



THE MACDONALD-LAURIER INSTITUTE



COMMENTARY/COMMENTAIRE

Freeing Canadians to Move and Trade

By Brian Lee Crowley

The State of Play

Employers in Canada face a worsening problem of finding and recruiting the employees they need. In the aftermath of the recession, people who know little about the market for workers may find this a surprising statement. But the reality is that employers' difficulties have little to do with today's unemployment rate, and a great deal to do with the ageing of the work force and the barriers that exist to workers moving to where their talents are most needed and valuable.

One part of the problem is population ageing and its effects on the supply of available workers. But it's also important to focus on the other part of the equation, namely the barriers that exist to workers moving to where the jobs are, particularly within Canada. This is a topic my institute, the Macdonald-Laurier Institute, has spent a lot of time not just studying, but looking for solutions to.

Why trade?

Freedom of movement of workers is no different in principle than freedom of movement of goods and services; in other words, this is an issue of free trade both within Canada, and across our border. The place to start in understanding why barriers to trade (and the movement of people, which is a subset of this issue) are a problem is with the whole question of why trade is valuable.

There are four kinds of things that people trade in: goods, services, capital and people. The reasons why we want to be able to trade them all are exactly the same in each case. Trade allows us to move all of these things to the place where they can generate the most return. If there is a shortage of wine in Japan and a surfeit of it in Australia, then allowing trade in wine between the two means vintners in Australia and tipplers in Japan are both made better off. Ditto if the problem is pension funds sitting on billions in retirement savings in Canada, but a very small local market in which to invest them, while infrastructure and other projects go begging for capital in countries with less access to capital. Finally, if the local car plant wants to put on a third shift, but all the available workers are already employed elsewhere, but there are unemployed workers

*Brian Lee Crowley is Managing Director of the Macdonald-Laurier Institute.
Based on remarks to the Talent Mobility Symposium sponsored by the Canadian Employee
Relocation Council (CERC) in Toronto on December 3, 2010.*

with no job prospects in Mexico or India, then allowing them to come to the jobs immediately makes their labour valuable to themselves and their new employer in a way it was not when they were at home.

Trade creates new value without necessarily creating anything new. In all these cases, the supply of desired goods and capital and workers already existed, but when they were shut out of important markets, their value was much lower than when they could move to where they were worth the most. In other words, trade moves things to their highest value added uses.

That's why I like to say that trade is the economic equivalent of the philosopher's stone. The original philosopher's stone was a magic substance sought by every alchemist in the Middle Ages that could supposedly turn base metals such as lead into gold. Lead was cheap and plentiful. Gold was rare and highly prized. A substance that could transform lead into gold would have created huge wealth.

Alchemists never found the philosopher's stone. But economists did: trade. It takes low value wine in Australia and turns it into a much more valuable commodity in Japan. It takes unemployed or underemployed workers from places where there are few opportunities and places them where their skills can create new value for themselves and their employers. And because trade doesn't necessarily require anything new to be made, but simply creates new value by moving existing goods and services, capital and workers, to their highest value added uses, the value of international trade has quite consistently grown faster than national economies, as people learn that they can often get better value for what they produce by sending it to the place where it fetches the best price, wherever in the world that may be.

Of course that's not the only reason why trade matters, especially for workers. The other is that the ability to take your labour and your skills and put them to work wherever you think the circumstances are best and more desirable for you is a key part of human freedom. We create ourselves in part through the work we do and the trade or profession that we choose for ourselves, and barriers to the free movement of workers are in fact barriers to the fullest development of individual people. Yet such full flowering of each individual is, in my view, the highest good at which all societies can aim, and is supposed to be the underpinning of free democratic regimes like our own.

Now I've talked about trade as if it takes place only between countries, but we know this isn't the case. Trade takes place within countries as well. Albertans sell oil and gas, British Columbians sell minerals and port and other transportation services, Ontarians sell manufactured goods like cars. Capital is accumulated in major cities, and then invested in diamond mines in the Northwest Territories or bridges to PEI. And workers have traditionally moved from places with little opportunity to places where there are lots of jobs. And yet even though we are a single country, there remain important

barriers to such trade within Canada. Among the most significant barriers are those regarding the free movement of people, an issue, as we have seen, of human freedom at least as much as of economic efficiency.

Why federalism?

Most people would recognise that this is a peculiar state of affairs. International trade meets barriers because countries are sovereign entities that can throw up barriers at their borders. But why do we have such barriers within the country?

The answer is that it is due largely to the way we have practised federalism since 1867. Most of the barriers (but not all) that we encounter in Canada are created by the provinces. In the case of the free movement of workers, virtually all of the barriers are provincial.

It wasn't supposed to be this way. The theory behind federalism is very simple: In economic terms it is a way to eat your cake and have it, by creating a national barrier-free economic space, allowing economic efficiency, while also allowing the continued existence of local linguistic, religious, ethnic and other identities. But because we have acquiesced in the emergence of extremely powerful provinces in Canada, and have allowed important federal powers to atrophy through disuse, we have allowed a state of affairs in which Canadians are prevented from exercising their freedom and making themselves better off because of barriers to their ability to move to take up jobs, or to sell their goods and services on equal terms throughout the country. In other words, we got the preservation of local identities, but not the creation of a barrier-free national economic space.

