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THE PREMIERS' NEW CLOTHES

A critical look at the race to remove interprovincial trade barriers

Stuart Trew and Marc Lee

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Summary

The Trump administration's tariff war on the world economy has put wind in the sails of a long-standing issue in Canadian federalism. Under pressure to forcefully respond to Trump's economic aggression, federal and provincial politicians have leaped onto the stage pronouncing their intentions to remove trade barriers between provinces that allegedly cost the Canadian economy hundreds of billions of dollars in lost activity each year.

The idea that there are vast, hidden interprovincial trade barriers holding back the Canadian economy has seized the political, media and public imagination. In reality, the alleged costs of interprovincial trade irritants have been vastly overstated, as virtually all goods, services and investment flows freely across provincial borders.

In that sense, recent laws and executive decisions aimed at increasing internal trade should be seen as the "premiers' new clothes." This report critically assesses these bills and other measures introduced by governments in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and by the federal government.

While these efforts will have little effect on Canada's internal economy, there are downsides to the public interest, as discussed in this report. New mutual recognition legislation and the removal of important policy exceptions in the 2017 Canadian Free Trade Agreement (CFTA) will further reduce governments' capacity to protect the environment, spur domestic economies, promote workplace health and safety, and stop predatory behaviours against consumers.

The Canadian Free Trade Agreement already governs internal trade

Far from there being no free trade between provinces, interprovincial trade and economic relations in Canada have been governed by strict internal trade rules for decades. The CFTA and its predecessor, the 1995 Agreement on Internal Trade, impose free trade disciplines that significantly constrain how provincial and territorial governments regulate business, investment and labour mobility in their areas of jurisdiction under the Constitution.

Governments and people (individuals, businesses or investors) can police these pro-business rules using a binding dispute settlement process in the agreement. There have been very few disputes between governments in Canada, or from persons challenging government policy, which strongly suggests alleged barriers to interprovincial trade, investment and labour mobility are significantly overstated.

The CFTA contains general exceptions for some areas of policy—e.g., social services (if they are maintained by the state for a public purpose), water (in its natural state), language and culture. But in general, most areas of public policy can be challenged if a government or person feels they create barriers to business or investment—even when the policy treats local and out-of-province companies in exactly the same way.

Provinces wishing to preserve policy space in sensitive sectors or policy areas are required to painstakingly list those areas in exceptions at the back of the CFTA. Most party-specific (provincial, territorial or federal) exceptions do not affect interprovincial trade. As such, current provincial and federal moves to eliminate exceptions are unlikely to meaningfully increase economic activity in Canada. However, removing the exceptions will leave previously protected policies and laws vulnerable to trade disputes from other governments or persons.

Beyond the CFTA, the tendency to rail against alleged trade barriers to score easy political points has led some provinces to pursue internal trade gimmicks on a bilateral or regional basis allegedly addressing the remaining "barriers" to the movement of goods, services, investment and workers in key sectors. The B.C.-Alberta Trade Investment and Labour Mobility Agreement (TILMA) was thus launched in 2007 and was extended to Saskatchewan in 2010, becoming the New West Partnership Trade Agreement (NWPTA), and then to Manitoba in 2017, the same year the CFTA came into effect.

The NWPTA ostensibly goes further than the CFTA in liberalizing trade, investment, labour mobility and procurement within Western

Canada with moves towards greater regional harmonization and standardization. This includes lower thresholds for procurement and commitments to mutual recognition, although the agreement also permits various legitimate objectives for public policy. In light of the CFTA, the NWPTA appears to be moribund, and no substantial disputes have emerged to date.

New federal and provincial moves aimed at reducing barriers

In response to the Trump tariff war, several parallel multilateral, bilateral and unilateral approaches are being discussed and enacted. These range from the wisely cautious, in the case of Quebec and Newfoundland and Labrador, to the concerningly broad in British Columbia, Ontario and Nova Scotia, to the downright puzzling in the case of the federal government.

To varying degrees, these governments have acted to give cabinet a stronger hand in dismantling any perceived barriers to commerce in Canada. In addition, many governments have removed exceptions to the CFTA for laws and policies that likely violate the strict rules in the agreement. Some of these exceptions are innocuous, while others are potentially profound and represent forgone future maneuverability to act in the public interest. Economic gains from these provincial and federal efforts would be modest at best.

Most provinces, territories and the federal government have also embraced the idea of mutual recognition, to be worked out by the CFTA's Regulatory Reconciliation and Cooperation Table. Though there could be benefits to businesses of reconciling minor differences in provincial rules and regulations, there is a danger that this could set in motion a "race to the bottom." Without a responsible national standard and a right of provincial governments to set stronger public interest regulations, worker, public and environmental protections could easily be compromised by the outcome of these discussions.

Canadian governments should instead hold onto what policy space they have left under strict trade agreements—and to embrace regulatory *leadership* rather than a regulatory race to the bottom. Ontario's relatively stronger rules on pesticide use in agriculture, B.C.'s responsible rethink on open net-pen fish farms and Quebec's strong environmental assessment

process for major projects are all good examples of precautionary legislation whose marginal trade impacts we can easily live with.

The new internal trade agenda does little to compensate for major economic losses attributable to the Trump tariffs, as promised by the federal and several provincial governments. Quite the opposite. While any benefits are limited to a small subset of the economy, the real cost is that they leave both federal and provincial governments with fewer tools to navigate the economic and environmental uncertainty ahead.

Introduction

The onset of the second Trump administration and its tariff war on Canada and other nations has put wind in the sails of a long-standing issue in Canadian federalism. Faced with coming up with a plan to counter tariffs, federal and provincial politicians have leaped onto the stage pronouncing their intentions to remove trade barriers between provinces that are allegedly costing the Canadian economy hundreds of billions of dollars.

In other pieces we have looked closely at the case for prioritizing the elimination of internal trade barriers and found the studies purporting to count large costs from barriers to be deeply flawed in terms of their methodology.[1] In truth, there are very few real barriers to interprovincial trade: virtually all goods and services move freely across provincial boundaries, and provinces have made it much easier for people to take their skills and work where they want.

Nevertheless, the *idea* that there are vast interprovincial trade barriers holding back the Canadian economy—widely reported as up to $200 billion in lost income—has seized the imagination of the media and federal and provincial politicians.[2] Several provinces have tabled legislation purporting to reduce these barriers, while the federal government has just finished removing all federal exemptions under the Canada Free Trade Agreement.[3]

In this paper, we look at the new federal and provincial legislation and actions purported to improve internal trade, in the context of already existing trade rules and differences among provinces in economic structure and public interest regulation. These new efforts amount to the "premiers' new clothes," in that, in the best-case scenario, they represent mere gestures that will have little bearing on the Canadian economy.

We say this is a best-case scenario because new federal and provincial trade legislation comes with unacknowledged risks to workers, standards and democratic decision-making. We are concerned that current efforts will further reduce provincial capacity to regulate in areas like environmental protection, health and safety in the workplace, and predatory behaviours against consumers.

Without these modest protections for provincial and federal policy space, the public will be more fully exposed to the whims of market forces and corporate power. Moreover, as Mark Winfield comments, the country benefits from policy innovation at the provincial level, which would be undermined by the simple mutual recognition approach preferred by the federal and several provincial governments.[4]

A short history of internal trade agreements in Canada

Far from there being no free trade between provinces, interprovincial trade and economic relations have been governed by evolving internal trade rules for three decades. Even prior to these efforts, Section 121 of Canada's Constitution requires that, "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." [5]

In 1995, the provinces and federal government negotiated the Agreement on Internal Trade (AIT) with two related goals in mind. The first was to ensure provincial and territorial governments complied with commitments Canada had made in the North American Free Trade Agreement (NAFTA) and similar global agreements at the World Trade Organization (WTO). Like those agreements at the international level, the AIT has a bias towards deregulation, privatization, and market-based policy in areas of provincial jurisdiction. Secondly, NAFTA-like internal trade rules ensured that Canadian firms gained the same rights and privileges (to trade and invest as they like) as foreign firms under Canada's international trade deals.

