

MEDIA RELEASE



Ten national associations call on political leaders to fix internal trade in Canada

(Ottawa – April 1, 2008) On the first anniversary of the historic trade agreement between Alberta and British Columbia, a national coalition of ten business, industry and professional associations is urging the federal and provincial governments to cooperate in finding ways to strengthen the economic union.

The internal trade coalition is recommending that Ottawa take the lead in improving trade across Canada by legislating a set of open trade principles and establishing a standing internal trade tribunal to ensure that all parties adhere to those principles.

Representatives of the ten associations say they are encouraged by the year-old Trade, Investment and Labour Mobility Agreement (TILMA) between Alberta and British Columbia. Moreover, the coalition notes with interest the recently launched trade negotiations between Ontario and Quebec.

Nevertheless, Canada's economy remains fragmented in ways that drive up costs and weaken competitiveness. As a result, it is often more difficult to move goods and services across provincial boundaries than over our international borders — and the emergence of new trade barriers threatens to further balkanize the Canadian economy.

“Across the country, governments have awakened to the fact that internal trade barriers hurt consumers, discourage investment and damage Canada's international reputation as a place to do business,” said the coalition. “The time has come for a bold new approach that strengthens the economic union and enhances Canada's prosperity and competitiveness.”

As noted by Alberta Premier Ed Stelmach, internal trade issues cost the Canadian economy as much as \$14 billion a year.

The bold approach recommended by the coalition has four key elements that, taken together, would eliminate trade barriers that hamper the domestic economy:

- Federal legislation to establish a set of “open trade principles” designed to ensure a free and open market, without discriminatory practices;
- Creation of a standing internal trade tribunal that would be accessible to all Canadians as a means of resolving internal trade disputes;
- Implementation of all outstanding rulings by panels established under the 12-year-old Agreement on Internal Trade; and,
- An agreement that all tribunal orders and existing panel decisions would be subject to enforcement by the courts at the option of the disputants.

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The coalition is looking for specific actions from all levels of governments to begin immediate work in this area.

The coalition consists of the Canadian Bankers Association, the Canadian Chamber of Commerce, the Canadian Council of Chief Executives, the Canadian Federation of Independent Business, the Canadian Manufacturers & Exporters, the Canadian Petroleum Products Institute, the Canadian Restaurant and Foodservices Association, the Certified General Accountants Association of Canada, the Dairy Processors Association of Canada and the Vegetable Oil Industry of Canada.

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A copy of the coalition's position paper can be downloaded here:
www.cga.org/canada/internaltrade

IMPROVING INTERNAL TRADE: A BOLD APPROACH



Trade barriers hurt all Canadians by damaging our country's productivity and competitiveness. They raise prices for consumers, discourage investment, increase compliance costs and reduce innovative capacity. Internal trade barriers cost Canada's economy as much as \$14 billion each year. They harm our international reputation as a place to do business. The 30-nation Organisation for Economic Co-operation and Development has called on Canada to dismantle the remaining obstacles to interprovincial trade.

A bold approach is needed.



National organizations representing a broad base of businesses and professionals agree that urgent measures are needed now to improve trade, investment and labour mobility in Canada.



THE HISTORICAL CONTEXT –

1. The provinces and the federal government have tried for some time to remove trade barriers that hamper the domestic economy.
2. Twelve years ago, the provinces and the federal government signed the Agreement on Internal Trade (AIT).
3. Unfortunately, the AIT has not worked as intended. It is limited, complex and unenforceable. It is opaque and inaccessible to those outside of government, and operated by an intergovernmental structure incomprehensible to outsiders.
4. To establish a common market within Canada, the Constitution confers upon the federal Parliament the exclusive power to make laws in relation to the regulation of trade and commerce. Section 91(2) of the Constitution Act, 1867, establishing the powers of the federal Parliament, states: "... it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say, [...] 2. The Regulation of Trade and Commerce."
5. In establishing a common market under exclusive federal jurisdiction, Canada's Constitution envisions a domestic economy free of interprovincial trade barriers. This principle was enshrined 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."



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6. What was not foreseen was the ascendancy of non-fiscal or non-tariff barriers as the principal impediments that would hamper free trade in Canada's modern economy. Some of these include differing government procurement practices, limitations on the flow of investment and the movement of persons from province to province, different securities rules arising from the fragmented regulation of Canada's capital market, differing regulations and standards under the guise of consumer protection to protect local interests from competition, differing product and grade standards and differing commercial transportation codes.
7. Following their annual meeting in August 2007, Premiers acknowledged the need to strengthen domestic trade between provinces and territories by reducing barriers to trade flows that have arisen among provinces in the 140 years since Confederation.
8. The Speech from the Throne delivered to Parliament in October 2007 recognized that Canada still has a long way to go to establish free trade across provincial borders, hurting Canada's competitive position. The government committed to finding ways to make the economic union work better, using its trade and commerce powers.
9. A coalition of leading Canadian business groups proposes a bold approach:
 - The federal government should take leadership by establishing a set of "open trade principles" to be adopted by all jurisdictions;
 - The federal government should establish a standing internal trade tribunal to ensure that all parties adhere to the principles.

Under this new approach commitments made under the Agreement on Internal Trade or the Trade, Investment and Labour Mobility Agreement or other agreements would apply.

WHAT IS NEEDED –

1. A principles-based approach

In keeping with its constitutional responsibility to establish an economic union without barriers to trade and to regulate interprovincial trade and commerce, the federal government should legislatively establish the following "open trade principles" :

- The standard for interprovincial trade should be a free and open market (non-discrimination) on the principle that, unless it is necessary for a legitimate objective, no government will maintain measures or restrict or impair interprovincial trade, investment or labour mobility.
- If any government fails to honour the above principle, appropriate monetary penalties, judicial enforcement and retaliatory trade action will be available to the government disputant or its aggrieved constituent(s).
- For any specific barrier to be permitted as a legitimate objective, a strong evidence-based case should be required based on standards of established trade law jurisprudence.

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II. Dispute Resolution Process

The federal government should establish a standing internal trade tribunal that all Canadians – individuals, private firms, trade associations and governments – can access. The tribunal would operate on the basis of consultation and mediation and, if necessary, binding arbitration to resolve internal trade disputes.

- The tribunal would be accessible to all Canadians and be efficient and effective in terms of the timeliness and the binding nature of its decisions.
- The tribunal would determine if a measure is a barrier and, if so, issue an order on how it is to be resolved, including removal or amendment of the measure, and the assignment of monetary penalties if its order is disregarded.
- Government disputants would continue to retain the right of retaliatory trade action as currently provided by the Agreement on Internal Trade.

III. Existing Commitments Apply

All governments remain bound by the Agreement on Internal Trade.

- All historical panel findings should be implemented immediately. Failure to do so would result in a \$5 million annual penalty and the option of retaliatory trade action until such time as implementation occurs.

IV. Enforcement

All tribunal orders and existing panel decisions will be subject to enforcement by the courts at the option of the disputants.

NEXT STEPS

The coalition is looking for specific actions from all levels of governments to begin immediate work in this area.

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ABOUT THE COALITION

The following organizations have endorsed the above statement:

Canadian Bankers Association
The Canadian Chamber of Commerce
Canadian Council of Chief Executives
Canadian Federation of Independent Business
Canadian Manufacturers & Exporters
Canadian Petroleum Products Institute
Canadian Restaurant and Foodservices Association
Certified General Accountants Association of Canada
Dairy Processors Association of Canada
Vegetable Oil Industry of Canada

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