



Presentation to the Law Amendments Committee
Nova Scotia Legislature
Tuesday, November 29, 2011
Re: Bill 102

Trade Union Act (amended)

An Act to Prevent Unnecessary Labour Disruptions and Protect the Economy by Amending Chapter 475 of the Revised Statutes, 1989, the Trade Union Act

Representatives:

Ann E. Janega
Vice-President, CME Nova Scotia

Shawn Levangie
Chair, CME Nova Scotia
President, Trail Blazer Products Ltd.

Canadian Manufacturers & Exporters is a non-governmental industry association representing the interests of Canadian manufacturers for more than 140 years. Here in Nova Scotia, manufacturing is alive and well and provides high value employment for approximately 34,500 Nova Scotians. That's close to 8% of total Nova Scotia employment.

Members may be surprised to learn that our manufacturers sold \$9.7 Billion worth of goods in 2010 including sales to 163 countries outside Canada. This is an 11% increase over 2009.

Nova Scotia's exports totaled \$4.4 billion last year - over 35% of Nova Scotia's manufacturing production is sold outside Canada.

While Nova Scotia's GDP grew by 2.1% in 2010, manufacturing led the way with a 6.8% gain.

With me today is our Board Chair Shawn Levangie who offer the perspective of one of these firms providing employment in our province.

CME has provided some earlier feedback about the Bill under discussion and other recent changes to the Trade Union Act. Our letter, sent to the Minister and the Labour Management Review Committee outlines our concerns including:

- The absence of a driving reason for this provision. i.e. We are fortunate to have a good labour climate in NS
- Process
 - Short notice for study day
 - The absence of non-union participation on LMRC
 - Even 'though the LMRC provided a 'split' recommendation, and despite complete opposition from the business community – this Bill appears to be proceeding on a 'rush' basis

These concerns are outlined in our attached letter and have been endorsed by most other employer groups.



I'd like to provide CME's position on the choice of *First Contract Arbitration/Settlement* models.

CME views the model selected (Manitoba) as the worst possible scenario for harmonious labour relations.

- Bill 102 follows the unique Manitoba approach to first contract arbitration (FCA). Less than four per cent of the Canadian population lives in jurisdictions with this model of FCA. In following the Manitoba model, Bill 102 removes the necessity and opportunity of reaching a settlement or a serious impasse on that first critical contract. It removes any threat of strike or lock-out – a necessary aspect of bargaining. Bill 102 provides that 90 days after certification a party can apply to have an arbitrator appointed to impose a settlement of any outstanding issues. This can happen regardless of how the negotiations are proceeding. No finding of bad faith bargaining is required.
- The majority of collective agreements require an average of 12 months to renew an agreement - let alone create the first one. These facts are set aside in the Manitoba model in favour of an imposed rush to agreement after only three months.
- While Bill 102 does provide the parties with an offer of information and education on the collective bargaining process, the clock continues to tick through any education process. Mediation is not an option provided by Bill 102.
- Bill 102 instructs the arbitrator to fill in the blanks where the parties have not reached an agreement. The arbitrator is instructed to use terms and conditions of existing collective agreements, not current labour market conditions as guidance for completing the new collective agreement.

It is our contention at CME that any change in labour relations legislation should focus on helping the two parties reaching a collective agreement on their own – the principle of free collective bargaining.

We request that members of the Law Amendments Committee accept the concerns put forward by CME and other employers of the 34,500 manufacturing employees in Nova Scotia. Government should focus on the priorities of economy and jobs.

Thank you for your consideration and the opportunity to provide input. My colleague Shawn Levangie, a committed entrepreneur and former Exporter of the Year, will offer additional comments.