In 2017, the Canadian Free Trade Agreement (CFTA) replaced the AIT. Like its predecessor, the CFTA ensured provincial and territorial compliance with the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) of 2017, which expanded on NAFTA's free trade disciplines in many areas of provincial jurisdiction. CETA notably covered public procurement down to the municipal and school board level, which significantly constrains the ability of cities and towns to allocate public money to local firms, negotiate with investors for local benefits and support local jobs. Where the provinces wanted to retain policy space to expand public services, introduce regional economic development policy or shield sectors from foreign investment, they were forced to painstakingly list exceptions to the CETA rules in annexes to the agreement. These exceptions were reproduced in the CFTA.

Based on the federal Liberal government's rhetoric of wanting to create "one Canadian economy, not 13," it might surprise most Canadians to know that the AIT and subsequent CFTA already state as a central objective to "reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investments within Canada and to establish an open, efficient, and stable domestic market" (Article 100). To that end, a number of principles and rules have been included in the CFTA that apply to trade, investment, and labour mobility within Canada, and cover the vast majority of economic activity. These include the international trade law principles of reciprocal non-discrimination (provinces cannot favour local firms or investment over out-of-province firms), and the ongoing reconciliation of differences in technical standards and certification regimes across Canada.

Set against these internal trade disciplines, certain sectors are excluded from CFTA coverage, including taxation, management of water "in its natural state," social services including public education and health care ("to the extent that they are social services established or maintained for a public purpose"), language ("provided that the measure does not constitute a disguised restriction on trade"), culture, agricultural marketing boards and supply management, and gambling.

Separate province-specific exceptions sometimes exclude Crown corporations and, in almost all cases, alcohol and cannabis policies. But there are significant differences between the approaches of provinces and territories with respect to cannabis, with Quebec and, initially, Ontario taking elaborate exceptions and Saskatchewan taking none, in line with a more market-based approach to cannabis distribution in the province.

Current non-conforming municipal measures are excluded from the CFTA's core restrictions on public policy. But local governments cannot

introduce new measures that would violate the agreement, and if those governments liberalize their existing non-conforming measures, they cannot reverse that decision.

Importantly, the CFTA does not override Indigenous treaty rights or self-government agreements. In fact, the general exception for "any measure adopted or maintained by a Party with respect to Aboriginal peoples" is much stronger than similar language in Canada's international trade treaties and arguably provides a stronger baseline for future deals.

In addition, governments retain the right under the CFTA to regulate in the public interest in areas like environmental protection, consumer protection, and worker health and safety. However, the caveat is that these regulations must be done in the *least trade-restrictive* way possible, without arbitrary or unjustifiable discrimination between in-province and out-of-province firms, and without creating a disguised barrier to trade—a three-part test that governments have found extremely difficult to pass in international trade disputes.[6]

The CFTA also devotes a lot of language to notification, reconciliation and cooperation when it comes to technical regulations and standards. The Regulatory Reconciliation and Cooperation Table (RCT) was created specifically to play this role and address any outstanding differences that result in trade frictions. It has been quite busy, producing several multi-province agreements to reconcile regulatory differences.[7]

In other words, the 2017 CFTA text attempts to strike a balance between commerce and the public interest, as is the case for all public policy. Simplistic takes on "improving" internal trade emphasize commerce while downplaying the essential need to regulate markets and remove some social and economic activities from the marketplace altogether (with health care being the classic example). Removing public interest regulation poses potential costs that must be weighed against any positive benefits for private businesses.

Unfortunately, the CFTA also imports problematic language on investment and cross-border trade in services from international free trade agreements, which restrict governments' right to regulate—even in a non-discriminatory way (i.e., in a way that treats all firms equally, no matter where they are based). Governments cannot require service providers to have a local agent or local presence, or limit the number of service providers in a given market based on an assessment of economic need, except where those governments have preserved the right to do so in exceptions appended to the CFTA.

In addition to goods and services, the CFTA covers labour mobility so that workers certified in one province (e.g., plumbers, engineers,

lawyers) should be recognized in others without extra training or exams. A Labour Mobility Working Group was created under the CFTA to support the coordination, implementation and monitoring of the Labour Mobility Chapter. Its website is instructive as it flags key exemptions from labour mobility by occupation and jurisdiction.[8] These exemptions, however, are not outright barriers to practising, just requirements that additional training or assessment is needed in order to be certified in the other province.

There are few differences overall, and they mostly relate to health care-adjacent occupations and lawyers. For the latter, all of the exceptions acknowledge the different legal traditions in Quebec, where they practice civil law, versus the rest of Canada, which is based on the British common law system. To move from one system to the other, a lawyer will naturally need to be recertified.

The health care–related distinctions include differing criteria for registered nurses vs. licensed practical nurses, paramedics and dental hygienists. A handful of other areas remain: social work in Ontario and the Maritime provinces, psychologists in Nova Scotia, water well drillers and safety code officers in Alberta (reflecting the unique conditions of the oil patch), and drinking water system operators in Ontario (a legacy of the 2000 Walkerton water system contamination scandal).

Finally, a long-standing issue in internal trade is access to government procurement opportunities. Under CFTA rules governments must treat suppliers from other provinces equally when awarding contracts. Some exceptions are provided for local governments and public utilities, and there are thresholds below which smaller contracts can be awarded locally. But in general, provinces are obliged to treat local and out-of-province bidders the same, even in contracts for locally relevant projects like public art.

Dispute resolution in the CFTA

The CFTA has a comprehensive process for dispute resolution if a province or the federal government is alleged to have broken CFTA rules. This process can result in financial penalties in cases where a dispute panel determines a violation occurred, but ideally the losing party would bring its non-conforming measures in line with the agreement.

The dispute resolution process is primarily aimed at achieving a negotiated settlement through consultation and mediation. If that fails, governments can seek a decision from a panel of trade experts, who typically review the evidence, hold hearings and issue a public report. If the panel rules against a province/territory or the federal government, they must fix the violation (e.g., change a law, open procurement). If they don't comply, the dispute panel may order the losing party to pay a monetary penalty—either to the winning government in government-to-government disputes, or to a fund controlled by the CFTA secretariat in person-to-government disputes.

Unlike with Canada's international trade agreements, provinces cannot immediately retaliate through trade measures in the event a dispute panel sides with them against another provincial, territorial or federal government measure. But this is an option if, a year after the panel report, the losing government has not removed or changed the offending measure (Article 1013). Disputes can be brought by a province or directly by persons where their province has decided not to bring a case forward on their behalf.

Table 1 / Maximum monetary penalties in government-to-government and person-to-government disputes under the CFTA

Population size	Maximum penalty
Up to 100,000	$250,000
Between 100,000 and 300,000	$333,000
Between 300,000 and 550,000	$500,000
Between 550,000 and 1,500,000	$2,000,000
More than 1,500,000	$10,000,000

Fines in government-to-government and person-to-government disputes cannot exceed the maximum amount set out in Annex 1011.2 and 1028.2 (see Table 1). Unlike in investor-state dispute settlement (ISDS) cases, fines in person-to-government disputes do not pay out to the complainant but, as mentioned, into a fund managed by the CFTA internal trade secretariat. This money must be used "solely to support special pan-Canadian research, education, or strategic initiatives that advance trade, investment, or labour mobility within Canada" (Art. 1032).

According to the Internal Trade Secretariat, the Canadian Free Trade Agreement (CFTA) has only seen six disputes raised since its implementation in 2017. These are summarized in Table 2, including the verbatim descriptions of the cases from an internal document we received. Two disputes related to labour mobility were resolved at the consultations stage. Two cases were abandoned or discontinued by the proponents at the consultations stage.

