



Building International Relations and Managing a Shifting Context for Trade

Presentation to UNSM Spring Workshop

Nova Scotia Department of Intergovernmental Affairs

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Background

- The internationalization of Nova Scotia's trade and intergovernmental relationships is critical to Nova Scotia's prosperity.
- As a province that has a long tradition of trade and exports, Intergovernmental Affairs is continuously looking to new economic opportunities to help stimulate Nova Scotia's growth and success in global markets.

Mandates: International Relations and Trade Policy



- The International Relations Division of Intergovernmental Affairs (IGA-IR) provides a unified approach and common vision to guide departmental and sector-led international strategies.
- The Trade Policy Division is responsible for all matters relating to trade policy, interprovincial and international trade negotiations, agreements and disputes
- To accomplish this, IGA works directly with Canadian and foreign governments to promote Nova Scotia's position in the world and to facilitate Nova Scotia businesses selling their expertise, skills and goods.

Outcomes

- Whole of government approach that advances Nova Scotia's global interests and priorities
- International relationships and diplomatic ties with key government and business decision makers/influencers that benefit Nova Scotia by leveraging opportunities, addressing challenges and removing barriers to business; and,
- Trade and investment opportunities are supported and enhanced.
- Risks associated with non-compliance with trade obligations are minimized.

International Relations

Key International Markets

Through extensive research and analysis, Nova Scotia has identified three key priority markets to focus our international activities and engagements.

- United States
- China
- European Union

Canada-US Relations

Deep, integrated nature of the economic and energy ties between our countries.

- US\$880 billion in bilateral trade Annually (\$2.4 billion a day)
- 400,000 people cross the Canada-US border each day
- US is Nova Scotia's largest export market (70%)

Canada the single largest supplier of energy to the United States: electricity, gas and oil

- Energy relationship supported by network of pipelines and transmission lines across both countries

Integrated Infrastructure underpins commerce and travel

- Highways and rail lines connected across thousands of miles of shared border.
- 100 ports of entry facilitate highly integrated supply chains.

Nova Scotia-US Relations

- The Conference of New England Governors and Eastern Canadian Premiers (NEG/ECP)
- The Southeastern US-Canadian Provinces Alliance (SEUS) and the Council of State Governments-Eastern Regional Conference (CSG/ERC)



Nova Scotia-China Relations

- On April 28, 2016 Nova Scotia released Partnering for Success: The Nova Scotia – China Engagement Strategy.
- IGA is responsible for coordinating the implementation of the strategy by aligning its resources and efforts with Nova Scotia businesses and key stakeholders who are advancing Nova Scotia's interests in China.

Nova Scotia-China Relations

The Nova Scotia-China Engagement Strategy

The strategy's three major elements:

- To focus on our competitive strengths.
- To build and strengthen relationships in China.
- To coordinate activities at home and in China.



Nova Scotia – European Union Relations

- In 2015, the EU was Canada's second most important trading partner, after the U.S., with around 9.5% of Canada's total external trade in goods.
- The value of bilateral trade in goods between the EU and Canada was €63.5 billion in 2015.



Nova Scotia – European Union Relations

CETA

- Signed on October 30, 2016 and ratified by the European Parliament on Feb. 15.
- Paves the way for the agreement to come into force on a provisional basis, meaning over 90 per cent of it could be put into practice within months, while the rest must be ratified by individual EU member countries
- Bill in Canadian Parliament expected to receive royal assent soon.
- Expected implementation by June, when the Agreement will be provisionally applied.

Nova Scotia – European Union Relations

The top sectors of opportunity identified in the EU were:

- Seafood
- Agri-food
- Forestry
- Ocean Tech/Cleantech
- Aerospace and Defense
- Information and Communications Technology
- Financial Services
- Transportation and Logistics Activities

Trade Policy

Legal/Constitutional Responsibilities for Trade

Government of Canada

- Constitutional responsibility to enter into international agreements
- Assesses Canada's interests and participation in global trade agreements
- Leads negotiations
- Dispute settlement

Provinces and Territories

- Provinces have shared or full constitutional jurisdiction over key sectors covered by trade agreements
- More direct P/T participation in international negotiations (CETA, TPP)

Rules governing interprovincial trade a joint Fed/Prov responsibility.

Municipalities

- Major purchasers of goods and services
- Covered by many agreement obligations for sub-national entities.
- Vast majority of exporters are small and medium-sized enterprise located in municipalities. These businesses gain from improved market access which could impact company and personal incomes of residents.
- Trade agreements do not take away a municipality's right to regulate

Trade Agreements: Part of the Toolkit for Growing Nova Scotia's Economy

- Nova Scotia has a small domestic market
- Gaining access to foreign markets and investment is critical for generating prosperity from natural resources and other comparative advantages
- Trade agreements help to secure and enhance that access through enforceable rules
 - They create market access for our goods and services by reducing barriers to, among others things, labour mobility, investments, energy, agriculture, and government procurement.
 - Agreements can be comprehensive, covering a number of different topics, or more concentrated, covering individual topics.
 - Each agreement has unique language, exemptions, rules, and requirements.

