

COMMITTEE of MINISTERS on INTERNAL TRADE
ANNUAL REPORT

THE
AGREEMENT
ON
INTERNAL
TRADE

July, 1994
to
March, 1996

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COMMITTEE of MINISTERS on INTERNAL TRADE ANNUAL REPORT

January 29, 1998

Executive Director's Message

The Internal Trade Secretariat has been in place since August 1995. Its task is to support the Committee of Ministers on Internal Trade in implementing and applying the Agreement on Internal Trade.

By March, 1996, 18 months after it had been ratified by First Ministers, the Agreement on Internal Trade had been in force for nine months. The main task of the Internal Trade Secretariat in the first nine months of operation was to put in place structures for administration and dispute resolution and to ensure that the committees and processes established by the Agreement are functioning. During this period the Secretariat also supported a number of ongoing negotiations, particularly to extend the Procurement Chapter to the wider public sector and to fulfil the major obligations under the Investment Chapter.

With the Agreement in force for only a short period, its initial impact is difficult to measure. However, all governments in Canada have made significant changes to their policies and activities to conform to the Agreement.

For the year 1996/97, at the direction of Ministers, the Secretariat's task is to:

- *continue to formalize and improve operating structures, including information gathering and the regular functioning of committees, task forces and negotiating panels;*
- *begin evaluating the Agreement with governments to develop ways to make it more effective and complete.*

*André Dimitrijevic
Executive Director
Internal Trade Secretariat*

COMMITTEE of MINISTERS on INTERNAL TRADE ANNUAL REPORT

Ministers of the Committee¹

John Manley, (co-chair), Minister of Industry, Canada	James E. Downey, (co-chair), Minister of Industry, Trade & Tourism, Manitoba
J. Weston Macaleer, Minister of Economic Development & Tourism, Prince Edward Island	Roger Bertrand, Ministre déléguée à l'Industrie et au Commerce, Québec
Al Palladini, Minister of Economic Development, Trade & Tourism, Ontario	Bernhard H. Wiens, Minister of Intergovernmental and Aboriginal Affairs, Saskatchewan
David G. Hancock Minister of Federal and Intergovernmental Affairs, Alberta	Dan Miller, Minister of Employment and Investment, British Columbia
Stephen Kakfwi, Minister of Resources, Wildlife & Economic Development, Northwest Territories	Camille Thériault, Minister of Economic Development & Tourism, New Brunswick
Manning MacDonald, Minister of Economic Renewal Agency, Nova Scotia	Judy Foote, Minister of Industry, Trade & Technology, Newfoundland & Labrador
Trevor Harding, Minister for Economic Development, Yukon	

¹ As of January 29, 1998

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1) Overview

a) This Report covers the period from July 18, 1994 to March 31, 1996...

...from the time the Agreement on Internal Trade was signed by First Ministers in July 1994 until nine months after the Agreement came into force in July 1995.

During this time:

the operational organization, including the Internal Trade Secretariat, was put in place;

C all governments took action to implement the terms of the Agreement; and

C work continued on the commitments to extend and consolidate the Agreement.

b) The Internal Trade Organizational Structure includes...

i) The Committee of Ministers on Internal Trade

The Agreement establishes a Committee of Ministers to oversee its implementation and operations.

During the period covered by this report, the Committee was co-chaired by Manitoba and Canada, who also co-chaired the negotiations leading to the Agreement. The Agreement calls for the chair of the committee to rotate among the parties. During the transitional first years after implementation, Ministers have decided to retain the original structure for continuity.

The Committee of Ministers meets at the call of the co-chairs, normally two or three times a year, to deal with major issues and review progress with the Agreement. The Committee of Ministers met three times during the period covered by this report (in April, 1995; November, 1995; and, March, 1996).

ii) Internal Trade Representatives

Governments have also established a committee of officials, Internal Trade Representatives, from all governments. The function of this group is to oversee the operation of the Agreement and the work program set out in it. Internal Trade Representatives meet as required, usually about six times a year. A list of Internal Trade Representatives is included in Section 5 of this report headed **For more information...**

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iii) Other Committees Under the Agreement

Several Chapters of the Agreement create committees of officials to carry out specific responsibilities outlined in the Chapter or assign responsibilities to existing committees of officials or to Ministerial level forums. For example, The Labour Mobility Chapter assigns overall responsibility for implementation of the Chapter to the Forum of Labour Market Ministers.

