

CONSULTATIVE FORUM ON CHINA

SESSION 2

SEPTEMBER 14, 2017



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MEETING MINUTES

Consultative Forum on China

2nd Session – DRAFT

September 14, 2017, Ottawa

Note: // indicates a new speaker

TOPIC 1: NATIONAL SECURITY

Acknowledgment: The minutes below reflect a round table exchange between government officials, public policy experts, academics and private sector representatives. As such, they highlight risks that were discussed by a variety of participants in the context of discussing the possibility of further engagement between Canada and China and not anyone's views in particular.

// Over the last three years, there have been active conversations by senior government officials that we can no longer treat the two aspects of trade and security separately, and we can't make a trade-off between them. We need to marry our strategic, economic and investment interests. We need to look at the China puzzle and take forward the good ideas that are both economically viable and in the interest of Canadians.

Geo-economics

Looking at geo-economics, experts noted that there is concern about China using economic power to leverage interests. Media reports indicate that it is a serious concern in Australia and that some small Asian states have been the subject of economic pressures.

It is clear that the rise of China is a defining feature of the 21st century - it has had incredible economic growth. Canada is seeing the impact on the economic front, but there are national security issues linked with doing more business with China. Will China conform to norms of practice, will it be more assertive, can we separate this from security issues? The relationship with the US and our other allies is critical too.

The ambivalence of Canadians

Looking at the polls, Canadians are ambivalent – they understand the importance of China, and they see opportunities there but they also want to know more before they support greater engagement. The clash of values on national security and human rights fuel doubts for Canadians. Successive Governments have been keenly aware of the ambivalence – some feel this ambivalence has delayed our chance to seize on opportunities. Others say we can learn from states that moved early, such as Australia and the UK. China has a clear sense of its priorities and is very deliberate in its action. There are numerous media articles in the US, Australia, UK and the rest of Europe, highlighting that these countries are all doing a tightening of the security reviews for investment from China. This illustrates that everyone faces the same challenges and balancing act.

In many countries, there is also a debate around natural resources and the impact of Chinese investment on access to real estate. In Australia, this debate even extends to the acquisition of land, particularly farm land, an issue of less concern in Canada because of our strong provincial/territorial regimes.

We need to be mindful of concerns but at the same time, China can be an important partner if we want to make progress on regional security issues, such as North Korea.

China seeking geo-political gains

Observers see China trying to make geo-political gains. There is concern about the South China Sea, and how China is using its economic power to coerce small Asian states and to restrain the reactions of developed countries. We are watching with interest the ‘One Belt One Road’ initiative.

National security review of investments

The discussion noted that China has a geo-political agenda and an increasing economic interest in intelligence, may it be human (traditional spies), or through technological means (signal intelligence, cyber espionage, etc). China’s SOEs pursue a marriage of interests. Technical advances such as those in cyber espionage make intelligence gathering less labor intensive and more difficult to detect or attribute. The scale of opportunities offered by cyber espionage has grown.

Some of our key economic sectors, such as aerospace and others, have done a relatively good job in protecting IP and are aware of the risks. Large corporations have dedicated strategies and resources to protect against emerging trends like cyber espionage. There is a need to better equip our SMEs, who may not have the same awareness and resources.

Experts noted that , in the past, China relied on a ‘dredging’ approach to support their geo-political interests. They are now a lot more strategic in targeting key interests especially with respect to aerospace, agricultural IP and know-how and high-tech. Like Australia, we have seen China move along the supply chain. China has transitioned from seeking natural resources to advanced technology. Another example is in the acquisition of small firms: concerns have emerged that China may be prepared to outbid reasonable market price offers by others to acquire small firms in areas of strategic interest. With respect to foreign investment, it is not necessarily the magnitude of investment that is critical. Some large SOEs from China have made very small investments in important tech companies, so the Canadian interest cannot be defined solely by the scale of the investment. Also it can’t be limited to SOEs – some private corporations are also very linked to the Chinese government and some SOEs do not necessarily pose a risk.

Espionage and foreign interference

A few years ago China would not even discuss the subject of industrial espionage. But following the G20 statement, China is willing to enter into commitments with states that they will not do espionage on each other. China and Canada reached such an understanding during their June 2017 Second Round of National Security and Rule of Law Dialogue. Other countries, who reached such agreements before, have noted that the result is that the volume has come down, and you have the added advantage of a commitment to refer to if an incident surfaces. While the Chinese see advantages from being able to adhere to international norms that encourage better behaviors, does that mean that they will really change behaviours?

There is a fundamental difference between foreign influence and foreign interference. The latter is an attempt by a state to advance its interests by covertly undermining legitimate rules and processes. All countries, including Canada, engage in advocacy with foreign governments or interests, through diplomatic engagement or other means.

There are also security threats where China can be an important partner; for example, China could be an important partner in addressing security threats related to drugs, cyber-crime and terrorism.

Mitigating risks and developing red lines

The discussion noted that we need to know the risks as well as the opportunities for free trade. Our trade negotiators need to be well-informed about the risks and about our own boundaries in order to reach an agreement that increases the flow of investment and trade without compromising our strategic interests or those of our key allies. China exercises far more control on foreign investment in their own areas of strategic interests than most of its western trading partners.

We should also look at the power of alliance. Like other major powers, China loves the bilateral track. A strong alliance has a higher probability of promoting good behaviors. We need to avoid the race to the lowest common denominator.

A few years ago, media reported the concerns expressed by President Obama that some of its G7 partners had too quickly embraced the Asian Infrastructure Investment Bank (AIIB), reducing the opportunity for the select group to encourage the appropriate norms, governance structures, etc.

With regards to the Canadian toolkit, the discussion highlighted that in areas like export controls and controlled goods' programs, we seem to have mature systems in place, including relatively good consultation mechanisms with our allies like the United States. By contrast, the national security review provisions of the Investment Canada Act are young and haven't yet reached maturity. The strict timelines of the NS review mechanism of the ICA require an accelerated process in terms of both consultations with allies and assessment. Finally, all of these various tools have been developed as distinct legislative and regulatory frameworks that operate in siloes to deal with discrete concerns of the past. Recent experience has demonstrated the need for a better coordinated approach to deal with a new reality. The discussion noted that reforms that can bring more certainty up front would be welcome by the private sector.

Participants agree that we need to do a better job on understanding the link between SOEs and the Chinese Government so we can know exactly what the risks are and whether these can be mitigated. We need to avoid the oversimplification of it being simply a SOE versus a private sector firm from China. The Chinese ecosystem is not that simple.

We also need to improve the information sharing with the private sector in order to improve its awareness and resilience. Some of the private sector interventions stressed that Canadian governmental agencies, while protecting their intelligence sources, could provide more information to allow them to better appreciate, prevent or mitigate risks.

Our knowledge of, and engagement with, China

It is also extremely important to promote Chinese knowledge in Canada so we can engage with open eyes, deal with risk and have Canadians that are much more adept at dealing with China. Our complacency of easy access to the US works to our disadvantage and people are less driven to seek out China knowledge.

Engagement with China matters to Canada – and it requires a broad level of engagement on multiple fronts. The September 2016 visit of the Canadian Prime Minister to China and the return visit of the Chinese Premier launched several channels such as an annual Leaders' dialogue and a

High Level Economic Dialogue between a Chinese Vice-Premier and the Canadian Ministers of Finance and International Trade.

It also included the launch of an annual National Security and Rule of Law Dialogue (NSRLD), led by the two countries' National Security Advisor equivalents, a model in place with other countries and the UK. Initial rounds of the NSRLD have led to fruitful engagement on a variety of subjects. Progress was noted in areas like law enforcement cooperation with the signature of a number of MOUs. China's action to enhance regulations on fentanyl precursors and its agreement to cooperate with the RCMP on drug smuggling operations, particularly fentanyl and carfentanil are positive signs. The first two rounds of the forum also allowed frank and honest conversations on human rights and rule of law, counterterrorism, consular cases and the commitment of not conducting industrial espionage referred above. In the context of that dialogue, China has asked Canada to explore the negotiation of an extradition treaty. Canada has stressed that the legal standards for extradition in Canada are extremely high and that China would need to show progress in a number of rule of law areas before such initiatives could be considered. Experts noted that existing UN instruments would currently allow China to seek extradition in some circumstances but that China has never made any applications. These cases would also be subject to the same high Canadian legal standards.

China is an important but challenging partner. Our values, economics and politics are different and there are real risks. However, we cannot ignore Chinese growth. Canada is too small and too open to retreat. We must engage to address national security concerns. We should try and build sound systems around investment and exports screening that allow the promotion of investment and trade and the protection of our national security interests . We also need to make sure that Canadian companies have access to diversified sources of capital to scale. If we don't provide the funds, they will look to China. We also need to be deliberate in our actions and at times patient. We can learn from the experiences and lessons of countries who moved sooner, like Australia. We need to know our strategic interests and our red lines.

An FTA and risks

// The risks of doing business with China exist right now. Do those risks get worse with a FTA, or are they the same? We also can't generalize about risks to the Canadian economy – it is not homogenous. For example, the IP risks for fish, natural resources, tourism and services are low. Risk management needs differentiation too.

// We can try to mitigate risks. What we need to be careful about – and where media reports show that some countries, like Australia, made mistakes – is the investment chapter. China doesn't allow investment in various sectors. We need to be clear on our own red lines; we need to be mindful of our strategic interests. Any FTA cannot impede our ability to protect our interests or the interests of our key allies when it comes to the ability to apply a national security screen on investments. This also includes our ability to protect against illicit IP acquisition that allows China to leap frog research and development but then repatriate know-how at the expense of Canadian firms and jobs. A few years ago, Chinese spies were arrested going to fields in the US states to collect advanced farming seeds. These are the type of activities that violate fair-trade practices. But we are not going to resolve it on our own – we, and other allies, need to drive them towards compliance with fair trade rules.

// We should learn from Australia - they've been at it for two generations. While we shouldn't minimize the threat, the context is important too. There is a unique historical context that we are not integrating. Remember the US obsession with Japan's unfair trade practices in the 1980s?

How do we integrate China into the world order? They are not going away, so we need to learn to live with them. China's history - their "100 years of humiliation" – drives their aggressiveness and historical factors are very important to them. For some of China's actions that we are critical of, we can point to Americans and other major countries doing this too. Let's try and balance our criticism of China and integrate the context, not only at the policy level but practically going forward.

// Agree that we need to engage more. Is this situation unique to China? No. We have tough trade negotiations with US. Can the US-Japan trade war teach us something here? Can we drive China to international norms? We try to use multilateral trade so we can have norms to manage relations. Norms are helpful if there are adequate mechanisms to drive compliance.

First Nations and China

// Some First Nations have a solid China strategy - it was one of the first things that were done. First Nations have been engaged with Chinese SOEs, but after the Canadian determinations on

Petronas and CNOOC-Nexen, there have been delays. Some First Nation communities are well informed and adept at engaging China. We should share knowledge.

Chinese government operations in Canada

// Some participants raised concerns with some activities of the Chinese Government inside Canada, particularly around monitoring and interfering with dissident views even in the context of the political process. The subject of political interference has attracted a lot of attention recently in Australia. There is also a project in Singapore looking at the changing Chinese techniques for interacting with Chinese people who are based in Singapore.

// Recent actions by foreign actors in a number of democratic elections has made all democratic governments alert to the added risk of foreign cyber interference. The discussion noted that none of these media reported foreign cyber interference incidents have involved China. In Canada, the Prime Minister asked the Minister of Democratic Institutions to engage the Communications Security Establishment to conduct a review for such foreign cyber interference risks for the elections in Canada. A report was released a few months ago. Raising Canadian awareness on the risks of foreign interference is a key element of any mitigation strategy.