Shifting Context for Global Trade

- President Trump's vision for the United States' economic and trade relationships presents a complicated economic and diplomatic situation for world leaders.
- President Trump's "America First Trade Policy", focuses on expanding trade in a way that is "freer and fairer for all Americans".
- NAFTA to be re-opened. Scope currently unclear: Tweak? Renegotiate? Withdraw?
- Trade agreement negotiations typically move in the direction of becoming more liberalized. Trump's policy could mean a very different negotiation for Canada.
- Presents new policy imperative to diversify into other markets

Network of Trade Agreements and Negotiations on the Horizon



What to expect in 2017:

- Provisional application of CETA (June 1)
- Entry into force of CFTA (July 1)
- Launch of NAFTA renegotiations (as early as this summer)
- Revival and reformulation of TPP
- Exploratory talks to continue towards FTAs with China and MERCOSUR
- Possible bilaterals with Japan, India, Ireland
- Early discussions on a post-Brexit deal with the UK

Fundamentals of Global Trading System

Freer Trade through Negotiation
Eliminate trade barriers
Promote fair competition

Trade Without Discrimination

General and
Specific
Rules

Disputes and Dispute Settlement

- Disputes are essentially about broken promises.
- Dispute resolution mechanisms are common to all trade agreements - the priority is to settle disputes, not to pass judgement.
- If a government, business or citizen of a government feels aggrieved by the actions of a party in the context of a trade agreement, it may resort to a dispute resolution process.
- The WTO dispute settlement framework has become the blueprint for dispute resolution processes in most other trade agreements.
 - Four phases: consultation, panel hearing, appellate review, and implementation.
- How long to settle a dispute? In practice, it is a multi-year process.
 - Example: Bilcon NAFTA dispute initiated in 2008 (9 years ago)

Implications of Non-Compliance

- Nova Scotia places itself at significant risk when measures violate trade agreement obligations.
- Formal disputes have potential to:
 - Divert resources (including staff time) away from established government priorities
 - Involve significant monetary penalties and loss of dispute privileges (e.g. CFTA)
 - Place punitive measures on key NS exports (e.g. duties)
 - Damage the province's international reputation and interests with other jurisdictions, including the Government of Canada

A trade risk assessment is recommended when a proposed measure:

...discriminates in favour of local individuals or companies to the detriment of non-Nova Scotia individuals or companies. For procurement, this is particularly important for tenders above certain thresholds.

...includes residency or citizenship requirements, or requirements to maintain an office in NS

...requires individuals or companies to meet performance targets (e.g. 'local content', export or import-related requirements)

...provides a direct or indirect benefit or subsidizes specific businesses or groups of businesses (e.g. tax incentives, grants and loans)

...impacts the assets of an individual or business (e.g. zoning, expropriation)

...imposes requirements that could impact labour mobility (e.g. requiring certain credentials to be certified in NS)

...imposes new regulatory requirements that could result in an increased cost to business.

Focus: Trade Considerations for Procurement, Financial Assistance, Regulatory Measures

Public Procurement and Trade Agreements

- Trading partners increasingly demand access to previously protected sub-federal procurement – more than \$100 billion is being spent annually by all governments and MASH
- Commitments have implications for local preferences, limited tendering/sole sourcing and procedural rules for tendering
- As a starting point, all public entities in NS must be aware of the “procurement regulatory framework” within which it is obliged to function
- The *NS Public Procurement Act* requires that all public sector entities tender in adherence with their trade agreement obligations.

Open Tendering Required Above Thresholds

Canadian Free Trade Agreement – Effective July 1, 2017

Goods	\$100,000
Services	\$100,000
Construction	\$250,000

Canada—European Union Comprehensive Economic and Trade Agreement – Effective June 2017 (TBC)

Goods	\$309,000
Services	\$309,000
Construction	\$7,700,000

- Municipalities (MASH) covered by procurement obligations in CETA and CFTA.
- Open tendering required above the thresholds, unless an exception is taken.
- All “evaluation criteria” must be disclosed in the tender documentation
- Limited use of local preferences
- Limited tendering/sole sourcing permitted under certain circumstances, but cannot be done to avoid competition. Must be transparent/reported.
- Bid Protest Mechanism
- Commitment to create a **single point of electronic access** for ALL notices of procurement opportunities

Subsidies and Trade Agreements

- WTO Agreement on Subsidies and Countervailing Measures (ASCM) disciplines the use of subsidies and this has implications for each country's enforcement mechanisms
 - US increasing interest in using trade remedies
- ASCM establishes certain criteria for the existence of a subsidy, namely a financial contribution by a government or any public body within the territory of a member, the existence of a benefit and specificity.
- Key consideration is the extent to which subsidies have trade-distorting effects.
- Financial contribution can mean direct transfer of funds or liabilities (e.g. loan guarantees), government revenue otherwise foregone or not collected (e.g. tax credits) and the provision of goods or services or purchase of goods by a government.

Example: Application of Subsidy Rules to Municipal Measures

Scenario: A city competed with three other municipalities to attract a large US auto parts manufacturer. The City was successful as a result of providing land for free, eliminating property taxes for five years and providing a loan guarantee for building construction costs.

Is this a violation?

1. Is there a financial contribution?
2. Does the financial contribution provide a benefit to the recipient?
3. Will only a single company or industry or a group of companies receive the subsidy? In other words, how specific is it?
4. Is the provision of the subsidy dependent on that recipient's export performance or its use of domestic inputs?

Regulations and Trade Agreements

- All trade agreements protect the right to regulate
- The manner in which regulatory measures are designed and applied matter
- Examples of municipal measures where trade obligations could be impacted:
 - Public Health and Environmental By-Laws (Sanitary and Phytosanitary Measures, Technical Barriers, Investment)
 - Zoning (Investment)

A Balance of Rights and Obligations

- While governments have obligations under trade agreements, the same obligations become rights when Nova Scotia businesses export to external markets. Nova Scotian exporters benefit from the protection of the trade agreement in the external market.
- Rights in trade agreements also include the right to protect against unfair trade practices or unforeseeable circumstances that result from the application of trade agreements.

Nova Scotians benefit from a competitive trading environment when NS goods and service providers have better market access abroad and risks from non-compliance are minimized.

Thank you!

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