. The striking variation in lobbying patterns observed in recent years gives form to the primary research question for this thesis: How does the negotiation of free trade agreements shape the lobbying strategies adopted by firms in the Canadian dairy sector?

In Canadian politics it has long been clear that support for supply management in the dairy sector is not an open debate (at least publicly) among the three main political parties. Perhaps the clearest indication of this position is shown in the text of a motion passed unanimously by the House of Commons in 2005:

“Pursuant to Standing Order 81(16), the House proceeded to the putting of the question on the main motion, as amended, of Mr. Bellavance (Richmond—Arthabaska), seconded by Mr. Paquette (Joliette), — That, in the opinion of the House, the government should give its negotiators a mandate during the negotiations at the World Trade Organization so that, at the end of the current round of negotiations, Canada obtains results that ensure that the supply management sectors are subject to no reduction in over-quota tariffs and no increase in tariff quotas, and also ensure an agreement that strengthens the market access position of Canada's agricultural exporters so that all sectors can continue to provide producers with a fair and equitable income.”¹

The language in the all-party motion called for what amounts to a blanket exemption for supply-managed sectors from the negotiations. Yet, this maximalist position sits uneasily with the outcomes that Canada has secured in trade negotiations since the stagnation and subsequent collapse of the Doha Development Agenda (DDA): both the Comprehensive Economic and Trade Agreement (CETA) and the Trans-Pacific Partnership (TPP) saw the dairy sector incrementally opened to further imports in direct contradiction to the mandate outlined in the all-party motion of 2005. The mechanism which provides for the increase is known as a tariff-rate quota (TRQ) which allows for a certain volume of imports admitted under competitive tariff rates while prohibitive over-tariff rates are applied to volumes in excess of the quota. In the all-party motion’s mandate for the negotiators, however, I observe a gap between the direction given

¹ Journals (38-1) – No. 155 – House of Commons of Canada.

to negotiators and the agency of Canadian negotiators in maneuvering sensitive sectors off the negotiating table. If instead Canada's market size, relative trade-reliance and institutional capacity place practical limits on what can be achieved in a negotiation, then the appropriate instruction for negotiators in 2005 would not have been; 'produce an agreement that defends supply management' but rather – 'defend supply management, or do not produce an agreement.' Put in Hamletian terms then, the question facing Canadian negotiators is not "to trade *and what to trade*", but rather: *to trade or not to trade*.

I selected lobbying in the Canadian dairy industry as the empirical locus for this analysis for several reasons. First, the dairy sector in Canada is heavily implicated in recent trade agreements signed by Canada, including CETA and TPP. In both cases, the eventual agreement provided for increased access for dairy imports via new TRQ programs. The introduction of this program under CETA marked an important policy change from the status quo and should, therefore, be of keen interest to firms in the dairy sector. Second, supply management relies on three policy levers to control and stabilize the market; price control, production control, and border control.² This regulatory framework ensures that the set of potential policy alternatives over which firms and politicians can disagree is limited to the discrete set of policy levers available to the government under the supply management framework. Lastly, the dairy sector has a long and robust history of lobbying activity as recorded by the Office of the Commissioner of Lobbying of Canada (OCLC) and therefore provides enough data for an analysis of lobbying behaviour over time. The temporal frame in the analysis also provides a secondary research question which will be addressed in this thesis, namely: are changes in lobbying behaviour driven by endogenous or exogenous factors?

This analysis will proceed in seven subsequent chapters. In Chapter Two, I review the arguments advanced with respect to international trade and its impact on the domestic economy. This chapter will introduce and outline the development of New Trade Theory (NTT) and New New Trade Theory

² Scullion, Erin. The Canadian Dairy Commission: A 40-Year Retrospective. 2006. 50-53.

(NNTT).³ Here the discussion focuses on identifying the appropriate unit of analysis as well as highlighting competing mechanisms which are hypothesized to drive international trade flows. In addition to economic models, I outline the macro-theoretical framework which relates domestic variables to international variables and international trade negotiations. Lastly, I summarize the endogenous protection model, focusing on explaining the Grossman-Helpman approach and identifying aspects of the theory which may not generalize to cases beyond the United States. The most important consideration for our purposes is the extent to which assumptions grounded in US trade data are readily generalizable to the Canadian experience.

In Chapter Three, I outline the theoretical framework for the analysis of lobbying behaviour and international trade agreements in the Canadian dairy sector. Here I expand further on Putnam's "two-level game" framework and adapt the general concepts to the empirical case considered here and establishing the international and domestic levels of analysis. The discussion moves past Putnam's conceptual model by outlining the Canadian actors and how they relate to each other within the context of a "two-level-game". The chapter then describes the domestic actors who lobby in the dairy industry and generates a set of theoretical trade preferences based on the production profile of each actor-type. Chapter three also develops the concept of "second-generation" FTAs and highlights how this type of agreement represents a break from previous trade negotiations. Lastly, in this chapter, I state two theoretical hypotheses concerning the relationship between FTAs and lobbying behaviour: first, that the content provided by lobbyists to the OCLC related to FTAs is systematically related to an organizations preference over trade policy. This will be developed fully in the empirical chapters where I introduce the specific variables that operationalize this concept. The second hypothesis concerns the composition of the change in lobbying behaviour. Specifically whether or not the variation reflects intra-industry divergence among dairy firms.

³ While abundant in theoretical imagination, it seems IPE scholars prefer a stoic parsimony with respect to the naming of theories.

Chapter Four introduces the methodology and data used to develop a quantitative analysis. This chapter will identify how the theoretical hypotheses are operationalized with respect to the lobbying data developed from the OCLC records and outlines the analytical framework used to examine the bivariate relationship between trade preferences and the content of lobbying records. The fifth chapter will follow on from this and present the empirical results for each relationship and discuss the preliminary findings.

Chapter Six begins with an in-depth analysis of CETA's history from negotiation to the finalization of the agreement in 2016. This chapter focuses on establishing a precise timeline which will indicate when the domestic actors became aware of CETA's policy content. This chapter focuses on grounding two important assumptions in the theory: (i) the time-order between new lobbying behaviour and trade policy changes, and (ii) the theoretical expectation that intra-industry *preference drift* will occur within the processing industry given certain incentives.

Next, I present a detailed account of the processing sector's lobbying behaviour with respect to the allocation of CETA's cheese quota in Chapter Seven. This chapter looks to demonstrate an empirical instance of intra-industry *preference drift* among processors by adducing qualitative evidence to support empirical findings and theoretical predictions. The paper will conclude with a chapter for a discussion of the results, the implications for theory and domestic policy, as well as potential avenues for future research and application of the OCLC data.

Chapter Two: Literature Review

The relationship between lobbying behaviour in the economy and the trade policies enacted by a government implicates a theoretical debate which has continued since the 1970s when the field of international political economy (IPE) began to attract increased attention from the academy. An early motivation for IPE research stemmed from the recognition that, in contrast to the view of classical trade economists, that trade-openness is "historically rare, problematic and a phenomenon that itself needs to be

explained”.⁴ In today’s relatively uncertain and bellicose trading environment, the idea that trade openness should be rationalized by political scientists seems endlessly quaint; however, prior to the IPE turn in the early 1970s, international commerce was mainly the purview of academic economists who took the empirical observation that trade is mutually beneficial as a *sufficient* explanation for the wave of liberalization which swept the international economy in the post-war Bretton Woods era. IPE theorists reintroduced the “political face” of these processes and began to develop research programs that probed the causal pathways by which international and domestic forces interacted to produce foreign economic policy.

In this chapter, I will summarize the literature related to the relationship between international trade and domestic trade policy in general, as well as theories relating to domestic lobbying and international trade more specifically. The review is not exhaustive of the IPE literature but is conducted to establish particular empirical concepts that will structure the analysis of lobbying in the dairy sector. The first section introduces the New New Trade Theory model and its core assumptions and theoretical predications. This discussion will identify the unit of analysis taken for the dairy industry in Canada as well as illustrating the distributional consequences for domestic actors in response to trade policy changes. Second, I review literature which incorporates both international and domestic factors in a model for free trade negotiations, this literature will help establish the framework for my analysis as well as delineating different levels of analysis. Lastly, I consider theories relating to lobbying behaviour in the domestic economy to understand how scholars have traditionally conceptualized lobbying activity with respect to trade policy. This section will introduce the concept of “endogenous protection” models and consider the extent to which the assumptions of these models are readily generalizable beyond the United States.⁵

⁴ Lake, David A. "Open economy politics: A critical review." *The Review of International Organizations* 4, no. 3 (2009): 221.

⁵ A later discussion will develop this concept but essentially there is some question as to whether the assumptions of the Grossman-Helpman model are readily applicable to a small-open economy as the majority of empirical tests of the theory have been conducted using US trade data.

2.1 New New Trade Theory

Helpman and Krugman (1985) observed that relaxing the assumption of constant returns to scale changed the predictions of the standard trade models that had been dominant in IPE.⁶ Krugman's inclusion of increasing returns to scale showed that state industrial policies or monopolistic competition in the domestic industry could actually change the size of a comparative advantage, rather than simply altering or reorganizing the pattern of comparative advantages between states; i.e. increasing returns to scale can *create* comparative advantage. As Krugman put it,

*"trade need not be a result of international differences in technology or factor endowments. Instead, trade may simply be a way of extending the market and allowing exploitation of scale economies, with the effects of trade being similar to those of labour force growth and regional agglomeration."*⁷

New Trade Theory takes an industry or sector as the unit of analysis⁸ and describes how economic strategies like industrial policies or monopolistic competition could produce patterns of international commerce that are not explained by appeal to factor endowment alone. More recent work which has developed NTT takes the model to a deeper level of granularity to consider how intra-industry firm composition impacts the predictions made by NTT.

Melitz (2003) provided an explanation of intra-industrial trade preferences that located the firm as the central unit of analysis.⁹ Melitz noted that most sectors in the industrial economy tend to display striking heterogeneity in terms of size and productivity.¹⁰ Following from this recognition, Melitz incorporated Krugman's insights with respect to increasing return to scale and imperfect competition to develop a model of trade whereby highly productive superstar firms are able to engage efficiently in international commerce while less productive firms are shut out of the external market. Melitz's model describes a

⁶ A full review of factor-endowment models is beyond the scope of this thesis. Edward Leamer (1995) provides a good review of standard factor-endowment models.

⁷ Krugman, Paul R. "Increasing returns, monopolistic competition, and international trade." *Journal of international Economics* 9, no. 4 (1979): 479.

⁸ Ciuriak, Dan, Beverly Lapham, Robert Wolfe, Terry Collins-Williams, and John Curtis. "Firms in international trade: trade policy implications of the new new trade theory." *Global Policy* 6, no. 2 (2015): 132

⁹ Ibid. 132

¹⁰ Other scholars had noted this dynamic prior to Melitz (2003), principally Bernard and Jensen (1999)

process by which a firm's productivity, relative to industry peers, acts as a threshold condition for market participation: those who have the size and scale to manage the costs of international commerce gain from trade liberalization and those who cannot lose from liberalization. Again, this model will be considered further in Chapter 3, however, it is important to note that NNTT shifts the unit of analysis, from the industry (NTT) to the firm. The assumptions of NNTT generate a clear empirical expectation with respect to domestic actor's preferences over trade policy such that a given industry will exhibit intra-industry *preference drift* as highly productive firms look to secure and advance liberalized trade policies and the less productive firms lobby to secure trade protection.

In the context of lobbying behaviour, these ideas have been developed by, among others, Osgood (2016) and Kim (2017) who have produced empirical results which suggest that US industries have undergone intra-industry preference drift as a consequence of heterogeneous productivity in markets for differentiated goods. Applying the insights of NNTT to lobbying behaviour among industrial firms in the United States has demonstrated strong empirical evidence of just this kind of intra-industry divergence (Osgood 2016; Kim 2018). Thus, if NNTT is correct then the empirical expectation would be for heterogeneous industries to display intra-industry divergence in lobbying behaviour as the large productive firms seek to accelerate liberalization and the less-productive firms seek to oppose liberalization.¹¹ The intra-industry dynamic should also be readily distinguishable from predictions made by factor-endowment models or NTT as these arguments suggest industry-specific or factor-specific coalitions in response to liberalization.

2.2 Macro-Theoretical Frameworks:

Lake (2009) helpfully summarizes two questions that have motivated research in IPE. The first asks "how, why and when"¹² a state decides to open its borders to international commerce and migration. The

¹¹ Depending on the balance of power between large firms and their industry association, it may also be reasonable to expect the influence and position of trade associations to wane in the wake of intra-industry divergence.

¹² Ibid 222.

second concerns the impact of openness on a country which has opted to liberalize its economy.¹³ This analysis is primarily concerned with the latter and Rogowski (1987) provides the first serious consideration of the relationship between “political cleavages” in a domestic economy to a country’s trade position and factor endowment. Rogowski argued that the political factions which form in the political system are related to trade policy based on the implications of the Stolper-Samuelson theorem.

Rogowski’s simple model demonstrated a process by which different factions within the economy (delineated by factor-ownership) would be driven to oppose, or support, a given trade policy depending on how the gains from a new policy would be distributed. Rogowski made only two assumptions of factions at the domestic level: first, he assumes that factions who benefit from a change in trade policy will lobby to “continue and accelerate the [policy]” and that the losers will conversely oppose the change.¹⁴ Second, he assumes that the beneficiaries of the change will have access to a greater share of resources and are therefore in a better position to defend the policy.¹⁵ Crucially, Rogowski does not make a strong determination as to the causal direction of this relationship; instead, he leaves open the possibility that political cleavages can form around trade policy that is exogenously imposed on a country.¹⁶

While Rogowski’s work is parsimonious relative to recent IPE literature, Rogowski was among the first to directly link political dynamics in industrial democracies to the neoliberal institutionalism developed principally by Keohane and Nye (1977). Rogowski’s work also prompted increased interest in the IPE field and his work was quickly followed by more complex theories which integrated elements of game-theory into the neoliberal model.

¹³ Lake’s questions are a necessarily simplification to summarize the two principal approaches taken by IPE theorists. In his 2009 piece on OEP, Lake notes the first question takes the phenomena of trade liberalization as the dependent variable to be explained, while the second question takes trade opening as the independent variable and the impacts of liberalization as the dependent variable. As I will argue later, this simplification masks more complex, intertemporal processes which implicate both framing questions. See Lake (2009)

¹⁴ Rogowski, Ronald. "Political cleavages and changing exposure to trade." *American Political Science Review* 81, no. 4 (1987): 1123.

¹⁵ Ibid 1123.

¹⁶ Ibid 1123.

In “The logic of Two-Level Games”, 1988, Putnam outlines a theory that links trade policy between the domestic and international “levels”. Putnam includes the institutional context of international negotiations so that the processes which drive international trade policy could be integrated into IPE models. He conceptualized an international trade negotiation as taking place in two stages, negotiation and ratification. Negotiators from each state meet at the international level and negotiate an agreement which must be agreed by all, and then ratified by each domestic legislature.¹⁷ Putnam’s model will be developed further in Chapter 3 but suffice it to say that his conceptualization of the process describes a simplified two-stage game where international factors and domestic factors intertemporally shape the eventual trade deal.¹⁸ Putnam’s two-stage model also generates two levels of analysis, the international and the domestic. The international level concerns the distribution of preferences and capabilities among the parties to an international negotiation. The domestic level concerns the distribution of preferences and capabilities of actors in the domestic political economy.¹⁹ Importantly, while Putnam advances several principles which determine the minimum requirements for a state to engage in an international agreement, he does not make a strong claim about the process by which the domestic actors aggregate their preferences into the state’s eventual “win-set”, i.e. the frontier where an international agreement becomes possible.²⁰ There remains an open question as to whether international trade policy is imposed exogenously or generated endogenously. This is deeply important in the context of this analysis because it goes towards understanding the agency each actor in the domestic economy enjoys over the state’s trade policy.

To this point, I have considered the theories relevant to the framework between the international and domestic levels as well as the various theories which look to explain how different coalitions will form in

¹⁷ Putnam, Robert D. "Diplomacy and domestic politics: the logic of two-level games." *International organization* 42, no. 3 (1988): 435.

¹⁸ Putnam’s model explicitly delineates between an international stage and a domestic stage and places these stages in temporal order such that the international agreement is reached *then* ratification takes place. This is a necessary simplification but Putnam himself notes that the actual process is much more intertemporal (even if only to reflect expectations) with factors at each level shaping event in the first and second stage of the process.

¹⁹ “capabilities” here should be read to mean aspects of a state’s constitution that provide an advantage in negotiations. Chief among these is the size of a state’s internal market or the level of organization/funding for a lobby group.

²⁰ A further discussion of “win-sets” will be provided in Chapter 3

response to new trade policy. What remains to be covered are the processes by which different firms in the economy work to translate their trade preference into state policy. To be clear, both the factor-endowment models and the NTT and NNTT models make claims about how a policy should impact different actors (delineated by factor, industry, productivity) but they provide less insight as to the mechanisms by which firms band together to lobby for trade policies.

2.3 Endogenous Protection and Grossman-Helpman

The “endogenous protection model” developed by Grossman-Helpman in 1994 provided a foundational framework with which scholars have rationalized the behaviour of lobbyists and firms in an economy. Briefly, the model assumes that politicians seek to maximize their probability of re-election by securing the optimal mix of: (i) votes from the public, and (ii) campaign contributions from lobbyists. Lobbyists provide a menu of contributions which increase in value as the level of trade protection increases. Voters are assumed to be made worse off by protectionism and therefore each additional protection granted to lobbyists results in a loss of votes for a politician.²¹ Within this framework, lobbyists compete for trade protection by offering contributions to the point where the value of the trade policy is equal to the cost of securing the policy. Politicians meanwhile determine the optimal mix between accepting contributions and attracting votes from the general public. The equilibrium solution to the Grossman-Helpman game results in the final menu of trade policies enacted for the state in a given period.

Grossman-Helpman’s model has been tested and elaborated by several scholars, generally receiving qualified support in the data. (Goldberg and Maggi 1999; Mitra 1999; Gawande and Bandyopadhyay 2000). That said, there are objections associated with the adoption of the Grossman-Helpman framework beyond the United States by academics interested in lobbying behaviour. Researchers have, for example, incorporated intermediate goods into the formal equations of the standard Grossman-Helpman model (Gawande and Bandyopadhyay 2000), while others have found that the use of non-tariff barriers leads to

²¹ In the endogenous protection literature this trade off is referred to by the “contribution weight” and the “welfare weight” i.e. the relative importance of contributions and welfare (votes) in the government’s objective utility function.

only partial rents being captured, as opposed to full rents under the standard model (Facchini et al. 2006). Yet these additions to the standard theory represent only refinements on Grossman and Helpman's original model, the foundational assumptions remain.

There is a more fundamental concern, not necessarily with the empirical tests of the endogenous protection model, but the context in which the theory was tested. The Grossman-Helpman model explicitly notes that the game is devised for a small-open economy wherein lobbyists can credibly provide contributions to politicians in exchange for favourable trade policy. This assumes that the policy concession is, in fact, in the gift of the politicians who receive the contribution. Empirical evaluations of the endogenous protection model must, therefore, be qualified somewhat if they are conducted using trade and lobbying data from the United States since it is the *antithesis* of a small-open economy. The size of the internal market in the US and its international clout suggest that the US government will be a stronger position to deliver trade concessions whereas weaker states may not enjoy similar agency.²² This concern does not invalidate the arguments advanced by endogenous protection models, however, it does suggest that more caution is required when generalizing results from the United States to actual small-open economies.²³

Both factor-endowment models (Beaulieu 2002) and endogenous protection models (Ederington and Minier 2008) have been evaluated in the Canadian literature, however the OCLC data on dairy lobbying has not been utilized to test if the behaviour of lobbyists is consistent with empirical expectations. Individual lobbying is unusual, all the more so in the case of the Canadian dairy sector since the firms in question are also represented by the principal lobbying association for their industry. Thus factor-endowment models and endogenous protection models built around NTT assumptions are not well equipped to explain why these firms would be incurring great expense to duplicate their lobbying activity.

²² Putnam, Robert D. "Diplomacy and domestic politics: the logic of two-level games." 437-8.

²³ For example, Bombardini (2008) showed that the distribution of firms (in terms of size) relative to their industry peers has important organizational impacts on the industry's lobbying structure and behaviour. This suggests, at a minimum, that the institutional context must also be considered along theories of endogenous protection.

NNTT presents one possible explanation for this new trend. In the next chapter, I will outline the theoretical framework in which I relate Canada's international trade negotiations to lobbying strategies adopted by firms in the Canadian dairy sector.

Chapter Three: Putnam's "Two-Level-Game" in the Canadian Context

In this chapter I introduce the theoretical framework I apply to assess what, if any, relationship exists between free trade negotiations and recent variations in the lobbying behaviour of dairy firms in Canada. In particular, I develop the theoretical arguments reviewed in the previous chapter and adapt the general theories to the empirical case of FTA negotiations and dairy sector lobbying in Canada. The theory I develop in this chapter will argue that recent variation in lobbying behaviour can be rationalized by appealing to the content and nature of the second-generation FTAs and considering how new trade policy alters the incentives faced by domestic actors. The argument is essentially this: During international negotiations Canadian negotiators have limited agency to preventing sensitive industries from being put on the negotiating table; as a consequence, the government is faced with a decision to either enter in a free trade agreement or not, but is not in a position to *both* prevent sensitive sectors from being included *and* to conclude an agreement where all parties to the negotiation agree.²⁴ The objective decision facing the government at each stage of the negotiation is whether or not to proceed with the agreement given the

²⁴ The binary choice as presented above becomes more flexible as the nature of trading partners changes. In bilateral deals where Canada is the dominant partner, it is entirely reasonable to expect that both objectives could be achieved. However once Canada enters large, multilateral negotiations the choice becomes binary owing to Canada's *relative* position.

content incorporated in previous rounds.²⁵ I do not want to suggest that the negotiators have no agency at all. Rather, I am arguing that their ability to prevent industries from being included wholesale is restricted. I do not argue however that the Canadian negotiators are unable to shape the direction of the discussion, *once the industry is being discussed*.

The chapter will proceed as follows: First I outline the theoretical framework of international negotiations as it relates to Canadian trade policy. This section outlines Putnam's two-level game in greater detail and provides a theoretical framework for understanding how the domestic political economy of special interest groups impacts the behaviour of negotiators prior to a negotiation.

Next, I cover the domestic political economy of the Canadian dairy sector, delineating two sub-industries and one group of hybrid actors. In this section, I relate the preferences of each industry to the three policy pillars which constitute supply management. The third section will address the question of timing: i.e. why lobbying behaviour began to change when it did? Finally, I conclude this chapter with a summary of the theoretical assumptions and identify testable hypothesis to be examined in chapter four.

3.1 International Negotiations and Agreements: Structuring the Analysis

Lake (2009) observes that some IPE scholars seek to explain what factors lead states to liberalize the economy, while others seek to explain how liberalization impacts an economy. On this configuration, researchers relate domestic and international variables to each other in a framework that temporally locates the independent variables before the dependent variable such that one *causes* the other, i.e. IV→DV. However, it is important to note that this necessary simplification masks processes that are fundamentally multicausal and intertemporal. Putnam (1988) provides an example of this design.

Outlining his theory of two-level games Putnam notes that for theoretical purposes we should think about the causal process flowing from the international negotiation to the domestic negotiation such that

²⁵ It is important to distinguish between the different stages of a negotiation and the negotiation/ratification stages I describe below. Free trade negotiations usually proceed by completing structured "rounds" where particular issues are engaged at particular times, agreed, and then the negotiation moves on to the next round of trade items.

agreements are hammered out internationally before they are taken home for ratification.²⁶ However, Putnam is careful to note that even though the theoretical framework outlines a two-stage process, in practice it is clear that domestic level variables do inform the international negotiations and *vice-versa*. I make this point to underline the importance of simplifying assumptions, but also so that the reader does not lose sight of the larger complexity and richness of the international system and the interactions therein. Next, I summarize the foundational concepts of Putnam's argument, focusing on the determinants of a country's "win-set" prior to an international negotiation.²⁷

Putnam conceptualized the minimum conditions required for a state to engage in an international agreement as being the bundle of trade policies, graphically represented in Figure 3.1, contained within the country's initial "win-set". In Figure 3.1, each circle represents the initial win-set for country A, B and C. Figure 3.2 provides a graphical representation of how utility increases as the frontier of each win-set approaches the center of each state's circle. The area where each win-set overlap represents the set of potential policy bundles that can be incorporated into an agreement by all three parties. Putnam notes that the dimensions of a state's initial win set will reflect the *a priori* configuration of domestic preferences over trade policy since the agreement at the international level must be able to be ratified at the domestic level. For example, Putnam notes that the relative size of each state's win-set will impact the bargaining power of the negotiator: a smaller win-set may provide the negotiator with a credible rationale for refusing particular trade policy bundles, while a larger win-set may leave the negotiator more open to persuasion by other states.²⁸ Canada's initial win-set during negotiations, for example, may present a smaller-win set since there was unanimous political support to not negotiate oversupply managed sectors.

