



Not Admitted Free

Interprovincial trade barriers in alcohol



**CANADIAN
CONSTITUTION
FOUNDATION**

June 2018

Funding for research provided in part by the Institute for Liberal Studies' Summer Fellowship program.

The Canadian Constitution Foundation (CCF) is a registered charity, independent and non-partisan. We defend the constitutional rights and freedoms of Canadians in the courts of law and public opinion.

The Canadian Constitution Foundation
514 —11 Ave SW, Suite 200
Calgary AB T2R 0C8

Charitable Number: 86617 6654 RR0001
The CCF is also a 501(c)(3) public charity in the U.S.

Cover: Modified "Taps and barrels " by Ruth Hartnup under [CC 2.0](https://creativecommons.org/licenses/by/2.0/).

Table of Contents

About Us	5
About this Paper.....	7
Introduction	8
Section 1: The Economic Theory of Voluntary Exchange	13
Section 2: Trade Barriers within Canada	18
Section 3: Interprovincial Trade and Canadian Law	23
Section 4: How We Scored the Provinces	30
Section 5: The Provinces	35
British Columbia.....	36
Alberta	40
Saskatchewan.....	44
Manitoba	48
Ontario	50
Quebec	54
New Brunswick	58
Nova Scotia.....	62
Prince Edward Island	66
Newfoundland & Labrador.....	69
Section 6: The Cost of Trade Barriers in the Liquor Industry	74
Sources, Acts/Agreements Cited & Statistics	80

About us



The Canadian Constitution Foundation (CCF) protects the constitutional freedoms of Canadians through education, communication and litigation.

The CCF is grateful for the help and support given by our donors, volunteers, clients, board and advisory board members, and staff.

Our Priorities:

Individual freedom — the “fundamental freedoms” in section 2 of the *Charter*:

- Freedom of association;
- Freedom of peaceful assembly;
- Freedom of conscience and religion;
- Freedom of thought, belief, opinion and expression.

Economic liberty: the right to earn a living and to own and enjoy property.

Equality before the law: Section 15 of the *Charter of Rights and Freedoms* guarantees equal rights and equal opportunities for all Canadians.

About the Author



Gianfranco Terrazzano

Gianfranco Terrazzano is a public policy professional and was a summer fellow for the CCF in 2016. Gianfranco has obtained a Masters in Public Policy and a B.A. in Economics from the University of Calgary. Gianfranco has written on economic, social, and foreign policy issues for newspapers and publications across Canada.

About this Paper

About this Paper

The CCF has been fighting in the courts of law and public opinion for Canadians' constitutional right to trade freely with each other. This paper will only briefly touch on this legal work in cases like *R. v. Comeau* and the complaint under the *Agreement on Internal Trade* (AIT) by Artisan Ales – our [successful enforcement](#) of interprovincial trade rules against the province of Alberta. Rather, this paper complements the CCF's litigation work by explaining the economic and legal case for free trade within Canada, with specific attention to the trade barriers within Canada's liquor industry.

This paper has two objectives. The first is to make the economic and legal case for free trade within Canada. Section 1 provides the economic theory for free trade. Section 2 provides empirical evidence that illustrates the costs of Canada's interprovincial trade barriers. Section 3 addresses the constitutional argument for free trade within Canada, and the legal follies that have allowed for interprovincial trade barriers.

The second objective of this paper is to outline the many interprovincial trade barriers specifically affecting Canada's liquor industry, along with ranking the provinces to determine the degree of trade protectionism generally within each jurisdiction. Section 4 provides the ranking methodology, while section 5 contains the analysis. Section 6 concludes the paper by describing who is made worse off by the interprovincial trade barriers in Canada's liquor industry.

Introduction

“I see in the not remote distance, one great nationality bound, like the shield of Achilles, by the blue rim of ocean – I see it quartered into many communities – each disposing of its internal affairs – but all bound together by free institutions, free intercourse, and free commerce.” ([Thomas D’Arcy McGee, 1860](#))

When Canadians think about trade between provinces, many imagine a scenario where businesses across the country can trade freely, providing all Canadians with the goods that they wish to purchase. Most imagine a united country where it is more advantageous to trade with other provinces than with other nations. In fact, a recent poll conducted by Ipsos for the Canadian Constitution Foundation (CCF) found that 94% of Canadians support allowing Canadians to transport legally-purchased products between provinces; 95% support allowing Canadian businesses to sell their products directly to people in any province; and 96% support allowing Canadians with a professional qualification in one province to work in all provinces.

This is unfortunately not the case. There are, instead, significant trade barriers within Canada that cost Canadians billions of dollars.

The case of [R v. Comeau](#) is one of many examples of how interprovincial trade barriers have harmed Canadians. In 2012, retired New Brunswick steelworker Gérard Comeau felt the absurdity of Canada’s interprovincial trade barriers when he tried to bring cheaper Quebec alcohol into his home province. He was stopped by the RCMP and fined \$292.50. Fortunately, Comeau decided to challenge his fine in court. With the help of the CCF and his pro bono lawyers, Ian A. Blue, Q.C., Arnold Schwisberg, Mikael Bernard, Gérard Comeau’s case for free interprovincial trade was tried and won in the provincial court.

It was then appealed all the way to the Supreme Court of Canada, who unfortunately declined to implement the Fathers of Confederation’s vision of a single economic market, as set out in Section 121 of the *Constitution Act, 1867*.

The Constitutional Issue

[Section 121](#) of the *Constitution Act, 1867*, provides that “All articles of the growth, produce or manufacture of any one of the provinces shall, from and after the Union, be admitted free into each of the other provinces.”

This provision was intended to ensure the new country of Canada would be a single economic unit for interprovincial trade. The Fathers of Confederation were keenly aware of the benefits of free trade and repeatedly referred to the benefits of open trade between the provinces of their new country.

George Brown, for example, predicted that “[the] union of all provinces would break down all trade barriers between us, and throw open at once ... a combined market of four million people”. And Alexander Galt, a fellow member of the Great Coalition government that secured Confederation, believed that one of “the chief benefits expected to flow from Confederation [would be] the free interchange of the products of the labour of each province”. Their vision was enshrined in s. 121 of the *British North America Act* (now the *Constitution Act, 1867*).

Since 1867, the federal and provincial governments have repeatedly betrayed our founding constitutional promise by erecting protectionist barriers that impede the free flow of goods across Canada. New Brunswick’s limitation on possessing alcohol purchased in another province is just one of thousands of examples.

Interprovincial trade barriers today cause significant economic harm to Canadians. A study found that the removal of interprovincial trade barriers could increase Canada's GDP by \$50 to \$130 billion (Albrecht and Tombe, 237), or \$7,500 per Canadian household. To put that into perspective, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), recently signed between Canada and 10 other Pacific countries, is estimated to increase Canadian GDP by \$4.2 billion by 2040 ([Government of Canada, 2018](#)). The Comprehensive Economic and Trade Agreement (CETA) is estimated to increase Canada's GDP by \$8 billion over the long term ([Government of Canada, 2017, 2](#)).

The *Comeau* case represented an historic opportunity to correct almost a century of bad legal precedent that has allowed provinces to erect barriers to the free movement of goods, contrary to our country's founding vision 150 years ago. It is, therefore, deeply regrettable that the Supreme Court of Canada looked squarely at the issue and decided not to enforce the plain language and intent of Section 121.

Success in this challenge for Gérard Comeau would have meant a lot more than a new era in cross-border beer runs. A broad and literal application of s. 121 would have given Canadians a stronger legal bulwark against government meddling in all transactions across provincial boundaries.

As it is, the Supreme Court's decision was not all bad news. While the Court held that provinces are permitted to impose barriers to interprovincial trade when they serve a valid provincial purpose, such as health and safety, the Court said that this power is not unlimited. If a provincial law or regulation has both the purpose and effect of limiting interprovincial trade, then it will violate Section 121, even under the Court's newly narrowed interpretation.

As the Court put it:

If the purpose of the law aligns with purposes traditionally served by tariffs, such as exploiting the passage of goods across a border solely as a way to collect funds, protecting local industry or punishing another province, this may, depending on other factors, support the contention that the primary purpose of the law is to restrict trade.

The potential usefulness of this clarification of the scope of Section 121 was demonstrated almost immediately. [In June 2018](#), the Alberta Court of Queen's Bench held that a tax-and-rebate scheme by the Alberta Government, which had both the effect of increasing the price of out-of-province craft beer and the improper purpose of protecting domestic producers, violated Section 121, as interpreted by the Supreme Court in *Comeau*. The Alberta government has tentatively accepted the ruling and committed to changing the regulation.

Moreover, the Court considered only the ability of provinces to enact laws that have the effect of limiting interprovincial trade (as long as that is not their primary purpose) in the absence of overriding federal legislation. The federal government has the authority under its “trade and commerce” (Section 91(2) of the *Constitution Act, 1867*) head of power to enact federal legislation regulating and promoting interprovincial trade. If such a federal law came into conflict with a provincial law or regulation, the federal law would take precedence.

So interprovincial free trade is far from a lost cause. The *Comeau* case may be over, but the publicity generated by Mr. Comeau's fight means the cause is still gaining momentum. The costs and problems of interprovincial trade have received new attention in light of the Supreme Court's decision. The more Canadians are aware of the issue, the more they agree with our Founders' intent, and the more likely there is to be pressure to conform our interprovincial trade rules with the constitutional vision embodied in Section 121.

Section 1

The Economic Theory of Voluntary Exchange

The Economic Theory of Voluntary Exchange

“Exchange is the lifeblood, not only of our economy, but of civilization itself.”([Rothbard, 1963](#))

Voluntary exchange serves the interests of both parties involved. How do we know? Well, if it weren't, the voluntary exchange would not happen.

Unfortunately, sometimes trade between two parties may negatively affect another individual or business. However, if society were to stop exchanging every time a third party was negatively affected, we would regress to the Stone Age – or perhaps before that. Simply put, our society has accumulated great wealth precisely because individuals engage in voluntary exchange and because of the legal system that grew out of, and was designed to facilitate, such exchange.

Think of all the times that voluntary exchange – also known as free trade – has improved your life. Whenever you go to the grocery store, you are freely trading your earnings for the food that you wish to consume. Can you imagine how different your life would be if you had to produce that food? There would be little time left over for anything else.

With exchange, you can buy a week's worth of groceries for a day's worth of work. The lower cost of food (less time to produce) allows you to buy more goods with your leftover earnings. In fact, it allows for leftover earnings in the first place. This is how voluntary exchange has contributed to our society's remarkable standard of living.

Expanding this idea, we can see why trade between nations and provinces is so important. When individuals in, say, Alberta can purchase cheaper goods from Ontario than they can locally, they most certainly benefit themselves. But they also benefit other producers, even local ones. The savings from buying the cheaper good from Ontario can now be spent on buying other goods produced by a variety of different businesses, including local businesses in Alberta.

Let's reverse the story. What happens when trade barriers are erected to support local industries?

Trade barriers that are intended to support local businesses are a constant political temptation. Without a broader appreciation of the consequences, who wouldn't support a policy that is intended to protect a local industry? Who wouldn't support a policy that is billed as helping employ one's friends and neighbours?

At least initially, the protected industry may be better off. To take an example from a recent CCF case, there is no question that a discriminatory tax policy that makes out-of-province craft beers more expensive will benefit local breweries in the short term. It may even increase the number of jobs in the brewing industry. But these gains come at the expense of consumers and other businesses, and often even the favoured industry itself in the long term.

There are two key ways that protectionist policies harm an economy.

First, by reducing wealth through a higher cost of living

What would happen if we forced our ancestors, who had recently discovered the benefits of specialization and exchange, to revert to subsistence hunting and gathering? For one, everyone would be employed. People who may have been unemployed because they were unable to compete with other sellers in the new free market would now have full employment: finding enough food to survive. However, society would not be better off. Because the price of food would have increased (the time taken to hunt or gather), individuals would no longer have the means or time to buy other goods. By reducing the ability of individuals to specialize and exchange, protectionist policies increase the price of goods overall.

While protectionist policies within the Canadian market have not resulted in a reversion to subsistence farming, the process described above has resulted in measurable impacts on the Canadian economy.

As will be discussed further in Section 2, Canada's protectionist interprovincial trade barriers cost the Canadian economy billions of dollars.

Protectionist policies also increase the price of goods by reducing competition that would otherwise reduce prices and increase choice for consumers. When competition flourishes, businesses compete to lower prices to attract customers. When competition is removed, businesses no longer need to reduce prices to attract customers away from competitors.

While it is easy to recognize how consumers are made worse off from trade protections, businesses are also harmed by protectionist policies that drive up costs. For example, some Calgary businesses have reported lost business activity due to increased Alberta taxes on out-of-province craft beer. According to Mike Tessier, the owner of Calgary-based beer importer Artisan Ales, his importing business has taken a huge hit. In 2016, after Alberta introduced its protectionist tax, Tessier's sales decreased by 32 per cent and net profits decreased by an astonishing 86 per cent.

A popular fallacy is that businesses can simply pass on the price of protectionism to their customers. This is not usually the case. Businesses naturally charge the highest price they can that would maximize their profits. If businesses could simply increase their prices, they would have done so already. Rather, the higher input costs leave less revenue for future investment to grow the business, to increase wages, or to hire more workers.

The relationship between employment and protectionism is also not what some provincial politicians and lobby groups would have you believe. As businesses that are not directly protected by trade barriers see higher input costs and less money for reinvestment, labour will bear a burden of protectionism. However, the reverse is also true. According to the Atlantic Institute for Market Studies (AIMS), reducing interprovincial trade barriers tends to increase employment ([Tkachuk and Day, 2016, 25](#)).

Second, by reducing the incentive to become more innovative, efficient and productive

With fewer competitors, there is less of an incentive to reduce prices, and offer better services to attract customers. The need to constantly outperform competitors drives innovation. Simply put, when innovation is needed less to succeed, innovation is less likely to occur. Legislating away competition is a sure-fired way to reduce the otherwise significant incentive to produce more efficiently.

Conversely, when trade barriers are reduced we should expect efficiency and productivity to increase. As competition drives down prices, firms must either improve their production processes or lose market share. This competition is what drives increases in productivity, which in turn means more overall wealth from the same labour market and resource base.

Interprovincial trade barriers also diminish efficient production by limiting market access. Thanks to protectionist trade barriers, local producers may be able to successfully compete in the smaller, local market. These apparent benefits, however, ignore the lost opportunities. Either due to mutual trade barriers between jurisdictions, or due to their own inefficiency resulting from protectionism, “protected” businesses will be less able to reach new customers, expand their market outside their sheltered jurisdiction, and take advantage of cost savings that may emerge through economies of scale. In this way, protectionism “protects” companies from opportunities as well as threats.

So, what does economic theory teach us?

Reducing wealth – what people can buy with their earnings – is never a good policy to create jobs. And erecting trade barriers – whether tariff or non-tariff – is one of the quickest ways to reduce wealth.

Section 2

Trade Barriers within Canada

Trade Barriers within Canada

“International trade and its costs receive substantial attention by researchers, policy makers, and the public at large; in contrast, internal trade receives little. For Canada, internal trade is nearly as large as international trade and – despite the lack of explicit tariffs – internal trade still faces substantial costs” (Albrecht and Tombe, 2016, 261).

While tariffs are prohibited on the sale of goods across provincial borders, provincial governments have been allowed to impose major costs through regulations that discriminate against out-of-province producers. These “interprovincial trade barriers” include:

- Standards for equipment
- Tax rebates and support programs
- Content requirements
- Packaging requirements
- Mandatory sale requirements
- Prohibition of interprovincial shipments
- Provincial quotas

Estimates suggest that removing these interprovincial trade barriers could increase Canada’s overall GDP anywhere from \$50 billion to \$130 billion (Albrecht and Tombe, 237), or \$7,500 per Canadian household. To put that into perspective, the recently signed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) between Canada and 10 other Pacific countries is projected to add \$4.2 billion to Canada’s economy by 2040 ([Global Affairs Canada, 2018](#)). The Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union is estimated to increase Canada’s GDP by \$8 billion over the long term ([Government of Canada, 2017, 2](#)). While Canada should continue to seek freer trade around the globe, this illustrates the significant benefits that could be achieved by reducing trade barriers that are within our sole control right here at home.

As Canada's international trade continues to increase, the level of trade between provinces remains comparatively dismal. Canada's growth in international trade outpaced the annual growth of our economy, while the value of trade between provinces grew at a relatively unimpressive rate ([Tkachuk and Day, 2016, 20](#)). See the figure below for a visual comparison.

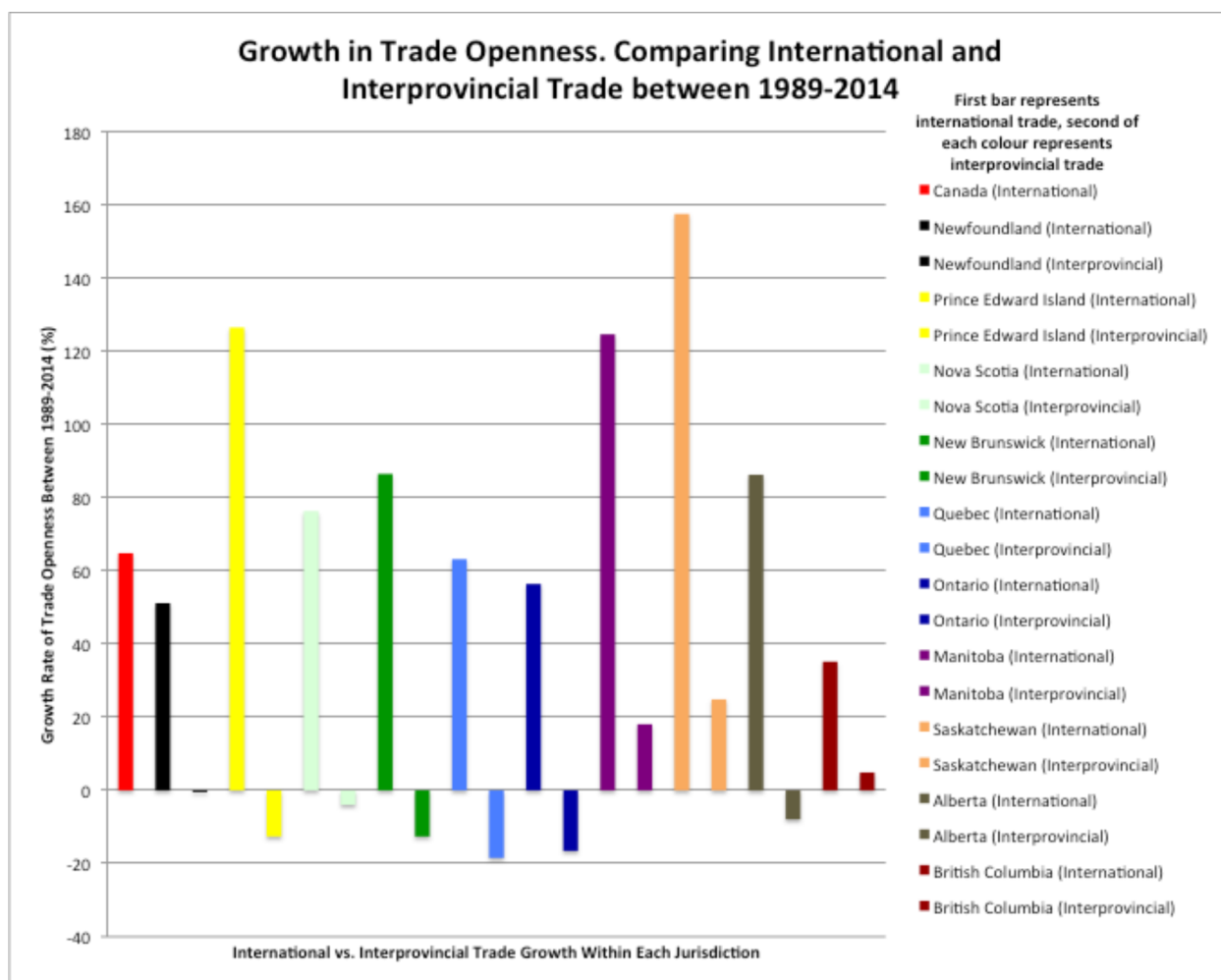


Figure 1 demonstrates the provinces' growth in trade openness between 1989 and 2014. This was measured by comparing the growth in exports and imports with the growth in provincial GDP.

Figure 1. International vs. interprovincial trade growth within each jurisdiction. Statistics Canada, [Table 384-0038](#) - Gross domestic product, expenditure-based, provincial and territorial, annual (dollars unless otherwise noted).

In every province, international trade has grown at a much faster rate than interprovincial trade. This graph doesn't prove that interprovincial barriers are the only reason why international trade has been growing at a faster rate. But, at the same time, removing trade barriers between provinces would no doubt increase the amount of trade within Canada.

Removing policies that discourage interprovincial trade may also reduce regional income inequality in Canada. A recent study examining trade barriers within Canada, found that “poor” provinces—especially Prince Edward Island, New Brunswick, Manitoba—gain more [from lowering interprovincial trade barriers], all around 8%, than rich provinces, such as Ontario who gains 3.2%. Internal trade, therefore, reduces regional income and productivity differences.” (Albrecht and Tombe, 2016, 254).

The table below, which compares projected gains from internal trade, income per capita, and the unemployment rate between provinces, also suggests that the provincial economies that rely most on internal trade also tend to be the weaker economies.

