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Toward Free Trade in Canada: Five Things the Federal Government Can Do To Open our Internal Market

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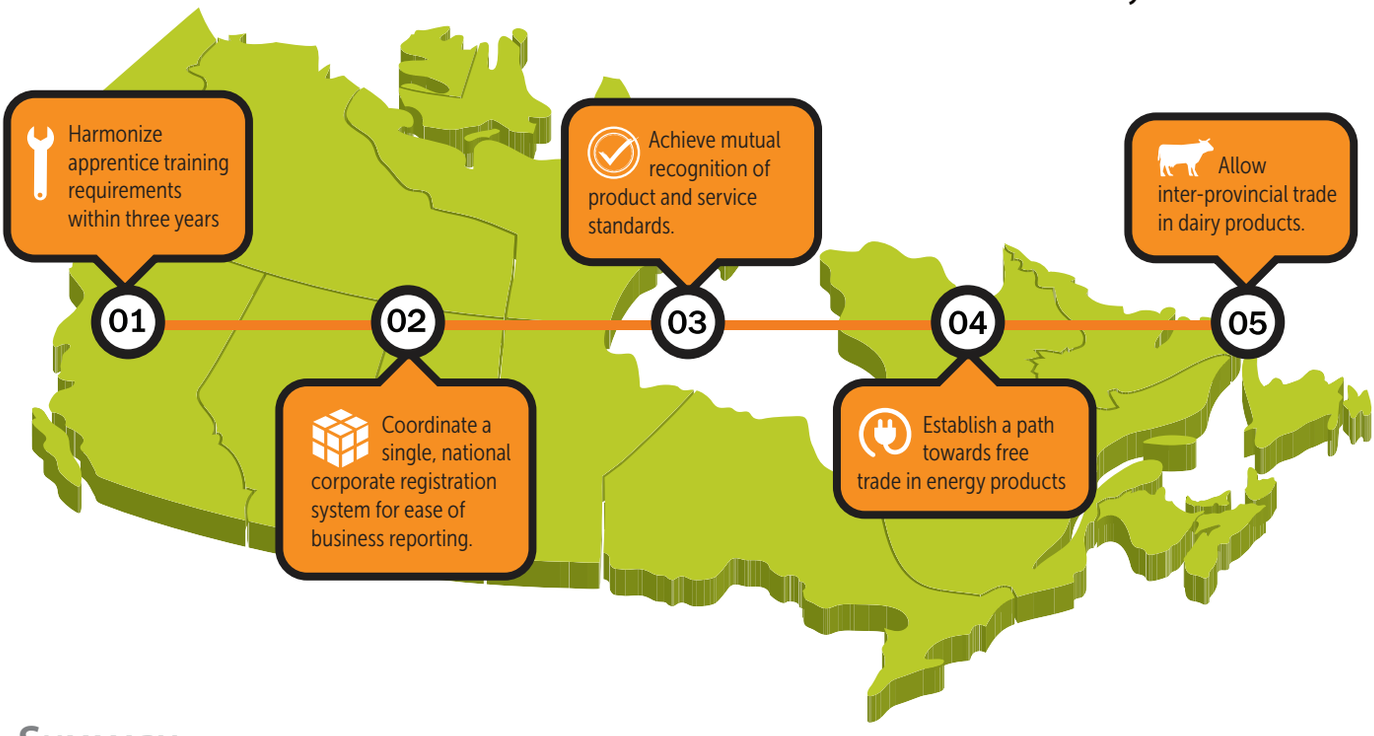

Summary

- Canada can increase its global competitiveness by liberalizing interprovincial trade and commerce. This report outlines five key areas for action. The sooner the country takes these steps, the sooner it will reap the many benefits.
- Strengthen the institutional framework of the Agreement on Internal Trade (AIT). The first focus should be on expanding the secretariat.
- Implement policies that facilitate greater labour mobility between provinces and harmonize apprenticeship and training programs. Taking these steps will help deploy skilled workers when and where they are needed.
- Create a single national system for corporate registration and reporting. Such a system will facilitate greater investment by foreign and domestic enterprises in the Canadian market and eliminate costly duplication.
- Promote market access and regulatory coherence in provincial energy and environmental policies to help promote sustainable growth.
- Encourage dairy exports and the establishment of a common Canadian market to enable Canada to benefit from growing global demand for dairy products.