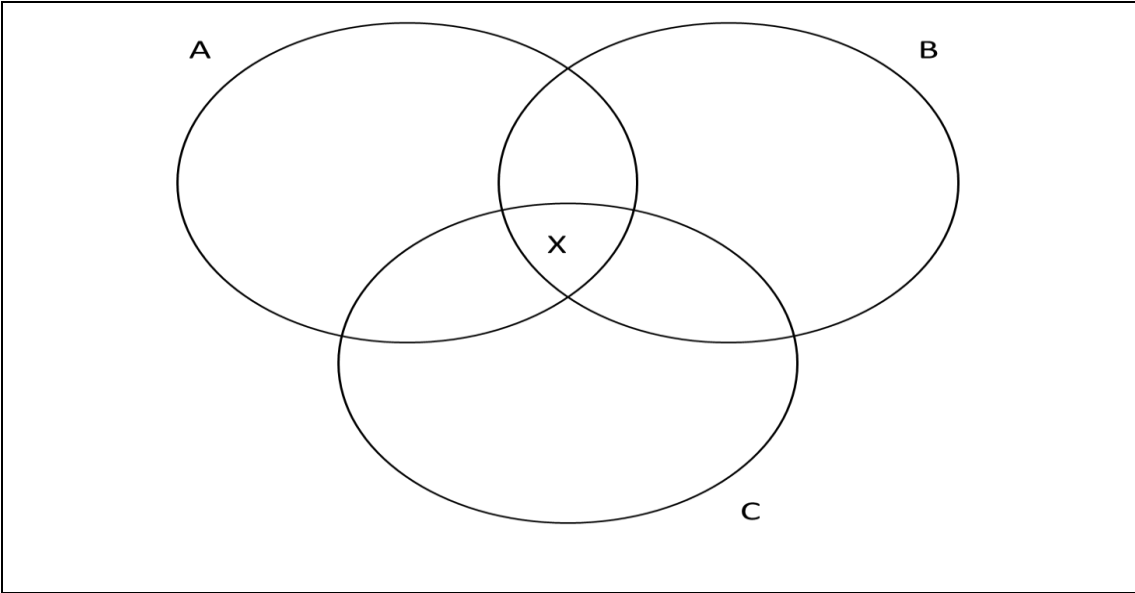
²⁶ Putnam, R.D., 1988. Diplomacy and domestic politics: the logic of two-level games." 436.

²⁷ This need not imply that domestic interest groups have no *a priori* impact on international negotiations. Paquin (2013) analyzing the role of provinces in the Canadian trade policy process, conceives of the process as being a two-stage affair, except Paquin argues that the stages should be delineated by the negotiation and ratification of an agreement (stage 1) and the implementation of the agreement (stage 2). Paquin's delineation of the stages is important because his focus on the "implementation stage" reflects concern over the ability of Canadian negotiators to implement domestically what was agreed internationally. This highlights the ability of domestic groups to signal the future costs of adverse trade actions. Since the government negotiators are political actors, these signalling effects may shape the government's decisions prior to the negotiation.

²⁸ Putnam, Robert D. "Diplomacy and domestic politics: the logic of two-level games." 440.

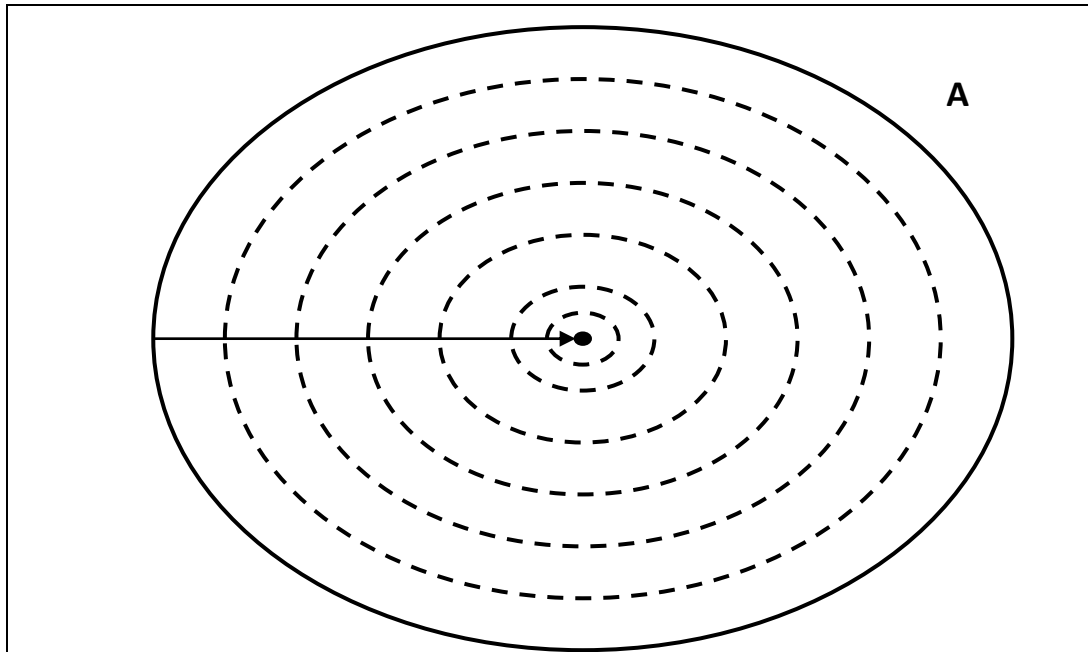
The consequence of a smaller win-set is not necessarily positive or negative but can depend on context. For example, Putnam notes that if a negotiator can credibly claim to be restricted by the legislature on certain issues, the other parties are made aware of the reason for their counterpart's inflexibility during the international talks and they can then adjust their expectations accordingly.

Figure 3.1 Idealized Putnam Win-Sets



¹ Each circle represents the frontier for each state's initial win-set. The circle can be thought of as a utility curve representing the aggregate welfare for state A, B and C. Each win-set, therefore, represents an iso-metric utility curve where the composition of the policies in the final bundle can change but the combination of policies along the same utility curve all return equal value to the state in question.

Figure 3.2 Ordinal Utility in Putnam Win-Sets



¹ Each concentric circle represents an iso-metric utility curve comprised of various policy bundles

² Utility changes as an inverse function of the distance between the utility curve and State A's centroid.

Putnam notes that if the trade position of the domestic actors is relatively homogenous in favour of liberalization then the challenge for trade negotiators is to find an agreement which satisfies the domestic actor's optimal liberalization policy. On the other hand, if the domestic actors exhibit strong heterogeneous preferences over liberalization, some preferring protectionism while others prefer liberalization, the job of the negotiator is made more difficult since they must now manage the interests of those who feel favour protectionism and those who favour liberalization. Heterogenous trade preferences among domestic actors increases the complexity of the negotiator's ratification calculus because it ensures that any international level decision will adversely impact a large block of domestic actors.²⁹ In the Canadian economy, negotiators decidedly face the latter configuration since different industries differ sharply over export-oriented growth strategies versus supply-managed markets which rely on trade

²⁹ Ibid 443.

protection (the trade preferences of red meat producers versus those of dairy producers, for example, demonstrates a clear example of heterogenous inter-industry trade preferences).

It is clear from these conditions that the efforts of lobby groups, prior to a negotiation, can impact the eventual content of an agreement to the extent that the domestic actors can credibly signal prohibitively large future cost to the government as a result of some trade action. In the case of lobbying in the dairy sector, we can reasonably conclude that, even though the dairy lobby had secured a unanimous mandate to exclude supply management from negotiations at the WTO, the sector's lobbyists were unable to credibly signal that the costs would be prohibitive since the content of CETA and TPP both contain provisions for TRQ programs in dairy products.³⁰

3.1.1 Free Trade Agreements as an Exogenous Variable in Canada

Outlining the simplified two-stage structure of these interactions in the context of this analysis is essential to understand the theory developed below. This is because I treat the content of international agreements as an exogenous shock which prompts firms to re-examine their preferences over trade policy once given information about the content of a trade agreement. There are several reasons why this argument is defensible in this case. First, recall that Canada faces an entirely different bargaining environment when negotiating international agreements than does the United States, China, Japan or the European Union. In economic parlance Canada is a "price-taker" in most international negotiations, meaning that Canada's market share is not large enough to distort international prices via unilateral action.³¹ In this respect, it may be helpful to think about the Canadian negotiator's role to be one of representing Canada's interests within an agenda set by larger trading powers. Managing gains and losses is required in any trade agreement but I want to highlight that these trade-offs are more or less certain to be demanded of

³⁰ It is important to note that other factors such as the size of an internal market can also condition initial win-sets by adjusting the opportunity cost of abstaining from an agreement.

³¹ I say "most" trade agreements because of course Canada's position as a price taker is predicated on there being many larger partners/blocs in the negotiation. In the series of bilateral negotiation concluded with states like Jordan, Chile and Colombia it can be rightly argued that Canada was the largest party to the negotiations. Even in these cases however, changes in the flow of goods and services between Canada and smaller bilateral trading partners remain unlikely to alter global prices.

Canadian negotiators makers because they have limited scope to prevent sensitive industries from being included in trade discussions.

The second observation which helps validate the exogeneity of trade agreements is the high level of *de jure* policy autonomy afforded the federal government in the formation of trade policy. Section 91 of the Canadian constitution vests authority over external affairs and international commerce in the federal government.³² In practice, this has afforded the federal government strong policy autonomy over trade policy in trade negotiations conducted in the post-war period up to the Uruguay Round in 1994. The federal government's autonomy over trade policy in this period remained relatively unchallenged throughout largely because the earlier trade agreements dealt exclusively with border policy issues like tariff rates. That said, others have argued that the *de jure* allocation of constitutional powers paints an incomplete story with respect to Canadian trade policy formation in practice. Skogstad (1992) and Kukucha (2013), for example, observe that a *de facto* duty to consult the provinces during trade negotiations has emerged over the course of several negotiations since the conclusion of the Uruguay Round which has elevated the influence of provinces and diluted the autonomy of the federal government over external policy.³³ Speaking to the Standing Committee on International Trade (CIIT), Steven Verheul, then Canada's Chief Trade Negotiator for CETA, characterized the role played by provinces throughout the CETA negotiations thusly:

*“Provinces and territories remain very closely engaged in these negotiations. We meet with them for at least a couple of days every month to review the outstanding issues and to discuss strategies for resolving differences in the remaining areas, and they continue to attend negotiating sessions covering areas under their jurisdiction. Their involvement continues to be highly constructive, and this has enabled our approach on all issues to be unified, coherent, and ambitious.”*³⁴

Paquin's observation, regarding the difficulty of implementing trade agreements touching on areas of provincial jurisdiction, further highlights the importance of this consideration for negotiators and,

³² Skogstad, Grace. “The state, organized interests and Canadian agricultural trade policy: the impact of institutions.” *Canadian Journal of Political Science/Revue canadienne de science politique*, 25(2), (1992). 327.

³³ *Ibid.*

³⁴ Steven Verheul. CIIT (41-1) – No. 044 – House of Commons of Canada. At 1105.

theoretically, greater input on the part of provinces could substantially change the size and shape of Canada’s initial win-set in a given negotiation. From that point, however, I suggest that developments at the international negotiation are largely beyond the scope of domestic interest groups to materially impact the agenda of the negotiation. Thus, these groups are forced to adjust their lobbying strategies based on the developments in an international negotiation. The dissonance between the all-party motion in 2005 and the outcomes Canada has secured in dairy trade policy again suggests that these *a priori* efforts on the part of dairy lobbyists were unsuccessful in pushing the government to make supply management’s inclusion a “red-line” past which Canada would not join in the agreement. I now turn to a discussion of each of the actor’s trade preferences oversupply management’s three core policy pillars and consider how the introduction of a new TRQ program in CETA impacts the trade preference of different actors.

3.2 The Political Economy of Trade Preferences in the Dairy Sector

I identify three actor-types as the central figures lobbying within the dairy sector: producers, processors, and cooperative firms. In this section, I will outline the preferences of each actor over the three policy pillars of supply management: price controls, production controls, and border controls. Table 3.1 provides a table listing each actors preference over each policy lever under supply management.

Table 3.1: Dairy Industry Actor’s Preferences for Supply Management, post-CETA

	Production Controls	Price Controls	Border Controls ¹	
			Over-Tariff	TRQ
Producers	Yes	Yes	Yes	Yes
Processors (Large)	Yes	Yes	Yes	No
Processors (Other)	Yes	Yes	Yes	Yes
Cooperatives	Yes	Yes	Yes	Yes

¹ Post-CETA, reflects the introduction of the TRQ program for Canada under CETA, and thus two policy preferences are recorded, the preference on over-tariff rates and the preference on within-quota volumes.

Recall that the empirical case I have selected centers around the introduction of a TRQ program for cheese in CETA. I, therefore, distinguish the border control policies, pre-and-post CETA, by separating border controls into the within-quota volume of imports (TRQ in Table 3.1) and the over-tariff rate charge on excess imports (over-tariff in Table 3.1). One further complexity should be noted with respect to the

actor types: the distinction between “large processors” and “small-medium processors” (SMP) in the processing industry. While both large and SMP firms have an interest in retaining high over-tariff rates, introducing a TRQ program theoretically splits the processing industry’s preference between those firm which that can most participate in the export market and those firms that can least do so, based on how productive their enterprises are.

This distinction relates to the aspects of NNTT which highlight the importance of intra-industry heterogeneity in productivity between processing firms. The largest firms which are strictly in the processing business include massive global dairy concerns such as Saputo, Parmalat and Nestle. The size and scale enjoyed by these firms, relative to their SMP peers represents a massive gap in capabilities. The large processors all have national networks providing robust supply chains and an ability to deliver products with efficient distribution networks.³⁵ Comparatively, the footprint of the largest SMP firms generally have provincial (if not smaller) sized networks for supply and distribution. Large processors are distinct from cooperative firms in my framework because cooperative firm incentives are mixed with respect to changes in import penetration. Cooperative firms are owned and operated by a large pool of producer firms; thus, they do not consider purely processing incentives when determining their trade preference over the TRQ. In the remainder of this section, I consider the trade preferences of each actor type, in turn, highlight areas where inter-sectoral preferences might reasonably result in inter-industry divergence over trade policy

3.2.1 Producer Preferences over Supply Management

Dairy producers in Canada comprise all those firms which produce primary dairy products for the Canadian market as the main type of economic activity performed by the firm. Dairy producers are required to obtain the right to produce dairy products by purchasing a production quota from a provincial milk board or another authorized body. The production quota affords the holder the right to produce a certain quantity of dairy (defined by the quota) in perpetuity. The total milk quota (TMQ) is apportioned

³⁵ Ronald Maynard. CIIT (42-1) – No. 033 – House of Commons of Canada. At 0950.

to the various provinces based on a formula developed by the Canadian Dairy Commission, the crown corporation responsible for coordinating the three policy pillars of supply management. In the mid-1970s when supply management assumed its current policy structure, the apportioning of the TMQ was based on historical production levels and thus, Quebec and Ontario received the lion's share of quotas (approximately 68% in the 2018 dairy year).³⁶

Producers derive immense benefit from supply management. The most important of these and the original policy goal of supply management was the stabilization of farm income. This goal was made possible by enacting production, price and border controls for dairy products, beginning in the 1970s.³⁷ Beyond stable incomes, supply management has also conferred considerable protection on domestic producers. In the early years of supply management, dairy imports were subject to quantitative limits making it prohibitively difficult for foreign producers to profitably export dairy products to Canada. The historical allocation of quotas and the high cost of accumulating quotas to produce at scale also confers protection on Canadian dairy concerns because it substantially increases the entry costs for any foreign firms that might set up a competing enterprise in Canada as well as acting as a barrier to entry for domestic start-ups. The URAA in 1994 ended the practice of quantitative import restrictions as Canada agreed to introduce the current TRQ regime and commit to progressively lowering over-tariff rates. This policy shift did not produce immediate changes in the supply management system or in Canada's trade relations since the quantities permitted were relatively minor and the over-tariff rates remain prohibitively high on dairy goods.³⁸ The trade preferences of producers over each policy are identified below.

Production control:

Producers have strong incentives to support the continued ability of the CDC and affiliated producer groups to set production levels, i.e. to determine the TMQ levels for a given year. This is because, without

³⁶ Canadian Dairy Information Center. "Quota"

³⁷ Skogstad, Grace. "Canadian agricultural programs and paradigms: The influence of international trade agreements and domestic factors." *Canadian Journal of Agricultural Economics/Revue canadienne d'agroeconomie*, no. 4 (2008): 498.

³⁸ See Skogstad (1992)

the ability to mandate how much milk is produced domestically, the CDC would not have a policy tool to balance demand with total supply (i.e. international and domestic supply) and the price paid at the farm gate would therefore be much less stable depending on the extent to which producers over or underproduce for a given level of annual demand. Establishing the quota system also creates a set of capital assets (the production quotas) which can produce a steady revenue stream in perpetuity, the importance of this aspect of supply management should not be understated. Production controls are essential to supply management, it is therefore not surprising that producers have strong incentives to defend this policy.

Price Control:

Similarly, producers should be strongly in favour of defending the ability of the CDC to determine the farm gate price paid for dairy. While there is considerable nuance bound up in the term “price”, since supply management has evolved to incorporate differential pricing based on end-use, it is accurate to state that the overall price paid to farmers is determined by the CDC. Like production controls, price controls are an essential element of supply management without which the collective marketing system would fail to deliver stable incomes to producers.

Border Control:

In general, producer groups have strong incentives to defend the ability of the government to manage the volume of dairy imports. Like any market, the price paid for milk is determined by the supply and demand for dairy products in a given period. Since total supply is the sum of domestic and imported products, any increase in the imported quantity of dairy products will force the CDC to either: adjust the production quota to keep price stable or adjust the price- reducing domestic profits in the process. Thus, domestic producers should be strongly in support of supply management’s ability to temper or otherwise manage the supply of imported dairy products. In a more general sense, this finding is intuitive since, *ceteris paribus*, each additional unit of dairy supply sourced outside of Canada must necessarily impact either the quantity of dairy produced domestically or the price paid to farmers for domestic dairy.

When the URAA mandated that Canada transition its border policy to the TRQ program, how were producer incentives impacted? In truth, very little: the transition from quantitative restrictions to the TRQ converted the policy mechanism by which imports are curtailed into a two-tiered tariff-based program whereby the quantity imported is determined by the volume of the within-quota imports plus the over-tariff volumes. Thus, producers should treat this new set of tariff rates in a similar manner that they treated the quantitative limit; i.e. to restrict imports to maximize domestic producer's share of the market. That the mechanism by which this exclusion is achieved has gone through tariffication does not change the preference that the producer groups have over further imports of dairy products into Canada.³⁹ On each of the three pillars of supply management then, it is reasonable to assume, based on production profiles, that the average Canadian dairy producers will have policy preferences that strongly favour supply management in its current form, indeed, it would be reasonable to argue that the current form of supply management (i.e. without quantitative restrictions on imports) is a sort of "next best option" for producer firms relative to the historical structure of supply management.

3.2.2 Processor's Preferences over Supply Management:

Dairy processors have a more complicated relationship with supply management than do producers. To illustrate this point imagine a state of the world where supply management had no influence on the level of dairy imports into Canada: at prevailing global prices, dairy processors would have the option to purchase domestic Canadian dairy inputs or to purchase these imports on the world market. Since supply management controls price and production, the prevailing price for Canadian dairy is higher than the international price. Therefore, strictly rational processing firms may opt to purchase all or a greater degree of their imports from the international market, thereby pocketing the price differential above goods produced with domestic inputs.

³⁹ Yves Leduc. CIIT (42-1) – No. 047 – House of Commons of Canada. At 1115.

In practice, this has not been a prohibitive obstacle for the processor's support of supply management since policies enacted under supply management worked to remedy this problem. An example of such a policy would be the Special Milk Class Permit Program (SMCPP) which sets different prices for different classes of dairy products based on their end-use. The goal of a program like the SMCPP was to ensure that the lower input costs of foreign competitors in the processing sector would not disadvantage the competitiveness of Canadian processors. Thus, the situation for processors with respect to the three pillars of supply management is more complex than for producers. It will be helpful then to consider the preferences of processors over each pillar of supply management, as for producers, to assess the extent to which processors are "fully" in favour of supply management compared to producer firms.

Production Control:

In the supply-managed market, it is reasonable to assume that processors would have preferences in support of production controls under supply management. Managing production helps to ensure that the pricing environment for dairy inputs retains the stability that SM has delivered to producers. Processors similarly benefit from the stability conferred by supply management, if not to the same extent as producers. Stability is a benefit because it allows a firm to make business decisions in an environment with relatively less uncertainty than firms in a regulatory environment where price and supply fluctuate with the market.

Price Control:

As with production controls, I argue that processors also have incentives to support the price-setting policy under supply management. This logic mirrors that of the production controls and the argument for producers. Ability to control the price allows stability to be retained as supply is balanced against demand. Price controls also allowed the Canadian government to implement programs like the SMCPP, which helped to ease processor concerns over export competitiveness. This has helped to ensure processor support within the supply management coalition since at least the mid-1990s.

Border Control:

On border controls, the processing sector is more mixed when the TRQ program is included in the analysis. Prior to the introduction of TRQ programs for dairy, processors and producers would likely have had symmetric incentives over supply management's border controls because no other policy tool existed to *both* introduce more foreign inputs *and* retain the collective marketing logic upon which supply management is predicated. Once the TRQ program is introduced, such a policy lever does emerge in the form of the within-tariff volume for imports allowed under TRQ program. Under CETAs TRQ program for cheese products arrangements, for example, it remains true that the *average* processor would support stronger border controls relative to liberalization. I say "on average" because I suggest, following NNTT, that the processing market contains strong heterogeneity over trade preferences stemming from heterogeneity in the productivity of firms in the processing market. Without detailed, firm-level data it is difficult to quantify the extent of the differences in productivity, however, what is clear is that Canada has several large processors that dominate the domestic processing market. Even if the numerical extent of that dominance is not observed directly, what is known is that the size and scale achieved by these larger processing firms must, at some level, imply that productivity is heterogeneous across different processing firms across Canada. This suggests that the ability to engage in the export/import market effectively will be shaped by the productive capacity of each processing firm.

While trade liberalization may create the opportunity to engage in the export-import market, in practice liberalization via a TRQ program creates only a *de jure* right to do so, not the practical ability. Engaging effectively in the international market often requires an upfront investment in plant, personnel, logistics etc. Further, in Canada's case, prospective exporter/importers must also have the ability to obtain export/import permits under the *Export-Import Control Act* (EICA) and have the internal capacity to manage compliance within that complex system.⁴⁰ Melitz suggests that firm-productivity becomes a kind of threshold whereby firms that achieve high productivity relative to the rest of the industry are able to

⁴⁰ Melitz, Marc J. "The impact of trade on intra-industry reallocations and aggregate industry productivity." 1706.

take on the upfront costs associated with international commerce while their less productive (and by far more numerous) counterparts face high entry costs to the external market.⁴¹ To the extent that the processing sector exhibits strong heterogeneity in terms of productivity, on a NNTT account of trade dynamics suggests that intra-industry division over the TRQ program should emerge between the largest, processors and their smaller industry peers.

3.2.3 Cooperative Firm Preferences over Supply Management:

With the exception of supply management's border controls post-CETA, cooperative firms face the same incentives over the three pillars of supply management as do processors and producers. However, cooperative firm's preferences over border controls are, in theory, mixed with respect to the TRQ. Since cooperatives operate both in the processing and producing industries, these large firms face complex trade-offs. To begin with, cooperatives are distinct from processors in that the firms are owned by a large group of producers who pool production to facilitate the processing side of their enterprise. Therefore, these large firms face the same trade-off with respect to TRQ-imports as processors, except that the welfare loss stemming from lower domestic production or prices is not fully externalized to another industry; rather it is partially absorbed by the cooperative's constituent producers. Therefore, the extent to which a cooperative firm would lobby to expand the TRQ would depend on the value of the elasticity of substitution between domestic and imported inputs for a given cooperative.

Without firm-level data on dairy firms, quantifying this elasticity is not possible, however, it is notable that these firms are among the largest dairy concerns in the world and possess much capital and scale in their operations relative to their domestic market peers. These factors suggest that the larger processing firms are more able to efficiently engage in international commerce, *à la* Melitz (2003), than their less productive industry peers. The position of Cooperative firms over CETA's TRQ program will be considered using qualitative data in chapters 5 and 6, but owing to the lack of firm-level data, the

⁴¹ Ibid.

empirical analysis in chapter 4 does not make a determination, one way or the other, as to the cooperative's preference over the TRQ program in CETA.

3.2.4 Summary of Trade Preferences and Implications for Lobbying Behaviour:

As Table 3.1 demonstrates, my framework generates an empirical expectation that variation in lobbying strategies will emerge from within the processing industry to the extent that the industry exhibits starkly heterogeneous productivity between processing firms. What it also indicated, however, is that none of the actors has a strong preference against supply management as the dominant paradigm for the dairy sector. I make this point to underline the larger argument with respect to preferences diverging *within* the supply management coalition over a particular policy (TRQ volumes), as opposed to arguing that actors within the industry are opposed to supply management, writ large.

Table 3.1 highlights my argument that the TRQ program provides an additional policy lever against which firms can push the government to implement one outcome over another and that it is divergent preferences from within the processing sector over the TRQ program which then translates into new lobbying strategies. The unique position of large processors, relative to their sector peers, is what generates these divergent incentives. Only those firms large enough, with high enough productivity are able to efficiently engage in the export market. Thus, if firms are lobbying to maximize profits, then it is reasonable to expect these firms to attempt to take advantage of the TRQ program to import cheaper inputs.

To this point, I have described the international and domestic factors that shape the preferences and capacities of actors with respect to international trade in the Canadian dairy sector. Yet, there remains an important question to address: namely, why now? If the first TRQ program began in 1994, then why are firms changing lobbying behaviour in 2016? Without an adequate answer to this question, the argument that trade deals are chiefly responsible for the variation in lobbying patterns becomes more difficult to defend. However, I believe that the time-order question inherent in this analysis are rationalized by appeal to the structure of Canadian federalism and the changing nature of international trade agreements in the period between URAA and CETA (approximately 1994-2014). In the following section, I will

contextualize these arguments with respect to place and time in an effort to answer the *why now* question I identify above.

3.3 Federalism, Trade Agreements and Supply Management:

In this section, I consider how the structure of Canadian federalism has influenced the institutional context in which Canada negotiates FTAs. Further, I ground the concept of second-generation trade agreements by considering how these deals differ from the type of deals that characterized the expansion of international trade between 1947 and 1994. These factors, taken together, will underscore the importance of emerging trade issues at multilateral trade negotiations in reshaping the strategic incentives faced by firms in the dairy sector. As new trade items like intellectual property, government procurement and agricultural support programs were included in negotiations (beginning with the URAA in 1994), the institutional context in which dairy firms had organized their lobbying activities shifted to reflect the capacity challenges faced by the federal government when negotiating second-generation trade agreements.

