



# **TEAR DOWN THESE WALLS: DISMANTLING CANADA'S INTERNAL TRADE BARRIERS**

**Report of the Standing Senate Committee on Banking, Trade and Commerce**

The Honourable David Tkachuk, Chair  
The Honourable Joseph A. Day, Deputy Chair

June 2016



**As a fundamental right, Canadians should be able to practise their profession or trade, operate a business whose goods and services can cross provincial/territorial borders, and purchase goods and services both freely and without penalty anywhere in this great country. The inability to do any of these diminishes us as a country, and makes citizens and businesses more tied to their region than to their nation. The Standing Senate Committee on Banking, Trade and Commerce asks the nation's leaders – federally, provincially/territorially and locally – to realize this fundamental right as our country enters its 150<sup>th</sup> year. Let Canada's 150<sup>th</sup> year end as the country began a century and a half ago: free of interprovincial/interterritorial trade barriers. It will make our great nation richer, both spiritually and financially. That is the best 150<sup>th</sup> birthday present that Canadians could receive.**

**The Standing Senate Committee on Banking, Trade and Commerce**

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## ORDER OF REFERENCE

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Extract from the Journals of the Senate, Tuesday, February 16, 2016:

The Honourable Senator Tkachuk moved, seconded by the Honourable Senator Patterson:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on issues pertaining to internal barriers to trade, including:

- existing internal trade barriers, the reasons for their existence, and their economic, social and other effects on Canadians, Canadian businesses and the country's economy;
- variations in regulatory requirements across provinces/territories, and the ways in which such variations may limit the free flow of goods and services across Canada; and
- measures that could be taken by the federal and provincial/territorial governments to facilitate a reduction in — if not elimination of — internal trade barriers in order to enhance trade, as well as to promote economic growth and prosperity.

That the committee submit its final report no later than June 10, 2016, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

After debate,

The question being put on the motion, it was adopted.

*Clerk of the Senate*

Charles Robert

## MEMBERS

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The Honourable Senators who participated in this study:

David Tkachuk, Chair,  
Joseph A. Day, Deputy Chair

and

Douglas Black, Q.C., LL.B.  
Larry W. Campbell  
Tobias C. Enverga Jr.  
Stephen Greene  
Paul J. Massicotte  
Pierrette Ringuette  
Larry Smith  
Scott Tannas

*Ex-officio members of the Committee:*

The Honourable Senators Peter Harder, P.C., (or Diane Bellemare), and Claude Carignan, P.C., (or Yonah Martin).

*Former Committee members who have participated in this study:*

The Honourable Senators Bellemare, Doyle, Hervieux-Payette, P.C.\*, MacDonald and Patterson.

*Other Senator who has participated in this study:*

The Honourable Senator Pamela Wallin.

*Parliamentary Information and Research Service, Library of Parliament:*

Dylan Gowans and Brett Stuckey, Analysts.

*Clerk of the Committee:*

Lynn Gordon

*Senate Committees Directorate:*

Julie Flannery, Administrative Assistant

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## EXECUTIVE SUMMARY

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In July 2017, Canada will celebrate the 150<sup>th</sup> anniversary of Confederation. The Fathers of Confederation envisioned a united Canada, one which realizes the promise contained in section 121 of the *Constitution Act, 1867*: “All Articles of the Growth, Produce or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.” Almost 150 years after our country was formed, far too many unnecessary regulatory and legislative differences exist among Canada’s jurisdictions. These differences create “walls” that prevent the free flow of people, goods, services and investments between provinces/territories. They also increase costs for Canadian businesses, many of which are struggling to expand and compete in a fiercely competitive global marketplace.

The Standing Senate Committee on Banking, Trade and Commerce undertook an examination of Canada’s internal trade barriers with a view to identifying the actions that our federal and provincial/territorial governments must take – on a priority basis – to tear down the walls created by internal trade barriers.

The committee notes that the federal and provincial/territorial governments have made significant progress in liberalizing international trade since the *Agreement on Internal Trade* was signed in 1994, going from having free trade agreements with only two countries – the United States and Mexico – to having free trade agreements in force with 15 countries and having concluded an additional 36 agreements. The committee was angered to hear that some of the recently negotiated international trade agreements would make it easier for international businesses to trade with Canada than it currently is for Canadian businesses in one province/territory to trade with other provinces/territories. It is baffling that, during a period of such progress in relation to international trade, internal trade-related progress has been so slow. Federal and provincial/territorial governments must take urgent action to correct this deplorable situation.

The Committee on Internal Trade – which oversees the implementation and operation of the *Agreement on Internal Trade* – had led Canadians to believe that, by March 2016, a renewed agreement would exist. Sadly, it is now June, and no announcement has been made. Nor have Canadians received any information about a new deadline for the completion of negotiations. The committee believes that continued delay must not be an option.

Governments’ first priority must be finalizing the negotiations for a renewed – and effective – *Agreement on Internal Trade*. In light of Canada’s upcoming 150<sup>th</sup> anniversary, it would be entirely appropriate to celebrate this momentous occasion by announcing a renewed *Agreement on Internal Trade* – a future-oriented agreement – that would help to lay the groundwork for growth and prosperity throughout Canada. The committee is convinced that such an agreement must include a negative list approach, mutual recognition, regulatory harmonization, an effective dispute-resolution mechanism, improved consideration of trade in services and a permanent federal co-chair for the Committee on Internal Trade.

The committee cannot underscore enough how critical it is for the country's governments to do what is in the best interests of Canada, and complete the negotiations for the renewed agreement as soon as possible. An announcement about success in this regard is long overdue given the agreement's importance in helping to ensure that the vision of the Fathers of Confederation is realized. In fact, if our federal and provincial/territorial governments fail to conclude a renewed *Agreement on Internal Trade* by July 1<sup>st</sup>, 2017, or if a renewed agreement does not contain the types of provisions that will ensure a prosperous future, the federal government must act expeditiously and make a reference to the Supreme Court of Canada with respect to the applicability of section 121 of the *Constitution Act, 1867*. While the committee feels that this course of action would be necessary, it would much prefer the political course of action; a timely and effective renewed agreement.

Quite apart from a renewed *Agreement on Internal Trade* – which is the best option, provided it contains the types of provisions found in Canada's international trade agreements – or a reference to the Supreme Court of Canada, certain federal actions must be taken now – today – to help tear down the walls caused by internal trade barriers. The federal government must demonstrate leadership in efforts to eliminate internal trade barriers. It should help to ensure the labour mobility that businesses and people need by consulting with professional regulatory bodies that have been successful in reducing barriers to labour mobility. It needs to identify funding for the collection of internal trade data and associated research. It must continue with its efforts for a national securities regulator, which has been a goal for more than half a century. Finally, it should consider the creation of a national corridor that would establish a transportation and communication network from coast to coast to coast.

Having studied a range of issues in relation to Canada's internal trade barriers, the committee is persuaded that the actions needed to make progress are clear. The time to act is now, and Canada's governments must do so without further delay.

## LIST OF RECOMMENDATIONS

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1. That the federal and provincial/territorial governments urgently work towards concluding the negotiations for a renewed *Agreement on Internal Trade*. The agreement should be finalized by July 1<sup>st</sup>, 2017, and should contain the following six characteristics:
  - a negative list approach;
  - mutual recognition;
  - a formal mechanism to facilitate regulatory harmonization;
  - a binding investor-state dispute-resolution mechanism with enforceable prescribed remedies;
  - improved consideration of trade in services; and
  - the federal government as a permanent co-chair of the Committee on Internal Trade.
2. That, if a renewed *Agreement on Internal Trade* is not concluded by July 1<sup>st</sup>, 2017 or if the renewed agreement is inadequate, the federal government pursue – through the Governor in Council – a reference of section 121 of the *Constitution Act, 1867* to the Supreme Court of Canada.

Any such reference should focus on two questions: whether sections 91 and 92 must be read in the context of section 121; and whether section 121 applies to internal trade in services.

3. That the federal government work actively with provincial/territorial governments to ensure that laws, regulations, rules and policies do not unnecessarily restrict the free movement of people, goods, services and investment in Canada.

To that end, the Prime Minister of Canada and the federal Minister of Innovation, Science and Economic Development should make the removal of internal trade barriers a key priority.

4. That the federal government consult with professional regulatory bodies, including Engineers Canada, to identify ways in which it could assist these bodies in adopting mutual recognition. The transferability of education credentials and professional certifications among provinces/territories should be one focus.
5. That the federal government increase the funding allocated to two entities: the Internal Trade Secretariat, for the purposes of research, as well as the preparation and publication of regular progress reports, on internal trade barriers in Canada; and Statistics Canada, for the purposes of expanding and improving data related to internal trade.



6. That the federal government conclude an agreement with provincial/territorial governments that wish to participate in a securities regulation regime that includes a number of jurisdictions.

The existing passport system in relation to securities regulation should continue to exist for provincial/territorial governments that do not wish to participate in the proposed securities regulation regime at this time.

7. That the federal government support the creation of a “national corridor” that would allow the transportation of goods and services to tidewater through pipelines, railways, fibre optic cables, transmission lines and any other appropriate means.

## INTRODUCTION

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On February 16, 2016, the Standing Senate Committee on Banking, Trade and Commerce (the committee) received authorization from the Senate to examine and report on issues pertaining to Canada's internal trade barriers. During its study, the committee focused on three topics:

- existing internal trade barriers, the reasons for their existence, and their economic, social and other effects on Canadians, Canadian businesses and the country's economy;
- variations in regulatory requirements across provinces/territories, and the ways in which such variations may limit the free flow of people, goods, services and investment across Canada; and
- measures that could be taken by the federal and provincial/territorial governments to eliminate internal trade barriers in order to enhance trade, as well as to promote economic growth and prosperity.

The committee wished to hear from government and non-government stakeholders throughout Canada who are affected by – or have views about – internal trade barriers, and undertook Ottawa-based hearings and a fact-finding mission to Vancouver and Calgary. As summarized in Appendix A, the committee heard testimony in Ottawa from 42 witnesses, and received information from 10 groups and individuals during its fact-finding mission. Appendices B, C and D present lists of briefs and witnesses, including officials from federal and provincial departments and other entities, think tanks, academics, advocacy organizations, professional associations and individuals.

On July 1<sup>st</sup>, 2017, Canada will celebrate the 150<sup>th</sup> anniversary of Confederation. In the committee's view, the Fathers of Confederation took the first crucial steps towards creating an economic union in Canada, and envisioned a country without barriers to internal trade. A century and a half later, "walls" – created through regulatory and legislative differences among Canada's jurisdictions – prevent the free flow of people, goods, services and investments between provinces/territories, a reality that is inconsistent with the vision that the Fathers of Confederation had for Canada. Ensuring a barrier-free country is a primary federal responsibility, and the federal government must work cooperatively and expeditiously with provincial/territorial governments in tearing down the unnecessary regulatory and legislative walls that divide the country. In this way, internal trade will be enhanced, and the country's economic growth and prosperity will be improved.

The committee is convinced the recommendations in this report – when implemented – will help to eliminate internal trade barriers, and thereby benefit Canadians. In order of priority, the recommendations address the following:

- urgent renewal of the *Agreement on Internal Trade*, with provisions that would replicate some of the key characteristics of the country's international trade agreements;

- a potential reference to the Supreme Court of Canada; and
- other federal actions that would contribute to the elimination of internal trade barriers.

## THE AGREEMENT ON INTERNAL TRADE

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### A. Overview

Estimates of the effect that eliminating internal trade barriers would have on the Canadian economy vary widely, and the committee heard estimates ranging between 0.05% and 7.0% of gross domestic product, or between \$1 billion and \$130 billion. Recent studies on this issue use the best available data and methodologies, try to estimate the most likely value of trade in the absence of provincial/territorial barriers, and attempt to account for barriers that cannot be changed, such as the physical barriers represented by the Rocky Mountains or a body of water. Within this context, the committee agrees with recent estimates suggesting that internal trade barriers reduce Canada's gross domestic product by between \$50 billion and \$130 billion.

The committee is alarmed by some of the examples of internal trade barriers that witnesses provided. In particular, regulatory and other barriers are pervasive in a wide range of areas, including transportation, alcoholic beverages and pharmaceutical drugs. The costly and seemingly unjustifiable nature of some of these barriers call for immediate actions to eliminate internal trade barriers. Governments have a responsibility to facilitate, rather than impede, trade and – thereby – economic growth.

Regardless of the how the costs of Canada's internal trade barriers are calculated, it is clear to the committee that federal and provincial/territorial governments have created these barriers, and have allowed them to persist. Equally, it is clear that these barriers impose a significant cost on Canadian consumers, businesses and workers, and that some exist for reasons unconnected to protecting health and safety.

#### **“ THE NEED FOR CHANGE EXISTS...**

Very simply, the current Agreement on Internal Trade is an important starting point, but it has grown out of date. It's over 20 years old and allows barriers to persist in too many sectors. It really is out of step with Canada's international trade agreements. **”**

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*Minister Navdeep Bains*

The committee is aware that 34 years have passed since the Royal Commission on the Economic Union and Development Prospects for Canada, also known as the Macdonald Commission, was appointed. Although the Commission outlined a process to address Canada's internal trade barriers, it was not until 1994 – a decade after the Commission released its report – that the recommended process for creating an efficient economic union led to the signing of the *Agreement on Internal Trade* (AIT). The AIT, to which the federal and all provincial/territorial governments except

Nunavut are signatories, was a significant accomplishment at the time. It has, to some extent, created a framework for eliminating internal trade barriers within specific economic sectors. However, progress has been too slow and a great deal remains to be done.

The AIT has failed to achieve its potential, and that the approach to the AIT – and the process for negotiating changes to it – need to be modified. In particular, the AIT should be modernized

to reflect the current nature and scope of internal trade, as well as the needs of Canadian businesses and citizens. As well, the AIT should include mechanisms to ensure that it keeps pace with potential future developments.

When the AIT was signed in 1994, Canada had free trade agreements with two countries: the United States and Mexico. Today, Canada has trade agreements in force with 15 countries and has concluded an additional 36 agreements. Given that Canada has been successful in concluding so many trade agreements, the committee believes that the same effort should be placed on concluding the renewed AIT in order to break down the walls of Canada's internal trade barriers.