Of the six disputes, two have moved to a panel stage. In a more recent case, an Alberta construction company, Julmac Contracting, is challenging the government of New Brunswick for allegedly requiring higher standards from them relative to New Brunswick companies. The Julmac case is unusual in that this is what the CFTA was designed to achieve—procurement for infrastructure to companies outside of the province, and a process for dispute resolution in cases where there are perceived differences. Based on filings obtained from the Internal Trade Secretariat, the Alberta company in question was awarded seven out of 12 transportation infrastructure contracts, while only two of the 12 went to New Brunswick companies.

It is not clear at this stage whether the allegations make sense, given the different standards that may apply to different types of contracts and projects. The New Brunswick government argues that no such differences exist, and that this claim is a frivolous attempt by the company to shirk

Table 2 / CFTA Dispute Resolution, as of April 14, 2025

Originating date	Disputed area	ITS summary of issue	Complaining party or person	Complaint recipient	Stage reached	Status
February 2018	Alcohol	British Columbia requested that Proceedings be initiated against Alberta with respect to measures that act to restrict the sale of British Columbia wine in Alberta.	B.C.	Alberta	Consultations	Case abandoned by B.C., February 2021
November 2018	Alcohol	Alberta requested that Proceedings be initiated against Ontario with respect to measures related to the listing, placement, and access practices of the Liquor Control Board of Ontario.	Alberta	Ontario	Panel	Resolved prior to first sitting of panel, April 2022
July 2018	Labour mobility	Quebec requested that Proceedings be initiated with respect to Ontario's refusal to issue a Second-Class Power Engineer certificate to a Québec worker certified in Québec.	Quebec	Ontario	Consultations	Resolved, January 2019
February 2021	Labour mobility	Ontario requested that Proceedings be initiated with respect to Manitoba's refusal to allow a Registered Nurse certified in Ontario to practice in Manitoba.	Ontario	Manitoba	Consultations	Resolved, June 2021
October 2021	Shipping	Fathom Marine Inc. requested that Proceedings be initiated against the Northwest Territories with respect to the provision of financial assistance and subsidies to Marine Transportation Services, a government enterprise, which owns and operates a fleet of tugboats and barges along the Mackenzie River and Arctic Coast competing directly with transportation companies such as Fathom Marine Inc. that also operate in the Arctic.	Fathom Marine	Northwest Territories	Consultations	Discontinued, October 2024
March 2024	Procurement	Julmac Contracting Limited requested that Proceedings be initiated against New Brunswick due to allegations of unfair treatment with respect to the procurement of bridge construction and repair services.	Julmac Consulting	New Brunswick	Panel	Active

Note Case descriptions are those reported by the Internal Trade Secretariat.
Source Internal Trade Secretariat, Canadian Free Trade Agreement (CFTA) Dispute Resolution, STATUS OF DISPUTES BY CHAPTER, Last Updated: April 14, 2025.

the terms of the contract it signed. In a May 12 decision, the CFTA panel dismissed the province's jurisdictional concerns and agreed to hear the case.[9]

The only other case that went to a panel was when Alberta challenged Ontario's liquor listing and access practices through the Liquor Control Board of Ontario. The Alberta NDP government of the day appears to have launched the trade dispute in revenge for a court case brought

jointly by Ontario-based Steam Whistle Brewing and Saskatchewan's Great Western Brewing Company against Alberta's graduated mark-up system.[10] It also follows Alberta's Agreement on Internal Trade dispute loss to a Saskatchewan-based beer company in 2018, also involving beer pricing.

Between 2015 and 2016, the Alberta government made a number of changes to its mark-up policies on beer sold in the province. A graduated mark-up based on volume (i.e., the smallest breweries, no matter where they were based in the world, had the lowest mark-up rate) was changed in October 2015 so that it only applied to breweries in B.C., Alberta and Saskatchewan—member provinces of the New West Partnership (discussed below). Beer from all other sources faced the maximum mark-up rate of $1.25 per litre, no matter how big or small the brewery was.

When out-of-province brewers challenged this in the courts, Alberta changed the policy again to eliminate graduated mark-ups and apply the $1.25 rate to all brewers, regardless of size or location. To offset the negative effect that this non-discriminatory (free trade compliant) policy would have on the smallest breweries, Alberta introduced a grant program only available to Alberta microbreweries, based on total annual sales. But this measure could not stand up to trade rules either.

In 2018, an Agreement on Internal Trade appeals panel found the grant program violated non-discrimination and "no obstacles" clauses in the CFTA predecessor agreement.[11] At this point the Alberta government decided to challenge Ontario's liquor listing, storage and receiving fees and other policies as discriminatory against Alberta producers. It was a case of misery loving company. "We are asking for equitable market access in Ontario so Alberta's liquor producers can benefit the same way Ontario's producers do by selling their product in Alberta," said Alberta's trade minister of the day, Deron Bilous.[12]

Over two decades, there were only 11 complaints and disputes under the CFTA predecessor Agreement on Internal Trade (AIT).[13] Like the CFTA, these cases focused on procurement, labour mobility, and alcohol, with a handful of disputes related to agriculture. The latter included Alberta's successful challenge to a Quebec law banning yellow colouring in margarine, a consumer measure aimed at "preventing the fraudulent passing off of margarine as butter."[14]

The AIT's most contentious, and earliest, dispute also came from Alberta, against the federal Manganese-based Fuel Additives Act, which prohibited the importation and interprovincial trade of gasoline containing MMT, a neurotoxic gasoline additive. Though Canada claimed the ban was necessary to improve air quality and protect the environment—

legitimate objectives in the AIT—a panel found the legislation was more trade restrictive than necessary.[15]

The panel decided that the federal government had other, less trade-disrupting options for achieving the same objective. This view was not unanimous. A dissenting arbitrator in the case highlighted the risks of taking trade restrictions too far without considering the social benefits of public policies like environmental regulations:

> The evidence before us clearly showed that the Respondent spent a great deal of time and effort attempting to get a consensus between the fuel industry and the car manufacturers. This effort was not rewarded with success, and the Respondent felt that in these circumstances it had no serious alternative but to introduce legislation… There is no doubt that the legislation is by itself an impairment of internal trade. However, it is equally clear to me that the legislation satisfies the test set out in article 404 [legitimate objectives]. The purpose and effect of the legislation will be to get rid of MMT as a substance in gasoline. No other substances are so named or restricted, and therefore I would find that there has been "no undue impairment of access of goods", and I would also find that the measure is "not more trade restrictive than necessary to achieve the legitimate objective".[16]

Altogether, jurisprudence on inter-provincial trade spanning three decades shows that trade barriers among provinces are few and far between. For the limited number of areas where there have been disputes, the CFTA process has generally worked to resolve them through consultations and mediation. Indeed, most AIT cases were decided in favour of the complaining party, ergo, in support of open trade over other government objectives such as consumer and environmental protection.

Regional agreements beyond the CFTA

The politics of internal trade barriers make it easy for politicians to grandstand on tearing down barriers to improve the economy—resembling fairy tale grifters who promise to save the town from a non-existent dragon or demon. This ability to score easy political points is enabled by the technicalities of deals like the CFTA, which few have read or understand, and an uncritical media that widely accepts the premise of large internal trade barriers.

This has led some provinces to pursue internal trade gimmicks on a bilateral or regional basis allegedly addressing the remaining "barriers" to the movement of goods, services, investment and workers in key sectors. The B.C.-Alberta Trade Investment and Labour Mobility Agreement (TILMA) in 2007 was such an example of a solution in search of a problem.[17] This was extended to Saskatchewan in 2010 to become the New West Partnership Trade Agreement (NWPTA), with Manitoba joining in 2017, the same year the CFTA came into effect.

