

Leveraging CETA to Eliminate Interprovincial Trade Barriers

The Issue

Internal obstacles to trade have long created economic barriers within Canada. Negotiations with the EU offer a valuable opportunity to strengthen internal trade.

Background

As explicit tariffs between the provinces is forbidden under section 121 of the Constitution Act of 1867, most interprovincial barriers are the result of differing rules, regulations, licensing requirements and regional programs. These barriers to internal trade are often enforced by provincial legislation in attempts to protect local interests (eg. liquor board monopolies).

The overall effect of such legislation however, is that it has cost the Canadian economy an estimated \$14-20 billion per year. (Government of Alberta 2008 "FAQs on the Agreement on Internal Trade") To address this, an Agreement on Internal Trade (AIT) was signed by the provinces and territories and federal government in 1994 in order for "parties to reduce and eliminate, to the extent possible, barriers to free movement of persons, goods, services and investment in Canada, and to establish an open, efficient and stable market." (Government of Canada. 2007 "Agreement on Internal Trade: Consolidated Version")

There are also other initiatives which have helped to facilitate trade between the provinces including the New West Partnership Trade Agreement (NWPTA) (an accord between the Governments of British Columbia, Alberta and Saskatchewan that came into effect in July 2010) and the Premiers' Council of the Federation work plan on internal trade which has developed a work plan for improvements to the AIT.

Despite the AIT and other measures, however barriers in many sectors of the economy still exist and a number of examples can be cited:

- Food safety regulations vary across the country and provinces have separate marketing boards for dairy and poultry, which can result in agricultural products produced in one province not able to be on the supermarket shelves of another. A recent example was Quebec's ban on soy and vegetable-oil based dairy substitutes which was recently struck down as a violation of the AIT
- The transportation sector faces differing provincial regulations, as tires sizes and safety regulations for commercial trucks hauling large or dangerous goods are not harmonized across Canada
- Refiners also face differing rules, as the ethanol mix allowed in fuel changes province to province
- The country also lacks a single securities regulator and some barriers to labour mobility still exist. The myriad of differing regulations that exist across the country make Canada a complex market to do business with, and add to the cost of doing business
- There are 60 regulated professions in Canada. Fifty one of them are regulated in two or more jurisdictions. Furthermore, there are approximately 50 skilled trades where certification is compulsory in at least one jurisdiction. Provincial and territorial governments are responsible for establishing occupational standards and have no obligation to reconcile or adopt national standards¹

The proposed system for settling disputes under the Canada-EU would provide recourse for companies that feel they have been unfairly treated to take action directly against the offending state. Such recourse is not offered to the same extent under the AIT.

This means that unless the federal government takes action now to eliminate internal trade barriers, European companies bidding on Canadian government work will gain an institutionalized edge over Canadian businesses trying to win similar contracts outside their home province once CETA is enforced.

¹ Who Can Work Where: Reducing Barriers to Labour Mobility in Canada: CD Howe Institute, June 2010.

Recommendations

That the federal government:

1. Consider the New West Partnership Trade Agreement as a model for further trade liberalization in Canada.
2. Work to fully implement the Premiers' Council of the Federation work plan on internal trade before CETA comes into force.
3. Continue to pursue trade liberalizing agreements with other Canadian jurisdictions through the use of Article 1800 (Trade Enhancement Arrangements) of the AIT, which allows interested parties to move forward when consensus is not possible.
4. Conduct a full review and renegotiation of the AIT with a view to establishing a new pan-Canadian agreement to further eliminate barriers to trade, investment and labour mobility. Any new agreement must:
 - Cover all sectors of the economy and include all government entities including ministries, crown corporations and regional and local governments. A mechanism must be in place which can challenge any exceptions
 - Institute a dispute resolution mechanism for persons that includes access to a panel with binding and enforceable powers and contains significant fines for non-compliance