3.3.1 Federalism and Supply Management: The institutional context

Among the many complexities of supply management's regulatory framework, is the division of responsibilities over fluid and industrial milk between provincial and federal jurisdictions, respectively. This single example of dairy regulation is illustrative of the impact that Canada's federal structure has on regulation in the dairy industry. Because the constitution divides power over agriculture between the different levels such that jurisdiction overlaps, the ability of the federal government to enforce all components of agricultural policy have been diminished as second-generation trade agreements have developed.⁴² As Skogstad (1992) notes, the federal government enjoys strong *de jure* autonomy over trade and external policy in Canada.⁴³ Yet, *de jure* autonomy has not afforded the government *de facto*

⁴² Charter of Rights and Freedoms, s 91/92, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK)

⁴³ Skogstad, Grace. "The state, organized interests and Canadian agricultural trade policy: the impact of institutions." 327.

autonomy over the trade process, in practice. Paquin (2013) cites the inclusion of provinces during the negotiations with the United States and Mexico throughout the 1980s and 1990s⁴⁴ to illustrate the *de facto* inclusion of the provincial governments in these negotiations. This particular episode is also notable in that both the Canada-United States Free Trade Agreement (1989) and the North American Free Trade Agreement (1994) are early examples of plurilateral agreements which, while substantially grafted to the rules and mechanisms of the WTO, are separate institutional bodies from the WTO. Skogstad (1992; 1998) also notes that the stark reduction in federal expenditures going to the provinces (especially Quebec) on agricultural programs and transfers heightened the role played by provinces as they came to control more and more of the total government spending on agricultural programs in Canada in the late 1990s.⁴⁵

If the growing clout of the provinces was speculative in the 1990s, the question was settled during the preliminary CETA discussions with the European. Paquin (2013) notes that the nature of the agreement which had been scoped out by Canada and the EU was of a different sort than earlier agreements.⁴⁶ Both the Canadian and EU officials were acutely aware of this concept: Paquin quotes then Prime Minister Stephen Harper in 2009, characterizing the agreement as a “new generation” of FTAs for Canada.⁴⁷

Finbow (2013) also notes that the content and nature of CETA represented the “first time in international talks (that) provincial governments have been at the CETA negotiating table in their areas of jurisdiction.”⁴⁸

Much of the focus on provinces stemmed from the EU negotiators who insisted that provincial governments be involved in the negotiation of the new agreement due to concerns over implementation

⁴⁴ Paquin, Stéphane. "Federalism and the governance of international trade negotiations in Canada: Comparing CUSFTA with CETA." *International Journal* 68, no. 4 (2013): 545-552.

⁴⁵ Skogstad, Grace. "Canadian Federalism, Internationalization and Québec Agriculture: Dis-engagement, re-integration?." 27-48.

⁴⁶ D'Erman, Valerie J. "Comparative intergovernmental politics: CETA negotiations between Canada and the EU." *Politics and governance* 4, no. 3 (2016): 94.

⁴⁷ Paquin. "Federalism and the governance of international trade negotiations in Canada: Comparing CUSFTA with CETA." 545.

⁴⁸ Finbow, Robert. "CETA and multi-level governance: Implications for provincial and municipal governments." *Canada–Europe Transatlantic Dialogue, CETA Policy Briefs Series* (2013). 7.

that had arisen in earlier discussions of an EU-Canada FTA.⁴⁹ These concerns reflected the “behind-the-border” policies in CETA since they implicate policy areas that go beyond the *de jure* competencies of the federal government. The House of Commons also made this intent explicit in a 2011 statement, cited by D’Erman (2016), noting “European negotiators want a CETA with Canada to include government procurement at the provincial, territorial and municipal levels and have made it a priority, consultation with the various levels of government in Canada is of even greater importance.”⁵⁰

The EU insisted on the inclusion of the provinces, Paquin argues, for two reasons. First, the trade agenda for the CETA negotiation included policy areas under provincial jurisdiction, implicating policy areas far beyond border tariffs.⁵¹ Secondly, the EU parties recognized that Canadian federalism divided jurisdiction between the federal, provincial and municipal governments over the policy areas on the negotiations agenda and, as a result, implementation of the agreement might be incomplete if certain provinces refused to implement aspects of an agreement under *de jure* provincial authority.⁵² With the impact of second-generation trade agreements in mind, it is appropriate to move onto the structure of federalism in Canada before discussing how each factor, taken together, influences actors within the dairy industry and their lobbying strategies.

3.3.2 Second-Generation Trade Agreements in the Canadian Context

Modern trade agreements do little to recall the trade policy issues contained in older trade agreements signed under the WTO. Multilateral agreements under the WTO in the post-war period saw the tariff rates, especially between developed countries, fall precipitously for trade in most goods. However, as the marginal benefits of reducing tariff rates began to approach zero, rich countries like the US, Japan and the EU group started to look for opportunities to strike deals that would go beyond the now exhausted tariff

⁴⁹ Ibid 545.

⁵⁰ D’Erman. "Comparative intergovernmental politics: CETA negotiations between Canada and the EU." 94.

⁵¹ Paquin. "Federalism and the governance of international trade negotiations in Canada: Comparing CUSFTA with CETA." 546.

⁵² Ibid 546.

instrument to create new, more liberal markets for their firms and consumers.⁵³ Notable in this respect was the introduction of an agreement covering the trade in services in the Uruguay round in 1994. Modern agreements have also expanded beyond services to cover issues of commerce not originally outlined in the GATT treaty. These include areas such as Phyto-sanitary restrictions, government procurement and intellectual property.⁵⁴ In general, it can be said that modern trade agreements reach further “behind-the-border” than did previous agreements as the gains from trade must now be realized by removing NTB’s and prompting regulatory harmonization, as opposed to simply cutting the tariff rates at the border.

One notable area where the successes of the Bretton Woods system did not translate into more liberal trade was agriculture.⁵⁵ At the time of the URRA negotiations, the impasse between developed and developing nations over agricultural products threatened to derail the entire MTN process. Developing nations argued that it was untenable for developed states to retain generous and trade-distorting protections for domestic producers while at the same time demanding an expansion of FTAs into areas like services and intellectual property. When the TRQ program was introduced post-URAA, proposed as a solution to the developed-developing country impasse, Canada committed to the progressive reduction of over-tariff rates for the agricultural products now covered by TRQ programs.⁵⁶ However, these commitments were not realized post-URAA as Canada has retained prohibitively high over-tariff rates on most categories of dairy products. Foot-dragging on TRQ implementation and at least two cases litigated before the WTO and NAFTA dispute settlement bodies, further evidence the contentious and uncertain administration of the TRQ in the early years post-URAA.⁵⁷ This lack of progress would continue to

⁵³ Leblond, Patrick. "The Canada-EU comprehensive economic and trade agreement: More to it than meets the eye." *Policy options*, no. 7 (2010): 75.

⁵⁴ *Ibid.*

⁵⁵ Anderson, Kym, and Will Martin, eds. *Agricultural trade reform and the Doha Development Agenda*. The World Bank, 2005. 2-6.

⁵⁶ Gantz, David A. "Dispute Settlement under the NAFTA and the WTO: Choice of Forum Opportunities and Risks for the NAFTA Parties." *Am. U. Int'l L. Rev.* (1998): 1060.

⁵⁷ *Ibid* 1060.

plague Canadian negotiators as the WTO moved into a period of integration and change in the early 2000s.

Canadian and other developed countries', foot-dragging on the URAA's agricultural commitments ensured that as the international system entered the Doha Development Agenda negotiations in 2001 the content of Canadian trade and agricultural policy was strongly at odds with the demands for agricultural liberalization advanced by a large bloc of developing countries. As Anderson and Martin (2005) note, agricultural issues were a key (perhaps the central) sticking point throughout the DDA process. Post-industrial western states failed to propose meaningful reforms to their agricultural policies during the DDA, a major roadblock to agreeing on a final document encompassing policy both for liberalizing trade in agricultural and non-agricultural market goods (NAMA) and for the inclusion of newer issues such as intellectual property and services.⁵⁸

Second-generation trade agreements present a more significant challenge for Canada than may be faced by other governments. Since older trade agreements focused primarily on the reduction of simple tariff rates, the Canadian government enjoyed almost exclusive control over the trade process because matters of commerce and external policy are the sole responsibility of the federal government. However, as more complex issues related to provincial areas of jurisdiction (such as agriculture and internal commerce) were included in modern trade agreements an asymmetry began to emerge between what the federal government could negotiate with other trading partners, and what they could expect the provincial authorities to implement. Kukucha (2013) highlights this relationship, noting that the federal government faces a significant challenge with respect to bringing provinces along with its trade commitments. This source of this asymmetry is rooted in the distribution of powers outlined in section 3.3.2 of this chapter. Leblond and Farfard (2013) note that this dynamic was clearly in the mind of the European negotiators because they made clear to Canadian policymakers that any agreement which emerged out of the CETA

⁵⁸ Anderson, Kym, and Will Martin, eds. *Agricultural trade reform and the Doha Development Agenda*. The World Bank, 2005. 2-6.

negotiations would have to contain solid assurances that the provinces would actually implement the new trade policy. In order to secure this assurance, Leblond and Fafard (2013) argue that the federal government was forced, essentially, to incorporate the provinces into the process in a much greater capacity than they had been in previous FTAs.

Why might CETA, in particular, have strengthened the hand of lobbyists and stimulated the increasingly complex lobbying strategies adopted by dairy firms? The answer has to do with the distribution of gains and losses that were expected to result from the implementation of CETA. Leblond and Fafard (2013) note that the composition of comparative advantages between Canadian and EU industries ensured that the gains and losses from the agreement would be unevenly shared across Canada.⁵⁹ True, changes to the rules for government procurement with respect to municipal and provincial tenders would be country-wide in their impact⁶⁰, but the gains from trade in goods were expected to accrue primarily in the red meats and automotive industry, while the losses were expected to materialize within the dairy industry and segments of the industrial economy. The challenge for Canada is that these industries are regionally clustered- red meat in Alberta, automotive parts/manufacturing in Ontario, heavy industry in Quebec, dairy in Quebec and Ontario- and so when the provinces became more closely involved with the negotiation of these agreements, the trade associations which represent these industries were able to find a powerful ally in their respective provincial governments.⁶¹ Skogstad recognized this trade-off earlier than others, noting that the further internationalization of Canadian agriculture would “compound internal fissures” as the interests of regionally entrenched groups generates intra-regional trade conflicts over the distribution of gains and losses from FTAs.⁶²

⁵⁹ Fafard, Patrick, and Patrick Leblond. "Closing the deal: What role for the provinces in the final stages of the CETA negotiations?." *International Journal*, no. 4 (2013): 556

⁶⁰ Ibid 556.

⁶¹ Ibid 555.

⁶² Skogstad, Grace. "Canadian Federalism, Internationalization and Quebec Agriculture: Dis-commitment, re-integration?" 28.

3.4 Summary and Formal Hypotheses:

The theoretical framework I have outlined in the foregoing pages covered a wide range of issues and assumptions and thus it will be helpful to restate the central points briefly before moving to the empirical analysis. First, the macro-theoretical framework in which I relate the domestic variables to the international variables is grafted to the Canadian context primarily from Putnam's conceptualization of international negotiations as being a two-stage game. In this framework international negotiators, with a knowledge of their state's win-set, engage in international negotiations to produce an agreement where (i) all parties to the negotiation agree on the final policy bundles, and (ii) where the negotiators can reasonably expect to secure ratification at the domestic level. What is crucial with respect to Putnam's theory is Canada's position relative to our trading partners. I note that Canada is a small open economy which is highly dependent on trade and without a large internal market of consumers, relative to our trading partners. Further with respect to dairy, in particular, the all-party motion of 2005 demonstrated the uniform position of all major political parties that supply management not be negotiated at the DDA. Taken together, these factors suggest that Canada's win-set is more constrained, *cet par*, relative to trading partners.

With respect to domestic political economy, I identify three actor-types who lobby in the Canadian dairy sector: producers, processors and cooperative firms. The processors are then further subcategorized between large processors and SMP firms. This distinction is vital to the discussion below since differences in productive capacity between processing firms is the mechanism by which I hypothesize intra-industry preference drift will occur.

The two theoretical issues above relate to Canada's bargaining position internationally as well as the preferences of domestic actors of trade policy, respectively but do not touch on the changing institutional context within which FTAs are negotiated and ratified. Kukucha (2013) and Skogstad (1992) have argued that traditional networks in which dairy lobbying took place have been disrupted in recent years as trade policy has come to implicate policy that is not in the *de jure* jurisdiction of the federal government: the

consequence being a need to include provinces more fully into the negotiation process. The inability of Canadian institutions to manage this intra-state federalism was laid bare when second-generation trade agreements arrived in the Canadian experience and underscored the challenge with “behind-the-border” policy in FTAs.

Taken together, the macro-theoretic, economic and institutional variables suggest two theoretical hypotheses with respect to lobbying behaviour and FTAs in the dairy sector:

H1: *Individual lobbying activity in the dairy sector is associated with support for trade policy liberalization in dairy products.*⁶³

The rationale for this hypothesis is rooted in the theoretical predictions of NNTT: to the extent the industries within the dairy sector exhibit heterogenous productivity, it is reasonable to assume that the most productive firms will respond to trade policy in a distinct manner to their smaller industry peers;

H2: *Lobbying activities which explicitly reference FTAs vary systematically with an organization’s trade preferences.*

This hypothesis is based on my expectation that variation from one period to the next in terms of the content organizations submit to the OCLC will be systematically related to the trade position elicited from lobbying records. This hypothesis will be developed further using the lobbying data and I will outline how this concept is operationalized.

Chapter 4: Quantitative Analysis- Methodology and Data

In the previous chapter, I outlined a theoretical framework which relates the institutional context of international trade agreements to the domestic political economy trade policy in the Canadian dairy sector. In this chapter, I introduce the empirical design developed to examine the relationship between international trade agreements and lobbying behaviour using a novel dataset derived from records

⁶³ “individual lobbying” throughout will be used to refer the practice of individual firms directing lobbying communications under their own name

collected by the OCLC. Chapter Four considers three questions in particular: First, is there a systematic relationship in the dataset between individual firm lobbying and the lobbyists preference over a TRQ program? Second, is there a systematic relationship between the inclusion of FTA-content in a registration return and the TRQ preference recorded in a registration? Lastly, I consider how the institutional factors related to price-setting responsibility under supply management's regulatory framework may distort the link between FTAs and trade preferences observed in the OCLC data.

The first section of this chapter deals with Canada's lobbying regulations as enacted under *the Lobbying Act*. Here I note how Canada's regulatory regime for lobbyists has developed in the last two decades and highlights the duties and responsibilities of lobbyists and government officials with respect to disclosing the content of lobbying activity. Next, I outline the methodology used to develop the lobbying dataset. This section will explain how different types of OCLC data are combined into the final dataset, as well as providing examples of my coding procedure for the text of registration returns. Lastly, I note limitations and assumptions with respect to the dataset and the empirical analysis.

Section 4.3 will then move to a discussion of the analytical design for the analysis. Here I identify the quantitative methodology employed in the analysis and explicate each variable of interest; positioning each variable relative to its respective theoretical concept. Section 4.3 will conclude by noting a set of testable hypotheses to be examined using statistical analysis. Once the analytical approach is outlined, I present the results of the quantitative analysis in Chapter Five.

4.1 *The Lobbying Act of 2008 and Lobbying Data in Canada*

In Chapter Three, I outlined the theoretical framework within which I link the domestic political economy of Canada's dairy sector to the international level variables related to the negotiation of free trade agreements. In this section, I begin by linking these theoretical concepts to the lobbying data assembled for this analysis.

In 1995 the Canadian government passed Bill C-45 (*Act to Amend the Lobbyists Registration Act*)⁶⁴ which strengthened the disclosure requirements for lobbyists conducting business with government officials. Prior to the 1995 lobbying reform, only those communications directed through the use of outside consultants were required to submit lobbying information to the OCLC. Bill C-45 changed these requirements and compelled any corporation or special interest group directing lobbying communications to disclose lobbying information to the commissioner.⁶⁵ This reform is significant for our purposes because it required the large dairy sector umbrella associations (such as the DFC and DPAC) to disclose the information relating to their significant lobbying enterprise. Under the previous regulation, only communications conducted using out-of-house resources would have been disclosed. However, as the registration returns submitted between 1996 and 2008 demonstrate, the new regulation did not require lobbyists to submit detailed information with respect to the particular programs, policies or initiatives being pursued.⁶⁶ While subsequent reforms were made to the lobbying regulations in 2002-2003, 2004, 2005 and 2006, the most significant reform was enacted under *The Lobbying Act* which took effect on July 2nd, 2008.⁶⁷ This reform dramatically restructured the lobbying regulations in Canada. Among other provisions, the lobbying reform in 2008 included three important changes to the registration system: a new designation for government officials was created, Designated Public Office Holders (DPOH), new regulations for certain types of DPOH which enjoined lobbying activities in the five-years after they leave their post, and lobbying disclosures were transferred to a system of mandatory electronic submission. Perhaps the most notable change in the 2008 reform was the requirement that lobbyists disclose “certain details on their ‘oral and arranged’ communications with DPOHs” and that “DPOHs, for their part, are required to confirm with the Commissioner (of lobbying) the accuracy of the information submitted by

⁶⁴ Office of the Commissioner of Lobbying of Canada. “The Lobbying Act”

⁶⁵ Ibid.

⁶⁶ The pre-2008 registrations do provide some indication as to the lobbyist’s interest in programs and policies but the submissions rarely provide detail beyond a single key word.

⁶⁷ The reform in 2005 created a requirement that an organization’s registration returns be organized under a single “responsible officer” for the organization and that communications initiated by DPOHs were no longer exempt from reporting requirements. The 2005 reform also required registered lobbyists to update or renew their registration at least every six months.

lobbyists”.⁶⁸ The impact of this latter reform is clearly evidenced by the distinct character of pre and post-2008 registration returns as the former includes only minimal information on policy goals and initiatives while the post-2008 registrations reflect a much greater detail on these issues. As Rheault (2013) notes, the 2008 reform is also pivotal in that it established the OCLC records on lobbying communications, as opposed to only the registrations for the lobbyists directing communications with DPOH. This aspect of the OCLC data is vital since the record of lobbying communications helps to establish a timeline of when and how intensively a given entity is lobbying at a given time.⁶⁹

Thus, as of the coming-into-force of the 2008 *Lobbying Act* reform, the OCLC collects two types of data which are utilized in this analysis: communications data and registration returns.

4.2 OCLC Data:

In the section above I noted how various lobbying reforms have been iterated into the current regulatory framework for lobbying disclosures in Canada. In particular, I identify two sources of data compiled by the OCLC: communication data and lobbyists registrations.⁷⁰ In the subsequent sections, I discuss each of these sources in turn and describe how the information from each source is integrated into the final dataset.

4.2.1 Communication Reports

On the OCLC website, there is available a dataset which contains a record all official lobbying communications (communications) between registered lobbyists and DPOHs since July 2nd 2008. Each line of the communication dataset represents one official communication between a lobbyist and any DPOH present. The attributes recorded for each communication include the: date of the communication, the date the communication is submitted to the OCLC, the name of the registered lobbyist, the name of

⁶⁸ Office of the Commissioner of Lobbying of Canada. “*The Lobbying Act*”

⁶⁹ Rheault, Ludovic. "Corporate lobbying and immigration policies in Canada." *Canadian Journal of Political Science/Revue canadienne de science politique* 46, no. 3 (2013): 701.

⁷⁰ In order to accord with the OCLC terminology I will refer to lobbyists registrations as “registration return(s)” or “return(s)” throughout.

the entity directing the communication, the names of DPOH present as well as the department/agency and title of the DPOH present. In addition to identifying attributes, the dataset also records keywords relating to issue areas covered by the registration. The subject-matter keywords do not provide any information on the tenor of the conversation beyond a simple subject matter designation.⁷¹ The communication logs, therefore, serve primarily as a record of the timing and intensity of lobbying activity for each organization. However, the communication data does not provide much information (beyond keywords) that indicates what position a lobbyist takes on an issue.

4.2.2 Registration Returns

In the communication dataset, each line refers to a specific communication which took place on a particular date. The registration return variables exhibit a different structure from that communication data because it is not specific to discrete observations (i.e. a specific day). Rather, registration returns are organized along time periods, usually around a month for active lobbyists, during which the registration return is “active”. Section 5(3) of the *Lobbying Act* requires that registered lobbyists update or renew their registration returns with the OCLC “not later than 15 days after the end of every month.”⁷² This means that for most lobbyists a separate registration return is available for each month that the lobbyist was active for a given entity. The OCLC website catalogues registrations as “versions” of the returns submitted by a lobbyist for communications directed by a firm or association. Since OCLC retains and makes all historical versions of a lobbyist’s return available these older returns can also be arranged with respect to time to inform how a firm or association’s lobbying interests have changed over time.

Registration returns are only considered if submitted after the July 2008 reform. This is because the detail organizations provide on their lobbying activities has increased following the 2008 reforms to the

⁷¹ For example, a given communication may list “international trade” as a subject matter keyword which indicates that international trade was discussed, but does not indicate which aspect of trade, which trade policies are discussed, the lobbyist’s position on trade, etc.

⁷² *The Lobbying Act* (R.S.C., 1985, c. 44 (4th Supp.) Section 5(3)

Lobbying Act. To give some indication as to the impact of the 2008 reforms, I provide two examples of registration returns from non-dairy agricultural lobbyists submitted pre and post-2008.

Figure 4.1 Canada Grain Council Registration Return, 2007-07-04 to 2007-12-28.

C. Lobbying Activity Information	
Federal departments or organizations which have been or will be communicated with during the course of the undertaking:	Agriculture and Agri-Food Canada (AAFC), Canadian Food Inspection Agency (CFIA), Fisheries and Oceans Canada (DFO), Health Canada (HC), Public Safety and Emergency Preparedness Canada (PSEPC)
Communication techniques that have been used or are expected to be used in the course of the undertaking:	Grass-roots communication, Informal communications, Meetings, Presentations, Telephone calls, Written communications, whether in hard copy or electronic format
Subject Matter: Areas of Concern:	Agriculture, Consumer Issues, Food Safety, Health, Pandemic Preparedness Planning
Details Regarding the Identified Subject Matter	
Categories	Description
Policy or Program	Agriculture Policy Framework;
Policy or Program	Food safety regulatory framework;
Policy or Program	Harmonization of food safety policy and regulations in Canada;
Policy or Program	Pandemic planning for the agri-food sector

¹ The image captures the return's content dealing with policy matters specifically. Pre-2008 returns do include information relating to an organization's membership (subsidiary firms) as well as any federal funding that the organization receives.

Figure 4.2: Canada Grain Council Registration Return, 2008-08-08 to 2009-05-19

Subject Matters	Subject Matter Details	
<ul style="list-style-type: none"> • Agriculture • Consumer Issues • Food Safety • Health • Pandemic Preparedness Planning 	<p data-bbox="537 254 898 279">Legislative Proposal, Bill or Resolution</p> <ul style="list-style-type: none"> • Bill C-51, An act to amend the Food and Drugs Act - provisions relating to food safety - <p data-bbox="537 380 721 405">Policies or Program</p> <ul style="list-style-type: none"> • Development and implementation of a National (Federal/Provincial/Territorial) Recognition of Post-farm Industry-led, HACCP-based Food Safety Programs leading to the establishment of a consistent set of recognition programs for food safety programs implemented by primary producers and post-farm food businesses that are not registered establishments under either federal or provincial/territorial legislation. • Food safety regulatory framework - advocacy of the the establishment by Federal/Provincial/Territorial governments of a harmonized and integrated approach to food safety for all food businesses in Canada consistent with their commitments under the Food Safety Blueprint (1994), the Agricultural Policy Framework (2001) and other initiatives. • Growing Forward Framework with respect to the continued funding of the development and implementation of national industry-led, HACCP-based food safety programs • Pandemic planning for the agri-food sector, the establishment of a sector network and the further development of preparedness planning and response capacity within the federal government 	
<p data-bbox="224 884 500 909">Communication Techniques</p> <ul style="list-style-type: none"> • Written communication • Oral communication • Grass-roots communication <p data-bbox="224 1024 513 1148">The lobbyist has arranged or expects to arrange one or more meetings on behalf of the client between a public office holder and any other person in the course of this undertaking.</p>	<p data-bbox="537 884 781 909">Government Institutions</p> <ul style="list-style-type: none"> • Agriculture and Agri-Food Canada (AAFC) • Canadian Food Inspection Agency (CFIA) • Fisheries and Oceans Canada (DFO) • Health Canada (HC) • Public Health Agency of Canada (PHAC) • Public Safety and Emergency Preparedness Canada (PSEPC) 	

The difference in the level of detail provided in these returns is significant on average; some firms provided more information prior to 2008 however since the reforms all lobbyist registrations have significantly more detail on the particular interests of the organization. Further, while returns from 2008-2009 reflect a high degree of intra-organization (i.e. different lobbyists for the same organization) and inter-organization variability, returns post-2009 contain boiler-plate language which is included in each return. This suggests that compliance with the new system has improved in the years since its implementation as the various actors became fully aware of their new duties under the 2008 reform. The consistent inclusion of boiler-plate language from one registration to the next also establishes a firm record of an organization's interests thus making the inclusion of new material easier to identify.

4.3 Methodology:

I will begin first with a discussion of the dataset before outlining the quantitative strategy to test the hypotheses identified in chapter three above. I begin by introducing the basic components and structure of the dataset on lobbying behaviour compiled from the OCLC data (“the lobbying data(set)” hereafter).

The dataset used in this analysis was compiled jointly using communications data and the registration returns submitted to the OCLC. First, the three files supplied by OCLC which make up the communication data must be merged into a master file using a unique identifier for each communication. Each line of the dataset records the identification variables for the organization, lobbyist and DPOH present. Also included in the communication dataset are variables indicating if the entity directing a communication is an association or a firm and if the lobbyist is in-house with a corporation or association or is an outside consultant.