The NWPTA goes further than the Canadian Free Trade Agreement (CFTA) in liberalizing trade, investment, labour mobility and procurement within Western Canada with moves towards greater regional harmonization and standardization. The NWPTA aspires to allow businesses to operate across all four provinces under a single registration but permits the requirement of municipal business licenses. The agreement also commits to "mutually recognize or otherwise reconcile their existing standards and regulations that operate to restrict or impair trade, investment or labour mobility" (Article 5.1). For workers, the

Table 3 / Legitimate objectives in Canadian trade agreements

CFTA	NWPTATA/TILMA
legitimate objective means any of the following objectives pursued within the territory of a Party:	legitimate objective means any of the following objectives pursued within a Party:
1. public security and safety;	(a) public security and safety;
2. public order;	(b) public order;
3. protection of human, animal, or plant life or health;	(c) protection of human, animal or plant life or health;
4. protection of the environment;	(d) protection of the environment;
5. consumer protection;	(e) conservation and prevention of waste of non-renewable or exhaustible resources;
6. protection of the health, safety, and well-being of workers; or	(f) consumer protection;
7. programs for disadvantaged groups,	(g) protection of the health, safety and well-being of workers;
	(h) provision of social services and health services within the territory of a Party;
	(i) affirmative action programs for disadvantaged groups; or
	(j) prevention or relief of critical shortages of goods essential to a Party

NWPTA defaults to recognition of licenses and credentials but also allows conditions or restrictions for legitimate measures, and provides leeway for additional training, education, experience and examinations.

Like the CFTA, the NWPTA allows the provinces to introduce non-conforming measures (i.e., policies and regulations that violate the agreement's rules) if they can demonstrate the measure is (1) in pursuit of a legitimate objective; (2) not "more restrictive than necessary" to achieve that objective, *and* "(3) not a disguised restriction to trade, investment or labour mobility." Table 3 lists the legitimate objectives in both agreements. We can see that the CFTA has a slightly shorter list of what constitutes a legitimate government objective, but that neither agreement includes local economic development measures.

Also like the CFTA, there are a number of general exceptions in the NWPTA, including allowances for a range of social and economic policies, restrictions in resource sectors and hazardous and waste materials. There are also province-specific exemptions including marketing boards and supply management in agriculture, energy provisions and transportation.

In procurement, the NWPTA has lower dollar thresholds (above which governments must go to competitive tendering for purchases) than the CFTA (see Table 4). For the most part these are modest changes, but for Crown corporations the NWPTA threshold is much lower. One outcome of this discrepancy is that while Hydro-Québec can maintain a robust social procurement policy on large projects that favours local firms or

Table 4 / Procurement thresholds in CFTA and NWPTA

	CFTA*	NWPTA**
Departments, ministries, etc.	Goods: $33,400 Services: $133,800 Construction: $133,800	Goods: $10,000 Services: $75,000 Construction: $100,000
Regional/local governments and their agencies	Goods: $133,800 Services: $133,800 Construction: $334,400	Goods: $75,000 Services: $75,000 Construction: $200,000
Crown corporations	Goods: $668,800 Services: $668,800 Construction: $6,685,000	Goods: $25,000 Services: $100,000 Construction: $100,000

* CFTA procurement thresholds are adjusted for inflation every two years. These values are effective to December 31, 2025: https://www.cfta-alec.ca/wp-content/uploads/2024/08/Article-504.3-Covered-Procurement-Thresholds-Effective-January-1-2024-1.pdf

** Unlike the CFTA or Canada's international trade agreements, NWPTA procurement thresholds are nominal, meaning they are not adjusted for inflation. As such, as the cost of goods and services goes up each year, Western provinces, municipalities and Crown corporations (with the exception of SaskPower, which is not covered by these rules) lose more and more room to use public spending on local development priorities.

suppliers that offer Québec-made products, BC Hydro can only do this on much smaller bids (e.g., less than $100,000 for construction). A bid protest mechanism (BPM) is available for firms that believe a specific procurement was not done in compliance with the NWPTA.

The NWPTA promised a faster mediation process and like the CFTA can appoint dispute panels to make determinations on cases. Like the CFTA, persons may use the NWPTA dispute process to challenge other governments directly when their home province has refused to take their issue to government-to-government dispute settlement. Actually, the CFTA is more conducive to these person-to-government disputes, in that the NWPTA requires the prospective disputant to exhaust "all other reasonable means to resolve the matter" first (Article 24).

There appears to be only one NWPTA dispute to date, a frivolous case where a B.C. dentist with 24 complaints against him in B.C. used the NWPTA panel process to try and overturn Alberta's decision to not let him practice dentistry there.[18] This case demonstrates both the lack of real issues under the mantle of internal trade barriers and the existence of means to challenge actual discriminatory barriers to labour mobility. And while the panel ruled against the dentist in question, this case also demonstrates the potential for overly liberalized rules that restrict public interest regulations and procedures could cause unintended harm.

The NWPTA's procurement bid dispute process has been more active but still only counts eight disputes since 2017. In comparison, a

federal procurement dispute process established under the Canadian International Trade Tribunal hears about 70 disputes a year.[19] In a controversial ruling from 2021, a NWPTA bid dispute panel found that a community benefits agreement in Saskatchewan, which gave extra points to bidders hiring construction workers from within the province, contravened the provincial trade rules.[20] The case underlines the value to provinces of excluding pro-worker procurement policy, community benefits agreements, and other creative uses of public spending powers from overbearing internal trade rules.

Reflecting its broader political gamesmanship and lack of substantive issues, apart from the handful of procurement bid disputes, the NWPTA has been moribund since Manitoba signed on in 2017. Indeed, the outdated main website for the NWPTA appears to have quickly added Manitoba to the description but did not bother to edit the full sentence, and eight years later no one has noticed:

> Under the NWPTATA, British Columbia, Alberta, Saskatchewan and Manitoba are the first jurisdictions in Canada to commit to full mutual recognition or reconciliation of their rules affecting trade, investment or labour mobility so as to remove barriers to the free movement of goods, services, investment, and people within and *between the three provinces*.[21] (emphasis added)

Bilateral agreements

In contrast to the NWPTA, the Trade and Cooperation Agreement Between Ontario and Quebec (TCA) is more of an economic cooperation agreement including joint planning in areas like transportation and electricity where the two big economies connect together. There is some mutual recognition for labour mobility, but for overall standards and regulation the approach is more of cooperation rather than mutual recognition. Regulations should be the least trade restrictive as possible and be scientifically based.

Public procurement rules under the agreement are more complex and have similar provisions and thresholds as the CFTA. Indeed, the 2009 TCA is largely a model for the procurement framework adopted in the 2017 CFTA.

Further east, in 2009, New Brunswick and Nova Scotia signed a Partnership Agreement on Regulation and the Economy (PARE), an effort to remove duplication in rules and regulations affecting cross-

border business and labour mobility.[22] PARE does not create any legal obligations on the provinces and is structured more like subsequent regulatory cooperation chapters in Canadian trade agreements.

It is essentially a commitment to collaborate, at the political and bureaucratic level, to harmonize or mutually recognize a list of workforce standards (e.g., building codes, health and safety) and sectoral regulations (e.g., energy, transportation, financial services) on timelines established in a schedule attached to the agreement. The provinces released an annual report in July 2010 outlining progress in achieving these scheduled items, but there is little easily accessible information on PARE since then.[23]

In sum, based on actual examples of disputes and issues across the provinces, the area of divergence that could be labelled as trade barriers is extremely small, accounting for a tiny portion of economic activity, and often with some legitimate justification in public policy terms. The notion that resolving such issues could lead to more than $200 billion in economic gains is pure fantasy. Any low-hanging fruit from removing trade barriers was harvested long ago.

