

## THE GRAPES OF WRATH: INTERPROVINCIAL TRADE BARRIER REFORM STILL AN ISSUE (2024)

### Issue

Years go by, politicians' barbs fly back and forth, provincial regulations ease and then again restrict trade across provincial borders in much of Canada. The policy title explains the issue: *"Interprovincial Trade Barrier Reform"* - it hasn't happened yet. Federal MPs have supported more than one bill in the Commons with little change in legislation.<sup>1 2 3</sup> In the first 60 days of 2024, Alberta again declared trade war on BC over direct shipments of wine to consumers: *"Suppliers from other provinces that offer direct-to-consumer shipping are in contravention of provincial legislation, are bypassing Alberta's private liquor retailers and liquor agencies, and are impacting the dollars that go to the General Revenue Fund that supports projects and services Albertans rely on,"* Alberta Gaming, Liquor and Cannabis said January 30, 2024.<sup>4</sup>

### Background

Despite years of negotiation and implementation of barrier-removing legislation TILMA<sup>5</sup>, NWPTA<sup>6</sup> and Supreme Court decisions, the wrangling continues. Yet, research has shown interprovincial trade is approximately 15 times greater in dollar value than international trade in Canada. For consumers, interprovincial trade barriers add between 7.8-14.5% to the price of goods and services they buy. (Statistics Canada put it at 7% for goods alone.)<sup>7</sup> And, the International Monetary Fund estimates that eliminating internal trade barriers on goods alone would boost Canada's productivity by 3.8%.<sup>8</sup>

On June 22, 2021, MP Dan Albas (Central Okanagan-Similkameen-Nicola) spoke in Parliament to his Private Member's Bill C-260. Albas' bill did not pass, but he said, *"Mr. Speaker, obviously small family wineries, small craft breweries and artisan distillers are hurting. The foot traffic is gone, tourism has dropped, people are not buying from them, and they are often going to liquor monopolies, so this is a big issue."*

Although the pandemic blues he referenced are behind us, his words still resonate in 2024 when the wine industry in the Okanagan is reeling from a summer of lost revenue due to wildfires in 2023, only to see the winter of 2023-24 deep freeze their grapes in a *"99% loss of crop for 2024."*<sup>9</sup> Wineries, distilleries and craft breweries are swept up in the same interprovincial issues that plague the wine industry.

No businesses want a border war between BC and Alberta. The loss to Alberta's General Revenue fund has not been quantified by AGLC in the 2024 salvo aimed at BC vintners.

BC, Manitoba, Saskatchewan and Nova Scotia allow consumers to order out-of-province wine directly from producers.

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<sup>1</sup> CBC, June 14, 2016, MPs debate Conservative motion to refer interprovincial trade to Supreme Court, <https://www.cbc.ca/news/politics/conservative-albas-motion-beer-trade-1.3634759>

<sup>2 3</sup> Bill C-260 <https://parl.ca/DocumentViewer/en/43-2/bill/C-260/first-reading>

<sup>3</sup> "No-brainer that Canadians should be able to buy alcohol online from producers" Globe & Mail January 23, 2021

<sup>4</sup> Calgary Herald, <https://calgaryherald.com/news/local-news/alberta-slams-door-on-b-c-wine-imports-over-direct-to-consumer-sales>

<sup>5</sup> Trade, Industry and Labour Mobility Agreement: ground-breaking accord between the Governments of Alberta and British Columbia that creates Canada's second largest economy. <http://tilma.ca>

<sup>6</sup> New West Partnership Trade Agreement: created Canada's largest interprovincial free trade zone. It is a ground-breaking economic partnership between the Governments of British Columbia, Alberta, and Saskatchewan. <http://tilma.ca>

<sup>7</sup> Statistics Canada. (Sept. 14, 2017). Study: Estimating the effect of provincial borders on trade.

<https://www150.statcan.gc.ca/n1/daily-quotidien/170914/dq170914d-eng.htm>. Government of Canada.

<sup>8</sup> Tombe, T. (2020). Towards a More Productive and United Canada: The Case for Liberalizing Interprovincial Trade, Fraser Institute. <https://www.fraserinstitute.org/sites/default/files/towards-a-more-productive-and-united-canada-4day-week-essay.pdf>

<sup>9</sup> Feb 15, 2024, CTV News BC wine grapes facing up to 99% production drop due to January cold snap, <https://bc.ctvnews.ca/b-c-wine-grapes-facing-up-to-99-production-drop-due-to-january-cold-snap-1.6770329>



BC's Ministry of Public Safety and Solicitor General, in a statement on January 31, 2024, said it was *"actively engaging with the government of Alberta to address the issue and navigate shared concerns related to interprovincial direct-to-consumer wine sales for the benefit of the industry and consumers."*

Alberta's recent move may be subject to judicial review. According to Albert J. Hudec, Farris LLP Vancouver, speaking on behalf of BC winemakers, Alberta is trying to impose its regulations on another province.<sup>10</sup>

*"Provinces only have jurisdiction over people in the province and activities in the province. Any enforcement action has always been brought against individual consumers, not the wineries."* Hudec calls the Alberta letter unfair.<sup>11</sup>

*"[It] alludes vaguely to some breach of the law but they don't give you the particulars. They don't give you a chance to respond; they don't give you a chance for a hearing."*

*"Then they impose this penalty they don't have any authority under the legislation to impose. It's totally offensive to administrative fairness."*

This fracas is only the most recent volley fired across interprovincial borders in Canada.