Aggregate Welfare Gains from Internal Trade (ranked in descending order, Albrecht & Tombe, 2016, 256). ¹	Rank in Terms of Income Per Capita 2016 (Conference Board of Canada, 2017).	Rank in Terms of Unemployment Rate (Statistics Canada, May 2016).
Prince Edward Island	10	8
New Brunswick	8	9
Manitoba	6	2
Newfoundland & Labrador	3	10
Nova Scotia	9	6
Saskatchewan	2	1
British Columbia	4	3
Alberta	1	7
Quebec	7	5
Ontario	5	4

Note 1. Gains from internal trade measures the welfare change relative to no trade (complete autarky). This gauges the contribution to welfare and productivity from the current level of internal trade in Canada.

Along with reducing barriers to the free flow of goods and services within Canada, removing barriers that restrict labour mobility may also help reduce regional and income inequality, provide for greater economic security, and provide Canadian businesses with the talent they need to succeed and grow.

Challenging current protectionist policies, such as licensing and professional qualification standards – which currently require most professionals, from welders and electricians to nurses and lawyers, to have their credentials recognized when they move to a new province – would increase economic security by allowing labour to move more easily from regions where employment opportunities are scarce, to regions where job opportunities are relatively abundant.

The theory and the data appear to support each other. Policies that have been implemented in the name of local economic development have, in fact, imposed significant costs on local economies as well as our national economy. Growth does not come from protecting local industries from competition. Rather, provincial protectionism is a sure-fire way to hold back an economy.

Section 3

Interprovincial Trade and Canadian Law

Interprovincial Trade and Canadian Law

“Whatever you do, adhere to the Union. We are a great country, and shall become one of the greatest in the universe if we preserve it; we shall sink into insignificance and adversity if we suffer it to be broken” ([Sir John A. Macdonald, 1861](#)).

The numerous trade barriers within our country cannot be blamed on a lack of legislation. There are already several provincial agreements for free trade to flourish within Canada. This section outlines the various laws and national agreements that have been created to promote interprovincial trade, and discusses the constitutional interpretation that has allowed regulatory trade barriers to grow since Confederation. Finally, this lays out the political-economic framework that explains why relying solely on interprovincial trade negotiations will ultimately fail to produce free trade within Canada.

The Constitution and Free Trade

The *Constitution Act, 1867*, the Agreement on Internal Trade (AIT), and now the [Canadian Free Trade Agreement](#) were all intended to unite the Canadian market. Unfortunately, legal interpretations and other legislation have limited or distorted their original intention to create a vibrant and cohesive free-trading nation.

According to [s. 121](#) of the *Constitution Act, 1867*, “All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.”

The proper interpretation and application of s. 121 has, for almost a century, been a matter of contention. The dispute tends to revolve around the meaning of the phrase “admitted free.” One side of the debate, which includes the CCF, has called for a broad interpretation of s. 121. They argue that “admitted free” should not only prohibit tariff barriers, but should allow all goods and services to be traded freely within Canada without any restrictions that, whether by design or simply by effect, place an extra burden on the sale of out-of-province goods. These would include policies such as allowing wine to be shipped direct to consumers from a provincial winery, but not from a winery outside the province. Or only allowing wine made in a specific province to be sold in grocery stores.

Others (including most of the provinces) have argued in favour of a narrow interpretation – one that would apply only to explicit tariff-barriers. The Supreme Court of Canada’s ruling in the 1921 case of [Gold Seal Ltd. v. Alberta](#) followed this approach, interpreting “admitted free” to mean trade without the imposition of duties at a provincial border. This ruling has allowed for non-tariff barriers in many Canadian industries, especially within Canada’s liquor industry.

In 1928, relying expressly on the *Gold Seal* interpretation, the Government of Canada enacted the [Importation of Intoxicating Liquors Act \(IILA\)](#), which required provinces to maintain provincial liquor monopolies with control over the importation, distribution and sale of alcoholic beverages within their province ([Blue, 2009, 307](#)). The result: mark-ups, bottle and packaging regulations, preferential treatment and grants that reduce the ability of out-of-province producers to sell in local markets.

The IILA requires that all liquor must first be sold to a provincial liquor board; producers are generally prohibited from selling directly to customers or to local stores, restaurants, or bars at the market price. By directing the flow of alcohol through these provincial monopolies, the IILA “appears to contravene s. 121 of the *Constitution Act, 1867* and must be unconstitutional” ([Blue, 2009, 330](#)). Under s.3(2)(h), individuals (but not bars or restaurants) can import small quantities of alcoholic beverages from out of province for personal consumption.

However, the provincial governments determine the quantity ([Government of Canada, 1985](#)) and, unsurprisingly, they keep the limit low. The IILA thus undermines individual choice, economic freedom, and the national market economy by granting provincial governments the ability to control the distribution of liquor.

Provincial governments make revenue on mark-ups added to the price of liquor, which are hidden from consumers and which are possible because they don't face competition from out-of-province alcohol sales. Both the Ontario and Quebec liquor monopolies earned over \$1 billion in profit during the 2014-2015 fiscal year ([LCBO, 2015, 4](#); [SAQ, 2015, 2](#)).

Retired New Brunswick steelworker Gérard Comeau felt the absurdities of Canada's provincial monopoly network when he tried to bring cheaper Quebec alcohol into his native province. He was stung by the RCMP and fined \$292.50.

The Supreme Court of Canada's regrettable resolution of [R. v. Comeau](#) is discussed in the Introduction. We noted that despite the Court's ruling, the federal government retains broad constitutional authority to regulate "trade and commerce" within and across Canada. Notably, the IILA, which requires each province to maintain a provincial liquor board, is a federal law. If it were repealed, it would leave each province free to regulate the importation and distribution of alcohol as it saw fit.

Interprovincial trade agreements

Despite the Supreme Court's decision in the *Comeau* case, however, it remains within the power of the provinces, territories, and the federal government to eliminate trade barriers within Canada. Indeed, the court's ruling against Mr. Comeau recognized the problem of interprovincial trade barriers, it just held that it was not up to the court to eliminate them. That means the ball is now clearly in the court of the provincial and federal governments to act within their respective jurisdictional spheres, if we are to recognize the full potential for free trade under our Constitution.

In addition to the Constitution, Canada has several agreements that purport to reduce interprovincial trade barriers. The AIT – which came into force in 1995 – attempted to lay the foundations for free trade within Canada. According to Chapter 1, Article 100 of the AIT:

*“It is the objective of the Parties to reduce and eliminate, **to the extent possible**, barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, efficient and stable domestic market. All Parties recognize and agree that enhancing trade and mobility within Canada would contribute to the attainment of this goal.”*

Under the AIT, all provinces agreed to non-discrimination based on origin of production, the free movement of people, goods, services and investments, a guarantee that provincial policies not act as barriers to interprovincial trade, the harmonization and mutual recognition of regional standards and qualifications, and increasing the transparency of provincial trade regulations ([AIT, 1995/2015, art. 400-406](#)).

Under chapter 10, the parties also agreed to remove obstacles to the trade of alcohol resulting from administrative procedures, labelling, packaging and shipping requirements and standards, regional wine-making standards, and advertising regulations (Beaulieu, Gaisford and Higginson, 2003, 31).

Unfortunately, the AIT had significant shortcomings, mainly due to a major loophole which allowed provinces to erect protections for “legitimate objectives” ([AIT, 1995/2015, art. 404](#)). These “legitimate objectives” – listed in Article 404 of the Agreement – allowed provinces to implement trade barriers to encourage local economic development. Article 101.4(c) also allowed provincial governments to restrict trade “for exceptions required to meet regional development objectives in Canada.” The language within this economic development provision coupled with the phrase “*to the extent possible*” in the preamble, allowed provinces to claim that virtually any discriminatory policies were necessary to promote valid regional interests.

In 2017, the provincial governments and the federal government negotiated and signed a new interprovincial free trade agreement, the [Canadian Free Trade Agreement \(CFTA\)](#), to replace the AIT. While we should be pleased to see continued work that aims to reduce interprovincial trade barriers, the CFTA shows why it’s unlikely that this route – provincial negotiations, or “cooperative federalism” – will be effective at removing most interprovincial trade barriers.

As with the AIT, there are significant shortcomings built into the provisions of the CFTA. A committee – Regulatory Reconciliation and Co-operation Table – has been established to recommend to governments where red tape should be removed and regulations harmonized. However, the recommendations are just that – recommendations. Governments can opt out from these recommendations if they decide that “reconciliation is not a desirable option for their jurisdiction” ([CFTA, Regulatory Reconciliation Backgrounder, 2017](#)).²

Note 2. See figure on page 2 for illustration on the reconciliation process, and the ability for governments to opt out of the agreement ([CFTA, Regulatory Reconciliation Backgrounder, 2017](#)).

One change, touted as a major improvement on the AIT, is that under the CFTA all products and industries are deemed to be covered by the agreement's free trade provisions unless a province specifically exempts them. Despite this new presumption in favour of free trade, the CFTA still provides ample opportunities for provincial governments to limit trade through public interest provisions.

So far the provinces have shown they intend to take generous advantage of these opportunities. More than half of the pages of the agreement are taken up with exemptions. Like the AIT before it, the CFTA is reminiscent of the old Soviet constitution: it looks great on paper, but in practice it falls rather short of its lofty promises.

Finally, because the parties could not agree on the treatment of alcohol under the CFTA, they created a working group to study the issue further. That working group is scheduled to issue its first report by July 1, 2018. While we are not optimistic that the provinces will come anywhere close to actual free trade in alcohol within Canada, any improvement over the status quo will be a step in the direction of the original constitutional design.

The remainder of this paper will focus on the numerous trade barriers in Canada's liquor industry, which have arisen because provincial governments are enabled by federal law to regulate trade to promote the "public's interest."

Section 4

How We Scored the Provinces

How We Scored the Provinces

“Undoubtedly, the federal government should provide more leadership in eliminating internal trade barriers than it has to date” ([Tkachuk and Day, 2016, 11](#)).

As Section 5 illustrates, Canada’s liquor industry is fundamentally shaped by interprovincial trade barriers. The CCF uncovered the trade barriers reported in the following section by reviewing provincial legislation, regulations, other government documents, along with secondary sources. The analysis illustrates the myriad regulations and policies provincial government have implemented, and continue to implement, that burden interprovincial trade and discriminate against out-of-province producers.

Along with identifying specific trade barriers, the following section ranks the provinces according to the extent of the regulatory protections in their liquor industries.

The weighing of scores took into consideration how direct a factor is in deterring out-of-province competition. Policies that have been directly implemented to impede out-of-province competitors received a score of -3. These types of policies include discriminatory taxes, monopolistic privileges, grant programs, and import restrictions. In cases of restricting trade amounts, provinces that completely allowed shipments or direct transportation of out-of-province liquor products received a score of +3, given the rarity.

Policies that do not directly discriminate against, or directly increase costs out-of-province producers, but unfairly benefit provincial producers received a score of -2. This includes policies such as unique provincial labelling requirements or marketing preferences.

Results that suggest the presence of interprovincial trade barriers, such as greater growth in prices in alcohol compared to other goods received a -1 (positive result received +1).

If information was not found for a category, the province was given a 0 for that factor.

There are three notes that must be made about the scoring scheme. First, the items that received a -1/+1 cannot be solely attributed to the presence or absence of non-tariff barriers. For example, although the price of alcoholic beverages may have increased at a greater rate than all other items sold within the province, we cannot definitively say that the price increase is solely due to the presence of a trade barrier.

Second, it should also be noted that other provincial regulations and policies may increase the cost to all (including provincial) wine, beer, and spirit producers. However, the scoring below is based solely on discriminatory policies that benefit domestic producers, or disproportionately harm producers from other provinces.

Third, the requirement in all provinces for importers to go through the provincial liquor monopoly is imposed by the federal [Importation of Intoxicating Liquors Act](#), s.3 (1), which dates back to 1928. As such, the presence of a government controlled provincial liquor monopoly is not considered within the scoring.

The Scoring:

- 1. Compared to the price of other goods, how has the price of alcoholic beverages increased within the province?**
 - a) -1 (If alcohol has noticeably outpaced increase in price of other goods).
 - b) +1 (If the increase in the price of alcohol resembles the increase in the price of all goods).
- 2. How does the growth in international trade openness compare with that of interprovincial trade?**
 - a) -1 (If the growth in international trade has outpaced interprovincial trade)
 - b) +1 (If interprovincial trade has kept up with international trade, or remains larger)
- 3. How large is the selection of products available to consumers?**
 - a) -1 (If the province sells fewer than 10,000 different products).
 - b) +1 (If the province sells more than 20,000 different products).
- 4. What is the percentage of provincial products sold compared to the percentage of out-of-province products?**
 - a) -1 (any province with a disproportionate amount of products sold that are brewed locally).
 - b) 0 (No disproportionate sales amount *found*).
- 5. Does the province allow direct shipment to consumers from out-of-province products?**
 - a) -3 (If direct-to-consumer shipment is not allowed)
 - b) +3 (If province allows direct-to-consumer shipment)
- 6. Can adults bring back alcohol when travelling home from another province? If so, how much liquor is allowed?**
 - a) -3 (If adults cannot bring back at least three litres of spirits, three litres of wine or 24 cans/bottles of beer into the province)
 - b) +3 (If adults personally can bring in an unlimited quantity for consumption)

- 7. Are there any mark-ups on products made in other provinces over and above what out-of-producers must pay?**
 - a) -3 (If there is a clear difference in mark-up)
 - b) 0 (No)
- 8. Is there a provincial rebate program for local producers? Direct financial assistance will be included within rebate scoring.**
 - A) -3 (Yes)
 - B) 0 (No)
- 9. Are certain stores only permitted to sell provincial products?**
 - A) -3 (Yes)
 - B) 0 (No)
- 10. Are manufacturers given monopolistic privilege to own retail stores (not including on site)?**
 - A) -3 (Yes)
 - B) 0 (No)
- 11. Are there marketing schemes that promote provincial producers while there is no promotion of out-of-province goods?**
 - a) -2 (Yes)
 - b) 0 (No)
- 12. Are the regulations regarding labelling, packaging and size requirements of a unique nature so as to discourage out-of-province competition?**
 - a) -2 (Yes)
 - b) 0 (No)
- 13. Are there other overburdening regulations that restrict the ability of out-of-province producers to sell in the local market?**
 - a) -2 (Yes)
 - b) 0 (No)
- 14. How transparent are the policies? Are the regulations readily available to the public?**
 - a) +1 (Transparent and easily accessible policies and regulations)
 - b) -1 (Inaccessible)
 - c) 0 (Average difficulty to find policies and regulations)

Section 5

The Provinces

The Provinces

How the provinces scored (the higher the score, the freer the province):

Province	Score
Manitoba	6
Alberta	-3
Nova Scotia	-6
Prince Edward Island	-9
Saskatchewan	-9
British Columbia	-11
Quebec	-12
New Brunswick	-14
Newfoundland & Labrador	-15
Ontario	-17

British Columbia

Legislation: [Liquor Control and Licensing Act](#); [Liquor Control and Licensing Regulation](#); [Liquor Distribution Act](#); [Liquor Possession Regulation](#); [Special Wine Store Licence Auction Act](#).

“They violate Canada’s international trade obligations including NAFTA, GATT and the EU-Agreement on wine sales” (The U.S. Wine Institute on B.C.’s *Special Wine Store Licence Auction Act* as cited in [Smith, 2015](#))

- British Columbia Liquor Distribution Branch’s (BCLDB) revenue in 2015/2016 was \$1.03 billion. The fiscal year saw a 9.7 per cent increase in liquor sales from the previous year ([BCLDB, 2016, 5, 7](#)).
- Cost of shipment increased to \$1.81 in 2015/2016, up from \$1.70 per case in 2014/2015 ([BCLDB, 2016, 12](#)).
- The BCLDB is responsible for the distribution and warehousing of alcoholic beverages within the province. Both private and government-operated retail stores may sell to consumers.
- There are over 4,000 full-time and part-time workers employed in 197 B.C. liquor stores, two wholesale customer centres and two distribution centres ([BCLDB, 2016, 6](#)).

Criteria	Score
Price	1
Trade Openness	-1
Variety	0
Favouring Local	0
Direct to Consumer	3
Adult Transport	0
Mark-ups	-6
Rebates	-3
Provincial Products Only	-3
Retail Producers	0
Marketing	-2
Labelling, Packaging, Shipping	0
Other Regulations	0
Transparency	0
Total	-11

Price: The increase in the price of alcoholic beverages since 2002 (19.1 per cent) is very similar to the increase in the price of all goods sold in B.C. since 2002 (20.7 per cent).³

Note 3. All changes in price throughout the analysis is in terms of CPI. See reference page.

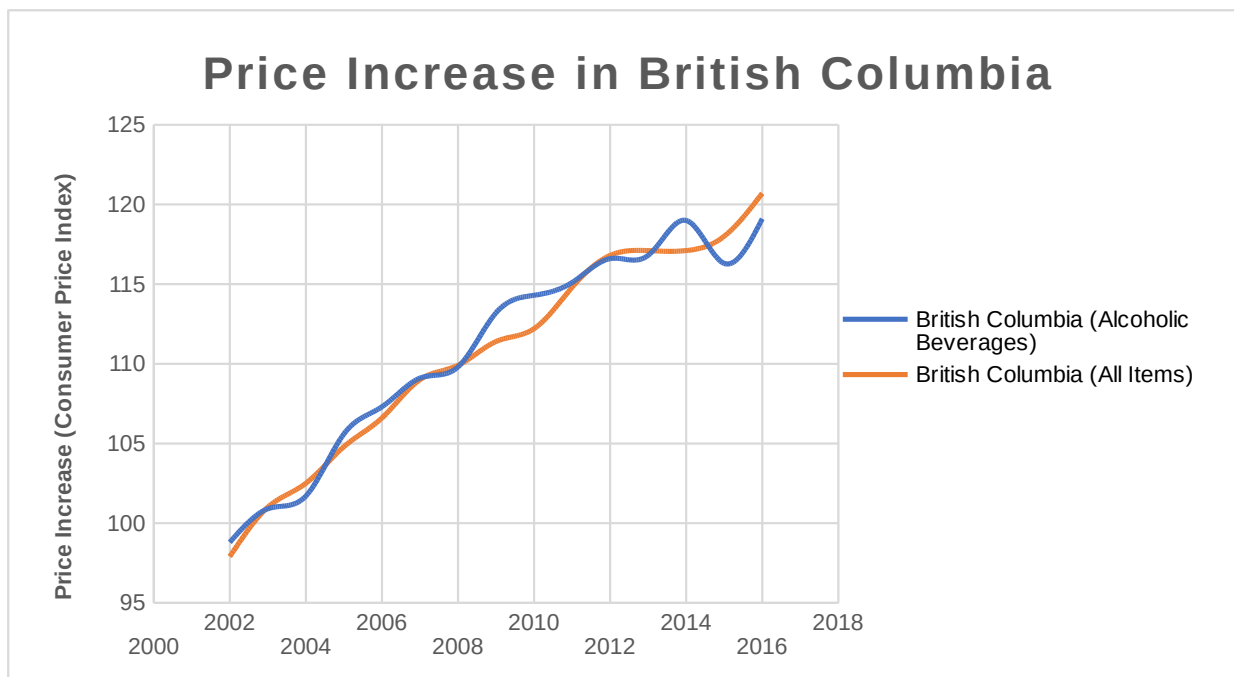


Figure 2. Price increase in British Columbia, 2002-2016 (comparing January of each year).

Trade openness: Since the late 1980s, British Columbia's openness to international trade has continued to grow substantially, outpacing the growth of interprovincial trade.

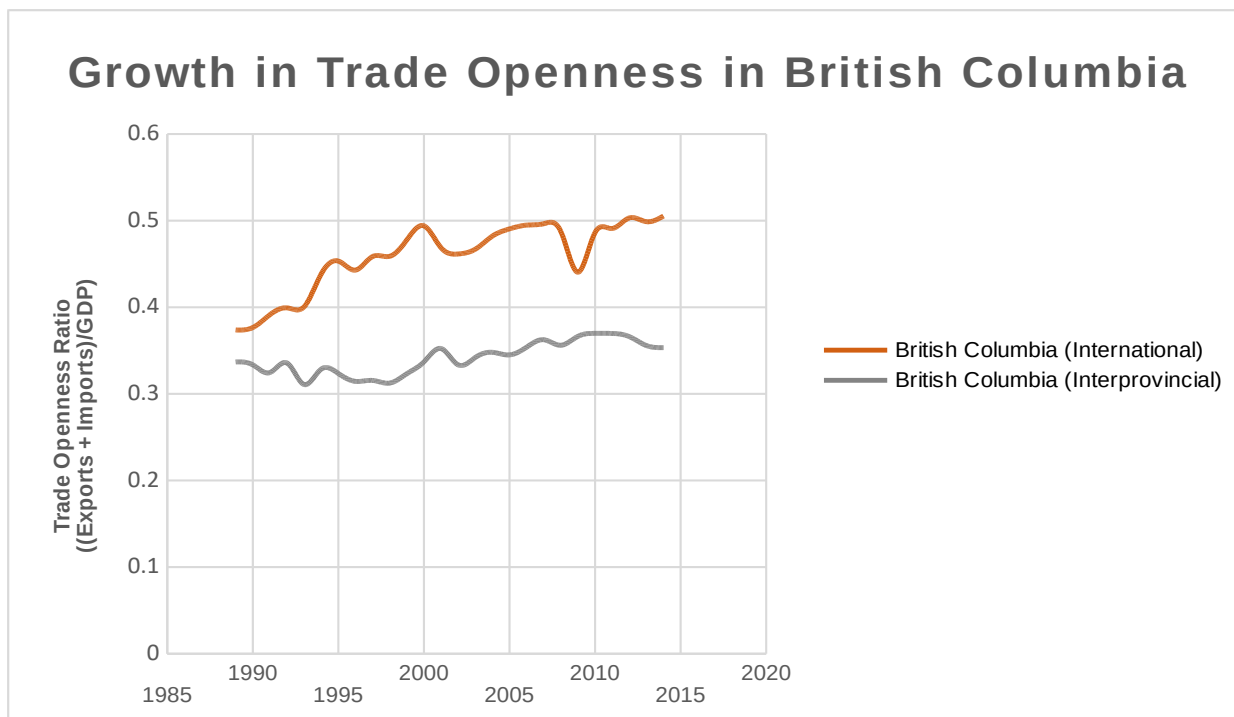


Figure 3. Growth in trade openness in British Columbia, international vs. interprovincial trade.