New legislation aimed at reducing barriers

In light of the CFTA and the other regional agreements mentioned above, one might wonder what remains to be done to "free" trade and investment in Canada—and how such minor changes could possibly lead to hundreds of billions in increased GDP, as is widely claimed in the media and by politicians.[24]

In early 2025, Statistics Canada reported survey results from 2023 listing "the top three obstacles experienced by businesses when purchasing goods or services from suppliers operating in another province or territory" with 27 per cent of businesses reporting transportation cost, 9 per cent citing delays between placing and receiving orders, and 8 per cent citing distance between point of origin and destination.[25] While there may be minor differences in provincial rules, these do not appear to be a major irritant to businesses operating in multiple provinces.

Nonetheless, several parallel multilateral, bilateral and unilateral approaches are being discussed and enacted—all of them bolstered by public attention to internal trade in light of U.S. tariffs on Canadian imports. These approaches range from the wisely cautious, in the case of Quebec and Newfoundland and Labrador, to the concerningly broad in British Columbia, Ontario and Nova Scotia, to the downright puzzling in the case of the federal government.

While the economic gains from these provincial and federal efforts would be modest at best, governments could walk away with a political win. As policymakers rush to wave the flag and score political points, the challenge is to ensure that they do not enact measures that gut public interest regulation and further weaken general, federal and province-specific carve-outs, including those covering public services and Crown corporations and other legitimate objectives.

In particular, the provinces, territories and federal government have embraced the idea of a comprehensive mutual recognition agreement, to be worked out by the CFTA Regulatory Reconciliation and Cooperation Table.[26] Though there could be benefits to businesses of identifying and then reconciling minor differences in provincial rules and regulations, without a responsible national standard and a right of provincial governments to set stronger public interest regulations, worker, public and environmental protections could easily be compromised by the outcome of these discussions.

Alongside these negotiations, which, in fact, have already been underway for more than a year under the CFTA's 2024-2027 Internal Trade Action Plan, several provincial governments—Ontario, B.C., Nova Scotia, Manitoba, Quebec and Prince Edward Island—have tabled and passed legislation with the ostensible purpose of eliminating or reducing trade barriers. Very few practical examples of barriers have been cited in support of these legislative moves.

Some provinces have simultaneously proposed to or already eliminated their province-specific exceptions to the CFTA that preserve public policy flexibility in sensitive areas and protect the provinces from both internal and international trade disputes. The provincial bills, along with the federal government's Bill C-5, also commit to easing the professional certification process for workers wanting to take a job in another province, by removing any additional testing or training requirements, for example.

Additional political wins could be possible in areas like alcohol, where direct-to-home options could complement rather than compete with or replace regulated provincial liquor systems. However, sectors like liquor and cannabis are subject to high excise (or "sin") taxes that raise revenues for provincial governments and limit unwanted health and social impacts of over-consumption.

A poorly planned direct-to-home system, or one that simply hands over distribution rights to the private sector (e.g., Amazon, Loblaws), could seriously jeopardize these other social priorities in how liquor is regulated across Canada. What's more, European, U.S. and other trading partner

countries may be able to invoke their "national treatment" guarantees at the WTO or other trade agreements to demand the same treatment as Canadian wineries, distillers and breweries in accessing direct-to-home sales.

Ontario

The Ontario government's new Protect Ontario through Free Trade within Canada Act, 2025 aims to automatically allow into Ontario all goods and services approved for sale in other, "reciprocating" provinces, and to recognize labour credentials for out-of-province workers. Separately, the province has unilaterally removed all its party-specific exceptions (PSEs) under the Canadian Free Trade Agreement (CFTA), "without exception" (news release).[27] We look at the removal of these exceptions first, then turn to the mutual recognition aspects of the new trade bill.

An accompanying table from the technical briefing on the trade legislation cites 23 such exemptions, some of which could be significant in scope. For example, Ontario is removing exceptions in the CFTA that allow the province to:

- Limit the number of forest resource licenses it issues
- Limit the number and location of retail stores operated by licensed producers, eligibility for a retail operator licence, and number of retail store authorizations
- Maintain protections for collectively marketed goods (including supply managed goods)
- Use public procurement strategically to target poverty reduction for disadvantaged natural persons

Five exemptions relate to alcohol and cannabis sales. In the latter case, the exceptions were only added to the CFTA in 2024 to preserve provincial policy space to regulate the emerging market. Premier Ford has not explained what has changed between then and now that would justify throwing caution to the wind. The exemptions, as described in the briefing materials for the new law, are stated as:

- "Protects Ontario's ability to maintain the Liquor Control Board of Ontario's (LCBO) exclusive wholesale rights and allows for the

sale of beer through The Beer Store as provided for in commercial agreements with The Beer Store and its owners."

- "Preserves Ontario's ability to mandate the use of locally grown grapes in wine production"
- "Allows Ontario wine, spirits and beer manufacturers to operate onsite stores for the sale of their own wine, spirits, and beer, respectively, and to require that offsite winery retail stores sell only wine produced by Ontario wineries"
- "Allows Ontario to introduce potentially non-compliant measures related to the retailing and wholesaling of cannabis, within five years of entry into force of the CFTA cannabis commitments (i.e. January 2024)"
- "Allows Ontario to limit the number and location of retail stores operated by licensed producers, eligibility for a retail operator licence, and number of retail store authorizations, allow only the Ontario Cannabis Retail Corporation (OCRC) and holders of a retail store authorization to sell cannabis, and to maintain the OCRC exclusive rights"

Many of the exceptions, which were purged without legislative debate in mid-March, sound innocuous enough. For example, the province has removed privileges for "Ontario residents, including Indigenous harvesters, with respect to the harvesting of wild rice," and the requirement that hunting and trapping licenses be limited to Ontarians.

On the other hand, the Ford government's decision to remove Ontario's broad exception related to the energy sector is baffling. The exception previously shielded the province's right to "constrain market access by limiting the number of entities that can establish or expand electricity and natural gas infrastructure and/or produce, transmit, distribute, conserve, store, sell, retail or market energy in Ontario." This covers essentially anything the province or an energy regulator can do to manage the province's electricity grid.

Furthermore, Ontario has unnecessarily constrained its ability to achieve other local benefits through public spending in the electricity sector. As mentioned above, Hydro-Québec, Manitoba Hydro and other Crown corporations involved in energy production and generation are leaders on the creative use of investment and procurement to drive local innovation and good job creation. By removing Ontario's natural gas and electricity exception, which expressly allowed the province to occasionally

give preferential treatment to Ontario residents or firms, the province is throwing caution and future good jobs policy to the wind.

Seven of the 23 exceptions Ontario has removed from the CFTA relate to requirements that local businesses establish local presence in order to operate, for example, as real estate agents, travel agencies, motor vehicle dealers and in other areas. The 2009 Ontario Labour Mobility Act, as amended, already prohibits residency requirements for hundreds of professions, though it allows regulators to require additional training to meet provincial standards. The new Ontario trade and labour mobility legislation tightens the reins on regulators by prohibiting additional training.

Confusingly, most of the policies and measures expunged from Ontario's CFTA exceptions remain on provincial books, with the exception of the program for using public procurement to address poverty. In other words, hunting licences are still legally only available to Ontario residents. However, this and other previously shielded policies are now vulnerable to a trade challenge from other provinces or persons from outside of Ontario.

Ontario's new trade legislation will also shift to mutual recognition with reciprocating provinces and territories for any regulations to do with goods and services or workers. Memoranda of understanding have been agreed in this respect with Saskatchewan, Manitoba, Alberta, Nova Scotia, New Brunswick and PEI.[28] Ontario also will shift from a default of allowing workers from provinces and territories outside Ontario to work while completing a streamlined registration process, which is similar to the NWPTA labour mobility provisions. Finally, Ontario is working toward a direct-to-consumer alcohol sales system with reciprocating provinces and territories.

The mutual recognition aspects of the legislation give authority over public policy to the executive level of government to overrule regulatory choices by other branches of government or by private regulatory bodies. This won't be automatic. Provincial regulators will still need to comb through provincial differences to see whether regulations are really equivalent or comparable to Ontario's.