Media reports have also highlighted concerns in some universities with the risk that the presence of Confucius Centres right on campus raises questions about whether it is being used to monitor activities and individuals and could also affect academic independence. The best way to tackle some of these things is to offer more ‘China smart’ programs and promote more awareness – with similar initiatives with diaspora. Participants noted that efforts to try and influence diaspora in Canada seem to have a very limited impact.

China and universities

// The comparison with Japan is interesting. China is a unique challenge in that it is looking both up and down the value chain. Engagement with China is important and needs to be for the long term. In terms of Chinese language, there is a waiting list three times longer than what can be provided to learn Chinese languages at the University of Toronto. There is clearly a demand for this but on the supply side we don’t have the resources. In the US, there is the ‘100,000 Strong’¹ campaign – that is a conversation we haven’t had in Canada.

In terms of engagement, the line between universities and industry is increasingly blurred. Universities are looking to create partnerships with firms from China. This may be at the pre-IP

¹ This refers to the goal to have 100,000 students study in China. This goal was reached in 2014.

stage, but then it turns into IP as the university creates knowledge. Perhaps the universities don't even know how to have these conversations about downstream risks, let alone about security.

There are over 10,000 students from China at the University of Toronto. There is some concern about this in the media, including rumors of the Chinese Consulate having control over students, reporting on fellow students etc. This isn't industrial espionage but it is affecting education and the free flow of knowledge.

// We have to define better our red lines - this is the only thing that China understands. We need to be clear when we speak to them about our red lines. Canadians need to be better informed on the whole spectrum of cyber risks to improve their ability to prevent, mitigate and recover.

The earlier lack of interest in learning Mandarin is changing now among young people. That more and more young people have had some involvement with China is encouraging for the future.

// Seneca College has been welcoming Chinese students since 1978 and it has a large number of Chinese students today; international students amount to about a \$3 billion benefit for Canada. Many of the students want to stay in Canada, so it is also important for our immigration and a big part of our people-to-people links.

// For the most part, the fact of these students coming to Canada is very much a success. Where it becomes a concern, is if their presence is used in a clandestine way to influence.

China and the diaspora

// The Chinese respect the fact that you are protecting your interests and being tough.

With respect to the diaspora, these are tough issues and participants noted the need to find a way to have these sensitive conversations. China needs to be more attentive to it as well and to understand what we would consider to be crossing the line.

In recent years, there have been media reports suggesting that Chinese law enforcement officials have come to Canada to track down in a covert way those accused of corruption. Canadian officials have sent clear messages that law enforcement assistance must be conducted through the appropriate diplomatic and law enforcement channels.

One participant, who attends regularly many activities of Chinese diaspora in Montreal, noted that there are concerns within the community about some of their activities. For the Chinese government the view is "once Chinese, always Chinese". While we need to be delicate, this is something we have to be concerned about too.

// There is an important election coming up in China, and it hasn't been mentioned yet. China has an ability to clearly map out its priorities – the 13th 5-year plan, includes clearly setting out its sectoral priorities and we should be aware of it. With respect to discussions on an enhanced economic relationship, it is critical that the infrastructure of leaders' dialogue, financial ministers dialogue etc. be integrated into it. The infrastructure at the political level needs strong technical support to match the formality of the Chinese system.

// We need to look at the domestic Chinese Canadian community and how we can best connect with them – they provide a unique potential to deal with some of these issues. It is a community that is smart, young and interested in adapting to circumstances. There has been a lot of discussion about these people being victims of strategies from mainland China, but our diminished consciousness of the dynamics of our minority communities plus the seriousness of what is done from mainland China causes us not to focus on leveraging the assets we have – we should engage with Chinese Canadians to promote the benefits of a closer relationship with China.

// Some participants noted that candidates with strong reservations on China did very well in the last BC election, illustrating that if alleged efforts are true, they had little impact. Other countries worry about the risk from Chinese dual nationals, whose allegiance may be more to mainland China. We can do better at using the Chinese diaspora in Canada.

// Chinese people in Canada can see the potential of China, and they see this as an opportunity to do something for their chosen country of Canada. But many Chinese Canadians feel confused about the position they have to play – they have a chance to bridge differences, to connect and build trust with China. But should they attend Chinese National Day events on October 1? We should help Chinese Canadians get involved in our communities. Remarks that we should be very careful with elected people of Chinese descent are very disappointing and unwarranted in a country like Canada built on the strength of its diversity.

China and the blue economy

// The environment, climate change, the Arctic, fisheries, the blue economy haven't been mentioned, but China looks at these as either ecological security, environmental safety or ecological civilization issues and they have to take them seriously. There are some 2,000 Chinese vessels on the high seas, but they are not well supervised in terms of sustainability issues. China now says that its smog problems are related to an air mass over the Arctic, to global warming – it gives them an opening to get into everything. If there is an FTA, we need to look at what kind of environmental considerations go into that, and it needs more highlighting in our relationship with China. China is putting in science and technology investments with wind and solar power. We are coming in on the trade side with clean technologies but in a minor way. Whether we call it

environmental development, green technologies or green urbanization, this is an advantage that Canada might have in the future. How do we link ecological/environmental security with national security for Canada to put on table?

// There is a lot of interest now in blue economy/environmental aspects and China can become an important partner and player in this area.

China and intellectual property

// If industrial espionage is going to go on anyway, why not have a FTA? But there are concerns about the forced technology transfers eroding the promise of a FTA – if China already has the blueprints, why do they need a FTA with Canada? There is a concern that we don't properly account for what is happening today in industrial espionage in our assessment of whether a FTA is worth it.

// With respect to IP, we have to find a way to protect ourselves, to promote it and find ways to make Canadians more aware of the risks so that they can decide whether to share IP or not. We need to make our companies smarter. Some countries like Australia have had problems; they made concessions on investment without understanding the consequences.

// We need a more informed, balanced understanding of the issues. One participant noted the myth that a Canadian company who had entered into a joint venture with Chinese SOEs had seen its IP stolen and was now undercut in most contracts when the reality is that the Canadian firm continues to win contracts in China but loses in foreign ones. The suggestion was that the issue may be more a trade practice matter than IP theft. This illustrates how facts may be very different to what some observers may perceive and report to the media. Media reports tend to colour discussion.

With respect to natural resources, a few years ago we had a public debate over oil when, in today's world, rare earths may be more of a critical asset to new technologies. China is running out of it and, if Canadian projects cannot secure financing from other sources, they may need to go to China to get capital.

UPDATE: POLLING

Presentation by Dr Paul Evans, Professor, Institute of Asian Research and Liu Institute for Global Issues, University of British Columbia

Top lines from the latest poll on 'Canadian Public Attitudes on China and Canada-China Relations':

- 78% strongly or moderately support Canada entering into a FTA – this is significantly higher than the 60% the Asia Pacific Foundation found in their survey 6 months ago.
- On an extradition treaty with China – a lot of undecided (38%), but 50% support an extradition treaty.
- There is deep uncertainty about the US leadership going forward. The US is no longer in Canadian minds as the great anchor. Would people support the US in a conflict with China? – there is considerable movement in Canadian minds on this.
- There were several surprises in the results – the Canadian public was more nuanced and informed than we expected. For example, on human rights in China – it is not just one simple category: quite nuanced responses in relation to separate political rights. People are smarter than the media suggests.
- Priorities in the relationship with China - first is economic, second is the environment/climate change, third is creating global partnerships. Human rights are a distant fourth or fifth.
- Strong support in a variety of questions for partnership possibilities with China – people-to-people activities, universities, Chinese setting up campuses in Canada etc. In general terms, the public is interested in engaging in deeper relations with China.
- There is a rising concern about national security.

Discussion following presentation

// The Trump factor is in play here with these results. There is a powerful attraction for Canadians around the economy plus the environment.

// Is there a significant regional variation here?

// We don't know yet if there is a regional variation. The survey was only conducted in English. The Asia Pacific Foundation have found big variations in regions before.

// If you were a Trump official and about to see Canada embrace China, you would be asking: you want to preserve an open door to the US, but you will be creating a back door for China. The triangular relations between Canada, China and the US are interesting – would people embrace China if it had a cost to the US relationship?

// That trade-off question is the wrong question – Canadians do not see that they have an option except to pursue China. This distrust of the US is not just as a market but as a rule generator too. It is plausible that Canadians have a sense that something big is changing. More than two-thirds of Canadians say that China will be the largest economy in the next 10 years.

// We want to do more with China but we shouldn't do it at the expense of the US – we need a balance.

// It is fairly clear from this and other polls that the human rights issue is not top of mind for most Canadians. In this regard, there is a disjunction between the political leadership and academics on the one hand, and the views of the general public on the other.

TOPIC 2: HUMAN RIGHTS

Presentation by representative of the Canada Tibet Committee, and Amnesty International

The Canada Tibet Committee and Amnesty International are both members of the Canadian Coalition of Human Rights Organizations in China, which is an organization that engages regularly with the Canadian government.

Why are human rights an important tool for decision-making and policy-making? Human rights are not aspirational goals or discretionary policies – they are international law and represent an international consensus. There are several legal agreements that underwrite human rights protections, such as the Universal Declaration of Human Rights.

Key human rights principles are:

- Universality – human rights apply to everyone. No exceptions.
- Inter-relatedness – they have an impact on one another. For example, if you violate one right it might impact another
- Interdependent – the realization of one right may depend on the realization of another one

State obligations with respect to human rights are:

- Respect – this is essentially 'to do no harm'
- Protect – ensure that third parties do not impede the enjoyment of human rights
- Fulfil – facilitate the enjoyment of human rights and provide basic needs

There are serious human rights issues in China – with the emphasis on serious. This has been a long standing reality. Now is a particularly worrying and fraught time in human rights in China. There is endless debate about whether it's getting better or worse but it is a very real and pressing concern.

The past 20+ years have been marked by how the international community has responded to this reality – they have been taking softer approaches to dealing with China, less publicly and less openly critical. The official reason being that many governments feel that is a more effective way of dealing with China around these issues. The reality though is that the international community, including Canada, has been more and more interested in an economic and trade agenda with China. Pushing too hard on the human rights front makes it awkward on the business front. It is often argued that the less direct approach works best because China is more likely to respond to approaches that are about dialogue, rather than condemnation. There has also been a view that focusing on the trade and business relationship will also be good for human rights - that this will in turn lead to greater rule of law, more opportunities for engagement, dialogue etc. This focus on a business relationship means China will likely be more sensitive around its international standing and reputation.

But has a trade driven approach worked? There has been an explosion in the middle class and greater prosperity for millions - but not all. The human rights community in the last few years has been losing ground on many fronts – there is a deterioration going on, a greater defiance of the Chinese Government. There is a cavalier attitude towards international views and attempts to persuade.

Why does this matter?

- Because of the situation on the ground. These human rights concerns are very real, and sometimes deadly, for millions of people.
- It matters globally – China's global standing is very important, and we want to be sure that China can be a global voice for human rights.

China has ratified five of the seven core human rights treaties, but domestic application is weak or non-existent. Chinese co-operation with key human rights bodies is also lacking.

Key areas of concern:

- Freedom of expression – this is a huge and growing problem.

