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ONE CANADA ONE NATIONAL ECONOMY

MODERNIZING INTERNAL TRADE IN CANADA



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Minister's Message



Hon. James Moore, PC, MP
Minister of Industry

In the 19th century, Canada's first Prime Minister had a vision to build a railway to unite and grow our country. Even today, such a project would seem incredibly ambitious to tackle. Yet when Canada's first transcontinental passenger train arrived in British Columbia in 1886, it allowed Canadians—for the first time—to easily transport goods and people across our country. The railway helped build and unite Canada by creating a national economy that connected markets and communities across our vast territory.

Today, Canada is a creative, diverse and technologically advanced G-7 economy. Digital technologies have made the world more connected, while businesses, workers and consumers have become more sophisticated.

In keeping with these new global realities, the Government of Canada has aggressively pursued an ambitious free-trade agenda to grow our economy and improve the quality of life of Canadians. In 1994, the year Canada's Agreement on Internal Trade (AIT) was signed, Canada had free trade agreements with two countries—the United States and Mexico. In 2006, we had free trade agreements with only five countries. Today, we have agreements in force or being finalized with 43 countries, giving Canadian businesses preferential access to over 1.1 billion consumers worldwide.

Persistent barriers to internal trade, including regulatory differences, inconsistent standards, and restrictions on the free movement of people, goods and services, fragment our economy and put Canadian firms at a disadvantage. The result is a weaker Canadian economy, lost jobs, and a less united Canada.

In 2017, we will celebrate Canada's 150th anniversary as a country. We owe it to Canadians to take action by breaking down the barriers to building a modern economy. Together we can achieve our common goal of one nation, one national economy.

INTRODUCTION

Trade is vital to Canada's economy and to the well-being of all Canadians. To support economic growth and safeguard Canadian prosperity, Canada has committed to an ambitious international trade strategy, and we have been very successful. However, progress on domestic trade has not always kept pace.

The statesmen who drafted Canada's Constitution in 1867 strove to establish a coherent internal market where "all articles of the Growth, Produce, or Manufacture of any one of the Provinces" are able to move freely across the country. The Constitution divides authority to legislate between the Parliament of Canada and the provincial legislatures. While Parliament has authority to regulate trade and commerce, the provinces can regulate important economic areas within their provincial boundaries, such as those related to starting and running a business, obtaining professional accreditation, and ensuring consumer safety. This results in a multiplicity of laws, regulations and policies across Canada. Within this complex environment, cooperation between levels of government is the best way to promote economic growth and safeguard the interests of Canadians.

It makes no sense for Canada to provide greater benefits to our trading partners than to companies, workers and consumers within our country. We urge all levels of government to cooperate in the elimination of all unnecessary barriers.

John Manley, President and CEO, Canadian Council of Chief Executives, June 17, 2014

Signed in 1994, the Agreement on Internal Trade (AIT) governs the movement of people, goods, services and investments within Canada. It is a political accord that creates a framework for the reduction of barriers to trade within specific economic sectors. Its creation followed the signing of the North American Free Trade Agreement (NAFTA) and was supported broadly by Canada's business community. The signing was a demonstration that in the face of new global economic trends and changing perceptions of free trade, Canada's federal, provincial and territorial governments could come together to confront some of the biggest barriers to trade within our country.

Since coming into force, the AIT has achieved limited success. Outcomes include:

- labour mobility for regulated occupations;
- increased transparency and openness in government procurement; and
- dispute resolution that has been strengthened by introducing monetary penalties.

However, after 20 years, the very architecture of the agreement is out of date, resulting in a patchwork that does not cover all economic activity or even embody a presumption of open trade. Some of the AIT's provisions are not binding, and many AIT rules have exceptions for provinces to pursue legitimate objectives such that the application of rules is uneven across the country. Accordingly, progress has been slow in tackling areas such as aligning regulations and standards across the country, or making the dispute resolution provisions more accessible, transparent and binding on governments.

Today, global trade has evolved and Canada's internal trade rules have not kept pace. Barriers to interprovincial and interterritorial trade are impacting our ability to take advantage of the benefits of our economy. While many of the irritants may appear to be minor, these minor differences can mean big disadvantages for Canadian consumers, workers and businesses. It is time to update Canada's domestic trade regime.