Attachment: CME Letter to the LMRC,
November 4, 2011



**Canadian
Manufacturers &
Exporters**

Nova Scotia Division

November 4, 2011

Labour Management Review Committee
C/O Labour and Advanced Education
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Dear Committee Members,

On behalf of the members of Canadian Manufacturers & Exporters, I would like to convey our serious concerns regarding First Contract Settlement, (FCS) also known as First Contract Arbitration (FCA) as well as the role of the *Labour Management Review Committee* (LMRC). As outlined previously by CME and other employer groups, we would like to highlight our suggestions on alternative constructive areas of engagement for the LMRC.

As noted at the time of the new legislation, CME has a serious concern related to the creation of the LMRC and the decision to prohibit the full and direct participation of nonunionized employees. At that time, we were given assurances that the LMRC would be primarily dealing with labour relations within unionized workplaces. Knowing this, we were taken aback when we learned the first issue put to the LMRC was that of First Contract Arbitration/Settlement, which impacts only non-unionized employees and employers. This represents 85 per cent of the workforce. CME appreciates the Government's amendments to Bill 100 to require the LMRC consult with non-unionized stakeholders. However, we are still far removed from the process. i.e. The formal body government is looking to for advice remains one that is not representative of Nova Scotia's

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workplaces. We contend that the LMRC cannot fully understand the consequences of its recommendations on those non-unionized workplaces.

CME is attempting to do our part to participate in the process that has been presented to us. For example, CME joined other employers and employer organizations in attending the study day organized by the LMRC. (Note that a longer lead time on the notice may have resulted in even greater participation by both employers and LMRC members) We believe this was a useful and informative process.

We have attempted to reach out to the employer LMRC members and to share concerns and suggestions. We have also requested meetings with LMRC. Finally, we have raised our concerns directly with the department. In all of these forums, we have not been provided with a satisfactory rationale for why *First Contract Settlement/Arbitration* is needed in Nova Scotia. As we have heard repeatedly, Nova Scotia enjoys a harmonious labour environment, experiencing one of the fewest numbers of lost days due to strike and/or lockout in Canada. We understand that since 1998, the Labour Board has only issued three orders to bargain. In fact, officials from your department report that in most cases agreements are negotiated amicably and should this not be the case, the department has an exceptional track record with conciliation and mediation services. The *Trade Union Act* already requires employers and unions to make "every reasonable effort to conclude and sign a collective agreement" (s. 35). The Labour Board also has the power to effectively impose a collective agreement by requiring an employer to remove bad faith bargaining proposals that stand in the way. Further, amendments made under Bill 100 to the preamble of the *Trade Union Act* underscore the importance of free collective bargaining.

First Contract Settlement/Arbitration is not free collective bargaining.

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We strongly believe that the foundation for effective labour relations is built through negotiation – not through imposed agreements.

Given that FCS/FCA does not appear to address a specific problem with labour relations in Nova Scotia and that there are other tools at government's disposal to deal with rare circumstances, it is both confusing and disappointing to see valuable time and resources being devoted to this issue, particularly when there are many more pressing issues facing Nova Scotians. It is our belief that introducing FCS/FCA will only add to an already uncertain environment at a time when government should be focused on fostering economic stability, improving productivity and overall competitiveness while taking measures which strengthen business optimism.

First Contract Settlement/Arbitration is widely-viewed as a measure aimed at making certification easier by altering the risks and rewards for the parties entering into a new relationship.

For all of these reasons, we strongly oppose the consideration *First Contract Settlement/Arbitration*. We believe it is unnecessary.

The mandate of the LMRC is to improve labour relations in the province. The choice of FCS/FCA as its first priority is sending the message to our province's job-makers that their priorities and challenges are not shared or understood by government. That said, we support the LMRC in pursuing its mandate, specifically as it relates to unionized workplaces –the workplaces represented by those on the committee.

We believe there are higher priorities and more constructive issues the LMRC can explore, including:

- Evaluating our labour relations experiences, including the performance of the Labour Board and establishing best practices and benchmarks.
- Reviewing the role of conciliation services with a view to providing support earlier in the process of negotiation of a first collective agreement.
- Exploring whether the *Trade Union Act* should give the Labour Board ability to make interim decisions.