There are examples of scholars employing this data previously, Rheault (2013) for example, utilizes registration return data to identify whether a lobbying entity is a consultant, in-house lobbyist for a corporation, or in-house for an association. My approach does follow on from this to an extent. I utilize the variables on firm or association lobbying in a similar way as Rheault, for example, however, my approach differs since it goes on to include the information given in the text of the returns which is not as readily integrated into the bulk datasets produced by the OCLC.

I identified 39 firms or associations from the dairy sector who were active in lobbying the government sometime between July 2008 and March 2019. These 39 firms directed 4298 official communications with DPOHs in the relevant time period. These communications were conducted using approximately 270 different registrations submitted during the period under consideration. The entity (firm or association) which directs a communication is taken as the unit of analysis here. The OCLC registration dataset, available in a bulk download, was used to construct the variable recording the lobbyist’ name and ID, the organization’s name and ID, as well as the dates that the return was active.

In order to incorporate the textual content on the policies and goals of interest to lobbyists, I then parsed the text of each registration return and record the inclusion of trade-related content using a simple binary coding scheme. These variables recorded instances where trade policy issues are included (or not) in a registration return. Once the registration return data was coded, I merged the two datasets together by matching the date of a communication with the registration which spanned the time period of that communication. I.e. if four communications are conducted by Lobbyist A under registration A* during month A and five communications are conducted by Lobbyist A under registration B* in month B then the first four communications all reflect the same registration data while the latter five communications are covered by the observations for the next month's registration.

Once all the communications were matched with their concomitant registration return, each line of the lobbying dataset contained information specific to the communication as well as textual data on the policy content of the return which governed the meeting. Two assumptions are crucial here, although I believe there are entirely reasonable. First, I assume that the actual content of an official communication corresponds to the content listed in the registration return. On its face, this is a necessary assumption since being unable to observe the communications directly (i.e. with a transcript), there is not an alternative approach which would permit observing the trade preference of lobbyists. There are institutional mechanisms which also support this assumption: recall for example that Section 9.1(1) of *The Lobbying Act* requires that DPOHs be available to confirm the details of registration returns and communication reports at the request of the commissioner.⁷³ *The Act* also includes substantial penalties and the ability to enjoin from lobbying activities any lobbyists or firms found to contravene the reporting requirements set out in *the Act*. Secondly, I treat changes to the content of a registration returns as an intentional choice on the part of firms and associations directing the lobbying activity. Again, this is somewhat straightforward however it is worth noting that in the early years after the 2008 reform (principally between 2008-2009) reflect less structured content than do later returns. By 2010 the registration returns are highly ordered,

⁷³ The Lobbying Act (R.S.C., 1985, c. 44 (4th Supp.) Section 9.1 (1)

repetitive documents which have clearly been structured with careful policy language. This suggests that firms and associations had, by the end of 2009, standardized their submissions across all lobbyists as these later returns exhibit standard, boiler-plate line items of text. There are logistical costs associated with altering these returns since the change must be harmonized across all active lobbying registrations in addition to any changes being made public by the OCLC. Therefore, I treat even small deviations from previous returns as intentional changes which reflect new or developing interests in policy issues; this can sometimes mean the addition of one or two words can change the values recorded in the lobbying dataset. Below I will provide an example return to demonstrate how the policy detail is converted to binary values, first however I will introduce the set of variables I recorded and explain how each relates back to a theoretical concept outlined in chapter three.

4.3.1 Qualitative Data and the Variables

Recall that the empirical analysis is focused on investigating any systematic relationship between the content included in a registration return and the firm or association's trade preference on TRQ programs.⁷⁴ Therefore the primary dependent variable (DV) records a binary value that indicates the preference on the TRQ program indicated by the registration return. If the return does not indicate a preference for the TRQ program, then a value of "3" was recorded for the TRQ variable. These observations were subsequently dropped from the final dataset. If the return indicates a preference for restricting the TRQ or for a status quo policy, then the DV takes the value "0". If the return indicates a positive preference for the TRQ program, then the DVs takes the value "1". The independent variables (IV) include a set of variables recording identifiers such as the name and unique ID for lobbyists, organizations and DPOHs present during a communication, as well as the date when the communication was held. These variables are used in a similar manner as in Rheault (2013): the variable which records whether the entity directing a communication is an association or a firm is taken as a measure of

⁷⁴ TPP, CETA and CUSMA each contain TRQ programs so I will not be more specific than that. The discussion in chapters five and six focuses primarily on CETAs TRQ program.

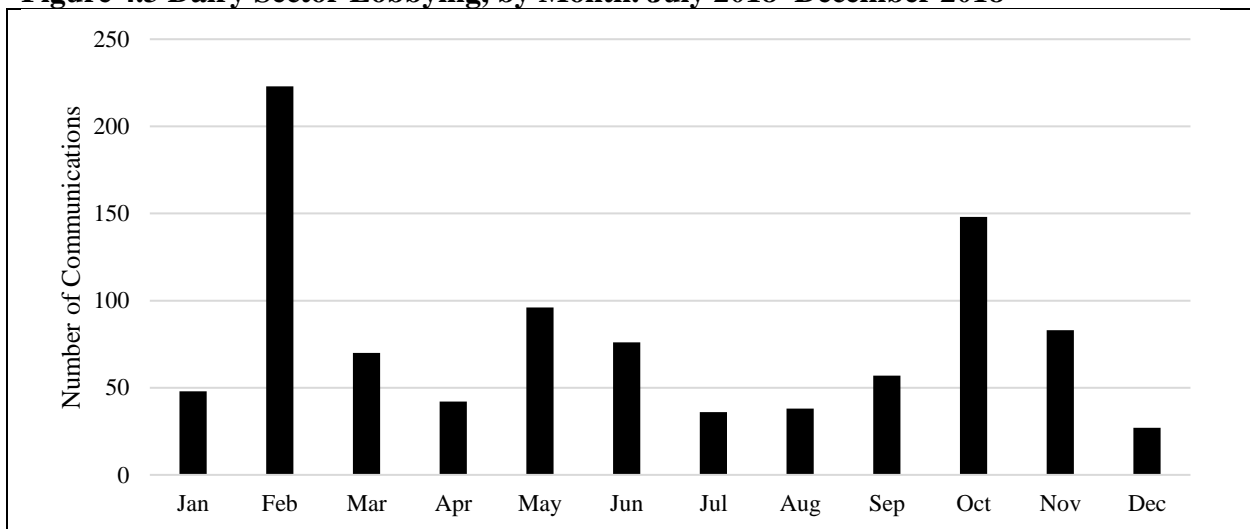
individual-firm lobbying in the dairy district.⁷⁵ Firms directing a communication are coded “0” and associations are coded to “1”.

To test the impact of FTA-related content in returns on the recorded TRQ value, I record instances where CETA, TPP and NAFTA/CUSMA are mentioned in the registration returns. Thus, three variables are generated to reflect the inclusion of each FTA individually. A fourth FTA variable is created to indicate when a return mentions any one of the three trade agreements.

Institutional Controls:

There is a concern that the price-setting capacity of supply management introduces an institutional bias on the sample of communications in the lobbying dataset. Figure 4.3 presents the frequency of dairy sector lobbying, by month, between July 2008 and December 2018. As the chart makes clear, dairy sector lobbying spikes in intensity during February of each year.

Figure 4.3 Dairy Sector Lobbying, by Month. July 2018–December 2018



This spike in activity coincides with the period each when the CDC meets with private sector representatives to determine the dairy price for the next year. This process involves gathering input and

⁷⁵ Rheault (2013) utilizes the OCLC’s coding scheme for lobbyist type (in-house corporation/organization and outside consultant) rather than the organization-firm variable.

data from sector representatives, especially from the umbrella associations, so that the CDC can accurately set a price which clears the domestic dairy market. I argue that “price-setting” communications are distinct in character from “policy” communications in that their primary goal is to furnish the CDC with necessary market information whereas policy communications are focused around advocacy

To test for the impact of these institutional factors, I code a dummy variable to represent the month of February. This will allow for elaboration on the primary analyses below to assess the extent to which extraneous price-setting meetings impact any underlying relationship between TRQ preferences and the content of registration returns.

Summary of the Lobbying Dataset

The final dataset exhibits the following structure. The unit of analysis is the individual lobbying communications. Each line of the dataset contains information relevant to a single communication. Each communication records information on the following variables: communication date, lobbyist ID, organization ID, DPOH ID, registration version/active date range, organization type (association/firm) and the vector of variables generated from the text analysis of registration returns. These variables include the DV; TRQ preference, FTA variables; CETA, TPP, NAFTA/CUSMA and a composite FTA variable.

4.3.2 Coding Examples

In Figures 4.4 and 4.8, I provide an example of a registration return taken from the DFC. The registration was active between 2011-07-22 and 2011-08-30. Table 4.1 provides an illustration of how the content in the registration return was converted into binary data.

Table 4.1 Registration Return: Qualitative Data as Binary Variables

Association/firm	Start	End	Version	TRQ	CETA	TPP	NAFTA	FTA
0	2011-07-22	2011-08-03	38 of 82	0	1	0	0	1

This example is complicated to a degree with respect to CETA since the actual name is not referenced, however, this return was submitted prior to the CETA moniker becoming widely used and therefore I

treat the “Canada-EU trade agreement” references as equivalent. This vector of registration return variables is grafted to the communication of data by matching the active period of the registration to the correct lobbyist-date combination for each return.

Figure 4.4 OCLC Registration Return: DFC–Jacques Lefebvre–Version 30 of 82 Pt. 1

Legislative Proposal, Bill or Resolution

- Agreement on Internal Trade - Review of Chapter 9
- Canada-EU Trade Agreement EU stands for European Union. The components within this negotiation that we are interested in are agriculture and protection/exemption of supply management.
- Food and Drug Act and its accompanying regulations as it applies to the labelling and grading of dairy products
- Implementation of Special Agricultural Safeguard for supply-managed products, dairy products in particular.

Legislative Proposal, Bill or Resolution, Policies or Program, Regulation

- Animal Welfare to answer your question - yes, this is covered by development of the "National Farmed Animal Health Strategy" with CFIA.
- Climate Change / Environment Farm practices for greenhouse gas mitigation; documenting programs that exist provincially and federally that are available to dairy producers; promoting best management practices
- Implementation of new tariff rate quotas for milk protein isolates as per GATT Article XXVIII, Amendment to Customs Tariff (tariff line 3504). Work with Finance Canada, AAFC and DFAIT on implementation and allocation of said TRQ.
- Research Under "Growing Forward", the federal Minister of Agriculture and Agri-food announced a research cluster, in cooperation with Dairy Farmers of Canada, worth \$12M.
- Traceability Under "Growing Forward", the establishment of regulations for traceability. Collaborating with provincial and federal governments in the determination of private and public interests and in discussions with Ministers re government/industry share of costs.

Figure 4.5 OCLC Registration Return: DFC–Jacques Lefebvre–Version 30 of 82 Pt. 2

Policies or Program

- Animal Health - development of the National Farmed Animal Health Strategy with CFIA
- Development of the Code of Practice for the Care and handling of Dairy Cattle in cooperation with CFIA's activities in OIE (Organisation mondiale de la Santé Animale)
- Discretionary Food Fortification policy of Health Canada. DFC has particular interest in the discretionary food fortification of non-nutritious foods and vitamin fortification of dairy products
- Explicit and implied Health Claims related to dairy and non-dairy products
- Growing Forward This is a federal-provincial agreement with oversight for many of our issues (Business Risk Management, Research, etc.)
- Product of Canada consultations Dairy Farmers of Canada participated in federal government consultations on regulations pertaining to "Product of Canada".
- Quality Milk Program - Implementation and administration of the Quality Milk Program under the Canadian On-Farm Food Safety Program of AAFC.
- Trans fats / Sodium as it relates to dairy products, Food Guide recommendations and nutritional labelling.
- Use of Veterinary Natural Health Products in dairy livestock production - Veterinary Drugs Directorate of Health Canada
- WTO (World Trade Organization) Negotiations on Agriculture as it relates to supply management.

Policies or Program, Regulation

- Guide for Food labelling and Advertising in respect of all dairy products and use of dairy terminology (modifiers, highlighted ingredients)
- Ingredients Industry stakeholders discussion on domestic ingredient strategy, pricing of components, marketing of ingredients. Involves discussions with the Canadian Dairy Commission.

4.3.3 The Sample:

Table 4.2 Descriptive Statistics

Variable	N	Mean	Std. Dev.
<i>TRQ</i>	1089	0.28	0.45
<i>Association</i>	1089	0.73	0.44
<i>FTA</i>	1089	0.81	0.39
<i>CETA</i>	1089	0.79	0.41
<i>NAFTA</i>	1089	0.11	0.31
<i>TPP</i>	1089	0.30	0.46
<i>February</i>	1089	0.20	0.40

Table 4.2 provides descriptive statistics for the final sample. The initial lobbying dataset contained approximately 4300 observations. All observations with a missing value for the TRQ variable were dropped from the final sample leaving 1089 valid communications. 25 entities remained in the final sample; 14 associations, 9 firms and 3 cooperative firms. Of the observations which observed a valid TRQ preference, fully 72% registered a negative preference (indicating a restrictive TRQ policy or a preference for the status quo). 81% of the observations include a reference to at least one of the three FTAs considered. CETA was included in 79% of observations compared to 11% and 30% for NAFTA/CUSMA and TPP, respectively. Finally, approximately 20% of the total observations were recorded during the month of February. The remaining 80% of observations are treated as policy-related meetings while the remaining 20% of communications are treated as price-setting meetings.⁷⁶

4.3.4 Limitations:

The data generated for use in this analysis does provide a novel approach to investigating lobbying behaviour in Canada and tries to make use of the wealth of information held by the OCLC which has, as yet, remained largely untapped in the Canadian literature.⁷⁷ That said, there are important limitations placed on the analysis by the content available in the communication logs and registration returns.

⁷⁶ A more granular analysis might retain more observations by identifying the exact dates where price-setting meetings are held, thus reducing the exclusion criteria on the price-setting dummy variable to specific days.

⁷⁷ Rheault (2013) is a notable exception here.

One limitation concerns what kind of actors are observed in the dataset. One of the explanations for the unbalanced sample with respect to the representation of firms lobbying individually is a selection effect which truncates the observations for firms in the sample. Since this dataset only observes actors who conduct official communications, it is limited to only those actors which are represented in the OCLC records. According to my theory, a firm's rationale for deciding to lobby is as important as the rationale for not lobbying. This is problematic because the logic of industry associations is that the collective action costs can be reduced by combing lobbying efforts into a single association and allowing that group to lobby on behalf of the industry. Therefore, it is not surprising that relatively few instances of individual lobbying are observed; indeed, this makes cases where firms are opting to lobby alone all the more notable.

In an ideal scenario, data would be available which would permit an understanding of the distribution of productivity between firms in the processing industry. If the variation in the lobbying strategies selected by firms does reflect intra-industry preference drift, then NNTT theory suggests that this drift is a function of heterogeneous productivity between the largest processors and the SMP firms, who account for the majority of the industry total. A better measure of productivity at the firm level would greatly improve the variation on firm type, permitting a scale variable to be included in the analysis. Data of this kind would also greatly expand the econometric toolkit which could be brought to bear on lobbying data in Canada.

That said, I argue that the preferences of firms who lobby through an association are observed in the dataset, albeit only at the aggregate level. By this I mean to say that the behaviour of individual firms is observed to the extent that their preferences are efficiently aggregated into a common position and then those preferences are represented by the industry association (DPAC in the case of processors). The preference on trade policy exhibited by the industry association is assumed to reflect the trade preferences of the firms which constitute their membership. The corollary to this point is that individual lobbying on the part of firms strongly suggests that the firm's preference is not consistent with the industry preference.

The final consideration concerns the incentive structure around reporting information to the OCLC. Since the data is made public, it is reasonable to assume that lobbyists would resort to *satisficing* behaviour with respect to the new regulations implemented by reforms to *The Act* in 2008. I do not believe it is controversial to assume that lobbyists would have the incentive to provide only as much information as is required by law. Adding to this concern is the potential for selective inclusion and self-censorship on the part of lobbyists. Selectively including some initiatives while excluding others could serve to preserve strategic/informational initiatives from the rest of the market. There is little that can be done to adjust for this issue, however, I again note that Section 9.1 (1) of *the Act*, and its criminal penalties penalties, provide an institutional check on this behaviour.⁷⁸

4.4 Empirical Analysis:

This section discusses the quantitative design I use to evaluate the theoretical hypotheses listed at the end of chapter three. The statistical approach employed to test the hypotheses is crosstabulation (crosstab) method. This is chiefly because of the categorical variables in the dataset and the unbalanced sample with respect to observing variation on the TRQ preference. Further, the binary coding scheme does not admit of a regression design. The remaining sub-sections will explain how each of the theoretical hypotheses is operationalized.

4.4.1 Individual Lobbying and TRQ Preferences

My analysis begins with the relationship between the TRQ preference exhibited by an organization lobbying the government and whether that organization is an association or an individual firm. This first test is based on the hypothesis that individual lobbying is indicative of a positive preference over the TRQ program. The rationale for this hypothesis is rooted in the theoretical expectations of NNTT: I argue that the stark differences in firm productivity within the processing industry will lead the largest processors to pursue a greater share of the TRQ and more liberal TRQ policy. Conversely, I would expect SMP firms to

⁷⁸ At least in theory, an investigation into the frequency with which registration content is reviewed would need to be undertaken to ground this argument in fact.

lobby through an association, against further liberalization under the TRQ. To evaluate this hypothesis, I configure a crosstab where the TRQ preference is the DV and the organization type is the IV. Since both the DV and IV are categorical variables, I use the chi-square test to evaluate the significance of changes in the conditional distributions in the crosstab. Finally, as the modal value of the IV is the same for both values of the TRQ variable, I use the Cramer's V (V) statistic to assess the strength of the relationship between individual lobbying and TRQ preference.⁷⁹

4.4.2 FTA Content and TRQ Preferences

The next test evaluates the relationship between FTA-related content in a registration return and the TRQ preference. The theoretical relationship between these variables is tested in a series of crosstabs beginning first with the TRQ preferences as the DV and the composite FTA variables as the independent variable. I then conduct three subsequent tests to assess the independent relationship between the TRQ and each of the FTAs in the dataset.

Recall that the FTA variable is a composite measure that takes the value "1" when any of the three FTAs recorded in the dataset are included in a registration return. Thus, observations with an FTA value of one have at least one of these FTAs included but may have as many as three deals included in a given return. This configuration is predicated on the hypothesis that observing a positive TRQ preference is more likely when registration returns include FTA specific language. Chi-square tests are used to measure the statistical significance of the relationship and both Lambda and V statistics are used to evaluate the strength of any relationship.

Elaboration Tests

Each of the crosstabs above will also be tested using an elaboration method where control variables identified above are used to test the impact of institutional and temporal factors on the underlying relationships. I argue that meetings conducted during February are primarily focused on communications

⁷⁹ Since the modal value for the DV is 0 for both levels of the independent variable, lambda will return a false zero value for the measure of association. Cramer's V will return a valid value but will not allow for a PRE interpretation of the results.

related to the CDC’s price-setting questions not to the pursuit of policy goals. The hypothesis then is that controlling the original crosstabs for communications conducted during February would be expected to strengthen the relationship for non-February meetings: If there is an underlying relationship between the FTA content in registration returns and TRQ policy, then it is reasonable to expect that the relationship would be stronger in a sample restricted to “policy-specific” meetings, than for a sample including large numbers of meetings that likely did not concern trade policy.

Empirical Hypotheses:

The hypotheses listed below in Table 4.2 explicates the form of the bivariate relationships that I evaluate using crosstabs. For each bivariate relationship, the first column of the table identifies which theoretical concept is being evaluated and the second column indicates the independent variable which operationalizes that concept. For each hypothesis, the preference recorded for the TRQ preference is taken as the DV.

Table 4.3 Empirical Hypotheses

Concept	IV	Hypothesis
Individual Lobbying	<i>Association</i>	<i>Organizations lobbying individually are more likely to exhibit a positive TRQ preference than are organizations lobbying through an association.</i>
FTA-Content	<i>Composite FTA</i>	<i>Organizations that include FTA-related content in registration returns are more likely to exhibit a positive TRQ preference than are organizations who do not include FTA content.</i>
CETA Content	<i>CETA</i>	<i>Organizations that include CETA-related content in registration returns are more likely to exhibit a positive TRQ preference than are organizations who do not include CETA content.</i>
Policy/Price-Setting	<i>February</i>	<i>Any relationship between FTA-content and the TRQ preference should be stronger for non-February communications than for communications conducted during February</i>

Chapter Five: Quantitative Analysis- Empirical Testing

Below I report the results for each of the bivariate relationships I developed in the section above. For each relationship, the crosstab reports joint cell frequencies in each cell and relative cell percentages in parenthesis. The value of the chi-square test statistic and the measure of association is presented at the bottom of each table (p-values in parenthesis). I present the results for each crosstab in this section and then summarize the findings and implications in a subsequent section.

Individual Lobbying and the TRQ Preference

Table 5.1 Individual Lobbying and TRQ Preference

		Organization Type		Total
		Firm	Association	
TRQ	Negative	0 (0.00)	789 (98.63)	789
	Positive	289 (100.00)	11 (1.38)	300
Total		289	800	1089

Chi-square: 1.0e+03 (p < 0.001) Cramer's V: -0.9747

The crosstab is overdetermined in this case: fully 100% of observations of individual firm lobbying were associated with a positive TRQ preference while approximately 99% of associations registered a negative TRQ preference. The overloading in this crosstab is partially explained by the ratio of associations to firms in the data set (0.73:0.23 respectively) but the complete absence of any observations of associations lobbying in support of the TRQ program suggests, at a minimum, that there is some relationship between a firm's position on the TRQ program and the decision to lobby alone. The only source of variation in this crosstab is among associations lobbying in favour of the TRQ as 11 of the 800 total association communications were directed by pro-TRQ entities. As the bivariate relationship between the TRQ preference and organization type does not yield any variation on the DV I exclude this relationship from the elaboration method I apply to the subsequent relationships.

FTA-Content and TRQ Preference

Table 5.2 FTA Content and TRQ Preference

		Composite FTA		Total
		No	Yes	
TRQ	Negative	143 (68.75)	646 (73.33)	789
	Positive	65 (31.25)	235 (26.67)	300
Total		208	881	1089

Chi-square: 1.7652 ($p < 0.184$) Cramer's V: -0.040

The bivariate relationship between FTA-content and the TRQ preference exhibited more variation on the DV than did the individual lobbying variable. In this crosstab, approximately 69% of organizations which excluded FTA content also recorded a negative TRQ preference while approximately 31% recorded a positive TRQ preference. For organizations that included FTA-content in their registration returns, approximately 73% exhibited a negative TRQ preference while 29% recorded a positive TRQ preference. According to the chi-square statistic, the change in relative frequency between those that excluded and included FTA content is not significant at 95%. The value of the Cramer's V statistic is therefore uninterpretable in this first estimation.

The bivariate relationship between the composite FTA variable and the DV suggests that there is no systematic relationship between the inclusion of FTA-content and the TRQ preference registered in lobbying returns. However, the composite variable was constructed to measure the effect of general FTA content on the recorded value of the TRQ preference. This variable carries with it an implicit assumption that an organization's preference over the TRQ is impacted by all FTA-content in the same way. However, there are important differences between CETA, TPP and NAFTA/CUSMA which should, in theory, mean that each deal presents different incentives to domestic actors. CETA, for example, was the first second-generation trade agreement Canada negotiated and, as a result, trade lawyers, negotiators and lobbyists were faced with a new level of regulatory complexity stemming from new policies implemented under CETA. Further, CETA was negotiated between the EU and Canada, not a collection of European trade ministers and Canadian negotiators. As a result, Canada's relative bargaining power was reduced since our negotiating partner represented an integrated internal market of over 500 million relatively

wealthy consumers compared to the 37 million-strong domestic market in Canada. TPP, on the other hand, included a more diverse set of countries (developed and developing), and also implicated geopolitical considerations of the highest political order. For its part, CUSMA involved Canada’s most important trade partners, in the United States and Mexico, and was also built upon existing institutional structures whereas CETA presented many novel problems for domestic actors to negotiate. Thus, it is reasonable to now consider the bivariate relationship between each of the FTA variables to assess how different incentives may have differentially impacted the TRQ preference exhibited by lobbyists.

CETA Content and TRQ Preference

Table 5.3 CETA and TRQ Preference

		CETA		Total
		No	Yes	
TRQ	Negative	143 (63.00)	646 (74.94)	789
	Positive	84 (37.00)	216 (25.06)	300
Total		227	862	1089

Chi-square: 12.85 ($p < 0.01$) Cramer’s V: -0.109

At first blush, this crosstab exhibits similar values as above, with respect to the conditional distribution of the DV for a given value of the IV: Organizations excluding CETA-content registered a negative TRQ preference is 63% of observations and a positive preference in 37% of observations while organizations including CETA content recorded a negative preference in approximately 80% of cases and a positive preference in 25% of the observations. However, the chi-square statistic in this crosstab suggests that there is a weak systematic relationship between the inclusion of CETA-related content and the TRQ preference (significant at 99%). Further, the Cramer’s V statistic, in this case, indicates that the strength of this relationship is only weakly significant (-0.108) but also that the direction of the change is contrary to the empirical expectation noted in H2.⁸⁰ Recall that I hypothesized that the inclusion of CETA-related is associated with a positive TRQ preference. The Cramer’s V statistic suggests that the inclusion of CETA content in a registration return is associated with a smaller share of positive TRQ preferences.