Toward Free Trade in Canada

Introduction

Since the free trade election of 1988, Canadians have generally supported the reciprocal opening of the nation's markets to the world. The North American Free Trade Agreement (NAFTA), which turned 20 last year, does not face the kind of enduring political opposition that it does in parts of the United States; the recently completed Comprehensive Economic and Trade Agreement (CETA), the biggest trade deal in a generation, is supported by a comfortable majority of Canadians (CTV, 2013, November 3). But while the minister of international trade travels the world trying to open new markets, we have significant unfinished business at home. For many years, politicians across the country have been strangely resistant to the notion of fully integrating Canada's internal market.

Despite the political complexities, in 2014, federal Industry Minister James Moore and several of the provincial ministers responsible for trade made a renewed push for the creation of a coherent internal Canadian free (or at least freer) trade market. The ministers were siding not just with good policy, but with history. Each time there has been a major leap forward in intra-Canadian trade liberalization, it seems to have been predated by a bold step forward in international trade liberalization. The original Agreement on Internal Trade (AIT) in 1995 came in the aftermath of NAFTA. It was politically untenable for non-Canadians to receive better access to our market than fellow Canadians. Hence, the federal government and provinces put together the AIT. This agreement, like other trade deals negotiated in the mid-1990s, is now showing its age. While there has been some progress in building a common national market over the past two decades, including through regional initiatives in western, central, and eastern Canada, it has not typically been an issue treated with great urgency.

The Comprehensive Economic and Trade Agreement (CETA)[1] is again pushing the AIT up the agenda. Free trade with a coherent EU market, where goods and services move easily among 28 member states, stands in sharp contrast with attempts to do business across the disjointed Canadian market. Without action to remove internal trade barriers, Canadians will again find themselves in the position of granting better market access to non-Canadians than to themselves. On June 8-9, 2015, the provincial and federal ministers responsible for internal trade met for the first time in four years in an effort to ensure that this does not happen. In their communiqué, the ministers stated that the negotiation of a renewed AIT was "solidly on track to conclude successfully in March 2016" (Ontario, Ministry of Economic Development, June 9, 2015). This document is then to be transmitted to the Council of the Federation for discussion at its meeting next summer.

If the 2016 deadline is to be met, the federal government, which has the national interest to consider, will have a crucial role in ensuring the AIT process reaches a successful conclusion. Yet in these and other areas the federal government hardly holds all of the cards. In interprovincial wine sales, for example, Ottawa has gone so far as to pass legislation to "free the grapes" across the country. In 2012, Parliament passed Bill C-311, which made it legal for Canadians to buy wine directly from out-of-province wineries. But given the role of provincial governments in regulating the distribution of alcoholic beverages, they are effectively required to pass additional enabling legislation if that new freedom is to come into effect in their

[1] Negotiations for the CETA were concluded in 2014. The final agreement is under review by EU national and federal bodies. The date of final implementation is not certain.

provinces. To date, only British Columbia, Manitoba, and Nova Scotia have acted to do so (see freemygrapes.ca). This suggests that a key part of the federal role will be to ensure that certain important issues are visible, which in turn will enable public and political pressure to build.

The AIT process is multi-layered. This paper will set forth five areas in which the federal government should push for progress in the months ahead. It will also suggest specific tactical approaches for Ottawa to take.

The first area looks at how internal trade is conducted in Canada. By improving the rules of the game and the institutions that underpin their advancement and enforcement, Canada's internal trade regime will benefit widely. The second and third areas fall under the rubric of harmonization of standards. The paper will offer specific suggestions for improving the integration of Canada's labour markets and corporate registration systems. The final set of issues focuses on ways to improve market access for goods and services. It will focus on interprovincial energy trade and market access in dairy products.

These areas do not represent all the internal trade barriers within Canada. If tackled effectively, however, their resolution would help make Canada's economy freer and more competitive.

1: A new institutional and procedural framework for internal trade

The policies that govern Canada's internal trade system need to be reworked. To be effective, they must address the persistent barriers to commerce that now exist.

