

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING OF AUGUST 26, 2014
FROM:	GRANT HOPCROFT, DIRECTOR OF INTERGOVERNMENTAL AND COMMUNITY LIAISON
SUBJECT:	COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT WITH THE EUROPEAN UNION

RECOMMENDATION

That, on the recommendation of the Director of Intergovernmental and Community Liaison, this report on the Comprehensive Economic and Trade Agreement with European Union (CETA) BE RECEIVED for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Board of Control: The Canada-European Union Trade Agreement, the Trade Investment and Labour Mobility Agreement (TILMA), the Agreement on Internal Trade (AIT) and the Québec-Ontario Economic Partnership Agreement, April 29, 2009; Update on Canadian Trade Agreements, August 26, 2009; April 14, 2010; September 29, 2010.

Finance and Administration: Update on Trade Agreements, September 28, 2011.

Finance and Administrative Services: October 3, 2011; Comprehensive Economic and Trade Agreement with the European Union, April 16, 2012; November 12, 2013.

BACKGROUND

On October 18, 2013, Prime Minister Stephen Harper and Jose Manuel Barrosa, Head of the European Commission announced that Canada and the European Union (EU) had reached an agreement in principle on a comprehensive trade agreement. This is the largest trade agreement that Canada has ever signed and it is expected to give Canada access to a 28 country market which generates \$17 trillion in economic activity annually.

On October 29, 2013, the federal government released a 26 page summary of the text.

There is media speculation that the final agreement will be released in late September, potentially as part of a signing-ceremony summit between Canada and the EU.

The Government of Canada and the European Union (EU) began negotiating a Comprehensive Economic and Trade Agreement (CETA) in 2009 with the participation of all provinces and territories. A successful negotiation will include explicit commitments from provincial and territorial governments and measures will apply to all orders of government.

The Agreement will provide Canada with preferential market access to the EU's more than 500 million consumers. The EU is the world's largest economy and the world's largest importing market for goods, with EU's annual imports alone exceeding Canada's GDP. Prime Minister Harper has said that on the first day when the Agreement comes into force, approximately 98 per cent of all EU tariff lines will be eliminated.

The Federation of Canadian Municipalities (FCM) has provided a set of guiding municipal principles that it is using in its discussions with federal officials for free and fair international trade. The Association of Municipalities of Ontario (AMO) and Municipal Council have also endorsed these principles.

- **Reasonable procurement thresholds:** Inappropriately high or broad procurement thresholds may force municipalities to tender projects when tendering is neither practical nor financially justified.

- **Streamlined administration:** Ensuring that municipal procurement policies are free-trade compliant will likely create new costs and may require specialized expertise. The administrative design of these rules must be as streamlined as possible and developed in close cooperation with municipal procurement practitioners.
- **Progressive enforcement:** Enforcing provisions of any deal should be progressive, starting with verbal or public warnings before moving to financial penalties, and should recognize and not penalize inadvertent non-compliance, particularly in cases where municipalities do not have the expertise to appropriately apply the rules.
- **Canadian content for strategic industries or sensitive projects:** A trade deal must recognize strategic and public interest considerations before barring all preferential treatment based on country of origin. There may be industries of strategic significance to a particular region, such as transit, or projects where considerations of quality, public benefit, environmental protection or business ethics means that a local government may wish to implement minimum Canadian-content levels. This should be allowed, within reason.
- **Dispute resolution:** A dispute-resolution process, like the one in NAFTA, may require a careful review of the municipal role in that process so they can appropriately defend their policies and by-laws as an order of government.
- **Consultation and communications:** Consultation and communications during negotiations are required to ensure any resulting agreement responds to municipal concerns.
- **Reciprocity:** Canada negotiating position must support reciprocity in Canadian and foreign municipal procurement practices.

In response to these principles, the Honourable Ed Fast, Minister of International Trade, wrote to Mr. Berry Vrbanovic, then President of FCM, in August of 2011 to share additional information on the CETA negotiations and the benefits it would provide Canadians. He indicated that 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, at approximately CAD \$340,000 for both goods and services and approximately CAD \$8.5 million for construction. The Minister assured FCM that 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 (below threshold or excluded goods and services). Furthermore, Minister Fast said that “CETA will not affect the ability of municipalities to use selection criteria such as quality, prices, 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.” Minister Fast also reassured FCM that CETA will not affect the ability of the municipalities to regulate and to introduce and amend regulations to meet policy objectives. He further informed FCM that reciprocity is a key priority for Canadian negotiators.

Once the final agreement has been concluded and signed, the document must be translated and ratified by respective parliaments. The two jurisdictions would then begin a process of enacting legislation to implement specific trade rules. In Canada, this means that provincial and territorial government would need to adopt legislation in order to be in compliance with any new federal rules. Municipal procurement practices will continue to be subject to provincial and territorial statutes. The ratification process involving all of the Canadian provinces and territories and the EU countries could take 18-24 months.

While the full negotiating text is well-advanced, it has not been made public and reliance on leaked versions of the draft agreement makes it difficult to assess the implications for municipalities.

The issue that remains of most relevance to municipalities is the question of public procurement. The EU government procurement market is worth \$2.7 trillion while the Canadian government procurement market is relatively small. CETA covers government procurement at the national, provincial/territorial and local levels. Municipalities will need to ensure access for European Union firms for procurements over the established thresholds once CETA is implemented. The City of London’s procurement policy does not give preferential treatment (see section 21.5) to Canadian suppliers and it abides by the Agreement on Internal Trade in Canada which promotes competitive procurement within Canada.

At its May 1 and 2, 2012 session, Municipal Council resolved that the City of London wished to “opt out” of the Comprehensive Economic and Trade Agreement with the European Union (CETA) in order to determine whether or not to support the Agreement in future, based upon an assessment of how it would affect this municipality which would take into consideration a sector-by-sector analysis of the procurement regime, an assessment of the costs and benefits of the Agreement to

municipalities, and details of which sectors are most likely to be the principal beneficiaries of CETA. Municipal Council also noted that it would expect that the Government of Canada and the province would consult with municipalities before finalizing the Agreement and that they would solicit comments from all parties that could be affected by the Agreement.

Once the full text has been released, a more-in depth analysis will follow in a future report. Civic Administration will review in particular, City Council concerns and whether the FCM principles are reflected in the agreement. The summary report and accompanying documents are available at <http://actionplan.gc.ca/en/content/ceta-aecq/canada-eu-trade-agreement>.

PREPARED BY:	RECOMMENDED BY:
JILL TANSLEY MUNICIPAL POLICY SPECIALIST	GRANT HOPCROFT DIRECTOR, INTERGOVERNMENTAL AND COMMUNITY LIAISON