



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 3
Halifax Regional Council
January 31, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed by Director

SUBMITTED BY:

Jim, Cooke, Director of Finance and Information Technology/CFO

Original Signed by Director

Jennifer Church, Managing Director, Government Relations & External
Affairs

DATE: December 13, 2011

SUBJECT: Canada-European Comprehensive Economic & Trade Agreement (CETA)

INFORMATION REPORT

ORIGIN

October 25, 2011 Council motion, moved by Councillor Watts, seconded by Councillor Sloane:

“That Halifax Regional Council request a staff report on the current status of negotiations of the Canada-European Comprehensive Economic and Trade Agreement (CETA) and the possible impacts on HRM of the proposed trade agreement. Specifically, I would request an update from the Province of Nova Scotia on the status of negotiations with the federal government on behalf of Nova Scotia municipalities. The staff report to include possible actions for Regional Council to consider in response to possible negative impacts of the proposed agreements.”

BACKGROUND

Since early 2009 the Government of Canada has been negotiating with the European Union for a Comprehensive Economic & Trade Agreement (CETA). The Department of Foreign Affairs & International Trade (DFAIT) is the lead negotiator for the federal government. DFAIT's backgrounder on the proposed trade agreement notes that the EU is the world's largest importer and exporter of goods and services, and is Canada's second most important partner for trade and investment with two-way merchandise trade reaching \$82.5 billion in 2010. The trade agreement negotiations cover a wide range of areas, such as trade in goods (including agriculture, fish and industrial products), non-tariff barriers (including regulatory standards), investment, government procurement, intellectual property, and others.

DFAIT is consulting with provinces and territories on all issues during the negotiations. Provincial and Territorial governments are, for the first time, also attending negotiating sessions on areas that fall in whole or in part under their jurisdictions. The NS Department of Economic and Rural Development and Tourism (NSERDT) is the lead provincial department on the CETA file.

The Federation of Canadian Municipalities (FCM) has been the lead advocate for municipal governments in regards to CETA. The FCM Joint Working Group on International Trade is in regular communication with DFAIT, and in September the FCM Board of Directors met with the International Trade Minister to discuss CETA negotiations. The Minister followed up with a detailed letter (Appendix A) outlining the status of negotiations under the seven procurement principles FCM has developed:

- Procurement thresholds
- Streamlined administration
- Canadian content
- Dispute settlement
- Progressive dispute settlement process
- Reciprocity
- Consultation & communication

DISCUSSION

In November 2011 HRM staff met with NSERDT to receive an update on CETA negotiations. The first principle of the negotiations for both Canada and the EU is that governments will retain the right to regulate. Nothing in CETA or any other trade agreements can force governments to privatize or deregulate services. Accordingly, public utilities will not come under CETA unless governments choose to privatize them, in which case the utilities are subject to the same trade regulations as other private commercial interests.

Procurement is a key interest for municipalities in trade negotiations. The requirements being developed under CETA will be in keeping those already in place under the Atlantic Procurement Agreement (APA) and Agreement on Internal Trade (AIT), to which Nova Scotia municipalities are already subject. In fact, CETA procurement thresholds are expected to be higher than either APA or AIT, and closer to the thresholds to which municipalities were subject under the World Trade Organization (WTO) Canada-USA Part B for stimulus funding, which were \$604,500 for goods and services, and \$8.5 million for construction (the Part B agreement expired in September 2011). Appendix B outlines the current procurement thresholds in place for the three trade agreements referenced above, which Nova Scotia municipalities already follow.

Procurement is one of the tools municipalities have to promote local economic development. DFAIT and NSERDT have indicated that they are aware of municipal concerns that their ability to impact local economic development could be affected by CETA. The DFAIT Minister's letter to FCM states that municipalities will retain the right to use economic development instruments which are not subject to CETA, such as non-contractual agreements (grants, loans, fiscal incentives), and procurement tenders under CETA thresholds. HRM Procurement staff has reviewed the procurement thresholds set out in Appendix B of this report and is of the opinion that they are high thresholds which would not impact the majority of HRM's tenders.

In developing this trade agreement with a supranational government, the Government of Canada is the only direct negotiator with the European Union. Provinces, territories and municipalities do not communicate directly with the EU, but rather with the federal Department of Foreign Affairs & International Trade. This communication structure continues to hold true after negotiations have finished and the trade agreement is implemented. A foreign country or company will not be able to bring a case directly against a municipality. Any party-to-party dispute will be between the Government of Canada and the European Union.

An announcement on final negotiations will likely be made by mid-2012. After that the final draft will be reviewed by lawyers for both Canada and the EU. Subsequently, the agreement will be introduced into Parliament for ratification. In total it is expected that it will be a minimum of three years before CETA takes effect. In that time, the three levels of government will be working together on communication and implementation strategies.

