

October 17<sup>th</sup>, 2011

Hon. Marilyn More  
Minister of Labour and Advanced Education  
P.O. Box 697  
5151 Terminal Road  
Halifax, Nova Scotia B3J 2T8

Minister More:

On behalf of tens of thousands of employers in Nova Scotia, we write to you today to outline our serious concerns regarding your request that the Labour Management Review Committee (LMRC) explore the introduction of First Contract Arbitration in Nova Scotia. We are also writing to provide suggestions on constructive areas of engagement for the LMRC.

As you will recall from the heated debate that took place around Bill 100, one of our foremost concerns revolved around the creation of the LMRC and the decision to prohibit the full and direct participation of non-unionized employers. 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 (FCA), which impacts only non-unionized employees and employers, which represent 85 per cent of the workforce. While we are grateful government amended Bill 100 to require the LMRC to consult with non-unionized stakeholders, we are still far removed from the process in that the formal body government is looking to for advice remains one that is not representative of Nova Scotia's workplaces, therefore one that cannot fully understand the consequences of its recommendations on those workplaces.

Let us assure you that we are doing our part to participate in the process that has been presented to us. For example, a number of employers and employer organizations attended the study day organized by the LRMC. A longer lead time on the notice may have resulted in even greater participation by both employers and LRMC members. We believe this was a useful and informative process. We have attempted to reach out to the employer LRMC members and to share concerns and suggestions. We have also requested to meet as a group with LRMC. 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 FCA 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. As you are well aware, 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. FCA is not free collective bargaining. We strongly believe that the foundation for effective labour relations is built through negotiation – not through imposed agreements.

Given that both 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 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.

As you well know, FCA 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 FCA. We believe it is unnecessary. The mandate of the LMRC is to improve labour relations in the province. The choice of 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. So we ask: will FCA 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 FCA helped other provinces make strides in any of these areas?

We ask that you 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.

Sincerely,

Atlantic Building Supply Dealers Association  
 Canadian Federation of Independent Business  
 Canadian Manufacturers and Exporters  
 Canadian Restaurant and Foodservices  
 Association  
 Construction Association of Nova Scotia  
 Contact Centre Nova Scotia  
 Halifax Chamber of Commerce  
 Merit Contractors Association of Nova Scotia

Nova Scotia Automobile Dealers Association  
 Nova Scotia Chambers of Commerce  
 Nova Scotia Homebuilders Association  
 Nova Scotia Roadbuilders Association  
 Pharmasave Atlantic  
 Restaurant Association of Nova Scotia  
 Retail Council of Canada – Atlantic Office  
 Scotia Group of Companies

cc:

Premier Darrell Dexter  
 Minister Percy Paris, Economic and Rural Development and Tourism  
 Stephen McNeil, Leader of the Liberal Party  
 Jamie Baillie, Leader of the Progressive Conservative Party  
 Members of Labour Management Review Committee c/o Barb Jones-Gordon, Executive Director,  
 Labour Services Branch, Labour and Advanced Education