



# **What We Heard Report: Stakeholder Consultations on Breaking Down Inter- Jurisdictional Regulatory Barriers**

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# What We Heard Report: Stakeholder Consultations on Breaking Down Inter-Jurisdictional Regulatory Barriers

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Regulatory Affairs Sector

Treasury Board of Canada Secretariat

Between April 27 and June 27, 2022, the Government of Canada consulted Canadians on breaking down inter-jurisdictional regulatory barriers. This consultation was in support of the government's work to reduce regulatory barriers to trade and supply chains while it continues to protect the health, safety and security of citizens and the environment.

The consultation on breaking down inter-jurisdictional regulatory barriers asked stakeholders to identify the following:

- opportunities to align regulations and cooperate with other governments on regulatory barriers that impede trade, such as:
  - unnecessary regulatory differences
  - divergent standards
  - duplicative product testing or approval processes
  - overlapping inspection and certification procedures across jurisdictions
- potential work plan items to inform Canada's position on the regulatory cooperation tables that it participates in

- challenges or opportunities for regulatory alignment and cooperation to respond to changing issues, technologies and needs as Canada recovers from the COVID-19 pandemic
- issues regarding the security and resiliency of Canadian supply chains, and ideas on how to improve their security and resiliency

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## Background

Regulations act as the “rule book” for how businesses and organizations must operate. They are essential to:

- protect consumers
- ensure the health, safety and security of Canadians
- safeguard the natural environment

Because regulations can differ across jurisdictions, businesses and other organizations must navigate a web of regulations when they develop, produce, distribute and sell their products and services across provinces or international borders. Navigating regulatory regimes that do not align increases the burden on Canadian and foreign businesses. This burden can hinder the development of new ideas and technologies and create challenges in growing and strengthening their operations.

Regulatory cooperation occurs when governments work together to:

- reduce unnecessary regulatory differences
- eliminate duplicative requirements and processes
- share information and experiences
- look for opportunities to harmonize or align regulations and adopt international standards

Regulatory cooperation is beneficial for the Canadian economy because it helps lower costs for businesses and consumers while providing Canadians with more choice in what they buy. That is why regulatory cooperation is one part of the Government of Canada's effort to modernize the federal regulatory system. The goal of modernization is to:

- encourage the development of new products and technologies within the regulatory system
- make cross-border trade easier through more consistent rules across governments
- address overly complicated, inconsistent or outdated requirements
- control the administrative burden on businesses

## **Canada's current regulatory cooperation tables**

- Since 2011, Canada has worked with the United States through the Canada-United States Regulatory Cooperation Council to reduce

barriers to trade and economic growth.

- The federal government has been working with its counterparts in the provinces and territories on the Regulatory Reconciliation and Cooperation Table to remove trade barriers within Canada and promote trade across the country since the Canadian Free Trade Agreement was signed in 2017.
- Since the Canada-European Union Comprehensive Economic and Trade Agreement came into force provisionally in 2017, Canada has worked with its European partners to align regulatory frameworks through the Canada-European Union Regulatory Cooperation Forum.
- Following the signing of the Agile Nations Charter in 2020, Canada has collaborated with partners in Denmark, Italy, Japan, Singapore, the United Arab Emirates and the United Kingdom through the Agile Nations network to discuss common innovation challenges and priorities and to foster a global regulatory environment in which innovation can thrive.

## Overview of consultations

This consultation is the fourth in a series that the Treasury Board of Canada Secretariat (TBS) has undertaken since 2017 related to regulatory cooperation. This is first consultation to be hosted on the new Let's Talk Federal Regulations interactive online engagement platform that TBS is piloting. The platform is intended to:

- enable more interactive and dynamic engagement with stakeholders
- increase the awareness of regulatory modernizations initiatives
- help reach new stakeholders who may not have engaged in previous consultations

In total, 82 comments and submissions were received from 47 organizations,<sup>1</sup> either through the online platform or by email. Organizations that participated were principally industry representatives, including national and international companies and associations representing key industries in the Canadian economy. Non-profit organizations and consumer and advocacy groups also participated. The [Appendix](#) contains a list of all participating organizations.

## **Regulatory barriers and opportunities for further cooperation**

Stakeholders strongly supported further pursuit of regulatory cooperation within Canada and with international trade partners to:

- support the competitiveness of Canadian industry
- enable innovation
- support labour mobility

Respondents identified a wide range of specific barriers and opportunities to harmonize regulations or adopt international standards, including proposals for work plans for each of the four regulatory cooperation tables.

### **1. Canadian Free Trade Agreement's Regulatory Reconciliation and Cooperation Table**

The Government of Canada invited all stakeholders to share ideas for reconciling regulations across Canada where differences impose greater costs on businesses and industry. This consultation supports the federal government's participation in the Canadian Free Trade Agreement's Regulatory Reconciliation and Cooperation Table (RCT).

