

# Submission on Canada's new trade relations with the United Kingdom

On behalf of the Trade Justice Network (TJN) and the Climate Action Network Canada

27 April 2021

TJN comprises environmental, civil society, student, Indigenous, cultural, farming, labour and social justice organizations that have come together to challenge free trade agreements and their impacts on social justice and the environment. Our members include the Canadian Labour Congress, UNIFOR, Canadian Union of Public Employees, United Steelworkers, Climate Action Network Canada, Council of Canadians, National Union of Public and General Employees, Communication Workers of America (Canada), National Farmers Union and many other groups. We commend the Canadian government for committing to developing a feminist trade policy and feminist foreign policy.

Climate Action Network Canada – Réseau action climat Canada (CAN-Rac Canada) is a coalition of more than 130 organizations across the country. CAN-Rac Canada is the only network in the country that brings labour, development, faith-based, and Indigenous groups and key national, provincial, and territorial environmental organizations working on climate change. The network plays a critical role in helping Canadian organizations understand and respond to climate change impacts and policies across Canada and worldwide to coordinate efforts for the most significant impact.

## [CONTEXT](#)

### [A TRADE AGREEMENT THAT RESPONDS TO THE CLIMATE AND BIODIVERSITY CRISES](#)

### [LABOUR AND TRADE](#)

### [INVESTOR RIGHTS PROVISIONS](#)

### [PROCUREMENT](#)

### [REGULATORY COOPERATION](#)

### [TRANSPARENCY](#)

## CONTEXT

The following submissions respond to the call for input from Global Affairs Canada to share views to help define Canada's priorities with future trade negotiations with the United Kingdom. Last year the U.K. and Canada committed to continuing and strengthening their long-standing trade relationship. On December 9, 2020, Canada and the U.K. signed the Canada-U.K. Trade Continuity Agreement (Canada-U.K. TCA). The United Kingdom has also submitted a notification of intent to begin the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) accession process.

## A TRADE AGREEMENT THAT RESPONDS TO THE CLIMATE AND BIODIVERSITY CRISES

### **Transformative trade policies**

- We urgently need a new and transformation approach to trade. The COVID-19 pandemic has shown that health, people and the planet are not negotiable. As Canada embarks on a further trade negotiation with the United Kingdom, it's time to move from polluter-friendly deals to those supporting the critical challenge of tackling the climate and biodiversity crisis.
- Trade deals can't just serve the interests of wealthy corporations. They must be seen as tools that help advance public interests:
  - They should support healthy communities and good-paying jobs.
  - They should commit Parties to respect international climate obligations – such as those related to the Paris Agreement.
  - To put it simply, they must contribute to a safe future where we collectively work towards limiting global warming to 1.5 degrees C.
- A new trade deal with the United Kingdom must include **enforceable measures to ensure both governments maintain high levels of commitment to implementing international climate objectives.**
- The trade deal that Canada intends to sign with the UK must ensure that no rules in the agreed text are used against solid climate and environmental policies.
- Any trade deal with the UK must include an enforceable measure where both Parties must **“adopt, maintain, and implement”** policies to fulfill their Paris Agreement commitments.

### **Trade agreements must help countries cut emissions now.**

- Canada and the United Kingdom are major emitting countries. The United Kingdom recently enhanced its emission reduction targets to cut emissions by 78 percent below

1990 levels in 2030. Canada has also enhanced its target last week to reduce emissions by 40 to 45 percent in 2030 below 2005. A new trade agreement with the United Kingdom must not undermine these commitments.