- Political prisoners/torture/death penalty - there has not been a year without many cases of concern regarding political prisoners. Torture is endemic. It is very difficult to get to the truth on the numbers subjected to the death penalty but China executes more people than the whole of the rest of the world combined.
- Minority rights – in particular for Tibetans, Mongolians
- Religious freedom – this is non-existent
- Access to land – including the forced removal from land
- Access to information/privacy/surveillance – this is a growing global human rights concern everywhere. China has led the way on this front; it is difficult to communicate in the digital space on human rights issues
- Extraterritorial dimension – not just about what happens in mainland China
- Hong Kong – troubling situation

Highlight three cases in particular:

- Liu Xiaobao - Nobel peace prize winner, died in custody, denied medical treatment.
- Tenzin Delek Rinpoche – died in custody, evidence of torture.
- Huseyin Celil – Canadian citizen, been in prison since 2006, given a life sentence, later reduced to an unknown number of years.

In December, Canada issued new guidelines for working with human rights defenders. A lot of cases of concern about prisoners of conscience fall into the category of human rights defenders.

Access to justice is taking a retrograde step in China. Restrictive laws were adopted in 2016, a toxic combination of cyber security law, management of foreign NGOs law and counter-terrorism law. Human rights lawyers are routinely detained, in 2015 this was particularly troubling. This group of brave and beleaguered people is growing but if they face increased difficulties then this is bad news across all human rights fronts.

The case of Larung Gar is about being denied freedom of religion. This is the largest Buddhist study centre in Tibet (and in the world). The residents were Chinese, Tibetan and foreigners. Following the official order to reduce it by half before September 2017 there were forced evictions and demolitions. People were subjected to re-education. Now something similar is happening in a

neighboring area. In order to make this area into a tourism destination, China had to breach freedom of religion of the Tibetan people. Canadian officials have repeatedly requested access to Tibet, but it is denied. This is the case even when the purpose is to monitor Canadian funded projects.

We are also concerned about undocumented Tibetans in Nepal – they have no identity documents and can't leave Nepal. Some Western governments have accepted these people but then Nepal has denied them exit visas.

In terms of national security implications, there is on-going harassment, intimidation and threats of people in Canada working on human rights that are clearly linked back to the Chinese government. This is something that is faced right across Canada. It is very troubling and has been going on for years across a range of communities. It is very hard to do anything about it, but it has an unbelievably strong 'chill factor' – it is causing activists to stop doing what they want to do. People are not able to exercise their rights in Canada.

There is a wide range of tactics used against Canadian human rights defenders, including online surveillance, threatening phone calls, monitoring, denial of visas to return to China to see family, threats made against family members in China and interference with Canadian institutions and media.

Turning to the Canada-China FTA, the position of the Canadian Coalition of Human Rights Organizations in China is that we are not against a FTA if:

- it respects human rights and does not undermine or exacerbate problems – a human rights impact assessment (HRIA) is required before starting formal negotiations; and
- the negotiations should be used as an opportunity to push for human rights outcomes e.g., to ratify the International Covenant on Civil and Political Rights (ICCPR)

The government vision of 'progressive trade' must include attention to human rights. A HRIA is essential. If there is no HRIA, then peoples' views will harden and those who did support the FTA will not do so anymore.

The Universal Periodic Review (UPR) is a process where each UN member is required to undergo a review of its human rights performance every five years. China's will take place in fall 2018; the last mid-term assessment found China had done very poorly on implementing the recommendations from its last UPR.

Key recommendations:

- The Government should develop a whole of government China policy
- The Parliamentary Sub-committee on International Human Rights should carry out a full study on human rights in China
- RCMP/CSIS should establish a comprehensive program to confront China's harassment of Canadian human rights activists
- GAC should carry out a human rights impact assessment of the FTA to ensure it is human rights compliant (and avoid side agreements)

Discussion following presentation

// There are human rights concerns in BC too. The Dalai Lama is interested in Nunavut as an example of self-determination. First Nations have talked to the Committee on the Elimination of Racial Discrimination about unresolved land rights in BC and also to minorities in China about their experiences. First Nations could be part of the engagement with China on human rights issues.

// We want to have the dialogue with Tibet re-started. That could be a legacy for this government.

// This information is very important for us and our customers. There are opportunities in developing relationships. In terms of cyber security, sharing information with the like-minded is important. There is a good question about when to engage multilaterally and when to engage bilaterally on these issues.

// We are concerned about the centralization of power. The private demarche is favored as we are more likely to get results this way. We need to work with the like-minded on this issue. We note that some countries are favoring their economic ties at the expense of human rights though. We need to be active bilaterally, but if we want to push the human rights agenda we need an alliance. We should start the conversation on human rights with China by noting that Canada is not perfect either, we have done things we are not proud of in the past, for example, in respect of indigenous peoples. We are always aspiring to be better and we want China to be better too. We can share from our own experiences, for example on the South China Sea issue, we have experience in managing common waters.

In terms of harassment in Canada, the Government has taken action and put countries on warning. It is difficult to act on anonymous social media actions though. On free trade, as we engage with them, we need to see if we can encourage them to the norms.

// We should use both avenues to raise human rights abuses – up front and public, and behind closed doors. Public pressure matters because it is important to communities and activists on the ground to hear those international statements.

// It is binding international law but there is no penalty for breaches, so if we don't name and shame them, then we have lost the only lever we have.

// Interesting to hear that the Canadian Coalition of Human Rights Organizations in China is not against a FTA. Is there leverage that we can use relating to the FTA to improve the human rights situation?

// Very dark information that has been provided today. From the context of having done business there, lived there, operated there for many years, these things are going on whether Canada is engaged in China or not. Do we have a better chance of influencing Chinese behavior through more engagement and pursuing a FTA than otherwise? Some Chinese have expressed their concerns about a double standard being applied, arguing that there are dramatic human rights abuses in the US too.

// Engagement is important as it gives an avenue for influence, but not at all costs. We need to make sure that trade discussions go forward grounded in an awareness of and commitment to a trade deal that will not make things worse and ideally will be a vehicle for improvements.

In terms of whether there is a double standard – we need to push for human rights reform everywhere. Amnesty International, for example, is very active in the US on human rights issues too. But it doesn't let China off the hook because there are abuses elsewhere.

// China talks a lot about the rule of law, but it is deaf on the rule of law and instead it is talking about rule by law. At end of the day it is all about the Communist Party and for them to maintain control. As long as the Communist Party maintains that tight fist we don't have a chance on the rule of law. There is some increase in transparency in the sense of being able to bring cases forward in China and be listened to. They are also somewhat better on whistle-blowers now. The Chinese government sees the environment as an important issue as it can be destabilizing and they are concerned about stability. But the progress is too slow.

For Canada, our greatest strength is our commitment to human rights; we are one of the ones that can really make a difference long term. We have to be consistent. We should have a comprehensive approach to human rights, labor rights and the environment; it should not just be across government but a whole of society approach and make it a fundamental underpinning of our engagement with China. We are going to see things get worse on China, so we need a hard policy and not a soft policy, and it should include the private sector.

// We agree that we need something comprehensive that includes all the actors – government, business, universities etc. that have avenues of engagement with China.

// On Tibet, it is very hard for officials to get there, but the Government keeps persevering. The Government had a lot of engagement on the previous UPR and we will do the same for this next one. The UPR is a useful setting to engage because it's multilateral. We can talk about Canada's own issues and show what we did to respond.

The Government continues to make demarches on human rights issues - some behind closed doors and others not. Canada tries to have a level of contact with the small minority of human rights defenders but it usually has to be discreet. There have been some opportunities to introduce high level Canadians to these people, which is important for them to understand their situations.

On the FTA, this is an ongoing conversation. One of the things that undermines the conversation is the buy-in to the Chinese line that it is “either trade or human rights”. It is much more complex than that. There are a very limited number of cases where China has turned down a good economic case because of a country raising human rights concerns. Norway is the only example and so we should take that argument with a grain of salt. The interest that China has in economic reform has driven them into significant changes in their legal and judicial system; it was driven by commercial interests but still the changes have happened. There are two key groups that can benefit from these changes: consular cases and the Canadian business community.

// Agree that it is trade and human rights and not trade or human rights. The UPR is so significant because it is a new addition to the UN human rights machinery where China cannot escape the scrutiny.

// There is a charm campaign in the Canadian media, on twitter, to decrease the reticence of Canadians to accept a FTA with China. It comes across like the Canadian Government must convince people that the FTA is a good idea and that this reticence over human rights is the wrong idea. But that is wrong; it is violations of human rights in China that is the problem.

// Sometimes Canada does retaliate. For example, last summer we put out the strongest statement on the South China Sea issue and everyone said we would pay a huge price, but that didn't happen.

DISCUSSION ON NEXT STEPS FOR THE CONSULTATIVE FORUM ON CHINA

Introductory Comments from Stephanie Carvin on her paper 'A Mouse Sleeping Next to a Dragon: New Twitches and Grunts'

Key recommendations from the paper:

- China is not going to go away. We should go slowly. One of Australia's problems was that they tried to go too quickly in the end. Let's go slow, let's think about the areas where we can go forward – know the risks and work out which ones can be mitigated and which cannot.
- The analogy of lobster (things you don't have to worry about), canola (more of a grey area, you have to worry about some things like IP) and new technologies like cyber (serious issues) is a good one. We have to remember, China can use lobster against canola and vice versa, and use cyber against both.
- We need to look at the behavior of the Chinese SOE. If you look at the trends, these SOEs are getting larger, they are merging; China says they are national champions.
- We need to enhance our presence in China. Nothing will be solved by not being there. And not everything will be solved diplomatically.
- Green tech: if China has monopoly on this it will hurt us moving forward.
- Information sharing with business is a good idea
- We need more knowledge about China. We need to invest in our own institutes – set them up right next to the Confucius Institutes on campuses.
- China doesn't let you forget its historical context, it uses it for justification of its actions. The question is whether China will be integrated into our world order or whether it will replace it.

// In the Canada-China relationship, the broader context has changed dramatically with the US, for example, the US pulling out of TPP gives China a huge advantage. With the Brexit, the UK is losing its influence. Russia is playing all sorts of games. North Korea is active. It's the context for both us and China. Canada does best when it thinks about all the other players and works out what's in its advantage.

It is not right to criticize China for being strategic – it should push us to be more strategic. As we don't know China very well, we think they are homogenous. China isn't homogeneous; it's complex.

In terms of knowledge, we are concerned about the Confucius Institutes but we haven't built our own institutes to study. China has exploited that gap, but we created the problem. It was the same with the US – we don't have institutes for studying the US.

China loves bilateral relations. Canada always does best in a multilateral world. How can we engage alliances where we want to deal with problem areas?

The best way to deal with China is talk about an Asia strategy, that is we want to diversify from one to several and in the area where the world is growing fast. We are not desperate but we are planning ahead.

Unpacking generalizations is important. We worry about IP and investment. But there are some areas like tourism, education, fish, etc. that don't have IP risks. We should focus on areas like advanced manufacturing where there are things to worry about.

// With respect to the references to Bombardier in Stephanie Carvin's paper, they have never transferred any parts to china, if they were to read this they would object.

We should be supportive of a comprehensive FTA, otherwise we will lose leverage. We should look to where China will be in 15 years.

The government is pretty well-coordinated already (recommendation 3 of Stephanie Carvin's paper). There is a China Institute at the University of Alberta, and there are moves to try and create one at the University of Ottawa.

// An engagement strategy is critically important and our tertiary institutes would be a key element of that. We need to do a better job at making sure our graduates know about China, what it takes to engage with China, etc. Our institutions have had relationships with China but we are not good at getting our Canadian students to China. 25,000 students do go abroad but traditionally this is to Australia, the US and Europe. It has been a challenge finding someone who will be a champion for this mobility. This is where this group can usefully have a conversation about how the private sector and universities can work together on this.

