

Weaker bank rules part of Canada-EU trade talks

The Canadian Press Posted: Feb 27, 2013

A leaked draft of part of the Canada-Europe trade talks shows that Canada's vaunted banking system is on the negotiating table.

The Canadian Press has obtained the Feb. 1 version of the services chapter of the Canada-Europe trade deal that Europe has circulated to its member states.

It shows Canada is struggling to maintain the traditional stringent standards it imposes to ensure financial stability and protect financial services in Canada from foreign control.

"EU does not want to exclude financial services from the scope of performance requirements," says notes written into the draft text.

The documents also show Canada is resisting European Union attempts to weaken oversight of financial institutions — leading to a heavily contested text that is one more obstacle to completing an agreement with Europe soon.

Both sides want more access to each other's financial services markets.

For Canada, the European market is a huge opportunity for big insurance companies located mainly in Ontario. And Germany in particular has been pushing for more financial services opportunities in Canada.

But the documents show Canada is taking a cautious approach, and will only allow a more open market if Canadian authorities can block business activity that would put the financial system at risk. Canada's caution is bumping up against an aggressive European drive for investor protections that have no strings attached.

Canada wants the text to say: "A party may prevent or limit transfers ... through the equitable, non-discriminatory and good-faith application of measures relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions or cross-border financial service suppliers."

Deal to be model for other EU agreements

But that section of text is in bright red, indicating — like much of the financial services portion of the agreement — that the EU has not yet agreed.

"What the (European) Commission is doing: it feels obliged to wrestle Canada down," said Jan Kleinheisterkamp, a senior lecturer in the law department of the London School of Economics, who follows the investor-protection discussions closely.

Canada also wants to set up a special mechanism that would have governments resolve any disputes that arise from new forays into each other's financial services sector.

The draft shows the EU is somewhat open to a version of this idea, but has deep reservations for fear Canada will use the mechanism as an excuse to block legitimate European investment. European officials have not agreed to many parts of the Canadian text in this area.

"EU has concerns about the potential for abuse of such a provision if it were to be used for reasons which are not prudential," notes to the draft text say.

"EU has concerns about the possibility to backtrack on GATS commitments," the notes add, referring to the general agreement on trade in services, a World Trade Organization agreement that Canada and the EU have both signed.

The European objections to Canada's cautious approach have to be understood in a broader context, said Kleinheisterkamp.

The EU member states want the Canada-EU agreement to serve as a model for other comprehensive trade and investment agreements,

he said. So they want investor protections in the Canadian deal to be as "clean" as possible, with no strings attached.

"Why is the (European) Commission pushing so hard for this? ... It's probably because that will be the template for so many agreements negotiated afterwards," Kleinheisterkamp said in an interview.

Talks come at 'strategic moment'

"This is a strategic moment because the EU is setting out its emergent investment policy."

At the same time, Europe should realize that for Canada, tinkering with the financial services sector will not be well received, he added.

That's because the federal government speaks frequently about the strength of Canada's financial services, boasting about the oversight that allowed Canada to avoid the worst of the global financial crisis that is still undermining Europe's banks.

"What is clear is that for Canada, it is a very important issue. But the EU does not want to accept a lower standard" of investor protection for its financial services companies, said Kleinheisterkamp.

In Ottawa, a spokesman for International Trade Minister Ed Fast would not discuss the draft text, but said Canadian insurance companies would have a lot to gain from better access to the European market.

"The strength of Canada's financial institutions throughout the most recent global economic crisis reflects the strength and soundness of Canada's regulatory framework," spokesman Adam Taylor said in an emailed statement.

"In fact, for five straight years the World Economic Forum has said Canada has the soundest banking system in the world."

"The process of negotiations continues to unfold. Progress has been made in several of the areas that remain outstanding; however, further important work remains to be done. As in all negotiations, nothing is agreed to until everything is."

The opposition NDP said it will be watching closely to ensure Canada does not give an inch on financial services regulations.

"Canadians are rightly proud of their strong financial services sector," said trade critic Don Davies.

Canada and Europe had both hoped to sign the comprehensive trade deal by the end of last year, but have still not yet reached agreement on key issues such as drug patents, beef, pork, procurement, investment and automobiles.

Talks continue this week in Brussels.