

BACKGROUND ON INTERPROVINCIAL TRADE BARRIERS

Increasing trade within Canada should be a priority for federal and provincial governments in the wake of Trump’s threatened tariffs. But we should be cautious when talking about eliminating all so-called ‘interprovincial barriers’ to trade. It’s crucial to approach the removal of such regulations with cautious and careful consideration, ensuring we don’t eliminate valuable protections in the process.

Too often, worker protections, health and safety regulations, protections for public services and infrastructure, or supports for small local businesses are labeled as barriers to trade. Advocates of harmonizing regulations that act as barriers to trade talk about something called “mutual recognition”, where standards are lowered rather than raised – the opposite of what policy makers should be doing.

Estimates of the benefits to our economic growth are based on questionable assumptions, are grossly overstated, and fail to measure the costs of losing some of these regulations.¹ The implication is that removing these barriers will offset some of the reductions in trade with the United States, but there is no evidence that the bulk of current exports to the United States would have a market within Canada, even if existing regulations were removed.

It is also important to note that removing protections within any interprovincial trade agreements could create openings for disputes related to international trade agreements. Once a protection is removed from the interprovincial trade agreement, international firms who are seeking market access to a sector within Canada could argue that they should receive the same treatment as businesses from other provinces, depending on the terms of the relevant international trade agreement. Since the Canada-EU trade agreement applies to services in municipalities, universities, school boards, and hospitals, this could be of broad concern to all levels of government in Canada.

Existing protections that are being labeled as barriers to trade include protecting water, social services, language, and culture, as well as the right to keep energy, communications, and transportation infrastructure in the public sector.

What are Interprovincial Trade Barriers?

The Agreement on Internal Trade that came into effect in 1995 was intended to make interprovincial rules compliant with the North American Free Trade Agreement (NAFTA). Its successor, the 2017 [Canadian Free Trade Agreement](#) (CFTA), was brought in to align domestic rules with the Canada-European Union Comprehensive Economic and Trade Agreement (CETA). The current work program under the CFTA is the [2024-2027 Internal Trade Action Plan](#), which aims to address any outstanding trade irritants and barriers.

¹ Lee, M. (March 2, 2025) “Knocking down interprovincial trade barriers is not the panacea some claim,” [Toronto Star](https://www.thestar.com/opinion/contributors/knocking-down-interprovincial-trade-barriers-is-not-the-panacea-some-claim), <https://www.thestar.com/opinion/contributors/knocking-down-interprovincial-trade-barriers-is-not-the-panacea-some-claim>.

There have also been side deals among a smaller set of provinces, such as the Alberta-BC Trade, Investment and Labour Mobility Agreement (TILMA) and the New West Partnership that includes Saskatchewan and Manitoba.

It is standard practice for trade agreements to have a chapter that allows each of the parties to the agreement to exempt specific parts of their economy from some of the rules of the agreement. When policy makers talk about removing trade barriers, they often mean eliminating these exceptions from the trade agreement.

For example, social services, such as childcare, are exempted from the rules of the CFTA because we have a strong belief that decisions about social services should be made in the public interest and not based on financial or market-based priorities. In terms of a trade deal, this means that governments can set their own rules for who provides these services, whether that means they are fully publicly delivered or whether private actors must meet specific public interest requirements to deliver these services. If these services were subject to the rules of the trade deal, governments would have to contract out their delivery to the lowest cost private sector providers.

Another common issue is differences in regulations between provinces. These regulations can be rules around food safety, transportation, health and safety in the workplace, or credential recognition for workers. Provinces should be working to harmonize to the highest standard. But the right-wing solution to harmonizing regulations across provinces is something called “mutual recognition”. This means that provinces would not be able to enforce their higher standards in any of these areas for goods coming from a province with lower standards. In practice, this puts pressure on all provinces to lower their standards.

In September 2024, seven provinces and three territories launched a pilot project for mutual recognition of regulatory requirements in the trucking sector through the Committee on Internal Trade (CIT) in the CFTA. In their statement praising this move, the Canadian Federation of Independent Businesses (CFIB) said they “would ultimately like to see a mutual recognition agreement that encompasses all federal, provincial and territorial regulatory measures”.² We would have grave concerns about expanding mutual recognition projects beyond the existing pilot project in the trucking sector.

Some of the regulatory co-operation issues identified within the CFTA include standards for hearing, head, foot and eye protection at worksites, fall protection training standards on construction worksites, filtering respirator standards, testing for automated vehicles, and corporate registry requirements. Harmonizing to a high standard makes sense for these issues. But under mutual recognition, businesses located in a lower standard jurisdiction could potentially face lower costs, which could help them win procurement contracts in higher standard jurisdictions. For example, if a business located in a jurisdiction with lower worker safety standards bids on a contract in a jurisdiction with higher standards, they could undercut local businesses. This puts pressure on the higher standard jurisdiction to lower their standards so that local businesses aren’t competing on an unfair playing field. This dynamic puts workers and public safety at risk.

