Food and Industrial Biotechnology

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FOUR COMPANIES WERE STUDIED TO UNDERSTAND THE PROCESS OF FOREIGN INVESTMENT SITE SELECTION BY FOOD AND INDUSTRIAL BIOTECHNOLOGY FIRMS. WHILE THE OUTPUTS ARE QUITE DIFFERENT FOR THESE FOUR FIRMS, THEIR PRIMARY AGRICULTURAL INPUTS ARE SIMILAR AND SUBJECT TO SIMILAR LOGISTICAL NEEDS, REGULATIONS AND MARKET CONDITIONS. THIS STUDY SOUGHT TO ANSWER THREE QUESTIONS: WHAT WERE THE KEY SITE SELECTION CRITERIA FOR EACH FIRM? WHAT ROLE DID GOVERNMENT PLAY IN THE DECISION? WHY DID A CANADIAN SITE WIN THE INVESTMENT?
Introduction

The food and industrial biotechnology sectors play important roles in Canada’s economy and have also been the focus of many foreign direct investment (FDI) attraction campaigns.

FDI is an important metric for governments at all levels as it leads to job creation, tax revenue, spin-off benefits and public approval.

In this study, we examine four foreign investments by food and industrial biotechnology firms that resulted in new North American production mandates in Canada. The projects originated in different countries and from different subsectors; yet we found that their strategies for site selection, investment allocation and investment decision were similar. These similarities have implications for governments at all levels, as they may bring to light the value of broad, sustained investment attraction programs and policies, rather than ones that highlight individual sectors and passing fads.
**Methodology**

Data was collected through semi-structured interviews with company executives and from public sources such as company websites, government websites and resources, media outlets and SEC filings. Additional insights and commentaries were collected at the presentation of research findings on November 10, 2015, which helped to inform the final research report.

**Background**

Manufacturing is a pillar of the Canadian economy. This is becoming more and more apparent as the Canadian economy struggles to right itself after years of high oil prices and the concentrated allocation of public resources to this single sector. As the price of oil slides, and the value of the Canadian dollar along with it, we see the country’s manufacturing sectors on the rise again, including auto assembly, auto parts, food and chemicals.

Canada’s food manufacturing industry is an important contributor to Canadian economic growth. Compared to other manufacturing industries, the food industry has been remarkably resilient in terms of revenue, employment and profitability. However, it is also an industry under pressure, with rising input costs, consolidation at the retail level, and intense global competition. As a result, many food manufacturing companies are restructuring, closing smaller, older plants and consolidating production in larger-scale facilities. Others are exiting the industry.

Plant closures receive a great deal of media attention and have created the impression of a Canadian industry in decline. Between 2006 and 2014, 143 Canadian food plants closed, resulting in the direct loss of 21,514 jobs and reinforcing the general impression of decline (see Figure 1). However, during the same period, 62 new plants opened and 132 companies completed or announced major investments (expansions, reinvestments, etc.). With the exception of 2007, openings and investments outpaced the number of closures. Subsequent closings eased while openings and announced investments climbed (Sparling and LeGrow, 2014).

**FIGURE 1 – PLANT CLOSINGS, OPENING AND INVESTMENTS IN CANADA, 2006–2014**

![Figure 1: Plant Closings, Opening and Investments in Canada, 2006–2014](image)

Source: Agri-food@Ivey
Foreign-owned firms have played a significant part in the changing food industry in Canada (see Figure 2). From 2006 to 2014, foreign multinational enterprises (MNEs) accounted for more than half of the investments made by firms of that size in Canada.

FDI is an important source of capital for national and regional economies. It serves as an important vehicle for both local economic development and international trade, and may also help improve the competitive position of both the receiving and the investing economies (OECD, 2008). Statistics Canada’s FDI statistics capture a number of distinct transactions:

- Direct investment positions (equity and debt).
- Direct investment income flows (distributed earnings, reinvested earnings, interest income).
- Direct portfolio investment financial flows (equity and debt).

Unfortunately, FDI data is limited as values are aggregated and it is impossible to know authoritative values for greenfield FDI (new projects built on greenfield space) versus expansions or mergers and acquisitions.

