

TO:	CHAIR AND MEMBERS FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE MEETING OF APRIL 16, 2012
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 Trade Investment and Labour Mobility Agreement (TILMA) and the Ontario-Quebec Economic Partnership Agreement, June 18, 2008.
Board of Control: Ontario-Quebec Trade and Economic Partnership and Canada-European Union Trade Agreement, October 29, 2008.
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.
Board of Control: Update on Canadian Trade Agreements, August 26, 2009
Board of Control: Update on Trade Agreements, April 14, 2010
Board of Control: Update on Trade Agreements, September 29, 2010
Finance and Administration: Update on Trade Agreements, September 28, 2011
Special Meeting of Finance and Administrative Services: October 3, 2011

BACKGROUND

At its October 4, 2011 meeting, Council resolved:

That, on the recommendation of the Director of Intergovernmental and Community Liaison, the following actions be taken with respect to Trade Agreements:

- (a) the following resolution regarding the Comprehensive Economic and Trade Agreement with the European Union (CETA), **BE ENDORSED:**

Whereas the Government of Canada and the European Union have been negotiating a trade agreement known as the Comprehensive Economic and Trade Agreement (CETA);

And Whereas the Canada-European Union relationship holds great potential for growing Canada's trade and collective prosperity;

And Whereas the Council of Canadians London Chapter has provided City Council with information and their concerns regarding CETA negotiations currently underway between Canada and the European Union;

And Whereas the Corporation of the City of London supports the guiding principles as set out by the Federation of Canadian Municipalities (FCM) and endorsed by the Association of Municipalities of Ontario (AMO);

Be it Resolved that the Corporation of the City of London requests the Federal Government and the Province of Ontario to continue to ensure that the municipal sectors' interests are represented in the ongoing negotiations; and

That the federal government's negotiations ensure that the FCM guiding principles will be fully reflected in any trade agreement reached between Canada and the European Union; and

That the federal and Ontario governments provide FCM and AMO with regular, detailed updates on the status of the European Union trade negotiations to the fullest extent possible.

- (b) This resolution be forwarded to the Minister of International Trade; our local MPs, the Premier of Ontario, our local MPPs, FCM, AMO and the London Chapter of the Council of Canadians.

Chronology of the Negotiations

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. They have completed the ninth round of negotiations and a final agreement is anticipated by late summer or early fall. The Government of Canada has made CETA a priority in its trade negotiations. The EU market represents the largest trading bloc in the world with annual GDP of almost \$19 trillion in 2009. The EU procurement market is estimated at CAD \$ 2.4 trillion or 17 percent of gross domestic product. A successful negotiation will include explicit commitments from provincial and territorial governments.

Proponents say that CETA is projected to boost two-way trade and investment by up to 20% adding \$12 billion a year to Canada's wealth by 2014. Detractors are concerned that Canada's trade deficit will only grow, reinforcing Canada's image as a resource-exporter. They also have a host of other concerns -- among them the possible deregulation of public services, threat to job creation, and the private sector's potential access to municipal water services.

On March 5, 2009, Canada and the EU publicly released the Joint Report on the EU-Canada Scoping Exercise. The scoping report explains that the services provision of any agreement will apply to measures taken by all levels of government, as well as non-governmental bodies, and that no mode of supply or services sector should be assumed to be excluded.

While the negotiating text is well-advanced, it has not been made public, making it difficult to assess the implications for municipalities. Twelve negotiating tables deal with different aspects of the agreement:

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

The issue that remains of most relevance to municipalities is the question of public procurement. In a letter to then International Trade Minister Peter Van Loan last fall, the Federation of Canadian Municipalities (FCM) attached a resolution which was adopted by the FCM National Board of Directors entitled *Municipal Impact of Canada and European Economic Partnership Trade Agreement*. The resolution resolved that FCM encourage the Government of Canada to "protect the right of municipalities to specify local priorities in purchasing decisions".

FCM has provided a set of guiding principles that it is using in its discussions with federal officials. The Association of Municipalities of Ontario (AMO) has 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, 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.

The parties are aiming to put a rigorous dispute settlement process in place.

Municipalities across the country have taken different approaches. Most support the seven guiding principles developed by the Federation of Canadian Municipalities (FCM) and endorsed by the Association of Municipalities of Ontario relating to reasonable procurement thresholds, streamlined administration, progressive enforcement, Canadian content, dispute resolution, consultation and reciprocity. Some have passed resolutions requesting additional information on the agreement and how it would affect their communities. Others have asked that the Government of Canada not provide the EU with access to sub-national procurement or have requested exemption of local governments. The issue of protection of water resources is of particular concern to some communities in British Columbia.

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.

Minister Fast stated that Canadian municipalities stand to gain considerably from the deal. Minister Fast noted that the Canadian procurement market is relatively small compared to the EU government market which is estimated at \$2.3 trillion.

Minister Fast met with his provincial and territorial counterparts on February 27 at which time “Ministers endorsed the need for trade diversification efforts to focus on high-growth markets around the world, such as China and India, and agreed that a collaborative approach, involving the federal government, the provinces and the territories, would maximize the benefits for businesses looking to expand and succeed abroad.” The Ministers agreed that CETA was Canada’s most important trade initiative since the North American Free Trade Agreement.

In March, the Federation of Canadian Municipalities (FCM) Board adopted the resolution of the City

of Surrey, British Columbia which encourages a greater flow of information from the federal and Provincial and Territorial governments on CETA and future agreements, including a request to the federal government that it undertake a sector-by-sector analysis of the potential impacts on municipal functions and powers of the procurement regime that the European Union is seeking and circulate this information to member municipalities.

Final agreement of CETA is expected in late summer, early fall of this year. Once negotiated, it will be subject to approval by Canadian Parliament and each of the 27 member countries of the European Union. The two jurisdictions would then begin a process of enacting legislation to implement specific trade rules. In Canada, this means that provincial and territorial 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.

This report has been prepared in consultation with John Freeman, Manager of Purchasing, and Mike Turner, Deputy City Treasurer.

PREPARED BY:	RECOMMENDED BY:
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