The committee was disappointed to hear that the Comprehensive Economic and Trade Agreement between Canada and the European Union would make it easier for European businesses to trade with Canada than it currently is for Canadian businesses in one province/territory to trade with other provinces/territories. During a time when Canada seems to be actively pursuing reduced barriers in respect of international trade, it is puzzling that the federal and provincial/territorial governments seem to have such difficulty reaching an agreement to eliminate Canada's internal trade barriers.

**“ Once the Canada–European Union Comprehensive Economic and Trade Agreement is in place, Canada will be offering foreign companies better access to Canada than Canadian companies. We have to, at a very minimum, bring our internal trade agreement in line with what we offer foreign countries. ”**

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*C.D. Howe Institute*

On August 29, 2014, the Committee on Internal Trade agreed to conduct a comprehensive review and renewal of the AIT by March 2016. This deadline has passed, no announcement about a renewed AIT has been made, and no information has been provided about a new deadline for the completion of negotiations. That is unacceptable. It is imperative that negotiations for a renewed AIT be concluded, that an announcement about the renewed agreement be made before the 150<sup>th</sup> anniversary of Confederation, and that the renewed agreement be as effective as possible in eliminating internal trade barriers.

In seeking improved AIT effectiveness, the committee feels that the following six characteristics should be incorporated in the renewed agreement: a negative list approach; mutual recognition; a formal mechanism to facilitate regulatory harmonization; a binding investor-state dispute-resolution mechanism with enforceable prescribed remedies; improved consideration of trade in services; and the creation of a permanent co-chair of the Committee on Internal Trade, a position that should be filled by the federal government.

## B. A Negative List Approach

The committee feels that a renewed AIT should be negotiated on the basis of a negative list approach like that used when Canada negotiated a number of its recent international trade agreements, including the *Canada–Korea Free Trade Agreement* and the *Canada–European Union Comprehensive Economic and Trade Agreement*. With this approach, the AIT would cover all people, goods, services and investment unless they are explicitly exempted.

The committee is persuaded that a negative list approach has several benefits. First, it would be consistent with the approach taken with some of the country's international trade agreements. Second, it would provide increased transparency because governments would be required to identify existing laws, regulations,

policies and practices that are inconsistent with the AIT's obligations, and then either modify them or seek an exemption. Finally, it would ensure the AIT's ongoing relevance because not-yet-foreseen technologies and services would automatically be covered.

**"** First, the [Agreement on Internal Trade] must be as ambitious and comprehensive as any trade agreement Canada has with a foreign country. One way to achieve this is to adopt the negative list approach embedded in the *the Canada–European Union Comprehensive Economic and Trade Agreement*. **"**

*Business Council of Canada*

## C. Mutual Recognition

The committee commends the provinces of British Columbia, Alberta and Saskatchewan for the progress that has been made with the *New West Partnership Trade Agreement*. This agreement has been more successful at removing internal trade barriers than has the AIT, and incorporates an idea that has proven to be effective: mutual recognition. Mutual recognition – whereby a person, good, service or investment that conforms with a standard or standards-related measure in one province/territory is deemed to be conforming with that in another province/territory without the need for modification, testing, certification, re-naming or undergoing any additional assessment procedure – is an essential element for a renewed AIT.

**"** **MUTUAL RECOGNITION** is a basis for what the Australians did with their internal trade accord and with their agreement with New Zealand. It also is the basis for the Trade, Investment and Labour Mobility Agreement, which later became the New West Partnership, and the the Canada–European Union Comprehensive Economic and Trade Agreement. **"**

*International Trade Policy Consultants*

The committee notes, for example, that mutual recognition has been used in national agreements between jurisdictions within Australia, within the European Union and within

Switzerland, and in international agreements between Australia and New Zealand, Canada and South Korea, and Canada and the European Union.

## D. Regulatory Harmonization

While mutual recognition is one method for eliminating internal trade barriers, regulatory harmonization is another avenue for achieving this objective. Federal and provincial/territorial governments should share the common goal of ensuring that the country has the best possible set of laws and regulations, and that new laws and regulations are genuinely needed to meet clear public policy objectives and do not represent unnecessary barriers to trade.

While the federal and provincial/territorial governments should be working together to harmonize regulations wherever possible, the committee agrees with those witnesses who suggested that efforts must be directed at ensuring that the lowest regulatory standard is not adopted, unless that standard enables the achievement of public policy objectives. Furthermore, stakeholders should be consulted regarding harmonization so that can share their unique, and often practical, perspectives.

“After establishing mutual recognition, provinces and territories can build on the principle and continue working toward common standards and regulations through harmonization.”

— *Canadian Chamber of Commerce*

## E. Dispute Resolution

Dispute resolution is effective when businesses and individuals can access adjudication processes, and when adjudication decisions lead to tangible and visible changes in legislation, regulations, policies and programs. That said, the committee recognizes that it can be difficult to negotiate effective dispute-resolution mechanisms, in part because voluntary participation in an agreement that contains a binding dispute-resolution mechanism requires signatories to forego their ability to disregard adjudication decisions.

“The Agreement on Internal Trade’s current compliance process results in disputes that are long and drawn out, and any resolution reached is seldom satisfying to either party or really in the broader interests of liberalized trade.”

— *Canadian Federation of Independent Business*

The committee is strongly of the view that the AIT’s dispute-resolution mechanism is ineffective, and feels that the mechanisms in other trade agreements – including the *North American Free Trade Agreement*, the Canada–European Union Comprehensive Economic and Trade



Agreement and the *New West Partnership Trade Agreement* – should be considered for a renewed AIT.

An improved dispute-resolution mechanism for the AIT should have two characteristics, in the committee's opinion. First, private parties should have access to the adjudication process, perhaps through a mechanism that resembles the investor-state dispute-settlement mechanism in some of Canada's international trade agreements. Second, adjudication decisions should be binding, with enforceable prescribed remedies to address situations of non-compliance with these decisions; these remedies should be specified in the AIT, and should include monetary penalties and/or legislative and regulatory changes. A dispute-resolution mechanism with these characteristics would likely ensure greater compliance by federal and provincial/territorial governments with the AIT.

#### **F. Trade in Services**

### **" The subject of internal trade barriers**

needs to be much broader than just a focus on trade and the movement of goods.

It also needs to focus on the movement of services across provincial boundaries. "

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*AdvantageBC*

The committee recognizes that technological advancements and commercial innovations since the AIT was signed in 1994 have led to increased trade in services. For example, it is now possible for a surgeon to use a computer to operate on a patient located in a different province/territory, and for financial services and information technology support to be provided from any location.

Given the time in which it was concluded, the AIT mainly focuses on trade in goods, although labour mobility and investment have also been considered. Growth in the trade in services has outpaced that for goods since 1994, and the committee believes that this trend will continue into the foreseeable future. Therefore, it is imperative that greater attention be paid to internal trade in services as the AIT is renewed.

#### **G. Co-chairing the Committee on Internal Trade**

" The structure of the Committee on Internal Trade is set up with a rotating chair...

**1 YEAR**

is not enough time when you have good momentum, and then the chair switches and political will changes. "

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*Canadian Federation of Independent Business*



The Committee on Internal Trade's current system of a rotating chair provides each jurisdiction with an opportunity to undertake this role. While this system is equitable, it may have contributed to the slow pace of AIT negotiations, as negotiations may take a different direction when a rotation occurs. In fact, this change could lead to delays or the loss of consensus in areas where the parties have already reached agreement.

Furthermore, the committee recognizes the impact of federal and provincial/territorial elections on AIT negotiations. A provincial/territorial premier who feels that voters do not support trade negotiations may hesitate to participate in such negotiations prior to or during an election campaign, but may be willing to do so if re-elected.

The committee is persuaded that all possible options for federal leadership in relation to internal trade barrier elimination must be explored. Greater continuity in chairing the Committee on Internal Trade would reduce the likelihood that a change in chairmanship, for whatever reason, would delay AIT negotiations or lead to a reversal in agreed provisions. A permanent co-chair for this committee would provide continuity, and help to ensure that needed changes to the AIT occur in a timely manner. As the steward of the country's economy, the federal government should be that permanent co-chair.

#### **H. Committee's Recommendation**

A renewed AIT is essential for eliminating internal trade barriers in Canada and helping to realize the vision of the Fathers of Confederation: an economic union free from internal barriers. However, in order to realize its promise, negotiations for a renewed AIT must be concluded soon, and that agreement must have certain characteristics. From that perspective, the committee recommends:

**That the federal and provincial/territorial governments urgently work towards concluding the negotiations for a renewed *Agreement on Internal Trade*. The agreement should be finalized by July 1<sup>st</sup>, 2017, and should contain the following six characteristics:**

- **a negative list approach;**
- **mutual recognition;**
- **a formal mechanism to facilitate regulatory harmonization;**
- **a binding investor-state dispute-resolution mechanism with enforceable prescribed remedies;**
- **improved consideration of trade in services; and**
- **the federal government as a permanent co-chair of the Committee on Internal Trade.**

## A REFERENCE TO THE SUPREME COURT OF CANADA

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### A. Overview

While the committee would prefer a renewed and effective AIT, it is possible that negotiations may continue for an unacceptably long period of time or that a renewed AIT would not have the six key characteristics identified earlier. In either of these cases, the federal government must have another course of action to pursue as it exercises a leadership role in breaking down the walls of internal trade barriers.

### B. A Contingency Plan

With Confederation in 1867, attempts were being made to build a national economy while using the strengths of the various regions of the country and benefitting from interregional trade. To that end, section 121 of the *Constitution Act, 1867* prohibits explicit barriers to trade and commerce between the provinces, stating: “All Articles of the Growth, Produce or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.”

“It would be great to have the Supreme Court of Canada render a decision that ultimately will either be, yes, free trade between the provinces, or that wasn't what was intended.”

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*Cyndee Todgham Cherniak*

At the same time, the committee is aware that Canadian federalism – in respect of which the division of powers are predominantly outlined in sections 91 and 92 of the *Constitution Act, 1867* – was designed to respond to Canada’s diversity, with inevitable differences in specific social, economic and political arrangements. The federation provides a system of government that allows the expression of such differences.

“Ottawa was expressly created and its powers designed to give Ottawa the power to get rid of barriers between the provinces. It was the very justification for the country.”

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*Macdonald-Laurier Institute*

Furthermore, trade in services was not a concept that was envisioned in 1867. Consequently, section 121 does not specifically refer to trade in services. Given the recent growth of trade in services, and the expectation that growth will continue, the committee believes that the Fathers of Confederation, if they were alive today, would amend section 121 such that it would clearly apply to internal barriers in relation to trade in services.

Given that the deadline for a renewed AIT has passed, and that the Committee on Internal Trade has not announced a new deadline, the committee believes that the federal government has a responsibility to plan, not only for the implementation of a renewed AIT, but also for the possibility that a renewed agreement may not be reached in a timely manner or may be inadequate.

### **C. Committee's Recommendation**

The federal government has a clear leadership role to play in ensuring that progress continues to be made in eliminating internal trade barriers, and – as required – should use the tools at its disposal to determine the way in which section 121 should be interpreted. For that reason, the committee recommends:

**that, if a renewed *Agreement on Internal Trade* is not concluded by July 1<sup>st</sup>, 2017 or if the renewed agreement is inadequate, the federal government pursue – through the Governor in Council – a reference of section 121 of the *Constitution Act, 1867* to the Supreme Court of Canada.**

**Any such reference should focus on two questions: whether sections 91 and 92 must be read in the context of section 121; and whether section 121 applies to internal trade in services.**

## **OTHER NEEDED FEDERAL ACTIONS**

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### **A. Overview**

Aside from an adequate and timely renewed AIT and clarifying the interpretation of section 121 of the *Constitution Act, 1867*, there are a number of steps that the federal government should take – unilaterally, or in cooperation with provincial/territorial governments – in an effort to eliminate internal trade barriers. The federal government must demonstrate leadership in breaking down those walls.

**“ If we are to achieve the goal of free trade within Canada, political leadership by the federal government and all provincial and territorial governments is necessary. ”**

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*Canadian Federation of Independent Business*

For example, the federal government should facilitate labour mobility in Canada by consulting with professional regulatory bodies who have been successful in reducing barriers to labour mobility, and should identify funding for the collection of internal trade data and associated research. As well, the federal government should work with interested provinces/territories to continue with its efforts for a common securities regulator, which has been a goal for more than half a century, and should consider the creation of a national corridor that would establish a transportation and communication network from coast to coast to coast.

## **B. Federal Leadership is a Must**

As the steward of Canada's economy, the federal government has a responsibility to facilitate the elimination of internal trade barriers, and – in the future – it must play a greater role than it has to date. In recent years, the federal government has focused considerable efforts on negotiating agreements that reduce trade barriers with other countries. These efforts have occurred while significant trade barriers continue to exist within Canada. Canada's federal government must make greater efforts to facilitate internal trade, and these efforts must be at least equal to those that have been made in the recent past regarding international trade and investment.

**“ Real reform can come only from Ottawa, as was intended and envisaged in the Constitution *we created in 1867.* ”**

*Macdonald-Laurier Institute*

The committee is strongly of the view that now is the time – in fact, the time is overdue – for the federal government to focus on tearing down the walls that inhibit internal trade. The future is – of course – not entirely predictable, and the possible impacts on Canada of a new U.S. president who may not support international trade agreements and the possible withdrawal of the United Kingdom from the European Union are not clear. Undoubtedly, the federal government should provide more leadership in eliminating internal trade barriers than it has to date, and should work aggressively and persistently with provincial/territorial governments in this regard.

The federal Minister of Innovation, Science and Economic Development has many priorities, including the international trade goals outlined in his ministerial mandate letter from the Prime Minister. In the same way that free and fair international trade agreements help to ensure growth, the committee feels that an internal trade agreement designed to eliminate barriers is key to improving the nation's prosperity. The Minister must be supported by the Prime Minister as he works to break down the walls of internal trade barriers.