In Canada, FDI activity has tracked steadily upward since 1999, which was the start of our data (see Figure 3). In nominal terms, Canada brought in CA$732 billion in 2014, almost triple the value in 1999.
The steady climb in inbound investment is not linked to any one sector but rather to significant growth in a number of sectors: oil and gas extraction lead with 577 percent growth, while management of companies and enterprises surged 487 percent. Manufacturing, on the other hand, did not have as dramatic an increase, climbing from $98 billion in 2000 to $215.7 billion in 2014 — an increase of 120 percent (see Figure 3).

In the years under review, FDI in manufacturing has been led by a number of sectors (see Figure 4). In the early 2000s, inbound investment was coming from the transportation equipment sectors (dominated by the auto sector). This sector peaked in 2003, bringing in 19.5 percent of total manufacturing FDI. The swell in auto-related investments coincided with investments from Toyota in 2000 and 2005. In the mid-2000s, the sectoral lead shifted to primary metals and petroleum and coal products. Primary metals went on to peak in 2008, with 23.3 percent of total manufacturing FDI that year. By the end of the decade, the petroleum products industry had continued its climb to take the lead, which it maintained through to 2014, with 22 to 28 percent of total manufacturing FDI.

Food manufacturing is a major economic driver in Canada, with the most recent data showing revenues of $92.4 billion in 2013, equal to 14.5 percent of all manufacturing output. It ranks second to the auto sector for revenue but is the country’s leading employment sector. Yet food manufacturing is a considerably smaller contributor to inbound investments.

The food manufacturing sector has been a more stable and predictable contributor to FDI than other sectors, ranging from 6.0 to 11.4 percent of total manufacturing FDI (see Figure 5). In 2014, food accounted for 11.4 percent of total manufacturing FDI, and 3.4 percent of all FDI into Canada.
FDI statistics track all inbound investments. Overall, the United States is the largest foreign investor into Canada. The same is true for FDI in food manufacturing but there is also a strong surge coming from Europe (see Figure 6).\(^1\)

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1. Europe region includes: Albania, Austria, Belgium, Bulgaria, Channel Islands, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Isle of Man, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and Yugoslavia.
European firms have gone from 31 percent of total foreign investment in food manufacturing in Canada in 2004, to an amazing 62 percent in 2014. The values of the investments have grown almost 500 percent since 2004, topping out at $15.4 billion in 2014. U.S. firms invested almost $8 billion in the same year. This upward trend in E.U.-based investments began in 2012, led by significant greenfield announcements from food processors locating in Ontario.

FDI in food manufacturing is an important economic driver as it helps to grow business and, in turn, to create or sustain employment. Recent studies have looked at FDI and its positive impacts on trade. Furtan and Holzman (2004) examine the impact of FDI on trade between Canada and the United States in agriculture and food. Their findings indicate that FDI had a positive effect on total trade, total exports and total imports between the two countries. This result suggests there is a complementary relationship between trade and FDI, and is consistent with other findings (Hejazi and Tang, 2016). Thus, if Canada wants to increase the level of trade, open policies towards FDI are important enablers.
Four companies were studied to understand the process of foreign investment site selection by food and industrial biotechnology firms. While the outputs are quite different for these four firms, their primary agricultural inputs are similar and subject to similar logistical needs, regulations and market conditions. This study sought to answer three questions: What were the key site selection criteria for each firm? What role did government play in the decision? Why did a Canadian site win the investment?

In this section, each of the four cases is outlined with a short overview of the parent company and a more detailed overview of the Canadian investment. A cross-analysis and summary of the four investments follows.

**Ferrero**

Ferrero is perhaps best known for its line of novelty chocolates under the brands Ferrero Rocher and Kinder. Its expertise extends deep into chocolate processing and confectioneries. The company was established in Italy in 1946 to service a growing domestic market. It has grown into a global company with 20 manufacturing facilities, servicing 49 countries. Its sales were US$10 billion in 2014.