About 40% of the respondents, largely industry representatives and business councils, provided over 50 specific recommendations. The submissions supported continued efforts to harmonize regulations and enable labour mobility. They also included a success story where joint work under the RCT work plan led to the adoption of national building codes that were beneficial for industry.

Stakeholders identified a range of regulatory barriers and opportunities for cooperation, with concerns varying across sectors. For example:

### **Agriculture and agri-food**

- Waste collection and recycling programs for product packaging
- Spring weight restrictions on highways and consistent Class 1 truck driver's licence requirements across jurisdictions to reduce costs associated with the shipment of goods
- Agricultural water-monitoring requirements
- Alignment of pesticide requirements across federal and provincial and territorial jurisdictions
- Alignment of agricultural emissions offset initiatives across jurisdictions

### **Chemicals**

- Lack of alignment on regulated products and occupational health and safety regulations that affect the chemical and ingredient supply chains

### **Construction**

- Approaches to achieve net-zero carbon emissions for buildings
- Building codes, such as energy efficiency retrofit codes

### **Oil and gas**



- Mutual recognition of provincial certifications, registrations and standards

## **Transportation**

- Harmonization of vehicle emissions requirements
- Maximum weight thresholds of transport trucks
- Consistent waste management programs for designated materials used to manufacture vehicles
- Consistent rules across borders pertaining to emerging technologies such as automated vehicles, connected vehicles, advanced driving assistance systems, electric vehicles and their batteries

## **2. Canada–United States Regulatory Cooperation Council**

The Government of Canada invited all stakeholders to share ideas for harmonizing regulations with the US and potential work plan items for the Canada–United States Regulatory Cooperation Council (RCC). About three quarters of the participants responded with over 100 specific recommendations.

The submissions expressed the importance of aligning with the US and reinforced the need for the RCC to continue to play an active role.

Stakeholders also shared success stories, such as progress under the RCC toward harmonization on appliance energy efficiency standards and vehicle safety standards.

Stakeholders raised a very wide range of regulatory barriers and opportunities for alignment, with different focuses across the participating sectors. For example:

### **Agriculture and agri-food**

- Duplicative reinspection requirements of meat at the border

- Lack of alignment across many regulatory areas, such as:
  - food additives to introduce colour
  - newer products and technologies, such as the products of plant genome editing, plant-based food labelling, and emerging emissions-reducing technologies

## **Building materials and systems**

- Expanded cooperation on environment and climate change regulations
- Standards for chemical emissions in the manufacture of building materials

## **Chemicals**

- Regulations for the registration, manufacture, labelling and transportation of chemicals and hazardous products

## **Consumer products**

- Barriers associated with diverse sets of products across many regulatory areas, including the consistency of terms, names or classification (nomenclature), safety measures and targets for recyclable content

## **Medical**

- Regulations for:
  - drug manufacturing practices
  - testing requirements for drugs entering Canada
  - labelling and packaging for non-prescription drugs or natural health products
  - adopting international standards for medical devices

## **Transportation**

- Consistent vehicle emissions requirements
- Alignment of safety measures
- Emerging technologies such as automated vehicles and electric vehicle batteries

### **3. Canada–European Union Comprehensive Economic and Trade Agreement Regulatory Cooperation Forum**

The Government of Canada invited all stakeholders to share ideas for harmonizing regulations with the EU and potential work plan items for the Canada–European Union Comprehensive Economic and Trade Agreement Regulatory Cooperation Forum. About 15% of respondents, primarily made up of industry associations and two advocacy organizations, provided suggestions relevant to this table.

Industry organizations addressed a number of themes, such as:

- **Agriculture and agri-food:** a need to address regulatory requirements posing trade barriers
- **Chemical:** reducing the number of identifiers for the same substance
- **Medical:** broadening mutual recognition agreements to reduce duplicative inspections of products
- **Transportation:** mutual recognition of emissions and safety standards, including for emerging technologies

Advocacy organizations signaled opportunities to:

- advance animal welfare
- support the adoption of bicycle carrier cycles to reduce transportation-related emissions

## 4. Agile Nations

The Government of Canada invited all stakeholders to share ideas for potential regulatory innovation challenges and priorities that could be addressed in a future Agile Nations work programme. This invitation drew a submission in support of the 2021 Agile Nations Work Programme item on exploring information-sharing processes suitable for the approval of digital health software and medical devices.

## Supply chains

The importance of improving the security and resiliency of Canadian supply chains was a key concern for most participants. Several participants identified specific issues and shared ideas to strengthen supply chains in their submissions and comments. Many Canadian industries are integrated within North American and within international production processes. Many more Canadian businesses and consumers rely on the reliable movement of goods across Canada's borders. Disruptions to Canada's supply chains impact everyone.