### **C. Professional Regulatory Bodies**

The committee was impressed with the progress that some professional regulatory bodies have made in mutually recognizing educational credentials and professional certifications, and notes that these efforts have occurred outside the AIT. Canada's educational institutions and training facilities are among the best in the world, and Canadian certification practices are very rigorous.

In the committee's view, there is no reason why a professional who has received his or her credentials from one province/territory should not have those credentials easily recognized in another province/territory. Mutual recognition in this area is both efficient and cost-effective, and professional regulatory bodies that currently lack mutual recognition processes should be assisted as they develop such processes in the future.

### **D. Data and Research**



The committee believes that there is a lack of data and research in relation to Canada's internal trade, and that a comprehensive list of internal trade barriers and their related costs would allow federal and provincial/territorial governments to focus their negotiations on eliminating the barriers that are the most costly. To this end, the Internal Trade Secretariat should take a more active role in undertaking research, and in preparing and publishing regular progress reports that would be available on the Secretariat's website.

Statistics Canada is the country's recognized source of reliable national data. The committee also feels that the availability and reliability of internal trade data would be enhanced if Statistics Canada had additional resources, thereby allowing researchers to improve the economic models that are used to estimate the cost of the country's internal trade barriers.

### **E. A Common Securities Regulator**

The committee acknowledges the challenges faced by the federal government in securing unanimous consent among provincial/territorial governments regarding the creation of a common securities regulator, but notes that the idea of such a regulator dates back to the 1960s.

During the Department of Finance's appearance in the course of the committee's 2006 study on consumer protection in the financial services sector, comments were made about the federal plan to establish a common securities regulator. In particular, the Department stated that, "[t]o be realistic, moving forward on [the creation of a common securities regulator] does not mean



we are going to have everyone in at the start. We have to move toward an opt-in model where willing provinces can come on board and work with us to design, and others can come in and join whenever they are ready.” The committee notes that the federal government did not meet the goal of establishing a common securities regulator by 30 June 2007, which was the date indicated in the recommendation contained in the committee’s 2006 report entitled *Consumer Protection in the Financial Services Sector: The Unfinished Agenda*.

“Despite multiple attempts to create a common securities regulator, we still do not have a harmonized capital market. A pan-Canadian regulator would boost competitiveness by eliminating duplication, reducing unnecessary red tape and compliance costs and enhancing oversight.”

*Business Council of Canada*

It has been more than 50 years since discussions about a common securities regulator began. In the committee’s view, Canada is not appreciably closer today to realizing this goal than it was five decades ago, although it does have a passport system. Under the passport system, participants may clear a prospectus or obtain a discretionary exemption or register as a dealer or adviser by obtaining a decision from the securities regulator in their home province/territory, with that decision applied in all other jurisdictions that take part in the system.

That said, there continues to be a need for a common securities regulator, a goal that has been more than half a century in the making, and feels that an agreement between the federal government and interested provincial/territorial governments may be a first step. It is the committee’s hope that the successful functioning of such a regulator would persuade the remaining provincial/territorial governments to participate in the system.

## **F. National Corridors**

During the hearings, the committee was intrigued by the idea of “national corridors” for transporting goods and services throughout Canada, and was reminded of the rail and highway connections that helped to build the country. Certainly, the transportation and communication needs of today are fundamentally different from decades past, and state-of-the-art transportation and communication corridors – on a national basis, to link the country from coast to coast to coast – are important as economic growth and prosperity are pursued.

Canadian companies often face fierce competition in foreign markets, and all possible actions should be taken to eliminate barriers within Canada; one aspect of reduced barriers is improved transportation and communication networks. One proposal that has

“Unlike some other countries, Canada has lacked building corridors for highways, rail, transmission and pipelines to move products to tidewater.”

*Jack Mintz*

considerable merit is a series of pipelines, railways, fibre optic cables, transmission lines and other appropriate mechanisms that would span the country. The committee hopes to study this idea and urges the federal government, either concurrently or after the committee has tabled its report, to undertake its own investigation of the feasibility of national corridors.

### **G. Committee's Recommendations**

It is imperative that federal and provincial/territorial governments quickly conclude the negotiations for a renewed – and effective – AIT. Failing that, the federal government should pursue a reference to the Supreme Court of Canada to determine the way in which section 121 of the *Constitution Act, 1867*, should be interpreted. Feeling that there are other actions that the federal government should take to break down the walls caused by internal trade, the committee recommends:

- **that the federal government work actively with provincial/territorial governments to ensure that laws, regulations, rules and policies do not unnecessarily restrict the free movement of people, goods, services and investment in Canada.**

**To that end, the Prime Minister of Canada and the federal Minister of Innovation, Science and Economic Development should make the removal of internal trade barriers a key priority.**

- **that the federal government consult with professional regulatory bodies, including Engineers Canada, to identify ways in which it could assist these bodies in adopting mutual recognition. The transferability of education credentials and professional certifications among provinces/territories should be one focus.**
- **that the federal government increase the funding allocated to two entities: the Internal Trade Secretariat, for the purposes of research, as well as the preparation and publication of regular progress reports, on internal trade barriers in Canada; and Statistics Canada, for the purposes of expanding and improving data related to internal trade.**
- **that the federal government conclude an agreement with provincial/territorial governments that wish to participate in a securities regulation regime that includes a number of jurisdictions.**

**The existing passport system in relation to securities regulation should continue to exist for provincial/territorial governments that do not wish to participate in the proposed securities regulation regime at this time.**

- **that the federal government support the creation of a “national corridor” that would allow the transportation of goods and services to tidewater through pipelines, railways, fibre optic cables, transmission lines and any other appropriate means.**

## **CONCLUSION**

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While the committee heard various perspectives on the topic of internal trade barriers during the course of this study, one conclusion cannot be disputed: almost 150 years after Confederation, internal trade barriers continue to exist in Canada. They are often frustrating and costly, and they constrain the free movement of people, goods, services and investment within the country.

The committee feels that many of the existing regulatory and legislative differences among Canada’s jurisdictions are unnecessary and burdensome, and is convinced that immediate steps must be taken to tear down the walls that exist because of internal trade barriers. Further delay in tearing them down would not only impose unnecessary costs, but also put Canada at a competitive disadvantage in the global marketplace.

There is an urgent need for federal action and leadership in eliminating internal trade barriers, and the committee looks forward to the full and timely implementation of the recommendations in this report.



## **APPENDIX A – SUMMARY OF WITNESS TESTIMONY**

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Between February 24, 2016 and May 12, 2016, the committee heard from groups and individuals in Ottawa, and undertook a fact-finding mission to Vancouver and Calgary, regarding Canada's internal trade barriers. In particular, witnesses:

- provided an overview of Canada's internal trade and barriers to this trade;
- spoke about the possible effects of reducing internal trade barriers in Canada;
- described remaining internal trade barriers in this country; and
- highlighted existing and potential mechanisms to reduce internal trade barriers in Canada.

Their comments in each of these four areas are summarized below.

### **A. Overview of Canada's Internal Trade and Barriers to this Trade**

The committee's witnesses mentioned the nature and magnitude of Canada's internal trade, categories and definitions in relation to internal trade barriers, the constitutional rights and responsibilities of Canada's governments regarding internal trade, and Canada's internal trade agreements.

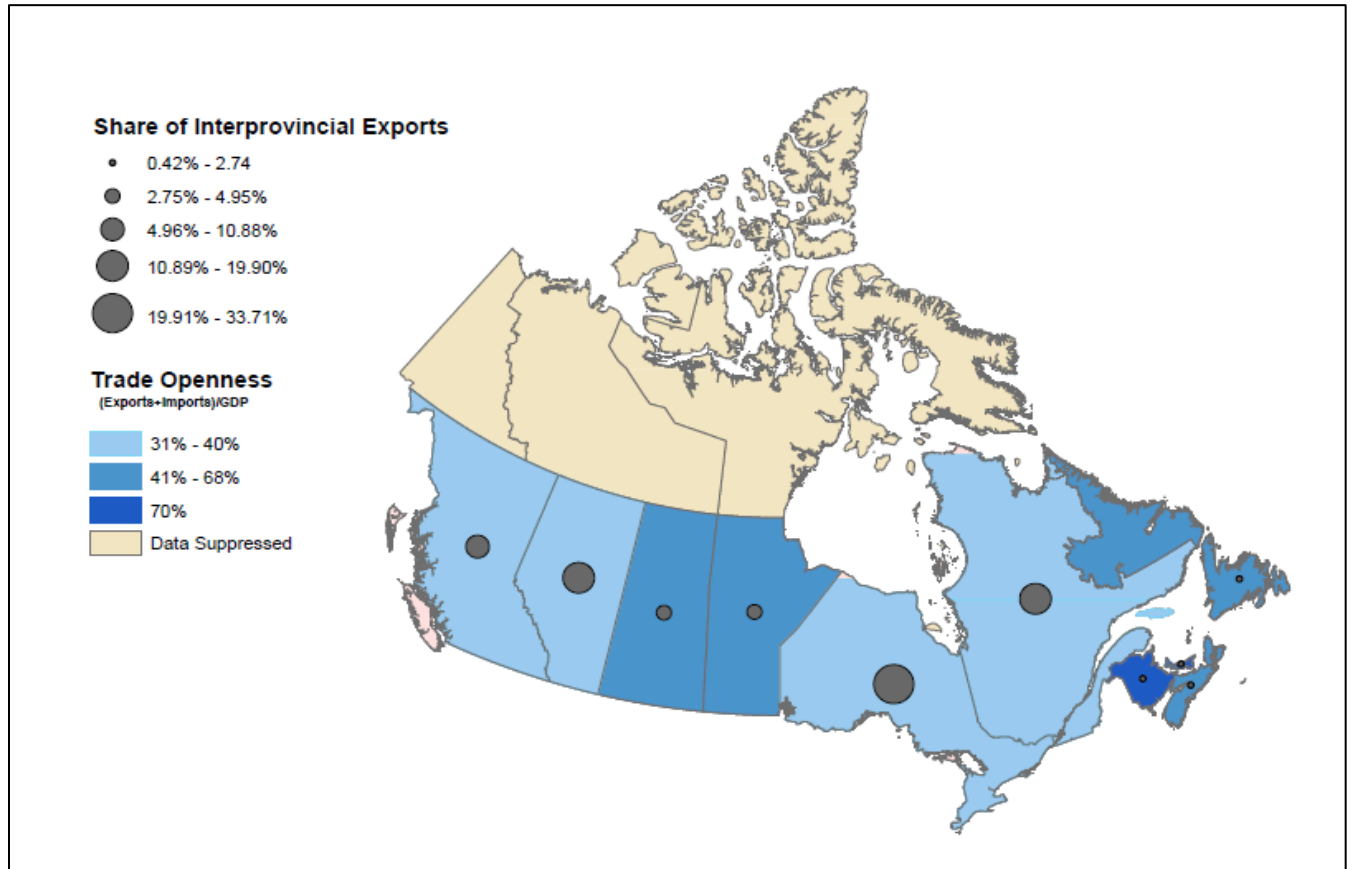
#### **1. The Nature and Magnitude of Canada's Internal Trade**

Witnesses spoke to the committee about the nature and magnitude of Canada's internal trade. According to an official from Statistics Canada, over the 1981–2014 period, the value of Canada's internal trade grew at an average annual rate of 4.2%. He indicated that this rate was lower than that for gross domestic product (GDP), at 5.3%, and for the value of both international imports and international exports, at 6.2% and 6.1% respectively. However, he reported that – since the beginning of 2000 – the average annual growth rate for GDP and for the value of internal trade has been approximately equal, and has exceeded the growth rates for internal imports and internal exports. He further stated that, while the value of internal trade in goods has both increased and decreased over the past three decades, the value of internal trade in services has risen steadily.

In highlighting the differences in provincial average annual growth rates in the volume of internal trade over the 1981–2014 period, the official from Statistics Canada mentioned that growth was the highest in Newfoundland and Labrador, British Columbia, Saskatchewan and Alberta; this outcome reflected an increase in the value of internal trade in natural resources, such as crude petroleum, potash and other minerals. According to him, over this period, average annual growth in the volume of internal trade was the lowest in Quebec and Ontario, which are relatively more reliant on manufactured goods and on services. He added that the importance of internal trade to a particular province, as measured by the ratio of the value of internal trade to GDP, is higher in smaller provinces than in larger jurisdictions. Furthermore, he remarked that –

over the 1981–2014 period – this ratio was the lowest in Ontario, at about 34%, and the highest in Prince Edward Island, at approximately 80%.

**Figure 1 – Average Ratio of Interprovincial Trade to Gross Domestic Product and Average Share of Interprovincial Exports, by Province, 1981–2014**



**Notes:** The “trade openness” of a given province is equal to the sum of its interprovincial imports and its interprovincial exports divided by its gross domestic product.

The share of interprovincial exports is equal to percentage of total interprovincial exports originating in a given province.

Data for territories are not significant.

**Source:** Map prepared by the Library of Parliament using data obtained from Statistics Canada, Table 384-0038. Canada Atlas Lambert.

According to the official from Statistics Canada, in 2014, the value of goods and services exports to other provinces/territories exceeded the value of internal imports for Ontario, Quebec and Alberta. He said that goods and services that are trade internally are often used as inputs in the production of other goods and services.

The Honourable Navdeep Bains, Canada’s federal Minister of Innovation, Science and Economic Development, told the committee that 40% of the total value of provincial/territorial

exports are destined for other provinces/territories, rather than for other countries, and that these internal exports represent 20% of GDP.

The Canadian Federation of Independent Business reported that 46% of small businesses have had sales in another province/territory in the past three years, while 73% have made purchases in another province/territory.

## **2. Categories and Definitions in Relation to Internal Trade Barriers**

Witnesses said that internal trade barriers may differ from barriers in relation to international trade because no tariffs are applied on goods and services that cross provincial/territorial borders. The Canadian Federation of Independent Business defined internal trade barriers as any regulation or obligation created by governments that causes an impediment to, or imposes an additional cost on, trade among provinces/territories.