In the early 2000s, Ferrero Italy decided to establish its first full-scale production site in North America. The sales and marketing office in Canada saw this as an opportunity to bring manufacturing to Canada, and started an internal campaign to ensure Canadian locations were considered in the preliminary search. The general perception from Canadian management was that Canada was not viewed as a large enough market to warrant such a significant investment. Senior management reported that to be in the race, Canada had to show the following attributes:

- Competitive construction costs
- Competitive operating costs
- Access to ingredients (supply, quality and cost)
- Land availability and speed of permitting
- Workforce
- Quality of life

Other considerations included personal tax rates, culture, democratic society, crime rates and strategic partnerships with supply chain members. Third-party site selection firms were engaged in the multi-year process and reinforced Canadian management’s statements that Canada was indeed a desirable site for this investment. In 2006, Ferrero opened its 1.5-million square foot facility in Brantford, Ontario to manufacture Ferrero Rocher chocolate, Nutella and Tic Tac mints. Since the original investment, Ferrero has gone on to expand the facility and further invest in equipment and automation. In 2015, the total asset value for Ferrero’s Brantford location was over $450 million.

**Dr. Oetker**

Dr. Oetker is part of the Oetker Group, a family-run, German-based holding company established in 1891. It operates through six different business groups, including food and beverage, wine/spirits, shipping and banking. The Oetker Group recorded sales of €11 billion in 2014. The Dr. Oetker division reported sales of €2.6 billion in the same year.

In Canada, Dr. Oetker’s history began in 1960, when it was branded as Condima Imports and focused primarily on dry mixes for the baking industry. Over the years, Dr. Oetker has extended into a full range of products, most notably its line of frozen pizzas.

As the first decade of the new century came to a close, Dr. Oetker began scouting locations for its first frozen pizza production investment outside of Europe. Using prospectors and government resources, several locations in Ontario and the
Northeastern United States were considered. Ultimately, a 66-acre parcel of land in an industrial park in London, Ontario was selected for the 250,000 square foot facility. The total investment announced in July 2011 was valued at CA$148 million, which included the production plant plus a warehousing and distribution centre that would service Canada and the United States.

As a private company, the final decision regarding expansion rested with the executive board in Germany. In the years leading up to the decision, local executives were highly engaged with government departments, including the provincial ministries responsible for agriculture and food, as well as economic development. Municipal government officials were also included in the lead-up discussions, and were responsible for delivering local real estate options like land availability, development charges and permitting costs. Site scouting was extensive and included a variety of site selection parameters:
- Business and cost structure
- Proximity to ingredients and markets
- Land availability and time to access
- Community
- Culture

Quality was a key underlying factor for Dr. Oetker in its decision process. While costs are important, the lowest-cost option did not associate with quality for Dr. Oetker. Rather, a strong focus on first-class labour and quality ingredients steered the selection process. Ontario’s reputation for quality, consistency and safety in agriculture was well documented for Dr. Oetker.

Proximity to market was also a winning factor for the London location. The investment was assessed as a strategic asset for Dr. Oetker because it planned for more growth in the North American marketplace. As such, the plant had to be able to service demand in Canada and the United States. London is situated about one hour’s drive from the U.S. border and two hours from Detroit, Michigan.

In 2011, the Canadian dollar was valued at US$1.01 (on average). The value of the Canadian dollar relative to the U.S. dollar was noted as a distinct advantage for a Canadian location. At the time of writing, the Canadian dollar has dropped considerably, to about US$0.76.

Government support was provided by provincial and municipal business attraction teams. The provincial team was the initial contact but both levels were involved in delivering timely information. It was the responsibility of the municipal office to provide a financial package that included municipal land, development charges, permitting costs and zoning. Provincial players were able to outline financial support (partnership), supply chain assessment and impact analysis.

Natra

Natra is a multinational, publicly traded chocolate company based in Madrid, Spain. In 2014, its sales were €361 million and the company employed just over 1,000 people worldwide. The company was established in 1943. Until 2013, it had maintained a Euro-region focus with five manufacturing sites across Spain, Belgium and France.

Natra had a growing presence in the North American market, producing for a number of private labels. With a contract in place with a large retailer in North America, Natra recognized the strategic value in establishing a manufacturing footprint in North America to service its growing customer base on the continent, as well as the Asian market.
In 2013, Natra moved to secure a production site in London, Ontario. They opted to rent 100,000 square feet of industrial space and purchased the adjacent land parcel to allow for expansion. In tandem, the company consolidated its North American sales and marketing offices into a new location in Toronto, Ontario.

