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Traders and Budget 2007



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Traders and Budget 2007	2
Senate Red Flag on Port Security	3
Member Profile	4
Bank of Montreal	6

*The following article was written by
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Clearly intended to have a little something for everyone and increase the Conservative's chances at a majority government, Finance Minister Jim Flaherty tabled Budget 2007 with over \$14 billion in new

spending. This big spending budget, with relatively small and targeted tax breaks aimed at such groups as low-income individuals and families and seniors, has been referred to by some pundits as rather atypical of the Conservative Party's penchant for broad based personal income tax cuts. Although opposed by Liberal and NDP caucuses, with \$2.3 billion earmarked for Quebec, the budget was easily approved by Parliament with the support of the Bloc Québécois leaving parliamentary disputes over the environment and crime as possible triggers for a new election.

Key measures of the budget include financial incentives designed to assist low-income Canadians in making the transition from social assistance to the workforce, a child tax credit, financial incentives to buy fuel efficient automobiles, a sin tax on fuel-inefficient vehicles, and the introduction of pension income splitting and assistance for families for university funding. Other significant funding measures were designed to address the fiscal imbalance.

Budget, cont'd on pg. 2

A Glance at Our Plans for Next Week

On Tuesday, April 3, 2007, Carol Osmond will attend a security working group meeting in Toronto of the CIFFA-IATA Cargo Joint Council on Transport Canada's new air cargo security program.

Osmond has been invited by the Canada Border Services Agency to participate in an external stakeholder consultation session in Ottawa on the policy framework development component of CBSA's Core Services Review as it relates to air cargo.

On Thursday, April 5, 2007, Carol

Mexico's Outlook

Gaëtan Lavertu, ambassador of Canada to the United Mexican States, will be the keynote luncheon speaker on Tuesday April 24, 2007 at I.E.Canada's Emerging Issues in Customs Conference. Mr. Lavertu will discuss Mexico's outlook for trade and investment opportunities. The conference will be held on April 23-25, 2007 at the Delta Markham Hotel, 50 East Valhalla Drive in Markham.

Since the NAFTA entered into force, Canada-Mexico bilateral trade and investment have increased significantly. Mexico and Canada are now among each other's largest trading partners. In 2006, Mexico was Canada's fifth largest customer as Canadian merchandise exports to Mexico reached \$4.38 billion, up 30.1 per cent from 2005. Mexico was Canada's third largest supplier in 2006 with imports reaching \$15.98 billion, up 9.5 per cent from 2005. Total bilateral merchandise trade in 2006 was up 349 per cent since 1993. Trade data understates the Canada-Mexico trade relationship as a result of extensive transshipment through the United States, whereby many exports destined for Mexico are classified as exports to the United States. According to Statistics Canada, in 2005 Canadian direct investment in Mexico was valued at \$3.1 billion while

Mexico, cont'd on pg. 3

Budget, cont'd from pg. 1

ance among the provinces and territories, research, infrastructure, the arts, health care, law enforcement and defence.

Set out below are additional areas addressed by the budget that may not have been highlighted by the media, but are of interest to the importing, exporting and trading communities.

Trade and Investment Priorities

The budget pledged greater openness to trade and investment consistent with the Harper administration's economic plan released in November, *Advantage Canada: Building a Strong Economy for Canadians*, where the government committed to "develop a new approach to international trade policy through a comprehensive Global Commerce Strategy to ensure that Canadian businesses can fully participate in global market opportunities." The new Global Commerce Strategy articulated by the government in *Advantage Canada* included commitments:

- to build on Canada's NAFTA advantage through improved border efficiency and increased regulatory convergence through the Security and Prosperity Partnership of North America initiative and in consultation with the North American Competitiveness Council and other stakeholders; and
- to pursue regional and bilateral trade, investment and science and technology agreements, ideally together with Canada's NAFTA partners.

The government expanded upon and highlighted the following three core elements of its Global Commerce Strategy in the budget:

(i) Expanding Canada's bilateral network - the budget notes that current negotiations or explorations for prospects for free trade agreements are underway with sev-

eral countries and regional trading communities that include South Korea, Singapore, the Andean Community, the European Free Trade Association, and countries of the Caribbean and Central America.