The Canadian Federation of Independent Business also identified three categories of internal trade barriers: prohibitive barriers; technical barriers; and regulatory and administrative barriers. It said that prohibitive barriers are laws that explicitly prevent trade, such as an inability to ship alcoholic beverages directly to the consumer. It explained that technical barriers are sector-specific regulations that differ across provinces/territories, such as those related to the size of dairy creamers. Finally, it told the committee that regulatory and administrative barriers are additional paperwork requirements faced by businesses that operate in multiple provinces/territories, such as the need to apply for technical standards and safety authority certification in each jurisdiction in which a business operates.

Some witnesses thought that the word “barrier” was inappropriate because it might be defined as tariffs or restrictions on imports; a few witnesses suggested that “irritants” is a more appropriate term. The Canadian Trucking Alliance noted that the distinction between these terms is not clear and stated that, regardless of whether they are characterized as “barriers” or as “irritants,” these impediments result in inefficiencies and extra compliance costs for businesses.

## **3. Constitutional Rights and Responsibilities of Canada's Governments Regarding Internal Trade**

Witnesses informed the committee that section 121 of the *Constitution Act, 1867* (the Constitution) states: “All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.” Some witnesses believed that this section provides the federal government with the right to enact laws designed to reduce internal trade barriers.

Given that some internal trade barriers may reflect differing provincial/territorial laws and regulations, Cyndee Todgham Cherniak – who appeared before the committee as an individual – said that, if section 121 of the Constitution is interpreted as giving the federal government certain rights in relation to internal trade barriers, then the section may conflict with sections 91

and 92, which – respectively – establish the areas over which the federal government and provincial/territorial governments have legislative powers.

Witnesses suggested that section 121 of the Constitution may be interpreted as applying only to the elimination of tariffs, and not to regulatory misalignment or to trade in services. Some witnesses reported that past Supreme Court of Canada decisions have interpreted this section in a manner that does not provide the federal government with the power to create laws designed to reduce all internal trade barriers. For example, witnesses mentioned the 1921 case of *Gold Seal Ltd. v. Alberta (Attorney-General)* and the Government of Canada's reference to the Supreme Court of Canada to determine whether the federal government has the right to establish a national securities regulator.

However, Ms. Todgham Cherniak argued that the 2016 decision in the case of *R. v. Comeau* might change the legal interpretation of section 121 of the Constitution. In describing the case, she highlighted that Mr. Gerard Comeau was fined for transporting cases of beer across the Quebec–New Brunswick border, and that the judge ruled that section 134(b) of *New Brunswick's Liquor Control Act* – which limits the importation of alcohol into the province – constitutes an internal trade barrier and therefore is unconstitutional given section 121. Ms. Todgham Cherniak said that, in his decision, the judge quoted speeches from the Fathers of Confederation in which they characterized one purpose of the Dominion of Canada as the elimination of trade barriers between provinces.

Christopher Kukucha, who appeared before the committee as an individual, suggested that the drafters of Canada's Constitution likely did not contemplate a possible conflict between section 121 on one hand, and sections 91 and 92 on the other hand. In his view, because there was so little regulation at that time, inconsistent regulations that would lead to internal trade barriers were not envisioned.

#### **4. The Agreement on Internal Trade**

Witnesses told the committee that the *Agreement on Internal Trade* (AIT), to which all provinces/territories except Nunavut are signatories, came into force on 1 July 1995. An official from the Government of Prince Edward Island reported that, since that time, the AIT's signatories have adopted 14 protocols of amendment. Witnesses noted that key protocols include those dealing with labour mobility, dispute resolution and procurement.

As well, witnesses indicated that – in summer 2014 – the Council of the Federation announced that the federal and provincial/territorial governments would negotiate a renewed AIT by March 2016.

James Moore, who appeared before the committee as an individual, suggested that – in 2013 – negotiations for a renewed AIT were at a stalemate, but that several events in 2014 changed the political climate and made reforms to the AIT more likely. For example, in speaking about Quebec, he said that a separatist government led by Pauline Marois was replaced by a

federalist government led by Philippe Couillard, who is relatively more interested in reforming the AIT.

Furthermore, several witnesses – including Mr. Moore – stated that, in some instances, the provisions in the Canada–European Union Comprehensive Economic and Trade Agreement would make it easier for European businesses to trade with Canada than for Canadian businesses in one province/territory to trade with other provinces/territories. Witnesses found that this outcome would be particularly true in the area of government procurement. A number of witnesses explained that the provinces/territories were consulted by the federal government during the negotiations for the Comprehensive Economic Trade Agreement, and they agreed to provide European businesses with access to provincial/territorial procurement in an amount that would exceed the access currently available to Canadian businesses in other provinces/territories. Therefore, these witnesses believed that provinces/territories would be willing to negotiate new AIT rules regarding procurement that would provide Canadian businesses trading within Canada with access that is at least as favourable as the access that European Union businesses would have once the agreement between Canada and the European Union is ratified.

Several witnesses also expressed their hope that a renewed AIT would provide for increased regulatory cooperation and a negative list approach; with this approach, all goods, services, people and investments would be covered by the agreement unless they are specifically excluded.

Witnesses supported timely reform of the AIT. The Atlantic Institute for Market Studies and Mr. Moore felt that Canada's international trading partners are showing signs of growing protectionism, and the latter cited the political platforms of Donald Trump and Hillary Clinton, both of whom have suggested that they would not sign the Trans-Pacific Partnership agreement, and the referendum in the United Kingdom about whether to remain a part of the European Union. Given these protectionist trends, witnesses thought that increased internal trade might compensate for potentially reduced international trade. The official from the Government of Prince Edward Island was skeptical that Canada's trading partners would become more protectionist, remarking that – given the importance of bilateral trade and the prevalence of global value chains that cross the shared border – it is unlikely that a U.S. president would limit trade with Canada. Several witnesses reported that the AIT should be updated so that it conforms more closely to Canada's recent international trade agreements, including the Canada–European Union Comprehensive Economic and Trade Agreement and the Trans-Pacific Partnership agreement.

Minister Bains appeared before the committee prior to the announced March 30<sup>th</sup>, 2016 deadline to renew the AIT. He was optimistic that the deadline would be met, and that the renewed AIT would include a negative list approach, improved government procurement provisions and increased regulatory cooperation.

Some witnesses who appeared after the March 30<sup>th</sup>, 2016 deadline noted that no announcement about a renewed AIT had been made. Furthermore, in reminding the committee

that the AIT requires consensus from all parties, a number of witnesses expressed skepticism that a renewed AIT would be significantly different than the existing agreement; with so many parties, it can be difficult to achieve consensus. As an example, the Canadian Chamber of Commerce highlighted the AIT negotiations in 2009, when a draft chapter on energy was not included in the agreement because a single jurisdiction did not consent.

Eugene Beaulieu, who appeared before the committee as an individual, suggested that there is no political gain for provinces/territories to improve the AIT. Some witnesses thought that – in some cases – internal trade barriers benefit provinces/territories financially, such as when revenue is collected from sales through liquor boards, or politically, such as when barriers help local businesses to grow. Other witnesses believed that internal trade barriers are the unintended result of separate rule-making among provinces/territories.

The official from the Government of Prince Edward Island, who appeared before the committee after March 30<sup>th</sup>, 2016, was optimistic that a renewed AIT would be announced, and noted that political realities may affect the timing of such an announcement. In particular, he said that the announcement date could be affected by the dates of recent provincial elections.

Ms. Todgham Cherniak stated that, in the 2009 case of *Northrop Grumman Overseas Services Corporation v. AG of Canada*, the Supreme Court of Canada decided that the AIT is a political agreement between provinces/territories, and thus is not binding in law.

## **5. Other Internal Trade Agreements**

In addition to the AIT, witnesses mentioned several other internal trade agreements in Canada, including the *Agreement on Labour Mobility and Recognition of Qualifications, Skills and Work Experience in the Construction Industry (2006) between the Government of Ontario and the Gouvernement du Québec*, the *Trade and Co-operation Agreement between Ontario and Quebec*, the *New Brunswick–Nova Scotia Partnership Agreement on Regulation and the Economy*, the *Atlantic Procurement Agreement*, the *Interim Agreement on Internal Trade in Agriculture and Food Goods*, the *Trade, Investment and Labour Mobility Agreement* and the *New West Partnership Trade Agreement*.

Dylan Jones, who appeared before the committee as an individual, explained that the *Trade, Investment and Labour Mobility Agreement* – which was signed by British Columbia and Alberta – was expanded to include Saskatchewan, at which point the agreement was renamed the *New West Partnership Trade Agreement*. A number of witnesses commented that, following a recent change in government, Manitoba is likely to join the *New West Partnership Trade Agreement*.

Several witnesses suggested that the *New West Partnership Trade Agreement* has gone farther than the AIT in reducing internal trade barriers. For example, Mr. Kukucha said that the AIT is based on “defensive” priorities, which protect sectoral interests, instead of “offensive” priorities, which are aimed at new markets. In his view, the AIT is less about offensive priorities than it is about developing and clarifying the rules of internal trade in Canada. He thought that most of Canada’s other regional trade agreements are also based on defensive priorities, but reported



that the *New West Partnership Trade Agreement* was negotiated with more offensive priorities, including through its use of a negative list approach.

The Canadian Federation of Independent Business found that the dispute-resolution mechanism in the *New West Partnership Trade Agreement* is superior to that in the AIT, while International Trade Policy Consultants, Inc. believed that the harmonization of business registration in the former is an improvement over the relevant provisions in the latter. Jon R. Johnson – who appeared before the committee as an individual – thought that mutual recognition is stronger in the *New West Partnership Trade Agreement* than in the AIT; this approach ensures that a person, good, service or investment that conforms with a standard or standards-related measure in one province/territory would be deemed to be conforming with those standards or measures in another province/territory without the need for modification, testing, certification, re-naming or undergoing any additional assessment procedure.

However, a number of witnesses were less enthusiastic about the *New West Partnership Trade Agreement*. The Calgary Chamber suggested that some businesses have not experienced the progress that was envisioned when the agreement was signed, and Mr. Moore noted that the Alberta government no longer seems to be interested in the agreement.

## **B. Possible Effects of Reducing Internal Trade Barriers**

The committee's witnesses pointed out the possible effects of reducing internal trade barriers on the following: economic growth, as well as international trade and investment; consumers and workers; the alcoholic beverages sector and related government revenues; and consumer protection, health and safety.

### **1. Economic Growth, and International Trade and Investment**

A number of the committee's witnesses mentioned the effect of internal trade barriers on Canada's economic growth, and on international trade and investment. The Canadian Federation of Independent Business and the Retail Council of Canada suggested that such barriers reduce the economy's growth potential by decreasing the productivity of businesses. The Business Council of Canada supported the view of Mr. Moore, who explained that internal trade barriers restrict firms' ability to grow; he theorized that limitations on growth explain why another Canadian firm has not experienced the same level of success as BlackBerry. Because reducing internal trade barriers can have positive effects on economic growth, the Calgary Chamber referred to such reductions as a form of stimulus that is particularly useful when other forms are not possible or have ceased to have an effect. It further emphasized that, if businesses could spend less on complying with inconsistent regulations across provinces/territories, they would be able to invest more and grow as a consequence.

Several witnesses proposed that reducing internal trade barriers would enhance productivity growth and hence make Canadian firms more competitive internationally, thus leading to increased exports. For example, the Business Council of Canada said that lower or fewer internal trade barriers make it easier for firms to expand, and larger firms are more likely to

export their products internationally; thus, reducing internal trade barriers would have a positive impact on Canadian exports. Mr. Jones thought that increasing exports through reducing internal trade barriers is important because other methods of stimulating economic growth – including through household and government indebtedness – are reaching their limits, and exports are an alternative method to achieve economic growth.

The Canadian Vintners Association stated that governments should reduce alcohol-related internal trade barriers so that Canada's wineries are able to grow and compete against U.S. wineries that do not face similar barriers. Likewise, the Canadian Federation of Agriculture commented that internal trade barriers in relation to Canada's sheep sector not only inhibit the sector's growth, but also lead to the importation of foreign lambs because Canadian farmers are less competitive.

Noting that reductions in internal trade barriers can lead to increased internal trade, the Atlantic Institute for Market Studies cited a report by the Nova Scotia Commission on Building Our New Economy, commonly known as the Ivany Report. According to it, the report proposes that trade – internal or international – is one way that Nova Scotia could overcome the impediments to economic growth caused by out-migration, rising taxes, mounting debt, an aging population, a hollowing out of the countryside, decaying infrastructure, movement of investments abroad, sliding productivity and underperforming education.

Witnesses noted that internal trade barriers not only affect Canada's international trade, but also international investment in Canada. AdvantageBC and an official from the Canadian Food Inspection Agency said that these barriers decrease the attractiveness of Canada as a destination for such investment. As an example, AdvantageBC referred to the Canadian securities passport system, which it suggested is complex and discourages some international investment in Canadian securities.

A number of witnesses provided estimates of the positive effect that eliminating all internal trade barriers could have on Canada's GDP; they ranged from 0.05% to 7.0% of GDP, or between \$1 billion and \$130 billion. The Canadian Centre for Policy Alternatives speculated that the lower of these estimates might be too high because internal trade barriers have been reduced since these estimates were calculated. The Canadian Labour Congress agreed, noting that there has been significant progress in recognizing out-of-province/-territory professional certifications, such as through the Red Seal program.

Mr. Beaulieu claimed that, although the effects of internal trade barriers may be hard to measure, this difficulty does not mean that barriers do not exist. He contended that business surveys confirm the presence of these barriers, and that all estimates show that reducing internal trade barriers will be beneficial.

The official from the Government of Prince Edward Island suggested that the wide range of estimates of the positive effects on GDP of reducing internal trade barriers is a function of a wide range of underlying assumptions. Furthermore, he noted that the increase in GDP resulting from reducing these barriers might not always be the best measure of the benefit to the



economy from doing so. In his view, there may be costs to reducing barriers, and studies that present only the estimated increase in GDP may be incomplete analyses of the overall effect on the economy.

