

Canada-EU Trade Deal Could Require National Securities Regulator

Provinces are opposed to a single regulator, but Europe is looking for a bilateral securities agreement, which might make one necessary.

By Lee Berthiaume

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While Canadian officials are eyeing the beginning of May for the launch of formal trade agreement talks with the European Union, there are still jitters over whether the provinces really are on board.

In addition to the highly sensitive issue of opening government procurement up to outside bidding, experts and officials say Europe will likely be looking for a bilateral securities agreement, which could require a single national securities regulator in Canada.

"It's quite a recent issue arising from the financial crisis," said Stanislav Benes, commercial counsellor at the Czech Embassy. "So that is probably an additional issue. I wouldn't really base the negotiations on that one, but it is one of the issues that is going to be discussed."

Last week, Trade Minister Stockwell Day was in Prague to meet with Czech officials—an attempt to meet with new EU Trade Commissioner Catherine Ashton was unsuccessful—in an effort to hammer out a date to officially begin talks on what is being billed as a comprehensive economic agreement with the EU.

Following the meetings, Mr. Day said he was confident talks would be launched in early May at the next Canada-EU summit in Prague. The Czech Republic assumed the EU presidency on Jan. 1 and is pushing for a "Europe without barriers," including increased trade liberalization.

According to Jason Langrish, executive director of the Canada-Europe Roundtable for Business, an industry group which has been pushing hard for an economic agreement, the two sides are looking at May 6 for the start of talks, a date confirmed by Mr. Benes.

Yet everyone agreed a great deal of work still needs to be done before any real negotiations can start. EU officials are in Ottawa this week for the third "scoping exercise," which involves trying to hammer out exactly what will be discussed.

All sides hope this will be the last scoping exercise required, at which point Canadian and European officials will turn to their respective governments to get a negotiating mandate. Whether things will go according to plan is another question.

"[This] week there should be here in Ottawa the third round of the scoping exercise, which hopefully will be a final one, if everything goes well, which means both sides agree to most of, if not all of the issues that have been put on the table," Mr. Benes said. "Then we can proceed to the next stage, which is the securing of a mandate on both sides.

"The time is the issue and there still could be some hiccups on the way, so to speak," Mr. Benes added. "For the mandate to be finalized on the EU side, all 27 members have to agree with that, and you can imagine that takes some time.

"We are now in the middle of January, and if we are talking about the middle of May, there is not much time left for procrastination."

In a call from Prague with reporters on Friday, Mr. Day was more confident, saying that "without timelines and deadlines, projects have a tendency to drag on, and that's why we've got an agreement now with the deputy prime minister that this should be a realistic goal to shoot for and it's attainable."

The trade minister acknowledged some EU members are more interested in an economic agreement with Canada than others.

"There's 27 of them and I think it's fair to say there's a variety of scales of eagerness in terms of moving into this," he said, though he added the global financial crisis is actually strengthening interest in a deal.

Provinces Still 'Evergreen' Issue

In addition to continued divided interest at the European Union in launching trade talks with Canada, EU members remain uncertain of assurances Canada's provinces are truly on board.

"One of the evergreens, if we can put it this way, is the level of obligation of the Canadian provinces," said Mr. Benes. "There have been a few assurances from the Canadian side that the provinces are now more [interested] than ever before, but still we feel there has to be a firm commitment in some way of written clause or whatever that will endorse this statement."

Mr. Benes said the clause should be included in the eventual agreement to make it legally binding.

"The European Union has to be sure what is agreed upon we will be able to enforce as regards to provincial [jurisdiction]," he said. "Whatever the federal government signs as an agreement has to be somehow possible to enforce on the provincial level also."

One potential hold up could be over a bilateral securities deal.

Mr. Langrish said that as things stand now, investors have to ensure they comply with security regulations in both jurisdictions when doing trading or raising capital, "and that's quite a costly process."

If Canada had a single, national securities regulator, "We would then be able to negotiate a bilateral securities agreement with the European Union," he said.

"What would happen then is if we can recognize each other's process for regulating securities as—even if the process is different—the outcomes being equivalent. So what that would mean is an ability to share sensitive information, which is always invaluable in terms of evaluating whether or not there's been fraud or what have you."

Finance Minister Jim Flaherty has indicated his plans to push ahead with implementing a national securities regulator to cope with turmoil in the world's financial markets. Canada is the only G7 country that does not have a national regulator.

However, a number of provinces have put up significant opposition to such a move, with Alberta and Quebec saying they will take the matter to court if necessary. At the same time, Quebec Premier Jean Charest and his government have been the most active in trying to secure a Canada-EU economic agreement.

While acknowledging Europe's interest in a bilateral securities deal, Mr. Benes said the matter is not likely one that would scuttle talks before they get off the ground.

Mr. Langrish agreed, though his optimism was more rooted in the feeling the federal government will succeed in establishing a national regulator before Canada-EU talks are completed.

"There's other ways you can work around it, but it seems kind of silly if we're getting close to having a single securities regulator," he said. "This agreement isn't going to be closed for at least two years. There's a good chance we'll have a single securities regulator before then, or something like it.

"The only thing that would really scuttle the deal is if provinces say there's no way in the world they're going to open up their government procurement."

Mr. Day said he was asked about provincial interest in the Canada-EU economic deal during his visit to Prague, but he also downplayed any significant concerns.

"At this stage, and what I'll present over the next couple of months, is a note of intention from the provinces saying 'Yes, we are looking forward to being part of a free trade agreement. At this stage we don't need to get down to the real nitty gritty items,'" he said.

"What we'll have from the various provinces is a clear intention that they want to see at the federal level the discussion move on. And especially in areas of provincial jurisdiction they know that we consult and talk with them closely."