Nova Scotia is experiencing an uncertain future. Economic growth and even stability are not a given. We must create attractive jobs and a tax environment that encourages business creation and expansion. We must create an environment of opportunity that provides young people a choice of remaining in our province. We must be more productive and encourage businesses to make new investments. We join other Employer groups and individual employers in asking:

- Will *First Contract Settlement/Arbitration* contribute to better economic performance or economic stability in Nova Scotia?
- Will it encourage people to stay in Nova Scotia or businesses to expand and invest?
- Does it improve the situation for Nova Scotians working in unionized workplaces?
- Does it establish a respectful labour relations environment?
- Is there evidence that indicates introducing *First Contract Settlement/Arbitration* helped other provinces make strides in any of these areas?

We ask that the Government seriously consider these questions, as well as the alternatives outlined above for ways we believe the LMRC can make a meaningful contribution to labour relations in Nova Scotia.

We respectfully ask that the Labour Management Review Committee consider this information and recommend against the introduction of *First Contract Settlement/Arbitration* in Nova Scotia. It will not improve labour relations.

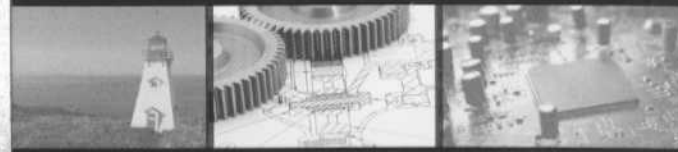
Sincerely,



Ann E. Janega
Vice-President

Canadian Manufacturers & Exporters
Nova Scotia Division

CC Mr. Shawn Levangie, Chair CME Nova Scotia
Mr. Robert Patzelt, Q.C., Executive Member, CME



Manufacturing is Canada's largest business sector. It directly accounts for 18% of all economic activity in the country and provides jobs for 2.3 million Canadians.

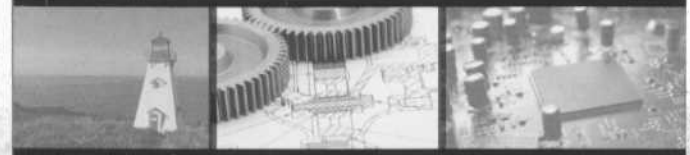
**Manufacturing is the anchor of
Nova Scotia's economy.**

Nova Scotia 20/20 examines the economic impact of manufacturing in Nova Scotia and looks at the specific challenges and opportunities facing Nova Scotia's manufacturers. Findings from the report include:

- Manufacturing is a \$2.4 billion dollar industry in Nova Scotia
 - 24.5% of Nova Scotia's labour force is directly & indirectly employed in manufacturing
- Manufacturing jobs pay 14.3% more than the provincial average
- Manufacturing has consistently provided over 10% of Nova Scotia's total GDP for the past twenty years
 - 48.8% of total provincial exports are from manufacturing sectors: food, transportation equipment, paper products and other manufactured goods.



To view the entire report, please visit:
www.cme-mec.ca/pdf/ns2020.pdf



The success of the manufacturing industry will rely on its ability to respond to the challenges and opportunities that lie ahead.

Nova Scotia's Manufacturers Must:

- Remain innovative and flexible
- Continue to implement process and system improvements

Workers & Labour Groups in Nova Scotia Must:

- Work with manufacturers to promote jobs and opportunities within Nova Scotia

Nova Scotia's Schools & Colleges Must:

- Provide flexible training for businesses
- Assist manufacturers in finding, hiring and training employees

Economic Development Agencies Must:

- Assist manufacturers with the programs they need to compete internationally

Government Leaders Must:

- Recognize the economic impact of manufacturing to employees and to the province of Nova Scotia
- Create conditions to encourage competitiveness and business growth through exports and investment



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