The first step is for the federal government to embed a "negative list approach" within the AIT. Experience from international trade negotiations, including the NAFTA, suggests that this approach to market access provisions is an excellent way to drive liberalization. The principle says, in essence, that opening up markets is the default position and that everything is covered, except that which is explicitly excluded. By insisting upon this approach, the federal government would force the provinces to list the specific things that they wished to exempt. For example, in the public procurement area, the AIT presently covers only those entities that are explicitly listed. A negative list approach would flip this approach to coverage, so that the AIT provisions would apply to all entities except those that are explicitly excluded. In practical terms, the negative list approach would ensure that as the economy changes, new sectors and types of market activity are automatically liberalized.

Another principle that should be embedded in the AIT is mutual recognition. The federal government and the provinces should agree that any product or service legally produced or delivered in one Canadian jurisdiction should be freely admitted into another. For example, if a frozen processed food product is produced in Manitoba in accordance with provincial food manufacturing rules, it should automatically be admissible to Ontario. While there will necessarily be exceptions, it is important that these be specified in such a way as to guard against protectionism. Mutual recognition has already been used successfully in the AIT in the 2009 reform package on labour mobility as described below.

If it is to work, the default to openness will need to be underpinned by a much more robust dispute settlement regime than is now in place. Chapter 17 of the original AIT agreement included elaborate dispute settlement

procedures. In practice, they have not worked especially well. Media reports suggest that at their June 2015 meeting, the ministers identified the development of a much more robust "trade dispute settlement mechanism" as a key part of a renewed AIT (CBC News, 2015, June 9). It behoves the federal government and the provinces to significantly streamline government-to-government disputes. Consistent with a suggestion from the Canadian Federation of Independent Business, the governments should also introduce an efficient domestic equivalent of the NAFTA investor-state dispute settlement mechanism (McGrath-Gaudet and Moreau, 2015). Ensuring the private "right of action" on the part of companies engaged in interprovincial trade is necessary for realizing trade liberalization. By committing to open this aspect of the agreement, there is an enormous opportunity for all parties to make progress.

Finally, the AIT secretariat needs to be overhauled. Located in Winnipeg, the office has long been staffed by mid-level officials with few direct linkages to senior trade or industry officials in Ottawa or the provinces. While one generally wants to guard against the growth of bureaucracy, the AIT Secretariat has been resourced for many years at or below a level of minimal operational effectiveness. Even the architecture of its website is rudimentary, at best (see http://www.ait-aci.ca). If the Secretariat is to make progress, it should 1) be led by a prominent Canadian with credibility in Ottawa and provincial capitals; 2) have the ability to produce ongoing research, analysis, and policy support to help build a coherent internal Canadian market; and 3) have the technological capability to deliver and administer the web-based tools that will support the administration of a single market for businesses and consumers.

What should the federal government do?

In Budget 2015, the federal government committed itself to creating a new internal trade promotion office within Industry Canada. It also recommitted itself to developing a comprehensive compendium of internal barriers to trade (Canada, 2015: 207). These are excellent steps towards medium-term progress.

While the federal government should be commended for ramping up its commitment to advancing the AIT, it should also encourage the provinces to augment these efforts. The provinces could do so by making staff with specific expertise available, via secondment, to the secretariat. Doing so would enable the AIT secretariat to become much more effective without growing a large-scale bureaucracy. The only new permanent hire should be a new executive director who would be empowered by both Ottawa and the provinces to strive for the completion of the single Canadian market.

Finally, Ottawa should use its enhanced research capabilities to develop a series of technical papers that would explain how to put into practice such principles as the negative list and mutual recognition throughout the AIT. The federal government should also produce a detailed proposal for significantly enhancing the efficiency and effectiveness of dispute settlement, including at the company-province level.

