



TACTIX Government Consulting Inc. prepares Commentaries on developments within the Government of Canada that we believe will be of interest to, and potentially affect the business objectives of, our clients. This Commentary examines what has transpired to date in the fall of 2007 and looks ahead to the implications that today's activities in Ottawa may have on tomorrow.

1. An Election if Necessary, But Not Necessarily an Election – The Speech from the Throne

Prime Minister Harper's second Speech from the Throne (SFT) delivered on October 16, 2007 bore some similarities to his first but also signaled a notable difference. Familiar was the affirmation of the Conservative Government's chosen brand as decisive, focused, and capable of delivering concrete results. Focus, action and results permeate the document. Also familiar was the unstated, yet clear, objective of inflicting as much damage as possible on the Liberal Party of Canada and ultimately forming a Conservative majority government. To that end, the SFT served as the launch-pad for several much-publicized efforts to embarrass Liberal leader Stéphane Dion and raise questions in the minds of Canadians about his leadership abilities.

Where the October 2007 SFT differed from its predecessor was in its outline of the government's agenda. Whereas the Harper government set out five specific objectives in its 2006 Throne Speech, the new SFT demonstrated a move away from five narrow priorities and toward five broad categories of policy focus, namely: (1) strengthening Canada's sovereignty and place in the world; (2) strengthening the federation and our democratic institutions; (3) providing effective economic leadership for a prosperous future; (4) tackling crime and strengthening the security of Canadians; and (5) improving the environment and health of Canadians. Each of these areas casts a wide net into which numerous policy and legislative initiatives could be captured.

The government's shift from the very specific to the broad signals at least two important things. First, it is a sign of a political team having gained some maturity in government. Having a deeper understanding of the complex challenges of office and experience dealing with tough issues that cannot be planned for but which must be managed confidently as they arise in the course of a government's life leads naturally to a desire to build in as much flexibility as possible to respond.

Second, moving from the specific to the broad demonstrates a government that is prepared to settle in for “the long haul” if necessary. The first Throne Speech had a built-in “best before date” that expired within 18 months of the January 2006 election. The original, limited policy agenda of definable and achievable objectives was chosen by the Harper Conservatives for a clear strategic reason – electoral marketability. However, running out of “script” without an election in the offing was unsustainable. Accordingly, a longer-term plan – the new Throne Speech – was needed to carry the Harper government, if necessary, to October 2009, the legislated last possible date of the next election.

(A) What Made it into the Throne Speech?

Each of the five “buckets” included in the SFT contain specific initiatives that can be expected to surface over the next 12-to-24 months, assuming an election does not intervene. Canada’s business community is advised to keep a particularly close watch for developments relating to the items set out in the box below.

Throne Speech Items of Interest to Business

- Use the federal trade and commerce power in the Constitution to make it easier to move goods and services across provincial borders.
- Broad-based tax relief for individuals, businesses and families.
- Support researchers and innovators in developing and bringing new ideas to market.
- Protect intellectual property rights, including copyright reform.
- Invest in transport and trade hub infrastructure through the Building Canada Plan.
- Support workers in key sectors of forestry, fisheries, manufacturing and tourism.
- Provide a single window for major project approvals for the mining and resource sectors.
- Introduce measures to curb identity theft.
- Build new arctic patrol ships.
- Institute binding national regulations on GHG emissions across all major industrial sectors.
- Establish a carbon emissions trading market.
- Introduce measures on food and product safety.

(B) What was Noticeable by Its Absence?

A government's philosophical underpinnings and principles can be revealed as easily by what is not included in its throne speeches as by what is. In this case, a picture was drawn of a government interested in establishing clearer boundaries between what the federal government does and what provincial governments do. For example, the SFT was silent on specific agenda items relating to Canada's cities. While infrastructure funds, additional police officers, and tough-on-gun-crime laws will affect Canadians living in large urban centres, cities are the responsibility of the provinces. Therefore, the SFT did not articulate a "cities agenda". In addition, the only mention made in the SFT of skills training – generally acknowledged as a key component of any concerted strategy to improve productivity – was in relation to Aboriginal Canadians, who are clearly within federal jurisdiction.

Furthermore, the SFT referred to supporting workers in Canada's traditional industries – forestry, fisheries, manufacturing, tourism – whose employers have to adjust to the realities of global competition. It did not mention programs that might be created to directly assist the industries themselves. This reinforces the noticeably strong preference of the Harper government to use the tax system rather than new funded programs to achieve its policy objectives.

