

## Provinces Want Trade Role Outlined in Writing

(Embassy – Carl Meyer)

The provinces and territories have never been able to unite on such a policy until now, say analysts, for a host of reasons

For the first time, the provinces and territories have agreed to sign on to a policy that seeks a framework with the federal government codifying their involvement in international trade talks.

The Council of the Federation released its provincial trade strategy, *Canada in the Global Economy*, two weeks ago during its annual meeting, with much of the press coverage focused on the federation's planned joint trade mission to Asia.

But analysts say just as important is the fact that the provinces are now ready to negotiate a deal with the federal government that would establish in writing how provincial and federal officials interact during trade deals.

"Premiers have committed to develop a framework agreement with the federal government concerning the role of provinces and territories in the negotiation of international trade agreements that concern matters under their jurisdiction," reads the document.

In the past, governments at the sub-federal level have found little success trying to organize such a unified push, for myriad reasons. As a result, provinces have been kept on the sidelines in trade deals, and provincial officials haven't been in the room for negotiations, participated in negotiating groups, or met one-on-one with foreign officials.

Recent deals, however, have rendered this norm obsolete. For example, the European Union wanted provincial and municipal procurement in its trade deal with Canada, and provinces have subsequently been sitting at the table. As well, in 2010, the federal government allowed US firms for the first time to bid on provincial or municipal procurement contracts for a temporary period.

At the same time, analysts say trade deals themselves have changed. They are now much more comprehensive and involve many more non-tariff barriers, many of which fall under provincial jurisdiction. And there have been other shifts, such as in how the federal government is liable for trade issues, as well as a new post-recession alignment of provincial interests in areas like education. The federal government itself has also started acknowledging the increased role of provinces and territories.

But analysts warn that this push is still nothing but talk, and will all depend on how much the federal government is willing to play ball going forward. As well, by expecting new responsibilities at a time when the federal government is looking to cut, some say this could be the beginning of a period where federal trade responsibilities are downloaded to sub-federal governments or privatized outright.

Why a strategy existed before

The Constitution hands the federal government jurisdiction over trade and commerce, according to a Library of Parliament briefing note released in the spring, which means that provinces have traditionally been consulted only in an advisory role.

Ottawa already consults with provincial representatives several times a year through a mechanism called the Federal/Provincial/Territorial Committee on Trade, or C-Trade. The two levels also meet informally through ad hoc discussions, says Christopher Kukucha, a provincial trade scholar and University of Lethbridge professor who has written a book about the role of provinces in trade policy.

Some provinces have also long had input into federal talks through federally-organized trade missions, such as the "Team Canada" missions organized by the Chrétien government where provinces were invited to join. Larger provinces have also operated their own trade offices and run their own provincial trade missions for years.

But until now, the provinces have not wanted an agreement that would "describe the opportunities for full provincial and territorial participation and include provisions concerning their involvement in the negotiation, implementation and governance of international trade agreements, as well as the conditions related to provincial and territorial commitment to support those agreements prior to their signing," as the document reads.

Mr. Kukucha says if this type of arrangement were hammered out with the federal government, it would represent an unprecedented degree of co-operation amongst provinces and territories. "I think the [Canada-EU] negotiations have really brought a lot of the provinces together," he said. "The federal government has given them a lot more input into these negotiations, and given them a lot more responsibility in terms of the specifics."

Provinces have never developed a coherent trade strategy until now, for several reasons. Smaller provinces have never had the bureaucratic capacity to operate full-fledged trade operations, said Mr. Kukucha. At other times, he said, provinces have gotten cold feet, fearing they would lose their voice among larger counterparts who could muscle in and have the final say.

As well, provinces have always known that the federal government has been wary of including provincial representatives, said John Curtis, a former chief economist for the Trade department, as the feds feared having too many disjointed voices at the table. More generally, provincial interests have never really aligned, argued Mr. Curtis. For example, some provinces have giant natural resource industries while others have economies based on manufacturing and services, and those two jurisdictions require different strategies. As a result, there needed to be some overarching reason to unite.

That reason came in the form of several developments in the last couple years. One has been jurisdiction: When sub-federal issues arose in the past, the federal government insulated itself by throwing a "federal clause" into agreements, says the parliamentary brief – one which told foreign partners that the government would work with the provinces after the fact, but couldn't guarantee anything. But now, trade partners are increasingly saying that's not good enough, as evident in the EU and the U.S. deals.