Direct to consumer: B.C. consumers can import an unlimited quantity of wine purchased from any province in Canada, as long as the product's contents are 100 per cent Canadian ([Hicken, 2017](#)).

The government of British Columbia just announced a deal with the governments of Ontario and Quebec agreeing to allow wineries from each province to list their products on the governments' websites. At the time of writing, further details have not been released, but the agreement, if implemented, would appear to improve consumers' access to out-of-province wines ([Government of British Columbia, 2016a](#)).

Adult transportation: British Columbians returning home from elsewhere in Canada can bring up to one case of wine (nine litres), four bottles of spirits (three litres), and 25.6 litres of beer, cider and coolers ([FindLaw, n.d.](#)).

Mark-ups: Out-of-province breweries pay a cost-of-service fee of nine cents per litre to sell beer in British Columbia. The fee is not charged if the brewery is located within the province. This is a clearly discriminatory policy that imposes extra costs on producers who export beer into B.C., which is in clear violation of s. 121 of the *Constitution Act, 1867* (Beaulieu, Gaisford and Higginson, 2003, 57).

B.C.'s distribution system grants B.C. wineries special privileges, directly violating s. 121 of the *Constitution Act, 1867*. B.C. wine that's delivered directly to a consumer does not go through the Liquor Distribution Branch system and bypasses LDB fees and markups ([Smith, 2015b](#)).

Rebates: If wineries wish to sell to provincial liquor stores, they are required to pay the government mark-up, but are given a rebate through the BC VQA Support Program. Under this program, when the LDB purchases BC wine to be sold in BC liquor stores, the LDB pays the local winery 50 per cent of the winery's asking price. ([B.C. Ministry of Justice, 2014b](#)). Out-of-province wineries can sell directly to B.C. consumers. However, if they wish to sell their products in BC liquor stores, they must go through the LDB and pay the mark-up without receiving a rebate.

Provincial products only: Certain retailers have special wine store licences, where only B.C. wine may be sold.⁴ Grocery stores can sell wine; however, they are only allowed to sell 100 per cent made-in-British Columbia wines. Existing Vintners Quality Alliance stores and independent wine stores can relocate or transfer their licences to eligible grocery stores if the licence is used to sell B.C. wine ([B.C. Ministry of Justice, 2014c](#)).

Marketing: Microbrewers producing in B.C. are given the opportunity for a small listing fee to choose where they want their products to be shelved in government liquor stores. As government liquor stores account for 60 per cent of total beer sales in B.C., this gives local breweries an advantage over outside producers when marketing their beer ([Hughey, n.d.](#)).

Note 4. Government of British Columbia. (2016). *Liquor Control Act*: Liquor Control and Licensing Regulation. s. 14(101)(a).

Alberta

“Alberta’s tax system favours local brew to the detriment of all others” ([Jarvie, 2016](#)).

Legislation: [Gaming and Liquor Act](#); [Gaming and Liquor Regulation](#).

- Government of Alberta collected \$766 million in liquor-related revenues during the 2014-2015 fiscal year ([AGLC, 2015a, 7](#)), and more than \$856 million in 2015-16 in liquor and other net operating results ([AGLC, 2016b, 45](#)).

Criteria	Score
Price	1
Trade Openness	-1
Variety	1
Favouring Local	0
Direct to Consumer	-3
Adult Transport	3
Mark-ups	0
Rebates	-3
Provincial Products Only	0
Retail Producers	0
Marketing	0
Labelling, Packaging, Shipping	-2
Other Regulations	0
Transparency	1
Total	-3

Price: Since the early 2000s, the price increase in alcoholic beverages (36.5 per cent) has closely resembled the price increase for all goods sold in Alberta (33.7 per cent).

Trade openness: Alberta’s openness to interprovincial trade has hardly improved since the late 1980s. In contrast, Alberta’s openness to international trade has steadily increased.

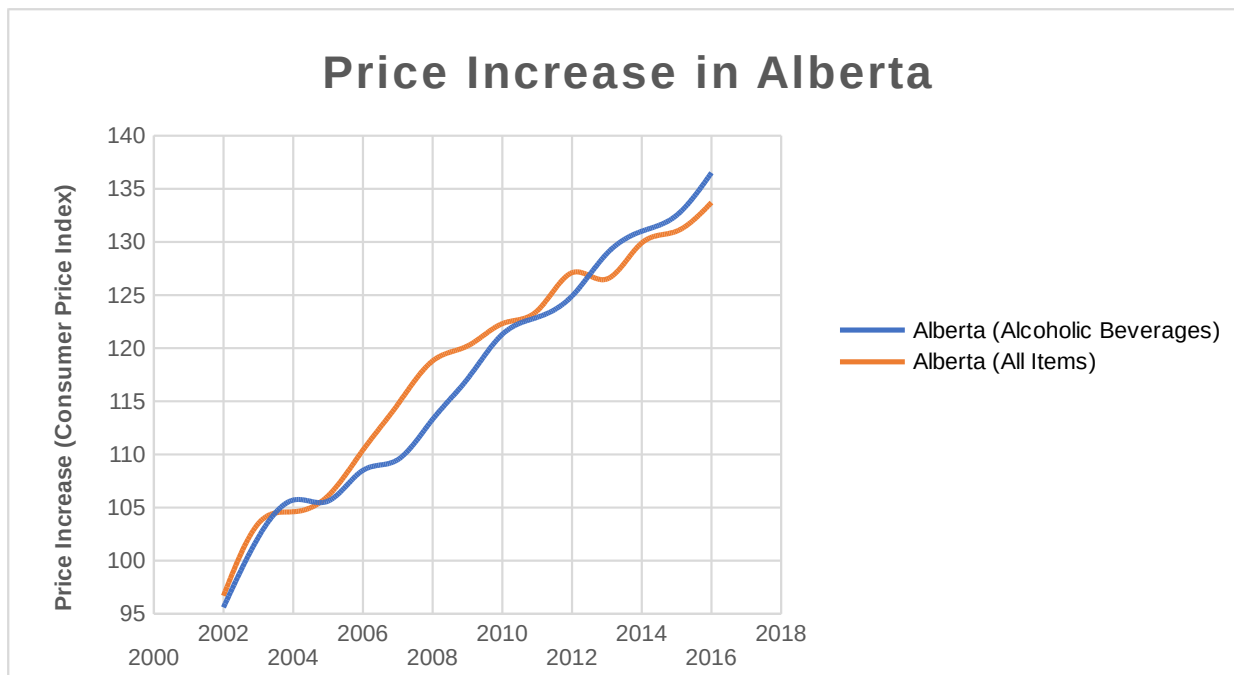


Figure 4. Price increase in Alberta, 2002-2016 (comparing January of each year).

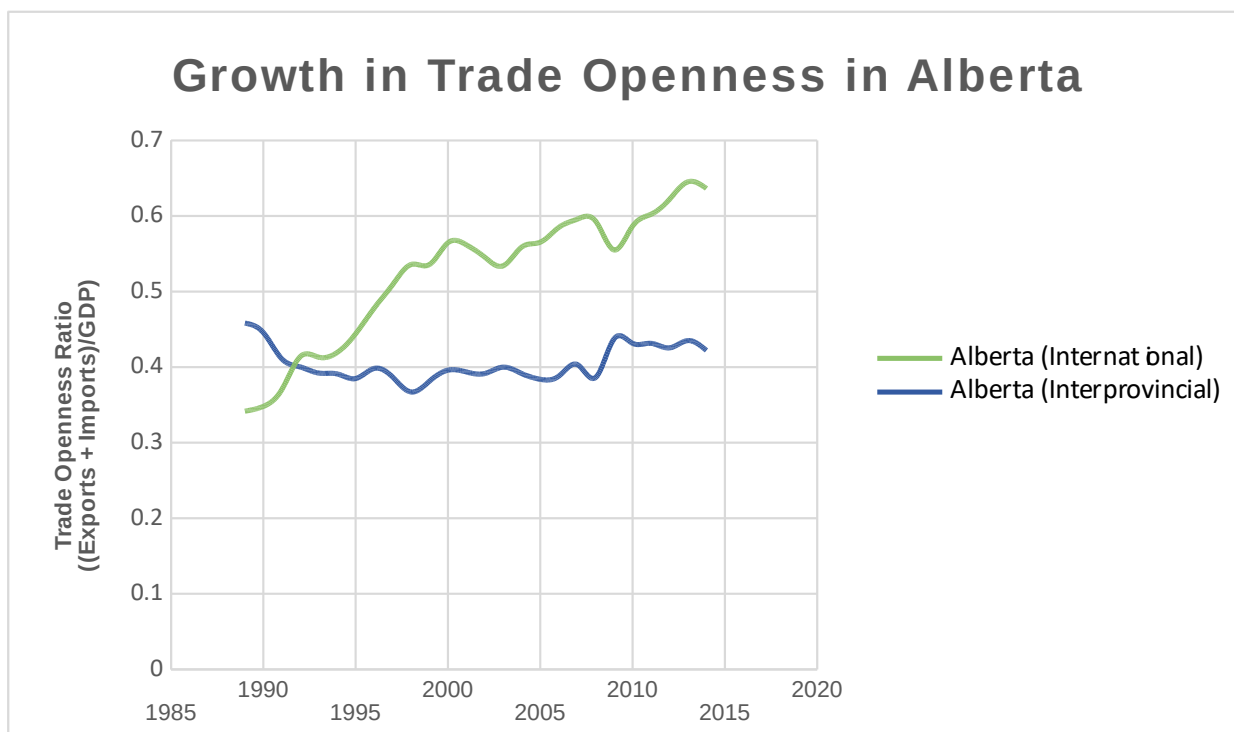


Figure 5. Growth in trade openness in Alberta, international vs. interprovincial trade.

Variety: Over 22,000 different liquor products are sold in Alberta (AGLC, 2017,1). While Ontario offers a larger selection., the variety offered per person is much larger in Alberta. The large selection of products is likely due in part to the private liquor retail model, with competing independent retailers incentivized to respond to consumer demand.

Direct to consumer: Adult Albertans can buy alcohol from other countries not in excess of 45.45 litres in any 90-day period.⁵ Direct shipments to adults from out-of-province producers are permitted;⁶ however, as per the *Gaming and Liquor Act*, only registered agencies can import a product into Alberta.⁷

Adult transportation: Albertans are permitted to bring as much alcohol as they wish into the province as long as it's for personal consumption and the alcohol is physically brought back with them, and subject to the policies of the AGLC board regarding importation.⁸

Rebates: Section 80 (1) of the *Gaming and Liquor Act* gives the AGLC the right to impose a mark-up on liquor when selling it to the retailer.⁹ As of Oct. 28, 2015, all microbeers outside of the New West Partnership (i.e., excluding British Columbia, Alberta and Saskatchewan) incurred a mark-up of \$1.25 per litre (AGLC, 2015). Prior to the fall of 2015, all Canadian microbreweries could sell beer into Alberta at the local 20 cents per litre mark-up. **The extra mark-up faced by out-of-province microbreweries was a tariff barrier to trade, and – regardless of the interpretation of s. 121 – violated the *Constitution Act, 1867*.**

On Aug. 5, 2016, Alberta Small Brewers Development Program took effect. All microbrews made in Canada, including Alberta and New West Partnership producers, will now face a \$1.25 mark-up. The government of Alberta has announced it will give a rebate to Albertan small producers who produce and sell up to 300,000 hectolitres in Alberta annually. The rebate gives an advantage to Alberta producers, helping them offset the burden of the mark-up. ([Government of Alberta, 2016](#)).

On June 19, 2018, the Alberta Court of Queen's Bench issued a decision striking down this regulatory scheme as violating Section 121 of the *Constitution Act, 1867*. Although the Government of Alberta has said it will abide by the decision, it has not yet announced how exactly it will respond. Pending more information, we have included the invalid regulatory scheme in our grade.

Labelling, packaging, shipping: The AGLC only accepts alcoholic products that are in glass bottles, polyethylene terephthalate bottles or aluminum cans that have been registered with the Beverage Container Management Board ([AGLC, n.d.b, poli. 3.13.2](#)). Case configuration changes – i.e., changing from a case with 12 bottles to a case with 24 bottles – are not permitted for products that are already listed with the AGLC. To change the case configuration, additional registration must be completed with the Commission ([AGLC, n.d.b, poli. 3.1.15](#)).

Transparency: The AGLC's regulations are easily accessible and transparent.

Note 5. Government of Alberta. (1996/2014). *Gaming and Liquor Regulation*. s. 90 (1), (2), (3).

Note 6. Government of Alberta (1996/2017) *Gaming and Liquor Regulation*. s. 89, 90

Note 7. Government of Alberta (2000/2013). *Gaming and Liquor Act*. s. 77.

Note 8. Government of Alberta (1996/2017) *Gaming and Liquor Regulation*. s. 89

Note 9. Government of Alberta. (2000/2013). *Gaming and Liquor Act*. s. 80 (1).

Saskatchewan

Legislation: [The Alcohol and Gaming Regulation Act](#); [The Alcohol Control Regulations, 2016](#).

- Total Saskatchewan Liquor and Gaming Authority liquor sales reached \$641 million in fiscal year 2015-2016. Net income on liquor sales for the year was \$258.5 million ([SLGA, 2016a, 51](#)).
- Both private and public retail stores operate in Saskatchewan. The SLGA operates 75 liquor stores; four liquor stores are purely private establishments, while there are an additional 188 private franchises in rural Saskatchewan authorized to sell liquor ([SLGA, 2016a, 3](#)).

Criteria	Score
Price	-1
Trade Openness	1
Variety	-1
Favouring Local	0
Direct to Consumer	-3
Adult Transport	0
Mark-ups	-3
Rebates	0
Provincial Products Only	0
Retail Producers	0
Marketing	-2
Labelling, Packaging, Shipping	0
Other Regulations	0
Transparency	0
Total	-9

Price: The price of alcohol has increased at a greater rate than prices overall in Saskatchewan. Since 2002, the price of alcohol has increased by 43.5 per cent, while the price of all items has increased by 31 per cent.

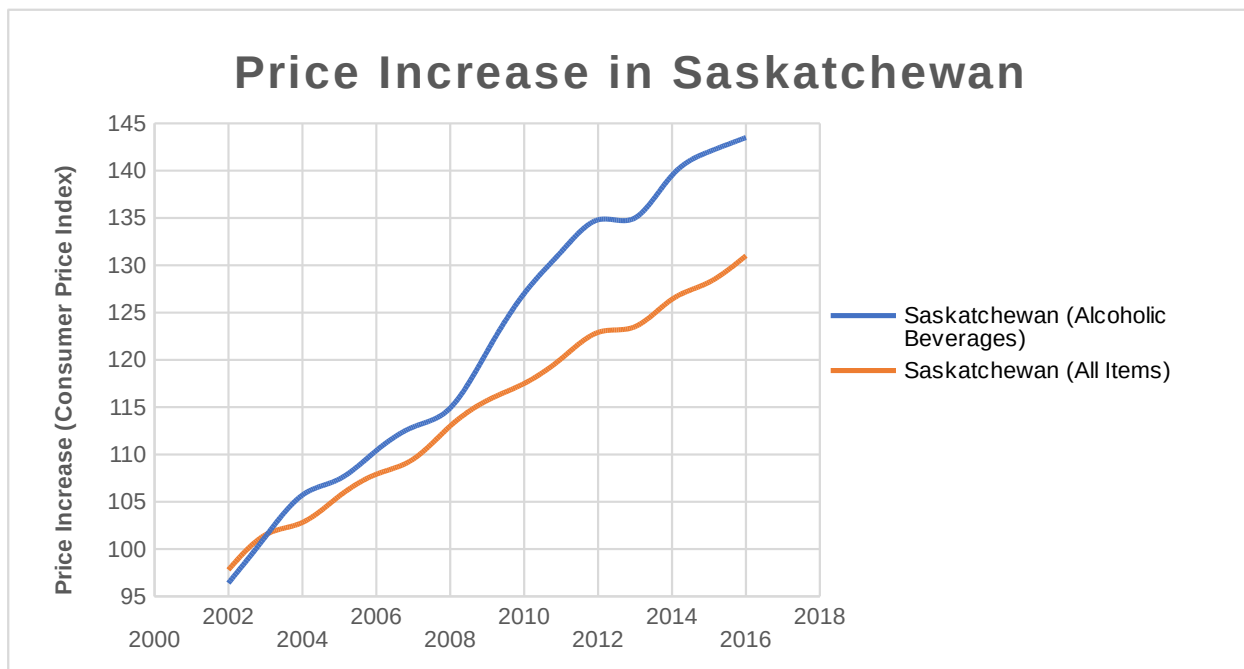


Figure 6. Price increase in Saskatchewan, 2002-2016 (comparing January of each year).

Trade openness: Saskatchewan maintains a similar level openness in interprovincial trade as international trade.

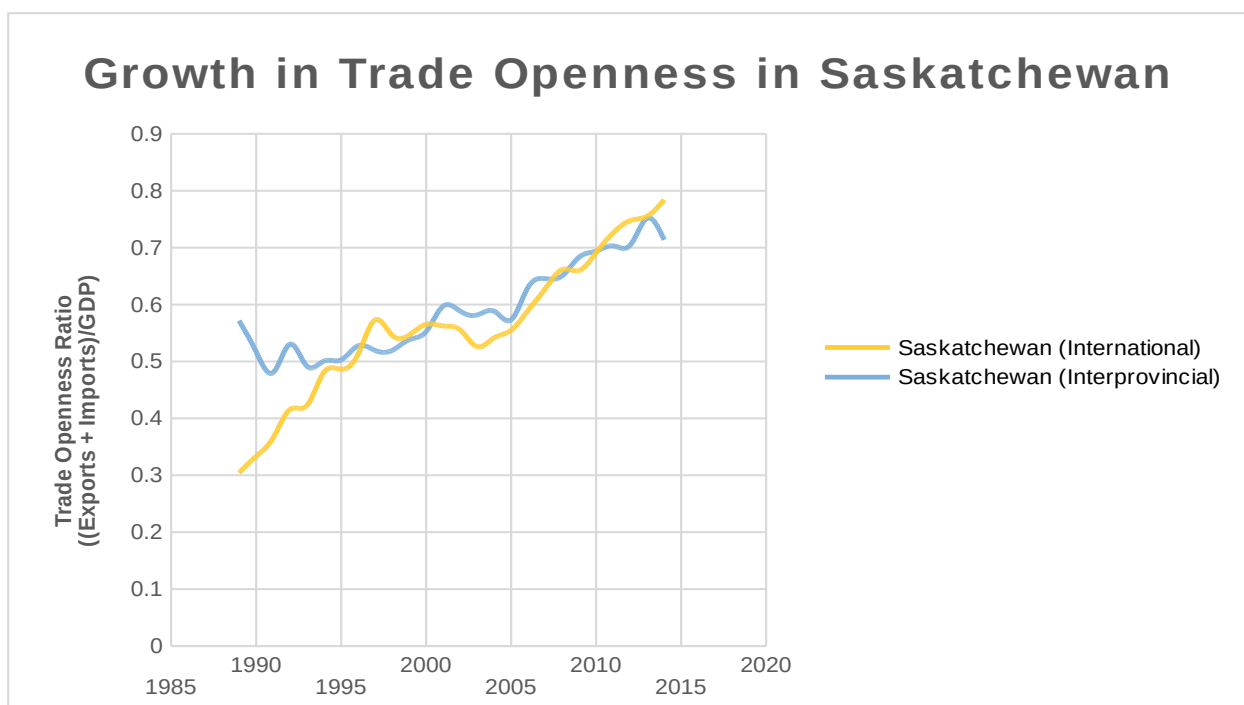


Figure 7. Growth in trade openness in Saskatchewan, international vs. interprovincial trade.

Variety: 2,705 registered listed products are available to SGLA liquor stores, franchises, and private liquor stores, with only 5,722 total products sold in retail stores ([SLGA, 2016a, 51](#)). Both Alberta and Ontario offer over 20,000 different liquor products.