The process was led from Spain and took over 18 months from initial prospecting to site selection. Natra considered several sites in Ontario and the United States and, in the final phases, used the services of a Toronto-based real estate advisor. The real estate firm noted a list of variables that were reviewed as part of the selection process, and company executives also publicly identified key criteria, which included the following:

- Government grants and loans
- Additional financing available from Canadian banks
- Tariff and tax rates
- Cost of labour
- Strong transportation network; access to the United States
- Input costs; access to quality ingredients

### BioAmber

BioAmber is incorporated in the United States and traded on the NYSE, but headquartered in Montreal, Quebec. It is a pioneering firm in the area of industrial biotechnology, specializing in the production of bio-based succinic acid and its derivatives.

In 2009, BioAmber began scouting North America for its first full-scale manufacturing site for its proprietary succinic acid bioprocessing technology. The BioAmber production plant in North America was to be the first of its kind globally. BioAmber had been producing on a commercial scale in Pomacle, France through a toll facility and the company was now ready — technically and financially — to build its own plant. BioAmber executives knew that the site for full-scale production had to offer not only the lowest cost options over the long run, but also ensure that BioAmber could maintain its commitments for supply. Its list of buyers was growing steadily — to the point that the production from the planned North American plant was almost fully committed. The initial North American footprint was to produce 17,000 MT of succinic acid, which was targeted primarily for export. BioAmber knew that France (and Europe) did not offer the location advantage or price advantage that it could find in North America. Its number one driver was cost: margins were critical to BioAmber. Management knew that governments in all jurisdictions would have location incentives and grants to entice the firm but, with its long-term vision and commitment to the burgeoning bio-based industry, BioAmber wanted to ensure operational costs would be low, consistent and predictable, and that business would be profitable without government support.

BioAmber set the goal to compare jurisdictions that showed the greatest potential to help “green” companies — not just through grants, but with a greater focus on lifestyle, policy, programs and loans as well as evidence that “green” did not just equal solar and/or wind energy.

After an extensive site selection process, which included investigating over 100 sites and visiting nine in person, BioAmber executives decided in 2011 on a site in Sarnia, Ontario.

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Sarnia is a city in Southwestern Ontario located right beside the U.S.-Canada border. With a network of petrochemical and refining complexes, the greater Sarnia area is known internationally as a significant industrial chemical centre. Sarnia has Canada’s largest cluster of chemical firms, with a strong, local industrial network that provides pools of labour, support services and resource partners.

Although traditionally focused on the petrochemical and refining sector, Sarnia had diversified significantly, particularly in power generation and industrial biotechnology research and commercialization. This was a strong reflection of the national and provincial policies at the time, which were focused on biotechnology and life sciences.

The site in Sarnia offered many unique attributes, due in large part to the role of a German company, Lanxess, which was offering parcels of land from its own inventory in hopes of building a Bio-Industrial Park in Sarnia. The site was adjacent to the Lanxess butyl rubber site and offered fully serviced land, including access to water, steam, discharge lines and labour. This land was zoned and approved for chemical manufacturing. Another attribute of the Sarnia location was the St. Lawrence Seaway, with its deep water port and winter harbour.
A number of common elements are apparent across the four investments outlined above. One surprising observation is that Canada is not immediately on the radar for most foreign-owned firms. Canada is often added as a comparison jurisdiction but not generally ranked as a leading location. In the case of Ferrero, Canadian management in the then-sales office had to fight to have Canada included as a possible location.

It would appear difficult to rise out of the shadow of the United States because of its massive population, business environment and aggressive approach to business attraction. Moreover, it is very hard to ignore the multiple levels of incentives available in the United States, some of which are not legal under Ontario law.

Municipalities in Ontario are governed by the Ontario Municipal Act, 2001, which explicitly states that a municipality is not permitted to assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses, such as:

(a) Giving or lending any property of the municipality, including money,
(b) Guaranteeing borrowing,
(c) Leasing or selling any property of the municipality at below fair market value, and
(d) Giving a total or partial exemption from any levy, charge or fee.

The absence of similar restrictions on local governments in the United States gives much broader scope when it comes to business attraction practices. As a case in point, a New York Times investigation published in late 2012 found that U.S. states, counties and cities were giving up more than US$80 billion each year in incentives. Of this total, US$18 billion came by way of income tax breaks, while sales tax relief amounted to US$52 billion. State and local governments also provided incentives through tax-exempt bonds amounting to US$65 billion since 2003 (Story, 2012).