Appendix A lists the various committees with responsibilities related to the Agreement.

iv) The Internal Trade Secretariat

The Agreement establishes a permanent Secretariat to be headed by an Executive Director. In August, 1995, the Committee of Ministers appointed Mr. André Dimitrijevic as Executive Director of the Internal Trade Secretariat. The Executive Director is responsible to the Committee of Ministers for day-to-day activities related to the operation of the Agreement and supports the Committee of Internal Trade Representatives.

The Secretariat supports the Committee of Ministers, coordinates the work program to implement and extend the Agreement, manages the dispute resolution process and provides information about the Agreement to the public.

Appendix B contains the audited Financial Statements for the Secretariat as of March 31, 1996. Appendix C provides information on the staff of the Secretariat.

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c) When the Agreement was implemented on July 1, 1995...

...its provisions came into force automatically. All governments made whatever changes were necessary to policies, legislation, regulations and practices before or shortly after that date. For some governments - namely the federal government, Alberta, Nova Scotia, Newfoundland and Quebec - this meant passing specific implementing legislation. For other governments, changes to existing legislation, policies, regulations, or practices were sufficient to implement the Agreement.

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The specific provisions that came into force in July 1995 are described in Section 4 of this report headed **Progress - Chapter by Chapter**.

d) Disputes can be resolved...

...through a process established by the Agreement to allow governments to deal with disputes quickly, with minimum cost. It also deals with complaints from individuals or businesses who believe that governments are not meeting their obligations under the Agreement.

Early indications are that the process has been working at the initial stages. Internal Trade Representatives report that they have been able to deal successfully with a number of individual complaints at the first, consultative, stage in the process. The later stages in the process, involving formal reviews by independent panels, have yet to be utilized.

During the period covered by this report, 21 complaints were identified or formally initiated. Of these, 20 were resolved in some manner and one was yet to be resolved at the end of the reporting period. All of the complaints that were resolved were handled within the dispute resolution process of the applicable Chapter. The majority of complaints were under Chapter Five, Procurement (11 complaints) and Chapter Seven, Labour Mobility (6 complaints). None were raised to the Agreement wide level of the Chapter 17 dispute resolution procedures.

Awareness by Canadians and Canadian business of the dispute resolution provisions of the Agreement appears to be low. As awareness increases, the number and nature of disputes may change. The continuing effectiveness of the dispute resolution process will require evaluation as these changes occur.

The Internal Trade Secretariat and governments will need to make a special effort to ensure that Canadians and Canadian business are aware of the Agreement and its procedures for addressing complaints.

To obtain more information about complaint procedures contact The Internal Trade Secretariat or the Internal Trade Representative in your province.

e) The Agreement is evolutionary...

... , a first step in liberalizing trade within Canada. It eliminates many barriers, prevents new ones and establishes processes to address others.

The evolutionary nature of the Agreement and the commitment by governments to improve it are reflected in the provisions for further negotiations contained in most Chapters of the

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Agreement.

These negotiations have been underway since even before the agreement came into effect. In some cases, these negotiations were successfully concluded within the time lines specified in the Agreement. In other cases, the negotiations have proved more difficult and/or more complex than was anticipated when the time lines for their conclusion were originally established. Nevertheless, in many cases where the original time lines were not met, significant progress has been made in the negotiations and it can be reasonably assumed that future annual reports will report their successful conclusion.

More information on negotiations that have been completed and those still underway are contained in Section 3 headed **Progress - Chapter by Chapter**.

f) What next for 1996-97...

The Committee of Ministers intends to build on the Agreement on Internal Trade, as was the intent when it was signed in July 1994. Ministers believe that the Agreement is a unique opportunity for Canadian governments to work together to their mutual benefit.