Unnecessary differences in standards and regulations can have major cost implications for doing business and may impede investment. While many of these costs are difficult to measure, there are many examples that demonstrate the higher costs and inefficiencies from the lack of a common approach to internal trade across Canada, such as:

- Inconsistent rules across the country restrict the shipping of wine directly to customers across internal borders. This limits choice for Canadian consumers, while also forcing Canada's world-class wineries to miss out on opportunities for growth here at home.

DID YOU KNOW

Current rules prevent the sale of wine and beer directly to consumers across provincial borders.



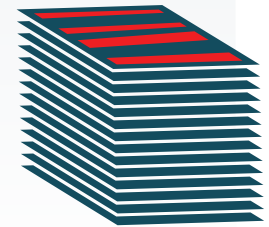
Apprentices suffer because training programs are not consistently aligned across the country.



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- Despite robust demand for skilled labour, a lack of coordination among apprenticeship programs makes it difficult for apprentices to complete their training anywhere other than the province or territory where they started, effectively preventing their movement in search of new jobs and opportunities.
 - Firms operating in different provinces and territories are required to register and report annually in almost all jurisdictions where they do business. This leads to increased and unnecessary costs for our businesses, which in turn limits growth and job creation.
 - There are numerous blends of ethanol in gasoline, requiring refiners to mix up a unique batch for each province and territory in which they operate. This has the potential to limit choice for consumers and create additional complexity for businesses.

DID YOU KNOW

Companies must file annual reports in virtually every province and territory in which they operate.



It seems a bit ridiculous that we have rights under foreign agreements and that we don't have the same rights under our own agreement of internal trade with other provinces. When CETA's approved we'll be able to sell in Europe but not necessarily be able to sell in other provinces. So it's time for the agreement to be modernized.

Tom Marshall, Premier, Newfoundland and Labrador, August 8, 2014

At a time when Canada is entering into new trade agreements around the world that seek to eliminate irritants and barriers to international trade, such inefficiencies within our own borders send mixed messages to our trading partners and undermine Canada's economic reputation abroad.

There is growing support from federal, provincial and territorial governments for modernization of Canada's internal market. For example, the New West Partnership Trade Agreement among British Columbia, Alberta and Saskatchewan, and labour mobility resolutions among Atlantic provinces demonstrate the opportunities we have to grow and succeed together.

Internal Trade Barriers Index

Inconsistencies across provinces and territories are significant barriers to trade and economic growth in Canada. That's why, in Budget 2014, the federal government announced the creation of a new Internal Trade Barriers Index. The Index will set a baseline for understanding internal trade barriers and how the impacts increase or decrease over time. It will also give policy makers good information to guide decisions on priority areas for action.



New West Partnership premiers are calling on their colleagues across Canada to work together to overhaul and modernize the Agreement on Internal Trade (AIT). They want to create an AIT that eliminates as many barriers as possible and provides opportunities for businesses to grow and economies to diversify.

New West Partnership Premiers News Release, July 9, 2014

This document lays out a broad proposal for action. Canada faces a unique opportunity to improve our national economy for the sake of Canadian consumers, workers and businesses. However, change will not come about unless we all work together. Canada's path for future growth begins at home.

WHAT IS THE AIT?

The Agreement on Internal Trade is an intergovernmental agreement signed by all first ministers in 1994. At the time, it aimed to enhance interprovincial trade by eliminating barriers to the free movement of persons, goods, services and investment within Canada.

The federal government formally proposed negotiations on Canada's internal trade market to provincial and territorial governments in 1993 following many years of discussion. A driving factor at the time was the business community's concern that progress on new international trade agreements would not be matched by similar progress within Canada, creating an unnecessary and undesirable competitive burden for business.

The negotiations began in 1993 in a difficult political and economic environment in Canada. First, federal-provincial relations were still influenced by recent constitutional negotiations as well as by diverging perspectives on the impact of various elements of Canada's prospective international trade obligations. Some provinces opposed free trade, others worried about rapid liberalization, while a handful welcomed freer trade and access to new markets. Many provincial and territorial officials and some ministers involved in internal trade had also been participants in these other negotiations. Furthermore, from a provincial perspective, this new internal trade initiative had potentially asymmetrical impacts as it would involve minimal changes in federal legislation and policy, and significant changes by provinces and territories.