At a time when the Canadian economy is facing some of the most sophisticated threats in the last 50 years – increasing trade pressures, a faltering economy, beleaguered GDP, education pressures caused by rapid immigration growth, threats to agriculture, cybercrime, quick pivots in tech and AI – our internally focused trade wars weaken our growth and our focus on building strong provincial economies which skip the often labyrinthine external pressures engendered by international trade.

And why, if liquor control boards also have cannabis under their control, aren't there interprovincial trade barriers on that product?

Ironically, a report commissioned by Alberta's government in 2023 explored the benefits of mutual recognition as a solution to breaking internal trade barriers.<sup>12</sup> <sup>13</sup> The report found that mutual recognition could increase Canada's economy between 4.4% and 7.9% over the long term, or between \$110 and \$200 billion per year.<sup>14</sup>

What is mutual recognition? The Global Innovation and Policy Alliance defines mutual recognition as *"a framework wherein an item of commerce that meets the regulatory requirements of one provincial or territorial government is deemed to automatically satisfy the requirements of another. Simply put, mutual recognition requires a host province to accept the standards set out by the province from which the good or service originates. As a result, mutual recognition can lessen the compliance burdens of goods and service providers and eliminate duplicative testing which makes it a powerful tool for eliminating policy-relevant interprovincial trade costs."*<sup>15</sup>

At the most recent Council of the Federation meeting (November 5,6, 2023), Canada's premiers reiterated their commitment to removing labour mobility and internal trade barriers, pushing the Federal Government to remove

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<sup>10</sup> <https://www.cbc.ca/news/canada/edmonton/wine-wars-alberta-government-won-t-stock-b-c-wines-that-sell-direct-to-consumers-1.7100174>

<sup>11</sup> *Ibid.*

<sup>12</sup> 5 Mutual recognition is a framework wherein an item of commerce that meets the regulatory requirements of one provincial or territorial government is deemed to automatically satisfy the requirements of another.

<sup>13</sup> Alberta Government. News release: Alberta to explore mutual recognition of provincial regulations.

<https://www.alberta.ca/release.cfm?xID=83249841CDE91-C1F0-787CF3BAC163E78220F3>. Accessed: March 13, 2023.

<sup>14</sup> Ryan Manucha and Trevor Tombe. Macdonald Laurier Institute. Liberalizing internal trade through mutual recognition: A legal and economic analysis.

[https://macdonaldlaurier.ca/wp\\_content/uploads/2022/09/20220911\\_Interprovincial\\_trade\\_Manuch\\_Tombe\\_PAPER\\_FWeb.pdf](https://macdonaldlaurier.ca/wp_content/uploads/2022/09/20220911_Interprovincial_trade_Manuch_Tombe_PAPER_FWeb.pdf)  
Accessed: March 11, 2023.

<sup>15</sup> Global Trade & Innovation Policy Alliance <https://www.gtipa.org/publications/2022/09/20/liberalizing-internal-trade-through-mutual-recognition-legal-and-economic>

constraints related to procurement. Their statement also directs the federal Regulatory Reconciliation and Cooperation Table to “*accelerate work underway on developing a potential model for mutual recognition of regulations with a negative option list.*”<sup>16</sup>

The Kelowna Chamber’s policy advisory committee liaises with the Okanagan College BC Beverage Technology Access Centre. Its members were asked to review the existing Chamber policy on Interprovincial Trade Barriers recommendations dating from 2015 around removing interprovincial trade barriers and to update them. “*No updating is required,*” they responded. This is another way of saying, “*Not much progress has been made over the past six years [that the policy has been in effect].*”

It's time for change.

### **THE CHAMBER RECOMMENDS**

That the Provincial Government:

1. Work with other provinces, territories, and the Federal Government to remove barriers to interprovincial trade in wine, beer, and spirits.
2. Take an aggressive position at the Council of the Federation (provincial/territorial premiers) and lead the charge to abolish barriers to interprovincial trade in goods and services to incent growth in domestic businesses.

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<sup>16</sup> The Council of the Federation. News release: Canada’s Premiers Discuss Affordability and Global Challenges, July 12, 2022. <https://www.canadapremiers.ca/summer-meeting-july-11-12-2022-victoria-british-columbia/>. Accessed: March 15, 2023.