Direct to consumer: Saskatchewan consumers can directly order wine from producers outside of the province. However, there are restrictions on direct-to-consumer shipments. Consumers are only able to order directly from wineries and distilleries located in British Columbia, must obtain a direct-to-consumer importation authorization prior to making an order, are limited to nine litres of wine and three litres of spirits, and must pay a mark-up of \$5.25 per 750-millilitre bottle of wine and \$9 per bottle of craft spirits.¹⁰ At the time of writing, Saskatchewan consumers cannot directly order beer from other provinces. Given the onerous restrictions Saskatchewan received a -3.

Adult transportation: Adults can personally bring three litres of spirits, nine litres of wine and 24.6 litres of beer and coolers into Saskatchewan.¹¹

Mark-ups: If individuals want to buy a product that is not currently offered in Saskatchewan, they must go through the SLGA special-order services. Processing times and mark-ups greatly increase the cost of importing goods from other jurisdictions. Delivery times typically take four to six weeks for goods ordered within Canada and can take up to six months for goods being shipped from abroad. Once the product is in the province, consumers then have to pay a price three to four times higher than the price of the good in its local market ([SLGA, Accessed August 2, 2016](#)).

Requiring consumers to go through the special-order service to import products into the province is a clear barrier to trade. The long time it takes plus the additional mark-ups greatly increase the cost of out-of-province goods. Brew pubs, microbreweries, microdistilleries and cottage wineries in Saskatchewan can deliver their products directly to consumers rather than having it distributed by the SLGA ([SLGA, 2016b, Ch. 6, s. 7 \(a\)](#)). This allows Saskatchewan producers to offer lower prices than out-of-province producers that face SLGA mark-ups.

Marketing: The government of Saskatchewan offers marketing and discount pricing programs for local products sold in SLGA liquor stores. The “DrinkSask” program promotes provincial liquor producers within the government-operated liquor stores by dedicating shelves and floor space to promote local products. The “Great Buys Program” offers five local beverages to consumers – rotated each month – at a discounted price in an effort to increase consumption of Saskatchewan products ([SGLA, 2016a, 4](#)). These programs discriminate against out-of-province producers by promoting local producers at a reduced price.

Note 10. “Direct Shipping from British Columbia,” Saskatchewan Liquor and Gaming Authority, Government of Saskatchewan, accessed Aug. 2, 2016, <https://www.slga.gov.sk.ca/x10134.xml>

Note 11. Government of Saskatchewan. (2016). *The Alcohol Control Regulations*, s. 71 (a), (b), (c).

Manitoba

Legislation: [The Liquor and Gaming Control Act](#); [Liquor Licensing Regulation](#); [Liquor and Gaming Regulation](#); [The Manitoba Liquor and Lotteries Corporation Act](#).

- Manitoba's liquor retail model is a combination of government and privately operated stores. In 2014-2015, there were 59 government-run stores and 431 privately owned stores ([MBLL, 2015, 4](#)).
- Manitoba Liquor and Lotteries Corporation employed 3,200 people in 2014-2015 ([MBLL, 2015, 4](#)).
- Liquor operations generated a net income of \$374 million in 2014-2015 ([MBLL, 2015, 20](#)).

Criteria	Score
Price	-1
Trade Openness	1
Variety	0
Favouring Local	0
Direct to Consumer	3
Adult Transport	3
Mark-ups	0
Rebates	0
Provincial Products Only	0
Retail Producers	0
Marketing	0
Labelling, Packaging, Shipping	0
Other Regulations	0
Transparency	0
Total	6

Price: Since 2002, the price of alcoholic beverages has increased (44.3 per cent) at a significantly higher rate than all other items (26.9 per cent) sold in Manitoba.

Direct to consumer: Individuals can directly import or bring alcoholic products into Manitoba from other provinces. There are no restrictions on the amount that individuals may ship into the province for personal consumption.¹²

Adult transportation: There are no limits within the *Liquor and Gaming Control Act* on the quantity of liquor that adults can personally bring into Manitoba for personal consumption ([FindLaw Canada, n.d.](#)).

Note 12. Government of Manitoba. (2013). The *Liquor and Gaming Control Act*, s. 71.

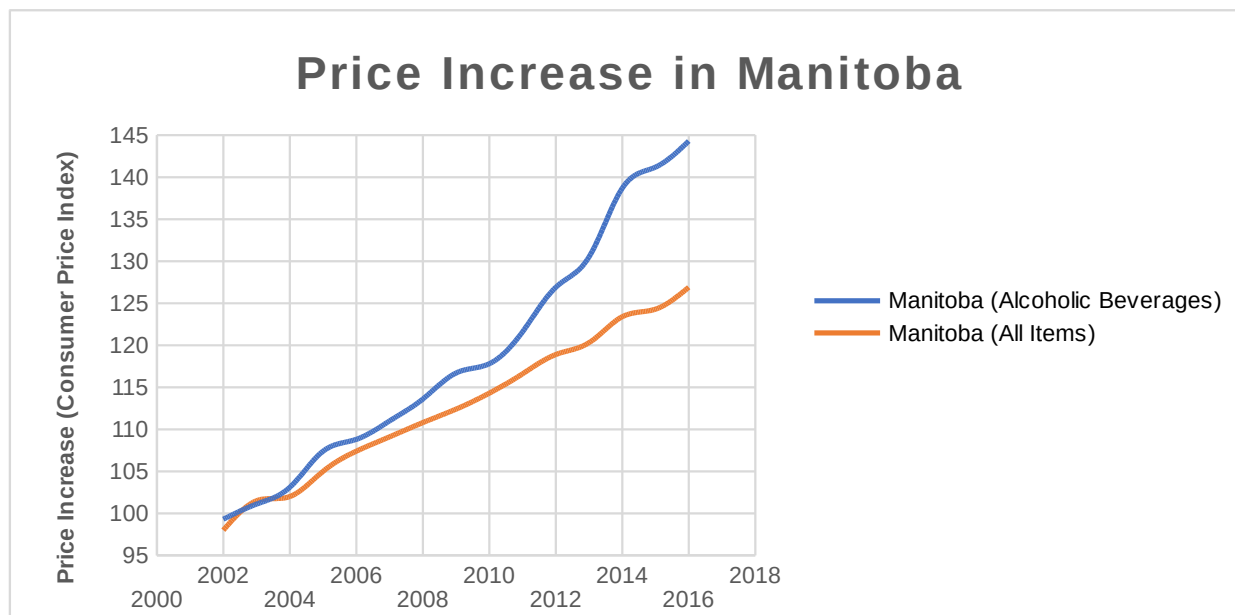


Figure 8. Price increase in Manitoba, 2002-2016 (comparing January of each year).

Trade openness: The value of Manitoba's interprovincial trade is still larger than the province's trade with foreign countries. However, since the late 1980s, Manitoba has increasingly become more open to international trade.

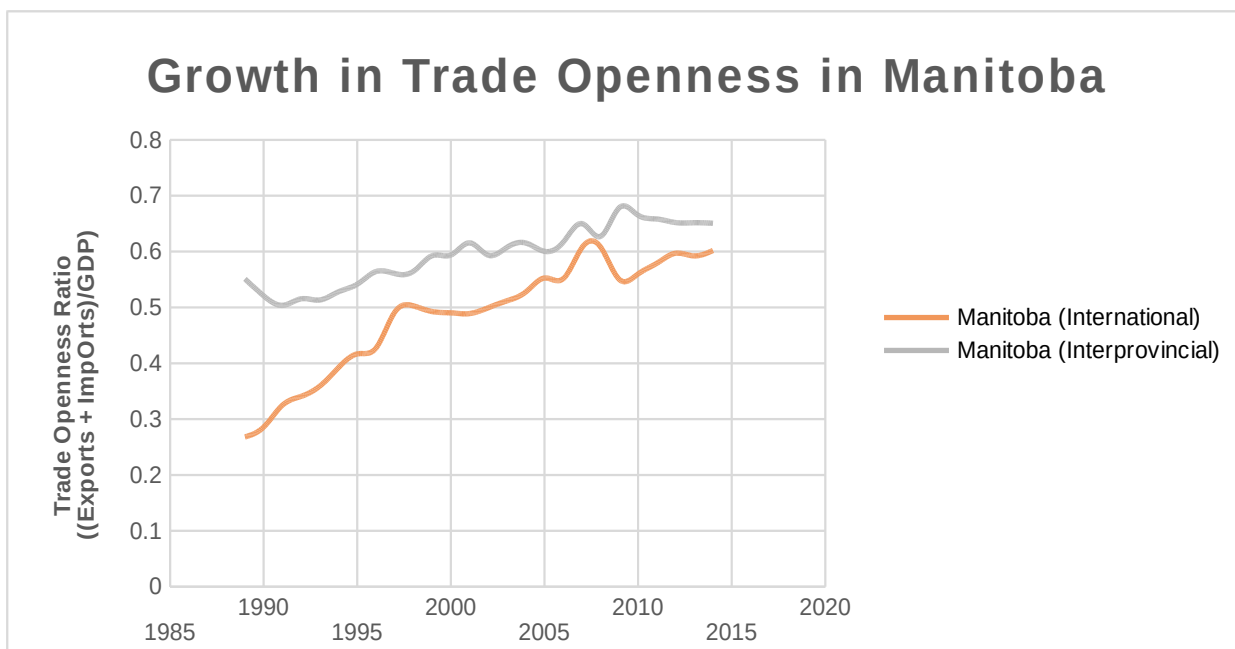


Figure 9. Growth in trade openness in Manitoba, international vs. interprovincial trade.

Ontario

“The right to distribute in outlets other than those owned by one’s competitors is an essential element in any successful effort to inject competition into the industry” (Beaulieu, Gaisford and Higginson, 2003, 55, on Ontario’s beer sales).

Legislation: [Liquor Control Act](#); [Liquor Licence Act](#); [Wine Content and Labelling Act](#); [Consumer Packaging and Labelling Act](#).

Facts:

- The Liquor Control Board of Ontario (LCBO) realized net earnings of \$1.8 billion during the 2014-2015 fiscal year ([LCBO, 2015, 4](#)).

Criteria	Score
Price	1
Trade Openness	-1
Variety	1
Favouring Local	-1
Direct to Consumer	-3
Adult Transport	0
Mark-ups	-3
Rebates	-3
Provincial Products Only	-3
Retail Producers	-3
Marketing	0
Labelling, Packaging, Shipping	-2
Other Regulations	0
Transparency	0
Total	-17

Price: Since 2002, the increase in the price of alcoholic beverages (21.5 per cent) has been less than the price increase for all items (27.8 per cent) sold in Ontario.

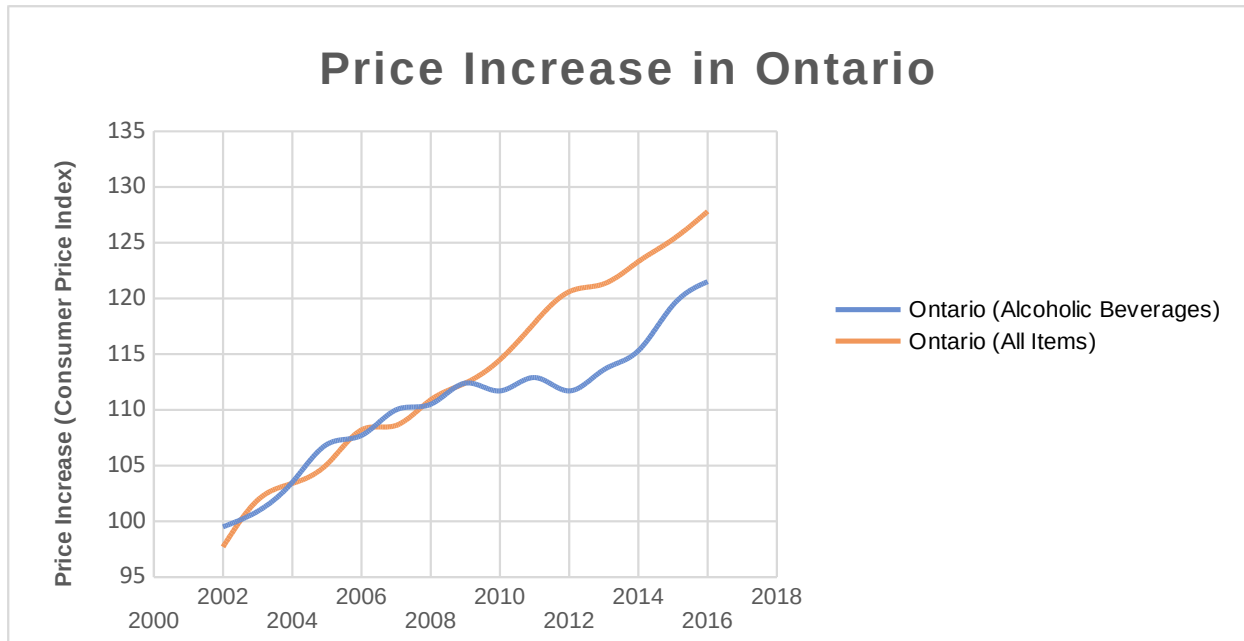


Figure 10. Price increase in Ontario, 2002-2016 (comparing January of each year).

Trade openness: Since the late 1980s, the value of Ontario's international trade has been consistently much greater than the value of its interprovincial trade.

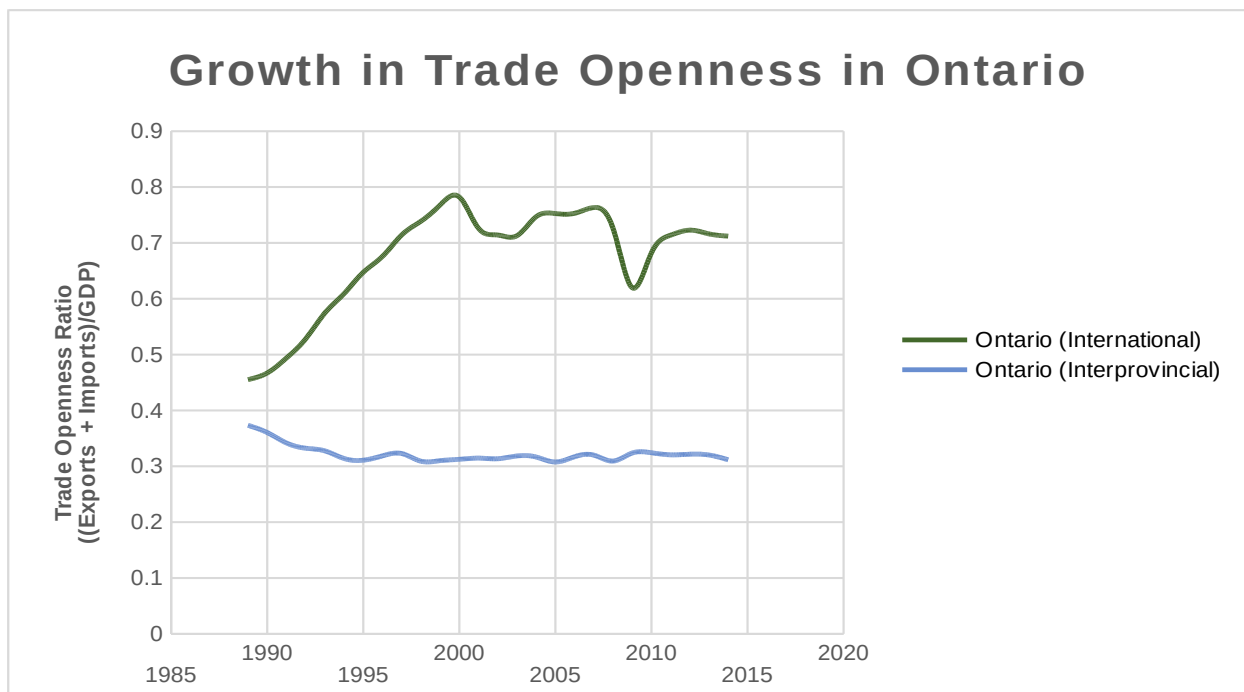


Figure 11. Growth in trade openness in Ontario, international vs. interprovincial trade.

Variety: The LCBO offered more than 23,000 spirits, beer, and wine products in 2014-2015 ([LCBO, 2015, 21](#)).

Favouring local: 45 per cent of the volume sales of beer sold by the LCBO was brewed in Ontario, while only 3.3 per cent of beers sold were brewed elsewhere in Canada ([LCBO, 2015, 86](#)). It is unlikely that this large of a gap can be explained only by consumer preferences. It is likely that the discrepancy arises from regulatory barriers, which make it harder for out-of-province producers to compete in Ontario.

Direct to consumer: Direct-to-consumer shipment of wine from all provinces is prohibited in Ontario ([LCBO, 2017](#)).

The Government of Ontario just announced a deal with the governments of British Columbia and Quebec agreeing to allow wineries from each province to list their products on the governments' websites. At the time of writing, further details have not been released, but the agreement, if implemented, would appear to improve consumers' access to wines made outside of Ontario. However, this does allow for unrestricted direct-to-consumer purchases for all Canadian alcohol products. ([Government of British Columbia, 2016a](#)).

Adult transportation: Adults can personally transport up to three litres of spirits, nine litres of wine and 24.6 litres of beer into Ontario ([FindLaw Canada, n.d.](#)).

Mark-ups: Out-of-province breweries must go through Brewers Retail Inc. distribution system to sell their beer in Ontario, and must pay the required fee of \$23,870 per brand per package size that they wish to sell. Microbreweries in Ontario can self-distribute their beers directly to restaurants and bars without having to go through the LCBO or The Beer Store ([Hughey, n.d.](#)). Wines not made in Ontario that are purchased from winery retail stores or grocery stores face higher tax rates than those made in Ontario. Ontario wine faces a tax rate of 6.1 per cent of its retail price, while wine not made in Ontario incur a tax rate between 16.1 per cent and 20.1 per cent of its retail price.¹³ This is clearly a tariff barrier to trade and is in direct violation of s. 121 of the *Constitution Act, 1867*.

Rebates: Ontario has introduced similar programs in the past as the BC VQA Support Program, which provides grants to provincial wine producers to offset the costs of liquor board mark-ups ([Hicken, 2009](#)).

Provincial products only: Only beer made in Ontario can be sold in on-site retail stores ([AGCO, 2017, 8](#)).

Retail producers: Three corporations, Anheuser-Busch InBev SA, Molson Coors Brewing Co., and Sapporo Breweries Ltd. own The Beer Store have been granted the monopoly privilege of selling 24- and 12- packs of beer in Ontario. Controlling the monopolized retail chain allows The Beer Store's owners to implement policies that allow them to sell more of their product, while discriminating against competitors. As an example, The Beer Store has been criticized for giving the owners' products prime product placement while shelving their competitors' products in low-visibility areas. Products produced by the owners account for 80 per cent of total sales, compared to 74 per cent of annual sales in LCBO stores. The Beer Store was started when Ontario ended prohibition, with beer sales originally being managed by a cooperative of all of Ontario's producers ([Morrow, 2015](#)).

In 2015, the Beer Store entered into a Master Framework Agreement with Ontario. This agreement provides for a number of changes to Ontario's system of beer retailing and distribution including changes to the Beer Store ownership model. Under the Agreement, the Beer Store would be opening its ownership to all Ontario-based brewers, large and small. The Beer Store has also announced an increase in the number of stores at which small Ontario brewers with annual beer volumes of 10,000 hectoliters or less can list two new products without paying any listing fee ([The Beer Store, n.d.](#)).

Labelling, packaging, shipping: The government of Ontario levies an environmental tax equal to 8.93 cents per can, discouraging the shipment of beer cans from other provinces.¹⁴ Because shipping cans is much cheaper than shipping bottles, breweries that are further away from Ontario incur a greater cost. This trade barrier effectively increases the cost of out-of-province breweries, reducing competition for Ontario producers (Beaulieu, Gaisford and Higginson, 2003, 58).

Note 13. Government of Ontario. (1996/2017). *Alcohol and Gaming Regulation and Public Protection Act*, s. 27 (1) (2).

Note 14. Government of Ontario. (1996/2017). *Alcohol and Gaming Regulation and Public Protection Act*, s. 24.

Quebec

“It’s obvious that the products the SAQ is offering are quickly veering away from the diversity, at least in terms of price, and the accessibility that almost all other wine consumers on the planet enjoy,” Yves Mailloux (a Quebec wine blogger as cited in [van Praet, 2013](#)).

Legislation: [An Act Respecting Liquor Permits](#); [Regulation Respecting Liquor Permits](#); [An Act Respecting the Société des Alcools du Québec](#); [An Act Respecting Offences Relating to Alcoholic Beverages](#); [An Act Respecting the Régie des Alcools, des Courses et des Jeux](#); [Purchase and Bottling of Spirits Regulation](#); [Regulation Respecting Alcoholic Beverages Made and Bottled by Holders of a Distiller’s Permit](#); [Regulation Respecting the Terms of Sale of Alcoholic Beverages by Holders of a Grocery Permit](#); [Regulation Respecting Promotion, Advertising and Educational Programs Relating to Alcoholic Beverages](#); [Regulation Respecting the Possession and Transportation into Québec of Alcoholic Beverages Acquired in Another Province or a Territory of Canada](#).

Facts:

- The Société des alcools du Québec (SAQ) is the provincial Crown corporation in Quebec responsible for the trade of alcoholic beverages in Quebec. The Régie des alcools, des courses et des jeux (RACJ) is the board established by the Quebec government to regulate the alcohol, lottery and gambling, racing, and combat sports industries.