Government officials, while important in developing incentives such as grants and loans, can also play critical “account executive” roles in support of the companies, acting as brokers of various agreements. This practice was most evident at the provincial level in the four cases analyzed. In two of the four cases, government officers championed the firms’ applications for grants and loans, and worked the internal matrix of government programs, policies and approvals. Officials also provided additional reviews, due diligence and economic impact assessments, which were highly valued by the companies.

Government officers at the municipal level were also prominent players in the investment process. An open approach to business, an ability to meet the needs of the companies in a timely fashion, and the overall speed with which the government and respective local councils made decisions were all highlighted as valuable factors.

In two of the four case studies, the companies were presented with business location information from a team of relevant partners, potential suppliers and organizations. This ‘team-based’ approach provided the companies with a glimpse into their respective industry associations, partnership opportunities and supply chains. The integration of non-government officers into the presentation served to showcase Ontario as a connected, open and committed location for doing business, and

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also helped to highlight the clusters of activity related to food and industrial biotechnology. The presence of strong industry clusters in each sector — i.e., Sarnia for chemicals and the Greater Toronto Area for food — sends strong messages to companies seeking locations for investment.

With these clusters comes the open exchange of information, as well as the development of partnerships. Partnerships related to R&D were already in place for one of the four companies, which may have contributed to that firm’s decision to locate in Canada. Further, more than a decision criterion, partnerships have been a notable result of the investment process for two of the four investments.

While these attributes were part of the decision to invest in Ontario, that outcome would not have emerged if supportive public policies had not been in place. Broader policies at all levels of government — such as tax rates, green jobs initiatives, zoning, rural development or skills training — played into the decisions to proceed with all four investments. Nonetheless, the critical role of grants and loans that are competitive with other jurisdictions (namely the United States) cannot be debated. These programs are essential to any successful investment attraction program and must be delivered with transparency, proper due diligence and reasonable reporting requirements.

Governments provided a range of assistance to the four companies analyzed. The level of assistance relative to project costs ranged from 6.2 percent to 28 percent (see Table 1). The breadth of this range could reflect the timing of the investments and changes to policies and programs (2006 versus 2013), or the level of risk associated with the specific investment and the absence of available private sector risk capital in Canada.

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<tr>
<th>COMPANY INVESTMENT</th>
<th>GOVERNMENT CONTRIBUTION</th>
<th>PERCENTAGE OF PROJECT COST</th>
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<tbody>
<tr>
<td>Ferrero</td>
<td>$150M + $50M + $36M</td>
<td>$14.7M</td>
</tr>
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<td>Dr. Oetker</td>
<td>$113M + $35M</td>
<td>$19M</td>
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<tr>
<td>Natra</td>
<td>$15.4M</td>
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<td>BioAmber</td>
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While governments face a public relations battle with regards to the investment of public dollars into corporate projects, they must do a better job at showcasing the revenue streams that result when such investments result in successful business operations. While success is never guaranteed, recent research from Statistics Canada shows that foreign companies who invest in Canada go on to be more productive, innovative and efficient in their operations as compared to domestic firms and, in turn, lead the pack in Canadian direct investments abroad (Tang, 2016).

While this research focused on the successful attraction of FDI into Ontario, it also raises the question of why other firms did not choose Canada. Individuals involved in the process of investment attraction can attest to the length of time needed to land an investment, and the challenges inherent in the task. Generating qualified leads can be very difficult and costly, and the overlap of government, organizations and private sector prospectors is tangled and distracting for any scouting firm. Navigating government is difficult at the best of times, even for local firms. The companies studied here seem to have been successful due, in part, to the role of a government agent who was able to champion their applications and act on their behalf “on the inside.” Such proactive behaviour is evidently not the norm, which raises concerns that although government programs are freely publicized and promoted, presenting a winning application and accessing these dollars is not easy without a proactive “account executive” within the system. The resulting deterrent to some companies is only reinforced when financial incentives in competing U.S. jurisdictions are more lucrative as a result of tax breaks, utility discounts and talent programs, in addition to state- and even city-specific offers.