The impact of the Agreement on the economy is difficult to measure at this early stage of implementation. This is compounded by the fact that most Canadians and Canadian businesses do not yet know enough about the Agreement to take full advantage of it. These are two related issues that will be addressed by governments over the next two years.

For 1996-97 Ministers also wish to:

- C Continue the process to make the Agreement more complete and effective (the program for the next year is outlined in the **Summary - The year ahead**, Section 4 of this report)
- C Survey governments on ways to improve the Agreement.
- C Complete outstanding administrative commitments in the Agreement.

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2) How does the Agreement work?

a) What is the Agreement?

The Agreement on Internal Trade is an agreement among the federal, provincial and territorial governments to reduce and eliminate barriers to the free movement of people, goods, services and investment within Canada.

It provides:

- C **general rules** which prevent governments from erecting new trade barriers and which require the reduction of existing barriers in areas covered under the Agreement;
- C **specific obligations in 10 economic sectors** - such as government purchasing, investment and labour mobility - which together cover a significant amount of economic activity in Canada;
- C for the **streamlining and harmonization of regulations and standards** (e.g. transportation, consumer protection);
- C a **formal dispute resolution mechanism** that is accessible to governments as well as individuals and businesses (under certain conditions);
- C **commitments to further liberalize trade** through continuing negotiations and specified work programs.

b) What does the Agreement cover?

The Agreement covers 10 economic sectors, 11 when the Chapter on Energy is concluded:

I) Procurement

- C Governments are not permitted to discriminate against suppliers of another province through means such as local price preferences, biased technical specifications, or unfair registration requirements or unreasonable time constraints.
- C Canadian suppliers can bid on virtually all contracts of government departments which exceed \$25,000 for goods and \$100,000 for services and for construction.
- C Purchases by municipalities, academic institutions, school boards and hospitals (the "MASH" sector) will be subject to the Chapter in the future.

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ii) Investment

- C This Chapter provides for the non-discriminatory treatment of Canadian businesses regardless of location or place of incorporation, limits local presence and residency requirements as a condition of carrying on business or making an investment and restricts the use of local content, purchasing and sourcing requirements.
- C A Code of Conduct prohibits the use of incentives to attract companies from one jurisdiction to another (“job-poaching”) and discourages the use of subsidies to sustain uneconomic enterprises.
- C Corporate registration and reporting requirements will be reconciled to ease the compliance burden for firms conducting business in more than one jurisdiction.

iii) Labour Mobility

- C Residency requirements as an employment condition or as a condition of eligibility for licensing of a worker are no longer permitted.
- C Practices regarding the licensing, certification or registration of workers must relate principally to competence, must be published and must not result in unnecessary delays or burdensome costs.
- C A process is established to achieve mutual recognition of occupational qualifications and reconcile differences in occupational standards that result in barriers.

iv) Consumer Related Measures and Standards

- C Governments are required to reconcile differences in consumer-related measures to ensure that consumer protection does not create disguised barriers to trade.
- C Governments shall not charge discriminatory fees, and, except where necessary for consumer protection, shall not use residency or local presence requirements as a condition for licensing, registration or certification as a supplier.
- C A schedule is established to harmonize specific consumer protection measures including direct selling, upholstered and stuffed articles and cost of credit legislation.

v) Agriculture and Food

- C Existing measures that have been identified as technical barriers to trade are addressed in this Chapter.
- C New measures that would restrict trade are subject to a standstill provision except where

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such measures are necessary for health reasons.