⁸⁰ See Table 4.3

TPP Content and TRQ Preference

Table 5.4 TPP and TRQ Preference

		TPP		Total
		No	Yes	
TRQ	Negative	687 (89.80)	102 (31.48)	789
	Positive	78 (10.20)	222 (68.52)	300
Total		765	324	1089

Chi-square: 387.89 ($p < 0.01$) Cramer's V: 0.597

The results for the bivariate relationship between TRQ preference and the TPP content variable exhibit strikingly different results that were obtained in the previous crosstab. In this case, organizations including TPP content registered a negative TRQ preference in approximately 90% of cases while 10% recorded positive TRQ preferences. For organizations that included TPP content, approximately 31% had a negative preference over the TRQ program and approximately 69% had a positive TRQ preference. The chi-square statistic suggests that the change in relative frequencies in the crosstab are significant at 99%. The Cramer's V statistic indicates that the bivariate relationship with the TPP variable exhibits a strong systematic change between the inclusion of TPP content and the TRQ preference ($V = 0.597$) however the form of the relationship is opposite from that of the relationship between CETA and the DV. In this case, the Cramer's V value suggests that the inclusion of TPP content is strongly related to a positive TRQ preference. The results are interesting however the bivariate table including the TPP content variable is overdetermined, if not to the same degree as the individual lobbying crosstab.

NAFTA/CUSMA and TRQ Preference

Table 5.5 NAFTA/CUSMA and TRQ Preference

		NAFTA/CUSMA		Total
		No	Yes	
TRQ	Negative	789 (81.01)	0 (0.00)	789
	Positive	185 (18.99)	115 (100.00)	300
Total		974	115	1089

Chi-square: 338.16 ($p < 0.01$) Cramer's V: 0.5572

The crosstab configured with the NAFTA/CUSMA variable is also overdetermined: Of the organizations that included NAFTA/CUSMA content, 81% registered a negative TRQ preference while approximately 19% had a positive preference over the TRQ program. Fully 100% of organizations which included NAFTA/CUSMA content recorded a positive TRQ preference. While it is not feasible to interpret the statistics for this relationship and recalling the selection effects inherent in the lobbying data, it remains striking that the sample did not exhibit a single instance where an organization included NAFTA/CUSMA content *and* recorded a positive preference over the TRQ program. These findings comport closely with the results for the bivariate relationship between TPP content and the TRQ preference but differ sharply with the results returned for the bivariate relationship between CETA content and the TRQ preference.

Elaboration Tests

Recall that I treat the cluster of meeting in February of each year as theoretically distinct from communications conducted throughout the rest of the year as they are related to price-setting responsibility of the CDC as opposed to the policy-focused communications. It follows from this that the character of “price-setting” communications should be theoretically distinct from other policy-focused communications which may focus more exclusively on matters of dairy policy. Essentially, I suggest that, to the extent that a systematic relationship exists between the content of lobbying registrations and the TRQ preference exhibited by organizations, the relationship should be stronger for a sample of communications which omits a large block of non-policy related communications. To test this hypothesis, I repeat the FTA related crosstabs above and control for communications conducted during the month of February. I present these results immediately below. For the purposes of organization, non-February communications are recorded in the first partial crosstab and February communications in the second partial crosstab. Chi-square and Cramer’s V statistics are given at the bottom of each partial table. Lastly, since both the organization-type and NAFTA/CUSMA crosstabs did not exhibit any variation on the DV I omit these bivariate relationships from the elaboration tests.

Price-Setting Communications: Conditioning the underlying relationship

Table 5.6 Composite FTA and TRQ Preferences, by February Communications

Non-February		Composite FTA		Total
		No	Yes	
TRQ	Negative	75 (58.14)	532 (71.89)	789
	Positive	54 (41.86)	208 (28.11)	300
Total		129	740	1089
Chi-square: 9.865 (p < 0.01) Cramer's V: -0.106				
February		No	Yes	
TRQ	Negative	68 (86.08)	114 (80.85)	789
	Positive	11 (13.92)	27 (19.15)	300
Total		79	141	1089
Chi-square: 0.9673 (p < 0.325) Cramer's V: 0.066				
Full Sample		No	Yes	
TRQ	Negative	143 (68.80)	646 (73.30)	789
	Positive	65 (31.30)	235 (26.7)	300
Total		208	881	1089

Chi-square: 1.765 (p < 0.184) Cramer's V: -0.040

Relative to the first estimation, the partial crosstab for non-February communications suggests that there is a systematic relationship between the FTA content in a registration return and the TRQ preference recorded for a given organization. Of the organizations that excluded any FTA content, 58% registered a negative TRQ preference as opposed to 80% for those firms who included CETA material. In the first partial table, the bivariate relationship achieves statistical significance at 99% and the measure of association suggests a weak relationship between the inclusion of FTA content and the TRQ preference (V = -0.106). For communications conducted during February, the bivariate relationship between FTA content and the TRQ preference does not come close to statistical significance at conventional levels.

Table 5.7 CETA Content and TRQ Preferences, by February Communications

Non-February		CETA		Total
		No	Yes	
TRQ	Negative	75 (51.00)	532 (73.70)	789
	Positive	72 (49.00)	190 (26.30)	300
Total		147	722	1089
Chi-square: 29.789 (p < 0.001) Cramer's V: -0.185				
February		No	Yes	
TRQ	Negative	68 (85.00)	114 (81.4)	789

	Positive	12 (15.0)	26 (18.60)	300
Total		80	140	1089
Chi-square: 0.454 (p< 0.500) Cramer's V: 0.045				
Full Sample		No	Yes	
TRQ	Negative	143 (63.00)	646 (74.90)	789
	Positive	84 (37.00)	216 (25.10)	300
Total		227	862	1089

Chi-square: 12.848 (p< 0.00) Cramer's V: -0.109

The elaboration test using the CETA content variable as the IV exhibits similar results as the composite FTA variable in that controlling for the institutional effects on the relationship does seem to strengthen the systematic variance between CETA content and the TRQ preference when the sample is controlled for the cluster of price-setting meetings in February of each year. Organizations which omitted any CETA content recorded a negative TRQ preference in 51% of cases while those that included CETA material exhibited a positive TRQ preference in approximately 74% of cases. The Chi-square test returned a p-value of 0.000 suggesting that the relationship is not down to chance and the measure of association indicates the magnitude of the relationship is non-trivial (V= -0.185) with a negative form.⁸¹ Further, relative to the original measure of association for the CETA variable (V= -0.106) the measure of association for the two partial crosstabs exhibit divergent behaviour: communications during February received a weaker measure of association relative to the total table than did those conducted outside of February. This dynamic suggests that the institutional effect of price-setting activity in February is conditioning the relationship between CETA-content and the TRQ preference in registration returns.

Table 5.8 TPP Content and TRQ Preferences, by February Communications

Non-February		TPP		Total
		No	Yes	
TRQ	Negative	524 (88.70)	83 (29.90)	607
	Positive	67 (11.30)	195 (70.10)	262
Total		591	278	869
Chi-square: 310.47 (p < 0.001) Cramer's V: 0.598				
February		No	Yes	
TRQ	Negative	163 (93.70)	19(81.4)	182

⁸¹ These statistics should be interpreted with caution however as the total sample size for communications directed during February is 220, this strains the statistical measures used in categorical bivariate analysis.

	Positive	11 (6.30)	26 (18.60)	38
Total		174	46	220
Chi-square: 0.454 (p < 0.500) Cramer's V: 0.563				
Full Sample		No	Yes	
TRQ	Negative	687 (89.80)	102 (31.50)	789
	Positive	78 (10.20)	222 (68.50)	300
Total		227	862	1089

Chi-square: 387.89 (p < 0.001) Cramer's V: -0.109

Table 5.8 reports the results of the elaboration test on the bivariate relationship between TPP content and the TRQ preference. The partial crosstab for non-February communications indicates that approximately 88% of organizations that excluded TPP content also exhibited a negative TRQ preference; this proportion fell to approximately 30% for organizations that included TPP material. The chi-square statistic for the first crosstab is significant at 99%, while the crosstab for communications during February was not statistically significant. The measure of association for the first partial crosstab was $V = 0.598$, suggesting a fairly strong relationship between the TRQ preference and TPP content for policy-focused meetings. The second partial crosstab was insignificant and so the value is uninterpretable. I should also note that the sample in this crosstab is unbalanced and so any interpretation should be done with caution.

5.1 Results and Discussion

The first hypothesis tested above concerns the relationship between individual lobbying behaviour and the organization's preference over TRQ policy. The most apparent result in Table 5.1 is just how overdetermined the bivariate relationship between individual lobbying behaviour and the TRQ preference was in the sample. Of the 289 communications directed by firms, 100% exhibited a positive preference on the TRQ. Conversely, 98% of communications directed by associations recorded a negative TRQ preference. The crosstab would have been perfectly asymmetrical except for 11 cases where an association registered a positive TRQ preference. Of these 11 communications, two were directed by a cooperative firm, Agrifoods International Cooperative, and the remaining 9 were directed by an export-oriented association, the International Cheese Council of Canada (ICCC) which represents agri-food businesses. Based on a survey of the ICCC website and membership page, the main role of the association

appears to be facilitating the logistical (i.e. shipping, warehousing, distribution) links between dairy processors and foreign exporters.⁸² The association's website notes explicitly that the role of this association is not to represent the interests of producers or processors but rather to facilitate a link between importers and exports and to disseminate information about the TRQ programs.⁸³

Unfortunately, as the bivariate relationship is so overdetermined in the sample, interpreting the test statistics is not feasible however three conclusions can be drawn from this crosstab: First, that the sample did not contain a single instance of an association lobbying in support of TRQ policy is telling with respect to the theoretical predictions of NNTT. The qualitative split between associations and firms in the lobbying data, with respect to their TRQ preference, suggests that differences in productive capacity between firms may be shaping the lobbying strategies that they adopt once the TRQ programs are introduced.

Second, that the sample did observe both associations and firms lobbying on the TRQ program (whether positive or negative) suggests that the interest in the TRQ on the part of firms is not a result of the TRQ program's interaction with firms. Here I mean to say that, since the TRQ program apportions quotas to domestic firms, it is the firms that interact with the regulators, not associations. Therefore, observing individual lobbying behaviour could be explained by arguing that firms are the actors who interact with the TRQ program. If the broader dairy sector did not have a policy interest in the TRQ program, it might still be plausible to observe firm lobbying over the TRQ without necessarily implicating any intra-industry effects. However, the crosstab shows that associations did take a keen interest in the TRQ program and, moreover, that in 98% of communications directed by associations the relevant return indicated a negative TRQ preference.

Table 5.2 presented the results for the bivariate crosstab measuring the relationship between the inclusion of FTA content and the recorded TRQ preference in registration returns. The crosstab indicated that, of

⁸² International Cheese Council of Canada. "Members"

⁸³ International Cheese Council of Canada. "Who We Are"

the returns which excluded any FTA content, 69% exhibited a negative TRQ preference. This proportion rose to 73% for communications which included FTA content. The initial crosstab did not achieve statistical significance at conventional levels ($p < 0.184$). Next, I tested the bivariate relationship between TRQ preference and each of the independent FTAs recorded in the dataset. The separate analyses suggest a more complex picture with respect to the relationship between TRQ preferences and the FTA-related content included in registration returns. Table 5.3 indicates that, for communications excluding a reference to CETA, 63.00% recorded a negative view on the TRQ (37% in favour). For communications including CETA content, 75% had negative TRQ preferences. Interestingly, this table achieved statistical significance at 99% and the measure of association ($V = -0.109$) suggests that the inclusion of CETA content is less likely to be associated with a positive TRQ preference than communications where the concomitant return did not include CETA content. This is notable as the result runs contrary to the hypothesis in Table 4.3. This crosstabulation largely reflects the same distribution as with the composite FTA variable however, the bivariate relationship between TPP content and the TRQ returned a separate result when examined independently. For the TPP crosstab, communications excluding TPP content recorded a negative TRQ preference in approximately 90% of cases. This proportion fell to only 31% of cases for communications included TPP content. This change was significant at 99% and further, the measure of association ($V = 0.597$) indicates that the form of this relationship is opposite to that of CETA: the inclusion of TPP content is associated with positive TRQ preferences more so than negative TRQ preferences.⁸⁴

Taking these three crosstabs together, two results are important for our purposes. First, the null result exhibited in the crosstab using the composite FTA variable seems to have been driven by the opposing form of the bivariate relationship between the CETA variable (negative form) and the TPP variable (positive form), and the TRQ preference. When the information from both FTAs was integrated into the

⁸⁴ The results for the crosstab using NAFTA/CUSMA are overdetermined and thus I will not discuss this bivariate table further here.

composite variable it appears that the differing effects washed out the underlying relationship. The second point follows on from that insight: the crosstabs using individual FTAs do suggest that there is a systematic relationship between the inclusion of FTA content and the TRQ preference observed in registration returns. The challenge which remains is that the impact of this content appears to be specific to the particular trade agreement and so careful attention must be paid to mapping precisely the ways in which FTAs are similar to each other and how they differ; these differences appear to have material impact on how domestic actors translate new incentives into lobbying strategies.

Lastly, I consider the implications for the institutional effects tested using the elaboration method. While the first estimation of the composite FTA variable produced null results, I hypothesized that the total sample likely contained information related to institutional effects of supply management which mediated the underlying relationship between FTA content and the TRQ preference. Controlling for the type of communication, price-setting (February) or policy-focused (non-February) seems to bear this hypothesis out, at least based on this analysis. In the first partial crosstab of Table 4.9, the bivariate relationship is statistically significant at 99%, while the second partial table does not achieve statistical significance. Further, relative to the original measure of association ($V = -0.040$), the measure of association for non-February communications strengthened ($V = -0.106$) while the measure for February communications remained trivially weak ($V = 0.066$). The divergent result for measures of association suggests that price-setting meetings *condition* the link between FTA-content and the TRQ preference. Once the sample is restricted to only those communications which are most likely to be focused on policy, the strength of the hypothesized relationship increased in elaboration tests using the composite FTA variable as well as the CETA and TPP variables.

To provide a robustness test for this concept, I recorded a new dummy variable which, if the price-setting versus policy hypothesis is correct, should provide a more precise measure of the institutional effect. Figures 5.1 and 5.2 graph the frequency of lobbying communications, by day of the month, conducted during February and the rest of the year, respectively.

Figure 5.1 Frequency of Lobbying Communications: February

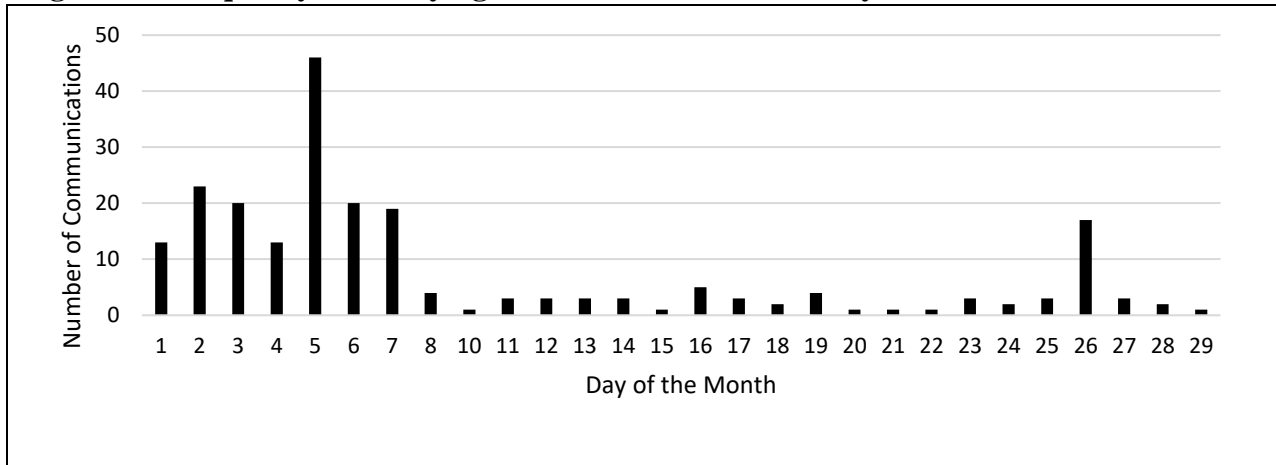
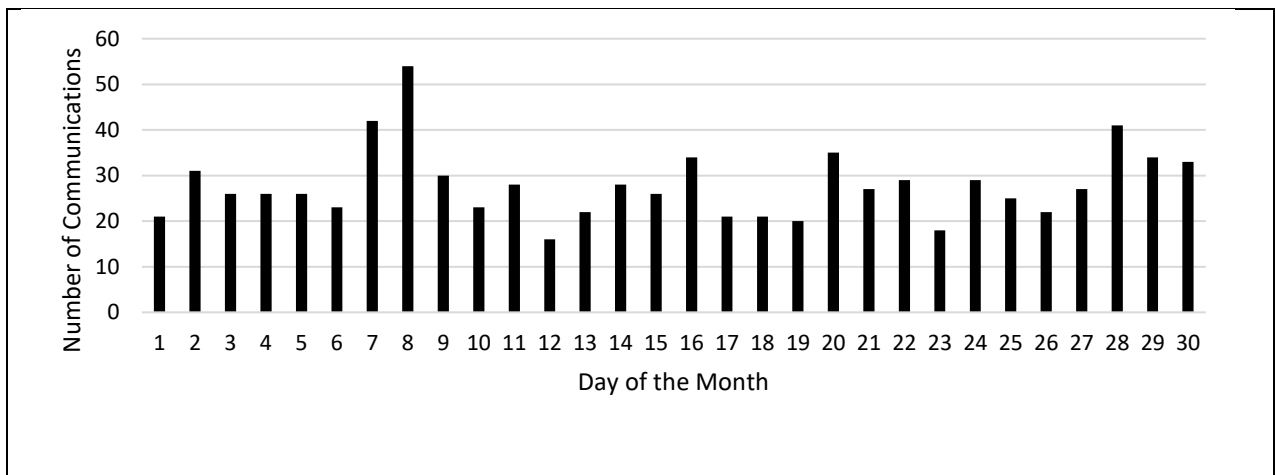


Figure 4.7 Frequency of Lobbying Communications: Non-February



Non-February communications are more or less evenly distributed throughout the month, however, the distribution for February communications indicates that the majority of these meetings are conducted between the 1st and 7th of each month. If the hypothesis is correct, then using a more precise measure of price-setting meetings should strengthen the results identified in Tables 5.2, 5.3 and 5.4. The results of the controlled crosstab using the composite FTA variable are presented in Table 5.9

Table 5.9 FTA Content and TRQ Preference, by February Communications

Policy		Composite FTA		Total
		No	Yes	
TRQ	Negative	78 (54.50)	562 (71.0)	640
	Positive	65 (45.50)	230 (29.0)	295
Total		143	792	869
Chi-square: 15.11 ($p < 0.001$) Cramer's V: -0.127				
Price-Setting		No	Yes	
TRQ	Negative	65 (100.00)	84 (94.40)	149
	Positive	0 (0.00)	5 (5.60)	5
Total		65	89	154
Chi-square: 3.774 ($p < 0.500$) Cramer's V: 0.157				
Full Sample		No	Yes	
TRQ	Negative	143 (68.80)	646 (73.30)	789
	Positive	65 (208)	235 (26.70)	300
Total		208	881	1089

Chi-square: 1.765 ($p < 0.184$) Cramer's V: -0.040

Relative to the monthly control variable, focusing the price-setting variable to the first seven days of February has improved on the strength of the underlying relationship: the measure of association, $V = -0.127$, returned using the more precise variable is larger in magnitude than the crosstab controlled with the monthly variable ($V = -0.106$). Unfortunately, the small sample size makes the second partial table uninterpretable. To further test this result I performed a similar elaboration for the bivariate relationship between TRQ preferences and CETA content. I do not present the tables for this robustness check but the results comport with the table above: the measure of association for non-February communications was significant at 99% and indicated a stronger relationship ($V = -0.200$) that was obtained using the February control variable ($V = -0.185$).

5.2 Further Analysis:

Certain aspects of the theory I advance are not addressed by the empirical data. Time-order is the most important of these concerns since I argue that the TRQ programs created under CETA, TPP and CUSMA act as vectors of exogenous policy change for the domestic dairy sector. However, the lobbying dataset does is not robust enough to permit testing for endogeneity using quantitative methodologies. Recall the theoretical debate implicated here: does trade policy emerge endogenously, the result of politicians and

lobbyists finding an optimal mix of protectionism and welfare as per endogenous protection theory? Or, is trade policy chiefly the outcome of international processes and negotiations which are largely beyond the reach of domestic actors? The lobbying data does little to provide insight into precisely when the domestic actors became aware of the dairy provisions in CETA, or the extent to which their preferences *shaped* the outcome of the negotiation.

Further, the bivariate analysis suggests that individual lobbying is strongly associated with a positive TRQ preference but without data at the firm level, observing the intra-industry preference drift predicted by NNTT directly is not possible.

In order that these remaining questions can be probed further, the next chapter lays the groundwork for a qualitative assessment of the Comprehensive Economic and Trade Agreement. The purpose of the discussion in the next chapter is two-fold: first, I present the results from an analysis of the CETA negotiation's timeline, drawing chiefly on testimony given before CIIT. This discussion focuses on grounding the assumption of exogeneity in qualitative data by identifying what was known about CETA by domestic actors and when they became aware of the deal's content. By collating the informational context with the timeline of lobbying communications, the analysis of CETA's history will provide a qualitative framework which relates the data on lobbying intensity overtime to the dates when domestic actors became aware of the TRQ program. This framework will help to answer the important time-order questions about FTAs and new lobbying behaviour.

The second issue discussed in the next chapter relates to grounding the assumption of intra-industry preference drift within the processing industry. Here I draw on parliamentary testimony, registration returns and public reporting to adduce evidence in support of the argument that heterogenous productivity within the processing industry is a driving factor behind the variation in lobbying behaviour observed in the lobbying dataset.

Chapter Six: Validating the Key Theoretical Assumptions

CETA, and more specifically, the TRQ allocation mechanism under CETA was selected as the focus of the qualitative analysis for two reasons: first, CETA represented the first second-generation trade agreement negotiated by the Canadian government. Steven Verheul summarized the distinct character of second-generation trade agreements in testimony before CIIT in June of 2010 thusly:

“For Canada, this is by far the biggest free trade negotiation we have undertaken since the Canada-U.S. Free Trade agreement, which has been in place for more than 20 years, along with the NAFTA that came after it. In the CETA negotiations we are aiming to go further than we went in the NAFTA negotiations, both with respect to the range of issues to be covered and with respect to the depth of ambition. On the part of the EU, they too are aiming to go further than they have gone in any previous free trade agreement.”⁸⁵

It is clear from this testimony that the government was well aware that CETA presented a distinct animal relative to FTAs Canada had signed previously and this makes CETA a valid case to evaluate the impact of the negotiation on domestic lobbying behaviour.

CETA is a better case to focus on, relative to the other FTAs in the dataset because, while TPP and CUSMA both fit-the-bill in terms of including second-generation trade policy, the qualitative data on TPP and CUSMA often conflates references to CETA as well. Since CETA was the first of the three FTAs to be negotiated, qualitative data points on the actor’s preferences over CETA have the longest record in the dataset and present the best opportunity to consider the link between FTAs and lobbying behaviour any qualitative data with respect to CETA will not be diluted to the same degree by references to TPP or CUSMA until later in the time series. The second aspect of CETA which positions the FTA well as a case study is the availability of a policy decision which allows the incentives faced by processing firms over TRQ policy to be evaluated at two levels of strategic calculus.

The first half of the qualitative analysis, Chapter Six, begins introducing the mechanisms that apportioned the import quotas in CETAs TRQ between domestic actors (retailers and processors). Chapter Five then

⁸⁵ Steven Verheul. CIIT (40-3) – No. 023 – House of Commons of Canada. At 1540

focuses on grounding the exogeneity assumption. The assumption is validated through an in-depth qualitative analysis of testimony given to CIIT between May 2009 and May 2017. Ascertaining precisely when domestic actors became aware of the dairy-related provisions in CETA is essential for the qualitative analysis conducted in Chapter Six since it will provide the necessary informational context such that stronger determination with respect to time-order can be drawn.

6.1 Why Mixed Methods?

A mixed-method approach is important in this case for two reasons: first, the OCLC data used to compile the lobbying dataset established a record of official communications and provided key details on the actors involved as well as superficial details on the content and purpose of lobbying communications. The dataset does not record all detailed information from the returns and is restricted to a binary coding scheme, reducing the scope for higher-order statistical methods to be used.⁸⁶ Secondly, there remains open question about causality and endogeneity bound up in the relationship between free trade agreements and lobbying behaviour; did lobbying behaviour change in response to an international agreement, or did the content of the international agreement reflect the impact of *a priori* lobbying activity on the part of dairy firms? These two positions are in tension and, given the limitations with the dataset, it is important that a qualitative design is incorporated to help mediate which of these macro-theoretical arguments best explains the time-order issues in the Canadian experience.

6.2 TRQ Allocation under CETA

Quota ownership is the key factor which shapes how gains and losses will be distributed among a supply-managed sector. Economists have classically argued that firms will pursue quota ownership to the point where the marginal cost of acquiring the quota is equal to the cost of acquiring the quota.^{87 88} When the

⁸⁶There are valid concerns over censorship in the registration returns. Lobbyists and their organizations know these returns are made public and, even if they are not page turners, it is plausible that lobbyists would provide only as much information as is legally required under the Lobbying Act or otherwise lack candor in their submissions.

⁸⁷ Baylis, Kathy, and Hartley Furtan. "Free-riding on federalism: trade protection and the Canadian dairy industry." *Canadian Public Policy-Analyse de Politiques* 29, no. 2 (2003): 152.

⁸⁸ I want to be careful here since, while classic rent-seeking behaviour is still compatible with a conception of trade policy as being largely exogenous, I am not proposing that lobbying efforts are the *genesis* of those rents, as per

government determines how market-participation will be controlled, the value proposition for lobbying services improves since they provide an efficient vehicle to influence policymakers. As quota ownership determines who controls quota rent, it should be no surprise that, when it came time to decide how Canada's TRQ quota under CETA would be distributed, an intense debate emerged from within the dairy industry.

