



Canada – EU Trade Negotiations Enter a New Tougher Phase

According to Canada's chief negotiator, Steve Verheul, the Canada-European Union trade negotiations have passed the midway mark and have entered a more challenging phase where the tougher, more sensitive issues will now have to be addressed. Mr. Verheul was speaking at an I.E.Canada event on July 23, 2010, where he provided a briefing on the fourth round of negotiations held in Brussels in mid-July. The event was organized in partnership with the Department of Foreign Affairs and International Trade (DFAIT) and I.E.Canada member, Bennett Jones LLP.

Mr. Verheul reported that the discussions are continuing to go well with openings beginning to appear on some of the more difficult issues and the general shape of an agreement starting to emerge. The negotiators on both sides continue to aim for high levels of ambition, which according to Mr. Verheul, is the only way to achieve an agreement – a small deal is simply not acceptable.

The provinces and territories continue to be highly engaged in the negotiations, but their involvement is not without its challenges. It is difficult for the provinces and territories to keep pace as they are not accustomed to dealing with some of the issues. Moreover, with so many different perspectives and sensitivities, it is more challenging to achieve high levels of ambition in those areas where sub-national governments are involved, such as government procurement, investment and services. Thus a great deal of coordination amongst the provinces and territories is required in order to arrive at a consensus.

During this latest round of talks negotiators achieved a number of objectives including closing or parking a number of chapters that are essentially complete; identifying the remaining sensitive issues; getting a sense of where they may be able to go in challenging areas, such as government procurement, investment and services; making progress on the institutional structure; and developing work plans to the end of the year, paying particular attention to those working groups that are struggling to ensure that they do not fall behind.

Mr. Verheul also provided an update with respect to specific issues as follows:

- **Government Procurement:** Because it is so important to the European Union, government procurement continues to be the biggest issue in the negotiations. A high level of ambition is required in order to obtain concessions from the EU countries on other issues. Canadian negotiators are seeking to understand the EU system and the procurement policies and procedures in individual member states to ensure that Canada achieves a level playing field. With so many countries involved and little input from Canadian business, this is a challenging task. Additional industry input is required in order for DFAIT to understand Canadian offensive interests in this area.
- **Services and Investment:** During the last round of negotiations, the EU negotiators agreed to adopt a negative list approach to services and investment, subject to obtaining

a mandate to negotiate on this basis from the EU member states. They still have not received this mandate, with mixed messages coming from the member states.

- **Labour Mobility:** Labour mobility covers such issues as temporary entry for business persons and inter-company transferees. This is an important issue for Canada and Canadian negotiators are concerned that a high level of ambition will not be achieved. During the latest round of negotiations, Canada tabled a proposal for mutual recognition of qualifications for professionals such as architects, engineers and accountants. The European negotiators reacted positively to the proposal despite some resistance from individual EU member states and it is expected that this proposal will move forward.
- **Tariff Elimination and Rules of Origin:** The parties agreed early on to the immediate elimination of duties on 90% of tariff items. During this latest round the negotiators engaged in more detailed negotiations with respect to the remaining 10%. Sensitive areas include Canadian duties on fish and dairy products and EU duties on beef. To ensure market access for Canadian exporters, arriving at the right rules of origin, especially for automotive goods, will also be critical. Rules of origin for fish, agricultural, and textile and apparel products are also sensitive.
- **Regulatory Standards:** One of the greatest challenges with the EU has been non-tariff barriers, especially regulatory standards. A great deal of emphasis will be placed on this area and it is hoped that a unique relationship can be established between the EU and Canada. The Europeans for their part are urging Canada to address the differences in regulatory standards amongst the provinces and territories. It was also noted that significant progress has been made in the area of regulatory cooperation.
- **Intellectual Property:** Intellectual property, including geographic indicators, is the second highest priority for the Europeans after government procurement. The recent introduction of copyright reform legislation (Bill C-32) in the House of Commons was helpful, but the Europeans still have issues with patent and design protection in Canada. There was no progress during the fourth round of negotiations with respect to geographic indicators. Canada has no offensive interests in this area and much to lose from an economic perspective if the right to use geographic indicators for products such as meat, cheese and wine is taken away from Canadian companies that have been using them for many years. Canadian negotiators have made it clear to the Europeans that there will be no movement in this area unless the Europeans are prepared to make significant concessions in other areas.

The Canadian delegation has an ambitious work schedule from now until the fifth round of negotiations is held in Ottawa in mid-October 2010. Following the October round, the parties will engage in a stock taking exercise at the ministerial level and map out future rounds of negotiations. Mr. Verheul indicated that by November the negotiators should have a good sense of what the final package will be and will be down to the critical issues early in the new year. If all goes as planned, it is anticipated that the negotiations will be concluded by mid-2011.

The event also included a special focus on government procurement, which as noted above, is one of the most critical areas of the negotiations. Worth hundreds of billions of dollars annually, government procurement markets are an important aspect of international trade. Dany Carrière, Director, Multilateral Market Access, DFAIT, who is the lead Canadian negotiator in this area, provided a more detailed update regarding the government procurement negotiations.

Ms. Carrière explained that government procurement is aimed at a specific type of government contract: the contract must involve a purchase for a government's own use and for a non-commercial purpose. In considering whether a government purchase is covered by a government procurement agreement, three questions must be answered: (i) is the entity covered by the agreement; (ii) is the value of the procurement above the threshold prescribed by the agreement; and (iii) is the type of good, service or construction covered by the agreement?

The EU approach to these negotiations is based on the World Trade Organization (WTO) approach which involves high threshold levels; non-discrimination and national treatment provisions; a prohibition on “offsets” or local content requirements; and bid challenge procedures, which suppliers can invoke if they do not believe that a government has met its commitments under the agreement. The EU is proposing to use the new WTO agreement on government procurement as the starting point and to update the language. The EU also wants full sub-national coverage including provincial and territorial governments; municipalities; academic institutions, school boards and hospitals; and utilities (eg. gas, water, transportation and mass transit).

Ms Carrière noted that because Canada is being asked to make commitments beyond those made in the past, it does create challenges. The main focus for Canada is gaining market access for Canadian companies as well as net increases for Canadian manufacturers.

Steve Verheul reiterated the request for industry input on the challenging issues, such as government procurement, as the Canadian negotiators need assistance in defining and strengthening Canada’s offensive objectives. He also urged the Canadian business community to be vocal about its support for the agreement overall as there will be strong opposition from other interest groups as the negotiations move forward and tackle some of the more difficult issues.

As the leading voice for Canadian importers and exporters, I.E.Canada is launching a new committee to address trade policy issues. The new **Trade Policy Committee** will support the association’s members by sharing information and advocating on their behalf in relation to Canada’s trade policy agenda, including the negotiation of free trade and multilateral trade agreements. The committee will hold its first meeting in September 2010.

If you are interested in joining the Trade Policy Committee, or receiving information about any of our other committees and their upcoming meetings, please contact Amesika Baëta, committee director, at abaeta@iecanada.com.

This article was written by I.E.Canada’s Carol Osmond, vice president, policy, and Amesika Baëta, committee director.