// China says there are about 3,800 Canadians studying in China. We are very supportive of developing China capacity. Young people are lining up at McGill and University of Toronto to take Mandarin classes – there is a problem with supply.

We should look more at internship opportunities in the private sector to take young people to China – it is very hard to find those opportunities and if they are found, then those returning have often discovered that Canadian businesses did not value that Chinese experience.

// In terms of public opinion, we have to recognize that there are two shadows of the past. The first is that there is a persistent view in some sectors of the “God-less communists”. There needs to be more discussions to move people to 2017. The second shadow of the past is people’s perception of the Chinese Canadian community. The kids and grand-kids of earlier Chinese migrants are different - we need to pay a lot more attention to the contemporary and emerging Chinese Canadians. It is this community that will be most persuasive in talking to their neighbors.

We should look again at fireside chats. Prime Minister Chrétien used successfully the ‘team Canada’ visits. Wouldn’t recommend including Premiers this time. But the informality of the fireside chat as a means of developing opportunities and contacts should be explored. We sometimes overlook elemental things when we look forward. Who would have thought that among the leading instrument for engagement with China would be the BC chiefs? But they can make the case more efficiently and persuasively.

// The human rights conversation today was very encouraging – it seemed more constructive than the Canada-US conversation going on in the 1980s. There are concerns and we don’t want to go backwards, but there is something that is acceptable.

One question is how do we take this out to the broader public. Some people have suggested a white paper or a Royal Commission-type approach. A Royal Commission, however, would take a long time.

Next meeting is 1 December in Toronto.

CONSULTATIVE FORUM ON CHINA - 2ND SESSION

A Mouse Sleeping Next to a Dragon: New Twitches and Grunts

By Stephanie Carvin, Norman Paterson School of International Affairs, Carleton University

INTRODUCTION

National security concerns must be considered in pursuing a free trade agreement (FTA) with China. This brief paper will highlight three:

1. The rise of geoeconomics generally,
2. China's successful adaptation of new and old espionage tools, and
3. The unique threats posed by state owned enterprises (SOEs).

Ignoring China, a rising power with one sixth of the world's population is not a viable option. This paper will conclude with six short and long-term recommendations for moving forward.

CONTEXT

At the outset it is important to recognize that China is not a unitary actor – there are competing interests, factions and a division between moderates and hyper-nationalists within the Communist Party of China (CPC).¹ Nevertheless, it is clear that CPC leadership is unified around one goal: survival of the party-state. This purpose sits above all things, including the rule of law, and reflects a *de facto* pact made by the last 30 years of Chinese leadership – increasing prosperity for stability and continued CPC rule. To maintain its end of the bargain, the CPC must deliver and continue to deliver a rising standard of living.²

As such, the Chinese government has announced several major policies aimed at facilitating resources extraction, but also creating more markets for Chinese goods. This includes the “One Belt, One Road” that will enhance interconnectivity in Asia. Further, the “Indigenous Innovation” and “Made in China 2025” strategies are aimed at using the technology of other countries to upgrade and enhance China's manufacturing

¹ Thomas J. Christensen, *The China Challenge: Shaping the Choices of a Rising Power*, New York: W.W. Norton, 2016. pp. 4-8

² Christensen, *The China Challenge*, pp. 108-112

capabilities, bolster innovation and establish the dominance of key technological sectors. The intellectual property (IP) to enable these policies is being obtained through a series of mergers and acquisitions. As one China analyst observes, “the long-term economic benefit and future scalability of what is being acquired is thought to be a bargain.”³ However, national security threats arise when this IP is obtained through means that challenge current trading rules (forced technology transfers) or clandestine means (as discussed below).

GEOECONOMICS

Geoeconomic statecraft is the use of economic instruments to accomplish geopolitical objectives.⁴ It is a form of economic statecraft involving the intentional manipulation of economic interaction to capitalize on, reinforce or reduce the associated strategic externalities.⁵ Since the end of the Cold War, rising powers that cannot challenge the United States and its allies conventionally are increasingly turning to geoeconomics to achieve their political ends.

This, of course, is not new. For a long time states have used economic instruments such as sanctions to make a political point or to achieve a specific end. But we are now seeing states, especially China, use a combination of legitimate (ambitious merger and acquisition strategies), grey area (sudden health and safety bans) and clandestine (cyber espionage) means to effectively achieve state ends on an unprecedented level. In just one example, China has successfully used foreign direct investment (FDI) to persuade other countries to adopt certain policies; within five years of China’s first investments in Africa, the number of African states to recognize Taiwan fell from 13 to four.⁶ Beyond investment policy, China is also using financial and monetary measures, as well as policies related to energy and commodities and trade.⁷

As noted above, one of the trade strategies China uses is forced technology transfers, which are imposed on any company that seeks to do business there. This includes Canadian firms. For example, as a precondition of entering the Chinese market Bombardier reportedly had to transfer i) significant amounts of technology on its trains to two Chinese rail companies and ii) the design authority on major supplied parts for its C Series jets to the government’s aircraft manufacturing company.⁸ The end result is the creation of relationships where Chinese manufacturers are simultaneously partners and competitors with Canadian businesses. That competition is not only occurring domestically within China, but internationally. In May 2017 one of Bombardier’s strategic partners, CRRC Corporation, beat the company in a bid to make rail cars for the Montreal regional commuter rail service. (CRRC Corp, owned by an SOE, was able to cut the price from \$103 million to \$69 million.)

³ Wade Shepard, “China Hits Record High M&A Investments in Western Firms”, *Forbes*, 10 September 2016. Available online: <https://www.forbes.com/sites/wadeshepard/2016/09/10/from-made-in-china-to-owned-by-china-chinese-enterprises-buying-up-western-companies-at-record-pace/#20be55a5d879>

⁴ Robert D. Blackwill and Jennifer M. Harris, *War by Other Means: Geoeconomics and Statecraft*, Cambridge, MA: Belknap/Harvard University Press, 2016. p. 1.

⁵ William J. Norris, *Chinese Economic Statecraft: Commercial Actors, Grand Strategy and State Control*, Ithaca: Cornell University Press, 2016. pp. 13-14.

⁶ Blackwill and Harris, *War by Other Means*, p.56

⁷ Blackwill and Harris, *War by Other Means*, especially Chapter 3, “Today’s Leading Geoeconomic Instruments”, pp. 59-92.

⁸ Robert Gibbens, “Bombardier in joint deal to build 500 locomotives: Chinese railways. Sale involves transfer of technology to China”, *The Gazette*, 13 February 2007. Business, p. B2; Christine Negroni, “China market challenges plane makers” *International Herald Tribune*, 14 May 2012, Finance pg. 10; David Mulrone, *Middle Power, Middle Kingdom: What Canadians Need to Know About China in the 21st Century*, Toronto: Allen Lane, 2015. p. 42. Toh Han Shih, “Dilemma for the foreign firms who must help rivals”, *South China Morning Post*, 4 January 2010. Business, p. 3. For its part, Bombardier China argues its strategy “is far beyond simple technology transfer” and that the company with its Chinese partners focus on the joint upgrade of existing technologies and the joint development of new technologies. Hao Nan, “Bombardier to bridge cooperation in China”, *China Daily*, 5 December 2015.

Canada's former ambassador to China, David Mulroney, argues that Western companies, including Bombardier, have concluded that this is the price of doing business in China and that it is worth doing so.⁹ Yet, as the above example shows, China's "Indigenous Innovation" strategy is aimed at undermining and replacing Western firms. If successful, this policy undermines Canadian companies and could potentially result in significant job losses. In short, there is a real threat that certain geoeconomic strategies will skew the economic landscape in countries like Canada, rendering it difficult for our firms to succeed in the long run domestically and internationally.

CLANDESTINE ACTIVITIES

As noted above, a further geoeconomic strategy being employed by China, one with direct national security implications, is the enhanced use of clandestine tools and methods to obtain IP from Western companies. In particular, this includes the use of:

1. Cyber-espionage,
2. Insider threats,
3. Clandestine foreign influence, and
4. State Owned Enterprises

The goals of economic espionage are to obtain any information that is deemed to provide an advantage in an economic setting. Generally, this can be divided into three categories. First, there is data that can provide insight into a company's position in negotiations, mergers, acquisitions and bidding wars. Second, states that may have weak research and development cultures seek the valuable IP of Canadian firms. Finally, states seek information from private businesses that allow them to develop insider threats such as human resources policies (to sneak individuals into companies) and records (to find individuals that can be targeted with bribes and blackmail). Open-source information suggests that China has engaged in the following techniques to obtain this information.

Cyber-espionage

China's use of cyber-espionage against Western firms has been well established. However, it is worth noting that the information being obtained is believed to be directly assisting Chinese companies and SOEs that are in direct competition with Western firms or are investing in Western countries. In 2014, the FBI indicted five Chinese military officers for cyber-attacks who stole millions of dollars in IP from six American firms in the U.S. nuclear power, metals and solar products industries.¹⁰ Although Canadian authorities have not been as aggressive about these types of activities against Canadian firms, there is no reason to believe that Canadian companies are immune to Chinese cyber-attacks. The fact is that no one in Canada, not even our security services, is aware of the true scale of Chinese hacking. We do know that Chinese hackers are likely behind a series of attacks into the Canadian government, including areas that deal with business and IP. This includes a series of attacks on the Department of Finance, Treasury Board and Defence Research and Development Canada in 2010/2011 and the 2014 hack into the National Research Council, which, taking into account several factors, reportedly cost "hundreds of millions of dollars", including \$8 million to replace compromised computers as well as lost productivity and time to rebuild.¹¹ Moreover, the fact that the Canadian government

⁹ Mulroney, *Middle Power, Middle Kingdom*, p. 42.

¹⁰ United States Department of Justice, "U.S. Charges Five Chinese Military Hackers for Cyber Espionage Against U.S. Corporations and a Labor Organization for Commercial Advantage", 19 May 2014. Available online: <https://www.justice.gov/opa/pr/us-charges-five-chinese-military-hackers-cyber-espionage-against-us-corporations-and-labor>. See also, Shane Harris, "Exclusive: Inside the FBI's Fight Against Chinese Cyber-Espionage", 27 May 2014. Available online: <http://foreignpolicy.com/2014/05/27/exclusive-inside-the-fbis-fight-against-chinese-cyber-espionage/>; Blackwill and Harris, *War by Other Means*, pp. 59-65.

¹¹ Colin Freeze, "China hack cost Ottawa 'hundreds of millions,' documents show", Available online: <https://www.theglobeandmail.com/news/national/federal-documents-say-2014-china-hack-cost-hundreds-of-millions-of-dollars/article34485219/>; Alex Boutilier, "National Research Council bought \$8m in new laptops after hack" *Toronto Star*, 10 April

felt it was necessary to have an agreement with China on the matter suggests such activities have been going on for some time. While this new agreement may reduce the number of Chinese-sponsored cyber-attacks on Canadian business, there is no reason to believe the risk has been eliminated entirely. In June 2016 Cybersecurity group FireEye noticed a drop in the amount of activity by “advanced persistent threats” (APTs) associated with China conducting IP-theft against the US following the US-China cyber agreement and after being publically called out by then-President Barack Obama. However, they observed that harmful cyber activities continued on a more limited scale.¹²

Insider Threats

There is ample open-source evidence that China is using insider threats and or theft in order to steal valuable secrets and intellectual property. Indeed, during a 17-month period between April 2013 and July 2014 there were four reported cases of Canadians and/or Chinese nationals with links to Canada attempting to steal intellectual property or industrial secrets to China – two directly involving insider threats. In April 2013, Klaus Nielsen, a former lead researcher with the Canadian Food Inspection Agency and his colleague Wei Ling Yu were charged with trying to smuggle pathogens out of Canada to develop and sell testing kits in China against bacteria affecting cows.¹³ (While his accomplice is believed to be in China, Nielsen pleaded guilty in 2014.¹⁴) In December 2013, naval engineer Qing Quentin Huang was charged with trying to pass along classified Canadian shipbuilding techniques to China.¹⁵

Clandestine Foreign Influence

All states seek to influence one another, but typically these activities are carried out in a manner that is transparent, or at least with the knowledge of the governments to whom foreign policies are aimed. A national security threat emerges, however, when these activities are clandestine. Due to its very nature, clandestine foreign influence is one of the hardest threats to define, analyse and counter. Nevertheless, it is possible to identify at least two ways Chinese clandestine foreign influence poses a threat to Canada.