- C A process is established to reconcile certain agricultural regulations and standards.
- C Governments will review programs such as supply management, transportation subsidies, and price and income stabilization to eliminate or reduce barriers to trade.

vi) Alcoholic Beverages

- C Discriminatory government measures and practices that relate to alcoholic beverages are removed except for some measures for wine and beer that will be reviewed and/or removed over the next few years.

vii) Natural Resources Processing

- C With some exceptions, discriminatory measures related to the production and sale of forestry, fisheries and mineral resources are removed and new barriers prohibited.
- C Governments are committed to reconciling regulations and standards that might have an impact in the trade of natural resources.

viii) Communications

- C Governments shall not discriminate in providing access to and use of public telecommunications networks and services.
- C Governments shall not allow monopolies to use their economic power to engage in anti-competitive behaviour in their non-monopoly markets.

ix) Transportation

- C With some exceptions, discrimination in government measures respecting transportation services is removed.
- C A process is established to reconcile transportation regulation and standards.

x) Environmental Protection

- C Governments are committed to harmonizing environmental regulations and standards that may affect internal trade.
- C Governments are prohibited from relaxing their environmental regulations and standards to attract business.

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c) How are disputes addressed?

Governments currently are applying the rules of the Agreement to all of the activities covered under its terms. Their commitments under the Agreement are in place and the process to extend and improve the Agreement is underway.

- C Any government measure or practice in an area covered by the Agreement that creates a barrier to trade or commercial activity or discriminates against a person or business based on location should be brought to the attention of the responsible government.

This should be done by contacting the Internal Trade Representative in your province or territory (listed in section 5 headed **For more information...**) or the Internal Trade Secretariat.

- C Internal Trade Representatives will be able to determine:

- if the issue can be resolved by the Agreement;
- how it should be done; or
- if it is a matter that should be raised with Ministers for future consideration.

- C If the matter cannot be directly resolved through the Agreement, the Internal Trade Representative will explain why and provide advice on how to deal with the issue.

- C If a person or business formally requests a government to deal with an issue in writing, and if the government declines, they may be able to initiate a complaint on their own provided that the person:

- has acted within two years of learning of any alleged inconsistent measure;
- has incurred loss or damage; and,
- can convince an independent screener that the complaint should proceed.

Procedures for initiating a complaint are available from the Internal Trade Representatives or the Internal Trade Secretariat.

3) Progress - Chapter by Chapter

a) Parts I - III General, Constitutional Authorities, General Rules

These parts of the Agreement establish a general framework for its operation. No further action is required to implement them.

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b) Part IV Specific Rules

I) Procurement (Chapter Five)

- C Negotiations to include the broader public sector (municipalities and municipal organizations, school boards and publicly-funded academic, health and social service institutions) in the Agreement were to be completed by July, 1995. The issues and the consultations required proved more complex than anticipated and negotiations are still underway.
- C Discussions aimed at reducing the number of government entities and services currently excluded from coverage under the Chapter are in progress.
- C As of the end of the reporting period, a Task Force to develop a common electronic tendering system was close to the stage of identifying and selecting suppliers.

ii) Investment (Chapter Six)

All of the deadlines within the period covered by this report for the completion of work towards the obligations under the Chapter have been met. Specifically:

- C Each jurisdiction has provided its list of its remaining local presence and residency requirements for inclusion in Annex 604.4 (Local Presence and Residency Requirements) and governments have initiated the process of examining these measures in order to make recommendations to the Ministers as to their retention, removal or replacement.
- C A work plan has been prepared for reconciling extra-provincial registration and reporting requirements and substantial progress has been made towards negotiation of specific obligations that will result in the reconciliation of these requirements
- C A process has been put in place for preparation of the annual report on incentives referred to in Annex 608.3

iii) Labour Mobility (Chapter Seven)

Guided by a comprehensive work plan and detailed communications strategy, implementation of the obligations under this Chapter has proceeded well:

- C All governments have taken significant measures to seek compliance with the obligations of the Chapter by their own departments, other government levels, other government bodies and non-government bodies. Consultations with all affected

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bodies have been initiated and are continuing.