However, in disputes over commercial interests and other societal interests, this bill helps the government put its thumb on the scales in support of business—even, potentially, in instances where out-of-province standards or training requirements are clearly weaker than those in Ontario. The Ontario government recently passed legislation that allows the cabinet to exempt investors from provincial or municipal

environmental, labour or consumer protection in special economic zones.[29] This is a recipe for a mutual race to the bottom.

In alcohol trade, Ontario has been consistently beating the drum of direct-to-consumer alcohol sales across provincial borders. Such liberalization measures may provide some additional choice to consumers, but given the high transportation costs and large distances between provincial markets, it is not likely to benefit small producers. Indeed, to the extent that this facilitates mergers and acquisitions to achieve economies of scale, liberalization is more likely to boost the bottom lines of larger companies, like Amazon or Loblaws, while driving smaller producers—and the LCBO—out of business.

Nova Scotia and Prince Edward Island

The Nova Scotia government introduced the Free Trade and Mobility within Canada Act on February 25, "to remove all barriers to trade in goods, services and investment between the provinces and territories of Canada."[30] The bill drew considerable public attention as well as opposition from labour unions and professional associations, and was amended to address some of their concerns prior to receiving royal assent on March 26.

Unlike Ontario's trade legislation, Nova Scotia's party-specific exceptions with respect to services, investment and procurement are left intact but Nova Scotia will not recognize or enforce them with respect to a "reciprocating jurisdiction," meaning a province or territory that has passed similar trade legislation. While this creates an imbalance between non-Nova Scotia firms from reciprocating versus non-reciprocating provinces, the CFTA allows provinces to enter into bilateral or regional agreements that further liberalize internal trade.

Besides removing exceptions, the Nova Scotia legislation says that all out-of-province goods are approved for sale in Nova Scotia, without further testing or other conditions, as long as those goods meet comparable standards in a reciprocating province. This, again, was already the status quo for virtually all products on the Canadian market. The bill further obligates Nova Scotia's professional certification bodies to grant, within 10 days, work licences to persons who hold an equivalent licence in a reciprocating jurisdiction, as long as the applicant can prove they are in good standing with the reciprocating jurisdiction's regulatory

body and hold professional liability insurance. The legislation excludes health care professionals.

The Free Trade and Mobility Within Canada Act was passed with haste and minimal public discussion, and as of the end of June 2025, only Ontario, Manitoba, Prince Edward Island and Alberta qualify as reciprocating jurisdictions. To bring it into effect with respect to Ontario, Nova Scotia has signed a memorandum of understanding with the Ontario government stating that, upon ratification of their respective trade bills, "there shall be no barriers to free trade between the provinces of Nova Scotia and Ontario."[31] While this statement is factually suspect, as the implementing legislation leaves all the work to future regulations, it describes a worrying future where the expectations of business trump any other public priority. The bill states that to the extent of any inconsistency with any other piece of legislation, the free trade rules should prevail.

What this means is that while the legislation and investment restrictions excluded from the CFTA remain on the books in the province, they can have no effect with respect to persons and firms from reciprocating jurisdictions like Ontario and PEI. Nova Scotia announced on June 4 that it had reached a similar arrangement with PEI and Alberta. It is not at all clear how the provinces will achieve this contradictory feat. Once again, the implications for Canada's international trade commitments are also undiagnosed by either the federal or provincial governments.

Nova Scotia and Ontario also committed in their MOU to set up a bilateral framework for direct-to-consumer alcohol sales, and to cooperate on a pan-Canadian framework for the same. A challenge for Nova Scotia is that of all small provinces trading with much larger ones—that the province's relatively small but growing wine sector will be swamped out by Ontario's much larger, internationally competitive wineries.

The PEI government introduced the Interprovincial Trade and Mobility Act on April 11.[32] It is a near clone of the Nova Scotia trade legislation but, in addition to excluding health professionals from the labour mobility guarantees, it also exempts legal professionals and potentially other occupations to be specified in forthcoming regulations.

Like the Nova Scotia bill and most of the provincial and federal mutual recognition efforts planned this year, the PEI legislation states that the obligations on the government and regulatory bodies with respect to certifying out-of-province workers and professionals cannot give rise to legal challenges besides those which may be raised under Chapter 10 of the CFTA. The legislation is binding on the provinces, but companies,

investors and workers will need to go through the CFTA dispute process to enforce it.

British Columbia

Before the recent furor around the Trump tariffs, there was scarcely a word said about interprovincial trade barriers in B.C.. In January 2025, the newly re-elected B.C. government published its mandate letters to ministers, outlining the high-level directions of the government as well as specific priorities for individual ministers. Reducing interprovincial trade barriers appears exactly zero times. That includes the mandate for the Minister for Jobs, Economic Development and Innovation, who was given a 10-point plan of attack that included measures on international trade diversification, support to B.C. businesses, and preserving industrial land, but no reference at all to reducing trade barriers with other provinces.[33]

Nonetheless, reducing internal trade barriers was one of the reasons the Eby government tabled the Economic Stabilization (Tariff Relief) Act, a five-part omnibus bill designed to reinforce the province's ability to withstand the trade war with the United States. Like three other bills before the legislature, this bill was criticized for its political overreach and concentration of power in the B.C. cabinet, with legislation rushed in the name of political expediency.

While the new act trumpets allowing all goods and services produced in another province to be sold in B.C., it mentions no specifics and it is not clear what goods and services currently face barriers and which would benefit from this change. Moreover, the bill sanctions limits of regulatory safeguards by placing commercial activity in the driver's seat. The bill does not affect labour mobility.

In February, the B.C. government also reportedly removed two province-specific exceptions to the CFTA investment and services rules, one related to fisheries policy and another to procurement.[34] Very few details accompanied the high-profile announcement, which was spun as significant progress on improving internal trade and standing up to Trump.

We confirmed with the B.C. government that it has removed the provincial exception from Schedule 2 of the CFTA that protected future policy space in the fisheries and aquaculture sectors. Specifically, the exception allowed the province to, in future, apply or adopt quantitative limits on investments or the number of service providers or transactions

in either sector. B.C. may have been able to lean on a federal exception protecting future policy space for fisheries management—a shared jurisdiction with the provinces—had the federal government not also removed its Schedule 2 fisheries exception from the CFTA on June 30, 2025.

Canada's fisheries face complicated challenges posed by fish farms on the B.C. coast that have been undermining wild fisheries due to sea lice and other pollution. The federal and B.C. governments worked together to ban new open net-pen salmon farms off the B.C. coast and require that current operators transition to closed systems by 2029—a policy facing significant pushback from business lobbies.

Maintaining both the federal and provincial fisheries exceptions would have been the prudent thing to do, as it would have allowed the B.C. government to limit investment in these sectors in similarly protective ways in the future. By removing the exception, B.C. and the federal government are saying, puzzlingly, they have no intention of doing so. Current and future regulations related to open net-pen fish farms affecting the trade and investment interests of Canadian and foreign companies in the sector will now be much more vulnerable to CFTA disputes.

As exceptions can be removed from the CFTA by the executive in each province, there was no provincial discussion on the justification for removing the fisheries policy exception. There is no simple way to find the removed B.C. exceptions once they are gone either, since the CFTA website regularly updates and does not include an archive of past versions of the agreement, though these can be requested from the CFTA commission.

B.C. and other provincial governments should be spelling out their rationale for removing exceptions, in plain language, as the federal government did before removing all of its remaining CFTA exceptions this June.[35]

New Brunswick, Manitoba, Quebec, and Newfoundland and Labrador

Governments in Quebec and Newfoundland and Labrador, and to a lesser degree the New Brunswick and Manitoba governments, have taken a more considered path to reducing interprovincial trade frictions.