2: Harmonization of standards

Encourage the creation of a single national labour market in Canada

"Canadians should be able to work anywhere in Canada in their chosen profession" (AIT, Labour Mobility Coordinating Group). So declared Canada's first ministers at a conference on the economy in January 2009. At the confer-

ence and in the midst of a global financial crisis, Prime Minister Harper met with the premiers to discuss how to strengthen Canada's economy. A centrepiece of the meeting was an agreement between the federal government and the provinces to significantly liberalize the rules governing labour mobility in regulated occupations. The first ministers came to an agreement that workers already certified in a province or territory are entitled to be certified in another jurisdiction in Canada. Provinces did retain the right to impose additional requirements if they were in the "public interest," such as those related to health and safety. Not surprisingly, some provinces had reservations, but the meeting nonetheless brought Chapter 7 of the AIT much closer to reaching its stated goal of labour mobility.

While considerable progress has been made both through the 2009 amendments and through regional agreements such as the New West Partnership and the Ontario-Quebec Trade and Cooperation Agreement, more remains to be done. A more coherent labour market is in the interests of governments, businesses, and consumers. Two areas where labour mobility needs to be improved are: (1) greater standardization and mutual recognition of apprenticeship qualifications; and (2) development of a way to harmonize the licencing rules for professions that currently have different licensing requirements and different scopes of practice in each province.

The urgency to create a single national labour market in Canada stems from recent skills shortages in some professions in Western Canada and a curtailment of the use of temporary foreign workers. While the recent decline in oil prices has reduced the tightness of the labour market in this region, one cannot count on low oil prices and weak demand in perpetuity. Canada needs to use this respite to complete the construction of fully integrated labour and skills markets.

Apprenticeships

Canada has 13 separate apprenticeship systems. Unsurprisingly, similar professions have an array of different requirements from the number of years or hours required to complete an apprenticeship to the examination method. For example, in British Columbia one can become an automotive painter in 2 years and 1,680 hours apprenticing. In Alberta, it takes 2 years and 4,900 apprenticeship hours. In Ontario, one can become certified following a straight 4,560 apprenticeship hours with no pre-set year requirement. Nova Scotia and Newfoundland & Labrador have no written exam for automotive painters while Manitoba and Saskatchewan do. For its part, Quebec has no apprenticeship procedures for becoming an automotive painter (Ellis Chart, n.d.).

In 1952, the federal government and the provinces developed the Red Seal Program to create common standards for assessing the skills of tradespeople across the country. There are presently 57 Red Seal trades, although not all provinces recognize all trades. Since 2013, harmonization has been a "strategic direction" of the Canadian Council of Directors of Apprenticeship, which runs Red Seal.

The existing processes for mutual recognition of training across provinces, while important, are not going far enough fast enough. The Ellis Chart, the only comprehensive overview of apprenticeship requirements across the country, includes over 400 occupations, all of which have some sort of variability in requirements among provinces. It is unreasonable to expect that workers in certified professions will move easily

across the country and in any significant numbers if their designations are not recognized.

What should the federal government do?

Given the nature of Canadian federalism and the fact that labour market certification falls within provincial jurisdiction, the federal government cannot simply impose its will on the provinces. Yet any objective observer would conclude that given the considerable degree of variation in the requirements for various professions and the languid pace of the provinces toward harmonization, we will never reach a national regime. Only federal government leadership can change this dynamic. Ottawa should, therefore, develop a proposal that includes input from key provincial leaders and major trade associations.

At its core, the proposal must encourage the systematic harmonization of trades training and certification. The federal and provincial governments should commit to fully harmonizing their apprentice training requirements within three years. Using the Ellis Chart as a basis, the governments should: 1) within six months, develop a process for the negotiations; 2) within 30 months, negotiate a wholesale harmonization of the elements in the chart. While there will undoubtedly be exceptions, only a coherent large-scale process under the auspices of the AIT can ensure that Canada creates something approximating a common national labour market.

The federal government can assist with apprenticeship requirement harmonization only by proposing a sensible path that appeals to the public and industry. It must make clear that while it is nudging the provinces to act, this initiative is not a federal power grab. If deftly played, the whole country will benefit and individual workers will enjoy greater labour mobility.

Differentiated licensing requirements and scope-of-practice issues

Practicing a given profession in Canada can too often mean different things in different provinces. In some parts of the country, it is necessary to have a license before one can practice, while in others, no license is needed. The case of massage therapy offers one illustrative example. Massage therapy is a provincially regulated health profession in Ontario, British Columbia, and Newfoundland & Labrador, but not in the other provinces. The Alberta Massage Therapist Association, for example, is working with the provincial government to develop a self-regulation model. Part of what makes portability among provinces a challenge is that there is no commonality among them on even something as basic as professional nomenclature, let alone the requirements for becoming a message therapist.