- We can't continue living under the impression that we could **meet Paris Agreement goals and increase coal, oil, and gas production.**
- [Based on Canada's](#) projections, more oil and gas are expected to be produced in 2050 than in 2019. It's unacceptable that Canada's oil and gas sector will still be emitting some 200 megatonnes of CO2 equivalent in 2050, the same year the federal government would "achieve net-zero emissions." Canada's 2021-2050 oil and gas production would exhaust about 16 percent of the world's remaining carbon budget. Canada is a "carbon bomb" of global significance.
- **Any future trade deal with the United Kingdom must discourage the expansion of fossil fuels and require export and import controls on fossil fuels. Domestic efforts to stop climate pollution do not result in more significant pollution abroad.**
- Any future trade deal with the United Kingdom **must prohibit fossil fuel subsidies**, whether for domestic use or overseas investment promotion. At the same time, a UK-Canada climate-friendly trade deal should protect subsidies for renewable energy, low-emissions and zero-carbon goods and services.

#### **Use trade to accelerate decarbonization pathways.**

- The trend of decarbonization is accelerating rapidly. Trade deals must catch up and accelerate the rate of decarbonization instead of supporting the fossil fuel economy.
- **A new trade deal with the United Kingdom must preclude the threat of government or investor challenges to local renewable energy jobs by including a climate carve-out and exempting buy-local policies related to renewable energy from the trade rules typically used against such measures.**
- Any new deal with the UK must include bans on polluting practices.
- To promote transparency and accountability, Canada must put forward the two following measures:
  - Instead of promoting trade-impact tests, the UK-Canada trade deal **must include a climate impact test.** Environmental ministers must use this to calculate, report, and consider the potential impact of proposed policy options on greenhouse gas emissions.
  - Climate measures should be subject to **enforceable obligations and dispute settlement systems. A trade deal with the UK should include an independent body of scientists to monitor governments' and foreign investors' compliance with a trade deal's climate and other public interest obligations.** The UK-Canada must ensure compliance and put forward sanctions similar to those used to enforce the commercial provisions.

## LABOUR AND TRADE

- Any UK-Canada agreement must honour international labour obligations and have provisions with binding and enforceable penalties, fines or sanctions, for non-compliance or violations against workers.
- Our members were disappointed when CETA's labour chapter failed to introduce binding and enforceable labour provisions to ensure that core ILO labour standards are implemented and respected.
- Without enforceability, workers lack the protection they need, and investors and employers only have to abide by standards in good faith. Further, as we have seen in CETA, labour provisions were exempt from the general dispute settlement mechanism that governs the agreement. Accountability for violations of labour standards is next to impossible.
- Along with binding and enforceable labour standards, the new UK-Canada trade deal should have an independent committee tasked with proactively investigating and prosecuting complaints. The committee's process should provide clear non-discretionary procedures and deadlines and provide binding enforcement and meaningful penalties for non-compliance.

## INVESTOR RIGHTS PROVISIONS

- A new trade agreement between Canada and the United Kingdom needs to address corporate impunity and ensure investment rules are designed around the public interest.
- It should ensure the pre-eminence of human rights and Indigenous rights over investor rights and prioritize protecting the environment and public interests.
- In CETA, [the Investor Court System](#) allows private corporations to bypass our public courts to directly sue governments, including provincial and municipal governments, over laws, regulations, or policies made in the public interest.
- Often, regulations designed to protect the environment or labour rights are determined to interfere with a corporation's future profits, and CETA's investor rights provisions allow the corporations to be compensated. This means Canada could have to pay billions in taxpayer compensation for legitimate public policy measures. This system results in highly enforceable rights for foreign investors not available to citizens or domestic investors.
- Canadian governments should not have to fear that policies designed in the interest of the public might trigger lawsuits from investors in special courts outside our legal system.
- Any trade agreement between Canada and the UK should guarantee sufficient policy space, abolish foreign investors' privileges, and instead [build alternative, transparent, two-way dispute settlement solutions](#), as outlined in the attached document.