Jack Mintz, who appeared before the committee as an individual, indicated that low estimates of the positive effects on GDP of reducing internal trade barriers often fail to consider certain features of Canada's economy, such as non-competitive sectors; in his opinion, taking these features into account can increase the estimated impact. The Canadian Labour Congress found that some estimates of the effect on GDP of reducing internal trade barriers are based on unrealistic assumptions, the effect of which is to give higher estimates. According to it, these assumptions include static levels of unemployment, and identical growth rates for the value of imports and of exports.

The C.D. Howe Institute suggested that some estimates of the cost of internal trade barriers are not necessarily measuring the increase in GDP that would result from a reduction in these barriers, but rather are measuring regulation-related compliance and any other costs. It argued that these estimates do not include the cost to the economy of the choice by businesses not to operate because costs are too high or the benefit to the economy of a small business – less negatively affected by internal trade barriers – being able to grow and perhaps access foreign markets.

Several witnesses referred to a study indicating that the elimination of all internal trade barriers would increase Canada's GDP by \$50 billion to \$130 billion. When the study's author – Trevor Tombe – appeared before the committee as an individual, he explained that his methodology for calculating these amounts is the “cutting edge” of international trade research. Mr. Beaulieu reported that the increased availability of firm-level data makes the use of this new methodology possible, and enables researchers to make more realistic assumptions. Mr. Tombe testified that, although the benefits of reducing internal trade barriers are often unobservable, they can be estimated by comparing the current value of internal trade with that which it is believed would exist under certain assumptions about the behaviour of firms and individuals in the absence of any such barriers.

Mr. Tombe found that the costs of trade barriers are higher for smaller or poorer provinces; his analysis did not include Canada's territories. Furthermore, he reported that removing barriers in sectors that create inputs for other sectors would, all else being equal, have the largest effects on GDP. Therefore, he indicated that removing barriers in the agriculture and mining, food, textiles, finance, or wholesale and retail sectors would produce the greatest increase in GDP. Mr. Beaulieu pointed out that Mr. Tombe's methodology differs from that used for calculating the estimates contained in the 1984 report by the Macdonald Commission, which itemized internal trade barriers and estimated their costs to the economy.

## **2. Consumers and Workers**

Witnesses pointed out that reducing internal trade barriers would lead to increased choice for consumers because they would have greater access to products produced throughout Canada.

AdvantageBC and the Calgary Chamber proposed that consumers would also benefit from lower prices.

The Canadian Welding Bureau and the Calgary Chamber observed that internal trade barriers that restrict the movement of workers across provincial/territorial borders can exacerbate skills shortages by making it more difficult for workers to fill vacant positions across Canada.

The C.D. Howe Institute told the committee that greater labour mobility in Canada resulting from lower internal trade barriers would give workers greater economic security because the pool of jobs for which they could be considered would be larger, and therefore they would be more likely to find employment. An official from Employment and Social Development Canada noted that greater mobility would facilitate the redistribution of workers from areas of low demand to areas where opportunities exist.

The Retail Council of Canada claimed that businesses that spend less on complying with regulations are able to spend more on hiring workers. Similarly, the Atlantic Institute for Market Studies suggested that one effect of reducing internal trade barriers is increased employment.

### **3. Alcoholic Beverage Sector and Related Government Revenues**

A number of witnesses focused their comments on internal trade barriers in relation to alcoholic beverages. Dan Albas – who appeared before the committee as an individual and is the Member of Parliament for Central Okanagan-Similkameen-Nicola whose private member's bill led to the enactment of *An Act to amend the Importation of Intoxicating Liquors Act (interprovincial importation of wine for personal use)* – predicted that Nova Scotia's legislation to liberalize trade in alcoholic beverages and allow direct-to-consumer shipments will not only increase the province's wine production, but also lead to more tourist visits. The Canadian Vintners Association and Tinhorn Creek Vineyards agreed that reducing such barriers would increase tourism in wine-producing areas, and lead to greater sales for Canadian wineries and opportunities for them to create a loyal client base. Tinhorn Creek Vineyards believed that allowing direct-to-consumer shipments encourages Canadian wineries to ship domestically instead of internationally.

The Canadian Vintners Association said that, in the absence of tax policy changes, provinces/territories that allow direct-to-consumer shipments of alcoholic beverages experience revenue decreases because some purchases of these beverages will no longer be made through provincial/territorial liquor control boards.

On the other hand, Vintage Law Group noted that Manitoba has eliminated barriers to the direct importation of alcoholic beverages, and the province's liquor-related revenues have increased at a rate that is at least as high as that in other provinces/territories. It found that this outcome is not surprising; in the United States, where direct-to-consumer shipments of wine have largely been legalized, such shipments represent only 2% of the total value of wine sales. It also indicated that, in Canada, 90% of wine is consumed within 48 hours after its purchase; with shipping times that are often longer than 48 hours, most wine purchases would not occur

through direct-to-consumer shipments. As well, Tinhorn Creek Vineyards stated that direct-to-consumer shipments could increase both enthusiasm for wine and the amount of wine purchased from provincial/territorial liquor boards, thus increasing their revenues.

#### **4. Consumer Protection, Health and Safety**

Several witnesses cautioned that, when internal trade barriers take the form of differing provincial/territorial regulations, reducing these barriers could have adverse effects on consumer protection, health and safety. The Canadian Centre for Policy Alternatives and the Canadian Labour Congress stressed that requiring governments to justify that new regulations do not unduly restrict trade would create disincentives for governments to regulate in the public interest, such as by introducing new restrictions on the use of neonicotinoids, or on foods with trans fats or high amounts of sugar.

Furthermore, the Canadian Centre for Policy Alternatives stated that an approach that would require governments to justify new regulations in the context of any trade-restricting effects would create conditions for provinces/territories to harmonize their regulatory standards to the lowest level. Similarly, in the view of an official from Environment and Climate Change Canada, any approach to reducing internal trade barriers should not encourage a “race to the bottom” in terms of harmonized regulatory standards.

The official from the Canadian Food Inspection Agency told the committee that there could be a trade-off between reducing barriers – for example, by lowering federal standards on meat production – and having effective regulation that consumers trust.

The Canadian Labour Congress thought that internal and international trade agreements can benefit large businesses, but that such agreements rarely protect workers or the environment. Furthermore, it stated that internal trade agreements might limit municipal and provincial governments’ ability to use procurement policies to promote local environmental stewardship and economic development.

Consumer Health Products Canada explained that internal trade barriers in relation to the approval and sale of consumer health products could result in higher healthcare costs for provincial/territorial and federal governments. It argued that, by making it more difficult to access necessary drugs, these barriers would lead to lower health outcomes, and therefore increase the use of other healthcare services.

#### **C. Remaining Internal Trade Barriers**

In addition to the benefits of eliminating internal trade barriers, witnesses spoke about existing barriers that impede trade within Canada. Several witnesses mentioned that the federal government has commissioned Ernst & Young to create an index of Canadian internal trade barriers; the index is due to be completed by the end of 2016.

Witnesses also spoke about specific internal trade barriers, and highlighted – in particular – those in relation to the following: regulatory duplication, and inconsistent laws and regulations;

trucking and other transportation regulations; environmental regulations; agricultural and food product regulations; laws regarding the importation of alcoholic beverages; drug regulations; labour mobility and employment; finance and insurance regulation; procurement; and First Nations subsidies.

## **1. Regulatory Duplication, and Inconsistent Laws and Regulations**

A number of witnesses characterized the duplication of regulations, as well as inconsistent laws and regulations, across provinces/territories as internal trade barriers. Witnesses suggested that duplicative or inconsistent regulations lead to greater costs for businesses when they operate across provincial/territorial borders because efforts must be made to understand and comply with various – and differing – sets of regulations.

For example, the Canadian Federation of Independent Business and the C.D. Howe Institute cited the system of business registration in Canada, whereby businesses often must register in each province/territory in which they do business. In their view, this approach creates unnecessary additional costs to doing business across internal borders. The C.D. Howe Institute noted that only New Brunswick and Nova Scotia have mutual recognition of business registration, so that a business registered in one of these provinces does not need to register in the other province. Mr. Albas described a situation in which a British Columbia business bringing trucks purchased in Quebec across Canada is required to obtain engineering reports from the various provinces/territories through which the trucks will transit.

Witnesses provided the committee with several examples of inconsistent regulations across provinces/territories. For example, the Conseil du Patronat du Québec reported that differences in sales taxes across jurisdictions are an example of inconsistent laws that result in internal trade barriers. Mr. Jones explained that, although the provinces that have signed the *New West Partnership Trade Agreement* have harmonized – to a great extent – the areas in which regulations can be made, responsibility for setting regulations has often been given to provincial/territorial regulators or ministers; these individuals can implement regulations independently of the approach taken by their counterparts in other jurisdictions. Therefore, he concluded that inconsistent regulations are often not the result of inconsistent legislation, but rather independent decision making by provincial/territorial regulators or ministers.

Witnesses noted that, if they apply in all jurisdictions, federal regulations cannot be internal trade barriers because they do not create regulatory inconsistencies. For this reason, the Canadian Wireless Telecommunications Association suggested that the federal government should maintain its position as the sole regulator of telecommunications across Canada so that provinces/territories are unable to enact differing regulations. On the other hand, for example,

## **2. Trucking and Other Transportation Regulations**

In its appearance before the committee, International Trade Policy Consultants, Inc. made reference to a “patchwork” of trucking regulations across provinces/territories. Witnesses from various trucking associations explained that some internal trade barriers in the trucking sector

are the result of deregulation of this sector in 1988 and provincial/territorial adoption of the *National Safety Code*. According to witnesses, this Code mandates truck driver hours of service, driver medical requirements, carrier safety ratings and trip inspections. Witnesses indicated that, although all provinces/territories have adopted the Code, its interpretation and implementation differ across provinces/territories. The British Columbia Trucking Association added that municipalities also have differing regulations regarding transportation.

As an example of internal trade barriers that could arise from differing implementation of the *National Safety Code*, the British Columbia Trucking Association noted that – with the exception of Alberta – all provinces/territories have adopted a new standard for driver hours of operation. Furthermore, it observed that all provinces/territories except Alberta allow a ratchet bar to be used to secure loads, and that bus trip inspection requirements and vehicle inspection periods differ in British Columbia and Alberta. It also found that certain truck configurations can only be driven in British Columbia at night and in Alberta during the day, with the result that drivers may have to wait several hours before crossing the border between these provinces. The Alberta Motor Transport Association stated that this difference between British Columbia and Alberta is due to unsafe road conditions on highways leading to Fort McMurray. The British Columbia Trucking Association further commented that, in Ontario and Quebec, trucks have to be incapable of surpassing 105 kilometres per hour. Furthermore, it stated that certain truck configurations require pilot cars; the number of pilot cars that are required differs across jurisdictions.

The Calgary Chamber gave the example of Bison Transport, which it said spent millions of dollars on compliance costs, thereby limiting the funds available for investments to produce goods and services. It contended that, when resource prices were high, Bison Transport hauled heavy loads from Canada's eastern provinces to the country's western provinces; however, differing regulations regarding the tying and securing of loads, and the frequency with which loads could be shipped, added costs and slowed the transportation of products to the resource sector.

The Alberta Motor Transport Association and the Canadian Trucking Alliance were concerned that new safety developments, including electronic logging devices that automatically track driver activity, may be implemented in some jurisdictions but not others, resulting in new internal barriers.

Several witnesses noted that truck weight and dimension regulations differ across provinces/territories. The British Columbia Trucking Association and the Alberta Motor Transport Association explained that all provinces/territories agreed to a 1988 Memorandum of Understanding on truck weights and dimensions, and that a vehicle meeting the Memorandum of Understanding's standards can operate anywhere in Canada. However, they informed the committee that provinces/territories allow truck configurations in their jurisdiction that may not be permitted in other jurisdictions. The Canadian Trucking Alliance pointed out that one such jurisdictional inconsistency in relation to weight and dimension standards is the placement of axles. Moreover, Mr. Tombe testified that a hitch used by Greyhound buses to tow a cargo carrier cannot be used in all provinces/territories.

As well, witnesses mentioned several truck add-ons or technologies designed to reduce greenhouse gas emissions that are allowed in some, but not all, jurisdictions. For example, they highlighted new generation single wide-base tires, which increase fuel efficiency by replacing a set of double tires with a single tire. Witnesses noted that, although these tires are accepted in all jurisdictions except Quebec, Ontario and Manitoba, trucks must have reduced cargo weights in order to use them. The Alberta Motor Transport Association believed that, although Alberta's regulators claim that higher weights on these tires damage pavement, the resulting damage is both minor and offset by lower costs to operators and reduced greenhouse gas emissions. As a result of differing regulations regarding tire sizes, the Canadian Federation for Independent Business said that trucks must change their tires when crossing certain provincial/territorial borders.

The Alberta Motor Transport Association and the Canadian Trucking Alliance said that some trucks use natural gas fuel tanks, which are more energy efficient – but heavier – than other fuel tanks. They noted that, in all jurisdictions except British Columbia, trucks have to carry lighter cargo in order to compensate for the heavier fuel tanks.

Witnesses also mentioned other technologies designed to increase fuel efficiency that have not yet been adopted in all provinces/territories. According to them, these technologies include boat-tails – a device placed on the back of a trailer to make it more aerodynamic – and 6x2 technology – an axle technology with which, depending on the weight being carried, the axle may touch the ground.

The British Columbia Trucking Alliance indicated that trucking companies operating across provincial/territorial borders face varying input taxes. It cited, for example, multi-jurisdictional vehicle taxes, which prorate provincial/territorial sales taxes on vehicle purchases based on the distance travelled within each jurisdiction. Furthermore, it stated that the operation of the multi-jurisdictional vehicle taxes results in inequities because refund rates for unused portions of the multi-jurisdictional vehicle taxes depend on where the purchaser is domiciled.

Similarly, a brief submitted to the committee by the Canadian Federation of Independent Business highlighted the frustration experienced by one of its members – a trucking company – with permit regulations that differ across provinces/territories and throughout the year, which could lead to administrative challenges and inefficiencies. The brief also mentioned another member – also a trucking company – that has made a complaint regarding the requirement to obtain fuel tax licences and prorated vehicle registration for internal cross-border travel; these requirements do not exist for travel within the province/territory.