Our fundamental approach to internal trade in Canada remains flawed. Instead of slowly whittling away at barriers, we need to think of Canada as a single domestic market. But instead of looking for creative ways to move beyond the AIT, Canadians have come to accept the imperfect system as the 'best available option.' It won't be easy, but with the right political leadership, it's possible for us to hammer out a new, pan-Canadian agreement on internal trade.

Perrin Beatty, President and CEO, Canadian Chamber of Commerce, December 17, 2013

Economically, Canada was still recovering from a sharp recession just as Canada-US free trade implementation was under way. At the time, with a focus on significant restructuring in many industrial sectors, there was no consensus—even in parts of the business community—that trade liberalization was a net positive for the Canadian economy. This translated into skepticism among many provinces and territories about the benefits of freer internal trade.

Against this backdrop, negotiating objectives varied significantly among the parties. With this in mind, one of the early decisions by federal, provincial and territorial ministers was to appoint a neutral third-party chair for the negotiations.

The federal government had proposed that negotiations be organized around a list of issue areas—essentially the chapter headings of the ensuing AIT: procurement; investment; labour mobility; consumer-related measures; agricultural and food products; alcoholic beverages; natural resources processing; energy; communications; transportation; and environmental protection. This list represented the main areas where internal barriers were perceived to reside, and as negotiations got under way, what was not on the list was excluded from the scope of the negotiations. This created what is known as a positive list approach, where only items listed are covered by the agreement.

This positive list approach had three significant outcomes:

1. It limited the overall coverage of undertakings to only those specific sectoral chapters in the Agreement, thereby excluding from agreed rules potentially distorting policies and practices in broad areas of economic activity.
2. It exempted parties from seriously reviewing and making transparent barriers that would otherwise have been covered by a negative list approach, whereby everything is covered by agreed rules unless specifically excluded.
3. It introduced certain compatibility issues between Canada's international agreements and domestic policies.

THE NEED FOR CHANGE

Although the AIT provided an initial domestic response to a global movement in the 1980s and '90s toward greater trade liberalization, it has not kept pace with modern international developments.

In the aftermath of the recent global economic recession, the world has undergone rapid change. Traditional economic powerhouses are challenged to retain their market share, while emerging economies are becoming more competitive.

The rise of modern, 21st century initiatives such as the Trans-Pacific Partnership, integrated trading blocs like the European Union, and an increase in the number of foreign investment promotion and protection agreements have changed the nature of international trade and investment. Foreign direct investment is becoming a major growth catalyst and Canadian companies have for the last dozen years invested more abroad than foreigners have invested in Canada. Meanwhile, international competitive success today is driven increasingly by participation in integrated global supply chains and many Canadian companies, as niche specialists, have thrived in this environment.

Public opinion on internal and external trade liberalization has gone from significant division to a broadly positive consensus reflective of these underlying economic realities. Canada is now one of the most open economies in the world. When the AIT was signed 20 years ago, Canada had free trade agreements with just two countries: the United States and Mexico. Today, Canada has trade agreements in force with 13 countries and concluded with another 30 countries. This includes the Canada-EU Comprehensive Economic and Trade Agreement (CETA), which has set the new gold standard for international trade agreements.

One of the most commendable aspects of CETA was that it was reached with the inclusion and support of the provinces and territories, a sign that all jurisdictions recognize the importance of increased trade and the value of working together to create a strong economic union. It is an embarrassment that we are able to provide greater benefits to our trading partners than to each jurisdiction within Canada. We can no longer excuse the fact that our domestic market remains divided by unnecessary barriers and urge you to work with the provinces and territories to rectify this fact.

Open letter to the Committee on Internal Trade from Canadian business leaders,* December 5, 2013

*The Canadian Chamber of Commerce, Canadian Council of Chief Executives, Canadian Federation of Independent Business, Canadian Manufacturers and Exporters, Canadian Restaurant and Foodservices Association, Certified General Accountants Association of Canada and the Vegetable Oil Industry of Canada

CETA is unique in Canadian free trade agreements as it grants market access to the EU at the sub-federal level to an extent never granted before under a Canadian free trade agreement. For this reason, provinces and territories were closely involved in the negotiating process. The process of negotiating CETA confirms that great progress can be made to enhance Canada's trade regime when the federal, provincial and territorial governments work together.