First, the Chinese government and linked individuals have been known to intimidate individuals and (particularly expat) communities in Canada. There have been allegations that the Chinese government has sought to silence critics in the Chinese Canadian press through campaigns of harassment and intimidation.¹⁶ Such campaigns threaten the rights of individuals to free speech and peaceful dissent in Canada. Second,

2014. Available online: <https://www.thestar.com/news/canada/2017/04/10/national-research-council-bought-8m-in-new-laptops-after-hack.html>

¹² FireEye, Red Line Drawn: China Recalculates Its Use of Cyber Espionage, 20 June 2016. Available online: <https://www.fireeye.com/blog/threat-research/2016/06/red-line-drawn-china-espionage.html>

¹³ Canadian Press, “Canadian scientists perplexed why researcher would try to smuggle readily available pathogen to China”, *National Post*, 4 April 2013. Available online: <http://nationalpost.com/news/canada/canadian-scientists-perplexed-why-researcher-would-try-to-smuggle-readily-available-pathogen-to-china/wcm/bcf3bcb6-9a0a-4517-9ac4-f2d6f746c63f>

¹⁴ Lee-Anne Goodman, “Canadian ex-researcher pleads guilty in attempted bacteria-smuggling case” *Globe and Mail*, 13 August 2014. <https://beta.theglobeandmail.com/news/national/canadian-ex-researcher-pleads-guilty-to-smuggling-bacteria-to-china/article20034807>

¹⁵ Nathan Vanderklippe, “Chinese view Canadian naval spy charges with amusement, skepticism”, *Globe and Mail*, 2 December 2013. Available online: <https://www.theglobeandmail.com/news/national/some-in-china-question-arrest-of-canadian-charged-with-trying-to-pass-on-naval-secrets/article15712338/>. The two other cases were the December 2013 FBI indictment of Montreal resident Wang Hongwei for trying to steal trade secrets from US seed companies. And in July 2014, Vancouver resident Su Bin was arrested for helping Chinese military officers hack into the computer networks of US military contractors for the purpose of stealing classified information.

¹⁶ Craig Offman, “Expat Sheng Xue reaches out about Chinese government’s intimidation”, *Globe and Mail*, 4 March 2016. Available online: <http://www.theglobeandmail.com/news/national/expat-sheng-xue-reaches-out-about-chinese-governments-intimidation/article29040694/>; Craig Offman, “Chinese Canadian Post editor says she was fired over Chan critique” *Globe and Mail* 5 August 2015. Available online: <http://www.theglobeandmail.com/news/national/chinese-canadian-post-editor-says-she-was-fired-over-chan-critique/article25855965/>; Canadaland, “Is the Canadian-Chinese Press Controlled By Beijing?” 26 June 2016. Available online: <http://www.canadalandshow.com/podcast/canadian-chinese-press-controlled-beijing/>

there are reported allegations that the Chinese government has targeted politicians in ways that go beyond normal lobbying efforts, possibly recruiting them for espionage or to use their insider status to achieve policies that are favourable to Beijing, such as downplaying Canadian or provincial relations with Taiwan.

State Owned Enterprises

Although seen as a source of much needed investment, there are a number of reasons why SOEs are problematic for Canada. It is widely accepted that SOEs are far less efficient than private sector firms. Their profitability continues to fall and the returns are about half those of their non-state peers.¹⁷ Despite their large presence in China, by 2017 they account for less than a fifth of output.¹⁸ While this is a risk for the Chinese economy, there are risks that these giant SOEs could distort global markets through their inefficiencies, hurting the potential for growth worldwide as they become dominant forces in the international economy.¹⁹ Moreover, recent attempts at SOE reform have been to make them bigger, not smaller. And to bring them even further in line with Beijing's priorities.²⁰

Perhaps most importantly, what differentiates SOEs from typical private sector firms is that they have access to resources that their private sector peers (domestically and internationally) do not, including clandestine (discussed above) and financial support. Despite their low productivity, SOEs take about half of all bank loans in China and are responsible for that country's large increase in corporate debt.²¹ In short, Chinese SOEs are not obliged to follow normal business practices because essentially they cannot fail. Backed by the world's largest economy they can enter markets, altering them with large corporations that do not have to follow the laws of sound business management. Indeed, Beijing arranges so much support to its SOEs because they are seen and treated as national champions, serving the interest of the party-state. At best the outcome may be reduced efficiency of the market, at worse this could lead to the collapse of domestic industries.

THE RISK OF RETALIATION

Combined, these three economic risks show the challenge of dealing with China, particularly on a Canada-China FTA. The idea that Canadian national security will be protected because Chinese firms will be forced to comply with Canadian domestic business practices and laws is short-sighted. Chinese SOEs are intrinsically linked with the Chinese party-state. As such, any attempt to level the playing field or punish SOEs will likely provoke retaliation in ways that Canadian laws cannot address. Frivolous "health and safety" claims are frequently used when Beijing is displeased. The repeated bans on canola products, often just before a high-profile meeting between Canadian and Chinese authorities, is telling; China manufactures a crisis in order to extract more concessions from Canada, while giving up little, if anything, in return.

But the threat goes beyond this obvious and now predictable negotiating tactic. China is not afraid to use its economic might to send signals (if not extremely blunt messages) to states. Norway suffered China's wrath when it awarded the Nobel Peace Prize to dissident Liu Xiaobo, sparking a sharp fall in Norwegian imports such as salmon.²² China has ham-fistedly tried to use agricultural policy to woo Taiwanese voters in the south of that country to vote for pro-Beijing parties.²³ It has even retaliated against economically powerful Japan

¹⁷ Economist, "Fixing China Inc" and "A wimper, not a bang".

¹⁸ Economist, "Reform of China's"

¹⁹ Economist, "Reform of China's" and Caroline Freund and Dario Sidhu, "WP 17-3: Global Competition and the Rise of China", *Peterson Institute for International Economics*, February 2017. Available online: <https://piie.com/publications/working-papers/global-competition-and-rise-china>

²⁰ Economist. "Reform of China's"

²¹ Economist, "Reform of China's".

²² Mulrone, *Middle Power, Middle Kingdom*, p. 54.

²³ Blackwill and Harris, *War by Other Means*, pp. 97-102. Norris, *Chinese Economic Statecraft*, especially Chapter 7 "Interest Transformation Across the Taiwan Strait", pp. 131-162.

over its stance on the Senkaku/Diaoyu island group. After days of non-stop anti-Japan coverage in the media, two thirds of Chinese citizens voluntarily agreed to boycott Japanese products. Further, it has regularly used rare earth mineral bans against Japan that target its high-tech industries. As two observers of geoeconomics note, "That boycotting Japanese goods and suppressing Japanese investment in China hurts Chinese workers, however, only underscores Beijing's tolerance of pain when it comes to accepting domestic costs for its geoeconomics policies."²⁴

In short, as we increase the ties between our economies, any attempt by Canada to respond or retaliate against a Chinese company in a core-interest area could very well result in a very harsh economic punishment. For example, China delisted the University of Calgary as an accredited foreign school after the Dalai Lama spoke on its campus.²⁵ (With an estimated 600 Chinese nationals paying around \$36,000 each, this move was a costly one for the university.²⁶) As Mulroney notes:

China seems to be the only country in the world that can have its feelings hurt... Senior Chinese officials claim to be wounded, deeply and personally, by criticism from the media, local communities or NGO groups... Some SOE managers appear to confuse the SOE and its interests with China itself, allowing any bump in the road of negotiation to be transformed into an insult to the nation."²⁷

When China (or its SOEs) are hurt, it lashes out using whatever instruments it has at its disposal, including its many geoeconomic tools as well as the SOEs themselves.

RECOMMENDATIONS

Despite these challenges, the reality is that, as a middle power, Canada cannot afford to ignore a state with a sixth of the world's population. Our prosperity depends on trade – but also a stable world order, including the rule of law. Given its size, Chinese instability or collapse would have devastating consequences on the global economy and regional stability. Therefore, as a nation, we have a stake in one of the most pressing questions of our times: will a rising China be integrated into a liberal economic order, or will it seek to replace our current system with its own institutions?

On the one hand, it is clear that no state has benefitted more from the current world order than China. In this sense, all states have an interest in preserving that which has allowed for its dramatic growth and lift millions to rise out of poverty. On the other, through forced technology transfers and clandestine activity, China has demonstrated that it is willing to go its own way when the rules do not fit its interests, specifically relating to the preservation of its party-state.

As a middle power, Canada only has so much leverage with China and we should understand it will use its geoeconomic might to achieve its ends. If the government decides to proceed with an FTA, Canada must be prepared to lessen the impact of these very real security risks. It also must be prepared to walk away from a deal, with all of the blowback that will entail.

In light of the various considerations related to Canada's future engagement with China, as outlined above, this paper makes six recommendations for going forward:

²⁴ Blackwill and Harris, *War by Other Means*, pp. 108-109.

²⁵ Mulroney, *Middle Power, Middle Kingdom*, pp. 110-111.

²⁶ Aileen McCabe, "University of Calgary becomes latest to receive cold shoulder", *Vancouver Sun*, 6 February 2010. p. B3

²⁷ Mulroney, *Middle Power, Middle Kingdom*, pp. 68-69.

1. If Canada is to enter into an FTA with China, it should do so on a very slow, rolling basis. Until Canada can learn more about how China behaves within an FTA, caution should prevail. Moreover, once a concession is made to China it will likely expect that same concession in future negotiations. What will happen if Canada wants to say “no”?
2. Recognize that not all SOEs are alike, but it is important that ownership, as well as behaviour, remains a criterion for Investment Canada Act national security reviews. China is increasing its control over large SOEs and they must be considered instruments of the state. There are over 150,000 SOEs in China, and we can recognize that some will pose more of a security threat than others. Further, China/Chinese SOEs may attempt to circumvent different ownership policies the government puts forward with hidden or clandestine ownership schemes. As such, Canada is better off maintaining the current national security review process.
3. Canada should enhance its diplomatic presence in China. Diplomacy will be the key to solving numerous issues raised in this paper, including the negative externalities of geoeconomics and retaliation. Reflecting on his time as ambassador to China, David Mulroney has argued that Canada should better coordinate its policies among our embassies and consulates there, as well as across government.²⁸ There can be little doubt that a comprehensive, synchronising strategy would be beneficial when dealing with such a complex country, and enhance good work already being done.
4. Not all of the security challenges China represents can be handled by diplomacy alone. On the military front, Canada is taking steps to reinvest in its armed forces. As we do, we should be looking at enhancing cooperation with our Asia-Pacific allies. With regard to national security, the government must remain aware that China is likely to continue to engage in espionage and other clandestine activities regardless of our diplomatic initiatives.
5. Improve information sharing with the private sector. Given that national security threats are likely to continue, it is vital that both government and business get a better understanding of the threat. Making it easier to share information with the private sector, and working to create channels where the private sector can share its security concerns is an important step. The recent announcement that the Canadian Security Establishment (CSE) will be working with the Canadian Cyber Threat Exchange is a welcome development. More of these kinds of initiatives should be encouraged.
6. The Canadian government should invest in a robust Chinese studies program at the secondary and post-secondary levels. In many cases Canada’s Chinese culture and language programs are being managed by the Chinese-controlled Confucius Institutes.²⁹ Whatever path Canada chooses to take with an FTA with China, we cannot ignore this rising power. Investing in enhancing our capabilities now will pay dividends later. It will better prepare us for addressing the challenges and key policy questions Canada will have to wrestle with in the coming decades.

