Valitas Insights: CETA: Sparking an Increase in Cross-Border M&A

The subject of trade agreements has been grabbing plenty of media space in recent months, with NAFTA (and its related uncertainty) occupying the lion's share. BUT…

This week, our focus is on the Canadian - European Union Comprehensive Economic and Trade Agreement (CETA). CETA received Royal Assent on May 16, 2017, and opens a gateway to increased cross-border trade and investment, including, of course, M&A activity. On implementation, the agreement will immediately eliminate 98% of EU tariffs, as well as many non-tariff barriers, yielding significant cost savings and competitive advantage for Canadian exporters of goods and services.

A recent article by Mario Nigro and Eric Bremermann, of leading law firm, Stikeman Elliott, describes CETA as a catalyst for cross-border M&A. We were fortunate to speak directly with Mr. Nigro, who is a partner in Stikeman's M&A and Private Equity & Venture Capital Groups.

Valitas: A recent Parliamentary Budget Officer report projected that CETA would produce "modest" economic gains for Canada. Do you agree? Where do you see CETA having the greatest impact?

MN: Even though the EU is Canada's second largest export market, in value, it represents only about 10% of what Canada exports to the U.S.. So it's reasonable to expect that the direct positive impact on trade will be modest, relative to Canada's total exports. The real success for Canada would be realized through an increase in the number of companies that physically set up shop here.

Valitas: In your article, you note that CETA will impact inbound M&A in Canada for a couple of reasons: (i) through its preferential rules for direct investments by EU companies in Canada and (ii) by positioning of Canada as a "gateway". Could you elaborate on the latter point?

MN: With CETA and NAFTA, Canada will have preferential access to the EU and the U.S., so companies can set up shop here in Canada to access these markets. We expect that over time, there will be increased M&A activity between the EU and Canada, and also between the U.S. and Canada, as U.S. companies seek greater access to the EU.

Valitas: The U.K. is Canada's largest EU trading partner. What are the trade implications of the U.K. exiting the EU?

MN: We believe that the U.K. won't want to put itself at a trading disadvantage with Canada. Our expectation is that we are likely to see a bilateral Canada-U.K. pact that harmonizes with CETA.

Valitas: I know it's early days, but how much CETA-related activity are you seeing in your M&A practice?

MN: We are already seeing interest in doing more in Canada, specifically in sectors with high pre-CETA tariffs like agribusiness and automotive, where tariff elimination will translate into substantial cost-savings. Keep in mind, though, that we're at an early stage. At this point, investors are recognizing the opportunity, but there won't be an immediate impact on deal activity. The real impact will be seen over the next three to four years.

So yes, it's still early days, but…

"CETA puts Canadian companies in the M&A driver's seat – and the road is wide open."[1]

[1] *Ceta – A Catalyst for Cross-Border M&A*, Stikeman Elliott LLP.