² CFIB, September 2024, <https://www.cfib-fcei.ca/en/media/cfib-applauds-new-mutual-recognition-pilot-project-for-trucking-industry>.

Existing protections in Canadian Free Trade Agreement (CFTA)

There are several existing protections in the CFTA that preserve the policy space that governments will need to respond to U.S. trade aggression with bold action and progressive, public solutions that protect jobs, services, our communities, and our way of life.

Chapter 8 – General Exceptions

In the CFTA, Chapter 8 outlines broad exceptions from the rules of the trade deal. For example, Chapter 8 specifies that nothing in the agreement would prevent federal, provincial, or territorial governments from fulfilling their obligations to Aboriginal peoples (Article 800). Water, including water in lakes, rivers, reservoirs, aquifers, and water basins, is recognized as neither a good or a product and so is exempt from trade rules (Article 803).

As is standard practice in Canada's international trade agreements, language and culture are protected in the general exceptions chapter (Articles 808 and 809). These are particularly important in Quebec, around the protection of the French language and Quebecois culture, but they are relevant across Canada and for Indigenous peoples.

There is also a broad protection for the public provision of social services that are established for a public purpose, such as Employment Insurance, provincial social assistance programs, public education, public training, health, and childcare (Article 805). This means that governments can set their own rules for who provides these services, whether that means they are fully publicly delivered or whether private actors must meet specific public interest requirements to deliver these services.

There is a narrower exception for passenger transportation services (Article 813), exempting them from one market access rule for the delivery of services and investments. This exception means that governments are allowed to limit the number of enterprises that engage in passenger transportation services in their jurisdictions.

Energy and Electricity, Annex I and II and Article 309

The CFTA has an article that deals specifically with electricity generation and transmission, Article 309. Unless a province specifically exempts themselves, they must ensure that any transmission service provider operating within its territory provides all transmission customers with open and non-discriminatory access to transmission services. In this context, non-discriminatory access means that the utility cannot provide favourable access to residents of their jurisdiction.

Given the importance of electricity, it makes sense that governments may want the choice to prioritize residents over non-residents, and so many governments have added exceptions in the current agreement. They may also want to preserve the ability to maintain electricity generation and transmission solely in the public sector.

Seven provinces and one territory have exceptions for current practices related to energy generation and transmission in Annex I. The remaining provinces and territories have exceptions for future measures in Annex II.

In Annex II, the federal government reserves the right to adopt or maintain any measure with respect to the issuance of authorizations for transportation and transmission on power lines.

The most common exceptions in Annex I for electricity are Article 201 (Non-Discrimination) and Article 313 (Performance Requirements), but some jurisdictions also exempt energy from Article 301 (Right of Entry and Exit). In Annex II, most jurisdictions have additional exceptions for Article 307 (Market Access – Services) and Article 312 (Market Access – Investment).

Article 201 says that each jurisdiction has to treat workers, services, service suppliers, investors, and investments from other jurisdictions exactly the same as ones from their own. Exempting electricity generation from Article 201 allows provinces to treat their provincial energy utilities more favourably than any other public or private utility from other jurisdictions.

Article 301 says that parties cannot adopt any measure that restricts trade in goods across provincial or territorial boundaries. Exempting electricity from this measure means that a jurisdiction could restrict the sale of electricity across borders.

Article 313 prevents jurisdictions from requiring investors to purchase local goods or services as a condition of any contract or from requiring investors transfer any proprietary knowledge to a third party. Exempting electricity from this article allows provinces to maintain “buy local” requirements in this industrial sector.

Article 307 relates to the provision of services and prevents jurisdictions from limiting the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test, as part of fulfilling a contract.

Article 312 mirrors Article 307 but is related to investments and it also prevents jurisdictions from limiting the participation of capital from an investor of another Party in terms of maximum percentage limit on shareholding, or the total value of individual or aggregate investment.

1. Annex I: Exceptions for Existing Measures

Annex I of the CFTA allows each Party to the agreement to set out specific exceptions to the trade agreement for their current policy choices.

Telecommunications

In this annex, the federal government had maintained protections for investments in telecommunications, but these protections were removed in February 2025. Similar clauses remain in the Canada-United States-Mexico Agreement (CUSMA) and the Comprehensive Economic Trade Agreement (CETA) between Canada and the EU, so the protections should remain in place unless those agreements change. Given the upcoming renewal of CUSMA, maintaining these domestic requirements in investment is very important to maintain domestic control over key infrastructure.