The private sector ignores signals such as these at its peril.

2. A Pre-Election Mini -Budget – The Fall Economic Statement

Following quickly on the heels of the Throne Speech, the Harper government kept relentless political pressure on the federal Liberals by releasing the annual fall economic update in the form of a pre-election mini-budget. Loaded with tax cuts – personal, corporate, and consumption – this mini-budget deliberately got out in front of the Liberals who were poised to position themselves as addressing Canada's lagging productivity record through major corporate tax cuts. Although it revealed a tax cutting agenda, the fall Economic Statement did not offer a narrative in support of a productivity-focused framework or for a course-shift in the government's economic policy. Instead, it reaffirmed that the Conservative government's core economic policy statement continues to be *Advantage Canada*, the plan released by Finance Minister Flaherty in November 2006.

The four prisms for economic policy decision-making by the government found in *Advantage Canada* are: (1) focusing government on what governments do best; (2) creating new opportunities and choices by creating incentives for Canadians to succeed; (3) investing for sustainable growth, in partnership with provinces and the private sector; and (4) freeing business to grow and succeed. 3

Canada's corporate community would be well advised to continue looking to *Advantage Canada* as the economic direction-setter for the Harper government and align their business objectives with the government's policy objectives set out in this blueprint document.

3. Competition and Investment Policy Review

The "hollowing out" of corporate Canada, with the disappearance of many Canadian corporate icons, is the subject of heated debate once again. It is unknown how the Government of Canada will respond to the arguments regarding the advantages and disadvantages of foreign direct investment but work on the answer is now underway. The government announced in July 2007 the creation of the Competition Policy Review Panel, chaired by Mr. Lynton (Red) Wilson.

It is positive news that the Panel is examining Canada's competition and investment laws and policies through the prism of productivity and competitiveness. Giving further cause for optimism, the Panel is conducting its work as a policy exercise, with sound economics as the key driver of its work and providing an intellectual foundation for government policy as its core objective.

The Panel released a consultation paper entitled *Sharpening Canada's Competitive Edge* on October 30, 2007, asking for submissions by January 11, 2008. Among other things, the Panel is examining the "hollowing out" debate, reviewing ownership restrictions in telecommunications, transportation, and financial services, and studying barriers to Canadian investment erected by other nations. One of the key questions it is asking is, "How can we make Canada a destination for capital and economic activity?"

The Panel is comprised of impressive Canadians who can be expected to provide a thoughtful policy blueprint for future action. Several policy initiatives that would encourage the incubation and nurturing of global leaders in Canada are well known – reducing taxes on business investment, investing in human capital and infrastructure, assessing future takeovers on the basis of how foreign governments deal with Canadian investment, and smarter regulation. What remains to be seen is whether the political will exists to execute a strategy that ensures Canada has a seat at the table as the global economic framework undergoes a fundamental transformation.

4. Are We Starting The “Constitutional Shuffle” Again?

Canadians either feel their eyes glaze over or begin to hyperventilate when the constitutional Pandora’s Box appears to be opening up. While Prime Minister Harper has not announced a round of multi-lateral talks with Premiers, and it is highly doubtful that he intends to do so while presiding over a minority, his government is entertaining several policy initiatives that have potentially interesting constitutional, and political, implications.

The Speech from the Throne identified three areas in which the government intends to venture close to the constitutional quagmire – the federal spending power, the federal trade and commerce power, and Senate reform. A fourth, promoting a national securities commission to replace separate provincial and territorial securities commissions, has been championed by Finance Minister Flaherty. As noted below, it may be linked to the trade and commerce power.

(A) Federal Spending Power

The government intends to introduce a bill placing formal limits on the federal spending power, fulfilling a promise in the Conservative’s 2006 election platform. Although the federal spending power is not written into the Constitution, it has been an important tool used by previous governments to construct Canada’s social safety system by spending on health care, education, welfare, training and regional development, areas in which Parliament does not necessarily have the power to legislate. Specifically, the government’s commitment is to limit the use of this power “for new shared-cost programs in areas of exclusive provincial jurisdiction.” Provinces and territories would be permitted to opt out of a program with reasonable compensation if they offered compatible programs. Interestingly, this commitment is very similar to one made in the 1987 Meech Lake Accord.

Prime Minister Harper is hoping to achieve at least three things with this initiative: (a) reinforce his political base by reflecting his personal, and his party’s, ideological preference for observing more closely the separate jurisdictional responsibilities of the federal and provincial governments; (b) demonstrate his continued pursuit of “open federalism”, with a particular appeal to Québec in the hope that that province will return more Conservatives in the next election; and (c) toss another “political grenade” onto the lap of Liberal leader Stéphane Dion.