The parliament brief also notes that the announcement in August that AbitibiBowater would be paid \$130 million by the federal government in return for Newfoundland and Labrador's expropriation showed that issues surrounding federal liability in trade are rapidly evolving.

Mr. Curtis argued another major reason for the provinces wanting to wade into federal trade is that deals are increasingly becoming "comprehensive" and include issues like investment, securities, financial services, regulation and education – what's known in trade jargon as "behind the border" because these differences are usually not worked out at border posts like tariffs. And while tariffs are a federal responsibility, non-tariff barriers are often provincial responsibilities and require provincial input.

"The border's only one aspect of international trade now," Mr. Curtis said. "The provinces either share responsibility, have exclusive responsibility, or wish they had responsibility for a lot of these matters. So they're playing."

Dan Ciuriak, former deputy chief economist at the Trade department, also argued that since most traditional border measures have been "whittled down to a minimum," the behind-the-borders issues have moved to the forefront. The federal government needs the provinces onside to make progress in these areas, he said.

The federal government has also begun citing provincial trade officials in its federal strategy documents. The 2010-11 Report on Plans and Priorities, tabled in June, states that "provinces, territories and municipalities will continue to be consulted actively on Canada's trade agenda and on areas of shared interest such as investment attraction and promotion of Canada's international business success."

This is the strongest reference so far to such active consultations in the department's strategy and planning documents. The previous year's document says Canada's diplomatic efforts would include "utilizing provincial expertise in specific areas of interest to the provinces to advance Canada's overall international policy," but does not speak to active consultations.

#### Other issues and potential pitfalls

The provinces are also moving to unite on other issues on which they have been unable to co-ordinate for years. For example, some economists have decried what they feel is a severe under-spending on the part of governments to beef up the transportation networks that move Canadian goods to land, sea and airports for export.

They have argued that trade prosperity is built in large part on more innovative infrastructure than Canada currently has, especially given the country's size, thin and stretched population, and unique orientation next to three oceans and the massive land border with the U.S.

Mr. Ciuriak believes it was useful for the premiers to include a statement on expanding Canada's physical infrastructure and gateway policy to accommodate the flow of people and products.

"Our international trade logistics do not rank at the top of the list globally, and having first class logistics is important for a highway country with a strong currency to help manufacturing survive," he wrote in an email. "All of Canada's big infrastructure projects, starting with the trans-Canada railway, the St. Lawrence Seaway, the Dempster highway...have involved big-time public support."

Another area, he said, was education. Some governments like Australia have pushed hard for an education strategy. Sunaina Singh, president of the education-focused Shastri Indo-Canadian Institute, has argued that because of its fragmented approach to the sector, Canada is at a disadvantage when it comes to educational marketing in places like India. Mr. Ciuriak said it is notable the provinces as a whole recognize the sector has important future links to trade.

But the path forward for provinces is anything but clear.

For example, analysts say the federal government's willingness to downsize to pay down the deficit could have an impact on the future of federal-provincial trade collaboration.

With the government moving to cut the public service and departments undergoing strategic reviews, presenting a strategy to take on written responsibility at this time might just be what an axe-wielding federal government is looking for, said Mr. Kukucha.

"Frankly, under a Conservative government, a lot of that could be spun off by the feds if they wanted to save money," agreed Mr. Curtis. He speculated that different trade talks could call for different configurations. Talks with a government such as China, he said, might require federal or provincial trade ministers, whereas talks with other countries like the US could be privatized. Federal trade commissioners might be in the sights of frugal-minded federal officials, too.

More generally, Mr. Kukucha noted that the strategy does not speak to how far the provinces would be willing to go to see such an agreement with the federal government materialize. "This will not necessarily be an easy outcome, and in many ways has as much to do with Canadian federalism and federal-provincial relations as it does with international trade," he said.

Mr. Curtis also stressed that how the provinces and territories ultimately play into international negotiations in a permanent way is not set in stone. For example, he argued, there's no guarantee the model developed for the Canada-EU talks could become the model in future large-scale negotiations, and indeed the Canada-India talks do not yet seem to be taking such a format.

The question now will be how the federal government will move to further tackle these behind-the-border issues while still holding the levers of power when it comes to trade, said Mr. Ciuriak.