Minister of International Trade and
Minister for the Asia-Pacific Gateway

Ministre du Commerce international et
ministre de la porte d'entrée de l'Asie-Pacifique

Ottawa, Canada K1A 0G2

AUG 2 3 2011

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

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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

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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,

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