Editorial: The breakdown of Canada-China talks is a blessing in disguise

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When Prime Minister Justin Trudeau emerged Monday from a meeting with China's Premier Li Keqiang to announce that, surprise, our two countries are not starting free trade talks, it was widely interpreted as a personal snub of the PM, and a loss for the government. But in time, what didn't happen on Monday may come to be seen as less of an embarrassment, and more of a blessing.

Canada has a long list of reasons to be cautious about entering into a trade deal with China. Our potential partner is not a free-market democracy; it's an absolute dictatorship, sitting atop a state-dominated economy. It's also not a rule of law country. And perhaps most importantly, describing the deal that Ottawa and Beijing were until Monday believed to be about to start negotiating as a "free trade agreement" diminishes the scope and scale of what Beijing is after.

In the 21st century, what we reflexively still call free trade agreements should really be called trade, investment and intellectual property agreements. They're about far more than just lowering barriers to trade, because so many of those barriers have already been shaved down or entirely dismantled.

According to the World Bank, the global weighted mean applied tariff rate is less than 3 per cent. According to the World Trade Organization, Canada's average tariff applied to non-agricultural imports from countries with Most Favoured Nation status, a list that includes China, is just 2.2 per cent.

Look around your own home, and consider how many of your possessions – from clothes to computers and from plastic nik naks to hockey sticks – were made in China. In 2016, Canada imported more than $64-billion worth of goods from China, up from less than $5-billion two decades ago.

China is already Canada's second-largest trading partner, and China's exports to this country mostly face low duties. Even without a free trade agreement, thanks to the WTO, Canada already has free-ish trade with China on most goods, at least when it comes to products exported from China to Canada. We'd be happy to see those tariffs fall to zero, but on average, the existing tariff regime for most non-agricultural goods is already low.

Canada wants greater access for Canadian goods and services exported to the Chinese market, but Beijing has signalled that the price for that is, among other things, greater access to the Canadian market for Chinese investors.

Canada currently reviews large foreign takeovers, and has long been particularly wary of takeovers of Canadian companies whose businesses involve national security, sensitive technologies and advanced intellectual property.

On intellectual property, China is a routine violator of patent and copyright law. And when it comes to military technology, China is understandably treated as a potential adversary by our closest ally, the United States. Earlier this year, the Trudeau government gave a speedy green light to the takeover of Norsat International by a Chinese firm. Norsat makes radio systems used by Canada's NATO allies; handing the technology over to Beijing was seen as an attempt to court China.

That's why its incomplete and even misleading to describe the Canada-China exploratory talks as having been about "free trade." What was on the table, and may be again soon, is bigger than that.

Because Canada is a rule-of-law country, the elements of the international agreements we sign become effectively enforceable under Canadian law. Those include investor protections. Ottawa can't just sign a trade and investment agreement and then routinely violate or ignore it – but Beijing can. Even an agreement said to be incorporated into China's domestic law remains contingent. In China, the law is whatever Xi Jinping and the hard men of Beijing say it is.

As a middle power, Canada's traditional answer to an imbalance of force between us and a bigger interlocutors has been to try to work through multilateral institutions – where the many Lilliputians at least have a shot at tying down one giant Gulliver.

Beijing may be able to offer Canada greater access to the Chinese market, but there will be a price to be paid in return. And given the disparity between the solidity of the Canadian legal system and the ephemeral nature of the Chinese one, Canada's negotiators in any future talks could find themselves making certain and enforceable concessions in return for uncertain, unenforceable rewards.

The need for tact in dealing with Beijing means the Trudeau government cannot abandon its talks about talks with China. But it should be in no hurry to conclude them.