Criteria	Score
Price	1
Trade Openness	-1
Variety	0
Favouring Local	0
Direct to Consumer	-3
Adult Transport	0
Mark-ups	-3
Rebates	0
Provincial Products Only	-3
Retail Producers	0
Marketing	-2
Labelling, Packaging, Shipping	-2
Other Regulations	0
Transparency	1
Total	-12

- The SAQ’s net profit in the 2014-2015 fiscal year was \$1.03 billion ([SAQ, 2015, 2](#)).

Price: Since 2002, the increase in the price of all items (24.6 per cent) has increased more than the price of alcoholic beverages (19.1 per cent).

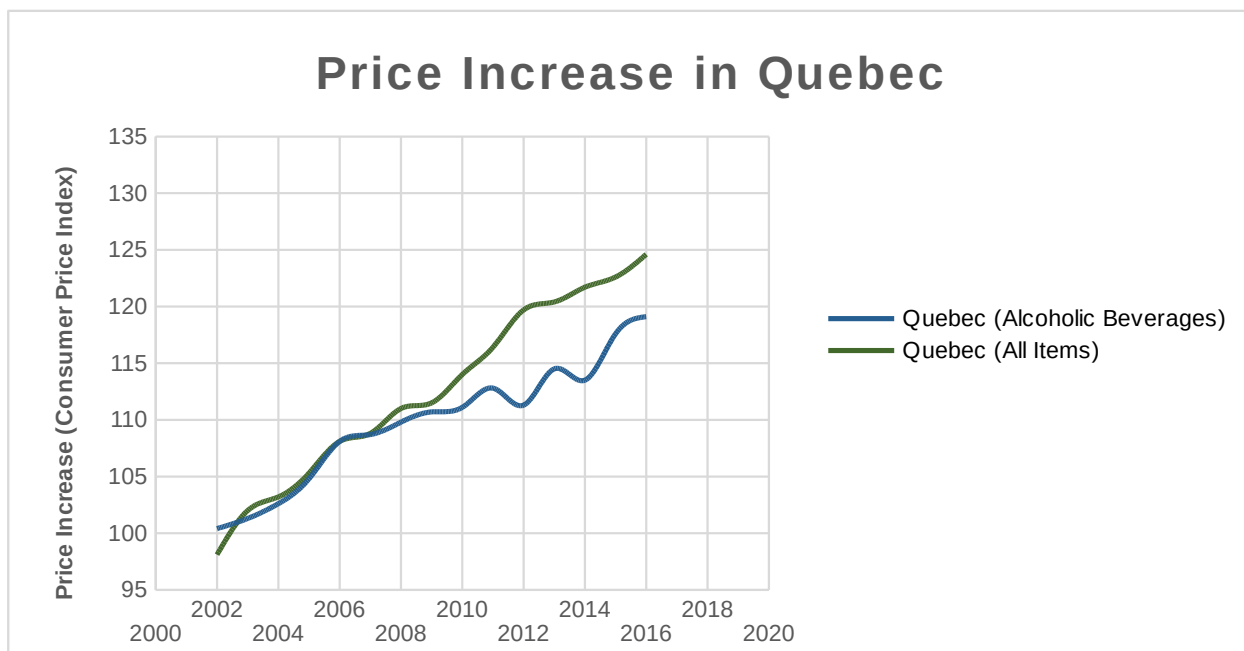


Figure 12. Price increase in Quebec, 2002-2016 (comparing January of each year).

Trade openness: International trade openness is much greater than Quebec's openness to interprovincial trade.

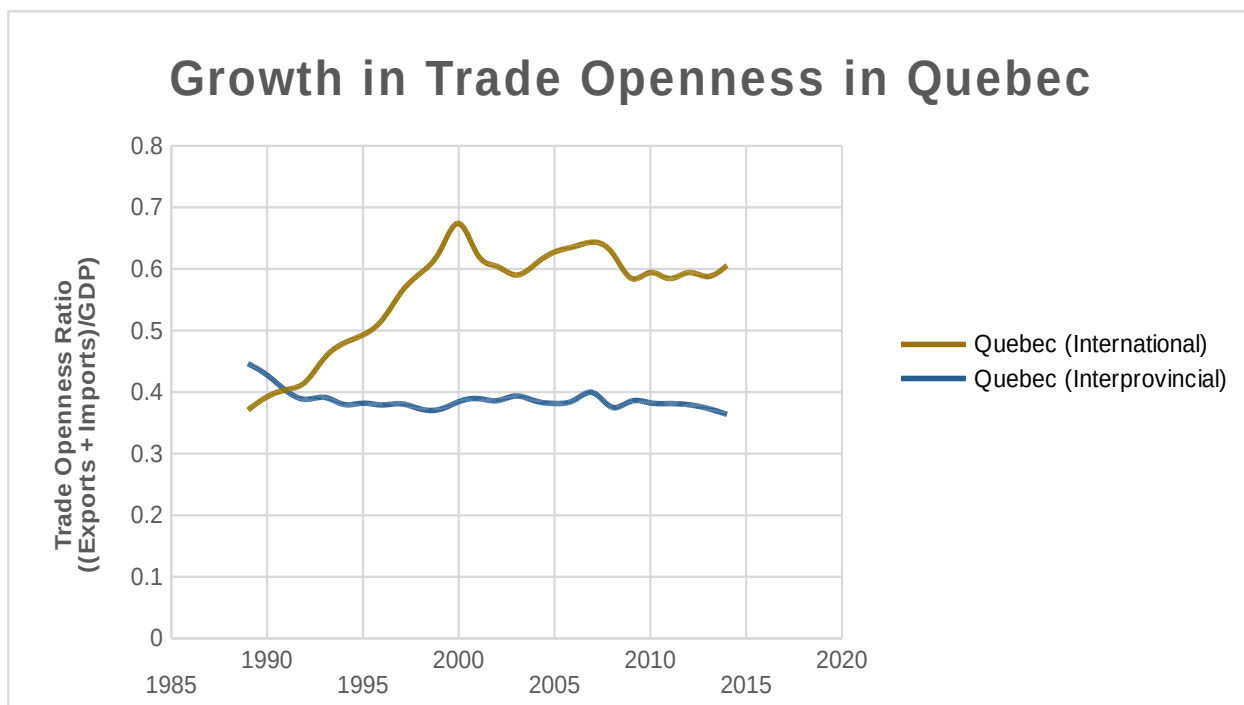


Figure 13. Growth in trade openness in Quebec, international vs. interprovincial trade.

Variety: In 2014-2015, the SAQ offered 12,500 varieties of wine, beer, spirits, and other products in its retail stores ([SAQ, 2015, 11](#)). This is almost half of the products offered by the LCBO. If private retail stores – grocery and convenience stores – are included there, the variety available to Quebecers reaches 16,000 different product listings ([Hadekel, 2016](#)).

Direct to consumer: The Government of Quebec just announced a deal with the governments of British Columbia and Ontario agreeing to allow wineries from each province to list their products on the governments' websites. At the time of writing, further details have not been released, but the agreement, if implemented, would appear to improve consumers' access to wines made outside of Quebec. However, this does allow for unrestricted direct-to-consumer purchases for all Canadian alcohol products. ([Government of British Columbia, 2016a](#)).

Adult transportation: Adults can transport up to nine litres of wine, three litres of spirits and up to 24.6 litres of beer. Adults must transport the alcoholic products personally, and they must be intended for personal consumption.¹⁵

Mark-ups: Local breweries are able to sell their products to convenience stores without facing the government mark-up. This is a clear trade barrier by increasing the cost to out-of-province producers ([The Canadian Press, 2015](#)).

Provincial products only: Grocery stores can sell wine and ciders to consumers, but they must be bottled in Quebec.¹⁶

Marketing: The SAQ provides programs to advertise, promote and discount wines made in Quebec. The new initiative sets aside highly visible space to promote wines that are made in Quebec ([SAQ, 2015, 13](#)). The new initiative was introduced in 180 SAQ stores, increasing the sale of Quebec-certified wines by 76 per cent ([SAQ, 2015, 5](#)). The SAQ offers promotional discounts on Quebec wine sold within its stores on Quebec's national holidays ([SAQ, 2015, 13](#)). During these promotions, consumers are less likely to buy wines made outside of the province.

Labelling, packaging, shipping: Producers who choose to sell beer in Quebec convenience stores must sell beer bottles to avoid paying a fee. As bottles are more expensive to ship than cans, out-of-province producers are made disproportionately worse off from this policy because they must pay higher shipping costs or the extra fee (Beaulieu, Gaisford and Higginson, 2003, 22, 56).

Transparency: The SAQ and RACJ's regulations and policies are transparent and made easily accessible to the public.

Note 15. Government of Quebec. (2017h). *Regulation respecting the possession and transportation into Quebec of alcoholic beverages acquired in another province or a territory of Canada*, s. 2 (1) (2) (3).

Note 16. Government of Quebec. (2016). *Regulation respecting the terms of sale of alcoholic beverages by holders of a grocery permit*, s. 2.

New Brunswick

“[Section 134](#) (b) of the Liquor Control Act of New Brunswick constitutes a trade barrier which violates [section 121](#) of the Constitution Act, 1867 and is therefore of no force or effect as against Gérard Comeau” (The Hon. Ronald LeBlanc in [R v. Comeau](#), provincial trial court).

Legislation: [Liquor Control Act](#); [New Brunswick Liquor Corporation Act](#); [Beverage Containers Act](#); [General Regulation – Beverage Containers Act](#).

Facts:

- The Alcool New Brunswick Liquor Corporation (ANBL) generated \$166.1 million in net income during the 2014-2015 fiscal year ([ANBL, 2015, 5](#)).

Price: Since 2002, the price of alcoholic beverages has increased (33 per cent) at a greater rate than the price of all items sold in New Brunswick (26 per cent).

Criteria	Score
Price	-1
Trade Openness	-1
Variety	-1
Favouring Local	0
Direct to Consumer	-3
Adult Transport	-3
Mark-ups	-3
Rebates	0
Provincial Products Only	0
Retail Producers	0
Marketing	0
Labelling, Packaging, Shipping	-2
Other Regulations	0
Transparency	0
Total	-14

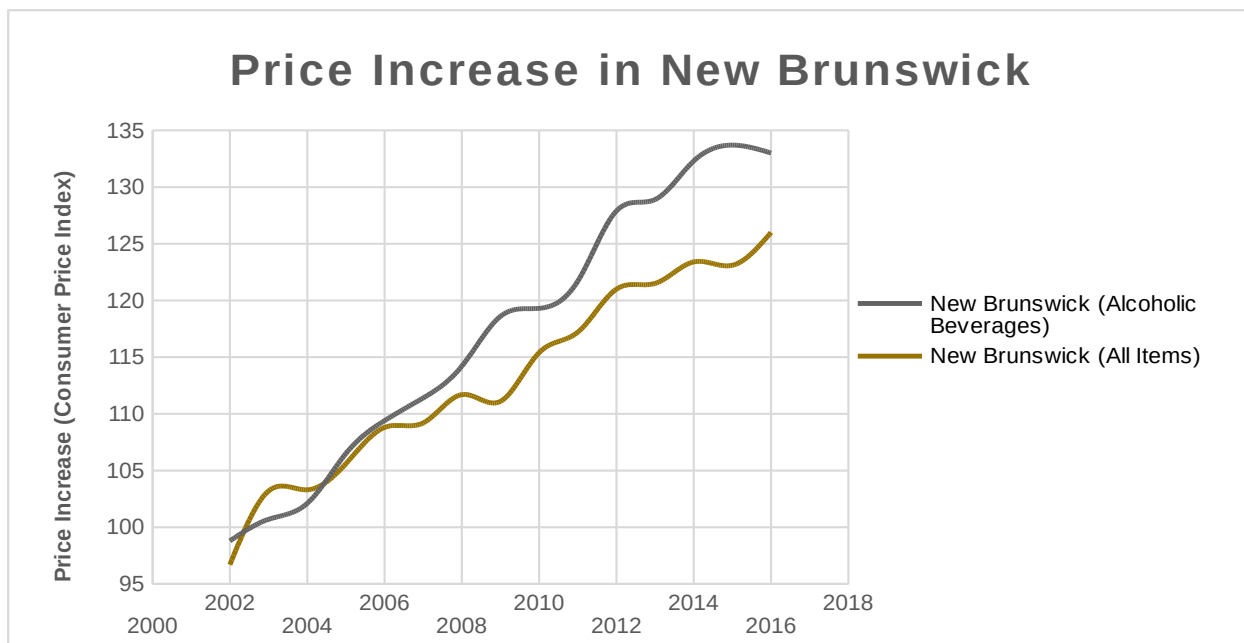


Figure 14. Price increase in New Brunswick, 2002-2016 (comparing January of each year).

Trade openness: Since the late 1980s, the value of international trade to GDP has increased while the value of interprovincial trade to provincial GDP has decreased.

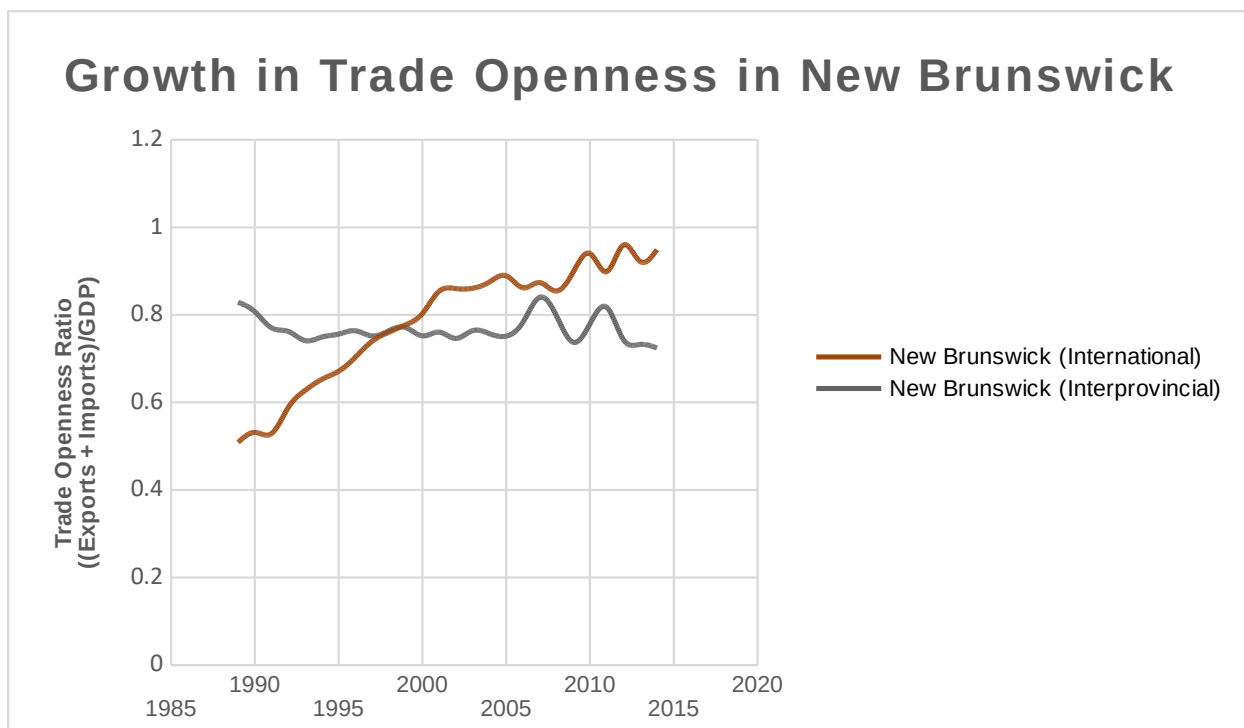


Figure 15. Growth in trade openness in New Brunswick, international vs. interprovincial trade.

Variety: The Liquor Corporation had fewer than 2,000 regular listed products in 2015 ([ANBL, 2015](#)).

Direct to consumer: Direct-to-consumer wine shipments are not permitted ([CALJ, 2012](#)).

Adult transportation: Adults travelling into New Brunswick can only bring with them up to one bottle of spirits, one bottle of wine and up to 12 pints of beer ([FindLaw Canada, n.d.](#)). Residents were able to bring more wine, beer and spirits from the United States than any province ([Soupcoff, 2015](#)).

Mark-ups: Brewers, wineries and distilleries in New Brunswick may sell their products to consumers at their premises. Local producers are able to bypass the provincial mark-up and sell cheaper goods to consumers.¹⁷ All liquor products outside the Maritimes are subject to the provincial mark-up, resulting in a higher price charged to consumers.

Small New Brunswick wineries that produce 100,000 litres or less of wine per year are able to sell directly in farmer's markets, bypassing the provincial mark-up.¹⁸

An agreement between New Brunswick and Nova Scotia demonstrates that there are barriers to enter these markets. The two provinces agreed to treat microbreweries in the other province as local breweries. According to Bret Mitchell, president and CEO of the Nova Scotia Liquor Corporation, "All Maritime microbreweries will benefit from significantly lower distribution costs and enhanced market access as a result of this new policy" ([NSLC, 2007](#)). This statement implies that brewers outside of the Maritime Provinces incur costs that local producers do not face.

Labelling, packaging, shipping: The requirement for size of letters differs from most federal requirements. According to the ANBL, the lettering size must be 1/16th of an inch, whereas most federal regulations require lettering size of 1/8th of an inch ([ANBL, 2016a](#)).

Suppliers must meet the requirements of the *Beverage Containers Act* of New Brunswick. The act prohibits the sale of metal containers with pull-tabs and products packaged with plastic rings.¹⁹ The act also requires additional registration in order to distribute beverage containers throughout the province.²⁰

Note 17. Government of New Brunswick. (1973). *Liquor Control Act*, s. 40.2 (1).

Note 18. Government of New Brunswick. (1973). *Liquor Control Act*, s. 40.2 (1.1).

Note 19. Government of New Brunswick. (2011). *Beverage Containers Act*, ss. 8 & 9.

Note 20. Ibid., s. 17 (1).

Nova Scotia

“[Section 134](#) (b) of the Liquor Control Act of New Brunswick constitutes a trade barrier which violates [section 121](#) of the Constitution Act, 1867 and is therefore of no force or effect as against Gérard Comeau” (The Hon. Ronald LeBlanc in [R v. Comeau](#), provincial trial court).

Legislation: [Liquor Control Act](#); [Nova Scotia Liquor Corporation Regulations](#); [Liquor Licensing Regulations](#).

Facts:

- Nova Scotia has a mix of both public and private retailers. There are 105 NSLC provincial stores along with 60 private agency stores serving rural areas and four privately owned specialty wine stores ([NSLC, 2015b, 8](#)).
- There are 1,475 people currently employed by the Nova Scotia Liquor Corporation ([NSLC, 2015b, 12](#)).

Criteria	Score
Price	1
Trade Openness	1
Variety	-1
Favouring Local	-1
Direct to Consumer	3
Adult Transport	0
Mark-ups	-3
Rebates	-3
Provincial Products Only	0
Retail Producers	0
Marketing	-2
Labelling, Packaging, Shipping	0
Other Regulations	0
Transparency	-1
Total	-6

Price: Since 2002, the growth in prices of alcohol beverages (32.6 per cent) has been similar to the increase in price of all goods sold within the province (29.4 per cent).

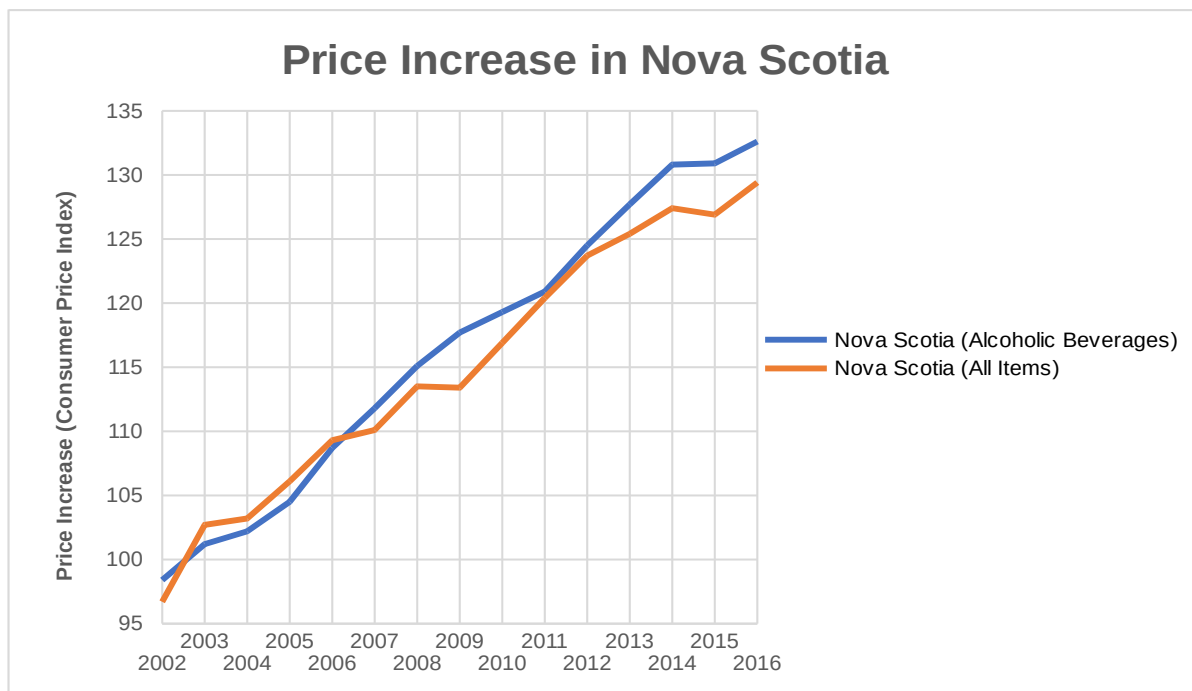


Figure 16. Price increase in Nova Scotia, 2002-2016 (comparing January of each year).

