The City of Toronto adopts a tariff response plan restricting some government procurement to Canadian companies

March 28, 2025

On March 26, 2025, the city council of the City of Toronto (the City) unanimously adopted Mayor Chow's 10-point plan (the Plan) to respond to U.S. tariffs. Two points come into contact with international trade considerations.

Proposed measures

First, procurement.

The Plan proposes the following changes to the City's procurement practices:

- Limiting bidding on certain City contracts to Canadian companies for values below approximately $350,000 for goods and services and $8,800,000 for construction;
- Prioritizing Canadian and non-American suppliers by granting preference to business from Canada, the European Union (EU), and the United Kingdom (UK) in competitive procurement;
- Empowering the City to disqualify US-based suppliers from bidding on competitive procurement when it serves the City's best interests;
- Expanding procurement from the City and the Greater Toronto Area suppliers to boost the local economy;
- Instructing senior staff in City Divisions that heavily depend on US-sourced suppliers to develop alternative procurement strategies, in partnership with other municipalities where possible, and report back to the City Manager in 90 days; and
- Encouraging City agencies and corporations to adopt similar policies wherever feasible.

Second, reducing reliance on U.S. trade.

The Plan proposes launching promotional campaigns for the City's manufacturing and industrial sector as well as partnering with Toronto-region municipalities and the Government of Ontario to reduce reliance on U.S.-based suppliers, amongst other actions.

What about our trade agreements?

Given the wholesale violation of trade agreements by the U.S. in imposing or threatening to impose wave after wave of tariffs on Canadian imports, it may be somewhat quaint to worry about "trade obligations" in Canadian responses to those tariffs. Trade agreements are relevant in procurement matters because federally and in some provinces, domestic procurement reviews incorporate Canada's international trade obligations.

Also because, as Canadians, we like to do things by the book.

For procurement issues, two trade agreements are relevant as between **Canada and the United States**, and neither applies to the City's measures. The Canada-United States-Mexico Agreement (CUSMA), which entered into force in 2020, does not govern government procurement. The World Trade Organization Government Procurement Agreement (GPA), in turn, does not apply to municipalities.

The City is, however, subject to both the *Canada-European Union Comprehensive Economic and Trade Agreement* (CETA) and the *Canadian Free Trade Agreement* (CFTA); each has anti-discrimination provisions for contracts above certain **thresholds**.

The City's plan to restrict bidding to Canadian companies for contracts valued under approximately $350,000 for goods and services and $8,800,000 is exactly in line with the thresholds set out in the CETA for covered procurement. This means that the City's plan to restrict participation to Canadian companies on contracts below certain values would not engage CETA's anti-discrimination provisions, which only apply to covered procurement above the thresholds targeted by the City. The City's definition of "US business" will influence the extent of its prohibitions, potentially leading to claims under trade agreements.

Preliminarily, the prioritization of Canadian businesses and those from the EU and the UK is unlikely to run afoul of the CETA anti-discrimination provisions as those rules only apply to Canadian, EU and UK businesses. That said, the specifics of the Plan have yet to be published and as such it is difficult to fully assess their compliance with the CETA and the CFTA. The situation remains fluid; we will continue to monitor the space.

By

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