On May 30, the Quebec government introduced An Act to Facilitate the Trade of Goods and the Mobility of Labour From the Other Provinces

and the Territories of Canada.[36] The bill intends that "any good from the other provinces and the territories of Canada may be commercialized, used or consumed in Québec without any further requirement relating, among other things, to its manufacturing, composition or classification." Exceptions to this rule will be published online by the government.

Unlike all of the other provincial trade legislation, the bill does not cover services. It does, however, promise to make it possible for certified workers in any part of Canada to receive similar certification to work in Quebec with as little effort as possible in terms of additional training or education. Like with the goods provisions, the labour mobility provisions are not absolute but must be balanced against other public interest criteria.

Former Newfoundland and Labrador premier Andrew Furey convened a consultative group made up of industry and labour to discuss options for dealing with both the threat of Trump's tariffs and proposals for removing internal trade barriers. Through this process, the risks of letting go of provincial control over trade in some products, like alcohol, became apparent. Free trade in beer would imperil the province's two large breweries and their unionized workforce, as the multinational owners would almost certainly choose to truck beer in from out of province.

New Brunswick signed an MOU with Ontario at the same time as Nova Scotia, committing the provinces to further conversations while plugging labour mobility reforms in An Act to Amend the Fair Registration Practices in Regulated Professions Act, which give the executive powers to overturn decisions of regulatory bodies with respect to recognizing out-of-province certification.[37]

On June 12, the New Brunswick government announced it was removing more exceptions to the CFTA rules covering procurement, services and investment. Most of these exceptions related to procurement. The result of removing the listed entities from New Brunswick's exceptions is they will all now need to adhere to the CFTA procurement rules on spending above the CFTA thresholds and will not be able to prefer New Brunswick based bids.

On top of this, the New Brunswick government removed its Schedule 1 exception for performance requirements in the mining sector. The exception stated, per the NB Mining Act, "When required to do so by the Minister at the time a mining lease is granted or at any time thereafter, a lessee shall process or further process in New Brunswick any minerals mined in the province under the mining lease." The province's mining law still gives the government the authority to require local processing of minerals (Sec. 76.2),[38] but removing the exception makes New Brunswick

vulnerable to CFTA disputes—and conceivably more vulnerable to investor-state dispute settlement (ISDS) cases under Canada's international treaties—if they try to do so.

Finally, the province has amended its Schedule 2 (future measures) exception in fisheries and aquaculture, which allowed the province "to adopt or maintain any measure with respect to collective marketing and trading arrangements for fish, aquaculture and seafood products, and licensing fishing or fishing related activities."

New Brunswick will not recognize this reservation with respect to "reciprocating" provinces (i.e., provinces that have also threatened their future policy space in the fisheries sector). Again, the underlying measures—which are listed as exceptions precisely because they potentially violate the CFTA and could fail in a dispute—remain on the books. As with the B.C. case described above, there is no clear justification as to why New Brunswick removed the protection for future policy space in its important fishing and aquaculture sector.

The Manitoba government signed a memorandum of understanding (MOU) with Ontario committing to address interprovincial trade irritants, "while maintaining and strengthening levels of public safety and respecting the integrity and role of Crown corporations within certain provincial industries."[39] The two provinces agreed to develop a direct-to-consumer alcohol sales program and to consider removing Manitoba's province-specific exceptions with respect to Ontario firms and investors.

Though the MOU had no legal weight, on May 22, the Kinew government tabled The Fair Trade in Canada (Internal Trade Mutual Recognition) Act, which tracks the B.C. and Ontario internal trade bills. The bill cautiously excludes the provision of goods or services by Crown corporations, regulated professions in the health and related fields, or occupations to which the Labour Mobility Act already applies. This will give the Manitoba government more freedom to recognize, or not, out-of-province certification as equivalent to provincial standards.

With respect to the mutual recognition of goods and services, the Manitoba legislation largely acknowledges the status quo. As mentioned, both the CFTA and NWPTA require that goods, services or workers from one province be available or able to work in other provinces. As in B.C., mutual recognition is qualified by asserting that any goods or services must meet the same provincial laws as those covering provincial suppliers.

Unfortunately, the Manitoba legislation displays the same tendency as in B.C., Nova Scotia, PEI and Ontario to centralize decision-making about mutual recognition at the executive level, which may undercut regulatory

body and legislative authority depending on how future regulations are developed and enforced. Unlike in Ontario, Manitoba has not indemnified itself from legal challenges emanating from this bill, meaning Canadian or foreign firms with a presence in Canada may be able to invoke it in legal disputes to future barriers to making their goods or services available in the province.

Alberta and Saskatchewan

While neither province has tabled legislation, as mentioned earlier, Alberta and Saskatchewan have signed MOUs with Ontario promising to introduce mutual recognition legislation similar to Ontario's legislation and to work on a direct-to-home alcohol sales system. Alberta and Ontario are also "exploring the possibility of Ontario joining the New West Partnership Trade Agreement," and to "identify options to align regulated occupations and registration."[40] In its MOU with Ontario, Saskatchewan agrees to "work towards the non-application of [province-specific exceptions] under the CFTA with respect to Ontario."[41]

On June 4, 2025, Alberta and Nova Scotia agreed to ignore their CFTA exceptions with respect to businesses and investors from either province, mutually recognize each other's goods and services without additional inspection, and restrict application requirements for workers moving from one province to another.[42]

Federal legislation and the removal of CFTA exceptions

The federal government is a signatory to the CFTA and has been a key booster, over the past two years, of removing any remaining exceptions protecting their ability to regulate trade and investment in certain critical sectors.

On June 30, 2025, the federal government removed the remaining half a dozen federal exceptions in the CFTA, including those protecting future policy space in fisheries, passenger rail services, marine transportation, and those protecting the government's ability to screen foreign investment as currently legislated in the Investment Canada Act.

Canada has also removed all federally controlled agencies that were initially exempted from the CFTA procurement limits, which will force those entities to hold competitive bids for any public spending above the CFTA's low thresholds. The final list of federal entities shielded from the CFTA procurement rules included the Canadian Security Intelligence Service (CSIS), the Communications Security Establishment, Bank of Canada, and Canada Pension Plan Investment Board, among others.

Again, it's not clear what problem is solved by removing these exemptions and what if any economic benefits would be unleashed from their removal. For example, the Canada West Foundation notes that some of the federal exceptions "ensure that Canadian legislation can maintain its purpose as it relates to regulating foreign investment

or control of commercial entities."[43] Removing those exceptions "is NOT recommended," the foundation states, "as doing so would undermine key national objectives or amount to unilateral concessions offered to foreign entities, rather than improve internal trade."[44]

As the Canada West Foundation notes, other federal exceptions described arrangements with provincial governments pertaining to investment conditions and regulations, e.g., in the offshore oil and gas sector in Atlantic Canada, and were hopefully carefully discussed with the provinces. A final category of exceptions—those in Schedule 2—protected future policy space in federally regulated sectors like transportation and fisheries. Removing them simply undermines federal authority to regulate businesses in those sectors.

If only these warnings to the government about hastily removing exceptions from the CFTA had been heeded. Instead, in a rush to look like it is tackling alleged internal trade barriers, the federal government has shot itself in the foot. Removing the fisheries exception could significantly compromise Canada's entire fisheries management system, which seeks to limit concentration and spread the economic benefits widely across coastal communities.[45] The federal government and provinces should be expanding upon their few remaining CFTA exceptions in other sensitive sectors rather than opening themselves up to needless trade challenges.

In addition to unilaterally removing exceptions, the federal government also passed the controversial Building Canada Act, which aims to speed up the approval of projects (including and perhaps especially fossil fuel projects) deemed to be in the national interest. The controversy is most acute in regards to Canadian environmental laws, regulatory measures and public processes. Indigenous nations, environmental and other organizations are extremely concerned about giving the federal cabinet the power to steamroll objections to high-impact infrastructure projects.