Barriers and other challenges to the import and export of goods predate COVID-19. However, the pandemic introduced new stresses on Canadian supply chains and brought the fragilities of global supply chains to the forefront. After many production facilities around the world shut down early in the pandemic to contain the spread of the virus, the increase in the demand for goods put pressure on the supply of goods and on transportation networks, including shipping lines, airlines, ports, rail and trucking, that moved these goods. Although regulatory changes are unlikely to solve all the challenges introduced or exacerbated by the COVID-

19 pandemic, participants were clear in their comments that improving regulatory cooperation and making other regulatory changes are needed to strengthen supply chains.

Below are a few of the areas that participants identified as opportunities for regulatory cooperation and changes that would bolster Canada's supply chains:

- The inspection of goods at the border is an important way for the federal government to verify the safety of goods moving across it. However, agricultural goods such as meat, fresh fruit and vegetables can be inspected by various governments before they reach the border. Industry stakeholders saw additional inspections as unnecessary requirements that increase costs to producers and consumers by adding another step that slows down the shipment of goods. The Canadian Cattleman's Association, the North American Meat Institute, and the Fruit and Vegetable Growers of Canada recommended regulatory changes that would see governments in Canada and the US accept the inspections carried out by another government.
- The smooth and efficient movement of goods to and from Canada's border with the US and ports and then across Canada is essential for most of Canada's supply chains. Industry stakeholders noted that transportation delays at any point in the supply chain cost time and money. They can also lead to reputational risks for Canadian suppliers when they cannot reliably get their products to market, which in turn can discourage foreign investment. Additional points made were as follows:
  - For perishable goods, delays can lead to spoilage, which contributes to Canada's food insecurity. For these reasons, the Fruit and Vegetable Growers of Canada suggested establishing

protocols at Canada's ports that prioritize the movement of perishable and essential goods.

- To ensure that food can move uninterrupted across the country, the Canadian Produce Marketing Association recommended that provinces align their spring weight restrictions on highways so that trucks do not have to adjust their loads when travelling from one province to the next.
- To mitigate the impact of environmental and labour disruptions to rail service, Fertilizer Canada recommended that the Government of Canada encourage more competition in the railway sector and require longer-term collective agreements between railways and their employees.
- Along similar lines, the Canadian Vehicle Manufacturers' Association recommended that the federal government introduce enhanced legislative prohibitions and enforcement mechanisms to mitigate major disruptions to Canada's transportation infrastructure.

"In recent years, there have been a number of supply chain disruptions that have demonstrated a need for increased supply chain security and resiliency. While the COVID-19 pandemic has been a clear contributor, we have also experienced a number of labour disruptions at ports and railways, extreme weather events, and blockades impacting rail, ports, and border crossings. These disruptions carry long-term consequences, both in terms of costs related to delays and shipment backlogs and for the reputation and reliability of Canada's supply chain."

— Fertilizer Canada, email submission

# Responding to changing issues, technologies and needs

Several stakeholders took the opportunity to provide suggestions on specific regulatory irritants and on the considerations for regulatory modernization efforts more broadly. For several industry stakeholders, a key goal of regulatory modernization is for governments to:

- create regulatory certainty for businesses by not changing the rules often
- advance regulatory frameworks that support the development of new products and ideas

Regulatory cooperation is a key part of both efforts.

“The Canadian Chamber urges the government to prioritize regulatory modernization that will make Canada more competitive and attract new economic opportunities.”

— Canadian Chamber of Commerce, email submission

Across stakeholder feedback, environmental regulations were identified as an area where increased regulatory certainty and regulatory cooperation was needed. For example, Canadian Manufacturers & Exporters noted that changing requirements for what constitutes environmentally friendly production makes it difficult for manufacturers to invest in technologies if they will be non-compliant with any new standards by the time they are in place. Industry stakeholders contend that having predictable and harmonized environmental standards across multiple jurisdictions will allow industries to invest in their businesses and fight climate change as they recover from the COVID-19 pandemic.

“Businesses need more long-term regulatory clarity and stability to best and most efficiently invest in their strategies.”

— Canadian Manufacturers & Exporters, email submission

Industry stakeholders recommended increased flexibilities to encourage innovation and advance new technologies and ideas, especially when these new products do not neatly fit under an existing regulatory regime. Interim Orders issued by the Government of Canada during the pandemic to recognize international standards in various sectors was an example of such flexibility and cooperation that the Canadian Association of Petroleum Producers and Food, Health & Consumer Products of Canada pointed out. On the Let’s Talk Federal Regulations platform, Food, Health & Consumer Products of Canada suggested treating these Interim Orders and other regulatory flexibilities introduced during the pandemic as a “regulatory sandbox” in which new rules were temporarily applied within defined boundaries. Typically, a regulatory sandbox is a controlled environment where regulators can test a new product, service or regulatory approach; regulators then use the data from a sandbox to consider permanent changes to the design or administration of a regulatory regime. In the context of COVID-19 flexibilities, the next steps would be for regulators to evaluate which pandemic-related regulatory flexibilities have been effective and incorporate lessons learned into the regulatory regime.