Social Services

Quebec is the only province or territory that reserved the right to maintain a measure with respect to the provision of social services that is not otherwise covered by the general exception provided by Article 805 (Social Services).

2. Annex II: Exceptions for Future Measures

This section of the trade agreement allows each jurisdiction to identify policy areas that they may want to exempt from specific rules of the trade agreement.

Aviation

The federal government had exempted future measures relating to aviation or air transport, or related services in support of aviation or air transport, from this trade agreement, but this protection was removed in February 2025. Similar clauses remain in the Canada-United States-Mexico Agreement (CUSMA) and the Comprehensive Economic Trade Agreement (CETA) between Canada and the EU, so the protections should remain in place unless those agreements change.

Infrastructure and regional economic development

The federal government had a broad exception for infrastructure from Article 201 (Non-Discrimination), which could allow requirements to use local workers for infrastructure projects, an important component of regional economic development projects, but this protection was removed in February 2025.

The federal government had reserved the right to adopt or maintain any measure that is part of a general framework of regional economic development, but this measure was removed in February 2025. The measure was already limited in that:

- a. the measure does not operate to impair unduly the access of persons, goods, services, or investments of another Party; and
- b. the measure is not more trade restrictive than necessary to achieve its specific objective.

For the purposes of this exception, “general framework of regional economic development” means a program or statute-based system that:

- a. specifies eligibility criteria or development priorities based on, but not limited to, such factors as geographic area, industrial sector or population group;
- b. is generally available to recipients that meet the eligibility criteria; and
- c. identifies performance or economic development objectives or targets that can be measured.

All three territories have included even broader exceptions in Annex II around regional economic development, recognizing the particular geographic challenges that they face.

Work on interprovincial harmonization ongoing

Many genuine barriers to interprovincial trade have already been removed and provinces have brought existing regulations and policies into much closer alignment over the past 30 years. Under the CFTA, Canadian governments are continually working to remove exceptions to the trade agreement and to identify any new regulatory barriers to trade.

The CFTA goes much further than standard trade agreements in terms of creating obligations for provinces to ensure that new legislation and regulations do not create barriers to interprovincial trade. Article 402 of the CFTA obligates provinces to notify other jurisdictions if their rules may affect trade and Article 403 obligates parties to enter into regulatory reconciliation agreements where a regulatory barrier is identified by another party to the agreement. This means that genuine trade irritants are automatically put on the agenda for discussion and reconciliation as they arise. Even though many of these issues affect workers, such as minimum standards for workplace fall safety equipment, chemicals in upholstered furniture and toys, pressurized containers, etc., these discussions have not involved workers or their representatives.

In July 2024, the federal government removed or narrowed 17 exceptions to the CFTA, approximately one-third of the federal exceptions to the trade agreement. Some of the changes meant that federal entities such as the Senate, the House of Commons, and the Parliamentary Protective Service must prioritize low-cost bids in procurement over other priorities, such as labour standards or supporting local companies. Other changes removed protections for local procurement in shipbuilding, Crown corporations, infrastructure for international crossings, and services provided by Export Development Canada.

In February 2025, the federal government removed an additional 20 measures, including existing protections for investments in telecommunications and protections for Canada Post, and protections for future measures in public infrastructure investment and regional economic development, transportation regulation, regulation of aviation and air transportation, and regulation of pipelines and power lines.

Once these protections are removed from the interprovincial trade agreement, that area could become open to international firms who are seeking market access to a sector within Canada, depending on the terms of the relevant international trade agreement and the whims of the tribunal that is assigned any future dispute. Even though Article 1202 of the CFTA should shield foreign firms from importing CFTA rights into other agreements, the CFTA itself strictly prohibits parties from introducing measures that are not in conformity with the agreement. This conflict could open the possibility for a dispute under an existing international FTA.

We should be vigilant about any future moves by federal, provincial, or territorial governments to eliminate or narrow existing protections in legislation or trade agreements, including pressure towards 'mutual recognition', which slowly erodes the ability of governments to maintain their higher standards.

Legitimate Objectives and Protection for the Right to Regulate

Article 102 of the CFTA sets out the intention for governments to maintain their right to regulate and to preserve flexibility in meeting public policy objectives.

Specifically, the CFTA says in Article 102, paragraph 2:

... the Parties recognize:

- a. the right to regulate is a basic and fundamental attribute of government, and the decision of a Party not to adopt or maintain a particular measure shall not affect the right of any other Party to adopt or maintain such a measure;
- b. the need to preserve flexibility in order to achieve public policy objectives, such as public health, safety, social policy, environmental or consumer protection, or the promotion and protection of cultural diversity.

