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# Interprovincial trade barriers are a national embarrassment - but they don't have to be

## It's absurd that companies find it easier to trade with other countries than neighbouring provinces

Jane Cordy, Diane Bellemare

Senator **Jane Cordy** is from Nova Scotia. She is deputy chair of the Senate human-rights committee and is also a member of the energy committee and the foreign-affairs and international-trade committee.

**Diane Bellemare** is a non-affiliated senator from Quebec; she is the legislative deputy to the **Government Representative in the Senate** and an ex-officio member of all committees.

Canada's framework for interprovincial trade is patchy at best. While Canada has signed on to free-trade agreements with countries around the world, there are significant barriers to the free flow of goods and services within our own borders. Studies have suggested that these interprovincial trade constraints cost the Canadian economy up to \$130-billion every year - and may negatively affect international trade relations.

Removing barriers to interprovincial trade will be the focus of a First Ministers meeting in December and Prime Minister **Justin Trudeau** has flagged the issue as "a massive priority."

While federal, provincial and territorial governments signed on to the Canadian Free-Trade Agreement (CFTA), which came into force July 1, 2017, with the aim of mitigating interprovincial barriers, almost half of the agreement's 345 pages are filled with exceptions to the agreement and opt-out measures.

So have interprovincial trade barriers really been lowered?

And what measures should be taken to further eliminate barriers to trade, investment and labour mobility to keep the Canadian economy robust?

At a recent Senate open caucus forum, we asked stakeholders for their views. We got an earful. One thing became clear across sectors: Interprovincial trade is a national embarrassment.

Examples of Canadian companies finding it easier to import goods and services internationally than trading with their neighbouring provinces are far too plentiful - and frequently absurd. Why should imported wines be frequently easier to buy in Canada than out-of-province Canadian vintages, for example?

The barriers to interprovincial trade are many and complex - but they are not intractable problems. They are resolvable with political will and federal leadership.

Perrin Beatty, president and chief executive of the Canadian Chamber of Commerce told the forum it's "now more important than ever for Canada to 'get our house in order' in light of the global trading and competitiveness challenges facing our economy." We couldn't agree more.

He cited the "cautious optimism" in the business community for the CFTA. Cautious, because many believe the deal is contingent upon the success of the new Regulatory Reconciliation and Co-operation Table (RCT) at the heart of the deal, a federal/provincial/territorial body that will help to advance regulatory alignment across jurisdictions.

According to Mr. Beatty, most of the trade barriers are regulatory differences, "divergent sets of rules and processes between provinces that have created a tyranny of small differences for businesses." The need to harmonize regulations is critical. Unfortunately, progress under the RCT has been slow so far, he told the forum.

Monique Moreau, vice-president of national affairs for the Canadian Federation of Independent Business (CFIB), noted that it

should be "at least as easy to trade within Canada as it is with another country," but that's often not the current reality.

In a CFIB survey, Canadian businesses said regulatory and administrative barriers were the "most prominent barriers to trade." Next in importance are the differences in tax rules across different jurisdictions. Ms. Moreau noted these "can be a significant investment in both time and money, especially for the smallest businesses."

Imagine the paperwork alone associated with different workers' compensation boards or the varying rules across health and safety boards when moving employees across provincial lines.

Imagine now how much more seamlessly trade would flourish if, at the very least, safety and transport measures were shared across the country, the forum heard.

Lawyer Ian Blue, senior counsel and adviser from Gardiner Roberts LLP, who took a challenge of interprovincial trade barriers to the **Supreme Court of Canada** and lost, said the issue now rests in the hands of elected officials.

So what needs to happen now to see improvement? The 2016 Senate report, Tear Down These Walls still offers many solutions and several were also echoed by forum participants.

Mr. Beatty and Ms. Moreau called for regulatory alignment through "mutual recognition" - as is currently the case for internal markets in the European Union and Australia. With mutual recognition, a good or service legally provided in one region is permitted in another even if they have differing regulations.

Ms. Moreau also supported the "negative list approach," used in the CFTA, which allows all cross-border trade to occur unless otherwise explicitly prohibited. And the need for a more streamlined, speedy and effective dispute resolution with the governing body when disagreements arise.

Mr. Blue floated a novel idea: an Interprovincial Trade Commissioner with real teeth.

One thing is clear: We can't continue as we've always done.

The time is ripe now to make the Canadian economy competitive, free flowing and robust. Mr. Beatty was right when he urged provincial and federal counterparts to tackle internal trade barriers with the "same urgency" they demonstrated with the recently negotiated United States-Mexico-Canada Agreement.

As one forum attendee put it: we need to give CFTA a chance, but we also need to "give it a push." Let's hope the Prime Minister does just that at December's First Ministers meeting on interprovincial trade.