

## **Canada / European Union Comprehensive Economic and Trade Agreement – Status of Negotiations and Implications for Toronto**

<b>Date:</b>	February 2, 2012
<b>To:</b>	Executive Committee
<b>From:</b>	City Manager
<b>Wards:</b>	All
<b>Reference Number:</b>	

### **SUMMARY**

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The Government of Canada and the European Union are negotiating a Comprehensive Economic and Trade Agreement (CETA) with the participation of all provinces and territories. After multiple rounds of negotiation, both sides have indicated that a deal will be signed soon. While details are confidential, framework documents indicate that the EU is determined to access public sector procurement at all orders of government including municipalities and associated ABCCDs. The purpose of this report is to update the Executive Committee on the status of negotiations and, based on available information, assess some of the possible implications for Toronto.

The European Union is the largest trading block in the world and expanded access would provide very significant new markets for Canadian businesses. However, the ultimate implications of CETA are difficult to predict. This is particularly true given that offers have not been made public and there has been very little analysis shared by federal negotiators about the specific Canadian industries or labour force members that would benefit. In the absence of detailed consultation and communication, opposition to the agreement has been mounting.

### **Financial Impact**

There are no direct budgetary or financial implications resulting from this report.

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## DECISION HISTORY

At its meeting on January 24, 2012 the Executive Committee considered a Member Motion from City Council recommending that the City request from the Province a permanent exemption from CETA and an explanation of the scope and content of negotiations.

(<http://www.toronto.ca/legdocs/mmis/2012/ex/bgrd/backgroundfile-44378.pdf>)

The Executive Committee deferred consideration of the item until its meeting on February 13, 2012 and requested the City Manager to report at that time on the status of the negotiations between the Government of Canada and the European Union and the implications for Toronto of the proposed Agreement.

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX15.14>)

## ISSUE BACKGROUND

Canada and the European Union have been working to develop closer economic ties since 1996 when the two jurisdictions signed a Joint Political Declaration and Action Plan. The trade chapter of the Action Plan, known as the EU-Canada Trade Initiative (ECTI), provided the framework for a number of bilateral trade deals in specific sectors including wine production and medical devices. In 2005, Canada and the EU began working on a more comprehensive Trade and Investment Enhancement Agreement (TIEA) but many of the issues were dependent on the outcome of ongoing World Trade Organization (WTO) talks and so negotiations were suspended. CETA represents a revived effort to establish bilateral trade rules that go beyond WTO commitments. The federal government has stated publicly that it hopes to reach an "ambitious" agreement. Some observers have characterized the scope of the negotiations as "NAFTA-plus" with a broader range of products and services covered and a firmer set of rules and remedies.

CETA discussions began with a study prepared by the Canadian Department of Foreign Affairs and International Trade (DFAIT) and the European Commission entitled *Assessing the Costs and Benefits of a Closer EU – Canada Economic Partnership*. Released in 2008, the stated purpose of the study was "to examine the existing barriers, especially non-tariff, to the flow of goods, services and capital, and to estimate the potential costs and benefits of removing such barriers." The model that was used predicted a comprehensive agreement would result in an annual GDP increase of €11.6 billion for the EU and €3.2 billion for Canada.

On this basis, CETA negotiations began in 2009 and have progressed through nine rounds to date. There are twelve separate negotiating tables dealing with different aspects of the agreement:

1. Market Access in Goods
2. Rules of Origin, Trade Facilitation
3. Technical Barriers to Trade
4. Sanitary and Phytosanitary Measures
5. Regulatory Cooperation
6. Trade Defence Instruments
7. Investment & Services
8. Intellectual Property Rights
9. Public Procurement
10. Competition Policy & Related Measures
11. Dispute Settlement and Institutional Matters
12. Sustainable Development (Labour & Environment)

Both the EU and Canada have committed to keep the content of trade offers at these various tables strictly confidential so it is difficult to assess the status and implications of CETA negotiations.

Federal negotiators have been consulting with provincial and territorial officials. The Ontario Ministry of Economic Development and Innovation is the lead in representing Ontario's position, along with representatives of the Ministry of Government Services and the Ministry of Municipal Affairs & Housing. Provincial and territorial officials have attended the negotiating rounds as observers.

The most significant potential addition compared to Canada's existing trade commitments relates to public procurement. The EU has requested non-discrimination rules for publicly tendered contracts on a variety of products and services at the sub-national level. This would include the provinces and territories and is also for the first time proposed to include municipalities and their associated entities such as the City's ABCCDs.

City of Toronto staff have consulted with provincial representatives and FCM counterparts to access information and communicate Toronto's interests. The Federation of Canadian Municipalities (FCM) has developed a list of procurement principles that it has asked the federal government to respect (see Attachment 1).

## **COMMENTS**

### **Expected Benefits of CETA**

Export development is critical for the Ontario and Toronto economies and efforts are being made to diversify trade beyond the United States, currently the destination for nearly 80% of Ontario exports. The European Union is the largest trading block in the world and expanded access would provide very significant new markets for Canadian businesses. Additionally some analysts have argued that more open competition with European suppliers will compel Toronto-based companies to make necessary investments and become more innovative.