## PROCUREMENT

- CETA has hampered the power of regional and local government's ability to engage in economic development and sustain and create local jobs for procurement. We call for any UK-Canada agreement not to replicate this.
- CETA went [well beyond Canada's existing commitments](#) under the WTO Government Procurement Agreement. CETA lowered monetary thresholds and expanded covered entities to include most provincial government agencies, utilities, Crown corporations, municipalities and more.
- CETA stops these entities from favouring local bids in procurement decisions. It prohibits applying local content or hiring quotas and prioritizing some contracts for small and medium-sized enterprises or minority-owned businesses.
- For the most part, the agreement prohibits using public purchasing as a tool for local economic development. Despite ample amounts of evidence showing that domestic and local, small-scale firms benefit their community, for example, through reinvestments, more than larger and/or multinational firms.
- Prioritizing domestic producers and workers in procurement can help facilitate sustainable, equitable, local economic activity. It is also an essential part of a domestic industrial strategy. A new UK-Canada trade deal should ensure that procurement and the favouring of local suppliers and domestic content requirements be protected.
- It will be essential to include a preference for goods and services with low life-cycle greenhouse gas emissions in procurement decisions.

## REGULATORY COOPERATION

- The future UK-Canada deal should ensure that the regulatory rules do not undermine our ability to set strong worker, public health, environmental and consumer protections.
- The CETA regulatory cooperation chapter is founded on "good regulatory practice" designed to ensure the precautionary principle. The ability to justify environmental and other protections based on precaution is not used.
- In effect, this has proven to prioritize the commercial interests of business and work to the detriment of consumer rights and labour and environmental protections.
- In CETA, the development of new regulations is done in close collaboration with industry to reduce or eliminate differences in domestic laws, policies or regulations, including health, environmental and consumer protections.
- This type of regulatory practice has become [common practice in trade deals](#) and has seen the proliferation of voluntary standards and self-regulation by industry instead of central rules enforced by a public entity. Further, the established [CETA committees](#), where investors can take their regulatory complaints, work closely with private sector actors in developing their agendas. We are concerned by the lack of transparency or democratic accountability these committees operate with.
- We recommend that "good regulatory practice" not be incorporated in any future trade agreements. Regulations should be dictated by a transparent and public entity that prioritizes worker, public health, environmental and consumer protections. Civil society

calls to adopt stricter standards around the protections above should be heard and enforced.

## TRANSPARENCY

- We call for the process of building the UK-Canada trade deal to be transparent and with full public consultation on an ongoing basis. In the past, we have been dismayed by the secrecy of the Canadian trade agreement process. These processes lack substantial input from the public or Parliament and without any economic impact studies before or after the trade regime is instituted.
- We have previously made similar demands to:
  - Build on experiences in the EU and the US, which regularly revise their negotiating objectives, negotiating objectives should be clear and should be adopted by Parliament and released to the public.
  - First Nations and other Indigenous peoples should be consulted as self-governing nations.
  - Consult with the public must be mandated at many stages of the negotiations.
  - Parliament, provinces and municipalities must be consulted in the negotiating process.
  - Parliament must mandate independent economic reviews, with a feminist lens, of any deal before implementing legislation is presented to Parliament.
  - Parliament must mandate regular reviews of trade agreements during its implementation process to ensure they are still meeting their stated objectives. At the moment, the government does not quantify the effects of agreements over time.

## OUR GENERAL VIEWS ON CPTPP

- Canada should not encourage the United Kingdom's ascension to join the CPTPP.
- When the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), we expressed our dismay about how quickly the agreement was pushed through the House of Commons.
- This was incredibly disappointing, considering Canadians overwhelmingly opposed the CPTPP. In August 2017, an Access to Information revealed that over 99% of Canadians who participated in Global Affairs' online consultation opposed the CPTPP agreement.
- Despite claims that the CPTPP is a "high standards agreement," evidence points to the contrary. We were among the labour, environmental and civil society groups that criticized how the CPTPP threatens workers' rights, farmer livelihoods, environmental protection, Indigenous sovereignty, public services and governments' right to regulate while causing job losses in Canadian manufacturing and wage stagnation throughout the economy.

The Canadian government has made commitments to pursue a Progressive Trade Agenda. We call on the government to take this opportunity and ensure any UK-Canada trade deal is one of the truly high standards. We look forward to engaging in a process that promotes labour rights, gender equality, Indigenous rights, environmental sustainability, the needs of small and medium-sized enterprises, and the Canadian public interest.