HOW OTHERS DO INTERNAL TRADE

European Union

- 28 member countries, 1 market
- Mutual recognition regime ensures market access
- Harmonized standards for most goods
- Requalification not needed for interstate labour mobility

Switzerland

- Amended constitution to better ensure unified economic area
- Mutual recognition regime applies to goods, services and procurement
- Courts and the Competition Commission enforce legislation
- Around 130 bilateral agreements align standards with EU

Australia

- 1992: Mutual Recognition Agreement
- 1996: Regime expanded to include New Zealand
- Significant progress in the movement of goods and labour
- Supported by independent tribunals and high level of intergovernmental cooperation

The more Canada signs international agreements like CETA, the more important it becomes for our internal market to be as open and efficient as possible. Undertaking domestic reforms to our internal market will in turn enhance Canadian competitiveness on the world stage.

While the principal catalyst for review of the AIT is Canada's growing number of international agreements, the domestic economic argument for reform is equally compelling. Canada is a very different country than it was 20 years ago:

- Companies must increasingly compete internationally on the basis of their ability to participate in integrated global supply chains;
- Canadian firms need the flexibility to expand beyond their province or territory of origin and have for the last dozen years invested more abroad than foreigners have invested in Canada;
- Evolving job requirements and mobility imperatives mean that workers must be able to upgrade their skills and have their credentials and training recognized across jurisdictions; and
- Canada must increasingly rely on productivity improvement and market expansion to fuel economic growth.

I will work closely with my provincial colleagues to determine how to make this agreement even more effective and facilitate trade between us. Quebec will play an active role on the Council of the Federation. Eliminating barriers to internal trade paves the way for our businesses to grow. We stand to win by having an economic environment that is open, reliable and efficient. We must continue to make much-needed amendments, taking into account advances on the international trade agreement front.

Jacques Daoust, Minister of the Economy, Innovation and Exports, Quebec, May 30, 2014

All these factors underline the need to re-examine the AIT to meet the challenges of the increasingly competitive global environment by streamlining economic regulation and reducing business costs. Canada needs a harmonized approach for labour, goods, services and investment to keep pace with the new global economic realities of a world where capital and skills can go anywhere easily.

A growing chorus is calling for action to reduce barriers to internal trade. Business associations, premiers, entrepreneurs and consumer advocates are united in calling for a renegotiated agreement. For example, expert advisers, such as the Competition Policy Review Panel, chaired by L.R. (Red) Wilson, have called for the federal government to provide leadership to eliminate all internal barriers between provinces and territories that inhibit the free flow of goods, services and people. The Panel urged federal and provincial governments to establish a two-year work plan to achieve this goal, supported by regular interim reports. The key weaknesses of the AIT cited by the Panel were that its scope is limited to specified sectors, its dispute settlement mechanism is not sufficiently effective, and it relies unduly on moral suasion and good faith to implement its provisions.

There is an emerging consensus that internal trade barriers hurt consumers, discourage investment and damage Canada's international reputation as a place to do business. The time is right to adopt a new framework that responds to a changing world.

The Halifax Chamber of Commerce is glad to have the opportunity to provide input from the business community to help address challenges and increase opportunities for internal trade. The Chamber hopes that its views will aid ongoing efforts to eliminate interprovincial trade barriers.

Valerie Payn, President and CEO, Halifax Chamber of Commerce, June 19, 2014

MODERNIZING INTERNAL TRADE IN CANADA

The Government of Canada's work to expand international trade and investment agreements has opened a world of opportunities for Canadian businesses and workers and opened up new choices for consumers. We must do the same domestically to strengthen our internal market. We must ensure first and foremost that it isn't easier to trade with other countries than it is to trade within our own borders.