A second federal bill, also passed in June 2025, the Free Trade and Labour Mobility in Canada Act, jumps on the mutual recognition bandwagon and centralizes authority over a vast array of regulatory matters in the hands of the executive level of government. The federal act is built like the mutual recognition legislation in B.C., Ontario and Nova Scotia that we describe above and covers goods, services and labour mobility.

With respect to labour mobility, the bill is straightforward enough in its intent, but not in its possible coverage. Federal regulatory bodies will be obligated to recognize provincial authorizations to practice a profession that is also federally regulated. Because only about six per cent of workers in Canada are in federally-regulated professions,[46] and given existing

commitments to mutual recognition of provincial labour standards, it is difficult to see the federal reforms having a major or even a modest impact on the movement of people in Canada.

While limited in application, the overall approach of mutual recognition poses risks to the quality of services and safety of the people who work in them. Manitoba nurses, for example, warn that since the pandemic, provinces have been competing for nursing talent by lowering occupational standards.[47] Automatic recognition of out-of-province credentials in the medical and other sectors involving public safety could easily result in a dangerous watering down of standards.

While this caution would apply to federally regulated professions covered by the labour mobility provisions in the bill (e.g., uranium mining, air transportation, railways, road transportation, etc.), it is not clear how many workers will be affected. Any discussion of public safety exceptions to automatic mutual recognition is shifted down the road, to the regulation stage.

With respect to trade, goods and services that can be put up for sale in any province (i.e., have met provincial standards) are determined to have met comparable federal standards, with caveats attached to what would be deemed "comparable." This mutual recognition is not automatic but "subject to regulations" that are to be determined.

The final decision on whether a provincial standard applying to a good or service is "comparable" to an overlapping federal standard will be made by federal regulators under the new trade bill. This is, on the surface, a step up from B.C.'s trade legislation, for example, in which a minister may order a regulator to change or eliminate a regulation or standard that conflicts with the new mutual recognition obligation.

However, Section 11 of the federal legislation grants the government (read: the Prime Minister's Office) the power to make regulations "imposing obligations, prohibitions, conditions and restrictions" for the purposes of any aspect of the sections on goods, services and labour mobility, including with respect to the authority of federal regulatory bodies.

We are aware of no examples where overlapping federal and provincial regulations impede the flow of goods across provincial boundaries. Where trade-impacting provincial differences are identified, many have been successfully reconciled through existing institutions under the CFTA.[48]

The federal government is no regulatory superhero. Public protections related to food safety, environmental protection, or species at risk are frequently watered down by corporate lobbying. This federal neglect in

the standards department is, in itself, a strong argument for regulatory variation in Canada, so that provinces can stick their neck out in the public interest when so moved. Ontario's stricter rules on neonicotinoid pesticides, B.C.'s rethink on open net-pen fish farms and Quebec's strong environmental assessment process for major projects are good examples of precautionary legislation whose marginal trade impacts we can easily live with.

Mutual recognition legislation at the federal and provincial level in Canada moves us in the other direction—toward a race to the bottom.

Conclusion

There is political consensus on the importance of strengthening Canada's economic union, especially in light of Trump's raising the price of admission to the U.S. market. The problem is that, in the rush to beat a nationalist drum, our governments are giving up what few remaining levers they have for supporting local economic development and ensuring high standards for goods, services and labour certification. Given the extent to which Canada has already liberalized internal trade, by sacrificing its policy space, this response to the Trump threat can be viewed largely as political theatre.

That said, mutual recognition policies by the provinces and federal government, and the removal of exceptions in the CFTA, risk a race to the bottom in areas like health and workplace safety if not managed carefully. These bills are essentially power grabs, giving executive levels of government the ability to ignore or sidetrack other public priorities—including public health, public safety and environmental regulations—in the interest of prioritizing trade and investment by Canadian or foreign firms established in Canada.

This internal trade agenda does little to compensate for major economic losses attributable to the Trump tariffs, as promised by the federal and several provincial governments. Quite the opposite. While any benefits are limited to a small subset of the economy, the real cost is that they leave both federal and provincial governments with fewer tools to navigate the economic and environmental uncertainty ahead.

Notes

1 Marc Lee, "Those big GDP numbers about interprovincial trade barriers are wrong," Canadian Centre for Policy Alternatives, February 21, 2025: https://www.policyalternatives.ca/news-research/those-big-gdp-numbers-about-interprovincial-trade-barriers-are-wrong/. See also Stuart Trew, "The freakout about Canada's 'internal trade barriers' is a corporate scam," The Breach, February 14, 2025: https://breachmedia.ca/freakout-about-canadas-internal-trade-barriers-a-corporate-scam/.

2 See, for example, the First Ministers Statement on removing internal trade barriers, March 25, 2025: https://www.cfta-alec.ca/first-ministers-statement-on-eliminating-internal-trade-barriers-in-canada. The government inserted the $200 billion figure into King Charles's Speech from the Throne this year on May 27: https://www.policymagazine.ca/indeed-strong-and-free-the-speech-from-the-throne-delivered-by-king-charles-iii/.

3 Intergovernmental Affairs, "Federal government strengthens the Canadian Free Trade Agreement," June 30, 2025: https://www.canada.ca/en/intergovernmental-affairs/news/2025/06/federal-government-strengthens-the-canadian-free-trade-agreement.html.

4 M Winfield, "Bill removing internal trade barriers risks undermining policy innovation" in The Hill TImes, June 18, 2025, https://www.hilltimes.com/story/2025/06/18/bill-removing-internal-trade-barriers-risks-undermining-policy-innovation/464357/?mc_cid=d9422476ac

5 Government of Canada, The Constitution Acts 1867 to 1982, Justice Laws website, https://laws.justice.gc.ca/eng/const/page-4.html#docCont

6 According to a Public Citizen report in 2022, of 48 attempts by countries to invoke a general exception related to national security, environmental policy or the preservation of natural resources in the context of a World Trade Organization dispute involving goods or services trade, only two were successful (https://www.citizen.org/article/wto-general-exceptions-trade-laws-faulty-ivory-tower/). More recently, Mexico failed to convince a Canada-U.S.-Mexico Agreement (CUSMA) dispute panel that its GMO corn policies were covered by a legitimate exception related to Indigenous Peoples, as the panel found the measure was a disguised restriction on trade (https://canadians.org/media/trade-dispute-panel-decision-forces-mexico-to-end-gm-corn-restrictions/).

7 See RCT 2025 Work Plan, updated March 4, 2025: https://rct-tccr.ca/wp-content/uploads/2025/03/RCT-2025-Work-Plan-Final-Version-for-Website-March-4-2025.pdf.

8 Labour Mobility Working Group, "Exceptions to Labour Mobility," last accessed June 24, 2025: https://workersmobility.ca/exceptions-to-labour-mobility/.

9 CFTA, 23/24—BRIDGE, Julmac Contracting Limited v. Government of New Brunswick: https://www.cfta-alec.ca/wp-content/uploads/2025/05/Panel-Report-Summary-Dismissal-May-12-2025-23-24-2-BRIDGE.pdf

10 Michelle Bellefontaine, "Great Western Brewing, Steam Whistle, win latest battle in Alberta beer war," CBC News, November 9, 2016: https://www.cbc.ca/news/canada/edmonton/great-western-brewing-steam-whistle-win-latest-battle-in-alberta-beer-war-1.3843818

11 Article 1014 of the CFTA states: "If, before the effective date, a Complaining Person in a Pre-existing Dispute has requested that proceedings be initiated under Article 1712(1) (Initiation of Proceedings by Government on Behalf of Persons) or Article 1713(1) (Initiation of Proceedings by Persons) of the Agreement on Internal Trade, the proceedings in the Pre-existing Dispute shall be conducted in accordance with the provisions of the Agreement on Internal Trade until the dispute is concluded."

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About the authors

Stuart Trew is a senior researcher in the CCAP's national office in Ottawa. Marc Lee is a senior economist with the CCPA based in Vancouver.

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