No doubt Ontario has legitimate reasons for regulating message therapy as a health profession. But similarly, Alberta is unlikely to abandon its efforts at self-regulation. In an ideal world, there would be one national approach to certifying trades and professions, but it is not likely to happen without some will from the provinces and encouragement from the federal government.

What should the federal government do?

The federal government would be most helpful were it to ask the relevant professional associations across the country to develop an agreement establishing a common nomenclature, minimum scope of practice, and training requirements. By establishing a common basis for the conduct of each profession, its licensing becomes less important. The federal government should therefore encourage these types of sector-led initiatives within the AIT.

Additional steps

The allocation of transfer payments is an enormous source of leverage that the federal government has over the provinces. It has two basic strategies available: carrot or stick. With appropriate notice, the federal government could either provide certain transfers for skills training based on the provinces meeting a set of identifiable labour mobility targets, or it could provide additional financial incentives to those provinces that did the best job of advancing labour mobility. Similarly, the federal government could provide transfers (or an incentive program) to the provinces for post-secondary education based on the degree to which they and the universities were progressing toward mutual recognition of academic credentials and qualifications.

Create a single national system for corporate registration and reporting

Years ago, Canada had committed to move toward a single mechanism for corporate registration and for reporting on the state of harmonization. The Agreement on Internal Trade's Second Protocol of Amendment, which was adopted in 1998, created a standard format for registration and pushed for annual reporting on harmonization. Registrex, a website run by the AIT Secretariat, was to become a mechanism that could grow into a single window through which companies could register and report. Yet more than a decade and a half since the Second Protocol's adoption, the rules governing corporate registration across Canada are still not harmonized. Much of the problem is related to duplication due to the ambiguity of who is responsible for corporations in Canada.

The Constitution allocates to the provinces the responsibility for corporate registration in Canada for "provincial objects." Firms may also choose or be required, depending on the nature of the entity, to incorporate federally with Corporations Canada. Yet there is no common definition across Canada of what constitutes the act of "carrying on a business" that triggers the need to register under provincial legislation. Companies must pay fees to register, renewable (and payable) annually.

Many jurisdictions also require that those registering maintain an attorney or "agent for service" to represent the company in the jurisdiction. Unsurprisingly, different provinces ask for different data in different formats. The best estimates suggest that the cost of Canada's fragmented corporate registration system annually is in the low-to-mid tens of millions of dollars—and lots of headaches (Schwanen, 2013).

Hope for progress emerged in August 2010 when the Council of the Federation took up the harmonization issue. It ordered the ministers responsible for internal trade to create a common business registration system by the end of the year. The ministers were to work on (i) harmonization of terminology and filing dates for registration, (ii) the use of the Business Number (BN) issued by the Canada Revenue Agency to facilitate data sharing, and (iii) the need for an "agent for service" or an "attorney for service" who will represent the company in the jurisdiction (Schwanen and Chatur, 2014). Despite this specificity, little has happened.

There is some good news: in three instances Canada has made progress on corporate registration. In 1994, Nova Scotia and New Brunswick agreed to mutually recognize corporations registered in each other's jurisdictions. In 2004, the federal government reached an agreement with a number of provinces to help federally incorporated corporations register in provincial jurisdictions. That said, to date, only Ontario

is fully integrated with the federal system. In 2010, the New West Partnership, consisting of Saskatchewan, Alberta, and British Columbia, agreed to both collect information and share corporate annual reports with each other. While this moves toward a single registration process, provinces still maintain different requirements for the information they need about companies and still insist that firms maintain an agent for service (Schwanen and Chatur, 2014: 5). This means that when businesses expand across provincial boundaries, they incur significant duplicative costs.

Given the relative lack of harmonization of corporate registration and reporting processes in Canada, it is unsurprising that Registrex is a sad reflection of the single window vision (see http://www.registrex.net/). It contains barely more than the contact information for the authorities in each province. Many of those contacts are for provincial "single-window" sites, such as Service Ontario and Service BC. Ironically, provinces have applied the principle of "one business, one number" in their own jurisdictions, which has complicated efforts to build a single corporate registration system across the country. The trick is now to move from provincial scale registration to national scale.