- C Guidelines have been prepared which lay out a process for mutual recognition of occupational standards and reconciliation of differences between standards.
- C Procedures for handling complaints under the chapter have been put in place and a number of complaints have been resolved at the informal level.

iv) Consumer Related Measures and Standards (Chapter Eight)

- C Agreement has been reached to harmonize direct sellers legislation in the areas of cancellation rights and single contract and all provinces have undertaken to adopt new legislation by July 1, 1996.
- C On the issue of cost of credit disclosure the provinces and the federal government have agreed to standardize a minimum disclosure requirement and the methods by which cost of credit is calculated and reported.
- C Issues regarding duplicate regulation of upholstered and stuffed articles have been resolved among those Parties with relevant legislation.
- C A report on the issue of cooperative enforcement of consumer protection measures has been initiated and will be submitted to consumer ministers in September, 1996.

v) Agriculture and Food (Chapter Nine)

- C Effective July 1, 1995, there is a standstill on new or amended measures that might restrict internal trade in agriculture or food goods unless justified for health protection reasons.
- C Technical barriers to trade have been identified and officials are working on removing these barriers.
- C Technical trade barriers with policy implications have also been identified and work on removing these barriers continues.

vi) Alcoholic Beverages (Chapter Ten)

- C Most discriminatory government measures and practices that relate to alcoholic beverages were eliminated effective July 1, 1995. Measures which have been excluded or on which there are reservations are being reviewed and a plan prepared to eliminate them over the next few years. These measures include: differential floor pricing for beer in Eastern Canada; grape content requirements; and, differential

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costs of service for beer in Central Canada.

vii) Natural Resources Processing (Chapter Eleven)

- C The obligations under this Chapter generally do not require any significant new action by governments. Since the chapter came into force no new impediments to trade in the area of processing of natural resources have been added.

viii) Energy (Chapter Twelve)

- C Governments are continuing negotiations to conclude an Energy Chapter. Substantial progress has been made on completing the negotiations regarding all energy goods and services with the exception of electricity. Current negotiations focus on the provisions governing the transmission of electricity across provinces to third party markets.

ix) Communications (Chapter Thirteen)

- C As of the July 1, 1995, when the Agreement took effect, this Chapter reinforced and confirmed non-discriminatory access to and use of public telecommunications networks and services that already exists in Canada's largely barrier free market in communications. No further action is required to expand or extend this Chapter.

x) Transportation (Chapter Fourteen)

- C A National Safety Code for Motor Vehicles was put in place on January 1, 1996 with the exception of one section - the Compliance Review Safety Rating - that is currently under development. Provinces will incorporate this code into their regulations and standards.
- C Effective July 1, 1995, the Chapter prevents the establishment or maintenance of any measure that creates an obstacle to trade in transportation services, or discriminates against out-of-province carriers.
- C Governments have agreed to eliminate extraprovincial truck carrier operating authorities.
- C A harmonized arrangement is in place for fuel and sales tax and vehicle registration administration is in place.
- C A task force on the future regulation of the intercity bus industry has been established.

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xi) Environmental Protection (Chapter Fifteen)

- C Effective July 1, 1995, the Agreement prevents any new environmental protection measures that cause unwarranted barriers to trade. Governments may still adopt environmental protection measures that affect trade as long as these measures are not more trade restrictive than necessary to achieve the environmental objective.

C) Part V Institutional Provisions and Dispute Resolution Procedures

I) Institutional Provisions (Chapter Sixteen)

- C The Committee on Internal Trade has been established supported by a Secretariat in Winnipeg.
- C As of the end of the reporting period, the Working Group on Adjustment had not yet been established.

ii) Dispute Resolution Procedures (Chapter Seventeen)

- C The dispute resolution process required under the Agreement is in place.
- C Some administrative matters, such as the development of a roster of potential dispute panellists and the appointment of an individual to screen private party complaints against governments, have not been completed by every Party.

d) Part IV Final Provisions

I) Final Provisions (Chapter Eighteen)

- C Reporting by the Parties on regional economic development programs is in progress.