The Canadian Federation of Agriculture said that transportation regulations also affect farmers, who face differing requirements across jurisdictions in relation to farm plates, axle weights and load heights. Furthermore, it explained that farmers who ship products across provincial/territorial borders only infrequently may be unintentionally noncompliant because they are unaware of the appropriate regulations.



### **3. Environmental Regulations**

The official from Environment and Climate Change Canada informed the committee that environmental regulations differ across provinces/territories, which can lead to additional costs for businesses. For example, he mentioned differing waste disposal requirements.

The Retail Council of Canada stated that there are more than 100 mandatory recycling programs across the country with which retailers that operate in multiple provinces/territories must comply. It highlighted deposit systems for beverage containers, noting that jurisdictions differ in the deposit amounts that are refunded to consumers, the presence of additional fees, the inclusion of recycling fees as separate line items on consumers' receipts, and reporting structures regarding the application of the Goods and Services Tax/Harmonized Sales Tax to containers.

As well, the Conseil du Patronat du Québec suggested that differences in carbon pricing across provinces/territories are an internal trade barrier. It noted that Quebec and Ontario have a cap-and-trade system, Manitoba will soon have such a system, British Columbia and Alberta have a carbon tax, and other provinces do not place a price on carbon. Mr. Johnson mentioned that, by allowing provinces/territories to choose their own approach in addressing climate change instead of taking steps to ensure harmonization, the federal government is implicitly creating internal trade barriers.

The official from Environment and Climate Change Canada emphasized that federal environmental regulations are not internal trade barriers; because the regulations apply consistently across provinces/territories, firms do not have to comply with differing regulations.

Some witnesses identified governmental barriers to building pipelines as internal trade barriers. The official from Environment and Climate Change Canada pointed out that, because pipelines cross provincial/territorial borders, some of these barriers are under federal jurisdiction.

### **4. Agriculture and Food Product Regulations**

Agricultural and food products was another area in which witnesses highlighted differing provincial/territorial and federal regulations as internal trade barriers. For example, several witnesses observed that both provincial/territorial and federal regulations exist for Canada's meat sector. They stated that federal regulations apply to businesses that wish to trade across provincial/territorial or international borders, while provincial/territorial regulations apply to those that sell within their province/territory. Furthermore, the Canadian Federation of Agriculture pointed out that many grocery chains require federal standards to be satisfied even if they are purchasing within a province/territory. According to some witnesses, meat producers that wish to expand and sell across internal or international borders must adhere to federal standards, which are often more costly than provincial/territorial requirements but are no safer. However, the official from the Canadian Food Inspection Agency maintained that federal standards may be necessary to gain the trust of domestic and foreign consumers.

The Canadian Federation of Agriculture noted two differences in provincial/territorial and federal regulations regarding meat: the definition of waste; and sanitation rules. Regarding lamb heads, it said that the federal regulations consider them to be waste, while at least some provincial/territorial regulations consider them to be a useable product. In terms of sanitation rules, it found that federal regulations may be more stringent than provincial/territorial requirements.

As well, the Canadian Federation of Agriculture told the committee that the costs faced by federally regulated meat processors are greater not necessarily because of the initial investment that they must make in order to comply with federal regulations, but rather because these regulations change frequently; continuing investments are needed to remain compliant.

Witnesses also explored several other internal trade barriers in relation to differing provincial/territorial regulations in relation to agricultural and food products. The Canadian Federation for Independent Business and the Canadian Chamber of Commerce mentioned various standards in the sizes of dairy creamers or milk containers, the official from the Canadian Food Inspection Agency noted differing provincial/territorial compositional standards for yogurt, as well as provincial/territorial and federal standards for maple syrup, and an official from Agriculture and Agri-Food Canada reported that standards for organic foods vary across provinces/territories. The Retail Council of Canada stated that unpasteurized products made in Quebec cannot be shipped outside of the province.

A number of witnesses addressed the issue of Canada's supply management systems. The Canadian Federation of Agriculture and the official from Agriculture and Agri-Food Canada suggested that these systems do not constitute an internal trade barrier because they limit production instead of inhibit trade; as well, they are national systems. That said, the official from Agriculture and Agri-Food Canada reported that some barriers to internal trade exist within the laws that establish the supply management systems. It cited *La loi sur la mise en marché des produits agricoles*, which sets out the rules governing supply management in Quebec; the law contains a measure that restricts the movement of chickens between New Brunswick and Quebec. Mr. Johnson stated that, like provincial/territorial laws governing internal trade in alcoholic beverages, Canada's supply management systems rely on the existence of federal laws. He highlighted, for example, that the *Canadian Dairy Commission Act* enables the creation of provincial/territorial dairy quota systems.

## **5. Alcoholic Beverage Laws**

Several witnesses outlined the internal trade barriers that exist in relation to alcoholic beverages. Witnesses noted that, although the 2012 *Act to amend the Importation of Intoxication Liquors Act (interprovincial importation of wine for personal use)*, and the 2014 *Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures*, removed federal restrictions on internal trade in alcoholic beverages, provinces/territories still maintain limits on the amounts of these products that can lawfully cross provincial/territorial borders.



Mr. Johnson and the C.D. Howe Institute stated that, despite being the result of provincial/territorial laws, limitations on the internal importation of alcoholic beverages are partly the responsibility of the federal government because these provincial/territorial laws often depend on federal laws. For example, Mr. Johnson told the committee that the *Importation of Intoxicating Liquors Act* allows the creation of provincial/territorial restrictions on the internal importation of alcoholic beverages.

The Canadian Vintners Association explained that only British Columbia, Manitoba and Nova Scotia allow interprovincial/interterritorial direct-to-consumer wine shipments. Several witnesses noted that the prohibition on direct-to-consumer shipping in some provinces/territories means that Canada's smaller wineries have fewer sales channels. The official from the Government of Prince Edward Island pointed out that some liquor boards may allow electronic ordering systems, whereby consumers can place online orders for products not found in stores. However, the Canadian Vintners Association noted that provincial/territorial liquor boards often charge large mark-ups, including on online orders, and cited Ontario's 66% mark-up.

Mr. Moore provided the example of Garrison Brewing, a Nova Scotia brewery that wanted to expand into Newfoundland and Labrador. He indicated that the Government of Newfoundland and Labrador's standard for bottles differs from the standard met by Garrison Brewing in relation to other jurisdictions. According to him, if Garrison Brewing wished to sell in Newfoundland and Labrador, it would have had to establish a separate production system – with smaller bottles – for that province. He said that, instead of making such an investment, Garrison Brewing decided instead to sell in the United States.

## **6. Drug Regulation**

Like food products, Consumer Health Products Canada explained that some aspects of drug regulation are shared between the federal government and provincial/territorial governments. It informed the committee that changing a prescription drug to an over-the-counter drug requires approval at the federal level and then again – at least once – at the provincial/territorial level. In providing the example of naloxone, a drug that reverses the effects of opiate overdose, it testified that – even though the federal government completed the process to make this drug available over the counter in March 2016 – eight out of 10 provinces still had not approved the drug's switch to over-the-counter status as of May 2016.

## **7. Labour Mobility and Employment**

Labour mobility is another area that several witnesses cited as being affected by differing provincial/territorial standards. Minister Bains and the Canadian Centre for Policy Alternatives suggested that a 2009 amendment to the AIT introduced mutual recognition of occupational certification, but noted that implementation of this requirement remains incomplete. The Canadian Welding Bureau reported that, despite the AIT, one impediment to labour mobility is variation among the provinces/territories in the definition of certain trades. It explained that welding is a recognized trade in some provinces/territories, is a mandatory and recognized trade in others, and is not defined at all in still others.

The official from Employment and Social Development Canada stated that there are currently 44 exceptions to the mutual recognition of certified occupations outlined in chapter 7 of the AIT; they cover 14 occupations. Furthermore, it noted that chapter 7 does not mutually recognize apprentices; therefore, an apprentice who begins his or her training in one province/territory might have difficulty completing that training in another and, furthermore, apprenticeship training programs differ across jurisdictions.

The Canadian Welding Bureau identified differences in training regulations among welders as a restriction on labour mobility. For example, according to it, some provinces/territories require 1,200 hours of on-the-job training, while others require 1,500 hours. Mr. Tombe noted that apprentices are often unable to complete, in a particular jurisdiction, the training that they started in another jurisdiction.

Mr. Kukucha indicated that a few professions still face labour mobility challenges, despite the implementation of mutual recognition in the AIT. In particular, he mentioned lawyers, healthcare professionals, dental hygienists and licensed practical nurses. Mr. Jones suggested that presentations to the committee by other witnesses had overstated the extent to which barriers to labour mobility still exist.

Witnesses shared their views about labour and worker safety standards that differ across provinces/territories, suggesting that the standards are often complex and lead to confusion for workers. The Canadian Welding Bureau noted that workers may be uncertain about whether specific skills need to be recertified or whether they need retraining in another jurisdiction, and the Canadian Wireless Telecommunications Association explained that, depending on the job site on which they are working, some workers – such as climbers – are uncertain about whether they must comply with federal or provincial/territorial safety regulations. The Canadian Federation of Independent Business said that variations in safety standards across jurisdictions include differences in the contents of first aid kits.

The Conseil du Patronat du Québec thought that variations in retirement funding are an internal trade barrier given the added cost to employers of understanding their differing obligations, while the Business Council of Canada suggested that the Ontario Retirement Pension Plan would further increase barriers to labour mobility.

The Canadian Labour Congress noted that differences in minimum wages across provinces/territories could be an internal trade barrier. It highlighted the situation of truckers operating across provincial/territorial borders; they are paid the highest minimum wage among the provinces/territories in which they are operating. The Retail Council of Canada suggested that minimum wage differences should not be considered an internal trade barrier, but that differences in the manner in which overtime is calculated should be.

As well, the Canadian Labour Congress indicated that a Quebec program designed to protect working pregnant women can be considered an internal trade barrier. It described how, for women doing work that could be harmful to their pregnancy, the program obliges the employer either to find alternative work for the employee or to allow the employee time off at 90% of her

salary. The Conseil du Patronat du Québec suggested that this program has had no noticeable effect on the health of newborns, and thus might not justify its costs to employers.

## **8. Finance and Insurance Regulation**

Several witnesses mentioned differing financial regulations across provinces/territories as barriers to internal trade and investment. Some of them referred to the absence of a single capital markets regulator in Canada. AdvantageBC identified regulations for captive insurance, as well as for insurance generally, as varying across provinces/territories and creating internal barriers. It also highlighted that bank settlement hours favour eastern Canada because these hours end at 6 p.m. Eastern Standard Time; consequently, businesses in western Canada face a shorter time period in the afternoon during which they can receive payments.

International Trade Policy Consultants, Inc. and Mr. Mintz told the committee that, to purchase car insurance, the purchaser must have a driver's licence in the province/territory in which the car is to be insured. According to them, since Canadians cannot hold a driver's licence from more than one jurisdiction, it becomes difficult to own and insure cars in multiple provinces/territories.

## **9. Procurement**

Witnesses mentioned internal trade barriers in relation to procurement. Mr. Mintz believed that provincial/territorial procurement policies continue to favour in-province/-territory suppliers, while Minister Bains told the committee that federal procurement is an area in which there is tremendous opportunity to reduce internal trade barriers. Mr. Moore and the C.D. Howe Institute explained that, with the Canada–European Union Comprehensive Economic and Trade Agreement, European companies will have greater access to Canadian procurement than do Canadian companies in certain circumstances. An official from Public Service and Procurement Canada suggested that internal trade barriers in relation to federal procurement result indirectly from federal compliance with provincial/territorial laws.

## **10. First Nations Subsidies**

Mr. Moore informed the committee that the provinces/territories subsidize First Nations economies differently, with these subsidies giving an unfair advantage to First Nations companies operating in those provinces.

### **D. Existing and Potential Mechanisms to Reduce Internal Trade Barriers**

Witnesses spoke to the committee about mechanisms that do – or could – reduce internal trade barriers in Canada. In particular, they highlighted certain changes that could be made to the AIT with respect to regulatory harmonization, a negative list approach, mutual recognition of standards and dispute-resolution mechanisms. Witnesses also commented on the federal power under section 121 of the *Constitution Act, 1867* (the Constitution), barriers in relation to alcoholic beverages, labour mobility issues, conditional transfers and incentives, trade

agreement provisions related to the environment, a corridor system, the *New West Partnership Trade Agreement*, and an entity focused on internal trade data, promotion and research.

## **1. Regulatory Harmonization**

Given that many internal trade barriers result from regulations that differ across provinces/territories, several witnesses suggested that Canada should follow the example set by Australia, New Zealand and some European Union nations, which are harmonizing regulations and standards. The Canadian Chamber of Commerce said that, to accomplish regulatory harmonization, Canada could adopt an “align or explain” process, whereby provinces/territories would have to align their regulations or provide justification for non-alignment. Arguing that such a process might lead to decline in regulatory standards, the Canadian Centre for Policy Alternatives remarked that provinces/territories should cooperate and harmonize in a manner that would raise standards in those jurisdictions in which they are less stringent. It also proposed that the federal government or an agreement among provincial/territorial governments should set a floor in some areas so that harmonization would not result in regulations that are not sufficiently stringent.

Similarly, an official from the Treasury Board of Canada told the committee that the provinces/territories should look for opportunities to improve their regulatory standards and work together to accomplish this objective. He explained that, with this approach, no jurisdiction would feel that it is giving up its sovereignty by adopting the standard of another jurisdiction. He also found that not all jurisdictions should be required to harmonize their regulations; in his view, provinces/territories are better off even if a limited number of jurisdictions undertake harmonization.

The Canadian Federation of Agriculture suggested that the federal government could identify a minimum provincial/territorial standard that could be aligned with federal standards. Mr. Johnson thought that the standards created by the International Organization for Standardization could be a model to which the federal and provincial/territorial governments could harmonize their standards. However, the Canadian Public Procurement Council found that these standards might not be sufficiently specific, and therefore said that jurisdictions could align their standards with those of the International Organization for Standardization without necessarily adopting identical standards.

