



An Early Look Into Obama's Second Term and the Agenda Below the 49th Parallel

May 2013

This series, written by Paul Frazer, the Canadian Chamber of Commerce's Special Advisor on Canada-U.S. Relations, provides briefs on issues and events that have implications for Canadian businesses. Based in Washington, DC, Mr. Frazer has almost 20 years of experience and is a well-known and influential player in Canada-U.S. issues.

Cabinet Making In Progress

Within days of a Canadian national election, the Prime Minister selects the new Cabinet and the members are sworn in quickly. Five months into the second term of the Obama administration there are several Cabinet vacancies including Commerce, USTR (trade negotiations), Environment (EPA Administrator), Transportation, and Labour; nominations to a host of senior positions in federal departments and agencies languish. The U.S. Senate did not approve the head of the IRS (tax agency) in Obama's first term and no candidate has been nominated for this one. In fact, the Acting IRS Commissioner recently resigned because of a serious political scandal. Within the last few days the U.S. Senate finally confirmed President Obama's new Energy Secretary. This is not government as Canadians know it.

In Washington, the common focus on government is very much on the White House and the Congress. But it is the lack of timely confirmation of nominees for Cabinet and other executive positions that creates serious gaps in governance and impedes the effective implementation of laws and regulations. The confirmation process itself has become increasingly hostile. Further, it is becoming more difficult to persuade the best people to accept a nomination because of the costly and seemingly endless vetting and confirmation process.

This harsh and unpleasant confirmation process reflects the nasty partisan battles waged today on Capitol Hill. A disagreeable aspect of this is that more frequently, bills are introduced not to achieve a higher goal, but as a political initiative intended to aggravate the other side and serve only to energize a party's voter base. These actions don't create good legislation and often - if passed - these bills would result in serious collateral damage. It is in this fashion that Canadian interests are often at great risk of being sideswiped. It is very important to be aware of these possibilities and to be ready to protect your interests.

The Agenda

Despite the gamesmanship on Capitol Hill and the tensions between Congress and the President, (let alone serious divisions within the Republican Party) there is an agenda... of sorts. The present backdrop to what may happen includes the continued economic malaise and anaemic growth, the

debt ceiling, and the budget deficit. On the trade side are continuing negotiations on the Trans-Pacific Partnership as well as aspirations for a U.S.-EU trade deal. The debt now looms surprisingly smaller than predicted; in fact, the U.S. Treasury is making a \$35 billion payment on the national debt, the first such payment since 2007. The Congressional Budget Office (CBO) has indicated that for the first time in four years, the U.S. budget deficit will drop below \$1 trillion to \$642 billion. With projected economic improvement, CBO estimates that a decision on increasing the U.S. borrowing limit (i.e., the debt ceiling) will not need to be addressed until October/November.

Prior to the White House's series of serious political setbacks in mid-May, tax reform was among Congress' top legislative priorities alongside immigration and a (eventual) reconsideration of gun control legislation. The IRS scandal likely has foiled any residual goodwill between Congressional leaders to push ahead soon with a comprehensive reform to the U.S. tax code. This, of course, has significant implications for Canadian businesses having U.S. corporate operations.

On the energy and environmental front, energy exports, regulations, and project permitting will continue as serious areas of interest in this Congressional session. But progress on any of these issues (and others) requires a degree of bipartisan collaboration and compromise, which is almost non-existent. Increasingly, the build-up to midterm elections in November 2014 will be a major factor that members of both parties will consider as they jockey for political advantage. For example, Republicans will want to be on the right side of immigration reform and Democrats will want to be well positioned on any new budget efforts affecting social program entitlements.

Although we do not have a clear picture of what immigration reform will constitute, Canada is already feeling the pressure of expectations because some components of the anticipated legislation are intended to make the U.S. more globally competitive in attracting highly educated young entrepreneurs. U.S. success in revamping its immigration system will directly impact Canada's ability to do the same.

The proposed Keystone XL pipeline has been used effectively for months as a partisan political football. Polling shows that Americans generally want the pipeline because of the expected economic impact and for its contribution to secure energy supply. But, when looking beyond Keystone, shale gas is the more attractive energy component for many legislators. It has contributed in a short period of time to a surge in thousands of new jobs, significant new economic activity, a strengthening of domestic manufacturing, and billions of dollars in new revenue for governments. Political attention has turned to how quickly the U.S. can get its gas as LNG to Asia and other global markets as well as how America can retain enough at home for the right price to further greater manufacturing and other industrial activity.

In Canada, where many have focused on the debate about the potential best pipeline routes for Alberta oil, a national economic and political priority must also be to get Canadian LNG to markets in a timeframe enabling Canada to take advantage of its surplus supplies. The public permitting process may not allow for that economic case when other factors are considered. But there is no doubt that Australia is well into the international LNG market and the U.S. is committed to moving faster on permitting export facilities – signalled by the President's recent comments. The newly-minted U.S. Interior Secretary recently indicated that long-awaited regulations and applications related to natural gas mining and LNG export facilities would be

issued and approved, respectively. This may point to a rash of U.S. government approvals in the near-term. The race is one for Canada to enter as quickly as possible.

If we include the TPP and the expected American trade negotiations with the EU, then there is a long enough list of U.S. agenda items that can and will have a direct impact on Canadian interests.

Just a few weeks ago we witnessed once again how Members of Congress suddenly attempt to address local interests through opportunities in the legislative process. Two Washington State Senators tried to attach to a bill an amendment that would have favoured the Port of Seattle while putting into jeopardy west coast Canadian ports. Fortunately the effort failed for sheer political reasons unrelated to the issue at hand. These kinds of protectionist impulses regardless of whether or not they are articulated in Buy America legislation must be fought constantly, not only when a particular case emerges.

The uncertain nature of the U.S. political process, serious animosity between political parties, and a White House beset by a host of second term political setbacks should remind us all that Canadian business must remain vigilant and actively look after its interests. The evolution of any of the above-noted agenda items could easily put at risk a particular Canadian business interest or set of interests.

As a company, you may conduct significant business in the U.S. It is wise to keep in mind that wherever you do business in the United States, the value of that business activity is at risk here each day. Are you thinking about effectively protecting and promoting your interests in Washington, DC?

Paul Frazer, President of PD Frazer Consulting, is a well-known advocate on behalf of companies with interests in economic, trade, energy, natural resources, health care, and financial services issues. He helps promote and protect his clients' interests in Washington as they may be affected by proposed legislation and regulations. He can be contacted at 202.683.6085 or paul.frazer@pdfrazer.com.