²⁸ Mulroney, *Middle Power, Middle Kingdom*, pp. 268-270.

²⁹ Mulroney, *Middle Power, Middle Kingdom*, pp. 117-118.



Pragmatism amidst Anxiety: Canadian Opinions on China and Canada-China Relations

17 October 2017.

Key Findings

PREFACE

At a time of global turbulence and at the mid-way point of a Liberal government facing significant decisions about the direction and pace of developing bilateral relations with China, there are signs of growing public support for deeper economic relations and partnerships coupled with significant anxiety about greater Chinese military activities and its expanding presence inside Canada.

DESIGN AND METHODOLOGY

Designed by Professors Paul Evans and Xiaojun Li, with analytic support from Stefano Burzo, the survey is a component of a multi-year project on “Emerging Issues in Canada China Relations.” It was conducted by Qualtrics on a random sample of 1,519 Canadian adults (18+) weighted according to the latest census on age, gender, and region to ensure its representativeness of the entire adult population. In English only, it was in the field from August 30 to September 12, 2017. The margin of error is +/-3%. Median completion time was 15 minutes.

The survey posed 60 substantive questions probing views on trade and investment issues, global leadership, Sino-US comparisons, military and security matters, policy priorities, the state of human rights in China and how best to advance them, protecting Canadian values and institutions at home, information sources, and factors that shape views of China. Also included in the survey were a battery of socio-demographic questions concerning gender, income, country of birth, ethnicity, age, marital status, number of children, place of residence, level of education, household income, party identification and intensity of identification.

In addition the survey contained an experimental module that probed Canadians’ knowledge of the amount of Chinese foreign direct investments (FDI) coming into Canada and the regulations governing FDI, and their support for FDI projects from China and other countries.

Tables and figures below include the response of “don’t know”.

The full survey results are available on-line at <http://iar.ubc.ca/publications/iar-publications/>.

SUMMARY

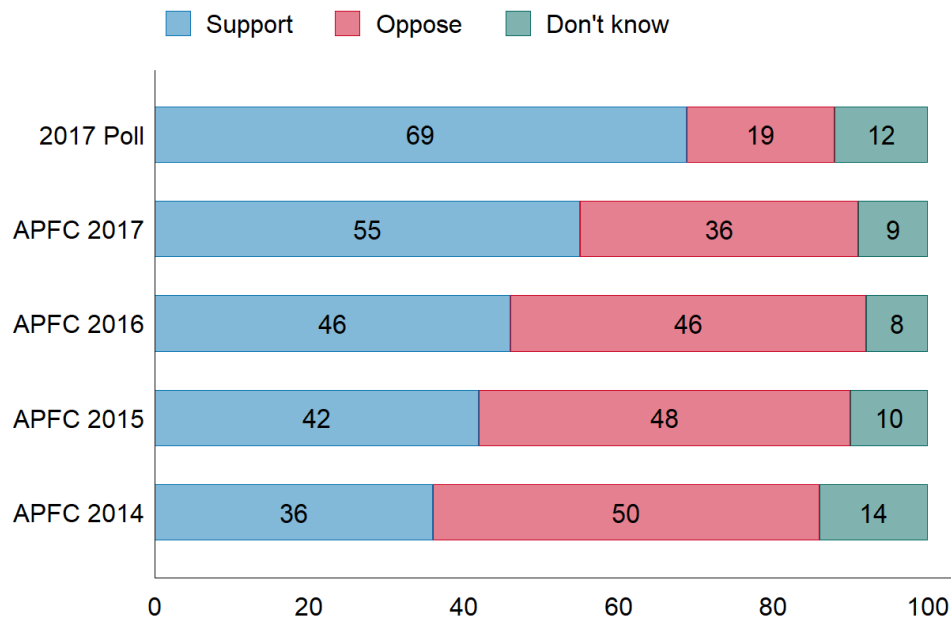
- Support is deepening for expanded economic connections and increased partnerships with China even as views of China remain cool and anxieties are growing about several factors including China’s military modernization and China’s impact on domestic Canadian values and institutions.
- Support for negotiating a Free Trade Agreement is at 69% even as anxieties about Chinese FDI remain considerable.
- Promoting human rights and democracy remains a significant concern but they are not ranked as important as economic issues and partnering with China in addressing global issues where China is seen as an increasingly important and constructive leader in comparison to the United States. The public sees a distinction between political rights and individual freedoms and prefers encouraging rule of law and economic connections (not sanctions) to advance them. This support for human rights through deeper economic engagement does not conform with the traditional binary narrative of trade vs. human rights.
- Attitudes are more nuanced and pragmatic than commonly portrayed. But a fundamental distrust of the Chinese political system and aspects of its behaviour create an under layer of anxiety and volatility.

KEY FINDINGS

1. Policy Preferences

- 69% now strongly or moderately support negotiation of an FTA with China; 19% oppose and 12% are undecided. Support has risen considerably since the Asia Pacific Foundation of Canada’s national opinion polls in which the support levels were 45% in 2013, 36% in 2014 and 55% in May 2017.

Support for FTA with China

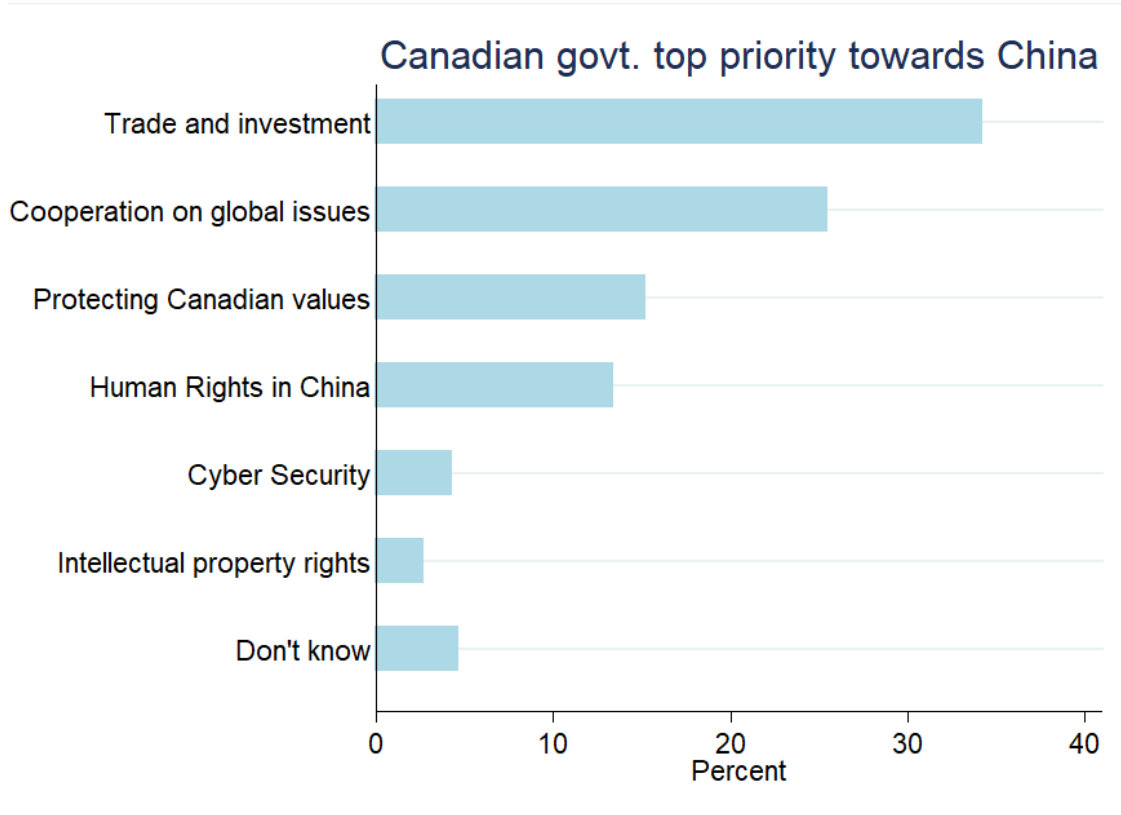


- The support level is highest among Liberals (78%), Conservatives (70%) and lowest among NDP and Green supporters (both at 56%). It is strongest among respondents 58-88 (77%), males (76%), residents of the Atlantic provinces (74%), and those who look at news about China everyday (78%). The level of support is lowest among respondents 35-44 (62%), females (62%), residents of British Columbia (66%) and those who almost never look at news about China (59%).
- The strongest reasons for support are the belief that that an FTA is likely to encourage investment in Canadian businesses (70% agree), is important because of rising protectionist sentiments in the US and Europe (62% agree) and would bring greater economic prosperity to Canada (53% agree). Again, these figures generally higher than the responses in identical questions in the March 2017 poll conducted by the APFC where agreement that respectively were 63%, 62% and 57%.¹ At the same time, and suggesting a growing pragmatism, only 25% felt that an FTA was a bad idea because of the risks of getting too involved with a country governed by a communist party and with different values and culture, lower than the APFC 2017 figure of 31%.
- Contrary to their support for an FTA with China, Canadians are more anxious about FDI from China. Such anxiety, however, stems in large part from widespread

¹ Asia Pacific Foundation of Canada, 2017 National Opinion Poll, Canadian Views on Engagement with China, 3 May 2017.
http://www.asiapacific.ca/sites/default/files/filefield/nop_2017_canadian_views_on_engagement_with_china_0.pdf

misperceptions about (1) the amount of China's FDI in Canada and (2) investment rules and practices that govern FDI projects in Canada. Correcting these misperceptions with factual information raises the odds that Canadians would favor FDI projects from China over comparable ones from Japan, the Netherlands, or the United States by 70%.²

- Regarding the federal government's highest priorities in the relationship with China, 34% believe it should be trade and investment; 25% cooperation on global issues like climate change, epidemics and counter-terrorism; 15% protection of Canadian values and institutions at home from growing Chinese influence; 13% advancing human rights and democratic reforms in China; 7% protecting cyber security and intellectual property rights.



² These results are from the experimental module of the survey. More details can be found in the working paper: https://www.academia.edu/34861467/Myths_and_Misperceptions_of_Chinese_Investments_in_Canada_Evidence_from_a_Survey_Experiment.