As noted above, the FCM is the primary voice of municipalities for the federal government during CETA negotiations. The FCM Joint Working Group on International Trade maintains regular communication with DFAIT. Should HRM have issues it wishes to be raised it could forward them to FCM. Similarly, if an issue with a more regional, rather than national, impact arose, UNSM provides another channel for HRM to communicate with the Provincial negotiating team.

BUDGET IMPLICATIONS

There are no budget implications associated with this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

No community engagement was undertaken as the report presents information for Council's consideration. No action is required at this point.

ATTACHMENTS

Appendix A: Letter from Minister of International Trade to FCM, dated August 23, 2011

Appendix B: Current trade agreement procurement thresholds

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Anne Totten, Corporate Policy Analyst, 490-5623

Report Approved by: Jennifer Church, Managing Director, Government Relations & External Affairs, 490-3677



AUG 23 2011

Ottawa, Canada K1A 0G2

Mr. Berry Vrbanovic
President
Federation of Canadian Municipalities
24 Clarence Street
Ottawa ON K1N 5P3

Dear Mr. Vrbanovic:

I am writing to voice my appreciation for our telephone conversation of August 4, 2011, during which we discussed the strong ongoing cooperation between the Federation of Canadian Municipalities (FCM) and Foreign Affairs and International Trade Canada (DFAIT) through the Joint Working Group on International Trade. We also discussed the FCM's views on the negotiations of a Canada-European Union (EU) Comprehensive Economic and Trade Agreement (CETA). I was pleased to hear of FCM's continuing support for Canada's economic plan, which includes creating jobs and raising Canadians' standard of living through trade.

Further to those discussions, I would like to take this opportunity to share further information with you on the CETA negotiations. With one in five Canadian jobs linked to trade, deepening and broadening Canada's trading relationships is a key priority for Prime Minister Harper and our government. The Canada-EU relationship holds great potential for growing Canada's collective prosperity. The successful negotiation of CETA would give Canadian-based businesses preferential access to the EU, which remains the wealthiest single market in the world despite the EU's current financial difficulties. Removing barriers to trade in goods and services is expected to deliver by 2014 a 20-percent boost to our bilateral trade with the EU and a gain of more than \$12 billion in Canada's annual gross domestic product.

A Canada-EU CETA would deliver new jobs and economic benefits across a broad range of industries located within municipalities all across Canada. These industries include aerospace, chemicals, plastics, wood products, aluminum, fish and seafood, light vehicles and automotive parts, agricultural products (such as wheat, beef and pork), and service sectors (such as transportation and environmental, engineering and computer services).

We have now had eight successful and productive rounds of negotiations in which considerable progress has been made. We continue to work toward a conclusion of the negotiations by 2012.

Our government is committed to keeping Canadians informed of the negotiations and to consulting as extensively as possible with key stakeholders to ensure that an agreement delivers the greatest economic benefit possible to hardworking Canadians. I appreciate the FCM's views and contributions to this effort. I can also assure you that our government will not finalize an agreement unless it is in the best long-term interests of Canadians.

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During our discussion on August 4, 2011, you again raised the seven principles on government procurement developed by the FCM and sent to my predecessor the Honourable Peter Van Loan, on September 22, 2010. In identifying these principles, you have clearly articulated the key interests of Canada's municipalities. As promised, I have included below more information on how I see each of those seven principles applying within the context of the CETA negotiations.

With respect to **procurement thresholds**, the dollar-value thresholds for municipalities under CETA are likely to be consistent with those that exist for sub-central government entities in the World Trade Organization (WTO) Agreement on Government Procurement. These thresholds are approximately C\$340,600 for both goods and services and approximately C\$8.5 million for construction. Any contract that fell below these dollar-value thresholds would not be subject to the CETA procurement obligations.

Streamlined administration could indeed facilitate any adjustments required as a result of CETA. While some government entities may be taking on international trade commitments for the first time under CETA, procurement systems within Canada's provinces, territories and municipalities are generally open and transparent. This should mean that changes required to implement CETA are not likely to be substantial.

The letter of September 22, 2010, from the FCM also addresses requirements for **Canadian content**. As you may know, non-discrimination and the prohibition of offsets are basic obligations for procurement in international trade agreements. However, I recognize the importance of maintaining flexibility in government procurement to address local needs and priorities. Under CETA, municipalities would retain the ability to use various instruments to promote local economic development, such as non-contractual agreements, which are not subject to CETA (e.g., grants, loans or fiscal incentives), or the procurement of goods and services that are not subject to the CETA procurement obligations (e.g., below threshold or for excluded goods or services). Furthermore, CETA will not affect the ability of municipalities to use selection criteria such as quality, price, technical requirements or relevant experience, or to consider social and environmental factors in the procurement process, so long as these are applied in a non-discriminatory manner.