Many of these regional and bilateral initiatives are leftover policies from the government's Liberal predecessor with most negotiations having commenced some time ago. Although not mentioned in the budget, bilateral negotiations with Peru have recently resulted in a new bilateral investment treaty. Treaties with India and China are expected to follow. This bilateral preference mirrors that of the United States which has actively been pursuing bilateral free trade agreements since the stalling of the World Trade Organization's Doha Round. Wary that its bilateral initiatives may be viewed as Canada having abandoned the multilateral approach, the budget is quick to note that "a successful Doha round remains our main trade policy priority."

(ii) Strengthening Canada's competitive position in the U.S. market - the budget commits to reinforcing Canada's U.S. presence and implementing new initiatives such as the direct engagement of private sector experts in order to connect Canadian companies with new opportunities and attract investment. Notwithstanding the government's position in the budget that the goal of developing a more comprehensive trade and investment relationship with the United States is "key to the success of Canadian business," the engagement of private sector experts is the only concrete initiative articulated in the budget in order to achieve this laudable goal.

(iii) Extending Canada's reach to new emerging markets starting with Asia - the budget recognizes that Canada must also expand its opportunities in fast-emerging

markets like China, India and Brazil. The government intends to start with Asia and enhance commercial services in new markets by "opening offices in key growth centres in Asia." In addition, the government pledges to introduce new measures to enhance Export Development Canada's (EDC) ability to assist Canadian businesses in tapping these emerging markets.

Although little detail is given in the budget regarding these new measures, EDC reports that the government will introduce new regulatory amendments to remove the existing \$10 million limit on specific investments by EDC and it expects its current investment commitments of \$140 million to grow to \$750 million by 2010.

The new spending promised for these trade and investment priorities, \$60 million over two years, is notably minimal when measured against the significant amount of spending pledged for other programs.

Manufacturing and Processing

Some good news for manufacturers, processors and exporters, referred to by the minister "as a shot of adrenaline" in his budget speech, is the introduction of a temporary two-year period during which manufacturers and processors will be able to completely write off new investments in manufacturing and processing machinery and equipment. The minister promised that this would result in "\$1.3 billion in tax savings for our job creators." Manufacturing and processing businesses will be permitted to write off their capital investments in machinery and equipment acquired on or after March 19, 2007, and before 2009, using a special two-year 50-per-cent straight-line rate capital cost allowance rate (increased from 30 per cent). There is also an increase in the capital cost allowance

Shipping and Trade Horizons



Leo Ryan

Shipping and Trade Horizons, a Tradeweek column, is produced by Leo Ryan. The column addresses Canadian industry issues and trade developments of interest to our members.

Senate Red Flag on Port Security

That the world will never be the same again has once more been underlined by the Senate which has issued another blunt warning about the flaws in Canadian port security in the post 9/11 environment. In a report earlier this month that went further than a previous document several years ago, the Senate charged that Canada's ports remain "inundated" with organized crime, are inadequately policed and represent a vulnerable link that could be exploited by terrorists.

Since the terrorist attacks on the United States on September 11, 2001, no containers aboard ships or on docks of world ports have, in fact, exploded and caused losses of human lives. Neither have luxurious cruise vessels with their affluent passengers – also tempting targets – been blown up. But security measures have increased by huge amounts, especially in North America, Europe, Latin America and Asia. You can regard this as a permanent triumph for Osama bin Laden and his Al-Qaeda disciples.

Among the most serious problems identified by the Senate: relatively few of the four million containers that enter Canada by sea every year are inspected, and 30 per cent of these boxes continue on to the United States.

The Senate's committee on national security and defence recommends specifically that every U.S.-bound container entering Canada be inspected. The proposed scanning systems would photograph each container to match its number to the bill of lading, check for radiation, weight changes, and confirm that the container's weight matches what is stated in the documentation.

To be objective, this is no simple matter, notably as regards costs and time consumption, although there is an interesting example today of a total-control screening system practiced by Hutchison Ports Holdings in Hong Kong. The cost per container has been estimated at US\$20 when the average value of the contents per box approaches US\$70,000.

The report also takes issue with stationing Canadian customs officers at such U.S. ports as Newark and Seattle/Tacoma rather than such international ports as Antwerp, Hong Kong and Hamburg, which account for much more of Canada's overseas cargo. This seems to be a legitimate point.