Trade openness: Nova Scotia's openness to interprovincial trade is very similar to the province's openness to international trade. Since the late 1980s, however, the value of international trade has grown at a much faster rate than interprovincial trade.

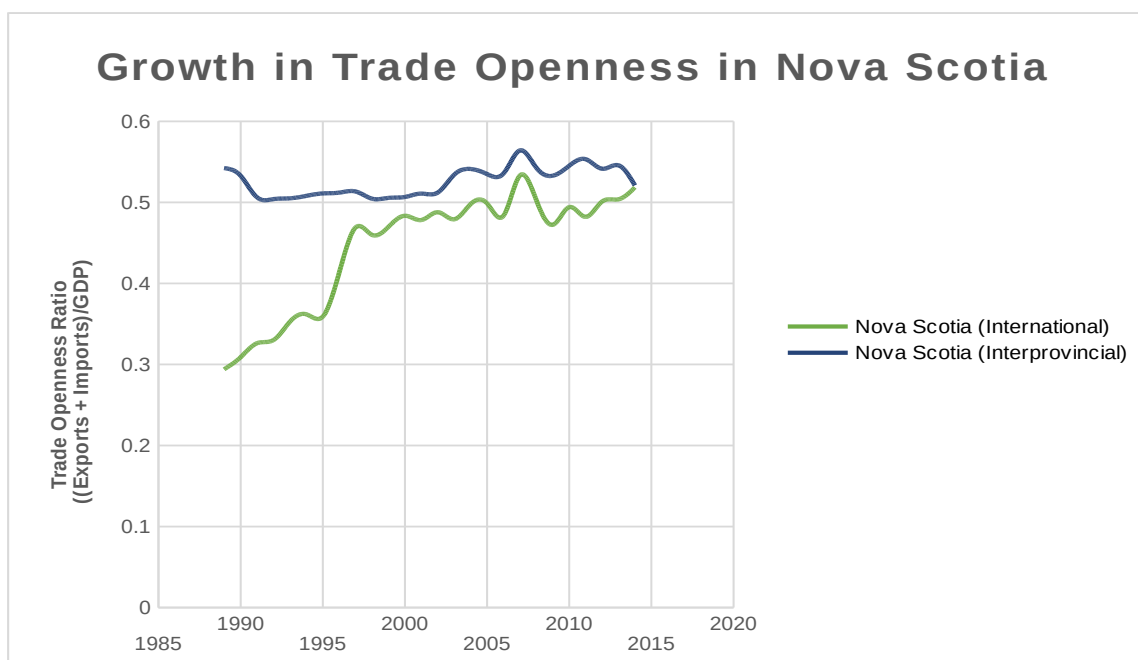


Figure 17. Growth in trade openness in Nova Scotia, international vs. interprovincial trade.

Variety: The NSLC has approximately 5,000 different products listed for sale within the province ([NSLC, n.d.](#)).

Favouring local: Approximately 50 per cent of the craft beer sold in Nova Scotia was produced locally ([NSLC, 2015a, 21](#)).

Direct to consumer: Nova Scotians are able to directly order wine from any winery located in Canada without going through the Liquor Corporation ([Government of Nova Scotia, 2015](#)).

Adult transportation: Adults may personally bring up to three litres of spirits, nine litres of wine and 24 litres of beer into Nova Scotia ([FindLaw Canada, n.d.](#)).

Mark-ups: The NSLC reduced its mark-up on Nova Scotia-produced spirits from 160 per cent to between 60 per cent and 80 per cent per bottle sold, in an effort to promote local production (Withers, 2014). This reduction was made in order to give local distillers the same advantage given to local brewers and vintners. In 2007, the NSLC announced they would be reducing the mark-up for local wineries by 70 per cent ([Pinhey, 2007](#)).

According to the NSLC, one of their methods to promote local industry is to “provide local products with a reduced mark-up so they can better compete on price with larger competitors” ([NSLC, 2015b, 19](#)). Levying higher mark-ups on out-of-province products is a clear tariff barrier to trade and a direct violation of [s. 121](#) of the *Constitution Act, 1867*.

Rebates: The NSLC provided \$16 million in direct and indirect financial assistance to the local industry during the 2014-2015 fiscal year ([NSLC, 2015b, 19](#)).

Marketing: As an NSLC mandate is to promote the local alcohol industry, the Corporation takes part in marketing programs that subsidize the cost of advertisement for local producers. The NSLC grants greater flexibility for local producers to sell their products at local events, provides local producers with prime shelf space in retail outlets, provides store employees with product training to better promote local products, promotes wine tastings for local wineries and provides advertising for local products in *Occasions* magazine ([NSLC, 2015b, 19](#)).

Transparency: Difficult to find NSLC regulations and policies (e.g., mark-up rates for listed products).

Prince Edward Island

“We have a lot more to gain in a country of 35 million” (P.E.I. Premier Wade MacLauchlan on the benefits of reducing interprovincial trade barriers in *The Guardian* (Charlottetown) 27 Jul 2016).

Legislation: [Liquor Control Act](#); [Liquor Control Act Regulations](#); [Liquor Agency Regulations](#).

Facts:

- The Prince Edward Island Liquor Control Commission operates 18 retail stores and one central warehouse, while contracting private liquor agencies in seven different locations ([PEILCC, 2014, 12](#)).
- The Liquor Commission’s net income was just over \$19 million during the 2013-2014 fiscal year ([PEILCC, 2014, 14](#)).

Criteria	Score
Price	1
Trade Openness	1
Variety	0
Favouring Local	0
Direct to Consumer	-3
Adult Transport	0
Mark-ups	-3
Rebates	0
Provincial Products Only	-3
Retail Producers	0
Marketing	-2
Labelling, Packaging, Shipping	0
Other Regulations	0
Transparency	0
Total	-9

Price: Between 2002 and 2010, the increase in the price of alcohol was very similar to the increase in the price of all goods. However, after 2010 the price of alcohol increased at a greater rate than the price of all goods sold within the province. The price of all goods in P.E.I. has increased by 33.4 per cent, while the price of all goods has increased by 29.1 per cent since 2002.

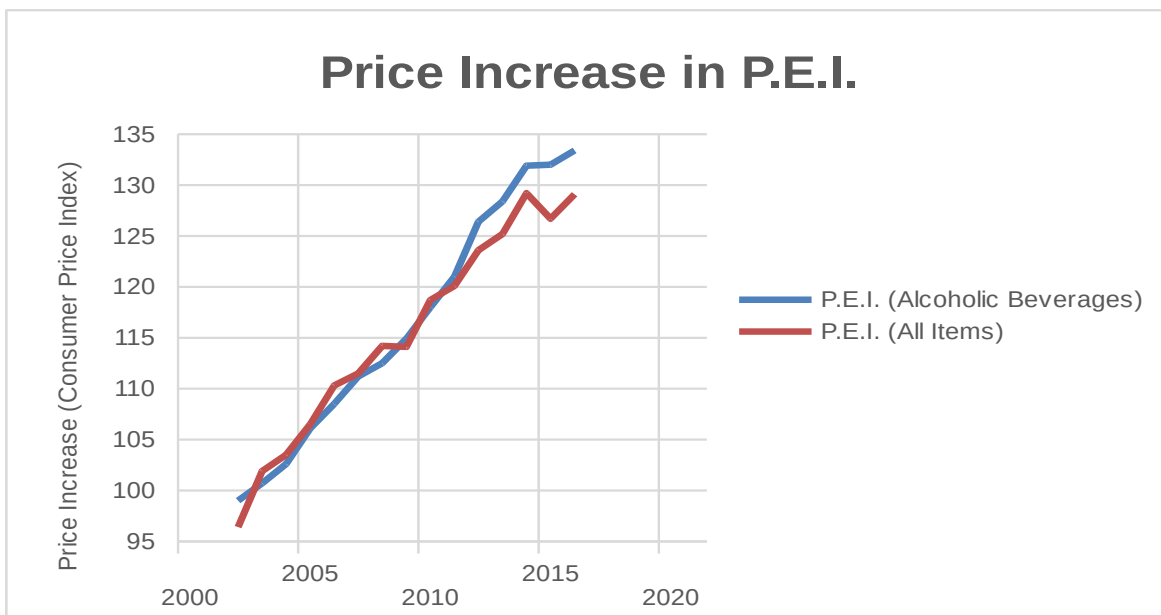


Figure 18. Price increase in P.E.I., 2002-2016 (comparing January of each year).

Trade openness: The value of interprovincial trade in P.E.I. remains greater than the value of international trade. The ratio of international trade to GDP has grown since the 1980s, while the ratio of interprovincial trade to GDP has slightly decreased over the last three decades.

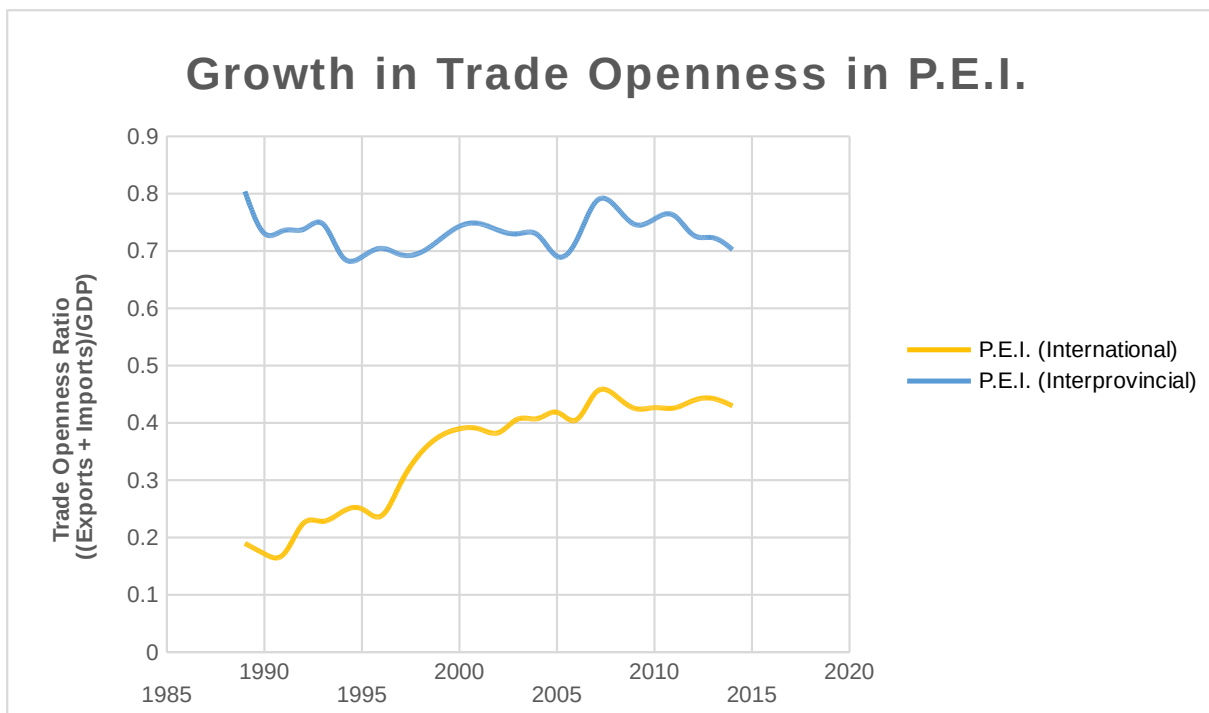


Figure 19. Growth in trade openness in P.E.I., international vs. interprovincial trade.

Direct to consumer: According to P.E.I.'s Liquor Board, it is not open for direct shipment to consumers from out-of-province producers ([Hicken, 2016](#)).

Adult transportation: Adults can personally bring up to three litres of spirits, nine litres of wine and 24.6 litres of beer into the province.²¹

Mark-ups: Products made in P.E.I. wineries, distilleries and microbreweries may be sold directly on site or by other P.E.I. liquor producers.²² This means that they do not have to sell through the Commission and incur the mark-up. This allows local producers to sell their goods at a relatively lower price than out-of-province producers who need to sell through the Commission. Application fees to list products to be sold by the PEILCC are waived for products whose contents are 100 per cent made in P.E.I. ([PEILCC, 2007/2015, s. 2.6 \(a\)](#)). Products from other places in Canada must pay the full fee to sell their liquor in P.E.I.

Provincial products only: The PEILCC created liquor agency stores in popular tourism areas that are only permitted to sell products that are made within the province ([Wright, 2014](#)).

Marketing: The “Island Style” and “BUY P.E.I.” initiatives to promote local food and beverages reduce the cost for local producers to market their products in P.E.I. ([PEILCC, 2014, 17](#)).

Note 21. Government of Prince Edward Island. (1988/2016a). *Liquor Control Act*, ss. 18 & 33 (2) (b.1).

Note 22. Ibid., s. 11 (1) (h), (j), (k), (l).

Newfoundland & Labrador

Legislation: [Liquor Control Act](#); [Liquor Corporation Act](#); [Liquor Licensing Regulations](#); [Liquor Limitation Order](#).

Facts:

- Total net earnings for the Newfoundland and Labrador Liquor Corporation (NLC) during the 2014-2015 fiscal year were \$161.1 million ([NLC, 2015, 3](#)).
- The NLC employs over 500 full-time employees ([NLC, 2014, 4](#)), operating 24 provincial liquor stores and 135 additional Liquor Express locations to serve rural customers. The NLC also operates Rock Spirits manufacturing company, which produces rum, vodka, gin and whisky, while also bottling and blending other products ([NLC, 2014, 9](#)).

Criteria	Score
Price	1
Trade Openness	-1
Variety	-1
Favouring Local	-1
Direct to Consumer	-3
Adult Transport	-3
Mark-ups	0
Rebates	0
Provincial Products Only	-3
Retail Producers	-3
Marketing	0
Labelling, Packaging, Shipping	-2
Other Regulations	0
Transparency	1
Total	-15

Price: The price of alcohol has increased at a slower rate (28.6 per cent) than the price increase in all items (29.2 per cent) in Newfoundland since 2002.

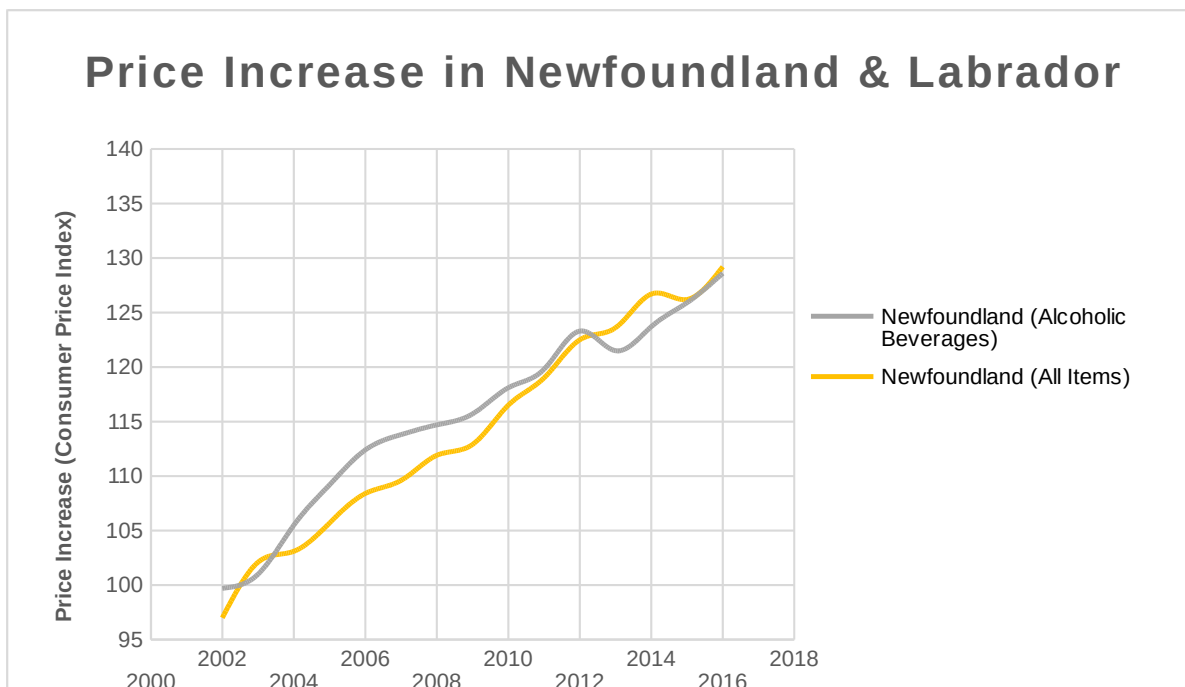


Figure 20. Price increase in Newfoundland, 2002-2016 (comparing January of each year).

Trade openness: The value of international trade to provincial GDP has increased greater than the value of interprovincial trade to GDP.

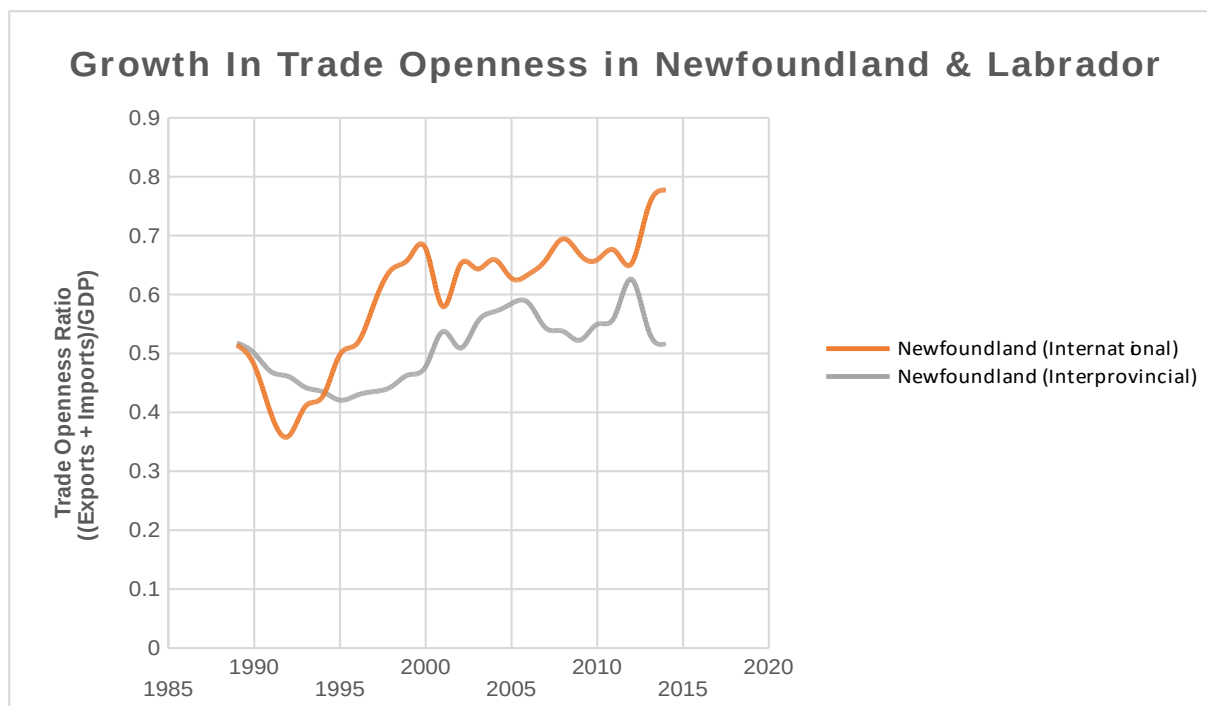


Figure 21. Growth in trade openness in Newfoundland, international vs. interprovincial trade.

Variety: NLC carries over 4,000 liquor products ([NLC, 2014, 11](#)).

Favouring local: Close to 60 per cent of all beer sold by volume through the NLC is produced within the province ([NLC, 2015, 10](#)).

Direct to consumer: Direct-to-consumer wine shipments are prohibited ([Hicken, 2016](#)).

Adult transportation: Adults can only personally bring up to 1.14 litres of spirits, 1.14 litres of wine and up to nine litres of beer for consumption in Newfoundland.²³ This is a lower amount than in other provinces.

Provincial products only: Newfoundland's microbreweries can retail their beer in corner stores, an advantage not given to out-of-province producers. Breweries are also able to sell their beers in on-site stores ([Hughey, n.d.](#)).

Retail producers: The NLC owns a manufacturing company called Rock Spirits, which also bottles and blends products ([NLC, 2015, 6](#)). As a manufacturer owning the majority of retail outlets within the province, there is the potential for discrimination against other producers.

Labelling, packaging, shipping: Different bottling standards in Newfoundland provide a disincentive for out-of-province brewers to sell into the province. Bottle requirements increase the cost of entering a market, because exporters must invest into an additional production line to manufacture different bottles to meet the requirements. If all provinces had different bottle requirements, each manufacturer would need to have a different production line to ship its goods to different regions. The different bottle requirements in Newfoundland have been a barrier to trade. For an example of the effect of this policy on competition, instead of shipping to Newfoundland, Nova Scotia's Garrison Brewery decided to save costs and ship to the United States ([Tkachuk and Day, 2016, 32](#)).