Canada’s lower corporate tax rate was a strong hook for a number of companies, for whom long-term operating costs were a common concern. Comments provided by one company suggest that lower corporate tax rates are seen to offset the steep rise in energy and utilities costs and, in some cases, municipal taxes.
The goal for any policy related to FDI is to create a sustainably attractive environment for investing in Canada. In interviews and working group discussions, several factors have been raised by senior executives as important to creating an attractive environment for investing in Canadian food manufacturing:

**FDI policy and programs**
- With research supporting the value of FDI and its impact on trade and total exports, governments should continue to value the process of investment attraction and provide appropriate resources and tools to FDI programs. Central to investment attraction are programs and policies that provide incentives (e.g., grants, loans, tax-free zones, tax-holidays, discounted utility rates, etc.) to companies scouting for locations. Standard programs that support investment, training and infrastructure are not enough to compete with offerings from other jurisdictions — most notably the United States. Serious consideration should also be given to the implications of regulations that limit the ability of Canadian jurisdictions to compete on equal ground with U.S. (and even other Canadian) locations.

**Beyond the United States**
- The United States has long been and long will be our most important trading partner. Streamlining trade relations with our neighbour deserves significant attention. However, Europe has surged ahead in terms of food manufacturing investments and special attention also needs to be paid to this market to ensure that European businesses understand the role Canada can play in a North American business strategy. Further, emerging economies are growing quickly and investing in foreign markets. These countries cannot be overlooked and leading economies should be part of a comprehensive FDI attraction strategy.

**Corporate tax rate**
- Canada’s tax rate is an essential factor in making Canada attractive to companies. The current tax rate is viewed as highly competitive with other countries.

**Trade agreements**
- In a global marketplace, trade agreements are critical to landing major foreign investments. Canada’s food industry relies on exports, particularly for future growth, and increased trade opportunities through freer markets would broaden Canada’s global appeal.

**Aligning regulations/policies with those of major trading partners**
- A trade agreement simply creates the opportunity for trade. In order to expand trade, Canadian regulations and policies must be aligned with those of trading partners — most notably the United States, given its importance as an export market and a leading source of FDI in Canada.

**Supporting infrastructure**
- Businesses rely on solid transportation infrastructure to facilitate the flow of goods. Traffic congestion and backlogs at border crossings cause costly delays. Attracting an investment to Canada is only the first of many steps needed to ensure that a company grows and prospers. A nurturing business environment, including maintenance and upgrades to infrastructure, must be part of a comprehensive strategy for business attraction and retention.

**Municipalities matter**
- Municipal regulations and rates for utilities and other services factor heavily into a company’s investment decision. Municipalities that take a coordinated approach to dealing with companies tend to be much more successful in attracting investment. Local tax and service rates, environmental regulations and planning approaches all...
figure prominently into company decisions to invest. However, municipal governments cannot be expected to shoulder the cost of landing investments alone, nor should they be expected to bear long-term revenue loss in order to bring an investment to Canada. Consideration should nonetheless be given to changes to municipal law (in this case, the Ontario Municipal Act) to allow for greater agility and flexibility on the part of municipal governments when competing with foreign and domestic competition.

**Incentives to locate in Canada**

- The incentives offered by many U.S. states are more comprehensive and attractive than those offered in Canada. Incentives should be reviewed and compared to those in competing jurisdictions, and adjustments made where appropriate.

**One fund, fully transparent**

- Grants and loans related to securing foreign investments have been difficult to source due to the fiscal concerns of governments. More recently, programs such as OMAFRA’s Rural Economic Development (RED) and the Southwestern Ontario Development Fund serve as good examples of consistent and rational programs, offering loans and grants for inbound investment as well as to domestic firms. Similar well-resourced programs — in which food companies, auto parts firms, information and communications technology firms, and/or biotech firms are analyzed through a common lens, and grants and loans are offered to companies based on consistent criteria rather than on novelty or fads — would send a strong message to site selectors and potential investors that Canada is in the game to win.
References


Ontario Municipal Act 2001, c. 25, s. 106 (3); 2002, c. 17, Sched. A, s. 23; 2006, c. 23, s. 4. https://www.ontario.ca/laws/statute/01m25#BK122