Last November, the federal government announced strengthened measures for background checks on port workers, but the committee expressed regret that less than half of all workers will need security clearance, while checks will be performed only every five years.

The initial focus of the Marine Transportation Security Clearance Program is on container and cruiseship terminals, with phase one kicking in on December 15,

2007 at Vancouver, Montreal and Halifax. A year later, phase two will be implemented at Victoria, Fraser River Port, Saint John, Quebec City, St. John's and Prince Rupert. Total estimated persons to be processed: 10,000 per year.

Meanwhile, Transport Canada has been consulting various industry stakeholders to soon unveil – in principle before this summer – a Security Management System across all modes for the next five to seven years. On balance, Ottawa cannot be accused of doing nothing – but it should take more seriously the Senate committee's proposal for a formal government inquiry into sea-port security.

Mexico, cont'd from pg. 1

Mexican investment in Canada was valued at \$204 million. According to Mexico's Economy Ministry, cumulative Canadian direct investment in Mexico has more than quadrupled since 1994 reaching \$5.7 billion by September 2006. Canada now ranks as the fifth largest investor in Mexico.

The North American Competitiveness Council (NACC), created at the North American leaders meeting in Cancun in March 2006, provides a forum for formally engaging the private sector in the effort to find solutions and set priorities for enhancing North America's competitive position globally. During the Cancun meeting, Prime Minister Harper committed to the 2010 goal of increasing bilateral trade with Mexico by 50 per cent and increasing bilateral investment by 100 per cent from 2005 levels.

Attend this conference and find out how importers and exporters can make the most of their trade relations with Mexico. For a copy of the conference brochure, please visit I.E.Canada's website at www.iecanada.com/events.html. On-line registration is available at www.iecanadaregistration.com or call Jason at 416-595-5333 ext. 37.

Member Profile



Cliff Sosnow, partner, Blake, Cassels & Graydon LLP, and vice-chair of I.E.Canada's board of directors

Blake, Cassels & Graydon LLP prepared the following member profile by answering a series of questions posed by Jane Carter of I.E.Canada.

Blake, Cassels & Graydon LLP has been a member of I.E.Canada since March 1981.

Background

Blake, Cassels & Graydon LLP (Blakes) is one of Canada's leading business law firms with more than 500 lawyers in offices in Montréal, Ottawa, Toronto, Calgary, Vancouver, New York, Chicago, London and Beijing. Our integrated office network gives clients access to the full spectrum of capabilities found throughout the firm. Whether an issue is local or multi-jurisdictional, practice-area specific or cross-disciplinary, Blakes can provide solutions at every level.

Blakes has been part of new economies since 1856. We are proud of our 150-year history and the role we have played in helping clients prosper during that period of tremendous economic and social change. We understand that our

continued success depends on our ability to meet the needs of clients both today and tomorrow.

What We Do

Blakes provides guidance and expertise in virtually every area of business law to a diverse national and international base of clients. Thanks to these clients and the challenging legal work they generate, Blakes is recognized as one of Canada's pre-eminent law firms. Many of our lawyers are leaders in their respective fields, evidenced by the fact that Blakes lawyers are continually "recommended" in *The Canadian Legal Lexpert Directory* (Canada's leading guide to lawyers) in almost every category of law.

Our clients include some of the best-known and soon-to-be-known names in business, ranging from major corporations and financial institutions to start-ups in manufacturing and knowledge-based industries. To better serve this broad client base, we continue to develop industry-specific teams that combine leading-edge experience with industry acumen.

Blakes International Trade Group

With 13 lawyers, Blakes has one of the largest international trade law groups in Canada. We are ranked by *Chambers Global: The World's Leading Lawyers for Business 2006* as a leader in international trade law. Several members of the group are recognized by *Chambers Global* and by *The Canadian Legal Lexpert Directory* as leading practitioners in international trade law.

Blakes lawyers have provided due diligence trade law advice in complex cross-border acquisitions, litigated before NAFTA and WTO panels and regularly advise some of the world's largest corporations. They assisted with the drafting and negotiation of portions of the WTO Agreement, NAFTA, Canada-Chile

Free Trade and Canadian International Trade Tribunal (CITT) rules of procedures, in fact, one of them has worked at the CITT handling numerous international trade matters.