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4) Summary - The year ahead

a) General

- C Survey governments on ways to improve the Agreement.
- C Complete outstanding administrative commitments in the Agreement
- C Develop a communication strategy to increase awareness of the Agreement among Canadians and Canadian business.
- C Survey governments and the private sector on the need for and timing of further negotiations related to internal trade.

b) Procurement

- C Continue negotiations to include the broader public sector in the Procurement Chapter and to reduce exclusions of both government entities and services.
- C Continue the process to implement a common electronic tendering system.

c) Investment

- C Complete negotiations to reconcile corporate registration and reporting requirements to reduce the compliance burden for firms doing business in more than one jurisdiction.
- C Continue the process of examining any remaining local presence and residency requirements.
- C Begin a process to clarify issues concerning prohibited incentives.
- C Develop the first annual report on incentives as required by the Agreement.

d) Labour Mobility

- C Initiate a process to seek compliance by regulatory bodies with the Chapter and support their efforts through the development of implementation guidelines, the collection and distribution of mobility - related information and other initiatives.
- C Continue the process of reconciling occupational standards and recognizing worker occupational qualifications.

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e) Consumer Related Measures and Standards

- C Continue the process of harmonizing consumer protection measures as specified in the Agreement.
- C Develop proposals to improve cooperation among jurisdictions on enforcing consumer related measures.

f) Agriculture & Food

- C A number of barriers to trade will be included in the Agreement by September 1, 1997. These issues are now under discussion.
- C Ministers of Agriculture will complete a review of the scope and coverage of the Chapter by 1st September, 1997 with the objective of achieving the broadest possible coverage and further liberalizing internal trade in agriculture and food goods.

g) Alcoholic Beverages

- C Governments will continue negotiations to reduce the number of exemptions under this Chapter.

h) Natural Resources Processing

- C Initiate the process mandated by the Chapter to modify remaining measures that create barriers and to reconcile regulations and standards that might have an impact on the trade of natural resources.

I) Energy

- C Continue negotiations on a Chapter on Energy.

j) Communications

- C No additional work is required under this Chapter.

k) Transportation

- C Initiate a process to revise the Canadian uniform bill of lading standard.
- C Continue discussions to harmonize operating regulations for scheduled bus service and economic deregulation of chartered bus services and bus parcel express.

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1) Environmental Protection

- C Prepare a list of environmental measures that do not conform with the Agreement.

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5) For more Information...

a) Contact the Internal Trade Secretariat

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b) Contact an Internal Trade Representative

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**COMMITTEES AND WORKING GROUPS
WITH RESPONSIBILITIES RELATED TO THE
AGREEMENT ON INTERNAL TRADE**

General

Committee on Internal Trade
Internal Trade Representatives
Working Group on Adjustment

Chapter Five: Procurement

Procurement Negotiating Table
Working Group on Electronic Tendering

Chapter Six: Investment

Working Group on Investment

Chapter Seven: Labour Mobility

Forum of Labour Market Ministers
Labour Mobility Coordinating Group
Labour Mobility Information Initiative Task Team
Canadian Council of Directors of Apprenticeship Task Team
Council of Ministers of Education for Canada
Advisory Committee of Deputy Ministers of Education Working Group

Chapter Eight: Consumer Related Measures and Standards

Federal-Provincial-Territorial Ministers Responsible for Consumer Affairs
Committee on Consumer Related Measures and Standards (Consumer Measures Committee)

Chapter Nine: Agricultural and Food Goods

Ministers of Agriculture

Federal-Provincial Agri-Food Inspection Committee

Federal-Provincial Trade Policy Committee

Chapter Ten: Alcoholic Beverages

Alcoholic Beverages Working Group

Chapter Eleven: Natural Resources Processing

Working Group on Processing of Natural Resources

Chapter Twelve: Energy

Council of Energy Ministers

Energy Sector Negotiating Table

Chapter Thirteen: Communications

Committee on Communications-Related Measures

Chapter Fourteen: Transportation

Council of Ministers Responsible for Transportation and Highway Safety

Canadian Council of Motor Transport Administrators

Chapter Fifteen: Environmental Protection

Canadian Council of Ministers of the Environment

Appendix B

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The Internal Trade Secretariat provides administrative and operational support to the Committee of Ministers responsible for the Agreement on Internal Trade. The Agreement aims to reduce and eliminate barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, stable domestic market.

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