When developing and implementing new regulations, stakeholders such as the Canadian Chamber of Commerce and Fruit & Vegetable Growers of Canada encouraged the government to adopt a competitive lens. The organizations indicated that this assessment should be government-wide in scope in order to assess the cumulative impact of regulations on business.



# Let's Talk Federal Regulations platform

This consultation on breaking down inter-jurisdictional regulatory barriers was the first consultation hosted on the Let's Talk Federal Regulations platform. Since the consultation launched in April 2022, TBS has also launched another consultation on a proposed Competitive Assessment Tool, to be used by the federal government when developing regulations. That consultation closed on September 30, 2022.

TBS is piloting the online engagement platform to:

- increase awareness of regulatory modernization initiatives
- bring stakeholders into the conversation on regulatory cooperation who may not be familiar with traditional regulatory consultation platforms, such as the Canada Gazette

By allowing participants to post comments and respond to each other's posts, as well as share more detailed experiences through stories, the platform's interactive online tools encourage conversation and open up new ways to share and express ideas. The platform also allows TBS to respond to participants' questions and monitor engagement in real time in order to adjust the tools and content to encourage more participation.

Participant feedback on the new platform has been positive. Although many organizations that participated in previous consultations provided input, organizations that were new to the platform also joined the conversation and shared their ideas. TBS will continue to experiment with various tools on the platform while evaluating its success in future consultations.

“Let’s Talk Federal Regulations is an important step for business to provide comments on how the government can make regulation a competitive advantage.”

— Canadian Chamber of Commerce, email submission

“The Let’s Talk Federal Regulations platform and consultation format exemplifies the best practices for stakeholder engagement described in the TBS *Guidelines for Effective Regulatory Consultations*.”

— Canadian Consumer Specialty Products Association, email submission

## Conclusion

The Government of Canada thanks all participants for their feedback. Submissions and comments have been shared with the appropriate departments and agencies. Input concerning regulatory cooperation issues and barriers to trade will be shared with the appropriate partners and considered when developing initiatives and commitments for the applicable cooperation tables. Updated work plans and other information will be posted on the [Regulatory cooperation website](#). Updates on the consultations will be provided on the Let’s Talk Federal Regulations platform.

If you would like to stay up to date on regulatory cooperation and modernization, please register on the Let’s Talk Federal Regulations platform or email us at [regulation-reglementation@tbs-sct.gc.ca](mailto:regulation-reglementation@tbs-sct.gc.ca) to join our distribution list to receive newsletters and other updates.

# Appendix: participating organizations

Some participants registered on the Let's Talk Federal Regulations platform without identifying whether they are an individual or organization. The following list contains all identified organizations (in alphabetical order).

- Air Conditioning, Heating, and Refrigeration Institute (AHRI); the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI), and the Canadian Institute of Plumbing & Heating (CIPH)
- Aseptico Inc.
- Association of Equipment Manufacturers
- Association of Home Appliance Manufacturers (AHAM)
- Atlantic Provinces Economic Council (APEC)
- BASF Corporation
- Canadian American Business Council
- Canadian Association of Petroleum Producers
- Canadian Cattlemen's Association (CCA)
- Canadian Chamber of Commerce
- Canadian Consumer Specialty Products Association (CCSPA)
- Canadian Horse Defence Coalition
- Canadian Manufacturers & Exporters
- Canadian Paint and Coatings Association (CPCA)
- Canadian Produce Marketing Association
- Canadian Sugar Beet Producers Association
- Canadian Vehicle Manufacturers' Association
- Chemistry Industry Association of Canada
- Composite Panel Association
- Cosmetics Alliance Canada
- CropLife Canada
- CSA Group

- D. J. Dalmotas Consulting, Inc.
- Engineers Canada
- ENMAX
- Fertilizer Canada
- Filière biologique du Québec
- First Lake Solutions
- Food, Health & Consumer Products of Canada (FHCP)
- Fruit & Vegetable Growers of Canada
- Global Automakers of Canada
- Global Cold Chain Alliance
- Household & Commercial Products Association
- Juvenile Products Manufacturers Association
- Legal Suites Inc.
- Maple Leaf Foods
- Motorcycle & Moped Industry Council
- Natural Food Colours Association (NATCOL)
- North American Meat Institute
- Our Greenway
- Personal Care Products Council
- Responsible Distribution Canada
- TCB & Associates
- Troy Corporation
- UniBoard
- VelocityEHS

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**1** The total for comments includes one individual who had no organizational affiliation.

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