Transparency: NLC policies and regulations are transparent and readily accessible.

Note 23. Government of Newfoundland & Labrador. (2006). *Liquor Limitation Order*, s. 2 (a), (b), (c).

Section 6

The Cost of Trade Barriers in the Liquor Industry

The Cost of Trade Barriers in the Liquor Industry

"It makes no sense that you can get B.C. wine more easily in China than you can in Ontario" (former B.C. premier Christy Clark as cited in [Tasker, 2016](#)).

As described in the above section, all provinces have erected trade barriers that harm out-of-province producers and in-province consumers. Let's take a closer look at who is made worse off from protectionist policies in Canada's liquor industry.

Liquor Producers

By increasing the cost for out-of-province businesses, interprovincial trade barriers shield local producers from competition. Proponents of trade barriers, including politicians, sometimes suggest that protections will help a young local industry grow, promoting job creation. Although this may seem desirable, trade restrictions often have unintended consequences that harm other groups, including even the local producers who were the original target of protection.

In the short term, trade barriers may benefit the protected industry. Increasing the price of a competitor's product, or keeping it out of the market altogether, gives local producers an obvious advantage. This will likely lead to increased employment in the protected industry. However, this will only be a short-term win. The longer-term result will be to harm the protected industry. There are two reasons that protections often harm the local industry and economy in the long run. One is economic, the other is political.

The Economic

When innovation is less needed to succeed, innovation is less likely to occur. The constant need to outperform competitors to win over customers drives innovation, new production techniques and technological improvements. The short-term benefits of protections will be outweighed by forgone longer-term gains from innovation.

Throughout history, governments have enacted barriers preventing competition, usually to the detriment of the protected industry. A relevant example was the protections afforded to Canadian wineries in the late 1980s. Prior to the signing of the Canada-U.S. Free Trade Agreement (CUSFTA) in 1988, wine producers in British Columbia and Ontario were concerned that they would be unable to compete with American producers. However, the removal of government protections forced Canadian producers to specialize and focus on producing their most efficient and marketable varieties.

The Result?

The B.C. and Ontario wine industries grew significantly ([Hall Findlay and Gres, 2012, 2](#)).

In 1990, there were only 17 wineries in B.C. In 2013, the number of wineries had increased to over 320 ([Government of British Columbia, 2016a](#)). Today, Canadian wine makers are more export-oriented and not only compete with their NAFTA partners, but globally. Due to freer trade and forced competition, producers have seen massive productivity gains and access to greater markets, while consumers have benefited from more variety, better wine, and new products from abroad ([Hall Findlay and Gres, 2012, 13](#)).

Had the Canadian wine industry been spared from competition, it is unlikely that it would be as successful as it is today.

These findings are also supported by a study of the free trade agreement between Canada and the United States, undertaken by an economist at the University of Toronto. The study found that the most impacted importing industries saw their productivity increase by 15 per cent. Similarly, the most impacted export-oriented industries saw their productivity increase by 14 per cent after the free trade agreement was implemented ([Trefler, 2004, 31](#)). Greater competition and market access coincided with improved productivity. While these findings specifically examined international trade, the same factors apply to liberalized interprovincial trade and we would also expect to see productivity gains both within industries and in the aggregate across Canada.

The Political

While many Canadian wineries benefit in a narrow sense from local protectionism, trade barriers from other provincial governments limit their ability to expand and reach new consumers ([Tkachuk and Day, 2016, 23](#)). These wineries are unable to break into outside markets due to the inflated costs from trade barriers or, where they are allowed to sell into other markets, it is often through tightly-controlled and inefficient government channels. High costs, arising from the inability to expand production within Canada, are reducing many small and medium wine producers' abilities to compete with their international counterparts.

When a government erects trade protections to promote its local industry, retaliation is likely to follow from other jurisdictions to "level the playing field." Again, the short-term benefit of greater production comes at the expense of longer-term expansion. In the long term, it would be better for all provinces and producers if the playing field were "levelled" down, via uniform free trade, rather than up, via reciprocal barriers.

As an example, before the Alberta “[Small Brewers Development Program](#)” – which offset the provincial mark-up for local, small producers – was invalidated by a trade challenge brought by the CCF on behalf of a small Calgary beer importer and by a lawsuit by two out-of-province breweries or trade, other provinces had implemented or threatened retaliation.

Those retaliatory measures sometimes targeted innocent bystanders. Saskatchewan limited Albertans from working on government job sites in retaliation for Alberta’s protectionist beer policies. Similarly, Alberta briefly stopped wine imports from B.C. wineries in retaliation for B.C.’s proposal to block or restrict oil sands shipments.

Other Industries

Liquor producers are not the only businesses that are harmed by Canada’s protectionist liquor policies. Businesses that directly deal with the sale of alcohol are quite obviously made worse off.

Calgary businesses reported significant lost activity due to increased Alberta liquor mark-ups. According to Mike Tessier, co-owner of Calgary-based Artisan Ales, his beer-importing business took a huge hit. In 2016, Artisan Ales’s sales decreased by 32 per cent and net profits decreased by an astonishing 86 per cent as a result of newly-imposed interprovincial trade restrictions targeting out-of-province craft beer.

Local pubs and restaurants have also been negatively impacted by these trade barriers (McMillan, 2017). Policies that increase the cost of alcohol have reduced the amount of non-Alberta beer sold in local bars (Geoff Allan, Witness Statement, Feb. 27, 2017), meaning less consumer choice for Albertans.

Provincial tourism industries are also made worse off. Reducing trade barriers would increase tourism in alcohol-producing areas by encouraging greater opportunities for businesses, more efficient production and lower prices for consumers ([Tkachuk and Day, 2016, 25](#)).

It is not just businesses relying on the sale of alcohol that are impacted by trade barriers that increase the price of beer, wine and spirits. In fact, all businesses are inevitably made worse off. Why? These policies reduce overall wealth.

Take the example of beer. The more that people spend on beer, the less they can spend on other goods and services. When a policy increases the price of beer by \$1, extra dollars spent on beer will no longer be spent elsewhere. This price increase may seem negligible until we consider how much beer is consumed. In 2015, Albertans consumed roughly 66 litres of domestic and imported beer per capita ([Beer Canada, 2015, 1](#)). The extra money that is now spent on beer is money that can no longer be spent on other businesses.

Public Funds

Some liquor producers lobby their governments to reduce competition to obtain a larger share of the market. Provincial governments are happy to oblige; they gain support from their local constituencies by promoting local industry and jobs, while retaining revenue collected through their liquor boards. Both parties, acting in their immediate self-interest, collect benefits while dispersing the costs among the public.

However, there is evidence to suggest that provincial governments could raise more revenue by reducing provincial trade barriers. When Manitoba eliminated barriers to direct consumer importation of alcoholic beverages, the government's liquor-related revenues increased at a rate that is at least as high as in other provinces ([Tkachuk and Day, 2016, 25](#)).

Some people have a hard time seeing how relinquishing control over a liquor monopoly could increase government revenues. However, economic theory may give us some insight. On the production side, reducing trade barriers forces producers to be more competitive both domestically and internationally.

Increased competitiveness allows firms to expand production, hiring more workers and increasing tax revenues for governments. On the consumption side, increased competition results in lower prices and can result in greater consumption, which also raises the amount of tax revenue collected.

If provincial governments could increase revenues by dismantling their liquor monopolies, then why haven't they done so? The answer is likely a combination of two reasons. One, many politicians may truly believe that it is in society's interests to have more government control over a potentially socially-harmful industry. The other reason is less altruistic. Politicians, like every other human being, act in their own self-interest (in a broader sense than just financially, of course). And getting elected is a politician's number one priority (well, a successful politician). Simply put, increasing government regulation in the alcohol industry to directly benefit local industry is an easy way to garner votes. According to their advocates, these regulations *"increase public safety, while increasing local jobs."* Who wouldn't vote for that?

Consumers

Consumers are made worse off from interprovincial trade barriers due to higher prices and less choice. A reduction in supply of out-of-province liquor from Alberta's discriminatory policies has increased the price of some products. Some out-of-province beers now face a mark-up that is 525 per cent higher than it was only a few years earlier. This is what happened to Quebec's award-winning Moralité IPA, which sold for around \$17 before, but now costs \$24.

Consumers are also made worse off by reduced selection. Interprovincial trade barriers are implemented to protect local producers from competition. Therefore, successful barriers should reduce the variety of goods available to consumers. Reducing trade barriers has the opposite effect, increasing the variety of goods available to consumers. For example, between the years 1990 and 2002 – after the signing of CUSFTA – the annual variety of American products available to Canadians increased by 60 per cent ([Chen, 2009, 68](#)).

Sources

- Alberta Gaming & Liquor Commission (AGLC). (2014). "Personal Importation of Liquor from other Provinces." Retrieved from <http://aglc.ca/pdf/liquor/Liquor-PersonalImports.pdf>
- Alberta Gaming & Liquor Commission (AGLC). (2015a). Annual Report 2014/2015. Retrieved from https://aglc.ca/sites/aglc.ca/files/aglc_files/2014-2015%20AGLC%20Annual%20Report.pdf.
- Alberta Gaming & Liquor Commission (AGLC). (2015b). *Liquor Agency Handbook*. Retrieved from http://www.aglc.ca/pdf/handbooks/liquor_agency_handbook.pdf
- Alberta Gaming & Liquor Commission (AGLC). (2015c). *Liquor Licensee Handbook*. Retrieved from http://aglc.ca/pdf/handbooks/liquor_licensee_handbook.pdf
- Alberta Gaming & Liquor Commission (AGLC). (2016, Aug. 5). Mark-up Rate Schedule. Retrieved from http://aglc.ca/pdf/quickfacts/markup_rates_schedule.pdf
- Alberta Gaming & Liquor Commission (AGLC). (2016b). Annual Report 2015/16. Retrieved from https://aglc.ca/sites/aglc.ca/files/aglc_files/20152016%20AGLC%20Annual%20Report.pdf.
- Alberta Gaming & Liquor Commission (AGLC). (April 2017). Quick Facts – Liquor. Retrieved from https://aglc.ca/sites/aglc.ca/files/aglc_files/quickfacts_liquor.pdf.
- Alberta Gaming & Liquor Commission (AGLC). (n.d.). Frequently Asked Questions. Retrieved from <http://aglc.ca/liquor/faq.asp#PersonalImports>. First accessed July 27, 2016.
- Alberta Gaming & Liquor Commission (AGLC). (n.d.b). *Liquor Agency Handbook*. Retrieved from https://aglc.ca/sites/aglc.ca/files/2018-03/18-03-21%20Liquor%20Agency%20Handbook_0.pdf.
- Albrecht, L., and T. Tombe. (2016). "Internal Trade, Productivity, and Interconnected Industries: A Quantitative Analysis," *Canadian Journal of Economics/Revue canadienne d'économique*, 49 (1), 237-263.
- Alcohol & Gaming Commission of Ontario (AGCO). (2014). "Regulatory Modernization in Ontario's Beverage Alcohol Industry: Findings Report." Retrieved from <http://www.grapegrowersofontario.com/sites/default/files/AGCO%20-%20Regulatory%20Modernization%20in%20Ontarios%20Beverage%20Alcohol%20Industry%20Findings%20Report%20March%202014.pdf>
- Alcohol & Gaming Commission of Ontario (AGCO). (May 2017). Brewery Retail Store Information Guide. Retrieved from <https://agco.ca/sites/default/>

Sources

- Alcool New Brunswick Liquor (ANBL). (2016a). Suppliers. Retrieved from <http://nbliquor.com/Home/Suppliers>. First accessed Aug. 12, 2016.
- Alcool New Brunswick Liquor (ANBL). (2016b, August). "What's on Tap?" Retrieved from <http://www.nbliquor.com/>
- Allan, G. (2017, Feb. 27). Re: "The Dispute between Artisan Ales, a Private Person from Canada, and Alberta Regarding Beer Mark-Ups." Witness Statement of Geoff Allan.
- Bastiat, F. (1848). "What is Seen and What is Not Seen." The Library for Economics and Liberty. Retrieved from <http://www.econlib.org/library/Bastiat/basEss1.html> First accessed Sept. 1, 2016.
- Beaulieu, E. (2013). "Exploring the Economic Impact of the AIT Chapters." Report prepared for Public Policy Forum, Internal Trade Secretariat. Retrieved from <http://www.ppforum.ca/sites/default/files/Beaulieu%20-%20Exploring%20the%20economic%20impact%20of%20AIT%20chapters.pdf> First accessed July 15, 2016.
- Beaulieu, E., J. Gaisford, and J. Higginson. (2003). *Interprovincial Trade Barriers in Canada: How Far Have We Come? Where Should We Go?* Calgary, AB: Van Horne Institute for International Transportation and Regulatory Affairs.
- Beer Canada. (2015). *Industry Trends*. Retrieved from https://industry.beercanada.com/sites/default/files/2015_industry_trends_final.pdf
- Bell, D. (2016, June 26). "Calgary Beer Importer Laments Tax Changes," *CBC News*. Retrieved from <http://www.cbc.ca/news/canada/calgary/calgary-beer-importer-tax-changes-1.3653760>
- Blue, I. (2009). "On the Rocks? Section 121 of the *Constitution Act* 1867 and the Constitutionality of the *Importation of Intoxicating Liquors Act*." Retrieved from http://www.casselsbrock.com/files/file/docs/PAPER_On%20the%20Rocks_Advocates%20Quarterly_AQ35-3Blue.PDF
- Blue, I. (2011). "Free Trade Within Canada: Say Goodbye to Gold Seal," The Macdonald-Laurier Institute for Public Policy. Retrieved from <https://www.macdonaldlaurier.ca/files/pdf/Ian-Blue-Section-121-Free-Trade-within-Canada.pdf>.
- Blue, I. (2011). "Provincial Barriers Violate BNA Act," *Financial Post*. Retrieved from <http://business.financialpost.com/opinion/provincial-barriers-violate-bna-act>.

Sources

- British Columbia Liquor Distribution Branch (LCLB). (2015). Mark-Up Schedule, Effective May 1, 2015. Retrieved from http://www.bcldb.com/files/Mark-Up%20Schedule%20Effective%20April%201%202015_0.pdf First accessed July 15, 2017.
- British Columbia Liquor Distribution Branch (LCLB). (2016). Annual Service Plan Report, 2015-2016. Retrieved from http://www.bcldb.com/files/FINAL%20LDB%202015-16%20Annual%20Report_0_0.pdf.
- British Columbia Ministry of Justice. (2014a, Jan. 31). "B.C. Liquor Policy Review Final Report." Government of British Columbia. Retrieved from http://www2.gov.bc.ca/assets/gov/employment-business-and-economic-development/business-management/liquor-regulation-licensing/documents/liquor_policy_review_report.pdf
- British Columbia Ministry of Justice. (2014b, March 19). "Liquor Distribution Branch Briefing Note." Retrieved from http://docs.openinfo.gov.bc.ca/Response_Package_JAG-2015-50337.pdf.
- British Columbia Ministry of Justice. (2014c, Dec. 19). "BC Wine to Line Grocery Shelves in the Spring 2015." News Release. Retrieved from <https://news.gov.bc.ca/stories/bc-wine-to-line-grocery-shelves-in-spring-2015>
- Canadian Press. (2015, Aug. 28). "Beer Battle: Moosehead Worried Bootlegging will Increase if Import Rules Change." Retrieved from <http://atlantic.ctvnews.ca/beer-battle-moosehead-worried-bootlegging-will-increase-if-import-rules-change-1.2537176>
- CBC. (2016, July 21). "Premiers in Whitehorse: Is Canada Ready for Free Trade with Itself?" Retrieved from <http://www.cbc.ca/m/touch/politics/story/1.3688705> First accessed Aug. 1, 2016.
- Chen, S. (2009). "Variety Effects of Trade Liberalization." In Curtis, J. M., and A. Sydor, (Eds.) *Nafta@10* (43-72). Ottawa, ON: Minister of Public Works and Government Services Canada. Retrieved from http://www.international.gc.ca/economist-economiste/assets/pdfs/NAFTA_10_Chapter2-en.pdf
- Commission de Révision Permanente des Programmes. (2015. June). "Focus on Performance." Government of Quebec. Retrieved from https://www.tresor.gouv.qc.ca/fileadmin/PDF/revision_programmes/report_2015_summary.pdf.
- Conference Board of Canada. (n.d.). "Income Per Capita." Retrieved from <http://www.conferenceboard.ca/hcp/provincial/economy/income-per-capita.aspx> First accessed July 8, 2016.

Sources

- CTV Atlantic. (2014, May 13). "NB Liquor Puts Wine in Grocery Stores as Part of Pilot Project," *CTV Atlantic*. Retrieved from <http://atlantic.ctvnews.ca/nb-liquor-puts-wine-in-grocery-stores-as-part-of-pilot-project-1.1820056>
- DiLorenzo, T. J. (1988, July). "The Political Economy of Protectionism." *The Freeman* Vol. 38 no. 7. Retrieved from <https://mises.org/wire/political-economy-protectionism>.
- Day, J. (2016, July 27). "Lot More to Gain," *The Guardian*. Retrieved from <https://www.pressreader.com/canada/the-guardian-charlottetown/20160727/281500750615402>
- From, D. (2017, March 8). "If Alberta Believes in Free Trade, It Will Lift Unconstitutional Barriers on Craft Beer," Canadian Constitution Foundation. Retrieved from <http://theccf.ca/if-notley-believes-in-free-trade-shell-lift-barriers-on-craft-beer/>.
- Government of Alberta. (2016, July 28). "Local Small Breweries Benefit from Alberta Jobs Plan." Media Inquiry. Retrieved from <https://www.alberta.ca/release.cfm?xID=43181FF6FB894-ED62-09C6-55B3A134C651CD03>
- Government of British Columbia. (2016a, July 22). "Increasing the Flow of Wine among Quebec, Ontario, and British Columbia." News Release. Retrieved from https://archive.news.gov.bc.ca/releases/news_releases_2013-2017/2016PREM0079-001341.htm
- Government of British Columbia. (2017, Aug. 4). Frequently Asked Questions. Liquor Law & Policy. Retrieved from <http://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/liquor-law-policy/frequently-asked-questions>.
- Government of Canada. (2017, April 7). "Regulatory Reconciliation Backgrounder," *Canadian Free Trade Agreement*. Retrieved from <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-regulatory-reconciliation-backgrounder.pdf>.
- Government of Canada. (2017, May 2). "The Canada-EU Comprehensive Economic and Trade Agreement: A Prospective Analysis," Office of the Parliamentary Budget Officer. Retrieved from http://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2017/CETA/CETA_EN.pdf.
- Government of Canada. (2018, Feb. 16). "Economic Impact of Canada's Participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership," Global Affairs Canada. Retrieved from <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/impact-repercussions.aspx?lang=eng>.