It is also important to remember that CETA will not affect the ability of municipalities to regulate. To be clear, nothing in any of Canada's international trade agreements can force countries to privatize or to deregulate services. All of Canada's international trade agreements preserve the right of countries to regulate, and to introduce and amend regulations to meet policy objectives. These agreements do, however, require governments at all levels to act in accordance with certain principles, such as non-discrimination. Governments are still free to pursue their regulatory objectives and have a wide array of choices for implementing such objectives.

Another key component of international procurement obligations is the availability of recourse, both through a bid-challenge process (suppliers and procuring entities) and dispute settlement (party-to-party). Canada and the EU will be required to provide administrative or judicial review

procedures through which a supplier may challenge the award of a covered procurement contract. There will also be a **dispute settlement** process under CETA (party-to-party), where each party to the agreement may challenge the consistency of any measure of the other party regarding covered procurement with the provisions of the agreement.

The provisions of the procurement chapter will not be in force immediately upon completion of the CETA negotiations. After completion of the negotiations, several steps will need to be taken before the agreement can be brought into force in Canada. These steps include: preparation of the legal text; signing of the agreement; submission of the agreement to the House of Commons under the government's Policy on Tabling of Treaties in Parliament; and debate and passage of the implementing legislation. The process provides municipalities with sufficient time to become familiar and ready to operate in accordance with the rules of the procurement chapter. Any party-to-party dispute under CETA would be between the Government of Canada and the EU. In other words, the EU would not be able to bring a case directly against a municipality. In the case of a dispute between the parties under CETA, the **dispute settlement process will be progressive** (gradual). There would likely first be discussions between officials in an attempt to resolve the issue. At a later stage, ministerial involvement might occur. A dispute would formally begin with a request for consultations, which provides the parties with another opportunity to discuss the matter. There will likely also be a non-binding mediation before the matter is referred to a dispute settlement panel.

Once concluded, CETA will provide Canadian suppliers with improved access to one of the largest procurement markets in the world. According to the European Commission, the EU procurement market is estimated at C\$2.4 trillion, or 16 percent of gross domestic product. Ensuring an overall balance of commitments, or **reciprocity**, is one of Canada's priorities in these negotiations. On this point, please note that all EU regional and local authorities (municipalities) are already included in the EU's WTO Agreement on Government Procurement commitments, and we expect this to be the case under CETA as well.

I appreciate your continued interest in further **consultation and communication**. Our government is committed to keeping key Canadian stakeholders informed of the negotiations and to consulting as extensively as possible to hear the views of Canadians. The joint working group between the FCM and DFAIT has been an excellent resource and forum for consultations, and we will continue to keep the FCM Working Group members informed as trade negotiations progress. We will also continue to work in partnership with the provinces and territories to address questions and concerns affecting areas under their jurisdiction, including those of municipalities.

The benefits of concluding an ambitious agreement with government procurement commitments extend beyond simply the access that Canadian-based firms would gain to EU procurement markets. The implementation of international government procurement commitments provides a set of common principles and rules upon which Canadian governments, at all levels, base their procurement practices. Consistency of rules and procedures between Canadian jurisdictions

facilitates access for Canadian-based suppliers and their ability to prepare responsive bids in a timely manner. Government procurement commitments under Canada's international trade agreements ultimately increase competition, thereby allowing governments to ensure better value for taxpayers for the goods and services that are procured.

Thank you again for taking the time to share the views of the FCM. I look forward to our future discussions.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Ed Fast', with a stylized, elongated flourish extending to the right.

The Honourable Ed Fast, P.C., M.P.

	AIT	APA	Can-USA part A	Can-USA part B (expires September 2011).
Thresholds:				
Goods	\$25,000 (\$100,000 for MASH) (\$500,000 for Crown Corporations)	\$10,000 (\$25,000 for MASH)	\$604,500 (355,000 SDR)	\$604,500 (355,000 SDR)
Services	\$100,000 (\$500,000 for Crown Corporations)	\$50,000	\$604,500 (355,000 SDR)	\$604,500 (355,000 SDR)
Construction	\$100,000 (\$250,000 for MASH) (\$5,000,000 for Crown Corporations)	\$100,000	\$8,500,000 (5,000,000 SDR)	\$8,500,000 (5,000,000 SDR)
RED?	Yes	Yes	Yes	Yes
Sectors	Provinces and territories All MASH	Provinces and territories All MASH	Provinces and territories	Provinces and territories HRM
Water	Municipal water and water commission of HRM (as a Crown Corporation)	Municipal water and water commission of HRM (as a Crown Corporation)	No	No