Six Original Principles

When the AIT came into force, signatories agreed to adhere to six general rules, established to prevent governments from setting up new trade barriers and to reduce existing barriers. A modern trans-Canada partnership should recommit to the six guiding principles outlined in the AIT. They are:

- **Non-discrimination:** all Canadian persons, goods, services and investments should be treated equally
- **Right of Entry and Exit:** persons, goods, services or investments should move freely across provincial or territorial boundaries
- **No Obstacles:** government policies and practices should not create unnecessary obstacles to trade
- **Legitimate Objectives:** exceptions must be for legitimate reasons and should have a minimal adverse impact on internal trade
- **Reconciliation:** all trade barriers caused by differences in standards and regulations should be eliminated
- **Transparency:** information should be accessible to all Canadians

New Principles for a New Canadian Agreement

A new agreement could also cover aspects of trade relations that were not included at the time the AIT was created, ensuring that our domestic arrangements can keep pace with international arrangements. The Government of Canada proposes four additional principles to guide future negotiations:

One Economy:

Canadian goods, services, labour and investments should be treated as favourably as those from other countries

Full, Inclusive, Transparent Coverage:

we should ensure the free trade of all goods, services, labour and investment

Align or Explain:

we should work to align regulations, standards and practices across the country and explain when exceptions are necessary

Accountability:

parties should regularly report to Canadians on the progress of modernization efforts

We applaud the decision of the federal government to pass Bill C-311, allowing the sale of wine across Canada without restriction. While this has been a great step forward, after two years only a few provinces have followed through. Restrictions by most provincial jurisdictions still limit our ability to provide our wines to Canadian consumers.

Robert Heiss, Chief Operations Officer, Gray Monk Estate Winery, July 4, 2014

MOVING FORWARD

There are paths to consider in strengthening internal trade and updating the AIT. One option is to work together to pursue a priorities-based approach to reforming key elements of the AIT. Another option would tackle new priorities as part of a joint process to comprehensively renegotiate the AIT in line with the principles of modern international trade agreements. Going forward, both paths could lead to successful outcomes. The next section outlines these two approaches in more detail.

Option One: Focus on priority areas for improvement

In order to generate concrete gains for businesses, workers and consumers, an updated agreement should focus on the issues raised most often by businesses, workers and consumers, including simplifying the “web of rules” faced by businesses, opening up government procurement and making the AIT more comprehensive. Governance reforms are critical under any scenario to improve internal trade within Canada.

Untangle the Web of Rules

Conflicting and inconsistent rules and regulations across jurisdictions raise costs for businesses, hinder mobility for workers and limit choice for consumers. These challenges can distort regional markets and act as barriers to trading across provincial and territorial lines. Furthermore, differences in standards between the provinces and territories, as well as differing regulatory and reporting requirements, can affect the decisions businesses make on where they operate.

Internationally, Canada is helping to lead the way in removing technical and other barriers to trade. This goal was a central issue in the CETA discussions and in our recent other free trade agreements, and it is key to our activities at the World Trade Organization. The desire to remove barriers to trade was also the reason that Canada and the US have created the Regulatory Cooperation Council to make trade flow more smoothly between these countries. The provinces and territories have seen the merit in removing the barriers and have also taken international commitments to help minimize the trade distorting effects of regulatory barriers. Domestically, however, there has not been a similar push, and this is putting Canadians at a disadvantage not only domestically but internationally.

Consistent with these cooperative successes, a new internal trade agreement should reduce overlapping, inconsistent and duplicative regulations and standards, including for apprentices as well as business registration and reporting. At the same time, jurisdictions should examine lessons learned from the Canada-EU and Canada-US regulatory alignment efforts to determine what could be useful in efforts to reduce internal barriers to trade.

As Garrison is reaching out to new markets across the country, we appreciate any government efforts to eliminate barriers and support the growth and diversity of the craft beer sector. We welcome initiatives that give Canadians more options and choices to enjoy their favourite craft beer.

Brian Titus, President, Garrison Brewing, June 19, 2014

Modernize Procurement

Government procurement needs to be open, fair and transparent. At the time it was signed, the AIT included a specific chapter to help address some of the challenges of procurement. In 1999 and 2005, AIT partners came together to negotiate new amendments that made the procurement process fairer and more transparent.

Any new agreement should cover procurement activities in line with the latest commitments made in Canada's international agreements and have mechanisms to ensure that governments live up to open procurement practices.

More Comprehensive Agreement

The AIT follows an outdated "positive list" approach to trade negotiations by singling out specific goods and services to be covered. This approach has led to a lack of clarity on which industries are protected, as well as confusion over what is included and what is excluded. Agreements that use this approach often lack transparency and provide less-than-ideal mechanisms for addressing irritants.