Two Blakes partners were nominated to the roster of NAFTA panellists and another was chosen by the Canada China Business Council and the China Council for the Promotion of International Trade to the Joint Conciliation Center's roster to resolve commercial disputes between Chinese and Canadian companies. Members of our team were the only Canadian legal counsel chosen to join an international team of trade experts to review China's trade remedy laws to ensure compliance with WTO law; and one of our lawyers was retained to represent the Government of Canada in a trade dispute before the WTO. Blakes international trade lawyers are frequently sought by Canadian media to provide written commentary and to appear on television, radio and in print media to comment on pertinent trade issues.

Clifford Sosnow practices international trade law in the Ottawa office. He is recognized in *The Canadian Legal Lexpert Directory* as a leading practitioner in international trade regulation, as well as, *Chambers Global: The World's Leading Lawyers for Business*, as a leading practitioner in the field of WTO/international trade. He is a registered lobbyist and has been nominated by the Government of Canada to the roster of Canadian panellists eligible to arbitrate NAFTA trade disputes.

Cliff advises corporations, industry associations and governments on all Canada-U.S. and global cross-border issues, including export/import licences, customs procurement and compliance with international agreements (NAFTA, WTO). He litigates before the Canadian Interna-

Member Profile, cont'd from pg. 4

tional Trade Tribunal, and NAFTA and WTO panels. He also regularly lobbies governments on behalf of some of the world's largest organizations and counsels clients on free trade negotiations and investment agreements.

Cliff has served as senior counsel with the Trade Law Division of the Canadian Department of International Trade where he advised the government on a wide range of complex international trade issues. He represented Canada on several GATT and WTO disputes including Canada's first dispute before the WTO Appellate Body. He also advised Canadian officials on the development of the WTO Agreement on Basic Telecommunication Services, the WTO Financial Services Agreement, the Canada-Chile Free Trade Agreement and the NAFTA.

Cliff also held the position of in-house counsel to the Canadian International Trade Tribunal. He advised on antidumping, countervailing duty, safeguard and procurement.

What are the benefits of being a member of I.E.Canada?

Blakes is a large, full-service law firm. The lawyers who practice in the customs and international trade areas, and the clients they service, benefit from membership in I.E.Canada in the following ways:

- The opportunity to be involved in industry-specific committees and thereby interact with members and understand the practical issues and concerns being faced by companies in similar industries to our clients;
- The opportunity to contribute to government to industry consultations respecting policy issues being considered by the federal government in customs and trade matters;
- The chance to capitalize on the openness with which I.E.Canada allows its members to influence policy for the betterment of the as-

sociation. One of our partners is the counsel to the association's footwear committee;

- The ability, through I.E.Canada's numerous conferences and seminars throughout the year, to discuss new and emerging government policies in the areas of customs and trade;
- The chance to give back to the association by making presentations to members on legal issues at the various conferences and seminars.

How has the association helped your organization with respect to trade issues?

I.E.Canada has provided Blakes with opportunities to participate in submissions by the association on policy issues being considered by the federal government.

We have often mentioned I.E.Canada and recommended membership in the association to our clients. Our clients who join the association find their affiliation with I.E.Canada to be highly rewarding and beneficial.

What are the most valuable benefits you receive from I.E.Canada that you feel are most important to your organization?

The most valuable benefit is the opportunity to partner with a leading Canadian business association whose policies, conferences, and advocacy have a signal impact on trade policy and border issues affecting the Canadian trade community.

Budget, cont'd from pg. 2

rate from 4 to 10 per cent for buildings used in manufacturing and processing, and from 45 to 55 per cent for computers.

Windsor-Detroit Border Crossing

Although there is relatively little in the budget directed towards increasing existing border efficiency between Canada and the United

States, the budget does specifically earmark \$10 million over three years to Transport Canada to construct a new border bridge crossing for the Windsor-Detroit corridor which accounts for 28 per cent of Canada-U.S. merchandise trade. In order to implement this project, the government has committed to: (i) taking the necessary steps to acquire the appropriate lands once the precise locations for the bridge and a proposed Canadian plaza have been determined; (ii) exploring public-private partnerships to design, build, finance and operate the new bridge; and (iii) covering 50 per cent of the eligible capital cost of building the access road from the new crossing to Highway 401.