Even though the right to regulate is theoretically recognized by this agreement, it is very difficult for a government to make that right a reality. Article 202, paragraph 3, sets out a four-part test that a government must meet in order to implement a legitimate objective that was not in compliance with the CFTA. And this exception does not apply to technical standards, food and animal safety, labour, environmental rules, or the reconciliation process. This makes it even more important for jurisdictions to maintain relevant protections for their right to regulate and meet public objectives through the exceptions provided in Annex I and II of the CFTA.

State of Interprovincial Trade

Businesses across the provinces and territories conduct a healthy amount of trade with each other. The total value of interprovincial trade in 2021 (the last data year) was \$451 billion, an increase of 44% since 2007.

Statistics Canada conducts annual surveys of businesses, asking them about the interprovincial trade barriers that they experience. For 2023, two in five (41%) businesses in Canada purchased goods or services from suppliers operating in another province or territory, while more than one in four (26.9%) sold to customers located in another province or territory.³

A smaller proportion of businesses conduct international trade – over the same period, 30.2% of businesses purchased goods or services from international suppliers and 14.5% sold goods or services to international customers.⁴

In terms of genuine trade barriers identified by businesses, transportation costs and the availability of transportation were the biggest reasons for not conducting interprovincial trade, but the vast majority of businesses who did not purchase (89.5%) or sell (88.2%) goods or services across provincial or territorial borders cited no need or interest in doing so.⁵

For most provinces, a neighbouring province was the largest interprovincial trading partner, an additional point emphasizing that geography is the largest determinant of interprovincial trading patterns.⁶

³ <https://www150.statcan.gc.ca/n1/daily-quotidien/250214/dq250214d-eng.htm>.

⁴ <https://www150.statcan.gc.ca/n1/daily-quotidien/250214/dq250214d-eng.htm>.

⁵ <https://www150.statcan.gc.ca/n1/daily-quotidien/250214/dq250214d-eng.htm>.

⁶ <https://www150.statcan.gc.ca/n1/daily-quotidien/240709/dq240709a-eng.htm>.

Estimates of huge gross domestic product (GDP) gains are deeply flawed

A 2019 working paper published by the International Monetary Fund (IMF) claims that removing interprovincial trade costs across Canada would yield gains of between three and seven per cent, equivalent to real GDP gains of \$50 and \$130 billion.⁷ A 2022 paper for the Macdonald-Laurier Institute (MLI) argues that mutual recognition of regulations across provinces would boost Canada's GDP by \$100-\$200 billion per year, or four to seven per cent of GDP.⁸ Politicians have further inflated these estimates in their recent statements and added projections around productivity gains that have no basis in the research conducted.

The models used to arrive at these estimates are questionable and make no attempt to identify which trade barriers might be causing problems or to explain why removing them would result in the gains estimated. The 2022 MLI paper assumes that there are two reasons that provinces don't trade with each other: transportation costs and interprovincial trade barriers. They then assume that consumers in each province would buy from other provinces proportional to what is produced by each province. They calculate the gap between current habits and this alternative scenario – and after taking transportation costs into account, say that the difference is how much GDP growth we could expect from removing interprovincial trade barriers.

This method does not evaluate the economic or social benefits to maintaining any of the current exceptions and does not factor in any other differences – such as regional specialization of production or local preferences – which might contribute to differences in interprovincial purchasing profiles between provinces. There is no justification for why removing any existing regulations would result in the change of trading practices that the authors predict in their study; it's an abstract math exercise that is not grounded in the reality of business practices, consumer habits, or the important role that regulations can play in reducing the impact of costly harms for all of us.

Supporting Trade and Protecting Public Services and Public Infrastructure

This review of the Canadian Free Trade Agreement and the current exceptions shows that what some have labelled as barriers to interprovincial trade are actually important protections for public services and public infrastructure.

We need to maintain the public policy space to implement public solutions in key sectors like agriculture, transportation, telecommunications, and natural resources, and diversify markets for Canadian products beyond the United States. For example, given that availability of transportation and transportation costs are the largest barriers to interprovincial trade, governments should be focusing on building East-West public transportation infrastructure in order to better stimulate interprovincial trade.

⁷ Alvarez, A., I. Krznar, and T. Tombe. (2019). Internal Trade in Canada: Case for Liberalization. Available online: <https://www.imf.org/en/Publications/WP/Issues/2019/07/22/Internal-Trade-in-Canada-Case-for-Liberalization-47100>.

⁸ Manucha, R. and T. Tombe. (2022). Liberalizing Internal Trade through mutual recognition: A legal and economic analysis. Available online: <https://macdonaldlaurier.ca/liberalizing-internal-trade-through-mutual-recognition-a-legal-and-economic-analysis/>.

Defending the rights of federal, provincial, and territorial governments to deliver services and build infrastructure in the public interest is an important component of protecting the Canadian social and economic model in response to Donald Trump's tariffs.

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