The allocation process in CETA is comprised of two decisions, which I designate as stage-one and stage-two. First, the total TRQ must be divided between retailers and processors (stage-one). This determines what share of the TRQ will be imported as finished goods and what share will be imported as unprocessed inputs. Stage-one (retailer-processor allocation) determines the total share of TRQ imports brought in as finished goods, and what share will be controlled by domestic processors. The share of quotas allocated to processors must then be disposed among the domestic processing firms (stage-two). Stage-two (SMP-large processor allocation) determines which firms in Canada will obtain what share of the quotas allocated for processing imported goods. Stage-one and stage-two decisions can be thought of as taking place in that order, although in principle the decisions are interrelated; the decision at stage-one determines the absolute volume of quotas available to the processing industry in stage-two.

Allocation is an extremely important component of TRQ policy yet, there are other factors which also influence overall TRQ policy such as the over-tariff rate charged on excess volumes of imports. Yet, the allocation process is well situated for this analysis since it presents an opportunity to evaluate the preferences of different processing firms at two different levels of strategic calculus. This notion deserves additional unpacking: recall that stage one-allocation determines how import quotas will be shared between retailers and processors. Thus, the decision faced by processing firms is what share of the total import quota will be captured by the processing sector and what share will be captured by retailers. This is an inter-sectoral decision and it is reasonable to expect that firms within the dairy industry responded

Grossman-Helpman. The decision to implement the TRQ program was taken by the government at the negotiation table, indeed if supply managed sectors could have been excluded, it is likely that the Canadian negotiators would have done so.

with a common trade position. Conversely, stage-two allocation concerns how the share of quotas reserved for processors will be disposed between different firms. Here the strategic calculus is decidedly *intra-industry*. Contrasting the trade preference of processing firms based on inter-sectoral and intra-industry incentives will provide an opportunity to assess the extent to which NNTT's theoretical predictions are realized in this context. The distinction between stage-one and stage-two allocation decisions is important and is developed in the survey of the CETA negotiation conducted below. In the next two sections, I ground the theoretical assumptions relating to exogenous trade policy and heterogenous productivity.

6.3 CETA: Negotiation to implementation

This survey covers the development of CETA, from the start of negotiations in 2009, through the ratification and implementation period and culminating with a signed agreement in October of 2016. The purpose of this section is to firmly establish a timeline for the CETA negotiation and to identify data points which adduce precisely when CETA's provisions on dairy and the TRQ program became known to domestic actors. The survey also establishes the government's interest in supply management prior to the negotiation as well as indicating how the negotiators viewed the issue of compensation and transfers for the affected farmers. The primary data source used is the record of the testimony given to CIIT during briefings by government Ministers and trade negotiators. The testimony of trade negotiators is particularly valuable in this instance because the CETA negotiations were conducted in secrecy. Periodic briefings were provided by the negotiating team to brief members of CIIT (and the public by extension) on the progress of CETA and also answered questions from the committee. In some cases, the questions asked by committee members are better at illustrating the informational environment than are the answers provided by the government.

CETA's history can be broken into two main periods: negotiation (May 2009- October 2013) and ratification/implementation (October 2013 – October 2016). The first briefing to CIIT on the progress of CETA negotiations was conducted on June 15, 2010, where government witnesses reported that the

negotiations were proceeding quickly- three rounds had been completed and 90% of tariff lines had been agreed by June of 2010.⁸⁹ Steven Verheul, then Canada’s chief trade negotiator for CETA, reported that Canada had not yet made offers on the remaining 10% of tariff lines which covered “sensitive” trade issues between the EU and Canada.⁹⁰ While Mr. Verheul did not explicate which “sensitive” areas had yet to be bridged, subsequent questions from the committee about supply-managed sectors indicate that dairy policy had not yet be settled at the international table. Further, the instructions communicated to negotiators in the 2005 all-party motion sit uneasily with the testimony provided by government witnesses. Later in the same June 2010 hearing, Peter Julian pressed the government’s then-chief agricultural trade negotiator, Gilles Gauthier, on supply management’s status in the CETA negotiations:

Mr. Julian: *“I want to quote one of our witnesses from the meeting last Thursday. Roy McLaren said, in response to a question from Mr. Laforest on supply management:*

“Everything is on the table. We entered this negotiation, on both sides, Europe and Canada, by putting everything on the table, including agriculture.”

My first question is for Mr. Gauthier. Is Mr. McLaren right? Is supply management on the table?

Mr. Gauthier: *“At the time the negotiations were launched, there was an agreement that there was to be a no-exclusion a priori... That essentially left it open to each side to make proposals on anything of interest to them. So that’s the operating modality we agreed on at the launch of the negotiation. That being said, the European Union is perfectly aware of the government’s position on supply management. We have made that view known during the negotiations, and we’ll continue to do so.*

Mr. Julian: *“But at this point, supply management is on the table?”*

Mr. Gauthier: *“As I said, it’s up to the European Union to make proposals that may relate to products under supply management. Our response remains the same, which is that the government strongly supports supply management. We have defended supply management in all our trade negotiations, and we’ll do so in this one as well.”⁹¹*

Taken together, these two data points suggest that the government did not have a strong preference to exclude supply management from the negotiating table at the outset of the negotiation. Indeed Mr. Gauthier’s comments and those of Mr. Verheul suggest that the government was prepared to defend

⁸⁹ Steven Verheul. CIIT (40-3) – No. 023. – House of Commons of Canada. At 1540.

⁹⁰ Ibid at 1545.

⁹¹ Gilles Gauthier and Peter Julian. CIIT (40-3) – No. 023 – House of Commons of Canada. At 1610

supply management as a valid marketing system under WTO rules, but not to sacrifice the gains from participating in CETA if it meant negotiating on supply management.

Ed Fast (Hon.), then Minister for International Trade summarized the progress made on the agreement as of October of 2011:

*“The negotiating text is well advanced, with a number of chapters closed. We’ve narrowed down the remaining chapters and isolated the key differences in our negotiating positions. We’re actively seeking ways to bridge these last gaps.”*⁹²

An exchange between Minister Fast and a committee member, Mr. Robert Chisholm, illustrates the extent to which those on the outside of the negotiation were uncertain as to what trade items were on the table or which, if any, had been excluded:

Mr. Chisholm: *“I think of things like the supply management issues... It’s an area of some significant concern for Canadians. While they’ve heard some things, they’re not sure, especially those sectors directly affected, whether those programs are in fact being protected or they are going to end up coming off the table.”*⁹³

Min. Fast: *“...you suggested that supply management was something people could have a debate over. I can assure you that our government is not having a debate on supply management. We have made it very clear time and time again over the last six years that we will strongly defend our system of supply management. I can assure you of that.”*^{94 95}

This exchange establishes two data points on the status of the dairy sector in CETA as of October 2011: the government entered negotiations with a preference for retaining supply management as a collective marketing system consistent with the WTO, but not to exclude supply management from the negotiation either. In fact, the testimony above makes clear that both the Canadian and European negotiators agreed to not set aside any sacred cows, so-to-speak, prior to the beginning of the negotiation. Secondly, The question posed by Mr. Chisholm validates the fact that, by the government’s account, CETA had advanced approximately ninety percent of the way to completion and still neither the general public nor

⁹² Ed Fast (Hon.). CIIT (41-1) – No. 005 – House of Commons of Canada. At 1440

⁹³ Robert Chisholm. CIIT (41-1) – No. 005 – House of Commons of Canada. At 1550

⁹⁴ Ed Fast (Hon.) and Robert Chisholm. CIIT (41-1) – No. 005 – House of Commons of Canada. At 1550

⁹⁵ While not confirmed directly by Minister Fast’s testimony in June 2012, his comment noting that supply management had been vigorously defended “time and again over the last six years” is very likely a reference to the 2005 all-party motion wherein the house unanimously instructed trade negotiators to secure an exemption for supply management at the WTO.

even a member of the standing committee had a solid answer as to whether or not dairy was on the negotiating table in Brussels.

By June of 2012, Mr. Verheul reported to CIIT that the negotiations had moved into a “more intensive, focused phase...”⁹⁶ Mr. Verheul notes there were a narrow set of issues that needed to be closed and that negotiations were ongoing. A question posed by a committee member confirms that, as of June 2012, the members of CIIT (and the broader public) were still unaware as to whether or not supply management was being negotiated:

Mr. Easter: *It wouldn't be right if I didn't raise supply management. Can you tell us where discussions are at in that area? I know that both Europe and Canada have sensitive commodities, and for both of us I think that's to our advantage in terms of this discussion, but is there any move to increase access for European cheeses as part of the concessions?*

Or is there any move that you're aware of to lower tariffs? There's a huge difference between the two, but what kinds of concessions are being considered there, if any?

Mr. Verheul: *Well, these discussions remain not very well advanced at this point in time. The EU has clearly expressed—and has for a long time—some interest in our dairy market. We've expressed a lot of interest in their beef market and in their pork market in particular, among others. We have not had any kind of exchange of specific requests, or no formal offers have been put on the table in these areas.*

From this, we can conclude that whatever compromise which resulted in the inclusion of a TRQ program was reached between June 2012 and October 2013.

Prime Minister Harper and EU Commission President Barroso announced that an agreement in principle had been reached on October 18, 2013.⁹⁷ A technical summary of the agreement, tabled in the House on that same day, is the first public document that confirmed an increase in imports, specifically in cheese products had been agreed to in CETA. The technical document notes the size of the new TRQ volumes (16,000 tonnes for cheese) but does not provide any details on the implementation schedule or allocation mechanisms. The technical document also omits any reference to the five-year phase-in period which was included in the final agreement. This suggests that both the phase-in period and the allocation mechanism were settled during the ratification and implementation period of the agreement. The final technical

⁹⁶ Steven Verheul. CIIT (41-1) – No. 044 – House of Commons of Canada. At 1100

⁹⁷ Government of Canada. “Chronology of key events and milestones”

matters outstanding between the parties were concluded between October 2013 and September 2014 when the EU and Canadian representatives released the finalized text of CETA and released the agreement to the public.⁹⁸ The announcement in September 2014 marks the end of the negotiation phase, from that point the discussions were limited to agreeing on how the commitments would be implemented.

The text of the 2014 draft agreement includes the tariff schedule for the TRQ program and identifies which tariff lines are covered by the TRQ. However, the draft agreement contains no information about the allocation mechanisms and so we can conclude that the allocation mechanisms were settled sometime between September 2014 and October 2016.⁹⁹ The language in the tariff schedule of the 2014 draft text is eventually reflected in Annex 2A of the final CETA text.

Testimony in September 2014 demonstrates that members of CIIT remained unaware of the status in the negotiations prior to the tabling of the government's report on the technical details of CETA on October 18, 2013.¹⁰⁰ Yves Leduc, then Director of Policy and Trade for the DFC, makes this clear in testimony given to CIIT on November 21, 2013:

“We'd like to be clear here: Dairy Farmers of Canada is not against the deal. We have, however, reacted strongly to the news of the new excessive access that was given to the European Union, in particular in the fine cheese segment of the Canadian cheese market.”¹⁰¹

The record of testimony throughout this period demonstrates that there was no industry knowledge of the TRQ program until the government tabled the technical summary of the agreement in the House on September 26, 2014. Comparing the draft text of the agreement released in 2014 to the finalized agreement in October of 2016 also suggests that the TRQ allocation mechanisms were not finalized at the international negotiations as the Annex 2B provisions in the final agreement are absent in the 2014 version.¹⁰²

⁹⁸ Government of Canada. “Chronology of key events and milestones”

⁹⁹ Draft Consolidated CETA Text (2014)

¹⁰⁰ Steven Verheul and Wayne Easter. CIIT (41-1) – No. 044 – House of Commons of Canada. At 1130

¹⁰¹ Yves Leduc. CIIT (41-2) – No. 006 – House of Commons of Canada. At 0950

¹⁰² It is important to note that the government did consult private sector bodies extensively throughout the period. These consultations gathered input from stakeholders and provided updates on the progress of the negotiation.

Once the draft text was released in 2014 CETA moved into the ratification/implementation phase. During this phase, the decisions on stage-one and stage-two allocation were made and the final policy considerations for the TRQ program were set. The qualitative evidence becomes more complex in this period, particularly in parliamentary testimony before CIIT. This largely owing to over-lapping trade issues in this period. In the 2009-2014 period, CETA was the only major trade agreement that was under negotiation. Thus, the testimony is generally limited to issues related to the CETA specifically. In the period after 2014, CIIT began hearings on TPP. Since the dairy provisions in TPP are similar to the program introduced under CETA, the discussion in these hearings tends to flit between references to CETA and TPP, often without clear distinction. I found no public statements between 2014 and 2016 suggesting that any of the dairy organizations had solid information about how the TRQ would be apportioned. Indeed, the clearest indication of what the dairy industry knew of CETA's TRQ allocation mechanism comes in testimony given by the DFC on November 24, 2016, nearly a month after the draft text had been completed:

“As mentioned by our friend Jacques Lefebvre from the Dairy Processors Association of Canada, Dairy Farmers of Canada was also disappointed that the government did not utilize the opportunity given on November 10 to announce how the new CETA TRQs will be delegated.”¹⁰³

The statement demonstrates that the dairy sector's most pivotal representatives (DFC and DPAC) were unaware of how the TRQ would be apportioned until after the mechanism was outlined in the finalized text of the agreement released in October 2016.

6.4 Summary

The survey of CETA's progress from negotiations in 2009 to a finalized agreement in 2016 established when the dairy TRQ was negotiated and included in CETA, as well as demonstrating what was known about the agreement prior to its release in draft form in 2014. The testimonial evidence indicates that the

However these individuals were required to sign non-disclosure agreements so their engagement should be characterized as involving a “delegate” from the private sector in the negotiation, they were not designed to disseminate information to the public.

¹⁰³ Yves Leduc. CIIT (42-1) – No. 027 – House of Commons of Canada. At 1115

dairy industry had little to no information solid information about the inclusion of a TRQ for cheese products prior to October 2013. Further, comparing the draft text of CETA in 2014 to the final agreement in 2016 shows that the allocation mechanism for the TRQ was designed sometime between September 2014 and October 2016. Concrete details on the allocation mechanism were not made known until the final agreement was signed and released in October of 2016. Lastly, the evidence adduced from the DFC in November of 2016 indicates that the industry associations were unaware of how the TRQ would be apportioned until after the decision had been made and the text released. Without prior knowledge about the inclusion of the cheese TRQ under CETA, it is not feasible to believe that domestic actors could have done much to influence the particular policies in CETA since they were not even made aware that a TRQ for cheese had been conceded. The associations continued to lobby and signal their opposition to liberalization throughout the process, however lacking information on the particulars of the policy concession, these representations were limited to signalling the costs of trade concessions to the government in broad terms (i.e. opposing “further imports”), as opposed to advocating policy-specific outcomes with respect to the TRQ (for example, calling for 85% of import quotas to be reserved for domestic processors).¹⁰⁴

In the next chapter, I introduce the methodology and analytical framework within which I describe the trade preferences of actors within the processing sector as they relate to the negotiation and implementation of CETA. Chapter Seven will also address the question of how domestic actors organize their lobbying strategies when faced with exogenous trade preferences in the face of an exogenous change in trade policy: i.e. does heterogenous productivity lead to intra-industry preference drift? Or does new trade policy provoke sector or industry-specific response in lobbying behaviour?

¹⁰⁴ An alternative explanation for the continued lobbying of industry associations may be that in voice their opposition the lobbyists could drive up the size of an eventual compensation package once the agreement had been implemented.

Chapter Seven: Intra-Processor Trade Preferences Over TRQ Allocation

This chapter will discuss the methodology and analytical framework for the case analysis of the TRQ allocation mechanism and then present the findings of the case study. Drawing on evidence established in the survey of the CETA negotiation, I consider how the introduction of the TRQ program for cheese impacted the trade preferences of large processors and SMP firms in the processing sector and describe how those preferences translated into new lobbying behaviour. The purpose of the qualitative design is to allow for a strong conclusion to be drawn about the relationship between FTAs and lobbying behaviour in the Canadian dairy sector.

In particular, the case study below evaluates the extent to which (i) variation in lobbying behaviour reflects an attempt to shape trade policy proactively or if the variation reflects an *ad hoc* response to new policy; and (ii) does the variation in lobbying behaviour observed in the lobbying data reflect industry or firm-specific responses to new trade incentives under the TRQ? To address these remaining questions I design a case study organized around the two stages of the TRQ allocation mechanism under CETA. The decision to organize the case study around a trade issue as opposed to firms or lobby organizations was driven by two considerations. The first is motivated by sample size since the OCLC data is limited in the number and type of firms observed. This limitation is particularly acute among processors, where the number of SMP firms is small and what observations there are of SMP lobbying are limited to a few records located towards the end of the time-series. The second concern is analytical. The theory I advance in chapter three posits that the combination of an exogenous policy shift driven by FTAs and heterogeneous productivity within the processing sector should produce divergent interests

within industries.¹⁰⁵ In this case, the empirical expectation would be that preferences over TRQ allocation will diverge in the processing sector to the extent that the interests of large processors are in tension with the broader processing sector (SMPs and Cooperatives).¹⁰⁶ By comparing the incentives faced by large processors and SMPs over a given trade issue, the timing of emerging variation in the data can be collated against a backdrop of concrete milestones marking CETA's progress from negotiation to implementation- thereby allowing time-order questions to be mediated.

The qualitative analysis below suggests two important findings: first, when faced with intra-industry incentives over CETAs TRQ allocation, the large dairy processors began to lobbying individually and adopted a position contrary to that of their industry lobbyist (DPAC). This dynamic strongly suggests the intra-industry divergence hypothesis I have advanced is a plausible explanation for understanding how and why lobbying behaviour changed with respect to CETA. Second, while the negotiation of CETA demonstrates that the new trade policy was imposed exogenously on the dairy sector, later data on TPP and CUSMA suggest that the domestic actors are learning how best to shape second-generation agreements as the number of negotiations is iterated.

7.1 Analytical Framework:

Recall that the empirical analysis presented above dealt with the trade preference “over the TRQ program” of dairy producers, processors and cooperative firms. The TRQ preference is a binary variable that recorded a preference on TRQ policy when the registration returns indicated that the entity lobbying the government was a concern with some aspect of the TRQ program, i.e. it measured the general preference of “TRQ policy.” What is not captured by the dependent variable are the various modalities by

¹⁰⁵ See Melitz (2003)

¹⁰⁶ See Table 3.1

which TRQ policy is implicated in a registration return's content. CETA's TRQ provisions are complex (labyrinthian might be more apt) and must be implemented using more than one policy lever. Consider a hypothetical lobbyist "A" who submits a return with a request for "supplemental quotas" listed in the concomitant registration return, and another lobbyist "B" who submits a return requesting an expansion of within-quota imports. Both returns will receive a value of "1" for their TRQ preference, however, what the data will not communicate is the separate pathways by which lobbyists seek to influence the TRQ regime. Thus, we can think of CETA's allocation mechanism as an empirical case where a firm's preferences over a *component* of TRQ policy can be observed.

That the allocation mechanism devised for CETA can be broken into a two-stage process provides an opportunity to consider how preferences within the processing sector change as firms consider their incentives at stage-one and stage-two of the process, respectively. The incentives faced by processing firms at stage-one are distinct from those at stage-two because the analysis at stage-one concerns inter-sectoral calculus while stage-two implicates *intra-sectoral* considerations. This difference is essential: If trade policy has an exogenous impact on lobbying behaviour, as I argue, then variation in lobbying behaviour should be observed where intra-sectoral incentives drive behaviour as opposed to inter-sectoral incentives. In the context of TRQ allocation, in particular, stage-one reflects inter-sectoral incentives and thus it is reasonable to assume that large processors would rely on their trade association since their preference is in line with the broader processing industry. However, stage-two allocation considers how the gains from trade will be divided between processors. Thus, at this stage, the processing firms must consider intra-industry incentives. If heterogeneous productivity in the processing industry is significant, NNTT suggests that intra-industry calculus will lead large processors to diverge from the industry position and therefore pursue their preferred policy via individual lobbying.

7.1.1 Actors, Firms and Organizations

The trade preferences of large processing firms are observed through their lobbying records, public reporting and testimony. Large processors did not generate the same quantity of data available in the case

of the producers and cooperative firms and so the main data source used was the OCLC data. OCLC data provides enough observations of large processors lobbying individually such that a clear picture of their trade preferences can be sketched. Information on the trade preferences of large processors is gathered largely from the lobbying history of Saputo Dairy Incorporated (Saputo) and Parmalat Incorporated (Parmalat). There is a conceptual issue however since DPAC is the industry association for each of the largest processing firms in Canada. Thus, treating these entities as distinct actors may be unusual. However, I argue that this dynamic does not introduce any prohibitive problems for the analysis; indeed, that DPAC represents the large processors as well may enhance the results. Industry associations are funded by their members so that the association can represent the views of the industry as a group and thereby spread the costs of lobbying across all members. In the absence of other considerations, it is not reasonable to expect firms to pay for the cost of an industry association and then expend additional resources pursuing the same objective, at a higher cost. Therefore, when a firm opts to represent themselves rather than allowing a trade association to advocate for the firm, it is reasonable to assume that the firm is lobbying for an outcome not supported by the industry association's lobbyists.

7.1.2 Data Sources and Scope:

The case study draws on publicly available communications, reporting and lobbying records which speak directly to the trade preferences or position of SMP firms and large processors. Empirical data on lobbying communications is used to establish both the timeline of each actor's lobbying behaviour and to measure the intensity of lobbying. The registration returns submitted by DPAC as well as large processors like Parmalat and Saputo are drawn on to indicate the issue of interest to an actor at a given period of time. The richest source of qualitative data came from parsing the record of testimony provided to the Standing Committee on International Trade. These records provide an opportunity to add much more detail to the content given in the registration returns. The exchange between committee members and witnesses elicits more detailed arguments in defence of a position. In addition to the testimony of organizations and firms, I also include testimony given by government officials and trade negotiators.

These sources build a clearer picture of how much information about the allocation schemes was known prior to the final allocation scheme being announced to the public.

So that consistency is retained between different actor types, the case study covers only the period from the adoption of the new lobbying regulations in June 2008 until March 2019. Prior to the regulation, registration returns are sparsely populated and vague and so do not readily compare to the majority of the lobbying data.

7.1.4 Time-Order Considerations

The time-order questions raised in this analysis are a key motive for the case study. Using the CETAs timeline as a guide, variation in lobbying behaviour can be attributed to a particular time and it should, therefore, be possible to identify whether lobbying behaviour shifted prior to a policy change, or if the policy change prompted new lobbying strategies.

Three aspects of this case study are crucial to bear in mind as the evidence is presented. First, what is the level of analysis at each stage; i.e. does the decision implicate the distribution of gains and losses between sectors or *within* an industry? Secondly, how are the policy decisions at each stage viewed by SMPs and large processors? Lastly, to the extent that the case study demonstrates divergent lobbying behaviour, when does this variation take place with respect to the progress of CETA; do lobbying strategies change before or after a policy change?

7.2 Producers and Cooperative Firms:

While, the case study is focused on firms within the processing industry attention must be paid to the producers, not least because there are interdependencies between the dairy farmers and DPAC on both marketing and lobbying activities. Yves Leduc, then a trade policy analyst for the DFC, testifying before CIIT in November 2016 provides useful clarification on the relationship between DPAC and the DFC:

“We are responsible for generic promotion in Canada, meaning not only the promotion of milk but also the promotion of dairy products, such as cheese, yogourt and butter. So the investments made by producers also benefit Canadian cheese makers.”¹⁰⁷

Mr. Leduc’s comment underscores the cooperative incentives between the processing and producing sectors, especially with respect to pooling the cost of marketing activity. This is an important point because, where qualitative evidence direct from processors is unavailable, the position of the DFC on certain matters may also reflect the position of DPAC. This is a necessary component because it provides context on the dairy sectors trade position over stage-one allocation and also because there are aspects of dairy policy where the DFC and DPAC share some affinities (marketing is one of the most important of these overlapping benefits). The production profile of the producer-groups suggests that they have strong incentives to defend and strengthen the status quo under supply management. Owing to this it is unlikely that producers would demonstrate any variation over the TRQ program in CETA. However, the main umbrella organization for producers, the DFC, cannot be ignored since the organization often represents the views of DPAC and the large dairy industry in its marketing activities. The DFC also appears more often in front of CIIT than do the dairy processors, indeed a search of the parliamentary record for CIIT did not yield a single instance of a DPAC representative proffering testimony to CIIT.

Caroline Emond, then the executive director of the DFC, clarified the DFC’s position on FTAs in testimony to CIIT in February 2016 declaring that the “DFC has never been opposed to signing of any international trade agreements that preserve the integrity of supply management.”¹⁰⁸ The position is clear, export development and further international trade are desirable outcomes for producers to the extent that liberalization does not require further injury to domestic market share.

A constant theme throughout the representations during the CIIT hearings on CETA was opposition to the expansion of the TRQ or lowering of over-tariff rates on the part of producer groups.¹⁰⁹ This opposition is further evidenced by the DFC’s registration returns. For example, the registration return submitted under

¹⁰⁷ Yves Leduc. CIIT (41-2) – No. 006 – House of Commons of Canada. At 1015

¹⁰⁸ Caroline Emond. CIIT (42-1) – No. 005 – House of Commons of Canada. At 0955.

¹⁰⁹ Richard Doyle. CIIT (41-1) – House of Commons of Canada. At 1535.

Jacques Lefebvre for the period 2010-05-03 to 2011-07-22 (as the first rounds of CETA are negotiated) includes a new line item, relative to the previous return, indicating the DFC's preference against further imports under CETA. The passage reads as follows:

*“Canada-EU Trade Agreement EU stands for European Union. The components within this negotiation that we are interested in are agriculture and protection/exemption of supply management.”*¹¹⁰

The meaning of the passage is clear: the position of the DFC is that dairy imports and alterations to supply management should not be on the table in the CETA negotiations. As the final text of CETA demonstrates this demand was not met by the government, indeed I have already discussed the reasons for which this demand was unlikely to be met. What is more telling for our purposes however is that this line of text is included in each registration return, unaltered, from 2010-05-03 up until the current registration return filed under Mr. Lefebvre (beginning 2019-02-21). Further support for the producer opposition over TRQ expansion can be gleaned from the empirical evidence presented in Chapter 4. Recall that the variable indicating TRQ preference did not record a single instance of a producer group registering a positive preference on the TRQ.