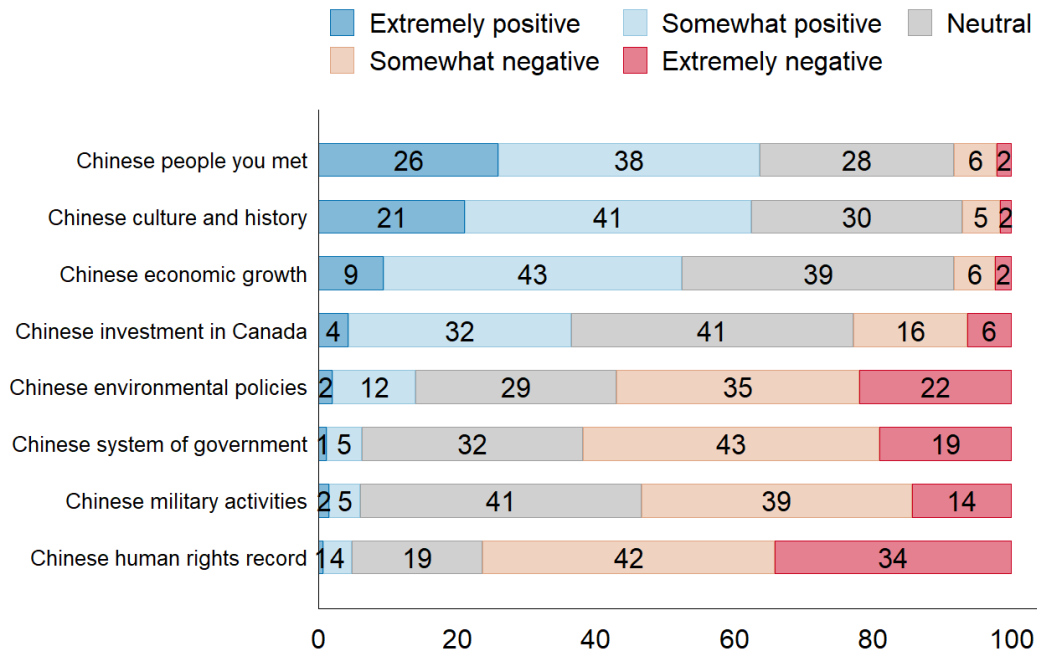
- 36% reported that Chinese investment in Canada had a positive impact on their views of China 23% negative and 41% neither positive nor negative.
- 37% support the negotiation of an extradition treaty with China, 9% oppose it, and the majority (54%) are undecided or don't know.
- Only 8% support allowing Chinese universities to open campuses in Canada, 48% are opposed and 44% feel it depends on the specific focus and location.

2. Importance, Favourability and Concerns

- Looking out over the next decade, China is ranked second only to the United States as of importance to Canada (well ahead of the UK and far ahead of India); 61% believe that China will be the biggest economic power in the world within the next decade as compared to 22% who believe that it will be the US.
- The favourability index for China remains cool with 36% favourable and 57% unfavourable. Important is that similar figures for the US are only somewhat more positive at 50% favourable and 44% unfavourable.
- In responding to what factors influence positively or negatively views of China, the most positive were interactions with Chinese people respondents have met, knowledge of Chinese culture and history, and China's economic dynamism. Most negative are Chinese investment in Canada, its environmental policies and, especially, military activities its system of government, and human rights record.³

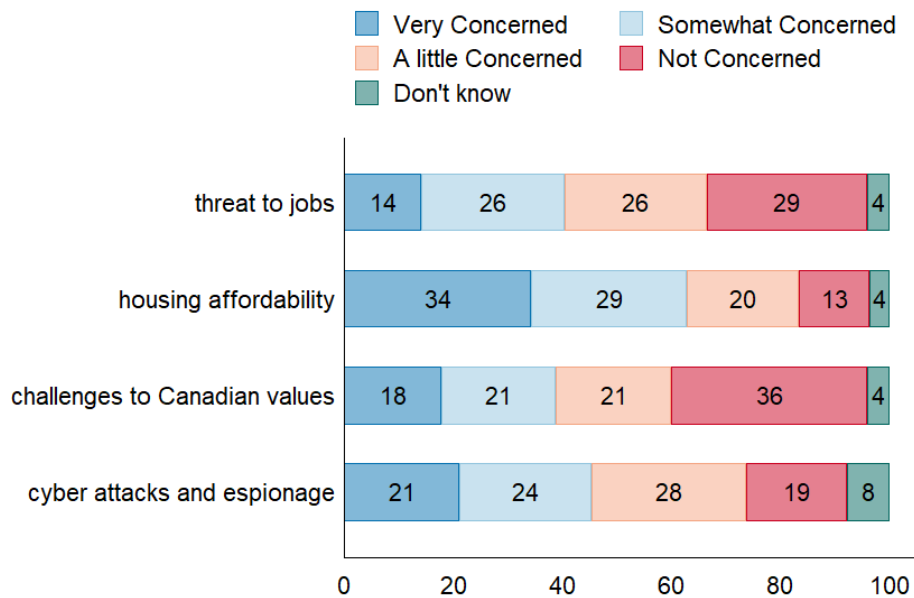
³ These correspond very closely to views in Australia revealed in the 2016 Lowy Institute Poll which found positives of 85% for Chinese people, 79% for culture and history, 75% for economic growth. Negatives were 59% Chinese investments in Australia, 67% for China's environmental policies, 73% for China's system of government, 79% for China's military activities, and 86% for its human rights record. Lowy Institute Poll 2016, <https://www.lowyinstitute.org/publications/lowy-institute-poll-2016>

How these factors influence your overall view of China:



- There is a high-level of anxiety about China's growing presence in Canada concentrated on housing availability and affordability, cyber attacks and espionage potential threats to jobs and threats to the Canadian way of life.

With growing Chinese presence in Canada do you worry about:



3. Global Leadership and the US Factor

- On global leadership there is a visible lack of confidence about the role of the United States. 36% see the US as the most responsible leader over the next decade as compared to China at 28%. But more respondents see China as the country more likely to maintain peace, be more stable and predictable, and do more to address climate change and the environment.⁴
- As seen in several other polls the distrust of the Trump administration, concerns about rising US protectionism, the NAFTA renegotiation, specific trade disputes, and numerous calls for diversification are very likely key drivers of this shift towards a pragmatic reassessment of what to do with China and other trading partners.⁵
- In the event of a US-China military conflict, 15% would support the United States while 55% prefer neutrality or a Canadian role in brokering a diplomatic negotiation, and 28% feel it depends on the circumstances.⁶ More than 60% are concerned about Chinese military build-up but only 16% support increasing Canadian defence spending in response.⁷

4. Human Rights

- Advancing human and democratic reform is the fourth highest priority for Canadians behind trade and investments issues, promoting cooperation on global issues (including climate change and anti-terrorism) and protecting Canadian values and institutions at home.

⁴ Similar questions in the April 2017 Abacus poll found that 61% of Canadians felt that China was doing more than the US to try to maintain peace and avoid conflict, 57% that China was a better example of what world leadership looked like, and 54% that it was more stable and predictable than the US. Abacus Data, 27 April 2017, <http://abacusdata.ca/tensions-rising-canadian-views-on-foreign-conflict-china-trudeau-in-an-international-crisis/>. By comparison, the 2017 Lowy Institute Poll in a similar question found that 61% of Australians trusted the United States as compared to 46% who trusted China to act more responsibly in the world.

⁵ See in particular the APFC 2017 NOP. A recent Abacus poll found that more Canadians (26%) had a positive view of the government of China than had a positive view of the United States (19%). Abacus Data, 9 August 2017, <http://abacusdata.ca/us-government-seen-as-no-better-than-chinese-russian-governments/>

⁶ By comparison, an Abacus poll in April 2017 found that if the US were to enter into an armed conflict with China, 10% of Canadians would join the fight with military support, 17% would express support for the US but without military participation, 34% recommend remaining neutral and 39% would oppose the conflict and urge diplomatic solutions. Abacus Data 27 April 2017, <http://abacusdata.ca/tensions-rising-canadian-views-on-foreign-conflict-china-trudeau-in-an-international-crisis/>

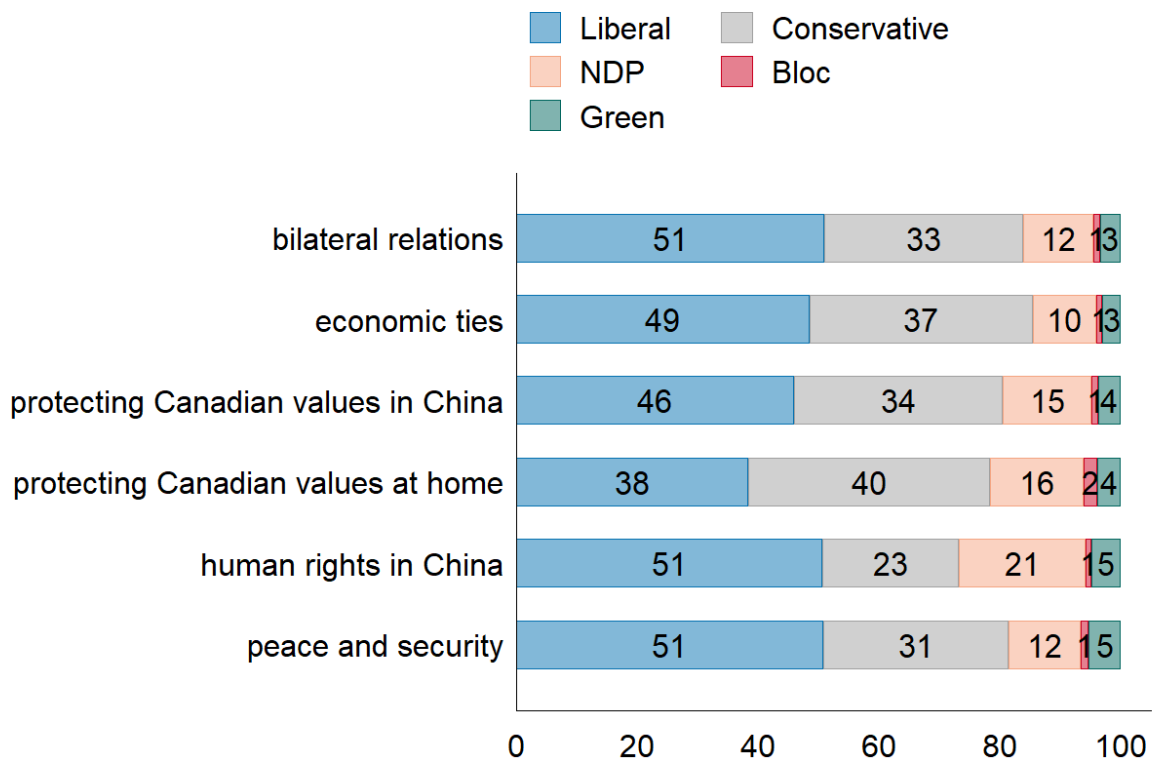
⁷ By comparison, in a 2017 Lowy Institute poll just less than half of Australians feel China is likely to become a military threat in the next 20 years and about a third favour using Australian military forces if China initiated a military conflict with one of its neighbours over disputed islands or territories. Lowy Institute Poll 2017, <https://www.lowyinstitute.org/publications/2017-lowy-institute-poll>

- 53% believe human rights have not improved in China in the last decade while 64% believe personal freedoms have increased, suggesting a sophistication about developments in China not always reflected in mainstream media accounts. Even as political repression appears to be increasing in China, 69% continue to believe that human rights will improve as the economy opens. More than half believe that a Canadian role in helping strengthen the rule of law and increasing bilateral linkages is the best way to promote human rights in China while only 14% prefer public statements and pressure or economic sanctions.

5. Party Performance

Asked about which party could be expected to do a better job managing relations with China, not surprisingly party affiliation was a strong predictor of responses. While party supporters tended to view their party as best positioned to handle China issues, Liberals scored highest by wide margins on general management of relations, economic ties, protecting Canadians in China, promoting human rights, and maintaining peace. The only area where the Conservative Party was favoured was in protecting Canadian values at home.