Reigning in the federal spending power has the potential to trigger an interesting series of political struggles, at several levels. For example, the Liberals have to decide how to play the issue. Federal spending on items such as health and post-secondary education are popular with most provincial Premiers, including the Premier of the province

with the most seats in Parliament, Ontario. The concern is with Québec, where federal interference in matters of provincial jurisdiction is anathema. Stéphane Dion, a provincial-rights supporter by inclination despite being tagged as the father of the *Clarity Act*, must balance his desire to improve Liberal fortunes in his native province against a sense that supporting a continuing role for the federal government in certain areas of provincial responsibility would be well-received by Canadians in most other provinces.

In addition, Mr. Harper may be opposed by several provincial Premiers over his plans to limit the federal spending power. Thus, a careful balancing of interests need to be taken into account as the promised bill makes its way through the PMO, Cabinet, and onto the floor of the House of Commons.

Furthermore, it is not clear that an initiative aimed, at least in part, at finding favour in Québec will hit the intended mark. It bears noting that the wording in the SFT is limited to restricting spending on “new shared-cost programs.” The reality is, however, that over the past decade or so, federal governments have largely eschewed shared-cost programs, preferring instead to provide funds directly to target recipients such as universities and low-income Canadian families. It remains to be seen, therefore, if this proposed restriction on federal spending has enough teeth to satisfy Québec.

(B) Federal Trade and Commerce Power

Dismantling ongoing barriers to the free flow of goods, services, and people across provincial boundaries within Canada appears to be in the sights of the Harper government. The SFT says the government will “pursue the federal government’s rightful leadership in strengthening Canada’s economic union.” This has the potential to become a significant development of interest to the private sector in the coming months.

Section 91 (2) of the *Constitution Act* assigns the power over trade and commerce to the federal government. This power generally is comprised of two main elements, namely power over international and inter-provincial trade, and the general regulation of trade affecting all of Canada. Historically, however, the trade and commerce power has been limited by court judgments.

It is unclear how the Government of Canada intends to proceed with its use of the trade and commerce power tool. It could portend a re-opening of the Agreement on Internal Trade with the provinces. This would be a welcome development. It may be that the threat of exploring the boundaries of the trade and commerce power could be used as leverage in other federal-provincial spheres. Or, the government may be contemplating a bold use of the trade and commerce power, for example, to justify the implementation of a single, national securities regulator, the likely outcome of which legal commentators do not agree.

(C) Senate Reform

The Harper government came to office with a pledge to begin Senate reform by finding a way to elect Senators and to make the Senate an “effective, independent, and democratically elected body that equitably represents all regions.” A first attempt at reform, in the form of a bill dealing with the election of Senators and a second bill limiting Senators’ tenure to eight years, failed to pass before Parliament was prorogued in September 2007.

On November 13, Bill C-19 and Bill C-20 – the successor bills to those introduced last Session – were tabled in the House. The Minister Responsible for Democratic Reform, the Hon. Peter Van Loan, upped the ante in the Senate reform debate by stating that, if these reforms fail to pass, the government would take the position that the Senate should be abolished.

The government’s Senate reform initiatives have the potential to generate conflict with some provinces, including Ontario and Québec, which have taken the view that changes to the Senate cannot be made without a formal constitutional amendment. If this view were to prevail, it is likely that Senate reform will be a non-starter. Moreover, the government hopes to portray the Liberals, who dominate the Senate, as being anti-democratic in their support of a non-elected body. Thus, Senate reform is another political bomb aimed squarely at the Liberals.

5. Navigating the Political Shoals

The Liberal’s decision to abstain from critical votes in the House raised questions about its role as Official Opposition, but it also prevented an immediate election based on the Throne Speech, the fall mini-budget, and the tough-on-crime bill introduced this fall by the Harper government. But, several potentially dangerous political shoals remain that must be navigated carefully by all political parties in the weeks and months ahead.

(A) Upcoming By-Elections

The by-elections held in September for three ridings in Québec created a public relations nightmare for Liberal leader Stéphane Dion. In the first electoral contest for the Liberals since Dion assumed the leadership, the hand-picked Liberal candidate in Outremont, a long-standing Liberal fortress, fell to the NDP. Moreover, the Conservative candidate in Roberval garnered 60% of the popular vote, gaining another seat in Québec for the Harper Conservatives. While by-election results do not portend the outcome of a general election, they can generate political momentum shifts and, in a minority government, affect the balance of power in the House of Commons.