7.3 Stage One: Retailer-Processor Allocation

The discussion on CETA's history established that the main umbrella organizations in the dairy industry were unaware that CETA would include a TRQ program for cheese until after the government had tabled the Technical Summary of the agreement in October of 2013. Prior to that, the position adopted by both the DFC and DPAC opposed any further imports either by quota or by a reduction in over-tariff rates. Once the industry became aware that a TRQ program would be implemented for 16,000 tonnes of cheese, the government then had to decide how the quotas would be apportioned. Stage-one of this decision apportioned the total 16,000 tonnes between retailers and processors. In this section, I consider the trade preference of SMP and large processing firms over stage-one allocation of CETA's cheese TRQ.

¹¹⁰ OCLC Registration Return - Jacques Lefebvre Version 29 of 80 for the DFC

Both the processing and producing industries backed the position that the maximum share of the total TRQ should be claimed for Canadian processors. Limited individual lobbying is observed in the period leading up to the allocation decision.¹¹¹ This observation is consistent with the finding in Section 6.3 that the dairy industry’s representatives had little to no knowledge about the TRQ program prior to the announcement in October of 2013. Parliamentary testimony lends support for this claim. Testifying to CIIT in May of 2016 Yves Leduc, argued that both the processing sector and the producers stood behind the goal of maximizing the retailer share of the quota. He states:

*“When it comes to the delegation of new TRQs, DFC urges the government to ensure that only those who are negatively affected by the opening of the Canadian market—namely, cheese makers, first, and indirectly the dairy producers that supply milk to the cheese makers—should be eligible to receive a share of the new quota. Therefore, DFC strongly recommends that the new cheese TRQ only be allocated to cheese makers”*¹¹²

The economic logic is relatively straightforward in this case since a larger share for retailers would increase the share of the total quota which by-passes Canadian supply chains completely.

The dairy industry’s preferred allocation scheme was opposed by the trade association representing the retail businesses. In the same 2016 hearing before CIIT Karl Littler, then Vice-President of Public Affairs for the Retail Council of Canada (RCC), made the position of the retail industry clear:

*“RCC is recommending that 100% of this new cheese quota be directly allocated to retailers. This would provide significant benefits, we believe, both to Canadian farmers and to Canadian consumers.”*¹¹³

The position taken by the retailer’s trade association is not central in this case but suffice to say that the inter-sectoral dynamics are not surprising, and thankfully so; if the situation were otherwise it would be concerning as each sector was behaving predictably per standard theory.¹¹⁴ What is of note is that small-

¹¹¹ Yves Leduc. CIIT (42-1) – No. 047 – House of Commons of Canada. At 1115.

¹¹² Ibid.

¹¹³ Karl Littler. CIIT (42-1) – No. 047- House of Commons of Canada. At 1125.

¹¹⁴ It is important to note that this is a simplification and standard theory does not go far enough in describing these interactions. An analysis of the retail sector may yet be a joy for another time, but at the moment I am making an assumption of homogenous preferences for expediency. Analyzing the population of firms in the retail sector would certainly reveal similar heterogeneity in size and productivity among retailers as was identified among producers. Indeed, Melitz (2003) makes this point clearly when articulating a general description of U.S. manufacturing sectors. Future research might be conducted into the scope for new pathways for inter-sectoral *cooperation* borne out of intra-industry divergence.

medium sized processors and large processors held uniform preferences over the stage-one allocation. Observing the position of large processors independently of DPAC's position at this stage is difficult, however, I reiterate, this is not necessarily surprising since DPAC represents both the SMP firms and large processors. The stage-one decision does not appear to be associated variation in the lobbying behaviour or position of the processing industry, i.e. DPAC the represented a uniform position of processors over retailer-processor allocation.

This is not controversial since the dynamics between the retail sector and the dairy sector reflect competition over quota ownership; each additional quota awarded to retailers would imply a marginal unit of dairy that did not touch any domestic supply chain. In some respects, the first face of the allocation question represents a fairly standard outcome with respect to standard IPE theory: Two sectors compete over quota ownership and pursue lobbying strategies design to maximize their total share of the quota rents. The comments adduced by Mr. Leduc also highlight an important aspect of the DFC's rationale, namely that the TRQ program should be used to compensate farmers and cheesemakers made worse off by CETA. This logic contrasts sharply with the argument advanced by the RCC, which held that the retailers should receive 100% of the quotas based on efficiency and consumer choice grounds. The contrast in these positions is notable since a similar divide emerges from *within* DPAC's membership over the stage-two decision.

7.4 Stage Two: Intra-Processor Allocation

While all processors agreed that maximizing their share of the cheese quota was a priority, the uniform front broke down over the second stage allocation of CETAs TRQ. To understand the divergent positions adopted by the large processors, on the one hand, and the SMP firms on the other, it is important to recall precisely how each camp viewed the role of the allocation decision. Mr. Leduc, testifying for the DFC, has already provided some context in this case. He noted that the view of the DFC, and that of DAPC's then CEO Jacques Lefebvre, was that the government should apportion the cheese quota to SMP's based on which firms are impacted the most by CETA. I.e. the main associations took the view that the TRQ

should be used as a trade transition tool to ease in the increased imports while boosting the SMP share of quotas and exports.¹¹⁵ Reporting by Reuters provides further evidence of DPAC's position; quoting DPAC's then CEO Mathieu Frigon as saying import quotas should be given to "those who will suffer losses from trade agreements."¹¹⁶ Ronald Maynard, then director of the Dairy Farmers of PEI, offered this response to a question on opportunities for small and medium-sized business in CETA:

"The problem is logistics. If I'm a small Canadian farmer, everyone is looking for volume. I can't afford to meet standards. I can't afford your export requirements, import requirements, or licensing for a small volume. That's an issue for the smaller processors like we see here on Prince Edward Island. If I'm in the dairy business, and I'm a major, if I'm Agropur, Parmalat, or Saputo, I'm already a multinational. It opens new opportunities..."

"If I'm a smaller processor, then there's a real challenge to set up distribution, marketing, and everything else. That's the challenge we see in the CETA. We see that the market is open for Canadian products there, but it's the logistics of getting in."¹¹⁷

Steven Verheul testified before CIIT in March of 2016 that the government recognized the need to educate and promote new export opportunities among small and medium-sized enterprises. He offers this answer to a question about how prepared Canadian firms were for CETAs implementation:

"The larger companies don't need a lot of help. They either have in-house expertise or they have advisers or brokers who can help them deal with whatever needs to be dealt with. They have all the resources they need to access the market. Where we really need to focus is on small and medium-sized enterprises that may have never contemplated exporting to the EU. We need to make sure they're aware that these new opportunities are coming up and that this is an opportunity to expand their business beyond the relative comfort of the U.S. and our domestic market. This is our real chance to achieve significant growth by taking that leap, but it does require a lot more education and a lot more promotion, and that is what we're engaged in right now."¹¹⁸

The barriers that Mr. Verheul noted to the committee highlight the information and logistics costs associated with developing new export markets for firms that have no experience beyond North America. However, there is no mention in this, or any other representation by the government, that would indicate that the government viewed the TRQ program as a tool for transfers and compensation. Instead, the government's language is framed in terms of facilitating engagement with CETA on the part of firms that

¹¹⁵ Yves Leduc. CIIT (42-1) – No. 047 – House of Commons of Canada. At 1115.

¹¹⁶ Martell and Blenkinsop. "European cheese struggling to break through under Canadian quotas."

¹¹⁷ Ibid.

¹¹⁸ Steven Verheul – CIIT (42-1) – No. 007 – House of Commons of Canada. At 1000.

would otherwise opt to remain in the domestic market. In contrast to DPAC and the DFC's rationale that TRQ should be deployed as a tool to smooth trade losses among domestic firms, the large processors advanced a view of the TRQ program that mirrored the efficiency-based arguments advanced by the RCC over the retailer-processor allocation mechanism.

The OCLC data offers further insight into the lobbying strategies of DPAC during this period. Figure 7.1 graphs the frequency of DPAC's lobbying communications between July 2008 and March 2019. The dashed red line in Figure 7.1 marks October 2016, the period when CETA was signed and the negotiation period ends. The time-series demonstrates a clear break in lobbying trends that straddles the signing period fairly closely, which suggests that the change in behaviour was related to the conclusion of the CETA agreement.

The first return DPAC under the new lobbying regulations was submitted in August of 2008 and concerns matters of domestic regulation (food and drug-related issues and the role of the CMSMC), although "international trade" and "import control licenses" are listed in the generic subject matter keywords for the return.¹¹⁹ The content of DPAC's returns remains unaltered in each return submitted from August 2008 to March 2016.¹²⁰ DPAC's registration return covering May 1, 2016, to November 15, 2016, reflects a turn towards more specific language on trade and trade agreements. DPAC returns, post-May 2016, include this line item on trade:

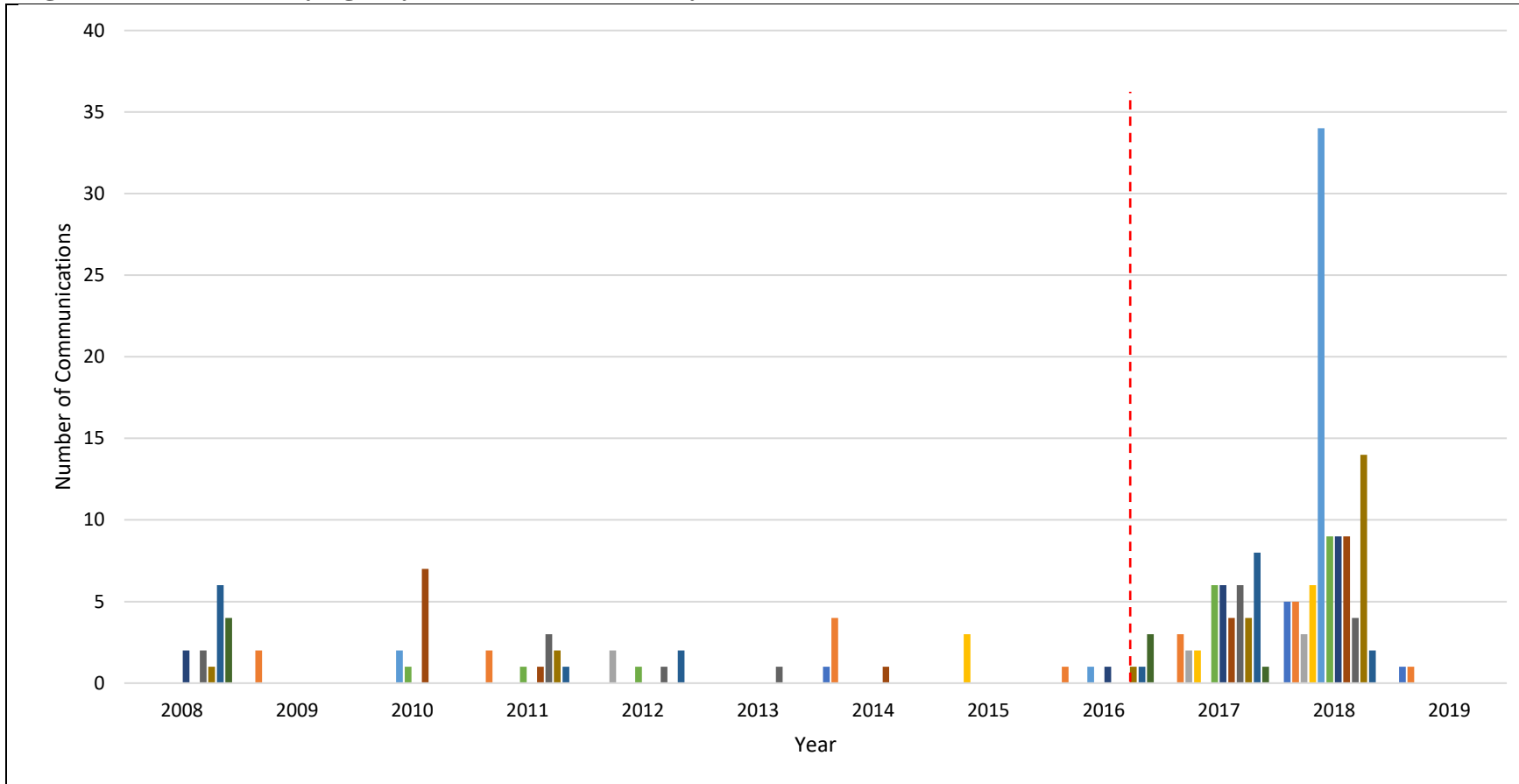
*"INTERNATIONAL TRADE AGREEMENTS -- mitigate impact of Comprehensive Economic and Trade Agreement (CETA) and Trans-Pacific Partnership (TPP), and future trade agreements on the Canadian dairy processing sector."*¹²¹

¹¹⁹ OCLC registration returns. Donald Jarvis – Version 8 of 15 for DPAC.

¹²⁰ Ibid. Version 15 of 15.

¹²¹ OCLC registration returns. Mathieu Frigon – Version 1 of 13 for DPAC.

Figure 7.1: DPAC Lobbying July 2008 to March 2019, by month



Note: The red line marks October 2016, when CETA was signed and the negotiation period ends.

This inclusion marks a distinct break from earlier returns in that it references trade directly in the text (not only in subject matter keywords) and further, the return now signals that developing trade agreements (TPP in referenced from May 1, 2016, and NAFTA renegotiations are included beginning in November 2016). These records provide some evidence for the impact of CETA's dairy policy on the lobbying strategy adopted in subsequent years. However, DPAC's returns also cover matters related to food inspection, health and quality standards and labelling. The cross-over between trade content and domestic content in the returns restricts the extent to which the increase in communications, post-October 2016 can be directly related to trade.

As with most other organizations, the majority of DPAC's registration returns are submitted to the OCLC are under the name of a single executive who is the "responsible officer" for the organization.¹²²

Therefore, the introduction of new registration returns submitted after October 2016 demonstrates two important variations from earlier DPAC lobbying efforts; first, these returns are submitted by outside consultants as opposed to in-house lobbyists. This indicates that the firm chose to retain lobbyists from outside of DPAC's internal lobbying enterprise (it is safe to assume that these efforts entail higher costs than DPAC's in-house lobbying enterprise). Second, the returns submitted by DPAC's outside lobbyists after 2016 contain only a single block of text:

*"Canada's trade policy regarding dairy product imports and exports and international trade rules for market access and government support governing trade in dairy products between Canada and its major trading partners."*¹²³

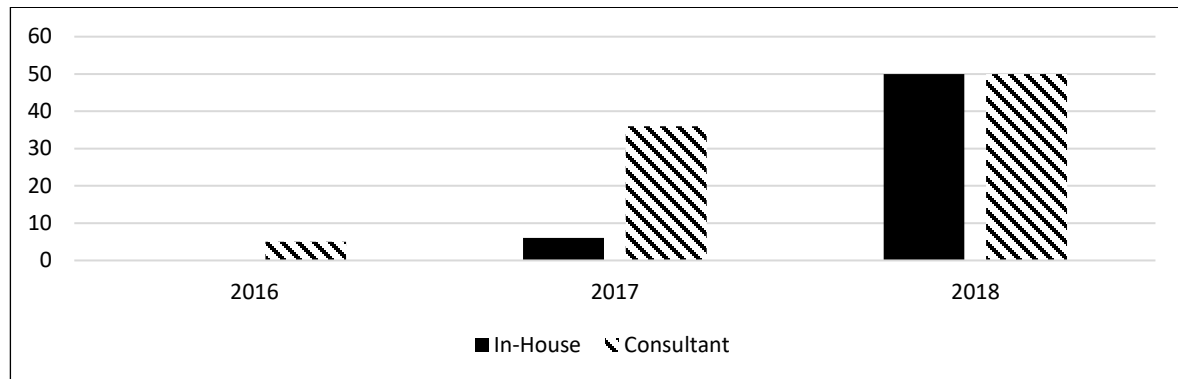
No reference to domestic regulation or health and safety standards is listed in the six returns submitted by DPAC's outside consultants between February 2017 and June 2019 (the latest return was active as of June 22, 2019). As these returns do not include any material besides trade issues, the communications directed under the auspices of these six returns provide a better indication as to DPAC's new interest in trade matters when lobbying the government. Figure 5.2 graphs the number DPAC communications, between

¹²² The "responsible officer" designation is a statutory requirement for each organization engaging in lobbying communications

¹²³ OCLC Registration Returns. Michel Tremblay – Version 1 of 6 for DPAC

October 2016 and March 2019 by those conducted through in-house lobbyist and those directed by outside consultants”

Figure 7.2 Dairy Processors Association of Canada: In-House and Consultant Communications



Between 2016 and March 2019, DPAC directed 147 communication with government officials. Of that total, fully 91 of the meetings were conducted with a consultant operating under a trade-specific registration return. This indicates that approximately 62% of DPACs lobbying efforts in the period after CETA was concluded were directed to trade specific discussions. Relative to the pattern of behaviour adduced in the OCLC data prior to CETA’s conclusion, post-CETA behaviour represents a strong break with the trend. Further, the specificity of the returns submitted by outside lobbyists also indicates that the majority of the increase in DPAC’s lobbying intensity can be directly attributed to a new interest in trade policy on the part of the association.

Comparatively less data was available on the trade preferences of individual firms than in the case of associations. However, it is telling that the business news media began to report on problems with filling the CETA quota in the two years after CETA took force. Reuters news reported in 2019 that:

*“Small quotas for 2017 were filled, but more than eight months into 2018, only 36 percent of the high-quality cheese quota has been used. European imports under quotas that predate CETA are on track for the year, suggesting something about the new quotas, which are allocated differently, is limiting imports. Many of the old quotas are held by specialist importers, which are largely shut out of the new system.”*¹²⁴

¹²⁴ Ibid.

The article goes on to note, referring to the new allocation scheme favouring SMP firms, that the “fragmentation has made it difficult to import profitably, especially this year, according to quota holders, as allocations start small and rise each year.”¹²⁵ The implication being that the allocation scheme devised in CETA does not provide enough quotas to interested firms such that total TRQ is filled efficiently.

Again, the economic logic tracks fairly closely with the argument outlined by Melitz (2003), among others. Essentially the larger processors argued that, pursuant to the CETA text, the TRQ should be allocated to the firms which can most efficiently fill the total TRQ, thus maximizing the gains from trade. The imprimatur of neoclassical economic thought exists in this argument and the results for the first two years of CETA’s implementation seem to be consistent with this view.¹²⁶ The position advanced by the large processors also seems to be in closer keeping with a plain text reading of CETA itself. In the agreement, the EU and Canada each included a declaration of guiding principles for their respective TRQ programs in Annex 2B Section (A)(B). The first principle, identical in the declarations of both Canada and the EU, states:

“The general principle is that tariff rate quota administration should be as conducive to trade as possible. More specifically, it must not impair or nullify the market access commitments negotiated by the Parties; it must be transparent, predictable, minimise transactional costs for traders, maximise fill rates and aim to avoid potential speculation.”¹²⁷

That Canada’s TRQ declaration contained an additional guiding principle is telling since it reflects an effort to make explicit a concern held by the EU that the TRQ would be underfilled owing to under capacity (among SMPs – the argument advanced by the large processors) or foot-dragging.¹²⁸ The additional principle adds this line to Canada’s Annex 2B Section B declaration in CETA:

“The eligibility criteria and allocation method should result in the quotas going to those persons that are most likely to use it and must not create barriers to imports.”¹²⁹

¹²⁵ Ibid.

¹²⁶ Martell and Blenkinsop. “European cheese struggling to break through under Canadian quotas.”

¹²⁷ Comprehensive and Economic Trade Agreement – Annex 2(A)(B) Section (1)

¹²⁸ Martell and Blenkinsop. “European cheese struggling to break through under Canadian quotas.”

¹²⁹ Comprehensive and Economic Trade Agreement – Annex 2(B) Section (2)

This is a valid concern from the point of view of EU exporters as many SMP firms are provincial (if not smaller) in terms of their scope and distribution networks which may struggle to fill import quotas efficiently.

The OCLC data provides the strongest documentary evidence for the large processor trade preference since they do not appear before the parliamentary committees themselves. The first registration return submitted by Parmalat, a large international processor in Canada, does not appear until May 2016 in the lobbying record. These returns reflect a singular focus on the TRQ program generally, and Parmalat's share of the TRQ quotas specifically. In this first return, Parmalat's intentions are given by three lines of text:

“Request for supplementary import of industrial cream and butter in order to meet the demands for butter in the Canadian marketplace (Global Affairs Canada)”

“Possible import of industrial cream in order to meet the demands for butter in the Canadian marketplace (Global Affairs)”

“Tarriff Rate Quotas (TRQs) on fine and industrial cheese in the context of the Canada-EU trade agreement coming into force in 2017 (Global Affairs).”¹³⁰

That these are the only policies or objectives reference supports the claim that Parmalat's lobbying efforts, beginning in 2016, focused solely on trade matters. Parmalat's registration returns are a strong indicator, relative to other large processor's returns since they focus almost entirely on trade and quotas. It is unfortunate that there does not exist a record of Parmalat's lobbying intentions prior to 2016, however that their lobbying activity begins just prior to the CETA implementation is telling in and of itself.

Saputo provides the longest time-series of lobbying returns among the large processors in the dataset. That said, Saputo's returns also cover a much broader range of material and nearly the entire record between 2008-2019 is conducted under returns submitted by the CEO, Lino Saputo Jr. The first return Saputo submitted under the new lobbying regulations begins on July 12, 2008, and is primarily concerned with three issues; highlighting that Saputo is interested in intervening on *any* DFC proposal related to

¹³⁰ OCLC Registration Return – Mark Taylor – Version 1 of 11 for Parmalat

product standards, import-export permits and the national milk marketing plan.¹³¹ The line item addressing the import-export permit is simple and direct – “import and export permit”. By August of 2010 Saputo’s returns are significantly longer and begin to include more direct language on Saputo’s interest in the quota program:

“Import Permit quotas. Intervene to ensure that any proposed changes to existing rules and legislation are fair and equitable and do not adversely affect the dairy processing sector.”¹³²

This line item is included in each Saputo return up until the present. As with Parmalat’s lobbying returns, it is notable that Saputo’s returns do not mention international trade agreements specifically until later in the time-series. The first explicit call for Saputo’s interest in FTAs is in May of 2014, a few months after the text of CETA was released in September of that year. The return includes this passage:

“With respect to International Trade Agreements, to be a presence reminding the government that dairy product manufacturers need to be consulted regarding international trade agreements because of the significant impact these agreements may have on the dairy processing sector.”¹³³

As with the text concerning import quotas, the text on Saputo’s interest in future negotiations is maintained up to and including Saputo’s most recent return. Figure 7.3 graphs the frequency of lobbying communications directed by large processors between June 2008 and March 2019.

The time-series for large processors also reflects a sustained increase in lobbying intensity however the increase begins earlier among large processors than was observed for DPAC. Large processors began to lobby the government more intensively between 2015-2016, however, a similar sustained increase in lobbying communications is also observed following CETA’s conclusion in October 2016. The increase in communications prior to the announcement of CETA is unusual since no qualitative evidence was found which would suggest that the large processors had more information about CETA’s dairy provisions than the umbrella associations did, yet it is not outlandish to suggest that some information leakage may have occurred during the negotiation. Other factors may also explain why the increase for

¹³¹ OCLC Registration Return – Lino Saputo Jr. – Version 6 of 31 for Saputo

¹³² Ibid. Version 9 of 31

¹³³ Ibid. Version 18 of 31

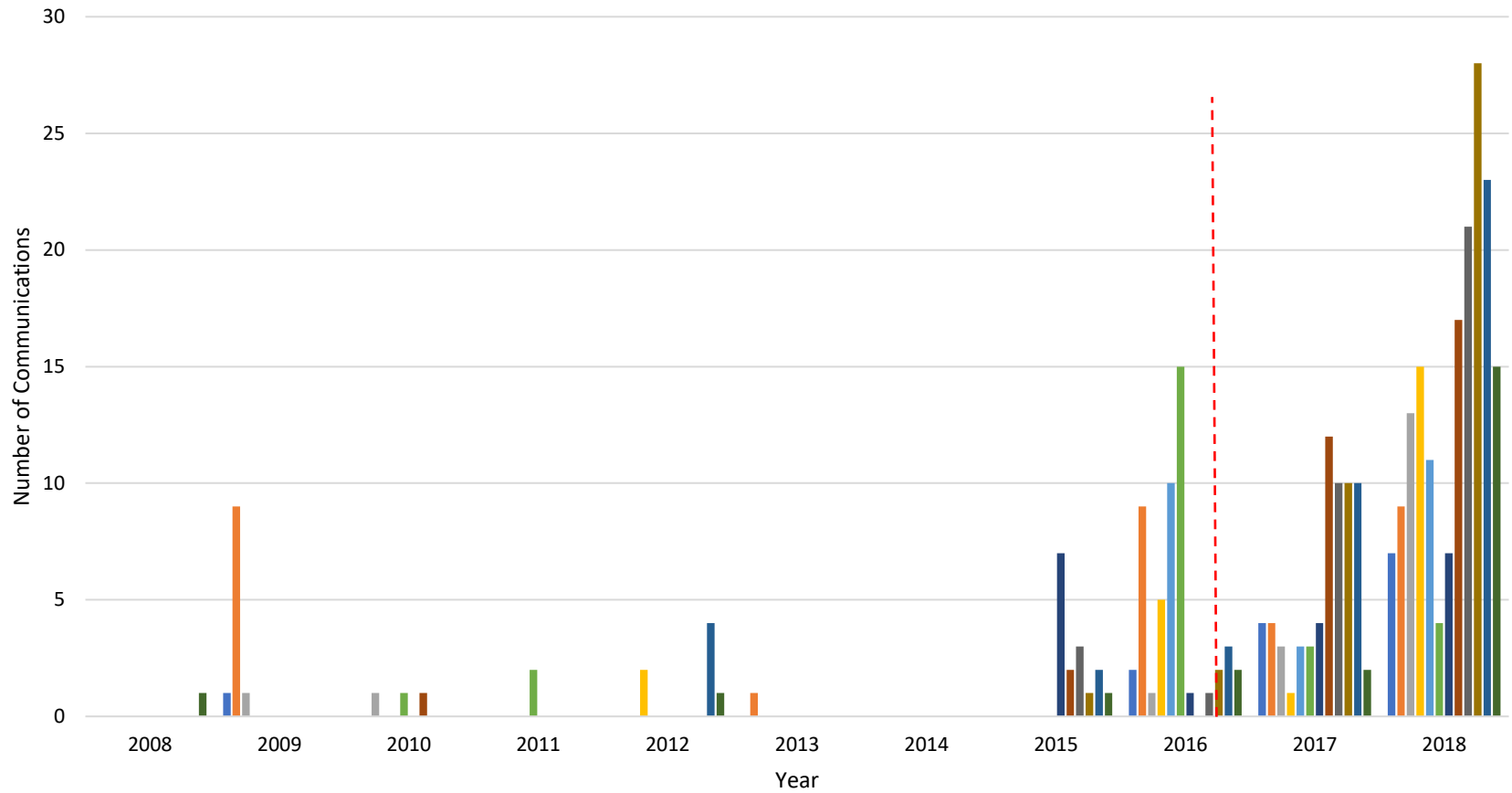
large processors pre-figured the announcement of CETA. The most persuasive of these is the proximity of CETA's negotiation to a domestic policy debate within the dairy sector about how "Class 7" ingredients should be treated with respect to tariffs and border policy. The Class 7 pricing issue is not discussed here but suffice it to say that, while related to trade policy, Class 7 pricing was not a particularly weighty issue during the CETA negotiation but figured prominently in the discussion related to TPP and CUSMA. Further, assuming that large processors had no more information than other domestic actors it is reasonable to suggest that the early increase in lobbying among large processors reflected concern over Class Seven pricing regulations which, at that time, were in the domestic policy sphere and openly debated among domestic actors.

