

The Roles of Provinces and Devolved Administrations in the Negotiation and Implementation of a Canada-UK Trade Agreement

About the project

The Canada-European Union (EU) Comprehensive Economic and Trade Agreement (CETA) was the first free trade deal for which provinces were directly involved in the negotiations.

By contrast, it remains unclear what role the United Kingdom's (UK) devolved administrations (Scotland, Northern Ireland and Wales) may have in influencing, negotiating, or implementing future trade deals in a post-Brexit world. The UK has no clear constitutional principles on the roles the devolved administrations should play in trade policy, with the asymmetric nature of devolution complicating things further.

This knowledge synthesis report provides insights as to how a bilateral Canada-UK trade negotiation could produce new and innovative approaches with regards to the involvement of substate actors both in terms of trade negotiation, and the crucial issue of trade promotion. It has two main aims:

1. to better understand the differences between the Canadian and UK models, and the ways they could be reconciled in the wake of future bilateral negotiations;
2. to consider how the participation of Canadian provinces and UK devolved regions in future trade negotiations might unfold, and how it could be improved and maximized in both Canada and the UK.

Key findings

- During the North American Free Trade Agreement (NAFTA) renegotiations, the level of co-operation between federal and provincial negotiators fell somewhere in between what was seen during the CETA and Trans-Pacific Partnership (TPP) negotiations. The federal level remained in charge of final decisions, and all final arbitration and decisions on delicate issues were decided without input from the provinces. The difference between federal-provincial relations can be explained by the fact that the EU insisted on provincial involvement in the CETA negotiation. Therefore, the potential extent of provincial involvement in the event of Canada-UK negotiations remains unclear and would depend on the issues discussed.
- In turn, the UK's existing processes for scrutinising and ratifying trade deals are inadequate. The devolved administrations and legislatures have no formal role. It remains unclear the extent to which, after Brexit, the UK government is genuinely committed to enabling devolved parliaments and legislatures to influence the development of trade agreements. If the devolved institutions are to have real, meaningful involvement in developing and scrutinizing future trade deals, this will require a step-change in the way in which inter-governmental relationships work. With the UK government in a position to begin negotiating trade deals following the exit from the EU, there is an urgent need to progress these issues if further constitutional crises are to be avoided.
- Subnational trade and investment promotion organizations (TIPOs) are well-developed in both Canada and the UK. All major provinces and devolved administrations are already represented in the UK and Canada through trade and investment offices. TIPOs are highly useful for

market information and networking purposes, particularly in times of economic instability. They have positive impacts on trade and investment. TIPOs are also best placed to inform governments and negotiators of the market gaps and/or opportunities, principally in times of economic uncertainty and instability, or between regions/countries that are not yet important trade partners or part of a free-trade zone. ■

Policy implications

- The Canadian Council of the Federation should hold a meeting or series of meetings to discuss the roles of provinces and territories in international trade negotiations. They should also agree on a set of principles to be presented to the federal government, aimed at the harmonization of practices for future trade talks.
- In the event of Canada-UK trade negotiations, Canadian provinces and the UK's devolved regions should agree on a set of common demands regarding their involvement in negotiations, and regarding issues which are of provincial or regional responsibility.
- As part of a general strengthening of the UK's intergovernmental relations system, a Joint Ministerial Committee (JMC) on Trade should be established to enable the devolved administrations to inform the UK's negotiating positions, and ensure that devolved interests are reflected in trade negotiations. A key role of the JMC could be to share independent advice – provided to both central and devolved governments – on the potential implications for devolved competencies of different trade deals.
- Building on the Canadian experience, we recommend involving devolved administrations in the preparation of negotiating mandates and in trade negotiations themselves, particularly where the devolved administrations have interests or expertise. This way, the scope for fundamental disagreements as to the finalization of trade agreements would be less likely as an outcome.
- Scrutiny arrangements need to be strengthened at both the UK and devolved parliamentary levels following exit from the EU, to ensure transparency around trade agreements and their implications.

An inter-governmental trade committee should be established and play a role similar to Canada's C-Trade Committee: to provide advice directly to each legislature and support the scrutiny of trade agreements as they are developed.

- Provincial/regional trade and investment promotion organizations and their representatives should be consulted more systematically, or even included in the process of elaborating trade negotiation mandates themselves. This would ensure that nationally-established priorities are consistent with the needs of provincial/regional markets and of (smaller) exporters and investors. ■

FURTHER INFORMATION

Read the full report

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