What should the federal government do?

Numerous international studies, such as the World Bank's *Doing Business* report, have shown that making corporate registration easy is an important element of national competitiveness (World Bank, n.d.). This is intuitively sensible. If you make it hard for a company to get started, you are likely to have fewer companies, especially in the formal economy. In its 2015 *Doing Business* report, Canada was ranked number 2 in the world for the ease of starting a business, including in corporate registration (World Bank, 2015). Yet as Schwanen notes, Canada's strong ranking is misleading:

> … strictly speaking, it applies to small and medium-sized businesses located in Toronto and wanting to do business in Ontario. Indeed, while the overall ease of doing business ranking takes factors affecting the ease of conducting international trade from an Ontario base into account, it does not give an idea of the ease of doing business across Canada itself. (Schwanen, 2013: 1)

The challenge is to make operating across more than one province as easy as the World Bank suggests it is in Toronto.

Federal action toward this objective should be two-fold. First, Ottawa should push for a policy review of Annex 606 of the Second Protocol of Amendment, which establishes the common policy framework for corporate registration and reporting. The current agreement is clearly not being followed and it is worth examining where the shortcomings are. An essential question is this: how do these commitments need to be re-shaped in a world where most provinces have gone to their own single windows?

The second area of federal action should be to do some technical work on Registrex with a view to having it connect effectively with both provincial systems and the Corporations Canada system. Technologically speaking, it has never been easier to link together large data sources with a view to driving a coherent outcome. The question of whether Canada ever gets to a single national system of corporate registration and reporting will, in large part, be driven by the extent to which a national technology platform can seamlessly connect with existing provincial systems. If properly done, Registrex can reach its national vision, delivering the benefits

of convergence while significantly reducing the politics related thereto.

3: Market access

Create an AIT energy chapter

Canada has an abundance of energy and its production and sale is crucially important to the Canadian economy. The more than 40% decline in oil prices since June 2014 has underscored this. The decline in revenues stemming from the drop in oil prices has blown a hole in Canada's public finances and has created significant economic pain in oil producing regions of the country. The value of the Canadian dollar, which has increasingly been tied to the fate of the energy economy, has plummeted in near lockstep with the price of oil.

Canada's constitutional arrangements have, over time, ensured primarily provincial control over natural resources. Given their centrality to the Canadian economy, it should come as no surprise that provinces jealously guard their prerogatives in this area. When the federal government has challenged these arrangements, such as with the National Energy Program, it created unprecedented tensions within the federation.

Yet, as the Keystone XL Pipeline experience has underlined, provincial control does not mean that the provinces are islands delinked from regional and global energy markets. Canada lacks anything close to a common national market for energy products, meaning that leveraging shared interests regarding customers and competitors outside of its borders seldom occurs. Whether it is getting Alberta oil to eastern Canadian markets, or Quebec or Manitoba hydroelectricity to export markets in the United States, the federal government can make an important contribution to achieving these goals. The key is to find a broadly agreed-upon path that promotes market access and regulatory coherence in the energy sector across the country, but that does not appear to question Canada's constitutional arrangements. In other words, the key for the federal government is to identify areas where it can productively intervene in ways that the provinces cannot readily achieve on their own. This work should include becoming involved in the climate change issue with a view to ensuring that provincially developed carbon tax or carbon capture and storage schemes do not become barriers to conventional energy trade and development.

What does this mean in the context of the AIT?

The Agreement on Internal Trade is indicative of the lack of focus in Canada's energy policies. Amazingly, the AIT does not currently contain a chapter on energy. The original agreement held open Chapter 12 for eventual text on the issue, but none was ever forthcoming. Given the importance of energy to the Canadian economy and its geopolitical significance in North America and globally, a common set of AIT obligations would seem past due.