Which party would do a better job with China about:



- On the matter of whether the government is doing enough to protect Canadian citizens abroad, a large majority have no opinion or don't know. Of those who offered an opinion, almost three quarters said it is not doing enough.

6. Explaining Variance

- Age appears to have an important influence in several areas. Respondents under 35 are more likely to see cooperation on global issues (including climate change) as a key governmental priority and are far more likely to see China rather than the US as the most important economy in the next decade, the more responsible global leader, the more likely to maintain peace and stability and respectful of people from other countries. Respondents 55 and above stand out for promoting human rights at home as the best way to influence the situation in China and for being especially concerned about the threat to Canadian jobs and ways of life.
- Asked about how often respondents listen, watch or read news about China, 7% reported every day, 15% 3-4 times per week, 48% 1-2 times a week and 30% almost never. Those who read most often (every day or three or four times per week) are more likely to rank China higher than the US higher on global leadership questions, support an FTA, and believe that China should be pressured to improve human rights. They are less likely to believe that human rights will improve as China's economy opens and are more worried about China's rising presence inside Canada.
- The sources of news that are used "sometimes" and "frequently" include TV (56%), online newspapers, magazines and blogs (56%), discussion with other people (49%), print newspapers and magazines (43%), radio (36%) and social media (35%).

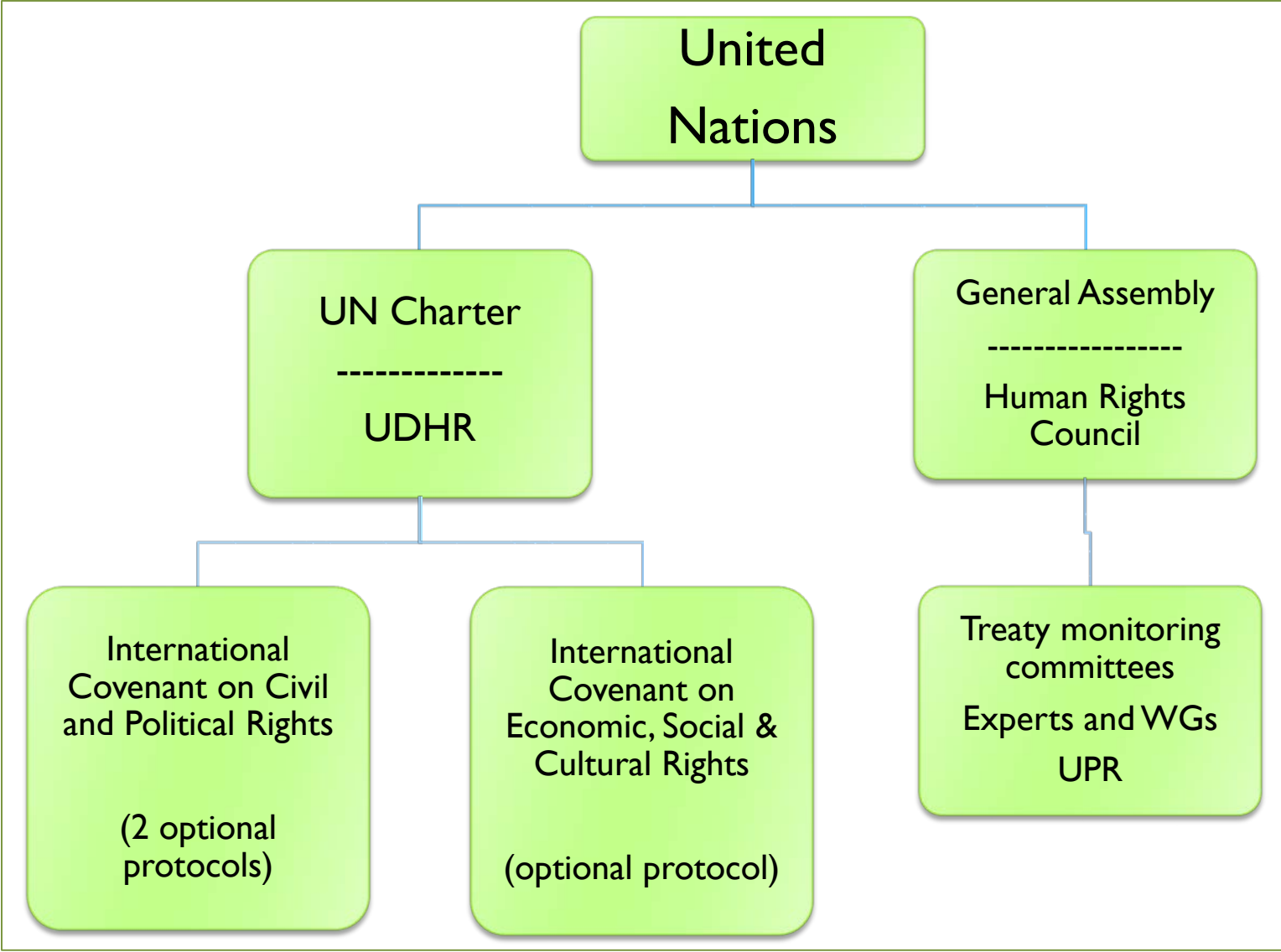
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Why Human Rights?

1. Human rights are binding international law
2. Human rights represent an international consensus
3. Human rights are governed by the UNHRC which includes investigation and monitoring procedures.



Human Rights Principles

Theoretic Principles

- Universality
- Inter-relatedness
- Interdependence

Procedural Principles

- Participation
- Transparency
- Non-discrimination
- Access to remedy

State Obligations

- **Respect:** refrain from activities that undermine or obstruct the enjoyment of human rights (do no harm).
- **Protect:** ensure that third parties do not impede the enjoyment of human rights.
- **Fulfil:** (a) facilitate the enjoyment of human rights through adoption of legislative, policy and institutional measures; (b) provide basic needs or, if necessary, request international assistance.

Human Rights in China

- China has ratified 5 of the 7 core human rights treaties (exceptions – ICCPR + migrant workers)
- China ratified the ICESCR but maintains a reservation on Article 8 (labour rights)
- Domestic application is weak or non-existent
- China obstructs work of UN monitoring bodies and denies access for investigative missions

Key Areas of Concern

- Freedom of expression
- Political prisoners/torture/death penalty
- Access to justice
- Labour rights
- “Minority” rights/self-determination/cultural rights
- Religious freedom
- Access to land/development/corruption
- Access to information/privacy/surveillance
- Extraterritorial violations/interference
- Hong Kong

Political Prisoners / torture

Liu Xiaobao – died in custody, denied medical treatment. Wife currently detained, whereabouts unknown.

Tenzin Delek Rinpoche – died in custody, evidence of torture.

Huseyin Celil – Canadian citizen given life sentence, later reduced to unknown # of years (at least 20).

- + Coalition prisoner list
- + New Canadian guidelines on HRD

Access to Justice

Insufficient access to information

- media restrictions and censorship

Restrictive new laws adopted in 2016

- cyber security law
- management of foreign NGOs law
- counter terrorism law

Human rights lawyers routinely detained

- denied due process
- subjected to smear campaigns depicting them as threats

International support is out of reach

- denial of travel documents
- surveillance and reprisal

Canada has no mechanism to hold Cdn companies accountable for their activities in China.

Freedom of Religion

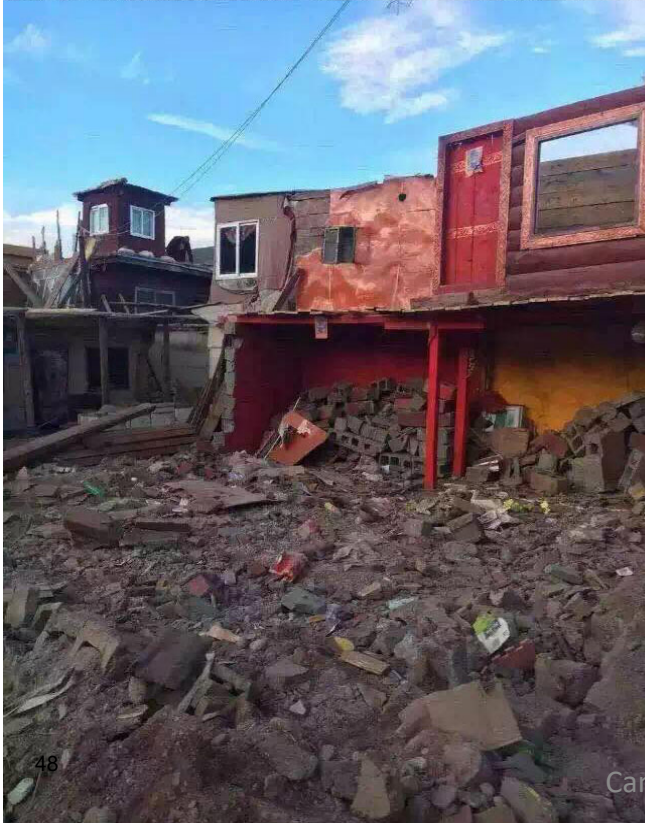
Larung Gar is the largest Buddhist study centre in Tibet – in world - with 10,000 residents

Official order to reduce by half before Sept 2017 led to forced evictions and demolitions

Area now being developed for cultural tourism

Larung Gar management turned over to Party officials





Implications for national security

April 2017 - Harassment and intimidation of individuals in Canada working on China-related human rights – a 16 page report plus annex submitted to GAC.

- There is a coordinated Chinese govt-sponsored program that targets groups & individuals in Canada who oppose Chinese policies
- There is little recourse for those affected
- Result is a “chill factor” on human rights activism in Canada

Tactics used against Canadian HRD

- Harassment, surveillance
 - Online surveillance (Tibet)
 - Discredit , spread hate (democracy activists)
 - Threatening phone calls (Uighur, FG)
 - Monitoring, following (academics)
 - Mobilization of Chinese students in Canada (protests)
- Threats, intimidation
 - Denial of visas to return to China to see family
 - Threats made against family members in China
 - Interference with Cdn institutions + media

The CC-FTA

Two approaches from civil society:

- No FTA because of human rights violations
- FTA is acceptable if it is human rights compliant

May 2017 – coalition submission to Trade Consultation + subsequent June meeting. Not against FTA if:

- it respects human rights and does not undermine or exacerbate problems – need HRIA
- the negotiations are used as an opportunity to push for human rights outcomes – ie. ratify ICCPR

HRIA of Trade Agreements

Government vision of “progressive trade” must include attention to human rights.

The Human Rights Council has adopted Guiding Principles for HRIA of trade agreements.

Purpose of HRIA is to identify / address inconsistencies between the trade agreement and pre-existing human rights obligations.

Universal Periodic Review

A process whereby every five years, each UN member is required to undergo a review of its human rights performance.

- China's 3rd cycle UPR will take place in fall 2018
- A midterm assessment found that virtually all accepted recommendations of the 2nd UPR had yet to be implemented.
- China continues to put administrative obstacles to block a promised visit by the UN High Commissioner for Human Rights, a key commitment of the 2nd cycle UPR.

Recommendations

- GoC should develop a whole-of-government China policy
- Parliamentary Subcommittee on International Human Rights should carry out a full study on human rights in China
- RCMP/CSIS should establish a comprehensive program to confront China's harassment of Canadian HR activists
- GAC should carry out a HRIA of the FTA to ensure it is human rights compliant (avoid side agreements)