

Greater Regulatory Harmonization between Canada and the United States

Issue

Canada and the United States (U.S.) enjoy one of the most integrated market environments in the world. Our supply chains are so interwoven that we literally build things together. However, the efficiency created by this integration is constantly being undermined by different regulatory policies. Such differences mean that a considerable amount of time, money and human resources are spent ensuring compliance with regulations on both sides of the border. A more coordinated approach to regulatory policy across jurisdictions would create efficiencies, reduce costs and improve the overall competitiveness of the Canadian economy.

Background

In 2011, Prime Minister Harper and President Obama launched the Canada-United States Regulatory Cooperation Council (RCC) in an effort to promote greater regulatory alignment between the two countries. The RCC seeks to align federal regulations in four key sectors: agriculture and food; health and consumer products; transport; and the environment. While the RCC should continue to deliver on the existing action items there are ways to strengthen the existing agreement and additional areas where attention is warranted.

For example, the North American trucking industry is a vital component of our multimodal transportation sector. Unfortunately, various regulatory differences prevent this industry from operating at peak efficiency. There are many unnecessary rules that are no longer consistent with North America's integrated logistics systems. For example, the current rules governing the repositioning of empty trailers prohibit foreign drivers from performing this duty. Due to these restrictions more trucks are on the road than are required and more fuel is consumed than is necessary. Addressing this issue would make the industry more efficient, more cost effective and reduce its environmental impact. Also of concern are the current restrictions on in-transit shipments and different approaches for fuel saving measures. Canada should ensure that its own fuel saving measures align with those being adopted by the U.S.

There are also ongoing issues regarding recognition of security clearances for transport workers. Both Canada and the U.S. have different security clearance programs (TSC/TWIC) and identity cards. Unfortunately, neither country currently recognizes the other's transport security clearances. These differences result in unnecessary inspections and processing delays despite the fact that in most cases the identity of drivers and the specifications of their vehicles are known prior to their arrival at the border.

Similarly, there are several areas where greater alignment on regulatory processes for the marine mode would be helpful. Both Canada and the U.S. should adopt a unified approach to safety, security and environmental standards. In terms of security some of the areas which should be addressed include screening processes for ocean containers, reciprocity for the Seafarer's Identification Document and alignment of marine security regulations and reporting requirements. Differences in environmental policies are also of great concern for the marine industry due to the current patchwork of regulations across jurisdictions. For example, different ballast water regulations and emission standards continue to be a major irritant to businesses operating on the Great Lakes. The Canadian Chamber of Commerce strongly supports a unified and scientific approach to ballast water regulations and emission standards throughout North America.

Members of the Canadian Chamber of Commerce fully support the RCC initiative but believe that a more institutionalized and long-term approach to regulatory cooperation is needed. Beyond the specific examples listed above, Canada and the U.S. should create a permanent mechanism for regulatory cooperation between relevant government departments and agencies on both sides of the border. The goal of this cooperation would be to reduce red tape and eliminate unnecessary regulatory differences. This process should also include a mechanism to ensure that stakeholders are informed of potential new regulations and that these regulations remain open to public commentary. Both governments should work to ensure that all new regulations are based on sound scientific principles and include an analysis of their potential economic impact.

This is particularly true for the transportation sector which plays a vital role as an economic enabler in both countries. Efforts to better align regulations governing the transportation sector will help ensure an efficient, safe, reliable and competitive environment for our multimodal transportation systems.

Recommendations

That the federal government:

1. Work with the U.S. to adopt a unified approach to reporting requirements, safety, security and environmental standards for the transportation sector.
2. Continue to work with the U.S. government to fully implement the existing RCC workplans and to improve stakeholder consultation mechanisms.
3. Ensure that all relevant government departments and agencies follow the principles promoted by the RCC and promote ongoing cooperation and dialogue between regulators. The goal would be to foster a culture of bilateral regulatory cooperation and consistency across departments and agencies.
4. Work with the U.S. government and other relevant government departments and agencies to develop a long-term, institutionalized mechanism for regulatory cooperation. This process should place emphasis on areas where Canada and the U.S. already share common regulatory objectives and seek to adopt “best in class” regulations..
5. Recognize that there are many sub-national regulatory powers that have a direct impact on North American businesses. As such, any efforts to create a more permanent regulatory cooperation mechanism should be flexible enough to eventually include participation by sub-national regulatory entities.
6. Work with the U.S. government to develop a joint system to notify stakeholders and the general public of potential regulations. This system should include sufficient advance notice for proposed regulations and provide a mechanism for stakeholder input.
7. Ensure that all new regulations affecting the transportation sector are based on science and include an analysis of potential economic impacts.