What should the chapter include? The cornerstone should be a commitment by all governments in Canada to provide market access or freedom of transit for energy resources across its territory. Practically speaking, any AIT commitment would not supersede aboriginal land claims and would, from a political perspective, have to accommodate environmental safeguards that some provinces feel they need. Yet, as a basic principle, provinces should not be in the business of blocking energy, whether traditional or renewable, from getting to tidewater or markets across our country.

A key challenge for energy projects often comes down to which jurisdiction receives what compensation for transit through its territory. While Canada should avoid the temptation to fix prices, all parties would benefit from a voluntary arbitration mechanism that could accelerate the identification of appropriate compensation for various parties along the transit route.

The market access commitments in energy should also be subject to the renewed AIT dispute settlement mechanism. Embedding market access for energy products into this framework would encourage the same market opening benefits as Canadians have come to expect for other products and services.

The federal government and the provinces should also endeavour to address regulatory coherence in the development of energy projects and the movement of energy products across the country. In order for this to be useful, the parties should work on a specific agenda with defined and short timelines. The challenge is that when each province demands its own very distinct conditions for access through its territory, it hamstrings the whole industry. The parties should embed a commitment to regulatory coherence in Chapter 12.

The governments should also duplicate and insert in the AIT the principle from the World Trade Organization regime that states that measures to protect the environment be the least distortionary possible in terms of trade flows. Figuring out how to implement this with respect to climate change will be challenging. Different provinces are already following different strategies. In April 2015, Ontario announced that it was joining Quebec and California in the Western Climate Initiative cap-and-trade system. British Columbia, by contrast, imposes an economy-wide carbon tax. Alberta imposes a carbon tax on industry. Some provinces such as Nova Scotia focus on emissions standards for electricity (McCarthy, 2015, March 23). Some provinces have none of these measures. While bringing these systems together into a national approach is doubtless too difficult to accomplish, assessing how to minimize their distortionary effects on trade is both a possible and worthwhile endeavour.

What should the federal government do?

If Canada is to develop the policies that will lead to free trade and the free movement of energy products across the country, the federal government will have to lead. Because, at its core, a functional Chapter 12 would be a principles-based regime that aims to reduce barriers to trade, a significant amount of policy development work will be required. There are few credible "off-the-shelf" models for determining on what basis to apply the dispute settlement regime or how to judge whether particular elements within provincial climate change schemes are unduly trade distorting. The federal government should therefore take the lead in proposing methods for creating models useful to this country.

If the ultimate goal of the AIT is to create a single Canadian market for goods, services, people, and capital, the federal government will need to work diligently to encourage the provinces to sign on to more ambitious timelines and objectives. It is time for Ottawa to chart a constructive course on free trade in energy products. Its current indifference about how energy and the environment are treated in commercial frameworks must end. Yet, in doing so, the federal government must make an extra effort to reassure the provinces they are conscious about avoiding overreach. Canada's

economy needs more energy production and distribution of all types. Ottawa is best placed to kick-start this effort.

Reform Canada's dairy production and distribution system

Canada's supply management regime for dairy products is arguably the poster child of outdated protectionist policy and rent-seeking behaviour. While the federal government could theoretically end this policy regime tomorrow, it would be politically complex to do so. Sudden change would also risk chaos in the agricultural supply chain. Put another way, the market distortions stemming from supply management are deep and will take some time to unwind.

Although supply management was not traded away in the conclusion of the 12-nation Trans-Pacific Partnership trade agreement negotiations, it could possibly be altered in future trade agreements. Rather than hoping that some external pressure will lead to the termination of Canada's dairy supply management regime though, the federal government should begin immediately to restore market principles to the sector. The production and sale of dairy products is presently one of the most heavily regulated sectors in Canada. The supply management system ensures that prices for milk products are artificially high and keeps imports largely out of the market. By favouring stable producer interests over processor or consumer interests, firms tend to have little incentive for product innovation or productivity improvements on the farm.

It should also come as little surprise that there have been long-standing impediments to the interprovincial shipment of dairy products. For more than 20 years, for example, Quebec famously favoured butter over margarine by demanding that the synthetic variety be artificially coloured white. This rule was eliminated in 2008, but many interprovincial barriers to trade in dairy products remain.