7.5 Discussion

There are three aspects of the analysis above that I would like to highlight as they relate to the empirical analysis in chapter four, and the larger theoretical questions posed in the research question.

First, recall that DPAC *is* the lobby group for each of the large processors in Canada. The paucity of comments on trade policy given by these firms directly is partially explained by this fact since, when a firm is a member a trade association, the firm allows the association to speak on its behalf. Thus, it is extremely striking, on its face, that firms like Saputo and Parmalat begin to lobby individually on matters of trade at all. This restates a key motivation for the project: Lobbying is extremely expensive, and it is all the more so when firms lobby alone so what is driving this behaviour on the part of larger dairy firms? The analysis of intra-industry preferences over stage two of the allocation process provides a plausible explanation to this question, grounded in both quantitative and qualitative data: Large processors began to lobby alone following the announcement of CETA because the allocation mechanism for intra-processor apportionment of the TRQ favoured the SMP firms in the processing sector. The large processors framed the TRQ administration as a challenge in implementing the cheese TRQ such that the probability of filling the total quota was maximized.

Figure 7.3 Large Processor Lobbying by month, June 2008 to March 2019



The economic logic of this position is clear since obtaining a greater share of the TRQ would imply greater gains from trade for the large processors. Larger firms, therefore, argued that their size and national scope put them in the best position to achieve this goal.¹³⁴ On the other hand, DPAC and the producers viewed the TRQ as an instrument to smooth the increase in imports and provide compensation for disadvantaged firms. The case study above divided the allocation decision into two-stages. The first forced processing firms to consider inter-sectoral preferences and the preferences of all processors produce a uniform trade position among dairy firms which pushed for 100% of CETA's TRQ to be allocated to processors. Once the policy choice concerned how the gains and losses would be distributed within the processing sector, the processing firms must now consider intra-sectoral preferences. On this decision, the producer groups, cooperatives and medium-sized processors took the position that quotas should be apportioned on the basis of need and that they are used as a transition tool. Since DPAC represents cooperatives, SMPs and large processors, large firms like Saputo and Parmalat found themselves at cross purposes with their own lobbyists and began to advocate for their position by directing their own lobbying activities.

¹³⁴ It is also notable the argument marshalled by large processors tracks closely with the implementation principles enumerated in Annex 2B Section B (1)(2) of CETA.

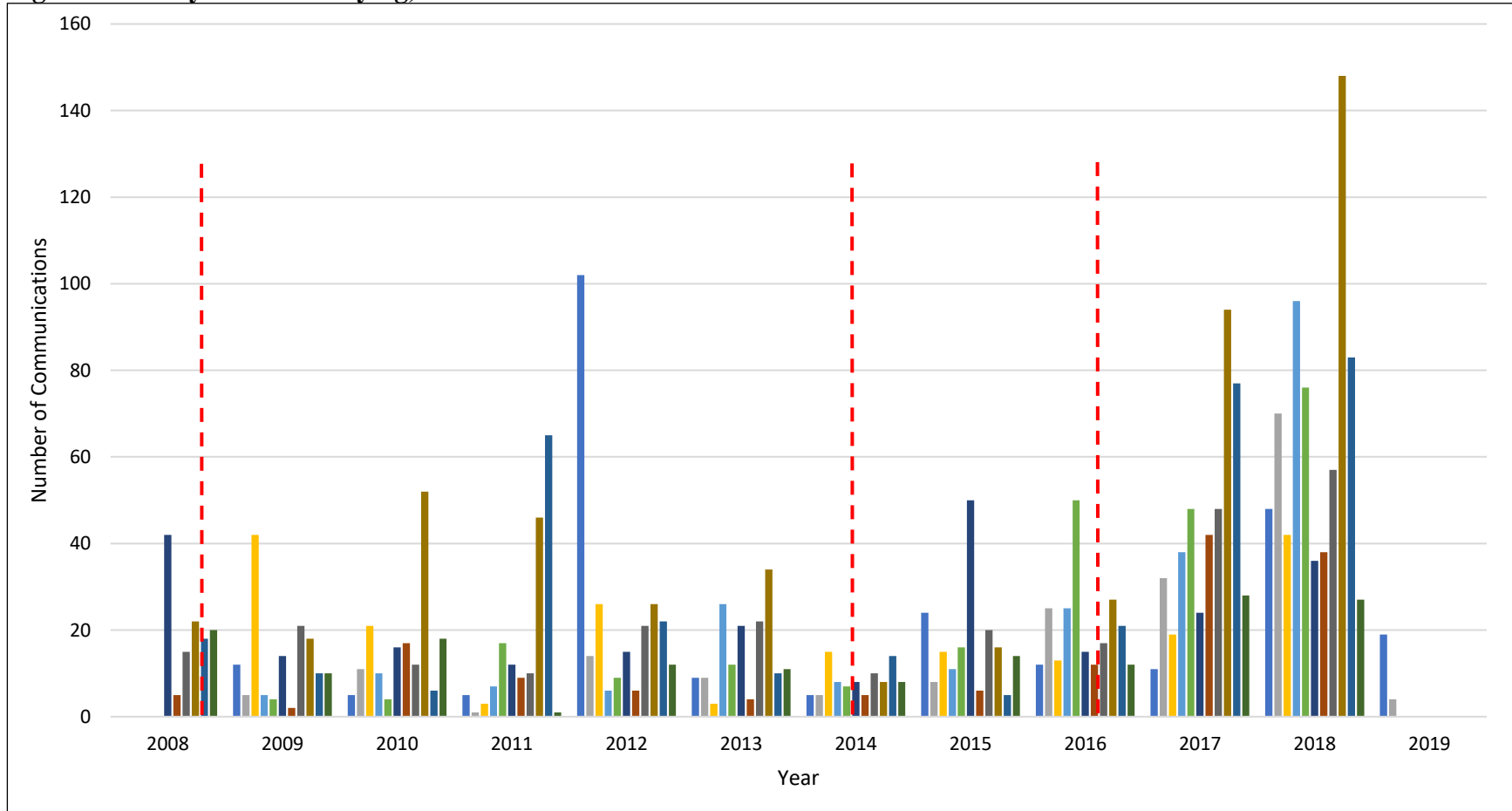
Chapter Eight: Discussion and Future Research

To begin the discussion of the quantitative and qualitative results, I want to first return to the empirical question which motivated this study: the relationship between lobbying behaviour in the Canadian dairy industry and the negotiation of free trade agreements. The quantitative analysis conducted in chapter four suggested that, while complex and difficult to resolve with the current data, that there does appear to be a systematic relationship between the FTA content that lobbyists include in their OCLC returns and the preference over TRQ imports indicated by registration returns. However, drawing strong conclusions as to whether lobbyists shaped, or were shaped by trade policy was not feasible given the binary structure of the lobbying data. I, therefore, identified two important questions which would be developed by the qualitative analysis; (i) was the change in trade policy driven by exogenous factors at the international level or was the policy change endogenous, driven by domestic lobbyists; and (ii) does the increase in lobbying intensity following CETA reflect an industry-specific lobbying response or does the increase in lobbying intensity reflect intra-industry division among processors?

The Empirical Question: Intra-Industry Preference Drift in the Processing Sector

Figure 8.1 charts the frequency of lobbying communication for the aggregate dairy sector, by month, from June 2008 and March 2019. The time-series illustrates what is, for the most part, a steady trend in lobbying communications for the dairy sector. An exception is an acute spike in communications observed in late 2011 to early 2012 but the increase dissipates rapidly after those few months and the time-series returns to the trend. A second spike occurs post-2016, and this change has persisted up to the present in the OCLC data. Figure 6.1 illustrates that lobbying behaviour has changed dramatically in recent years, that much is clear from the time series. Yet, an increase in lobbying intensity might simply be the logical expectation following the introduction of a new policy which heavily implicates domestic dairy policy. I.e. it might be the case that the increase in lobbying intensity reflects a monotonic increase, undifferentiated in the proportion of communications directed by different actor types. I argue that the change in lobbying intensity, observed between 2015 and 2016, reflects a different composition

Figure 8.1 Dairy Sector Lobbying, 2008-2019



Notes:

¹ February is omitted owing to the distinction between communications related to price setting with the CDC.

² The dashed lines mark May 2009, September 2014 and October 2016 to delineate the development of CETA from the first round of negotiations to the conclusion of the text and finally the signing in 2016.

Figure 8.2: Producer Lobbying Communication Frequency, July 2008 to March 2019

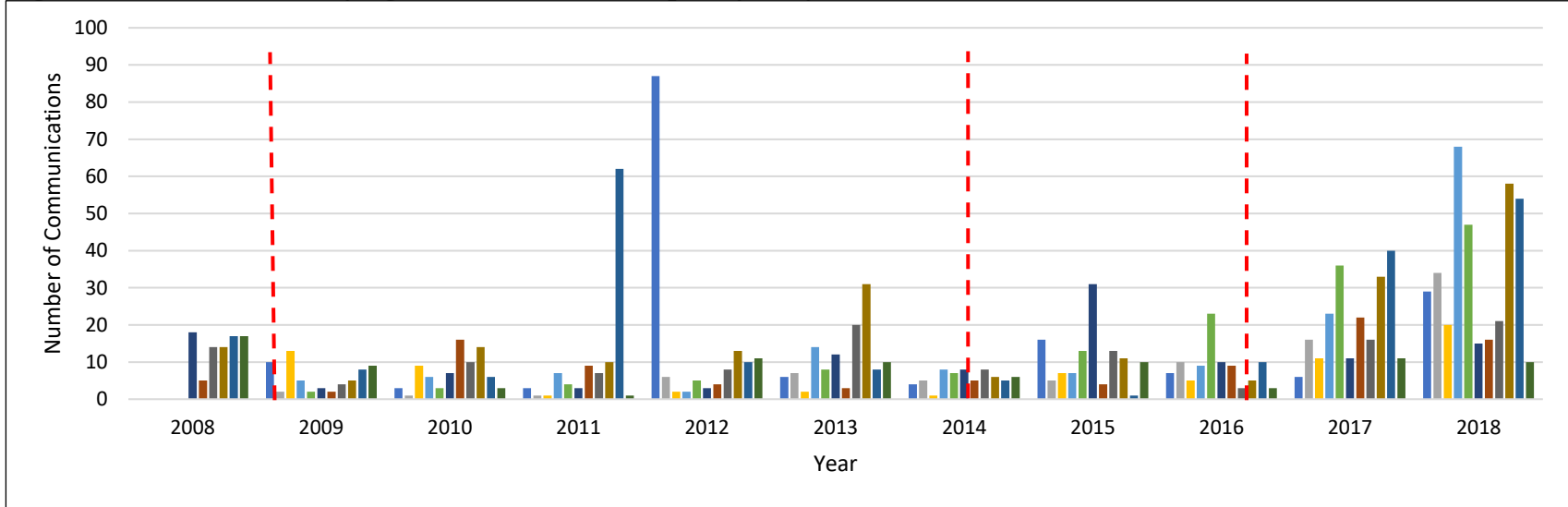
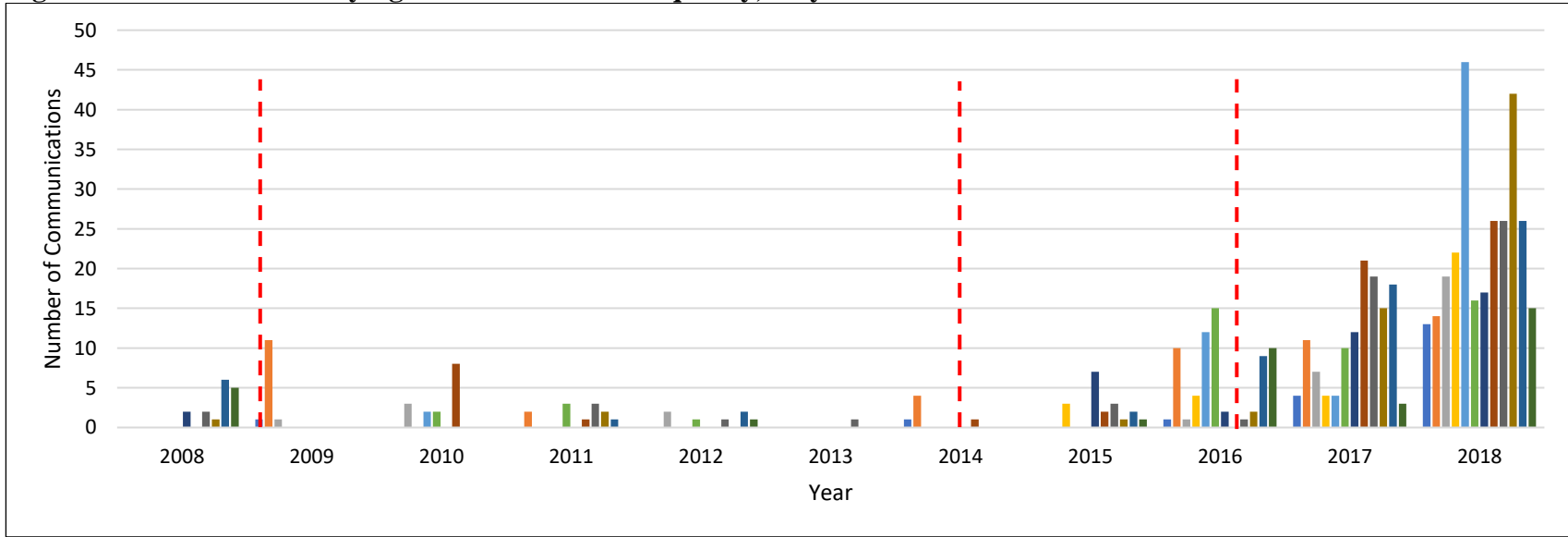


Figure 8.3: Processor Lobbying Communication Frequency, July 2008 to March 2019



with respect to domestic actor's share of the communications than did earlier lobbying trends.

To assess whether the renewed lobbying intensity is driven by an undifferentiated increase in lobbying across all actors or an intra-industry divergence, I decompose the aggregate lobbying time series into a separate series for producers and processors in Figures 8.2 and 8.3. The aggregate time series in Figure 8.1 masks a more complex change taking place at the sector-level in the dairy industry. Figures 8.2 and 8.3 respectively chart the frequency of lobbying communications directed by the producer and processor sectors over the same time period. The difference is striking *prima facia*: relative to the producer's communication record, the processing sector's lobbying activity was limited prior to 2015-2016. However, once the CETA agreement was signed and the details of the TRQ program became fully known, the processing industry adopts a much more aggressive lobbying posture than in any of the years in the time series. The content of DPAC's registration returns further support the contention that the change in lobbying behaviour was directly related to trade policy and CETA: Recall that fully 62 percent of DPAC's lobbying communications post-October 2016 were conducted by lobbyists outside of the organization's in-house resources. Policy content from registration returns confirms that the 77 meetings conducted by new consultants in this period were solely related to trade matters. From this, I believe it is reasonable to conclude the change in DPAC's lobbying behaviour was causally related to the change in TRQ policy resulting from CETA.

The impact of the intra-industry tension over processor allocation also translated into a new lobbying strategy among large processors. Their relative absence in the time-series prior to 2015-2016 is partially explained by the fact the DPAC has been the umbrella lobby group for each of the largest processors in Canada. The impact of CETA's TRQ provisions on the processing sector is best identified by the decision of large firms like Parmalat, Nestle and Saputo to break from DPAC and begin to make their own representations to the government. Lobbying alone is a costly decision for any firm to take- and all the more so when a firm must oppose the aggregate industry preference- theorists like Melitz and others. To underscore the point recall that the large processors are essentially duplicating a function that is already

performed efficiently by their trade association, thus the prospect of obtaining additional quota rents provides a solution which helps to rationalize the additional expense.

Exogenous Policy and Domestic Lobbying Behaviour

While a strong case is made for the intra-industry divergence hypothesis, the question of time-order and the exogeneity of trade policy is clearly resolved. Recall that there are essentially two views which were considered; I argued that relationship is exogenous, that trade policy is produced largely by international processes while the endogenous protection model argues that trade policy is the results of endogenous processes between lobbyists and politicians. While I believe that the CETA negotiation strongly suggests the former, the behaviour of lobbyists with TPP and CUSMA/NAFTA suggests a more complicated relationship between lobbying behaviour and FTAS which is not wholly captured by either camp.

In the case of CETA, both the quantitative and qualitative evidence is fairly clear that the content of the agreement was reached without substantial agency on the part of domestic lobby groups. The increase in lobbying intensity did not occur during the period where the policy was negotiated and agreed but began only after the content of the agreement had become public. Further, the testimony given before CIIT confirms that the major domestic actors were not aware of the dairy related policy until after the content had been agreed. Certainly, the dairy lobbyists represented their position on supply management and trade in general terms; calling, for example, for the blanket exemption of supply managed sectors from negotiation. However, without knowledge of the policy specifics (i.e. if the deal included a TRQ program or a decrease in over-tariff rates for example), it is difficult to see how lobbying efforts could have been effective at shaping the eventual outcome of the agreement.

The sharp increase in lobbying behaviour was also shown to reflect a greater interest in international trade on the part of organizations which further suggests that the negotiation of CETA produced *ad hoc* responses on the part of dairy sector lobbyists. The experience with CETA then strongly suggests that the lobbying response was driven by exogenous factors however I do not believe the same can be said for TPP and CUSMA/NAFTA. For these latter two FTAs, the registration returns as well as the qualitative

data suggest that dairy sector lobbyists took a much more proactive and focused view on the TPP negotiations and the NAFTA renegotiations than was the case for CETA.

A distinct relationship between CETA and the later FTAs was suggested first by the quantitative analysis. When the relationship between FTA content and the TRQ preference was tested using each FTA separately, the crosstabulation returned a negative form in the bivariate relationship between CETA-related content and the TRQ preference however the crosstab using TPP-related content suggested a positive form.¹³⁵ There are several reasons that might explain these differing interpretations, for example, I noted that TPP implicated serious geopolitical concerns which CETA did not. However, I believe that the difference is related to the character of second-generation trade agreements themselves. CETA was the first such agreement negotiated in Canada history, it is possible that the contending interpretations between CETA and the later agreements with respect to time-order could be resolved by allowing for some kind of learning effect among domestic actors as the experience of negotiating second-generation agreements is iterated over time. For example, the keen interest that firms and organizations in the processing sector have taken over the TRQ allocation mechanism in TPP and CUSMA may simply reflect their inability to engage early enough on the issue in CETA. I am skeptical that even these more focused efforts will be efficacious in overcoming the structural barriers faced by Canadian negotiators, however, this also offers an opportunity for future research on the impact of more focused lobbying on the TRQ programs in TPP and CUSMA and the extent to which those policy mechanisms reflect the efforts of lobbyists.

The network of associations and lobbyists in the dairy sector is highly structured, and indeed, it is an essential component of the regulatory mechanism since private sector-state capacity has become so intertwined undersupply management. Thus, it is reasonable to suggest that the apparatus will lag in its response to exogenous change. I suggest that just such a dynamic has taken place in the dairy sector. In so

¹³⁵ The NAFTA/CUSMA crosstab also indicated a positive form but the table was overdetermined

much as the impact of CETA, TPP and CUSMA remain unknown, further research might also consider a comparative study of lobbying efforts around each deal respectively to assess whether lobbying strategies develop systematically as the experience with second-generation FTAs is iterated.

Policy and Consumer Implications

What are the implications, if any, for the dairy sector and the consumer with respect to divergent lobbying behaviour among processors? In the near-term I suggest that the implications are minimal: while intra-industry tension was observed among processors it was also clear that none of the actors, large processors included, have a negative preference oversupply management as such which suggests that the collective marketing paradigm will persist for the near to medium term in Canada. Yet in the long-term, there are implications which will concern politicians, consumers and domestic dairy firms alike. Consider, for example, the scenario where international trading regulation continues to develop into a “spaghetti bowl”¹³⁶, where different trade blocks adopt distinct rules. Defenders of supply management are right to be concerned about the prospects for supply management in such a future. Consider the parties of TPP as an example: while Canada is one of the largest members of the group, Australia and New Zealand form a strong anti-supply management block, a position which would be complemented by the trade preferences of the developing member states in TPP. Moreover, if a future US administration decided to re-enter the agreement as an active member then Canada’s relative bargaining position would suffer and opposition to supply management within TPP’s membership would gain a massive ally. Thus, the validity of supply management as a valid regulatory framework seems to be at risk over the long-term. If, as I contend, the direction of dairy sector regulation will largely be driven by exogenous factors, then the supply management system in Canada may be subject to significant long-term risk.¹³⁷

¹³⁶ See Bhagwati (1995) for complete discussion on the concept of preferential trade agreements as a balkanizing force in global trade policy.

¹³⁷ Anecdotal evidence suggests that the dairy sector, especially the UPA in Quebec, has already identified this long-term exposure. For example, the UPA directs development programs which look to develop supply managed markets in other countries. Further, the UPA is careful to include in the returns a demand that supply management issues only be negotiated at the WTO, an explicit nod to the “spaghetti bowl” concerns identified first by Bhagwati

Lastly, I would like to discuss the lobbying dataset developed above and how the methodology might be applied to a wide range of research topics. First, I note that there are two components to the lobbying dataset, the communication logs and the registration returns, which are differently transferable to other sectors and research topics. The communications logs are the most readily transferable since they are available in a spreadsheet from the OCLC and can be assembled with only minimal transformation of the bulk data. Rheault (2013) provides an example of how the communication dataset can be incorporated as a measure of lobbying intensity into a quantitative analysis; the relationship between immigration policy and lobbying behaviour in this instance. The OCLC data could be made more accessible if a systematic program to codify the existing data was undertaken. This would involve cleaning and harmonizing all existing dataset to smooth out errors (duplicate names, misspelling, etc.) and format reformat the OCLC variables as required. Additionally, the data would be made more effective if each organization represented in the records was matched with the appropriate North American Industry Classification System (NAICS) code. This would allow lobbying data to be grafted onto traditional economic variables measuring employment, output, immigration, etc.

The registration returns are not as readily transferable between different research topics because the information in the returns is textual and not recorded in a dataset. Utilizing the registration return information may become simpler since the OCLC now makes the registration returns available.¹³⁸ This offering increases the scope for more sophisticated textual analysis techniques to be applied to the registration returns without having to resort to an API tool to generate the dataset manually.

However, there are aspects of the returns which make them useful, especially as a source of qualitative data. For example, since reforms to the *Lobbying Act* in 2008 organizations lobbying the government have adopted a systematic approach to achieving regulatory compliance for registration returns. The earliest returns submitted after 2008 demonstrated a great deal of *intra-organization* variation, i.e.

¹³⁸ The OCLC website breaks each registration return into its component sections and then release each section in a different spreadsheet. Thus all the content included in registration returns is provided in a piecemeal format.

between the returns submitted by lobbyists employed with the same organization. However, by the end of 2009, there is practically no intra-organization variation in the structure and content of returns which suggests that organizations had adopted a systematic approach to submitting returns. This has two advantages: first, it makes identifying changes in the lobbying interests of a given organization easier to identify because any alteration to a new registration return is immediately apparent when compared to the previous return. Second, identifying which lobbyists are tasked with which policy briefs becomes easier since policy-focused registrations are distinct from each other in the record.¹³⁹

Therefore, my suggestion for any researcher interested in applying the OCLC would be to take advantage of the information that can be gleaned from analyzing the content of these returns. In some instances, it may be appropriate to generate a dataset to conduct simple tests for systematic variation, however, the experience with dairy sector returns suggests that the content in the returns does not provide enough variation in the sample. Whether the registration returns are used as a component of quantitative analysis or if they are used as a source of qualitative information, the record made available by the OCLC is an important source of information and context.

¹³⁹ For Example, DPAC has lobbyists who handle domestic policy matters and they have lobbyists (since 2016) who have a trade specific policy focus. The returns submitted by both lobbyists are different from each other- one containing trade language and the other focused on domestic policy- but in both cases the record of returns reflects systematic entries. i.e. the content on trade is stable from period to period and the domestic policy content is stable from period to period.

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