Mr. Jones identified two aspects of regulatory harmonization: joint execution and joint rule making. He explained that joint execution would, for example, allow a business that is registering in one province/territory to be registered automatically in others; similarly, it would enable individuals undertaking training for a particular certification to study in any province/territory because the training programs would be identical across jurisdictions. According to him, joint rule making would require provincial/territorial governments to draft legislation or regulations together. He stated that, even if harmonization occurs, laws and regulations to address new products or services may diverge over time unless joint rule making occurs.

The Canadian Centre for Policy Alternatives and the Canadian Labour Congress cautioned that regulatory harmonization might result in socially beneficial regulations being difficult to enact if, once enacted, they are not immediately harmonized with other jurisdictions. For instance, the Canadian Labour Congress informed the committee that some provinces/territories have – in the past – been leaders in enacting socially beneficial laws or regulations, and that it often takes time for other provinces/territories to adopt similar measures. It reasoned that a requirement for all jurisdictions to adopt new regulations simultaneously would decrease the likelihood of adoption.

## **2. Negative List Approach**

Minister Bains and the Business Council of Canada told the committee that the AIT's positive list approach, whereby people, goods, services and investments are covered only if they are specifically listed in the agreement, should be replaced with the negative list approach found in the Canada–European Union Comprehensive Economic and Trade Agreement, where everything is covered unless it is specifically exempted. Witnesses noted that the *North American Free Trade Agreement*, the *Trade, Investment and Labour Mobility Agreement* and the *New West Partnership Trade Agreement* also use the negative list approach.

Witnesses said that the negative list approach has several benefits, including the following: negotiations are quicker than with the positive list approach, which requires decisions on each type of person, good, service or investment; it would be more difficult for provinces/territories to list exemptions because they would have to justify them;; new sectors would automatically be covered by the agreement; and consistency would exist between the AIT and at least some of Canada's international trade agreements.

## **3. Mutual Recognition of Standards**

Witnesses also spoke about mutual recognition, which ensures that a person, good, service or investment that conforms with an equivalent standard or standards-related measure of another jurisdiction is valid in that other jurisdiction without the need for modification, testing, certification, re-naming or any additional assessment procedure. Witnesses noted that mutual recognition is used in the following situations: national agreements among jurisdictions in Australia and in Switzerland; in the *Trade, Investment and Labour Mobility Agreement* and the *New West Partnership Trade Agreement*; and in international free trade agreements between Australia and New Zealand, Canada and South Korea, the member states of the European Union, and the Canada–European Union Comprehensive Economic and Trade Agreement. Some witnesses highlighted that chapter 7 of the AIT, which deals with labour mobility, has already implemented mutual recognition in relation to certified occupations. The Conseil du Patronat du Québec highlighted mutual recognition as an aspect of the *Trade and Cooperation Agreement between Quebec and Ontario*.

According to witnesses, adopting mutual recognition would have several benefits. For example, they told the committee that this approach would be faster and easier to implement than regulatory harmonization, and is well-suited to a country like Canada, where

provinces/territories have similar consumer and product safety goals. As well, they proposed that mutual recognition could alleviate some labour or skills shortages because of enhanced labour mobility, and – unlike regulatory harmonization – jurisdictions could more easily create new regulations. A few witnesses pointed out that Canadians are rarely reluctant to consume products or services when visiting other provinces/territories. Therefore, they concluded that mutual recognition should not be problematic because Canadians would likely be willing to import products from provinces/territories that have regulatory standards that differ from those of their home province.

#### **4. Dispute-Resolution Mechanisms**

Some witnesses compared the AIT's dispute-resolution mechanism with the mechanisms in Canada's international trade agreements. Minister Bains and the Canadian Chamber of Commerce remarked that the dispute-resolution mechanism in the Canada–European Union Comprehensive Economic and Trade Agreement is an appropriate model for the AIT. The Canadian Federation for Independent Business suggested that the *North American Free Trade Agreement's* mechanism is appropriate, while the Business Council of Canada suggested that the AIT's mechanism should be more like the investor-state dispute-settlement mechanisms found in some of Canada's international trade agreements.

Mr. Johnson described three dispute-resolution models: the trade agreement model; the investor-state model; and the force-of-law model. With the trade agreement model, the dispute-resolution process is available only to governments. He elaborated that, if a panel constituted under this process finds that the agreement has been violated, the offending government cannot be forced to comply with the agreement, although the government making the complaint may retaliate, such as by raising tariffs. Mr. Johnson noted that the dispute-resolution mechanism in the AIT is similar to the trade agreement model, with exceptions: an offending government has to pay monetary penalties; and individuals may access the AIT's dispute-resolution mechanism after first seeking the support of their provincial/territorial government and having the case examined by a screener, who decides whether it has merit.

Moreover, Mr. Johnson explained to the committee that the investor-state model is found in the investment chapter of the *North American Free Trade Agreement* and in the Canada–European Union Comprehensive Economic and Trade Agreement. He reported that, with this model, non-government parties can access the dispute-resolution mechanism without first seeking a government sponsor. In his view, if the dispute-resolution panel rules in favour of the complainant, the offending party must pay a monetary penalty; this penalty is often paid to the complainant. He elaborated that the AIT's mechanism often involves penalty amounts that are lower than those typically found in mechanisms that follow the investor-state model. Furthermore, he commented that individuals who have accessed the AIT's dispute-resolution mechanism never receive the amount of the monetary penalties; these penalties are instead paid into a monetary penalty fund.

Finally, Mr. Johnson described the force-of-law model, in which an offending government must comply with the findings of a dispute-resolution panel, and make the changes recommended by



it. He gave two examples of this model: chapter 19 of the *North American Free Trade Agreement*; and the Canadian International Trade Tribunal's process for dealing with procurement in Canada.

Witnesses claimed that the dispute-resolution mechanisms found in Canada's international trade agreements are more effective and efficient than the AIT's mechanism, which leads to lengthy processes. A number of witnesses thought that the AIT should make the dispute-resolution process easier for private parties to access, which could be achieved by removing the requirement for them to seek a government sponsor for their case. Furthermore, they suggested that the AIT's dispute-resolution mechanism should increase the costs to governments of not complying with rulings against them. The Business Council of Canada also believed that compliance panel and appellate panel reports and decisions should be subject to judicial review.

Mr. Moore questioned the likelihood that an effective dispute-resolution system would be included in a renewed AIT, proposing that it would not be acceptable to all provinces/territories.

## **5. Federal Constitutional Powers**

Witnesses noted that, in some countries, the federal government is more directly involved in reducing internal trade barriers than is the case in Canada. Mr. Mintz and International Trade Policy Consultants, Inc. described the U.S. government's use of its powers under article 1 of the *Constitution of the United States of America*, which gives it the right to regulate internal trade in an effort to reduce internal barriers. Similarly, the Macdonald-Laurier Institute indicated that, after finding that they could not come to an agreement to reduce internal trade barriers, Australian states asked the federal government to play a greater role in this regard. Mr. Mintz mentioned that several European Court of Justice decisions had been used to harmonize certain tax laws in European Union member states.

Given international precedents, several witnesses suggested that – apart from AIT negotiations – the federal government should take a greater role in securing progress designed to reduce internal trade barriers, perhaps by relying on its powers under section 121 of the Constitution. A number of witnesses thought that a strong federal role is desirable given that reductions in internal trade barriers brought about by AIT negotiations is predicated on the provinces/territories coming to an agreement on reducing these barriers, which is something that the witnesses found has led to only incremental progress made so far.

The Macdonald-Laurier Institute believed that the federal government should use its powers under section 121 of the Constitution to ensure that no government rules or regulations impede internal trade. The C.D. Howe Institute suggested that the federal government should use these powers to ensure that – at a minimum – the barriers faced by Canadian businesses trading within Canada are not greater than those faced by foreign entities trading with Canada. Mr. Moore explained that the federal government could enact legislation providing certain rights to move people, goods, services and investment barrier-free across provincial/territorial borders.

However, some witnesses questioned whether there is a legal basis for the federal government to create rules limiting internal trade barriers. These witnesses cited decisions in the *Gold Seal Ltd. v. Alberta (Attorney General)* case and the federal reference to the Supreme Court of Canada regarding the creation of a national securities regulator. The Retail Council of Canada believed that the interpretation of section 121 of the Constitution, which addresses the movement of goods, is too narrow to enable the elimination of all internal trade barriers. Similarly, Mr. Mintz and Mr. Johnson noted that section 121 likely does not apply to trade in services.

Mr. Johnson and Ms. Todgham Cherniak suggested that the federal government should make a reference to the Supreme Court of Canada to establish if the *R. v. Comeau* decision is correct, the manner in which sections 91 and 92 of the Constitution should be interpreted alongside section 121, and the extent to which section 121 applies to trade in services.

Mr. Moore proposed that several complications would arise in the event that the federal government attempts to enact legislation designed to reduce internal trade barriers. For example, he thought that lengthy litigation would result and, like the Canadian Chamber of Commerce, felt that such legislation would lead to significant animosity between the federal and provincial/territorial governments, perhaps strengthening the separatist movement in Quebec. As well, Mr. Moore reported that there would not necessarily be any immediate reduction in internal trade barriers following the passage of such a law; in his view, provincial/territorial laws and regulations that create barriers would be removed slowly over time, and in response to litigation.

Other witnesses expressed a desire for the federal government to work with the provinces/territories instead of imposing an agreement on them. The Canadian Centre for Policy Alternatives and AdvantageBC pointed to instances where provincial/territorial cooperation led to progress in addressing internal trade barriers. For instance, the former cited the 2009 renewal of the AIT, which created mutual recognition for regulated occupations, while the latter referred to the *Trade, Investment and Labour Mobility Agreement* and the *New West Partnership Trade Agreement*. The Conseil du Patronat du Québec suggested that progress in reducing barriers is necessarily slow with a federalist system in which provincial/territorial governments are able to make laws and regulations in the interest of their citizens.

Mr. Moore believed that another alternative for reducing internal trade barriers would be the creation of a mechanism like the U.S. Interstate Commerce Commission. This type of organization, he explained, would create standards and regulations for any goods or services traded between provinces/territories. He said that, with such a system, provinces/territories would still be able to enact standards and regulations for goods and services traded within their jurisdiction.

## 6. Barriers in Relation to Alcoholic Beverages

Several witnesses commented on methods by which the federal government could reduce internal trade barriers in relation to alcoholic beverages. For example, some believed that the federal government should repeal the *Importation of Intoxicating Liquors Act*.

Witnesses noted that, following the 2005 case of *Granholm v. Head*, the U.S. Supreme Court ruled that it was unconstitutional to allow direct-to-consumer delivery of alcoholic beverages within a state but to disallow these deliveries from one state to another. Since this ruling, 45 U.S. states have amended their laws to allow the shipment of wine directly to consumers across state borders.

Given the court's ruling in *R. v. Comeau*, some witnesses thought that a result similar to the amended state laws in the United States regarding cross-border shipments in alcoholic beverages is possible in Canada. The Canadian Vintners Association suggested that, if this case is appealed, the court's decision is not likely to be overturned. Furthermore, it believed that an appeal to the Supreme Court of Canada could be one method by which internal trade barriers in relation to alcoholic beverages could be reduced. Mr. Johnson and Ms. Todgham Cherniak felt that, if *R. v. Comeau* is appealed, the subject matter argued in the case may be too narrow to have a substantial effect on the laws limiting the importation of alcoholic beverages across provincial/territorial borders because this case does not deal with the *Importation of Intoxicating Liquors Act*.

Vintage Law Group mentioned that Steam Whistle Breweries of Ontario is taking the Government of Alberta to court over a preferential mark-up that the government is charging on beer produced in British Columbia, Alberta and Saskatchewan; the case is being heard in July 2016. In its view, the outcome of this case and an appeal of the court's decision in *R. v. Comeau* could be methods by which internal trade barriers in relation to alcoholic beverages are eliminated.

As well, Vintage Law Group told the committee that the *Importation of Intoxicating Liquors Act* allows "the importation of wine, beer or spirits from a province by an individual, if the individual brings the wine, beer or spirits or causes them to be brought into another province, in quantities and as permitted by the laws of the other province, for his or her personal consumption, and not for resale or other commercial use." It said that this provision of the Act, and particularly the phrase "in quantities and as permitted by the laws of the other province," allows provinces/territories to set rules governing the provincial/territorial importation of alcoholic beverages. Therefore, it suggested that the federal government should either specify an amount of alcoholic beverages that can be brought across provincial/territorial borders lawfully, or amend the statute to specify that a "reasonable amount" can be imported by individuals.

Also, Vintage Law Group explored the possibility that, if the sale of marijuana is legalized in Canada, the federal government might not apply internal importation restrictions that are similar to those that exist for alcoholic beverages. Assuming that the two goods should be dealt with similarly with respect to internal trade, it concluded that a failure to do so would lead to an

argument that the barriers to the importation of alcoholic beverages across provincial/territorial borders should be removed. It believed that the federal government should address issues regarding the internal importation of alcoholic beverages and of marijuana at the same time.

## **7. Labour Mobility Issues**

Several witnesses spoke to the committee about programs that are designed to improve labour mobility across provincial/territorial borders. For instance, Engineers Canada outlined its 1999 *Inter-Association Agreement on Mobility*, which it characterized as a precursor to the 2009 protocol of amendment to chapter 7 of the AIT that allows mutual recognition of worker certifications among provinces/territories.

As well, Engineers Canada highlighted successful efforts by Canadian engineering associations in enhancing labour mobility for this profession. For example, it cited the Association of Professional Engineers and Geoscientists of Alberta's online interprovincial mobility application, which allows engineers from other provinces/territories to receive a licence within three to five business days of making an application. Similarly, it noted that the equivalent association in British Columbia licenses 93% of applicants from other provinces/territories. Furthermore, it stated that Engineers Nova Scotia and Engineers Prince Edward Island have a dual application process, and applicants in either province automatically apply for a licence in the other.

Engineers Canada also noted that, in 1965, it created an accreditation system for Canadian post-secondary engineering programs in order to standardize training across provinces/territories. As well, it has created ENGScope, an online resource that provides labour market information related to engineering employment, thus facilitating labour mobility.