Ironically the Fathers of Confederation were quite clear that Confederation was supposed to put an end to exactly this kind of barrier. Listen to George Brown, one of the most influential of those who created this country, speaking about the conditions Confederation was intended to remedy:

If a Canadian goes now to Nova Scotia or New Brunswick, or if a citizen of these provinces comes here, it is like going to a foreign country. The customs officer meets you at the frontier, arrests your progress, and levies his imposts on your effects. But the proposal now before us is to throw down all barriers between the provinces—to make a citizen of one, citizen of the whole; the proposal is that our farmers and manufacturers and mechanics shall carry their wares unquestioned into every village of the Maritime provinces; and that they shall with equal freedom bring their fish, and their coals, and their West India produce to our three million of inhabitants. The proposal is that the law courts, and the schools, and the professional and industrial walks of life, throughout all the provinces, shall be thrown equally open to us all.

What are we doing about it?

I don't mean to suggest that we are unaware of the problem. Much effort has been expended on it over the last 15 years or so. But alas progress has been meagre. Here is a review of the efforts that have been undertaken to remove barriers to Canadians exercising their economic freedom across the land:

Agreement on Internal Trade (AIT)

The AIT was negotiated between the provinces and Ottawa just after the failure of the Charlottetown Accord. The assumption behind the AIT is that the provinces that have created the barriers will agree to negotiate them away. And while the AIT clearly represents some progress relative to the status quo ante, its defects far outweigh its strengths.

Because it is a process that proceeds by consensus, the most recalcitrant provinces have an effective veto over progress. They simply need to do nothing and nothing will happen. Thus it is, for example, that 15 years after the signing of the AIT, the energy chapter remains blank. Moreover, the agreement does not proceed from the assumption that the guiding principle should be free trade among Canadians. It starts from the opposite principle, namely that free trade should only be applied in those areas the provinces specifically agree to.

The weakest part of the agreement, however, is not the specific rules, but the mechanism for settling disputes about the rules. The value of the rules to business and labour is the certainty that the rules create. But the AIT's mechanism for enforcing its own rules is incredibly weak.

If you are wronged by a provincial barrier to trade that violates the agreement, you are not entitled to bring an action under the AIT. You must apply to your home province to intervene with the offending province; your home province then makes a political decision about whether it is in their interest to take up your case. If they agree to do so, a long period of negotiation follows. At the extreme, the provinces may agree to strike a dispute settlement panel, which will examine the barrier and the applicability of the agreement. But even if all of this results in a clear decision that the offending province is in the wrong, there is no mechanism to force it to take action, and provinces can and do simply ignore rulings that go against them. Provinces may take retaliatory action against offenders, but this has never happened and is undesirable in itself, since the last thing we want is tit-for-tat protectionism within the country. The small fines that theoretically could be imposed on offending provinces are too small to change the mind of an obdurate province.

All of these flaws render the dispute settlement mechanism virtually useless for most business purposes. A dispute settlement mechanism that is weak, inefficient, politicized and unpredictable is one that will not be used. Recent reforms are too little too late and leave the fundamental vices of this system intact.

Trade, Investment and Labour Mobility Agreement (TILMA)

Those provinces most committed to the principles of internal free trade, recognizing the weaknesses of the AIT, have opted to create a more stringent regime on a regional basis. BC and Alberta thus signed the TILMA several years ago. The content of this agreement is more promising. It assumes the basic principle is free trade, so that unlike the AIT, the TILMA says that unless a specific decision is made to exclude a barrier or a field from the agreement, it is covered by the principle of free trade. The TILMA also provides for a more robust dispute settlement mechanism. But its chief defect lies in its regional nature: instead of helping to bring all Canadians businesses and workers under a uniform set of liberalizing rules, it reinforces the division of the country into competing camps, some committed to free trade, and some to protectionism. The TILMA, whatever its other merits, is therefore not a solution to our national problem. Even the attempts to extend it to other provinces, such as next door Saskatchewan, have resulted in efforts to water down its market opening principles.

Others

Other efforts, such as the recent agreement between Quebec and Ontario, or the Council of the Federation's attempts to liberalise trade among the provinces, all suffer from one or more of the same defects: protectionism, regionalism, lack of certainty, politicisation of decision making. They are all premised on the idea that the way to liberalise trade, including the free movement of workers within Canada, is by asking the governments that have created the barriers in the first place to agree to give them up. All of these efforts have proven inadequate to the task of a national barrier-free economy.

What's the solution?

Our view at the Macdonald-Laurier Institute is that the solution to this problem has been staring us in the face for years. Go back to what I said about the reasons why federalism is a desirable system, and the fact that we never got the barrier-free economic space that George Brown and his colleagues thought they were creating.