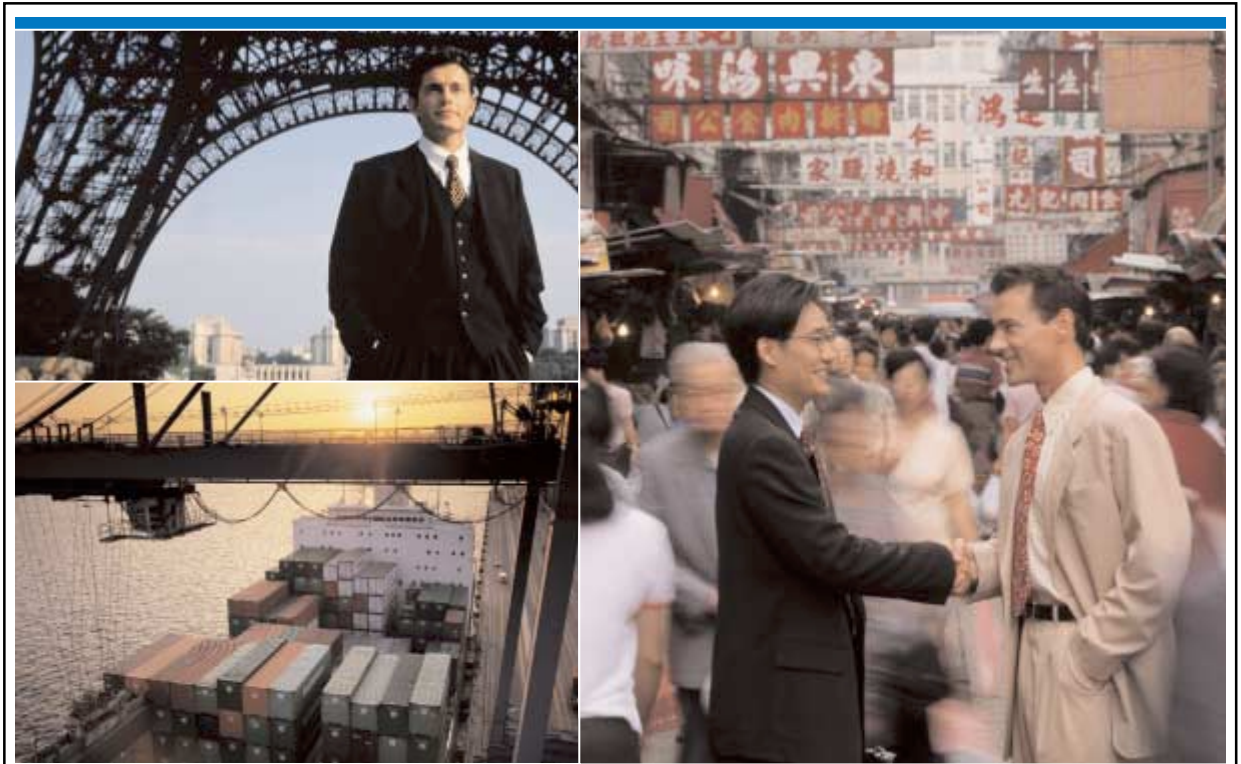
Internal Trade

A new free trade deal between British Columbia and Alberta, the Trade, Investment and Labour Mobility Agreement (TILMA), comes into effect April 1, 2007. It is a wide ranging trade deal intended to reduce red tape and make it easier for goods, investments and skilled workers to move across provincial borders. The budget commits to working with interested provinces and territories to examine how the TILMA could be applied more broadly to reduce interprovincial barriers to trade and labour mobility across the country.

Further Information

More information on Budget 2007 can be found at the Department of Finance's website at http://www.budget.gc.ca/2007/index_e.html. A comprehensive commentary on the tax measures contained in this year's budget is available from McCarthy Tétrault LLP at www.mccarthy.ca.

Orlando Silva is a partner in McCarthy Tétrault's International Trade and Investment Law Group. He can be reached at osilva@mccarthy.ca or at (416) 601-8028.



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