Moreover, Engineers Canada supported changes to federal privacy laws in order to make the sharing of information among provincial/territorial regulatory associations easier. In its opinion, the result would be more efficient approvals of out-of-province/-territory applications.

The Canadian Welding Bureau outlined its Acorn program, which is designed to harmonize educational standards across provinces/territories. It maintained that educational standardization limits the rationale for jurisdictions to not accept the credentials of welders trained in another province/territory. Furthermore, according to it, Acorn allows welders to begin and to finish their training in different provinces/territories. It also commented that British Columbia and Alberta have mutual recognition of welder certifications.

The Canadian Wireless Telecommunications Association described its efforts to clarify whether federal or provincial/territorial regulations apply to various jobs in this sector. It told the committee that it has created a council to develop best practices for workers in this sector in an effort to ensure that they have the correct training for particular jobs.

Several witnesses mentioned the Red Seal program, which establishes standards for certified occupations that are accepted in all provinces/territories. The official from Employment and Social Development Canada reported that this program has existed since the 1950s, and therefore is a precursor to the system of mutual recognition in chapter 7 of the AIT. However, he

explained that, unlike the AIT, the Red Seal program has also harmonized training and apprenticeship programs; consequently, apprentices can begin and finish their training in different provinces/territories.

## **8. Conditional Transfers and Incentives**

International Trade Policy Consultants, Inc. informed the committee that the federal government could decide to provide transfers to the provinces/territories only when they eliminate various internal trade barriers. The British Columbia Trucking Association and the Canadian Trucking Alliance noted that this approach exists in the United States, where the U.S. government makes the transfer of infrastructure funds to states conditional on the adoption of regulations and standards that are consistent with federal requirements. Mr. Beaulieu found that tying infrastructure funding to a reduction in internal trade barriers could be effective, and suggested that the forthcoming Ernst & Young index of internal trade barriers could be used to set specific targets for provinces/territories.

Mr. Beaulieu also stated that, if the gains from reducing internal trade barriers are sufficient, then these amounts could be distributed to the provinces/territories to compensate them for any losses. Similarly, Mr. Mintz thought that provinces/territories should be given monetary incentives to encourage their support for a national securities regulator; these incentives could compensate them for any lost revenue.

## **9. Trade Agreements that Address the Environment**

The official from Environment and Climate Change Canada told the committee that the AIT should contain an environmental chapter similar to those found in several of Canada's international trade agreements. In his view, such a chapter should ensure that environmental measures are not reduced in order to attract investment, and that provinces/territories have the right to make environmental regulations that are not disguised barriers to trade.

## **10. National Corridor System**

Mr. Mintz proposed that Canada should develop a national corridor system similar to that in Australia, which has pipeline, rail, highway and transmission corridors that are designed to move products to tidewater. He informed the committee that such a corridor could extend across Canada, moving through the northern regions of the provinces and avoiding the populated urban centres in the southern parts of the country.

## **11. *New West Partnership Trade Agreement***

A number of witnesses focused on the *New West Partnership Trade Agreement* as a model on which a renewed AIT should be based. Mr. Kukucha stated that, if full liberalization of internal trade is a provincial/territorial goal, then the *New West Partnership Trade Agreement* is the best model to use in achieving this goal.

Mr. Jones told the committee that he helped to negotiate the *New West Partnership Trade Agreement*, which he said was created as an alternative to the AIT with the hope that other provinces/territories would become signatories. A few witnesses speculated that, following Manitoba's April 2016 general election, the province is likely to become a signatory to the agreement. The Atlantic Institute for Market Studies thought that the Atlantic provinces should join the *New West Partnership Trade Agreement*, although the official from the Government of Prince Edward Island reported that 95% of his province's trade occurs with provinces east of Manitoba, suggesting that the benefits from becoming a signatory would be limited. The Atlantic Institute for Market Studies contended that, if all of the Atlantic provinces were to become signatories, then Prince Edward Island would experience greater benefits than if it alone joined the agreement.

## **12. Data, Promotion and Research**

A number of the committee's witnesses suggested that data on internal trade and related barriers are lacking. Mr. Tombe found that, due to changes in Statistic Canada's methodology for measuring the value of internal trade, it is difficult to estimate the effects that the AIT has had on the Canadian economy. Mr. Kukucha thought that the internal trade data that were available in 2013 did not permit reliable economic modelling of internal trade, and highlighted that services data were particularly lacking in availability and detail.

Several witnesses told the committee that Canada's internal trade barriers should be catalogued. The Canadian Centre for Policy Alternatives and the Canadian Labour Congress suggested that this catalogue would allow governments to determine whether reducing certain barriers would produce gains that would outweigh the costs. The Retail Council of Canada concurred, and noted that Ernst & Young has been hired to catalogue Canada's internal trade barriers and to estimate the benefits of their removal. Mr. Mintz called for more research on the potential benefits of reducing internal trade barriers.

Furthermore, some witnesses thought that the Internal Trade Secretariat, the Committee on Internal Trade or a similar organization could be given a mandate to produce research in relation to internal trade and related issues. International Trade Policy Consultants, Inc. noted that government organizations in some other countries – such as the Australian Productivity Commission, the European Commission and the Swiss Competition Commission – have a mandate to advocate reductions in internal trade barriers. It mentioned that the first two of these itemize – and release annual reports on – internal trade barriers, while the latter two act as an intervener or complainant in cases challenging internal barriers; as well, the European Commission requires member states to submit draft regulations so that other member states can make comments prior to implementation.

As well, International Trade Policy Consultants, Inc. found that the current mandate of Canada's Internal Trade Secretariat does not include fact-finding, research or annual public reports. Mr. Kukucha supported more resources for the Internal Trade Secretariat, but cautioned that not giving it a specific mandate may lead the provinces/territories to feel that their right to govern



their jurisdictions was being compromised. Therefore, he suggested that a better-funded Secretariat should have a narrow mandate, with specific goals and problems to solve.

The Canadian Chamber of Commerce stated that the Committee on Internal Trade could catalogue internal trade barriers and report on the steps needed to address them, but indicated that it is currently too small and insufficiently funded for this task.

Several other witnesses also advocated changes to the Internal Trade Secretariat or the Committee on Internal Trade. The Business Council of Canada and the Canadian Federation of Independent Business supported a greater federal role in the Internal Trade Secretariat, with the former proposing that the federal government should be a permanent co-chair. The Canadian Chamber of Commerce promoted greater involvement by businesses in the Committee on Internal Trade, while the Retail Council of Canada advocated the creation of a task force to review the Committee on Internal Trade's decision-making process.

The Macdonald-Laurier Institute supported the creation of an economic freedom commission that would have the power to investigate internal trade barriers and to address complaints from Canadians in this regard.

## APPENDIX B – LIST OF WITNESSES

<b>May 12, 2016</b>	
C.D. Howe Institute	Daniel Schwanen Vice President Research
Canadian Trucking Alliance	Stephen Laskowski Senior Vice President Economic Affairs
Consumer Health Products Canada	Gerry Harrington Vice President Policy and Regulatory Affairs
Consumer Health Products Canada	Karen Proud President
Employment and Social Development Canada (ESDC)	Philippe Massé Director General Labour Market Integration, Skills and Employment Branch
Treasury Board of Canada Secretariat	Robert Carberry Assistant Secretary Canada-United States Regulatory Cooperation Council
<b>May 11, 2016</b>	
As an Individual	Jon R. Johnson Counsel LexSage Professional Corporation
As an Individual	Cyndee Todgham Cherniak Counsel LexSage Professional Corporation
Atlantic Institute for Market Studies (AIMS)	Marco Navarro-Genie President and CEO
Canadian Public Procurement Council (CPPC)	François Emond Executive Director
Government of Prince Edward Island	Kal Whitnell Senior Director Economic Research and Trade Negotiations Economic Development and Tourism
<b>May 5, 2016</b>	
Canadian Federation of Agriculture	Rob Scott Member of the CFA Board of Directors

<b>May 4, 2016</b>	
Canadian Labour Congress	Angella MacEwen Senior Economist
Canadian Vintners Association	Dan Paszkowski President and CEO
Quebec Employers Council	Yves-Thomas Dorval President and CEO
Quebec Employers Council	Norma Kozhaya Research Vice President and Chief Economist
Retail Council of Canada	Susie Grynol Vice President Federal Government Relations
Retail Council of Canada	David Wilkes Senior Vice President Government Relations
<b>April 21, 2016</b>	
Canadian Welding Bureau	Craig Martin Vice President Office of Public Safety
Canadian Wireless Telecommunications Association	Kurt Eby Director Regulatory Affairs and Government Relations
Engineers Canada	Kathryn Sutherland Vice-president Regulatory Affairs
<b>April 14, 2016</b>	
Agriculture and Agri-Food Canada	Frédéric Seppey Chief Agriculture Negotiator Trade Agreements and Negotiations
Canadian Food Inspection Agency	Richard Arsenault Executive Director Domestic Food Safety Systems & Meat Hygiene Directorate
International Trade Policy Consultants, Inc.	Kathleen Macmillan President
<b>April 13, 2016</b>	
The Canadian Chamber of Commerce	Ryan Greer Director Transportation and Infrastructure Policy

Canadian Federation of Independent Business	Monique Moreau Director National Affairs
Environment and Climate Change Canada	John Moffet Director General Environmental Stewardship Branch
<b>March 24, 2016</b>	
AdvantageBC International Business Centre Vancouver	Colin Hansen President and CEO
Business Council of Canada	Brian Kingston Vice President Fiscal and International Issues
Canadian Centre for Policy Alternatives	Scott Sinclair Director Trade and Investment Research Project
Macdonald-Laurier Institute	Brian Lee Crowley Managing Director
Macdonald-Laurier Institute	Sean Speer Senior Fellow
<b>March 10, 2016</b>	
As an Individual	Dan Albas, M.P. for Central Okanagan-Similkameen-Nicola
As an Individual	Jack Mintz President's Fellow The School of Public Policy, University of Calgary
<b>March 9, 2016</b>	
Public Services and Procurement Canada	Brenda Constantine Acting Director General Policy, Risk, Integrity and Strategic Management Sector
Public Services and Procurement Canada	Desmond Gray Director General Office of Small and Medium Enterprises and Strategic Engagement
Statistics Canada	Ziad Ghanem Director Industry Accounts Division
Statistics Canada	James Tebrake Director General

	Macroeconomic Accounts Branch
<b>February 24, 2016</b>	
Innovation, Science and Economic Development Canada	The Honourable Navdeep Bains, P.C., M.P. Minister of Innovation, Science and Economic Development
Innovation, Science and Economic Development Canada	John Knubley Deputy Minister
Innovation, Science and Economic Development Canada	Mitch Davies Assistant Deputy Minister and Internal Trade Promotion Office, Strategic Policy Sector
Innovation, Science and Economic Development Canada	Nipun Vats Director General and Internal Trade Promotion Office, Strategic Policy Sector

## APPENDIX C – LIST OF INDIVIDUALS AND ORGANIZATIONS MET DURING FACT-FINDING MISSION

<b>May 10, 2016 (Calgary)</b>	
Alberta Motor Transport Association	Lorraine Card President  Gene Orlick Chairman of the Board
As an Individual	Christopher Kukucha Professor University of Lethbridge, Political Science Department
As an Individual	Eugene Beaulieu Professor University of Calgary, Department of Economics
As an Individual	Trevor Tombe Assistant Professor Department of Economics, University of Calgary
Calgary Chamber of Commerce	Justin Smith Director of Policy, Research and Government Relations
Canada West Foundation	Dylan Jones President and CEO
<b>May 9, 2016 (Vancouver)</b>	
As an Individual	James Moore Senior Business Advisor Dentons Canada LLP
Canadian Trucking Alliance	Louise Yako Regional Vice President President and CEO of BC Trucking Association
Tinhorn Creek Vineyards	Sandra Oldfield CEO/ President
Vintage Law Group	Mark Hicken Wine Lawyer



## APPENDIX D – BRIEFS

Received Date	Submitter Organization	Submitter
May 26, 2016	Consumer Health Products Canada	Clarke Cross Director Government Relations
May 24, 2016	Engineers Canada	Kathryn Sutherland Vice President Regulatory Affairs
May 18, 2016	Calgary Economic Development	Gillian McCormack Vice President Trade Investment and Attraction
May 12, 2016	Canadian Medical Association	Organization Only
May 10, 2016	Alberta Motor Transport Association	Organization Only
April 13, 2016	Canadian Federation of Independent Business	Monique Moreau Director National Affairs
March 9, 2016	Statistics Canada	James Tebrake Director General Macroeconomic Accounts Branch

# TOP 10 WEIRDEST BARRIERS TO TRADE

**1 TRAFFIC JAM - Part I:**  
Some truck configurations must be driven at night in British Columbia — and only during the day in neighbouring Alberta. Insomniacs rejoice.

**2 TRAFFIC JAM - Part II:**  
Some provinces impose limits on the use of high-tech fuel-efficient tires so truckers have to swap them out at the border. Pit crews not included.

**3 THE GRAPES OF WRATH:**  
Only British Columbia, Manitoba and Nova Scotia allow direct-to-consumer wine shipments. Meanwhile, provincial liquor outlets charge high markups.

**4 THE CHEESE POLICE:**  
Quebec's delicious array of unpasteurized cheeses can't be shipped outside of the province. Un-brie-lievable.

**5 AN ALE-ING SYSTEM:**  
Beer bottle size standards differ across jurisdictions, forcing some brewers to spend money on parallel production systems if they want to sell to other parts of the country.

**6 SIZE DOES MATTER:**  
The size of dairy creamers and milk containers differs across jurisdictions, forcing some companies to duplicate production streams.

**7 CARBON OMISSIONS:**  
British Columbia and Alberta have a carbon tax while Quebec and Ontario — and soon Manitoba — have a cap-and-trade system, making it more costly to operate in more than one jurisdiction.

**8 PAPERS PLEASE:**  
Companies often have to register in every province or territory in which they do business.

**9 A STICKY SITUATION:**  
Provincial, territorial and federal standards for maple syrup grades differ. That's not so sweet.

**10 ORGANIC FEUD:**  
Organic food standards are different across Canada, therefore limiting access to certain markets. Kale still tastes the same.