Note, though, that the failure to get the economic freedom that was promised is not because Brown and the other Fathers of Confederation didn't provide the tools. They did. The BNA Act (or the Constitution Act, 1867 if you prefer) did what it was supposed to do and granted the new government in Ottawa all the powers it needs to sweep away most barriers to trade within the country, and recent court decisions have clearly indicated that after all these years the federal power to regulate trade and commerce, as well as the general power to legislate for the peace order and good government of the whole Dominion, are both intact and available for use. It only awaits a government with the nerve to tackle parochial interests in the name of the national good.

Now it is not our view that this could eliminate every barrier to movement. The feds do not have the power to make provinces impotent. They do, however, have the power to hold the provinces to account, to make them demonstrate that any barriers

they do erect are demonstrably justified exercises of provincial power and that those exercises of provincial power are designed to do the absolute minimum damage possible to the economic union of the country. And finally the feds have the power to let aggrieved parties, such as business, launch suits in the ordinary courts before non-political judges who are there to define and apply the law, not protect petty provincial interests.

It has always been the case, however, that the forces of fission are strong in Canada, the forces of fusion timorous and tentative. In Australia a sense among the states that they could not alone remove internal barriers to trade was an obstacle to facing the highly competitive world of the 21st century. In Canada it will take an alliance of business and other forces seeking to up Canada's competitive game to force Ottawa's hand and make progress possible.

Over to you.





THE MACDONALD-LAURIER INSTITUTE



“True North in Canadian Public Policy”

The Macdonald-Laurier Institute for Public Policy exists to make poor quality public policy unacceptable in Ottawa. We will achieve this goal by proposing thoughtful alternatives to Canadians and their political and opinion leaders through non-partisan and independent research and commentary.

The Macdonald-Laurier Institute is an independent, non-partisan registered charity for educational purposes in Canada and the United States. We are grateful for support from a variety of foundations, corporations and individual donors. Without the support of people across Canada and the United States for our publications on policy issues from aboriginal affairs to democratic institutions; support for our events featuring thought and opinion leaders; and support for our other activities, the Institute would not be able to continue making a difference for Canadians. For information on supporting the work of the Macdonald-Laurier Institute by making a charitable donation, please visit our website at www.macdonaldlaurier.ca/supportMLI

The notion that a new think-tank in Ottawa is unnecessary because it would duplicate existing institutions is completely mistaken. The truth is there is a deep dearth of independent think-tanks in our nation's capital.

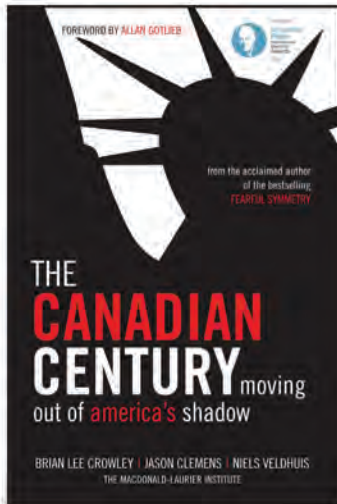
*Allan Gotlieb, former Deputy Minister of
External Affairs and Ambassador to Washington*

To surmount the enormous challenges of getting Canada's place in the world right and taking advantage of changing opportunities, we need more ideas, input, discussion and debate in Ottawa--that is where the crucial decisions about our future are made. That's why MLI is so vital to Canada today.

*Hon. James S. Peterson, former Minister of International Trade and Member of
Parliament for 23 years*

MLI has been registered by the IRS and CRA as a charitable organisation for educational purposes.

**Making a
Name for
Ourselves!**



**Sir Antony
Fisher**
International
Memorial
Awards

**Winner, Sir Antony Fisher International Memorial Award
Best Think Tank Book in 2011
as awarded by the Atlas Economic Research Foundation**

**“Top 20 New Think Tank” in the world for 2010
as rated by the University of Pennsylvania**



What people are saying about MLI:

Very much enjoyed your presentation this morning. It was first-rate and an excellent way of presenting the options which Canada faces during this period of “choice.” ... Best regards, and keep up the good work.

Preston Manning, President and CEO, Manning Centre for Building Democracy

Congratulations all for the well deserved recognition. You’ve come a long way in a very short period of time.

Marc Patrone, Commissioner, CRTC

The reports and studies coming out of MLI are making a difference, and the Institute is quickly emerging as a premier Canadian think tank.

Jock Finlayson, Executive Vice President of Policy, Business Council of BC

In the global think-tank world, MLI has emerged quite suddenly as the “disruptive” innovator, achieving a well-deserved profile in mere months that most of the established players in the field can only envy. In a medium where timely, relevant, and provocative commentary defines value, MLI has already set the bar for think-tanks in Canada.”

Peter Nicholson, former senior policy advisor to Prime Minister Paul Martin

Where you’ve seen us:

THE GLOBE AND MAIL
CANADA'S NATIONAL NEWSPAPER • FOUNDED 1859



**THE
WALL STREET
JOURNAL**

THE HILL TIMES

NATIONAL POST

**The
Economist**

and in other major Canadian and international media

www.macdonaldlaurier.ca