There are currently four vacancies in the House that must be filled via by-elections in the next four months. All four open ridings were held by Liberals. This provides both an opportunity and a threat to Mr. Dion. Victories in all four by-elections would give him some much-needed “political wind” and add bench strength to his caucus. Two former leadership contenders, Bob Rae and Martha Hall Findlay, are candidates in the two Toronto-based ridings. Conversely, a defeat in one or more contest would add to the Liberal leader’s headaches. Count on Prime Minister Harper to determine the timing of these by-elections to best suit his strategic needs and to inject as much pain as possible into the life of his Liberal opponent.

RIDING/PROVINCE	FORMER MP	LATEST DATE FOR ANNOUNCEMENT
Toronto Centre/Ontario	Hon. Bill Graham	December 30/07
Willowdale/Ontario	Hon. Jim Peterson	January 8/08
Vancouver Quadra/BC	Hon. Stephen Owen	January 26/08
Desnethé-Mississippi-Churchill River/Sask	Gary Merasty	March 2/08

(B) Supply Days

Opposition parties must be allocated a total of 22 supply days – known colloquially as opposition days – in the House of Commons in each calendar year. On these days, the opposition party with an allocated supply day chooses the subject of debate in the House. The government does not control the subject matter of debate on these days but it alone holds the power to allocate the specific dates of each supply day required within the time periods set out below:

- January – March 26: 7 supply days
- March 26 – June 23: 8 supply days
- Sept – Dec 10: 7 supply days

Supply days are of critical importance in a minority Parliament. Every supply day may be used by the opposition parties to introduce a motion of non-confidence in the government. This was the mechanism used collectively by the Conservatives, NDP, and Bloc in November 2005 to bring down the Martin government. Opposition parties will be keeping a close eye on public opinion polls over the winter and spring, particularly in light of the public inquiry into the business relationship between former Prime Minister Brian Mulroney and Mr. Karlheinz Schreiber (see below), to assess whether or not to use one of their supply days to combine their forces to bring down the Conservative government and trigger a general election.

(C) Public Inquiry

Terms of reference for the public inquiry into allegations regarding the financial dealings between Mr. Mulroney and Mr. Schreiber, being prepared by Professor David Johnston, will be delivered to Prime Minister Harper by January 11, 2008. The inquiry should begin to take shape in the late winter or early spring of 2008, although it may be many months thereafter before any hearings are conducted.

Governments are often measured by how they respond to developments not of their making or choosing. This public inquiry fits that description for Prime Minister Harper. For their part, the opposition parties will take every opportunity, both through the House Ethics Committee review of this matter and the public inquiry, to damage the credibility of the Conservative government as much as possible. Should their efforts begin to bear fruit, one of those opposition days next year may come in handy.

6. Concluding Observations

Ottawa has largely been the scene of a “phony war” up to this point in the fall of 2007, with much rhetorical posturing, political traps being set but not triggered, and ballot box questions and messaging being tested for the next election battle, whenever it may come. Stéphane Dion’s decision to have the Liberals abstain from voting on the SFT and the fall mini-budget ensured that the phony war would not suddenly go hot. This decision was controversial and there are some in the Liberal caucus who believe the abstention tactic must be strictly time-limited. These same Liberals would prefer to have an election before the Conservatives table another budget that can reasonably be expected to include many measures that would be attractive to Canadians.

Given the distribution of seats in the House of Commons, Mr. Dion holds several of the strongest cards when it comes to determining whether or not an election will occur before October 2009. Going to the polls was not in his interests this fall. Only if and when he decides that the right issue presents itself will the Liberal leader seek the support of the NDP and Bloc to use a supply day motion of non-confidence to pull the plug on the Conservative government. And that can only happen if the timing and the issue are also suitable to Jack Layton and Gilles Duceppe.

For its part, after close to two years in office, the Harper government has proven itself adept at identifying and then exploiting the weaknesses of its political opponents to move core elements of its policy agenda, particularly its fiscal policies, through Parliament. It has also demonstrated remarkable self-discipline, achieved largely through a highly-centralized and controlling decision-making process at PMO and PCO. This discipline has been used effectively by the Prime Minister and is directed squarely toward meeting his central political objective – casting the Conservative Party as a perennial mainstream contender to win and hold the highest office, deconstructing the hegemony enjoyed by the Liberals for much of the past century in Canadian politics.

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