On the other hand, Canada currently imports much more from the EU than it exports in both goods and services, and Canadian exports are weighted towards raw materials. If the relaxation of trade restrictions amplifies these patterns, then resource producers stand to gain while it could become more difficult for companies in advanced goods and service sectors to compete with European counterparts domestically.

In the absence of detailed consultation and communication, opposition to the agreement by some advocacy organizations has been mounting. If a deal is signed, strategies and action plans to assist Toronto, Ontario, and Canadian businesses to take full advantage of broadened access to EU markets will need to be developed to ensure that the agreement delivers on its promised benefits.

## **Municipal Considerations**

The primary consideration for the City of Toronto (and many other FCM member cities) relates to sub-national procurement. The City of Toronto has used 'value-based procurement' to mandate that certain construction projects hire and provide apprenticeship hours to youth from priority neighbourhoods. The City also has a local food procurement policy to "reduce the greenhouse gas emissions associated with the provision of food purchased for City operations and facilities, and support local farmers." Similar policies are employed by City agencies; in accordance with provincial requirements, TTC policy states that transit vehicles procured using any sources of provincial funding must have at least 25% Canadian content.

Strategic procurement can also be used to help strengthen and expand Toronto, Ontario and Canada-based companies by 'pulling' locally developed innovative products and services into the marketplace, helping create local jobs and expand the tax base. Ontario's feed-in tariff program to develop renewable energy, for example, contains a local manufacturing content requirement.

Another issue for municipalities relates to the dispute resolution process and what happens to projects or contracts that are challenged, eg. does the initiation of a dispute immediately halt procurement of a construction project, or can work proceed with an expectation that a remedy will be found at a later point. Due to a general lack of information on this question and others, several municipalities including Hamilton and Kingston have approved motions to communicate concerns to federal and provincial officials, and in Hamilton's case to ask the Province for a permanent exemption from CETA.

## **FCM Communication with Federal Government**

Reflecting these concerns, the Federation of Canadian Municipalities has circulated seven principles of municipal interest to be applied to CETA or any future trade deal (see Attachment 1). These principles have been presented to DFAIT. They were also shared with the federal government in advance of the Canada-U.S. Procurement Agreement (CUSPA), intended to exempt Canadian suppliers from 'Buy American' policies. It is worth noting that after CUSPA was signed, many felt that Canada had given more access to procurement than it had received.

In response to FCM's concerns about CETA, federal Minister of International Trade, Ed Fast, has provided a letter that acknowledges each of FCM's principles (see Attachment 2). The letter states that "nothing in any of Canada's [existing] trade agreements can force countries to privatize or deregulate services. These agreements do, however, require governments at all levels to act in accordance with certain principles, such as non-discrimination."

As relates to Canadian content, the Minister writes that "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."

The letter describes the dispute settlement process as "gradual" and states that "there will likely be a non-binding mediation before the matter is referred to a dispute settlement panel." The dispute settlement process will allow the federal government and the EU to directly challenge each other on measures that are not felt to be consistent with the agreement (party to party). Minister Fast has assured FCM that "the EU would not be able to bring a case against a municipality."

## **Ratification Process and Timelines**

Once an agreement has been negotiated between Canada and the EU, it will be subject to approval by Canadian Parliament and each of the 27 member countries of the European Union. The two jurisdictions then begin a process of enacting legislation to implement specific trade rules. In Canada, provincial and territorial governments would also need to adopt legislation to be in compliance with any new federal rules. Municipal procurement practices will continue to be subject to provincial and territorial statutes.

Based on statements from governments on both sides, a CETA agreement in principle is expected to be reached sometime in 2012. The content of the agreement will then be put before federal Parliament. If it is passed, precedent indicates that the ratification of specific policies that serve to enforce the agreed upon principles will take several years. For example, one of the CETA tables deals with intellectual property rights; after federal negotiators commit to certain reciprocity principles, Canadian intellectual property policies will likely need to be changed and will be subject to debate and approval. This process will play out based on the principles reached at each of the twelve negotiating tables. Provinces and territories, taking their direction from new federal rules will then need to develop their own corresponding policies.

## **CONCLUSION**

A comprehensive trade agreement between Canada and the EU will make it easier for suppliers in both markets to reach additional consumers. The degree to which Canadian companies will be able to take advantage of these markets is not certain and should not be taken for granted. European companies, already operating within a supra-national customs zone, will be well prepared to access Canadian markets. If and when an agreement is reached and made public, action plans to ensure that Toronto, Ontario, and Canadian businesses and workers also benefit will be critical.

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## **SIGNATURE**

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Joseph P. Pennachetti  
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## **ATTACHMENTS**

Attachment No. 1 – Federation of Canadian Municipalities Backgrounder – FCM principles to be applied to any future trade deal

Attachment No. 2 – Letter from Federal Minister of International Trade, Ed Fast, to President of FCM, Barry Vrbancic, dated August 23, 2011