The mechanics of Canada's dairy supply management regime are implemented through legislation and institutional mechanisms that go back to the *Canadian Dairy Commission Act* of 1966. The Canadian Dairy Commission chairs the Canadian Milk Supply Management Committee, under whose aegis the provincial dairy marketing boards meet to establish support prices for fluid milk and butterfat as well as the allocation of quotas among provinces (Canadian Dairy Commission, 2011). Quebec presently has 44.14% of the combined quota and Ontario has 31.86%. Alberta and British Columbia each get about 6.5% of the quota while the remainder is allocated to the other provinces.

Given its volume of established dairy production and room for growth in a more market-oriented environment, Canada can become an international dairy powerhouse. Global demand for milk is up 30% since 2000 while demand for butter is up 63% and whole milk powder is up 82% (Maguire, 2014, Aug. 12). Much of this growing market has been in Asia as Chinese consumers develop tastes for milk, cheese, and yogurt. US dairy exports have grown six-fold during this period. Were we in the game, many of these exports could have been Canadian. Some Canadian processors, such as Saputo, are in fact participating in the dairy export boom. However, they have only been able to do this by buying up dairy assets outside of Canada and using them as a base from which to expand internationally (AGCanada.com, 2015, March 2).

In tandem with more export-oriented dairy policies, Canada's dairy industry would benefit from national harmonization of regulations for

production and packaging. The Dairy Processors Association of Canada has recently flagged dairy creamers, butter, and drinkable yogurts as products that would benefit from a harmonization of a national regime for production and packaging (A New Vision for Interprovincial Trade in Canada: 14).

What should the federal government do?

The federal government is the lynchpin in Canada's dairy regime. Its strategy should be to undertake an incremental modernization of the regime until such time as the politics allow for a more fulsome transformation.

Separately, the federal government should seek to include in the AIT's Chapter 9: Agricultural and Food Goods a commitment that provinces are free to export milk and dairy products to one another. Given how the Canadian Dairy Commission and the provincial marketing boards allocate the quota and regulate the sector, there has heretofore been no scope for a large-scale interprovincial dairy trade. With federal leadership, both through the Canadian Milk Commission and in AIT negotiations, a common Canadian market in dairy products perhaps has some chance of being realized. Even though producers and processors are not currently allowed to grow to a global scale, at least they would be able to participate in a national dairy market.

In encouraging the transition to an open market, the federal government should move immediately to allow the production of dairy products purely for export. Because the production will leave the country, it will not disrupt the pricing mechanism established in the supply management system. Such a move would also allow for experimentation on new products and the building of globally active Canadian dairy companies.

Current international trade rules and those governing Canada's dairy system do not formally restrict the export of dairy products from outside of the supply management system. Nonetheless, as Busby and Schwanen note, the federal government has chosen to surrender its clear authority over export trade to provincial interests. The Dairy Farmers of Ontario and similar groups have been able to effectively block production by farmers who do not own quota (Busby and Schwanen, 2013: 10). The federal government can and should work to reimpose its authority over dairy exports and develop a strategy to encourage export-oriented production. Perhaps it should seek to include language in Chapter 9 of the AIT that curtails or at least assesses the impact of marketing boards on external trade.

Conclusion

> 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. (The Constitution Act, 1867, Article 121)

The architects of the Constitution Act of 1867 imagined a common market across the Dominion of Canada. Yet as the country and its economy grew and changed, a series of policy decisions and court rulings chipped away at this vision. Barriers also arose in a fully unintentional manner. After all, our understanding of the economy has changed radically over the past century and a half.

The question now is what are we going to do about it.

The challenge today is not how Canadian firms can reach a provincial or regional scale. It is how they can reach a national and global scale. The many barriers to trade and commerce

within Canada are significant impediments to this objective. How can Canadian firms effectively compete in the 320 million-person US market or the 1.2 billion-person Chinese market if they cannot first grow to scale in a national market of 35 million people? The time has come to recommit ourselves to building a single Canadian market and with it, the conditions of global competitiveness.

Significant sums of money will undoubtedly be spent in 2017 to celebrate Canada's 150th birthday. In truth, the greatest gift that we could give the country and our fellow citizens would be the completion of our internal market. Were we to succeed at this, Canada will be more prosperous and better able to become the global powerhouse that we all desire.

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