Sources

- Government of Nova Scotia. (2015, June 25). "Nova Scotia Opens Border to Import Wine," Finance and Treasury Board. Retrieved from <https://novascotia.ca/news/release/?id=20150625005>
- Graney, E. (2018, March 5). "Alberta Officials Heading to Ottawa over Pipeline Dispute," *Calgary Herald*. Retrieved from <http://calgaryherald.com/news/politics/alberta-officials-heading-to-ottawa-over-pipeline-dispute/wcm/5215239c-0f10-4fb8-b14c-cab767a6245d>.
- Hadekel, P. (2016, Jan. 1). "Loyalty Cards Bring Up an Old Question: What are We Doing with the SAQ?" *Montreal Gazette*. Retrieved from <http://montrealgazette.com/business/local-business/loyalty-card-brings-an-old-question-what-are-we-doing-with-the-saq>
- Hall Findlay, M., and M. Gres. (2012). "Supply Management: Problems, Politics, and Possibilities," *The School of Public Policy Research Papers*, 5 (19), 3-33. Retrieved from <https://www.policyschool.ca/wp-content/uploads/2016/03/supply-management-hall-findlay.pdf>
- Hanger, M. (2017, Jan. 18). "U.S. Angry over B.C. Policy Allowing Only Local Wine to be Sold in Grocery Stores," *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/british-columbia/us-challenges-sale-of-bc-wines-in-provinces-grocery-stores/article33655441/>
- Hicken, M. (2010, Feb. 16). "BC Wine and Trade Agreement in Trouble," *Wine Law*. Retrieved from <http://www.winelaw.ca/cms/index.php/legal-info-for-the-industry/24/67-bc-wine-and-trouble-with-trade-agreements>
- Hicken, M. (2016, April 29). "Shipping Laws on Wine Within Canada," *Wine Law*. Retrieved from http://www.winelaw.ca/cms/index.php?option=com_content&view=article&id=26:shipping-laws-on-wine-within-canada&catid=23:shipping-border-import-laws&Itemid=27
- Hughey, R. (n.d.). "Beer Distribution in Canada," *Real Beer Media Inc.* Retrieved from <http://www.realbeer.com/library/authors/hughey-r/distribution.php> First accessed July 29, 2016.
- Jarvie, M. (2016, June 27). "Local Importers Crying in Their Beer Over Taxes," *Calgary Herald*. Retrieved from <http://calgaryherald.com/news/local-news/local-importers-crying-in-their-beer-over-taxes>
- Liquor Control Board of Ontario (LCBO). (2015). "Let's Get Together," Annual Report 2014-2015. Retrieved from http://www.lcbo.com/content/dam/lcbo/corporate-pages/about/pdf/LCBO_AR14-15-english.pdf

Sources

- Liquor Control Board of Ontario (LCBO). (2017). Transporting Beverage Alcohol Across Provincial Borders. Retrieved from https://hellolcbo.com/app/answers/detail/a_id/1370/~transporting-beverage-alcohol-across-provincial-borders.
- Manitoba Liquor & Lotteries (MBLL). (2015). 2014/2015 Annual Report: "Making an Impact." Retrieved from http://www.mbll.ca/sites/mbll_corporate_2/files/pamphlets/pdf/MBLL-F15-Annual-Report-2014-15.pdf First accessed xxx.
- McMillan, A. (2017, June 1). "Alberta Importer Says Beer Tax Made Profits Plunge: 'A Policy Destroyed our Business'," *Global News*. Retrieved from <http://globalnews.ca/news/3496852/alberta-importer-says-beer-tax-made-profits-plunge-a-policy-destroyed-our-business/>
- Milke, M. (2015, April 14). "Ontario's Alcohol Reform is a Mirage," *Ottawa Citizen*. Retrieved from <http://ottawacitizen.com/news/national/ontario-alcohol-mirage>
- Morrow, A. (2015, March 3). "The Beer Store: Everything You Need to Know About Ontario's Lucrative Monopoly," *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/politics/the-beer-store-everything-you-need-to-know-about-ontarios-lucrative-monopoly/article23248112/>
- Newfoundland & Labrador Liquor Corporation (NLC). (2014). 2014-2017 Business Plan. Retrieved from <http://www.nliquor.com/corporate/about-nlc/~media/Files/PDF/Corporate/Business%20Plan%202014-2017%20GOV.ashx>
- Newfoundland & Labrador Liquor Corporation (NLC). (2015). 2014-2015 Annual Report. Retrieved from <http://www.nliquor.com/corporate/about-nlc/~media/Files/PDF/Corporate/AnnualReports/NLC%20Annual%20Report%202015.ashx>
- Newfoundland & Labrador Liquor Corporation (NLC). (2016). NLC Listing and Delisting Policy Procedures. Retrieved from <http://www.nliquor.com/corporate/doing-business/~media/Files/PDF/Corporate/Doing%20Business/Listing-Delisting-Policy-Procedure-January-2016.ashx>
- No author. (n.d.). "How Much Alcohol Can I Bring from Another Province?" *FindLaw Canada*. Retrieved from <http://constitutional.findlaw.ca/article/how-much-alcohol-can-i-bring-from-another-province/> First accessed Aug. 4, 2016.
- Nova Scotia Liquor Corporation (NSLC). (2007, July 16). "Nova Scotia and New Brunswick Reach a New Beer Accord." Retrieved from <https://novascotia.ca/news/release/?id=20070716002>

Sources

- Nova Scotia Liquor Corporation (NSLC). (2009). "Policy – Emerging Wine Regions." Retrieved from http://www.mynslc.com/Documents/Communications%20Content/pol_emergwine2.pdf
- Nova Scotia Liquor Corporation (NSLC). (2015a). Annual Business Plan: Fiscal Year 2015-2016. Retrieved from http://0-nsleg-edeposit.gov.ns.ca.legcat.gov.ns.ca/deposit/b1016554x_2015-2016.pdf
- Nova Scotia Liquor Corporation (NSLC). (2015b). Annual Report 2014-2015. Retrieved from http://0-nsleg-edeposit.gov.ns.ca.legcat.gov.ns.ca/deposit/b10096711_2014-2015.pdf
- Nova Scotia Liquor Corporation (NSLC). (n.d.). FAQ. Retrieved from <https://www.mynslc.com/en/About-NSLC/Shop-With-Us/FAQ> First accessed Aug. 16, 2016.
- Pinhey, C. (2007, Nov. 22). "NSLC Cuts Their Mark-Up on Locally Grown Wines," *The Coast*. Retrieved from <https://www.thecoast.ca/halifax/nslc-cuts-their-mark-up-on-locally-grown-wines/Content?oid=961759>
- Plato. (360 B.C.E.). *The Republic*. Retrieved from <http://classics.mit.edu/Plato/republic.3.ii.html>
- Prince Edward Island Liquor Control Commission (P.E.I. Liquor). (2007/2015). "Manufacturer's Policy Manual: Winery, Distillery, Brew-Pub and Micro-Brewery Licensing." Retrieved from http://www.gov.pe.ca/photos/original/Lcc_Mpm_Jun_15.pdf
- Prince Edward Island Liquor Control Commission (P.E.I. Liquor). (2015). "2014 Annual Report." Retrieved from www.gov.pe.ca/photos/original/LCC_AnRpt13-14.pdf.
- Prince Edward Island Liquor Control Commission (P.E.I. Liquor). (2015). "67th Annual Report." Retrieved from http://www.gov.pe.ca/photos/original/lcc_Annual_2015.pdf
- Prince Edward Island Liquor Control Commission (P.E.I. Liquor). (2016). "Marketing Program Guide." Retrieved from http://www.gov.pe.ca/photos/original/Lcc_MG_Feb8.pdf
- Rothbard, M. (1963). *What has Government Done to Our Money?* Auburn, AL: Ludwig von Mises Institute, Fifth Edition, 2010.
- Saskatchewan Liquor & Gaming Authority (SLGA). (2016a). Annual Report for 2015-2016. Retrieved from <http://www.finance.gov.sk.ca/PlanningAndReporting/2015-16/2015-16SLGAAnnualReport.pdf>

Sources

- Saskatchewan Liquor & Gaming Authority (SLGA). (2016b). *Commercial Liquor Permittee Policy Manual*. Retrieved from <https://www.slga.com/-/media/slga/files/permits%20and%20licences/commercial%20liquor%20permits/commercial%20liquor%20permittee%20manual.pdf>
- Saskatchewan Liquor & Gaming Authority (SLGA). (n.d.). Frequently Asked Questions. Retrieved from <http://www.saskliquor.com/SaskLiquorWeb/FAQs.aspx> First accessed Aug. 2, 2016).
- Smith, C. (2015, Jan. 26). "California Wine Producers Claim B.C. Liquor Reforms Violate NAFTA, GATT and EU-Canada Agreement," *The Georgia Straight*. Retrieved from <http://www.straight.com/food/813541/california-wine-producers-claim-bc-liquor-reforms-violate-nafta-gatt-and-eu-canada-agreement>
- Smith, C. (2015b, March 15) "Australian Wine Producers Complain to Premier Christy Clark about Liquor Reforms that Favour B.C. Products." *The Georgia Straight*. Retrieved from <https://www.straight.com/food/414091/australian-wine-producers-complain-premier-christy-clark-about-liquor-reforms-favour-bc>.
- Société des alcools du Québec (SAQ). (2015). "Discover Destination": Annual Report 2015. Retrieved from <http://s7d9.scene7.com/is/content/SAQ/rapport-annuel-2015-en>
- Soupcoff, M. (2014, Sept. 8). "How to get Internal Free Trade Back in the Constitution," *C2C Journal of Ideas*. Retrieved from <http://theccf.ca/how-to-get-internal-free-trade-back-in-the-constitution/> First accessed July 15, 2016.
- Soupcoff, M. (2015, June 15). "Government Wants Free Trade as long as it can Still Prosecute Your Cross-Border Beer Run from Quebec," *National Post*. Retrieved from <http://nationalpost.com/opinion/marni-soupcoff-government-wants-free-trade-as-long-as-it-can-still-prosecute-your-cross-border-beer-run-to-quebec/wcm/26ed7940-fa8c-4f70-80fd-f19b6a4c3b00>
- Statistics Canada. (n.d.). Unemployment rate: Monthly Canada and Provinces Unadjusted. Retrieved from http://www.stats.gov.nl.ca/statistics/Labour/PDF/UnempRate_Monthly.PDF
- Tasker, J. P. (2016, July 22). "Booze Wars: Premiers Squabble Over Free Trade of Alcohol in Bid to Protect Bottom Line," *CBC News*. Retrieved from <http://www.cbc.ca/news/politics/beer-wars-provincial-trade-alcohol-1.3689589>
- Tessier, M. (2017, Feb. 27). "Re: The Dispute Between Artisan Ales Consulting Inc., a Private Person from Canada, and Alberta Regarding Beer Mark-Ups." Witness statement of Mike Tessier.

Sources

- The MacDonald-Laurier Institute for Public Policy (2017, June 19). "Speech by Thomas D'Arcy McGee – Constitutional Difficulties Between Upper and Lower Canada ('The Shield of Achilles') May 2, 1860." Retrieved from <https://www.macdonaldlaurier.ca/speech-by-thomas-darcy-mcgee-constitutional-difficulties-between-upper-and-lower-canada-the-shield-of-achilles-may-2-1860/>.
- Tkachuk, D., and J.A. Day. (2016). "Tear Down These Walls: Dismantling Canada's Internal Trade Barriers." Report prepared for the standing Senate Committee on Banking, Trade and Commerce. Retrieved from [https://sencanada.ca/content/sen/committee/421/BANC/Reports/2016-06-13_BANC_FifthReport_SS-2_tradebarriers\(FINAL\)_E.pdf](https://sencanada.ca/content/sen/committee/421/BANC/Reports/2016-06-13_BANC_FifthReport_SS-2_tradebarriers(FINAL)_E.pdf) First accessed July 15, 2016.
- Van Praet, N. (2013, Jan. 11). "Quebec's High Taxes Make Cheap Wine Hard to Find." *Financial Post*. Retrieved from <http://business.financialpost.com/news/quebecs-high-taxes-make-cheap-wine-hard-to-find/wcm/22a60939-6412-4148-a9ad-0f6e51af2f0b>
- Wall, B. (2017, Dec. 8). "Brad Wall: Alberta Protectionism to Blame for Ban on its Plates." *Edmonton Journal*. Retrieved from: <http://edmontonjournal.com/opinion/columnists/opinion-alberta-protectionism-to-blame-for-ban-on-its-plates>.
- Withers, P. (2014, Dec. 11). "NSLC Slashes Markup to Promote Local Spirits," *CBC News*. Retrieved from <http://www.cbc.ca/news/canada/nova-scotia/nslc-slashes-markup-to-promote-local-spirits-1.2879876>
- Wright, J. (2012, Feb. 2). "Yes We Can...Take a Line From a President or Two," *The Sydney Morning Herald*. Retrieved from <http://www.smh.com.au/national/yes-we-can--take-a-line-from-a-president-or-two-20120202-1qusp.html>
- Wright, T. (2014, March 18). "New Liquor Agency Store to Showcase P.E.I Booze," *The Guardian*. Retrieved from <http://www.theguardian.pe.ca/news/local/2014/3/18/new-liquor-agency-store-to-showcase-p-e-3654525.html>

Cases Cited

Atlantic Smoke Shops Ltd. v. Conlon & Attorney General of Quebec [1941] SCR 670.

Black v. Law Society of Alberta [1989] 1 SCR 591.

Gold Seal Ltd. v. Alberta (Attorney General). 1921 SCR 424.

Murphy v. C.P.R. [1958] SCR 626.

R. v. Comeau [2016] NBPC.

Reference Re: Agricultural Product Markets SCR [1978] SCR 1198.

Acts and Agreements Cited

Governments of Alberta, British Columbia, Canada, Manitoba, Ontario, New Brunswick, Newfoundland & Labrador, Northwest Territories, Nova Scotia, Prince Edward Island, Saskatchewan and Yukon. (1995/2015). *Agreement on Internal Trade*. Retrieved from <http://www.ait-aci.ca/wp-content/uploads/2015/12/Consolidated-with-14th-Protocol-final-draft.pdf> First accessed July 15, 2016

Governments of Alberta, British Columbia, Canada, Manitoba, Ontario, New Brunswick, Newfoundland & Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon. (2017). *Canadian Free Trade Agreement*. Retrieved from <http://www.ait-aci.ca/wp-content/uploads/2017/04/CFTA-Consolidated-Text-Final-English.pdf>

Government of Alberta. (1996/2014). *Gaming and Liquor Act: Gaming and Liquor Regulation*. Retrieved Summer 2016 from http://www.qp.alberta.ca/documents/Regs/1996_143.pdf.

Government of Alberta. (2013, June 12). *Gaming and Liquor Act: Revised statutes of Alberta 2000 Chapter G-1*. Retrieved from <http://www.qp.alberta.ca/documents/Acts/g01.pdf>.

Government of British Columbia. (1996). *Liquor Distribution Act*. Retrieved from http://www.bclaws.ca/civix/document/id/complete/statreg/96268_01

Government of British Columbia. (2015a). *Liquor Control and Licensing Act*. SBC 2015. Retrieved from <http://www.bclaws.ca/civix/document/id/complete/statreg/15019>

Government of British Columbia. (2015b). *Special Wine Store Licence Auction Act*. Retrieved from <http://www.bclaws.ca/civix/document/id/complete/statreg/15020>

Acts and Agreements Cited

- Government of British Columbia. (2016b). *Liquor Control and Licensing Act: Liquor Control and Licensing Regulation*. Retrieved from http://www.bclaws.ca/civix/document/id/complete/statreg/241_2016
- Government of Canada. (1867). *The Constitution Act, 1867*, 30 & 31 Vict, c 3. Retrieved from <https://www.canlii.org/en/ca/laws/stat/30---31-vict-c-3/latest/30---31-vict-c-3.html>
- Government of Canada. (1985). *Importation of Intoxicating Liquors Act*. Retrieved from <http://laws-lois.justice.gc.ca/eng/acts/l-3/page-1.html>
- Government of Manitoba. (2013). *The Manitoba Liquor and Lotteries Corporation Act and Liquor and Gaming Control Act*. Retrieved from <https://web2.gov.mb.ca/bills/40-2/pdf/b043.pdf>
- Government of Manitoba. (2014a). *Liquor and Gaming Regulation*. Retrieved from http://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=82/2014
- Government of Manitoba. (2014b). *Liquor Licensing Regulation*. Retrieved from https://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=61/2014
- Government of New Brunswick. (1973). *Liquor Control Act*. Retrieved from <http://laws.gnb.ca/en/ShowPdf/cs/L-10.pdf>
- Government of New Brunswick. (2011). *Beverage Containers Act*. Retrieved from = <http://laws.gnb.ca/en/showpdf/cs/2011-c.121.pdf>
- Government of New Brunswick. (2016). *Liquor Corporation Act*. Retrieved from <http://www.gnb.ca/0062/acts/RS-2016/105.pdf>
- Government of Newfoundland & Labrador. (1990/2006). *Liquor Corporation Act*. Retrieved from <http://www.assembly.nl.ca/Legislation/sr/statutes/l19.htm>
- Government of Newfoundland & Labrador. (1990/2013). *Liquor Control Act*. Retrieved from <http://www.assembly.nl.ca/legislation/sr/statutes/l18.htm>
- Government of Newfoundland & Labrador. (2006). *Liquor Limitation Order*. Retrieved from <http://www.assembly.nl.ca/legislation/sr/annualregs/CNR1996/Cr960018.htm>
- Government of Newfoundland & Labrador. (2013). *Liquor Licensing Regulations*. Retrieved from <http://www.assembly.nl.ca/Legislation/sr/regulations/rc961162.htm>.

Acts and Agreements Cited

- Government of Nova Scotia. (1989/2015). *Liquor Control Act*. <http://nslegislature.ca/legc/statutes/liquor%20control.pdf>
- Government of Nova Scotia. (1989/2017a). Nova Scotia Liquor Corporation Regulation. Retrieved from <https://novascotia.ca/just/regulations/regs/lccorp.html>
- Government of Nova Scotia. (1989/2017b). Liquor Licensing Regulations. Retrieved from <https://novascotia.ca/just/regulations/regs/lclicens.htm>
- Government of Ontario. (1990/2011). *Liquor Licence Act*. Retrieved from <https://www.ontario.ca/laws/statute/90l19>
- Government of Ontario. (1990/2015). *Liquor Control Act*. Retrieved from <https://www.ontario.ca/laws/statute/90l18>
- Government of Ontario. (1996/2017). *Alcohol and Gaming Regulation and Public Protection Act*. Retrieved from <https://www.ontario.ca/laws/statute/96a26>
- Government of Ontario. (2000/2011). *Wine Content and Labelling Act*. Retrieved from <https://www.ontario.ca/laws/statute/00w26>
- Government of Prince Edward Island. (1988/2016a). *Liquor Control Act*. Retrieved from <https://www.princeedwardisland.ca/sites/default/files/legislation/L-14-Liquor%20Control%20Act.pdf>.
- Government of Prince Edward Island. (1988/2016b). *Liquor Control Act Regulations*. Retrieved from https://www.princeedwardisland.ca/sites/default/files/legislation/L%202614G_2-Liquor%20Control%20Act%20Regulations.pdf.
- Government of Prince Edward Island. (1988/2016c). *Liquor Control Act Agency Regulations*. Retrieved from <http://liquorpei.com/wp-content/uploads/2016/04/Liquor-Control-Act-Agency-Regulations-2016.pdf>.
- Government of Quebec. (1979/2017). *An Act Respecting Offences Relating to Alcoholic Beverages*. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cs/l-8.1.pdf>
- Government of Quebec. (2017a). Regulation Respecting Liquor Permits. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cr/P-9.1.%20R.%205.pdf>
- Government of Quebec. (2017b). *An Act Respecting the Société des Alcools du Québec*. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cs/S-13.pdf>

Acts and Agreements Cited

- Government of Quebec. (2017c). *An Act Respecting the Régie des Alcools des Courses et des Jeux*. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cs/R-6.1.pdf>
- Government of Quebec. (2017d). Purchase and Bottling of Spirits Regulation. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cr/S-13,%20R.%201.pdf>
- Government of Quebec. (2017f). Regulation Respecting Alcoholic Beverages Made and Bottled by Holders of a Distiller's Permit. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cr/S-13,%20R.%203.pdf>
- Government of Quebec. (2017g). Regulation Respecting the Terms of Sale of Alcoholic Beverages by Holders of a Grocery Permit. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cr/S-13,%20R.%206.pdf>
- Government of Quebec. (2017h). Regulation Respecting Promotion, Advertising, and Educational Programs Relating to Alcoholic Beverages. Retrieved from <http://legisquebec.gouv.qc.ca/en/pdf/cr/P-9.1,%20R.%206.pdf>
- Government of Quebec. (2017i). Regulation Respecting the Possession and Transportation into Québec of Alcoholic Beverages Acquired in Another Province or a Territory of Canada. Retrieved from <http://legisquebec.gouv.qc.ca/en/showdoc/cr/S-13,%20r.%206.1/20140724>
- Government of Saskatchewan. (1997). *The Alcohol and Gaming Regulation Act*. Retrieved from <http://www.publications.gov.sk.ca/freelaw/documents/english/Statutes/Statutes/a18-011.pdf>
- Government of Saskatchewan. (2016). *The Alcohol Control Regulations, 2016*. Retrieved from <http://www.publications.gov.sk.ca/freelaw/documents/english/Regulations/Regulations/a18-011r7.pdf>
- Northwest Territories. (2007). *Liquor Act*. Retrieved from <https://www.justice.gov.nt.ca/en/files/legislation/liquor/liquor.a.pdf>
- Northwest Territories. (2008). *Liquor Regulations*. Retrieved from <https://www.justice.gov.nt.ca/en/files/legislation/liquor/liquor.r5.pdf>
- Nunavut Territory. (1988a). *Liquor Act*. Retrieved from <http://www.nllb.ca/governing-documents/liquor-act?download=62:consolidated-liquor-act>

Acts and Agreements Cited

Nunavut Territory. (1988b). Liquor Regulations. Retrieved from <http://www.nllb.ca/governing-documents/other-regs?download=67:liquor-store-regulations>

Yukon Territory. (1977). Liquor Regulations. Retrieved from http://www.gov.yk.ca/legislation/regs/co1977_037.pdf

Yukon Territory. (2002/2016). *Liquor Act*. Retrieved from http://www.gov.yk.ca/legislation/acts/liquor_c.pdf

Statistics

- Author produced all charts and graphs.
- All data were accessed from Statistics Canada.
- Data on trade openness: Statistics Canada, [Table 384-0038](#) - Gross domestic product, expenditure-based, provincial and territorial, annual (dollars unless otherwise noted). Accessed July 20, 2016.
- Data on Consumer Price Index: Statistics Canada, [Table 326-0020](#) - Consumer Price Index, monthly (2002=100 unless otherwise noted). Accessed July 21, 2016.

Contact us

The Canadian Constitution Foundation (CCF) is a registered charity, independent and non-partisan. We defend the constitutional rights and freedoms of Canadians in the courts of law and public opinion.

By phone or email:

(Toll Free) 1.888.695.9105— info@theccf.ca

Howard Anglin, Executive Director x. 101 — hanglin@theccf.ca

Adam Revay, Operations Director x. 102 — arevay@theccf.ca

Derek From, Staff Lawyer x.103 — dfrom@theccf.ca

Joanna Baron, Runnymede Society Director x. 104 — jbaron@theccf.ca

Russell Phillips, Communications Associate x.105 — rphillips@theccf.ca

By mail:

The Canadian Constitution Foundation

514 —11 Ave SW, Suite 200

Calgary AB T2R 0C8

Charitable Number: 86617 6654 RR0001

The CCF is also a 501(c)(3) public charity in the U.S.