The current AIT has several chapters that cover specific economic activities or sectors, such as government procurement or transportation. The existing coverage has some significant limitations. Alcoholic beverages provisions, chapter 10, have been the source of much frustration for Canada's wineries and brewers looking to

expand into new markets. The gaps in coverage are also an issue. The current agreement does not cover all goods, services or investment activity. Furthermore, as new types of goods or services are developed, they are not automatically covered by the AIT's positive list approach, so there is no automatic coverage of new activity.

A more comprehensive agreement could be created, even using a positive list approach, by reducing the exclusions in existing chapters, adding new provisions and locking in automatic reviews of the agreement to ensure continual updates.

New Governance for a Modern Agreement

Instead of relying on variable best efforts by governments, the AIT's governance structure must be changed.

The AIT provides for a rotating chair of the Committee of Ministers charged with overseeing operations and negotiating new provisions. This means that each jurisdiction gets to chair one meeting every 13 years.

There is a lot of red tape involved in dealing with other provinces, and that's a big disincentive to growth. With international trade barriers coming down, our internal trade agreements need to keep up. This is a relatively easy way to boost the economy and should be a top priority for every province.

Dan Kelly, President & CEO, Canadian Federation of Independent Business, August 13, 2014

To provide greater continuity of leadership within the Committee on Internal Trade and to undertake necessary reforms, new arrangements should be considered. In this regard, options could include federal co-chairmanship of the Committee and a commitment among Internal Trade Ministers to meet at least twice a year.

Other governance issues are also worth re-examining, including the effectiveness of the current Internal Trade Secretariat and the consensus rule governing decisions taken under the AIT.

Additionally, consideration should be given to concrete proposals on a new, fast, reliable dispute settlement mechanism. Dispute settlement is effective when businesses know how to access the process, when workers' complaints are resolved quickly and when consumers see improvements made to policies and programs.

A modern internal trade framework should also include a formal mechanism for seeking input from businesses, workers and consumers to help set the agenda for negotiations. It should include the requirement to publicly report on goals, timelines and progress that have been agreed to by AIT partners. It should also include clear mechanisms to resolve disputes in an accessible and timely fashion, along with a clear commitment to respect binding decisions by dispute resolution panels. This is consistent with our international trade agreements.

If governments are serious about modernizing the AIT, they will need to address the shortcomings of governance and institutional provisions at an early date.

Option Two: Completely redesign the internal trade framework for Canada

Update the Architecture—Negative List Approach

A priorities-based approach to renegotiations could result in some improvements but could also result in a more complex and opaque agreement that continues to provide significant opportunities for exclusions and exceptions and does not tackle issues head-on.

A brand new trans-Canada partnership could be negotiated on the basis of a comprehensive, negative list approach like those employed in negotiating many modern international trade agreements.

The Government of Canada uses this approach in pursuing most of its recent international trade negotiations—including in the CETA and the Canada-Korea Free Trade Agreement negotiations. Most modern trade agreements cover all goods and services, except for those that are explicitly identified and exempted. This means that governments must be transparent; they have to review and identify existing laws, regulations, policies and practices that do not meet the obligations of the agreement and either bring them into line with those obligations or seek a negotiated exemption for them. Governments must also identify areas where they wish to maintain future policy flexibility, which are typically in specific areas with an important role for governments, such as health and safety.

The result of redesigning the very structure of the internal trade framework would be clear and comprehensive: all economic activity would be covered automatically. As the world creates new technologies or services not yet foreseen, they too would be covered automatically. And exceptions would be transparent to any reader of the new framework.

CONCLUSION

These two pathways are each legitimate and viable routes to a renewed AIT and a stronger Canadian economy. They form a sound basis on which to move forward and represent approaches we can pursue over time to achieve meaningful outcomes. Going forward, the Government of Canada is committed to working with provinces and territories to forge agreement on a path forward and begin the essential work of renewing internal trade to the benefit of all Canadians.

As we approach Canada's 150th birthday in 2017, Canadians should look to this significant milestone as an opportunity to make the changes now to achieve our shared goal of a more prosperous and united Canada. Canada is strongest when we are united in tackling our challenges. We hope that meaningful progress on internal trade will be one more success that we can celebrate together on Canada's 150th anniversary.

To learn more, visit:

ic.gc.ca/internaltrade